

U4 REPORT

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Collective donor responses:

Examining donor responses to corruption cases in Afghanistan, Tanzania and Zambia

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Acronyms and abbreviations

| | |
|---------|---|
| AC | Anti-Corruption |
| ACC | Anti-Corruption Commission |
| ADB | Asian Development Bank |
| AG | Auditor General |
| AML | Anti-Money Laundering |
| ANP | Afghan National Police |
| AU | African Union |
| CBoH | Central Board of Health (Zambia) |
| CCTG | Cross-Cutting Theme Group (Afghanistan) |
| CPI | Corruption Perception Index |
| CPIA | Country Policy and Institutional Assessment |
| CSO | Civil Society Organisation |
| CSTC | Combined Security Transition Command (Afghanistan) |
| DAC | Development Assistance Committee (part of the OECD) |
| DCI | Development Cooperation Ireland |
| DEC | Drug Enforcement Commission |
| DFID | UK Department for International Development |
| DPG | Development Partners Group |
| DPP | Director of Public Prosecutions |
| DPs | Development Partners |
| EPA | External Payments Arrears Account |
| ESAAMLG | Eastern and Southern Africa Anti-Money Laundering Group |
| FNDP | Fifth National Development Plan |
| FoI | Freedom of Information |
| FRA | Fiduciary Risk Assessment |
| GAO | Government Accountability Office |
| GAVI | GAVI Alliance (formerly Global Alliance for Vaccines and Immunisation) |
| GBS | General Budget Support |
| GFATM | The Global Fund to fight Aids, Tuberculosis and Malaria |
| GIAAC | General Independent Administration on Anti-Corruption |
| GRZ | Government of the Republic of Zambia |
| HLPD | High Level Political Dialogue |
| HoC | Heads of Cooperation |
| HOOAC | High Office of Oversight and Anti-Corruption |
| i-ANDS | interim Afghanistan National Development Strategy |
| IA | Internal Audit |
| ICTAWG | International Corruption, Transparency and Accountability Working Group |
| IIAG | Index of African Governance |

| | |
|-------|--|
| IMF | International Monetary Fund |
| IWA | Integrity Watch Afghanistan |
| JAR | Joint Annual Review |
| JASZ | Joint Assistance Strategy Zambia |
| JCMB | Joint Coordination and Monitoring Board |
| JFA | Joint Funding Agreement |
| LOTFA | Law and Order Trust Fund for Afghanistan |
| MDGs | Millennium Development Goals |
| MEC | Independent Joint Anti-Corruption Monitoring and Evaluation Committee (Afghanistan) |
| MMD | Movement for Multi-Party Democracy |
| MoFNP | Ministry of Finance and National Planning |
| MoH | Ministry of Health |
| MOI | Ministry of Interior |
| MoU | Memorandum of Understanding |
| MSL | Medical Stores Limited |
| NADP | National Anti-Corruption Policy |
| NGBS | National Governance Baseline Study |
| NHSP | National Health Strategic Plan |
| NIS | National Integrity System |
| NPP | National Priority Programme on transparency and accountability |
| NPP2 | National Priority Programme on Transparency and Accountability |
| OAG | Office of the Auditor General |
| OAI | Office of Audit and Investigation |
| ODA | Overseas Development Assistance |
| OECD | Organisation for Economic Cooperation and Development |
| PAC | Public Accounts Committee |
| PAF | Performance Assessment Framework |
| PBA | Programme Based Approach |
| PC | Project Committee |
| PD | Paris Declaration on Aid Effectiveness |
| PEFA | Public Expenditure and Financial Accountability |
| PETS | Public Expenditure Tracking Survey |
| PFM | Public Financial Management |
| RASC | Resource Allocation Sub-committee |
| SADC | Southern African Development Community |
| SAFAC | Southern African Forum Against Corruption |
| SAG | Sector Advisory Group |
| SBS | Sector Budget Support |
| SC | Secretary to Cabinet |

| | |
|--------|--|
| SEK | Swedish Kronor |
| Sida | Swedish International Development Cooperation Agency |
| SIGAR | Special Investigator General for Afghan Reconstruction |
| SWAp | Sector Wide Approach |
| TFC | Task Force on Corruption |
| TI | Transparency International |
| TIZ | Transparency International Zambia |
| ToRs | Terms of Reference |
| UN | United Nations |
| UNAMA | United Nations Assistance Mission to Afghanistan |
| UNCAC | UN Convention Against Corruption |
| UNDP | United Nations Development Programme |
| UNIP | United National Independence Party |
| UNODC | United National Office on Drugs and Crime |
| WB | World Bank |
| WGC | Working Group on Corruption |
| WGI | Worldwide Governance Indicators |
| ZANACO | Zambia National Commercial Bank |
| ZAWA | Zambia Wildlife Authority |
| ZMK | Zambian Kwacha |
| ZNAN | Zambian National AIDS Network |
| ZNTB | Zambian National Tender Board |

Executive Summary

Background of the research

In 2006, the OECD Development Assistance Committee (DAC) Ministers of Development expressed a desire to move towards more effective collective responses to corruption. A policy and follow up reports were developed, and Uganda was the first country where the new ideas were put into practice. This report, which includes a study of cases from three additional countries, contributes to expanding the understanding of development partner (DP) responses to concrete corruption incidents. The reports seeks to explore the factors that influence the extent to which donors are able to act collectively as “principled principles”—that is, as a joint, credible enforcer of anti-corruption policies—in response to concrete cases (Persson, Rothstein and Teorell 2013: 451). As a backdrop to the case studies, a literature review was conducted, with a focus on what drives change with regards to corruption—and whether there is a role for DPs in effectuating or supporting such change. It also looks at what the literature says about the key factors that influence the DP response to corruption cases.

Summary of the case studies

| Tanzania | Afghanistan | Zambia |
|---|--|--|
| <ul style="list-style-type: none"> EPA account scandal involving fraudulent payments of US\$ 78 million in FY2005–06 to Tanzanian companies (1% of GDP). Uncovered by an external audit in 2006. DPs become aware informally in early 2007. Hits the media by mid-2007. | <ul style="list-style-type: none"> Law and Order Trust Fund scandal involving corrupt behaviour relating to US\$ 2.5 billion fund established in 2002 for police service salaries. Rumours of corrupt behaviour date back to 2006. Red flags appear in audit evaluations from 2009. A MEC report from April 2012 confirms concerns. A series of articles in May 2012 in the Wall Street Journal alleges serious corruption. | <ul style="list-style-type: none"> Health sector corruption involving MoH brought to light through a whistle-blower in March 2009. In May 2009, ACC confirms it is investigating US\$ 1.7 million in potential losses. Interim results of an OAG forensic audit show US\$ 4.6 million in losses. The final audit, completed in July 2009, shows US\$ 7.7 million in total losses. |
| <p>DP response: “slow response”</p> <ul style="list-style-type: none"> GBS assessment in Nov. 2007 gives a “satisfactory” rating on “good governance” and “corruption.” It takes 1 year for DPs to reach agreement on follow up. Dialogue on action plan becomes a predominantly administrative exercise. | <p>DP response: “rumours ignored”</p> <ul style="list-style-type: none"> DPs send a letter to UNAMA in May 2012 threatening to withhold funds and asking for investigations and follow up. Following no progress by early September 2012, a second letter is drafted. A UNDP meeting confirms internal investigation and management review. Donors confirm continued funding in 2013. | <p>DP response: “rapid fire”</p> <ul style="list-style-type: none"> The day after the press report, Sweden, the Netherlands and Canada freeze disbursements. In response to the forensic audit, in July 2009 further DP support is frozen. In July 2009 an action plan is agreed and signed. |
| <p>Tally on follow up:</p> <ul style="list-style-type: none"> Approximately US\$ 30 million is repaid to the government, but no confirmation on where the funds have gone. 5 convictions against individuals, but cases against high level officials are dropped. | <p>Tally on follow up:</p> <ul style="list-style-type: none"> No repayment of funds. Internal investigation, followed by removal of staff and management review of UNDP. No action against MOI or the ANP—and DPs are not addressing this. | <p>Tally on follow up:</p> <ul style="list-style-type: none"> Stolen funds are repaid, mixed progress on the action plan. In Nov. 2012, 8 key officials acquitted. The MoH’s permanent secretary during the fraud case is appointed permanent secretary in the cabinet office. |

Key observations on the DP responses to the corruption cases

The case studies illustrate that DPs struggled in terms of responding robustly to corruption cases due to limited analysis, poor preparedness and lack of a “game plan.” The following weaknesses were noted:

- **The DP responses to the cases came about, at least in part, as a result of public attention to the cases:** The three case studies illustrate that DPs were much more likely to put in place a clearly articulated and well communicated response when the corruption cases were too large and public to ignore. This raises a question of whether a “zero-tolerance to corruption” position is more likely to be activated in cases that catch the public’s attention.
- **Delay in reaching common positions and agreement on actions:** A repeated problem was considerable delays amongst the DPs in reaching an agreement on a common position and on follow up actions. There was also concern that as time went by the dialogue with the government about follow up became predominantly an administrative exercise (viewed by some as a diversionary tactic) that consumed considerable energy, while not delivering any immediate, or even longer term, results with respect to holding those responsible accountable.
- **Lack of realism and confusion over who is responsible for follow up:** Whilst the DPs managed to negotiate action plans for follow up, their ability to influence partner governments to implement the plans proved to be more limited. In some instances, targets were unrealistically ambitious, especially when cooperation was needed from institutions other than the one directly affected by the corruption case. In other instances, DPs focused, deliberately, on the easier areas and left the more difficult aspects of the case to one side.
- **Short time horizon, limited arsenal and front-loading of the response:** The DPs tended to front-load their attention and dialogue in the first 6–9 months after the case emerged. As time went by, the attention to follow up by governments dwindled, reducing the likelihood of holding those responsible to account. The DPs seemed to be operating with a limited arsenal of responses, generally limited to a one-off freeze or cut in funding shortly after the case emerged. This left limited options for responses further down the road.
- **Failure to open the dialogue up to other actors and engage with other accountability processes:** The DPs generally failed to make active use of opportunities to involve other national actors in the discussions, or to encourage and support domestic accountability processes to take centre stage. The DPs also kept quiet about on-going negotiations with partner governments, preferring to keep these negotiations as confidential dialogues.

Lessons for the future agenda

The analysis of the case studies, and the identification of lessons for the future agenda, focused on how the DP responses measured up against key factors identified by OECD for achieving more effective collective responses to corruption cases (see Davila et al. 2009). The following three factors were singled out:

(i) Preparing collectively in advance for responses¹

The case studies illustrate relatively weak capacity in terms of putting in place a robust response to corruption—due to inadequate risk analyses at the front end and a lack of preparedness for how to coherently and sensibly respond, not just in the immediate time period after a case emerges, but also during the longer term period of follow up. *In summary*, the following lessons can be highlighted:

- *Make a more pro-active approach to assessing risks:* An important lesson is the need for more pro-active and better quality corruption risk assessments. This includes the need for DPs to (i) invest in dedicated analyses of corruption risks in key sectors; (ii) engage in frequent “reality checks” to assess whether regular audits and evaluations paint an accurate picture; and (iii) conduct a detailed political economy analysis of the national context as well as of the government agency or sector in question in order to understand underlying drivers and incentives.
- *Make contingency plans for handling corruption cases:* DPs need to improve their contingency planning for how to respond to possible corruption cases in a given programme or sector, come to a common position and implement joint responses when required. Such plans need to include (i) an assessment of the impact of different risks on the delivery of the programme at stake; (ii) an outline of possible donor responses to different scenarios (cases); and (iii) the identification of alternative implementation or delivery modalities that could be activated in the event of allegations of corruption.
- *Improve coordination structures:* DPs need to re-structure and improve their coordination and dialogue mechanisms. This relates particularly to the challenge of improving the quality and speed of decision-making on important issues such as the response to corruption cases. DPs also need to be organised in an effective manner to draw together necessary resources to deal with emerging corruption cases.

(ii) Acting predictably—implementing anti-corruption policies²

A second set of challenges relates to the widely differing interpretations by DPs of their anti-corruption policies in their responses to concrete cases, which leads to a lack of predictability in implementing these policies in response to concrete cases. *In summary*, the following lessons can be highlighted:

- *Agree on trends and “red lines”:* DPs would be in a better position to act in a coordinated and predictable manner if they were to engage in frequent discussions of trend and trajectory, including what deteriorating patterns would constitute “red lines” that would necessitate taking action. This could help the DPs reach greater clarity on their individual and collective “risk appetite” in the given country, as well as on their willingness to activate strong responses.
- *Prioritise predictability of responses over severity:* In order for DP collective responses to corruption to be credible, and for DPs to be taken seriously by partner governments, there must be some credibility behind threats of sanctions. The international community must be willing to follow through to the end. If they do not, the consequence of previous inaction is a

¹ See Davila et al. 2009: 49.

² See *ibid.*: 50.

prevailing sense that DPs are not really committed to anti-corruption objectives. Criminology research indicates that the predictability of sanctions is more important than their severity.

(iii) Maintaining a dialogue on multiple levels, including with regard to transparency and collaboration with non-state actors³

It is now widely understood and accepted that domestic levers of accountability have greater “purchase power” than diplomatic or aid related channels. The case studies illustrate that DPs could have done much more to open up discussions with the public, civil society or the media. This would have prevented the process of follow up becoming predominantly being a private dialogue between DPs and government. *In summary*, the following lessons can be highlighted:

- *Play with open cards:* DPs should strive to increase openness and transparency around their handling of corruption cases. This could include actively communicating DP positions on a given corruption case in the local media of the country in question as well as in the media of home countries. DPs could make an effort to share the often detailed and in-depth analysis of the case that is being reviewed.
- *Involve a broad range of actors and accountability processes:* DPs could sensibly ensure the active involvement of domestic interest groups in dialogue on concrete corruption cases. DPs could consider the following types of efforts: (i) engaging with parliament in those cases where it possible to identify allies; (ii) encouraging the government to open up discussions of the case to participation by civil society and allowing civil society to assist in monitoring the government’s follow up; and (iii) ensuring that DP requirements for follow up are in line with government systems and are supportive of existing accountability processes.
- *Explore the possible involvement of an impartial entity for oversight:* DPs could take steps to set up an independent mechanism of oversight for ensuring the follow up on corruption cases, such as an independent oversight committee or independent verification of implementation of action plans issued in response to corruption concerns.

Will it make a difference?

Are collective DP responses to corruption likely to make a difference? The impact needs to be looked at both in terms of safeguarding DP funds and in terms of the wider fight against corruption. In terms of the former, anecdotal evidence suggests that DPs achieve improved short-term impact in terms of follow up on corruption cases where they join forces. The cases included in this report support this conclusion, as do the much publicised on-going corruption cases in Uganda.⁴ The track record in terms of longer-term impact, especially in terms of sanctioning of cases and robust system improvement, is much more mixed.

Available research suggests that DPs have a limited likelihood of influencing wider corruption trends. Money cannot buy policy reform, and domestic political considerations are the prime factors

³ See *ibid.*: 50–51.

⁴ The Office of the Auditor General (OAG) conducted a special audit in 2012 of the Peace, Reconstruction and Development Programme (PRDP - a donor basket fund for Northern Uganda operated by the Office of the Prime Minister, OPM). This revealed fraud amounting to 12.9 million euros affecting development partners' funds. Another special investigation by the OAG reported in December 2012 revealed widespread fraud in relation to pensions administered by the Ministry of Public Service, with a total loss estimated at approximately US\$ 61 million.

determining reforms (Kolstad, Fritz and O'Neill 2008: 70). However, if we consider that long-term change is made up of a series of smaller waves and changes in the political landscape, we should also recognise that DPs form part of that landscape. Therefore, the way DPs play their cards in response to corruption (both individually and collectively) might have some impact and certainly warrants thought. Furthermore, disparate, contradictory responses are likely to have less impact and may at times even contribute directly to further delay and inaction.

In conclusion, DPs simply cannot afford to respond to corruption cases in the haphazard and poorly planned fashion that is common practice currently. More attention and energy needs to be invested into how to respond to corruption cases in a manner that has a strategic focus beyond “getting the money back” and stimulates domestic accountability.

1. Introduction: Rationale for the study

[O]n this political front, the international community has often played an ambiguous and inconsistent role and thus sabotaged its own efforts. (Mungiu-Pippidi et al. 2011: xv)

Although DPs may successfully negotiate short-term safeguard mechanisms and remedial measures, the credibility of their response to corruption will ultimately hinge on their ability to push for real actions. (ITAD and LDP 2011a: 72)

These quotes from recent evaluations of anti-corruption interventions point to a critical problem of inadequate and inconsistent responses by DPs to corruption occurring in their development assistance portfolios. Evidence from comparative reviews of anti-corruption and anti-fraud policies of different DP agencies and their implementation points to an implementation gap on the ground (ITAD and LDP 2011a; Kpundeh 2000). A recent multi-donor evaluation of anti-corruption policy and programming concludes that the lack of follow up actions is a “main weakness in donor response to corruption” (ITAD and LDP 2011a: 56).

Most DP agencies have strong anti-fraud policies in place (although not necessarily more general anti-corruption policies). However, the practice on the ground with respect to implementing these policies varies greatly. Not following up on concrete allegations of corruption in a sufficiently strong manner is problematic on several levels. *First*, by not responding robustly to allegations, DPs may be seen to condone corrupt activities, and this may raise doubts about their commitment to fight-corruption amongst their respective home constituencies. *Second*, if one considers systemic corruption as primarily a collective action problem at the national level, the role of DPs as “principled principals”⁵ (that is, credible enforcers of anti-corruption policies), possibly in the absence of national “principled principals,” becomes important.

This report explores the factors that influence the extent to which DPs are able to act collectively as potential external “principled principals.” The paper also considers whether collective DP responses have any impact in terms of follow up on cases, looking at this question against the backdrop of the lessons from literature on what ultimately drives change in terms of corruption trends.

In order to explore these dynamics, three case studies were conducted—in Zambia, Afghanistan and Tanzania. A high profile corruption case was selected from each of the three countries. A deductive analytical model was applied to review DP responses with reference to key proposals set out in several OECD DAC publications (Davila et al. 2009; OECD 2007). These publications proposed developing a voluntary code of conduct for coordinating DP responses in deteriorating corruption contexts, with an emphasis on factors such as the level of preparedness to act collectively, the willingness to act predictably in implementing anti-corruption policies, and the ability to ensure dialogue on multiple levels to influence follow up, including with non-state actors.

⁵ This concept of DPs as external “principled principals” is presented in, *inter alia*, the recent article by Persson, Rothstein and Teorell (2013: 451).

2. Methodological approach

2.1 Methodology

This report explores factors influencing the extent to which DPs can act collectively as “principled principals” in response to concrete cases, focusing on DP responses to concrete large-scale corruption cases. The report specifically looks at the following questions:

1. What are the key constraints and factors that affect the development of an effective collective DP response to a corruption case?
2. What tentative conclusions can be drawn with regards to impact of collective DP responses to these corruption cases?

As an introduction to the description of the methodological approach, one definitional issue must be addressed. This study focuses on DP “responses” to corruption, as opposed to wider DP policy engagement on corruption or support for technical reform interventions aimed at combating corruption. For the purpose of this study we apply the following distinction:

- *DP responses to corruption*: This refers to activating anti-corruption policies in response to individual corruption cases in development assistance programmes. A typical “response” would include the following steps: (i) analysing evidence of the case; (ii) communicating a formal position (including expectations regarding follow up) to the entity responsible; (iii) activating changes to the programme (such as temporary funding freezes); (iv) agreeing on refunding the stolen money; and (v) activating medium-term responses (such as termination of the programme), should follow up be inadequate.
- *DP policy engagement and financial support for technical reform interventions*: This refers to broader policies within DP agencies for handling corruption in development assistance projects, policy engagement in-country and providing financial support for technical reform interventions—all aimed at tackling corruption challenges more broadly (as opposed to individual cases).

As a starting point, a timeline of key events was established for each corruption case study. Particular attention was paid to the responses from individual DPs and groups of DPs at different points during the process, and how these responses were communicated at different points to different audiences.

A deductive method was applied for analysing the case studies and identifying lessons for the future agenda. The analysis focused on how the DPs’ responses measured up against the key factors for achieving more effective collective responses outlined in the above-mentioned OECD DAC publications on collective donor responses. The following three factors were singled out: (i) *preparing collectively in advance of responses*; (ii) *acting predictably—implementing anti-corruption policies*; and (iii) *maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors*. A full description of these factors is included in section 3.3 below.

The study of three country cases does not constitute a comprehensive review of how corruption cases have been handled by DPs. They simply provide illustrations of the types of challenges facing DPs in acting collectively and decisively in response to concrete corruption cases.

As a backdrop to the analysis of the case studies, a literature review has been conducted that looks at what drives change with regards to corruption—and what role DPs can play in driving or supporting such change. It also looks at the key factors that influence DP responses to corruption cases.

2.2 Identification of cases

Afghanistan, Tanzania and Zambia were selected as the case study countries based on the decision to include different contexts—two “normal,” stable aid recipient countries and one fragile state. Tanzania and Zambia are more stable contexts where the wider conditions are perceived to be more conducive to a robust response to corruption than those of Afghanistan. These conditions relate to factors such as whether strong competing agendas are present in country, the general level of coordination and stability of personnel and capacity in the DP community.

The approach taken was to select a high profile corruption case in each country during the last five year period. This could be a case of nepotism, a large fraud scheme or, alternatively, a case of widespread systemic corruption in a particular sector. The reference to the case as “high profile” refers to the fact that the case registering strongly on the radar of DPs, whether or not they were affected directly, either because of its scale and/or because it featured strongly in the media. Cases were not selected based on a perception of either positive or negative outcome in terms of DP responses. The basic requirement for selection was that there had to have been some form of a joint DP response in order for the case to be selected. In the three countries selected this criteria meant that the list of possible cases was narrowed down to a few.

2.3 Sources of data

Primary research was conducted in each country by a senior researcher. A semi-structured research guide was designed. The research guide was deliberately kept flexible to allow researchers to probe particular areas in more detail. Three main groups of informants were identified: (i) representatives from the donor agencies that were directly involved in handling the corruption cases; (ii) independent analysts, journalists and academics from each country; and (iii) representatives from civil society. For the first group this involved interviewing several representatives from the same donor agency in order to cover facts from the entire period beginning when the corruption case emerged and continuing to the present time. The decision was taken, as a result of the limited time available for the country visits, not to include local government representatives as informants. This was due to the focus on the internal DP dynamics, as opposed to the government’s reaction.

Researchers compared the data gathered from interviews with a review of documentation, consulting a wide range of reports and studies from each of the countries. This included DP documents that were not confidential in nature, such as minutes from joint DP meetings, annual review documents from joint DP programmes, analyses of the governance situation and public statements from DPs in direct response to the cases. There was a particular focus on reviewing documents that set out the basis for decision-making and recorded the position of the joint DP group, as well as changes in this position over time. In addition, the research team conducted a review of relevant literature (presented below) on DP responses to corruption more broadly.

The conclusions made in the report with regards to the key aspects of the DP responses and their impact are based primarily on two things: the information gained from interviews (and thus based on the views/perceptions of the respondents) and factual information recorded in terms of the concrete events and outcomes of the cases.

3. Review of relevant literature on DP responses to corruption

The OECD DAC policy on the development of collective responses to corruption is based on the premise that DPs have an obligation and an interest to respond to corruption incidents in a clear and effective manner, and that they will have a greater impact if they do so collectively. Although not explicitly stated, there is an assumption that DPs have some ability to influence partner governments' handling of corruption. As a backdrop to the three country case studies, it is therefore useful to present a brief review of relevant literature with a focus on the following three questions:

- What drives change with regards to corruption—and is there a role for DPs?
- What has the practice of DP responses to corruption been to date?
- What are the key factors that influence the DP responses to corruption?

3.1 What drives change with regards to corruption—and is there a role for DPs?

Anti-corruption interventions based on wrongful assumptions

There has been widespread discussion in recent years of the impact of anti-corruption reforms. With a few exceptions, there is broad agreement that the standard DP approaches to combating corruption, primarily through aid conditionality and technical reform interventions, have largely failed to impact positively on trends.⁶ The first generation anti-corruption interventions were often modelled on the success stories of Hong Kong and Singapore, where specialised anti-corruption agencies with the highest level executive backing demonstrated successes in cleaning up corruption in the public sector. Support to existing and new anti-corruption agencies, the adoption of anti-corruption legislation and the development of national anti-corruption strategies became the mainstay of DPs' anti-corruption support. It became apparent fairly soon, however, that the successes of Hong Kong and Singapore were not easily transferable. Anti-corruption agencies were established, laws enacted and strategies developed in part to show that something was being done, but without the necessary political support to allow, let alone support a change in corrupt structures and practices (Norad 2008; Hussmann and Chikalanga 2007; Kaufmann 2005; Shah and Schacter 2004).

One explanation of these failures relates to the imposition of ill-fitting “blueprint” institutional reform models, which were not adjusted to the local context, were not fully “owned” by local actors and therefore were destined to fail. Furthermore, there has been growing critique of technical reform interventions as being based on wrongful assumptions. A number of authors have argued that current anti-corruption reform interventions are misguided as they are based on a conceptualisation of corruption as a principal–agent problem. A particularly convincing argument is presented by Persson,

⁶ In a recent study of panel data from 1986–2006, Charron presents a more nuanced relationship between development assistance and corruption than some previous studies. The analysis shows that from 1997 onwards the impact of multilateral aid is strongly associated with lower corruption levels, thus coinciding with the “anti-corruption movement” within international organisations initiated in the mid-1990s (Charron 2011: 66). No such effect is found for bilateral aid. He goes on to argue that this reflects the incentives on the part of recipient governments to adopt anti-corruption norms for two reasons—reputation and future aid (*ibid.*).

Rothstein and Teorell based on field work in Kenya and Uganda (2013). They argue that in a thoroughly corrupt setting corruption should rather be seen as a collective action problem and that anti-corruption reforms built on the assumption that there are “principled principals” that will hold corruption officials to account are doomed to fail, given the absence of such principals (*ibid.*: 450–451).

Researchers and academics have increasingly argued that the determining factor for corruption trends is not the quality of institutions, but the perception of whether corruption is accepted and practiced by the majority—and of whether one can expect other people and institutions to “play by the rules” (*ibid.*). There is evidence that citizens who live in countries with high levels of corruption tend to condemn corruption, but may see their own corrupt behaviour as justified, given the systemic nature of corruption (Marquette 2012: 24). Research also suggests that the behaviour of elites with regards to corruption has a particularly strong impact on the perceptions of the wider public in terms of what can be considered “the norm” (*ibid.*). Therefore, rather than trying to “fix . . . the incentives,” the focus should be on changing people’s beliefs about what the majority is likely to do (Persson, Rothstein and Teorell 2013: 464). Indeed, failed reform efforts can even be harmful by reinforcing the feeling the majority has of being “trapped’ in a corrupt ‘game’” (*ibid.*: 464; see also Kolstad, Fritz and O’Neill 2008: 53). This would seem to be particularly true when anti-corruption agencies fail to achieve their explicit objectives (such as sanctioning criminals or obtaining asset declarations). The impact of interventions that implicitly address opportunities for corruption (such as strengthened financial management) on perceptions of corruption is likely to be less pronounced.

This leads to another important question: would it be a mistake to try to “take the bull by the horns” in environments where the bull has a million horns? Kaufmann’s statement that “[w]e can no longer fight corruption by simply fighting corruption alone” seems relevant (2012), although it would be unfair and incorrect to dismiss all forms of anti-corruption interventions as ineffective. Perhaps it is more a question of ensuring that the right interventions are supported, and that there is a focus not only on combatting corruption per se, but also on the broader transformation of political and bureaucratic cultures.

A role for DPs as “principled principals”?

Despite a lot of attention given to this issue, few solutions are offered for dealing with “the problem of how a negative institutional equilibrium can be exchanged for a more socially desirable one” (Persson, Rothstein and Teorell 2013: 466). What is clear, in terms of the role of external DPs, is that needed societal transformation cannot be brought about simply through introducing technical reform interventions or imposing political conditionality. A wide range of literature documents the limited impact of DPs’ attempts to transform the fabric of African societies (Kelsall 2011; Cammack 2007), and attempts by DPs to step in and compensate for a weak civil society and poor accountability outcomes have been strongly criticised. When DPs do try to step in, it normally occurs in the form of the imposition of conditionalities, which creates the “appearance of states being accountable to foreign funders rather than to their citizens” (Cammack 2007: 608). This is seen as rarely having resulted in a positive impact (*ibid.*). As a result, there has been an emphasis on the need to “play the long game” and seek to affect change indirectly through supporting improvements in access to information, securing free press and strengthening domestic non-state actors to mobilise for change.

However, one should not dismiss DPs as irrelevant actors. Even if we accept the notion that DPs’ influence in this change process is restricted, there are suggestions that DP political dialogue can provide a useful leverage or “last push” in support of domestic collective demand for a change of direction when conditions are “ripe” (ITAD and LDP 2011a: 71). It is interesting to note that some of the proponents of the idea that corruption is a “collective action problem” have concluded that in the absence of effective domestic principals, DP agencies should make an effort to act as an “external principal.” “In line with the logic of collective action theory, at the core of such a strategy would be

the effective signalling that the formal mechanisms of control put in place are not constituting a mere facade” (Persson, Rothstein and Teorell 2013: 466). One could argue that the examples where DPs have cut or frozen aid, and where conditions of follow up have been imposed, do in some way place the DPs in the role of an “external principal.” However, these are specific time bound examples, usually involving DP funds. There are few examples of DPs engaging in more long-term systemised efforts of providing an external check. Arguably, one such example is the DFID-funded Independent Parallel Bid Evaluation mechanism for the road sector in Uganda on request by Uganda’s government. This involved a UK-based procurement agent performing a parallel evaluation of bids, aimed at increasing transparency and reducing opportunities for corruption in the procurement process.

Efforts to act as an “external principal” require DPs to recognise themselves as actors in the domestic landscape. This is currently not the case; “the donors are still reluctant to see themselves as actors, rather than neutral arbiters, in the political economy of policy choice” (Fritz and Menocal 2007: 544). This relates to the technocratic approach to development and a lack of awareness of the consequences of their interventions on the institutional dynamics of the recipient country. DPs need to become more directly aware of the political nature of their work. However, there are doubts as to whether DPs are able to manage this (*ibid.*). Enhanced political economy analysis is an important tool for DPs to use to better understand the role they play (or could play) in the domestic political landscape, even though in practice political economy analysis has usually not focussed on the role of DPs themselves.⁷ A wide range of studies has been conducted, but the ability of many of these studies to generate clear and convincing operational recommendations has been limited (Duncan and Williams 2012: 137).

Whether DPs are able to acquire the right skills, develop an appropriate country-specific approach to technical interventions and sustain this more politically intelligent approach over time is, however, far from certain. It has been argued that DPs are not set up to work on long-term changes:

Donors’ policies vacillate, undermining both their credibility and their success. History indicates that it takes decades, sometimes centuries, for a country to develop; what donor has the capacity, resources or will to stick to the job that long? Thus donors should focus on understanding and supporting the historical forces that can eventually lead even a poor performer to development. (Cammack 2007: 607)

What this means in practice for DPs is difficult to say, especially since every country context is different. In countries where governments are perceived to hold a stronger role in promoting anti-corruption outcomes DPs might be more effective in supporting domestically-led reform, while in others they might want to consider more indirect ways of stimulating debates and helping to build pressure and/or evidence for reform.

3.2 What has the practice of DP responses to corruption been to date?

General observations on DP responses

When thinking about the factors that drive DPs to respond to corruption cases, the principal-agent theory provides some guidance: “one can consider aid agencies as principals giving aid to poor countries’ governments—the agents” (Faust 2010: 523). However, looking at the transaction from

⁷ DP tools for political economy analysis developed in the last decade include DFID’s Drivers of Change studies, Sida’s Power Analysis, the Dutch Strategic Governance and Anti-Corruption Analysis (SGACA), USAID’s Democracy and Governance Assessments and the World Bank’s Political Economy Studies.

another perspective, DP agencies are the agents, with their parliaments (and taxpayers) acting as their principals (*ibid.*). This is a useful way of illustrating the various factors that influence and condition DPs' responses to corruption cases. It would be fair to say that internal requirements within the DP agency to safeguard taxpayers' funds (as an "agent"), are a great deal more clear-cut than the role DP agencies have in terms of influencing policy developments and debates in the recipient country (as a "principal").

All DP agencies have policies in place for handling corruption cases within their programmes. As mentioned above, evidence from comparative reviews of anti-corruption and anti-fraud policies of different DP agencies, as well as their implementation, points to an implementation gap on the ground (ITAD and LDP 2011a: 60–65; Kpundeh 2000). Specific evaluations have been done of individual corruption cases and the follow up (or lack thereof) from the DPs involved.⁸ However, there are only a few reviews that have dealt directly with the question of DP responses to concrete corruption cases, in terms of implications for the provision of aid and the wider policy or political-level dialogue. Even less research is available on the extent to which DPs are able to act collectively in response to corruption.

Two reports that have looked at these questions include the OECD DAC 2009 report mentioned above, "Working Towards more Effective Collective Donor Responses to Corruption" (Davila et al. 2009). The other is the Norad commissioned evaluation report, published in 2011, "Joint Evaluation of Support to Anti-Corruption Efforts 2002–2009," which looked at DP support to anti-corruption efforts during this time period (ITAD and LDP 2011a). The reports document good examples of DPs responding to corruption cases in a "pre-agreed and signalled fashion . . . , while protecting development spending and ensuring predictability" (Davila et al. 2009: 6; see also ITAD and LDP 2011a). However, the reports also point to clear trade-offs between delivering short-term responses to corruption and the pursuit of longer-term reforms to achieve development objectives. Given the commitment to long-term partnerships, a degree of inertia has tended to arise among DPs in the face of inadequate handling of corruption. The 2011 Norad evaluation concludes that the lack of follow up actions is a "main weakness in donor response to corruption" (ITAD and LDP 2011a: 56).

In terms of possible explanatory factors, constraints for collective responses may arise from individual DPs establishing separate dialogue mechanisms or the failure of DPs to speak with one voice when determining general conditions for aid as well as anti-corruption conditions. In a number of examples, disjointed positions weakened the leverage DPs had over the recipient country's government (see Patrick 2000).⁹ Poorly coordinated DP responses to corruption have negative implications at both the micro-level (community project) and the macro-level. The absence of effective coordination allows DPs to be played off against each other and limits the chance of effective follow up (Bigsten 2006). However, "while . . . joint working is desirable there are also risks . . . that the resulting country strategy will tend towards a lowest common denominator with which all parties can agree" (Duncan and Williams 2012: 144). It would seem, however, that the key underlying constraints relate to competing agendas.

⁸ Several recent case studies of inadequate follow up on corruption cases have been documented by the U4 Anti-corruption centre. This includes the case of the Norwegian funding in the natural resource sector in Tanzania (Jansen 2009).

⁹ There is broad documentation of the challenges related to effective DP coordination (Chandy and Karas 2011: 741). It is widely documented that DP fragmentation increases transaction costs and reduces the effectiveness of aid. De Renzio and Angemi have shown how DP fragmentation is negatively correlated to budget transparency (2011), while Knack and Rahman show how DP fragmentation correlates negatively with bureaucratic effectiveness in partner countries (2007).

Key constraints related to competing agendas

The inconsistent agendas and tensions between DPs with regards to handling corruption concerns are well known and feature in the discussion of concrete cases in the literature (ITAD and LDP 2011a; Davila et al. 2009). The close tie between bilateral aid and the foreign policy and commercial agenda of the DP country sometimes means that other political objectives crowd out a commitment to good governance (that includes anti-corruption) (Charron 2011: 67; Davila et al. 2009: 6). This can include military objectives in post-conflict settings or the commercial promotion of one's own firms in "normal" settings. Nowhere is this illustrated more clearly than in fragile and conflict affected states. A number of authors have documented the divergence between the rhetoric of "zero tolerance to corruption" and the practice on the ground in fragile and conflict-affected states.

On numerous occasions, anti-corruption objectives have lost out to broader peace-building objectives, with DPs tolerating recipient government policies and practice that depart from normal standards of accountability and transparency (Doig and Tisne 2009: 374; Patrick 2000: 84). This is obviously a delicate issue—and DPs are unlikely to want to admit to this or indeed to adopt policies clearly stating this practice (Patrick 2000). The challenge in those situations seems to be that the short-term acceptance of limited accountability and corruption as a way of "buying peace" may damage long-term prospects of establishing state legitimacy. In some instances, technical aid conditions (such as on anti-corruption) may be in tension with the sometimes politicised peace-building objectives. One such example is the case of post-conflict El Salvador being described as "an anesthetized patient undergoing simultaneous but disconnected operations" (*ibid.*: 78).

Another dimension of competing agendas is the tension between a policy of "zero tolerance to corruption" and other key principles of the aid effectiveness agenda, including national ownership and DP alignment. Questions have frequently been raised about the tension between engaging in a partnership approach and taking a tough stance with regard to corruption-related conditionality (Faust 2010: 529). This tension often emerges in the handling of concrete corruption cases. DPs generally favour a partnership approach, emphasising the importance of predictable commitments and focusing on the recipient government's commitment to long-term reform (albeit in the context of weak follow up on concrete cases). They would consider swift cuts of funding in response to corruption as running counter to the broader agenda of aid effectiveness. However, there is a counter-argument. If the DPs see themselves as true partners, mutually responsible for ensuring development, then they have a responsibility to react strongly to corruption. Some would suggest that by not taking a robust stance on corruption, and by continuing to provide aid despite known problems of corruption, DPs are contributing to corruption (Kolstad, Fritz and O'Neill 2008: 62). In reference to a case in Uganda, it was argued that by "being reticent in their public criticism of abuse of power and corruption, donors ... abetted the actions of Uganda's leaders in weakening those bodies that hold them responsible for abusing their power" (*ibid.*: 62).

Responding effectively to corruption cases is in many ways both a technical and political exercise. DPs sometimes have difficulties reconciling a tough stance on corruption with the diplomatic protocol and the established culture of development assistance management. Taking an active technical *and* political approach to anti-corruption engagement would be a challenge for DPs, requiring them to move outside their comfort zone. This requires a more explicit strategy for political dialogue and careful thought about the link between long-term technical interventions and short-term responses to concrete cases. A good illustration of this tension is the perceived challenge related to the World Bank seeking to conduct anti-corruption work in a way that avoids violating its non-political mandate (Marquette 2007: 33). It is argued that the World Bank is poorly structured to fight corruption given that "the Bank's Articles of Agreement prevent overtly political work, and fighting corruption is always going to be political" (*ibid.*).

Finally, the current tendency of some countries to focus more on economic development with specific emphasis on broadening market opportunities for domestic firms, also impacts willingness to address continuous corruption issues. This happens in a context of new non-traditional DPs entering the market, offering credits and grants with no good governance strings attached. These geo-political issues may negatively impact the willingness of traditional DPs to take a firm stance on corruption. In summary, anti-corruption priorities often seem to lose out to these competing agendas. This is not openly recognised by the DP agencies, but can be deduced from the practical examples of DP responses to corruption cases, such as those included in this study.

3.3 What are the key factors that influence DP responses to corruption?

Clearly, the strength of DP responses to corruption varies greatly. This final section of the literature review explores some of the factors that are seen as key for achieving effective collective DP responses to corruption, and looks at whether having effective collective responses to corruption is likely to make a difference in terms of how corruption is dealt with.

Identifying the factors that are likely to drive successful collective responses is not easy. The need to explore these factors has been recognised for some time. In 2006, the OECD DAC Ministers of Development expressed a desire to move towards more effective collective responses to corruption. In 2007 the OECD's "Policy Paper and Principles on Anti-Corruption: Setting an Agenda for Collective Action" proposed developing a voluntary code of conduct for coordinated DP responses to deteriorating corruption contexts. The DAC Network on Governance (GOVNET) was tasked to produce a framework for joint responses. A set of ideas were put forward as to how such joint approaches could be designed, based on a series of case studies (Davila et al. 2009). The framework proposed included a number of proposals.

The key ones identified for this study, as described in the methodology section above, relate to the following:

- *Preparing collectively in advance of responses*: This refers to other DPs of governance and politics and how they are evolving over time in each country context. This requires investing in joint analyses of risks. It also involves agreeing in advance with other DPs on the types of responses available, should corruption cases emerge. The options might include intensified or alternative dialogue mechanisms, changed timing of aid disbursements, changed modalities, controls and safeguards on funding provided and targeted political measures (such as travel restrictions), among others.
- *Acting predictably—implementing anti-corruption policies*: This refers to agreeing with other DPs on a graduated response, which might include individual or simultaneous measures as described above. When a situation arises, this means signalling and consulting in accordance with previous agreements between the DPs. DPs should also work together to encourage as many DPs as possible to join a common response and avoid mixed messages. As well, they can encourage influential DPs to take the lead in responding. At a minimum, these efforts can foster a critical mass of DPs with a common response, while allowing individual DPs flexibility.
- *Dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors*: This refers to ensuring separate channels of dialogue with partner governments, for example, at different levels of aid architecture, technical and political channels. It refers to the need to make space for and actively support civil society to participate in the government–DP dialogue, monitoring and policy discussion. It could also

include publishing applicable policies, results of investigations, rationales for responses and the responses themselves. DPs can also facilitate monitoring of these commitments by parliaments and civil society in country and/or through peer review.

Uganda was the first country where these ideas were put into practice. The DP group in Uganda took the initiative to design and implement a joint response to corruption in 2009 (de Vibe 2012). The Uganda experience has provided further illustration of the relevance of these three factors. For instance it was shown that by preparing joint analysis of previous cases, and establishing a shared understanding of trends of corruption, reaching agreement on joint responses was easier.

4. Introduction to the case studies

4.1 Tanzania – the EPA case

Basic facts

The External Payment Arrears (EPA) account scandal concerned fraudulent payments of over 130 billion Tanzanian schillings (TZS) (ca. US\$ 78 million) in fiscal year 2005–2006 to 22 Tanzanian companies to which creditor status had been fraudulently assigned. The EPA account was effectively a dormant account to be used for import payments that had been operational when strict exchange controls were in place in the 1980s. The fraud was uncovered during the course of a routine external audit in 2006, conducted for the Bank of Tanzania (BoT) by Deloitte. When Deloitte raised its concerns with BoT, BoT terminated its contract.

The BoT board, chaired by the governor, was informed of the auditors' concerns, but no significant follow up ensued. Furthermore, for much of the period during which the fraudulent transactions occurred, there was no head of the BoT's internal audit department (IAD). Hence, IAD staff were denied access both to the information in the Deloitte audit and to BoT's audit committee (also chaired by the governor). The DP community became aware of the case informally in early 2007 at the latest. By mid-2007, allegations of fraudulent payments to one company, Kagoda Agriculture Limited, made the newspapers and led to detailed media coverage over the next two years.

In response to the allegations, a second, forensic audit was commissioned by the National Audit Office to examine management and administration of the EPA account in detail. IMF staff agreed to the terms of reference for this audit. The forensic audit was completed in late 2007 and identified fraudulent transactions of about 1 per cent of GDP. Following these results, an *ad hoc* presidential task force was established to investigate the case and seek to have the funds repaid. A few convictions of individuals were achieved, and considerable sums are believed to have been repaid—up to TZS 53 billion (ca. US\$ 30 million)—but reliable figures cannot be obtained. The repaid funds were to have been directed to agriculture, through the Tanzania Investment Bank and the Ministry of Agriculture. However, by 2011, the relevant parliamentary oversight committee was unable to satisfy itself as to how much of the returned funds had been allocated, much less to where.

Key aspects of the DP response

The DPs had been conducting risk assessments with a focus on anti-corruption, but only DFID's fiduciary risk assessment process followed a regular schedule and had a specific focus on mitigating measures. DPs also made limited efforts to “pool” risk assessments and to ensure that such analyses were reflected directly in programming. The DPs' first chance to formally express their dissatisfaction was at the annual review of general budget support (GBS), scheduled for November 2007. The DPs decided to go ahead with the review, but to limit the discussions of the EPA case to the closed sessions, where there were at times heated debates about the case. The agreed assessment of the government's progress for the year was interesting. The review gave a “satisfactory” rating in the “good governance” section of the Performance Assessment Framework (PAF) after the Tanzanian government insisted on this rating.¹⁰ More surprisingly, the heads of cooperation (HoC) deemed the rating on corruption also as “satisfactory.”¹¹ The report on the annual review makes no mention of the

¹⁰ The DPs had pushed for the less positive (though not particularly harsh) rating of “fairly moving.”

¹¹ Poverty Reduction Budget Support (PRBS) HoC meeting minutes, 7 November 2007.

EPA case, despite it being widely acknowledged by then. The decision not to address the EPA case in any of the public sessions does raise some questions about whether the DPs missed the opportunity to publicly express their concern with the case and engage other actors.

The second forensic audit was finalised in January 2008, kick-starting a series of talks that, in one form or another, continue to this day and that revolve around the so-called “EPA Action Plan.” The action plan provided a useful focus for the continued discussions between the government and DPs on the EPA case, despite a lack of clarity on DP positions regarding the key responses required by Tanzania. Broadly speaking, the DPs appeared to be seeking two types of responses. First, they wished to see timely action arising from the DP report in terms of strengthening BoT’s governance and completing criminal prosecutions. Second, they wished to see stronger focus on commitments to anti-corruption in policy dialogue between DPs and government.

The question for DPs was whether enough progress was being made to allow for continued disbursements to support the government’s 2008–2009 budget. Less than half of the DP representatives were able to agree on a common stance. Five of the twelve agreed on the three criteria to be used by the World Bank as the basis for continuing further disbursements. This illustrated the wide difference in how different DPs interpreted their respective anti-corruption policies in relation to follow up on a concrete case. Minutes of the HoC meeting do not give a sense of disagreement *per se* but rather a lack of common direction. More than a year after DPs first became aware of the EPA case, there still was no clear agreement on actions and sanction mechanisms. Eventually, an agreement was finally reached that future GBS support would depend on implementation of the EPA Action Plan.

Implementation of the EPA Action Plan was raised higher up on the agenda in the 2009 PAF. At the 2010 GBS annual review, progress on corruption received a “not satisfactory” rating for the first time. Central to the decision to give this rating was a lack of implementation of key elements of the EPA Action Plan. In February 2011, the DPs called a high level dialogue (HLD) meeting, followed by monthly meetings between the lead donors and the government, during which DPs tracked the implementation of the action plan, as well as progress on other corruption cases. The HLD meetings continue to date.¹² In terms of sanctioning, seven years after the crime, there have been only six successful convictions (although up to 14 other cases are on-going). The most high profile of the cases before the courts was “adjourned indefinitely” in May 2010.¹³ Throughout the process, DPs made limited efforts to include non-state actors or parliament in the process. Civil society had previously been actively involved in the annual GBS reviews, but for the handling of the EPA case most discussions were kept confidential between DPs and the Tanzanian government.

4.2 Afghanistan – the Law and Order Trust Fund case

Basic facts

After the fall of the Taliban, the establishment of a national police force was naturally seen as essential to restoring stability and security in Afghanistan. As a first step, a sustainable police force required a reliable mechanism for the payment of salaries, in a country where virtually no modern banking infrastructure existed. Thus, in 2002 the Law and Order Trust Fund for Afghanistan (LOTFA) was established as a mechanism for the international community to mobilize and channel resources necessary for the establishment of a police force, the Afghan National Police (ANP). UNDP

¹² There were three meetings in 2012.

¹³ “Jeetu Patel EPA Case Adjourned Indefinitely,” *The Citizen*, 5 May 2010.

was put in place as the trust fund manager. The intention was also to gradually build and implement a modern mechanism for paying the ANP throughout Afghanistan.

Since its inception, LOTFA has mobilized and delivered approximately US\$ 2.5 billion to support the Ministry of Interior (MOI) and it currently pays the salary of some 140,000 police and 5,000 uniformed personnel of the Central Prison Department. While MOI is the implementing entity for LOTFA, funds are channelled through the Ministry of Finance (MOF). As such, funds channelled through LOTFA are “on budget.” The number of DPs contributing to the programme has varied between 10 and 13. DPs, together with the Afghan government and the UN, make up the LOTFA steering committee, which is intended to provide oversight and guide implementation of the programme.

Rumours of corrupt behaviour in the MOI date back to at least 2006, and serious concerns were raised in several audits and evaluations from 2009 and onwards. The lack of clarity on the number of actual MOI and ANP personnel who belonged on the payroll was reported in 2009 by the US Government Accountability Office (GAO 2009). The report also made reference to earlier reports that the number of police was inflated, with senior officers allegedly collecting the salaries of “ghost officers.” Other reports and evaluations also raised red flags, including the US Office of the Special Inspector General For Afghanistan Reconstruction (SIGAR) audit published in April 2011, which specifically addressed ANP payroll costs and workforce strength. An audit report for the year 2011 raised additional concerns regarding possible misuse of funds in the MOI and insufficient management oversight within UNDP (KPMG Afghanistan Limited 2011).

In February 2012, the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) (an international committee set up to monitor the government’s follow up on anti-corruption commitments) was to conduct its fourth two-week mission in Afghanistan. Based on reports from numerous whistle-blowers, it was decided that the mission would also look into the use of DP funds in LOTFA. The subsequent mission report, dated 30 April 2012, noted that UNDP as the LOTFA administrator was not able to provide assurance “that only ANP personnel who worked received pay and that LOTFA funds were used to reimburse only eligible ANP costs.” Furthermore, it noted that just over 20 per cent of ANP “were still paid cash and neither MOI nor UNDP have verified payroll data and cannot confirm that only ANP who work have been paid.” In view of this the MEC concluded that “oversight and accountability of LOTFA . . . [is] insufficient for a Trust Fund of this size and importance.” This was followed in May 2012 by a series of articles in the Wall Street Journal alleging serious corruption in the LOTFA programme.

Key aspects of the DP response

Insufficient attention had been paid by the DP group to the need for conducting regular and robust risk assessments of LOTFA and ensuring that the risk assessments were reflected in decision-making on the programme. Initially UNDP strongly refuted the allegations, but after a while the allegations could no longer be overlooked. Subsequent to the first article appearing in the Wall Street Journal, the relevant donors met with the MEC on 13 May 2012. Following the meeting the European Commission appears to have taken the lead to draft a letter from the DPs that was sent to UNAMA on 19 May 2012 (Usackas 2012). The letter stressed that the DPs would consider withholding further funding if they felt that the integrity of their funds was at risk. In line with this, the DPs urged UNDP to preserve all evidence of alleged wrongdoing, safeguard the rights of all whistle-blowers, keep the DPs informed of the UNDP Office of Audit and Investigation (OAI) investigation and implement the MEC’s recommendations.

By early September 2012 there had been no further significant communication to LOTFA DPs regarding the OAI investigation or the other actions urged by the DPs. As a result, LOTFA’s DPs agreed to prepare a second letter. This letter was drafted but was never sent, as UNDP called a

meeting to explain that the OAI investigation was on-going and to request more time, since they were in the process of contracting an independent management review of LOTFA programme arrangements. Having received this assurance, the DPs agreed to wait until they would receive a report from UNDP before taking further action.

At the time of writing, it appears that almost all of LOTFA's DPs were sufficiently satisfied with the actions taken by UNDP to agree to continue their funding. These actions include the conclusion of the OAI investigation, removal of staff involved in wrongdoing and the conclusion of a management review of LOTFA. It should be noted, however, that the focus of UNDP appears to have been primarily on strengthening its own management structures. This, rather than addressing the alleged issues within MOI and the ANP, this also seems to be where the DPs have placed their emphasis. No action appears to have taken place within the MOI. One respondent, speaking off the record, suggested that the focus on UNDP had deflected attention away from MOI and the ANP. DPs made very limited efforts during the follow up on the case to involve non-state actors in the process.

4.3 Zambia – the health sector case

Basic facts

In March 2009, a whistle-blower tipped off the Anti-Corruption Commission (ACC) of the existence of corruption in the Ministry of Health (MoH) involving per diem payments to high level government officials for training and workshops that did not take place.¹⁴ On 14 May 2009, following a press report,¹⁵ the ACC confirmed it was investigating the misappropriation of over 10 billion Zambian kwacha (ZMK) (ca. US\$ 1.7 million) from the MoH.¹⁶ The OAG conducted a forensic audit requested by President Banda (with DP support), and interim results showed the misappropriation of over ZMK 27 billion (ca. US\$ 4.6 million). A total of 32 senior civil servants, including the former permanent secretary (PS) of the MoH, were suspended as a result in late May.¹⁷

The forensic audit report completed in July 2009 confirmed that \$US 7.7 million could not be accounted for from 2006 to 2009. Of this, 59 per cent (US\$ 4.5 million) was from Zambian government funds, 32 per cent (US\$ 2.5 million) was from "basket funds" (provided by Sweden, Netherlands and Canada) and 5 per cent (US\$ 385,000) from the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM). As 59 per cent of the misappropriated funds was government funds it was clear that GBS funds could have been affected. At the same time, the GAVI Alliance (GAVI) reported findings from its own audit that showed that US\$ 120,000 was unaccounted for from their health system strengthening funds.¹⁸ The report also confirmed that the paper trail was essentially "clean," indicating a significant degree of collusion, since some documents had required over ten signatures.

¹⁴ The whistle-blower was reportedly the girlfriend of the main accused. As a result of an alleged assault the girlfriend went to the authorities to report the theft.

¹⁵ The report was apparently made in *The Post* on 1 July 2009.

¹⁶ *The Post* apparently expressed concern that more evidence could be destroyed, stating that too many people were involved. It also alleged that MoH funds had for a long time been used to obtain money for election campaigns of the ruling Movement for Multi-party Democracy (MMD) party and that this weakened accountability systems and opened doors for individual gain.

¹⁷ The suspended PS was Dr. Simon Miti, who was PS between June 2002 and January 2009. In 2008, he moved from the MoH to become PS of the Ministry of Science and Technology, but at the end of May 2009 he was placed on forced leave to allow for the on-going investigations.

¹⁸ This information is based on an internal DFID assessment.

Key aspects of the DP response

There is an overall mixed record in terms of the quality of DP corruption risk assessments in Zambia. Risk assessments were being conducted regularly, but there was increased reliance on national risk assessment systems, and despite concerns raised about risks particular to the health sector. The actual response to the case can be characterised as “rapid fire.” The day after the 14 May 2009 press report that ACC was investigating the misappropriation of funds from the MoH, the Swedish embassy immediately stopped a disbursement that had been made the previous day. The Canadians also froze US\$ 5 million of funds already committed to the human resource basket. On 18 May 2009, the MoH wrote to the leading DPs (referred to as the troika), outlining the information available from the ACC and stating MoH’s commitment to cooperate with the ACC and take action against any officer involved. At this point, DPs (in particular Sweden) were concerned about publicity on the home front. Within two days, the information in the press release found its way into *The Post* in Lusaka, creating the impression of a breakdown in dialogue between DPs and the Zambian government.

On 27 May 2009, the Office of Auditor General (OAG) presented a forensic audit to the president, and the report was passed to the law enforcement agencies. On 3 June 2009, OAG confirmed to DPs that ZMK 27 billion (ca. US\$ 5.2 million) had been embezzled from the health sector in 2008. In response to the forensic audit findings, Sweden and the Netherlands froze funding to the expanded health basket, delaying a payment of US\$ 38 million, and GFATM delayed its release of US\$ 120 million to the MoH for 2009. GAVI also delayed its release of US\$ 200,000 to the MoH. In addition, DFID held back its second PRBS disbursement of 11 million British pounds due in May 2009 until certain conditions relating to the health sector action plan were met. Zambia’s health system was in crisis. Nearly overnight, 50 per cent of the national health budget had been frozen.

On 1 July 2009, a “Governance Action Plan” was agreed that laid out immediate actions to be taken in the health sector to address the current corruption scandal and to put into place immediate safeguards. The DPs met to discuss progress on the action plan including the terms of reference for a comprehensive audit. A major issue was the slow progress on commitments to refund stolen funds and a lack of information on the results of the forensic audit. Following the comprehensive audit, GFATM suspended funding, and decided that funding could no longer be channelled to the MoH. In December 2010 it was agreed that UNDP could take over as principal recipient and receive/manage GFATM grants on behalf of the MoH; however it took another year to put the arrangements in place to allow this to happen.

At the time of this report, 3.5 years after the corruption was first revealed and one year past the end of the original five year timeframe for health aid support worth 555 million Swedish kroner (SEK) (ca. US\$ 85 million), Sweden has resumed funding. But the case resulted in a large amount of planned Swedish aid not being a released (including SEK 150 million, ca. US\$ 19.4 million, in health related aid and SEK 300 million [ca. US\$ 46 million] in budget support).

This case illustrates the difference in interpretations of the responsibilities of government in relation to underlying anti-corruption principles. DPs interpreted the situation differently and this was reflected in inconsistencies in their responses. While Sweden, the Netherlands and Canada withdrew funding immediately, at the same time the European Union (EU) and the African Development Bank increased their contributions. The net effect was a somewhat higher than expected level of budget support. In addition, despite open communication around the major decision of whether to suspend or freeze funding, there was limited dedicated effort to engage with non-state actors throughout the process.

5. Cross-cutting findings from the research

5.1 How robust was the DP response to the corruption cases?

Due to a combination of the increased emphasis on donor coordination frameworks and the fact that corruption is higher on the agenda domestically in DP countries, there seems to be a growing commitment to handling corruption jointly. However, as the three cases show, turning a commitment to a joint response into practice is not straightforward. The cases illustrate the variations in donor responses.

There are some *positive aspects* of the DP responses that should be highlighted. All three cases reviewed involved DPs coming together to develop joint analysis and putting in place some type of collective response. The cases illustrate the importance of **clear leadership and pro-active coordination**. The formulation of collective DP responses was clearly dependent on having functioning coordination structures in place to facilitate discussions. All three cases show the value of a strong aid coordination architecture for providing a forum for developing collective responses and, importantly, the incentive to do so. This was essential for maintaining a unified position, as well as for maximising the consistency of the DPs' approach and the quality of their negotiations. The Afghanistan case illustrates a slightly different situation, where coordination structures were in place (both the LOTFA steering committee and more general coordination structures), but where it took a combination of external factors for these coordination structures to be mobilised to bring about a collective response. In all of the cases it was critical that one or more DPs were willing to take a leading role in developing proposals for collective responses.

On the whole, however, the DP responses to these three cases are characterised by a series of *weaknesses*. The case studies illustrate the DPs' struggle to respond robustly to corruption cases due to limited analysis, poor preparedness and a lack of a "game plan." The main weaknesses identified include the following:

- **Responses brought about, at least in part, as a result of public attention to the cases:** The three case studies illustrate that DPs are much more likely to put in place a strong and well communicated response when corruption cases are too large and public to ignore. This was particularly evident in the Afghanistan case, where, despite the existence of rumours and anecdotal reporting of corruption in the LOFTA programme for years, it was only when formal audit documentation in combination with international media reporting was presented that a response was mobilised. In the Zambia case, there had been considerable documentation of fiduciary risks in the health sector in the years leading up to the scandal, but it took a whistle-blower and detailed audit reports of corruption at a large scale to mobilise the response from DPs. It is not possible to generalise based on the three cases, but they do raise the question of whether a "zero-tolerance to corruption" position is more likely to be activated in cases that catch the public's attention.
- **Delay in reaching common positions and agreement on actions:** Particularly in Afghanistan and Tanzania, there were considerable delays in reaching an agreement amongst the DPs on a common position and follow up actions. For instance, in Tanzania it took more than a year after DPs first became aware of the EPA case before a clear agreement on the priority actions and criteria for a return to a normal funding situation was reached. There were concerns as time went by that the dialogue around the action plan was becoming predominantly an administrative exercise. It became viewed by some as a diversionary tactic by government—one that consumed considerable energy, while not delivering any immediate, or even longer term, results in terms of holding those responsible accountable for

their actions. This is not an uncommon challenge. In similar cases elsewhere in the region DPs have tended to be content to return to normality once a comprehensive and seemingly credible plan for follow up is put forward.

- **Lack of realism and confusion over who is responsible for follow up:** Whilst the DPs managed to negotiate action plans for follow up, their ability to influence the government to implement these plans proved to be more limited. In some instances, such as in the Zambia case, there were delays in the process of verification of the action plan partly because the targets were overly ambitious. In hindsight, DPs agree that the targets were unrealistic especially in areas that needed cooperation from institutions outside of the MoH. The dynamics between different arms of the Zambian government were not addressed in framing the action plan and, in fact, were not fully understood. Under the circumstances, the MoH was unable or unwilling to persuade other parts of government to deliver on promised actions. Another example of lack of realism on who was responsible for follow up is the Afghanistan case, where DPs focused primarily on affecting change within UNDP and its management of LOTFA, largely ignoring, at least publicly, possible corruption within the MOI and the ANP. After UNDP had met the DPs' initial demands, DPs agreed relatively quickly to continue funding for LOTFA. But issues within MOI were left largely untouched. DPs focused their attention on the "easier" target where they had the most control and could expect to see quick results.
- **Short time horizon, limited arsenal and front-loading of the response:** Related to the above point is the challenge of the DPs front-loading their attention and dialogue within the first six to nine months after a case emerged. As time went by, the attention to follow-up actions dwindled as implementation faltered, and this reduced the likelihood of achieving the complete follow up required (in terms of system strengthening, but more importantly in terms of sanctioning responsible officials). DPs had no strategy for how their response would pan out over a longer timeframe. This was the case with the EPA scandal in Tanzania, where the "time for action" was seen to be the first 18-month period after the case emerged. By the time it became clear that government was dragging its feet in ensuring necessary follow up, and the inadequate results of the lengthy process of criminal sanctioning were clear, the DPs had limited options or willingness to take further action. In general, the DPs seem to be operating with a limited arsenal of responses, generally limited to a "one off" freeze or cut in funding shortly after the case emerges. This leaves limited options for responses further down the road in the case of inadequate implementation of the agreed follow up actions.
- **Failure to open the dialogue up to other actors and engage with other accountability processes:** As illustrated in the three cases, the DPs generally failed to make active use of opportunities to involve other local actors in the discussions of the cases, or to encourage and support domestic accountability processes to take centre stage. For instance, in none of the three cases did the DPs seek to engage actively with civil society or parliament. The DPs also kept quiet about the on-going negotiations with partner governments about follow up, preferring to keep these negotiations as confidential dialogues between the two parties. There was no evidence of a communications strategy having been developed in any of the cases, which would have helped share the DP position with the wider public. Had greater effort been made to involve other actors, the DP responses to the cases could have contributed directly to a more active public debate of the cases, including discussions about government's failure to follow up adequately. As illustrated in the literature review, such stimuli of public debate is essential as part of ensuring long-term change in terms of a reduction in corruption.

5.2 Does the DP response matter? Is there an impact?

Short- and longer-term impact

The discussion of impact from collective responses to corruption cases is not straightforward. It is not possible to assess the counterfactual, such as whether there would have been less follow up without a coordinated DP response, or whether follow up would have been better with a more effective DP response. Below is a brief discussion of the results of the joint DP responses in terms of *short-term impact* on recovering DP funds and ensuring a commitment from government to follow up on the case, and *longer-term impact* in terms of ensuring that follow up is concluded, which in turn can contribute to reducing corruption trends.

In terms of **short-term impact**, the lessons from the three cases are mixed. Only the Zambia case resulted in actual repayment of funds. Yet there were positive results in all three cases in terms of establishing a formal commitment to follow up, evidenced, for instance, by the action plans drawn up. However, there were considerable delays in Tanzania and Afghanistan compared with the Zambia case in this regard. In the latter case, the scale of the withdrawal of funds and the number of DPs involved undoubtedly meant that the Government of Zambia had little choice but to respond. The coordinated response from DPs meant that the government would have jeopardised relations with all of the DP community if it had not responded. With over 50 per cent of the health sector budget at stake, there was just too much to lose. The insistence by DPs on the adoption of the Governance Action Plan was important because it focussed attention on remedial action, and it is unlikely such comprehensive steps would have been taken, at least in the short term, without the pressure of this action plan. The late inclusion of independent verification at the insistence of Sweden upset the Zambian government but did create considerable pressure to deliver and in that sense was successful.

Similarly, in the Tanzania case there was a view that the EPA Action Plan would not have come about without the joint pressure from the DP community; this action plan was integral to assessing government performance in terms of follow up. In Afghanistan, in the *immediate term*, the coordinated DP response resulted in swift action to sanction UNDP staff allegedly involved in mismanagement or corruption. It also resulted in a review of LOTFA management arrangements, a risk management plan and a significant increase in the staffing of the programme. The case also served as an opportunity for MEC to increase its credibility as an impartial actor, since it could demonstrate that it was not only looking into possible corruption within Afghan institutions.

In summary, the DP responses resulted in explicit commitments to follow up on the cases on the part of the partner governments, and UNDP in the LOTFA case. Repayment of funds to DPs only took place in Zambia.

In terms of **longer-term impact**, there were a few positive aspects. The procedures and processes to conduct a dialogue with government over corruption concerns were strengthened in Zambia and Tanzania, which has meant that corruption has been taken on board more strongly in high-level dialogues between government and DPs. Overall, however, the picture is mainly negative. Clearly, in terms of improved sanctioning of detected corruption cases, it is difficult to argue that the DP response has caused robust sanctions to be imposed on the guilty parties. In the Tanzania case, there have been only six successful convictions, and the most high profile of the cases before the courts was adjourned indefinitely. The prosecution of mid-level business people and functionaries may seem like a misplaced reprisal for a crime that was condoned by the political elite. In Zambia the track record of criminal sanctioning is also not very strong. Most of the medium and high-level suspects have been acquitted. In terms of the implementation of technical reform aspects of the action plans in Zambia and Tanzania, the record is also mixed. In Tanzania, progress in important areas has stalled. In Zambia, it remains to be seen whether the action plan will have lasting benefits over the next few years in terms of quality of the financial management, procurement and overall management systems.

As the case study indicates, it was not long before there was a push back against the reforms being imposed and a reluctance on the part of senior officials to implement the reforms.

Given the relatively recent events of the Afghanistan case, it is hard to predict what the mid- to *long-term outcomes* will be. It seems that UNDP will be under increased scrutiny and that DPs will seek to play a more active role in the LOTFA steering committee. Yet, as noted above, it is unclear whether there will be sufficient alignment of DP interests for a coordinated stance vis-à-vis MOI and the ANP to take action on corruption within these institutions. If the priority is to maintain a funding mechanism to ensure relatively smooth payment of the ANP and uniformed correctional facility employees on a regular basis, a certain level of corruption may be seen as an acceptable cost of ensuring stability following the departure of international combat forces in 2014.

In summary, it would seem fair to conclude that the joint DP responses have been relatively effective in terms of securing statements of commitment to follow up, and recovery of DP funds in some instances. However, when it comes to ensuring full implementation of the agreed action plans and completion of sanctioning, the results are relatively poor.

5.3 Constraints for improved DP responses to corruption

As illustrated above, the responses by the DPs to the three cases could have been stronger. Below is a discussion of three potential constraints, evident in all three cases, that may have led to the weaknesses of DPs responses identified above. Addressing these weaknesses may help improve future DP responses to corruption cases.

Limited preparedness and lack of a “game plan”

The analysis of the three cases points to capacity constraints, limited analysis and lack of preparedness as factors that constrain the effectiveness of DP responses to corruption cases. It is fair to say that the DPs were ill-prepared to deal with the cases reviewed. This was particularly evident in the case of Zambia, where the situation contained all the elements that a collective response is seeking to address—unexpected events arising in one of the most sensitive sectors, unknown consequences, international publicity, conflicting interests and demands—all of which took place in a highly emotional atmosphere. The immediate suspension of funding without planning for alternative channels left the collective DP community accused of caring more about its own money than the lives of Zambians. In addition, given the speed with which the issue reached the newspapers, there was no time to develop a media strategy, which is an essential part of managing a crisis. A similar situation arose in the Afghanistan case, where despite long-standing concerns of corruption the DPs had no alternatives in place for continuation of programming (outside of the mechanism that fell under suspicion) and no plan for how to deal with corruption.

The cases illustrate that the ability of the DP agencies to deal effectively with corruption concerns was compromised by limited technical capacity in this area. For instance, in the LOTFA case in Afghanistan, the DP representatives on the steering committee frequently came from the political rather than the technical (development) side of the agencies. These representatives often did not have the technical expertise to evaluate the corruption risks in a robust manner. In most of the DP agencies there is a very high volume of work coupled with considerable staffing limitation and frequent turnover in staff resulting in poor continuity. The latter is particularly true for fragile and post-conflict settings. Incisive technical analysis of changing needs and demands may therefore be more difficult to achieve. Similarly, in the Zambia case the health DP group had not been able to draw in the necessary governance and financial management expertise to allow for a more detailed continuous analysis of corruption risks in the sector. The Tanzania case also illustrated that the limited understanding of the political context on the part of some DPs weakened understanding the situation and impacted negatively on the effectiveness of the responses developed.

The case studies illustrate that DPs struggle to respond robustly to corruption cases due to limited analysis, poor preparedness, and a lack of a “game plan.” The cases also illustrate limited capacity for strategic long-term planning for how to deal with concrete cases. Why there is such poor performance in this regard after so many years of anti-corruption commitment, discourse and clearly formulated policy is hard to say. It would seem that there is a considerable gap between the official policy and the practice on the ground. There are many possible explanations for this. One may relate to the fact that DP staff do not face significant personal consequences of doing poor preparatory work, risk analysis, due diligence or follow up on corruption. Staff from the private sector and NGOs are much more exposed to sanctions (such as fines, court cases and loss of contracts). There is a question of whether increasing the severity of consequences for DP staff of poorly handling corruption risks would lead to improvements.

Challenges related to coordination

Where coordination structures work well, they clearly provide an important basis for developing effective collective responses to corruption. However, the case studies illustrate that coordination structures can act as barriers to achieving effective responses, due to their rigidity and the tendency for the “lowest common denominator” to be adopted.

For instance, in the Zambia case there were evident philosophical differences in the way DPs interpreted the MoU between the government and the DPs covered by the Joint Assistance Process (JASZ), particularly as regarding the underlying principle related to combating corruption.¹⁹ Because this principle is so general and no mechanism for measurement is included, it is a matter of judgement as to whether the government is in breach. The judgements by the DPs on whether the MoH case constituted a breach of the underlying principle seem to have diverged. One view was that the government fundamentally failed in its responsibility (a view taken by Sweden, the Netherlands and Canada), while the alternative view (notably reflected by the EU) was that the government institutions were on the case and DPs should let that process run its course. This divergence of views had a direct impact on the strength of the actual response. One consequence of this was that while Sweden, the Netherlands and Canada withdrew funding, at the same time the EU and the African Development Bank increased their contributions. The net effect was a somewhat higher than expected level of budget support.

The EPA case in Tanzania demonstrates similar limitations in terms of how the DPs responded to corruption in the context of GBS coordination structures. It is recognised that the PAF framework was a rigid and process-oriented tool that was not equipped to handle a case of the “show-stopping” magnitude of the EPA scandal. This was particularly due to slow-moving decision-making and a tendency for DPs to settle for the “lowest common denominator.” The Afghanistan case illustrated a similar problem. Different DPs, such as Germany, the US, the UK and the European Union Police Mission in Afghanistan, had their own police and security forces programmes on the ground, outside of LOTFA. This may well have contributed to the sense, especially in the first few years, that LOTFA was only a funding mechanism, not a capacity building mechanism (UNDP 2013). It appears that issues of building capacity and integrity in financial management and payroll functions slipped through the cracks between the different programs, and no one focused much attention on this. At the same time, it appears that the many fragmented bilateral policing programs were focused on operational effectiveness of the security forces, not matters of financial management. This had

¹⁹ There are currently nine cooperating partners who have signed the MoU (the European Commission, the United Kingdom, Germany, Norway, Sweden, Finland, the Netherlands, the World Bank, and the African Development Bank). A number of other partners have expressed interest in joining.

negative implications in terms of limiting attention to the issue of possible corruption in the functions performed at the MOI.

The cases illustrate the need for clear “leaders of the pack” who are willing to make effective use of existing coordination structures to set a high standard for the response that is put in place. This requires careful manoeuvring, given the many competing agendas (see below), and also requires working in new ways across the DP group. For instance, effective follow up on corruption cases occurring in particular sectors requires closer collaboration than usual between governance/public financial management (PFM) groups and the sector group in question.

Competing agendas

The third general area of constraints relates to the tension created by competing agendas. Below is a discussion of four agendas that compete with “zero tolerance to corruption” policy objectives.

The first competing agenda relates to continued service provision in critical sectors (such as health and security). This was illustrated very clearly by the MoH case in Zambia, where there was a marked tension between the commitment to follow up on corruption and the commitment to ensure continued provision of health services. In a recent interview with *Development News*, Georg Andréén, Sida’s Director for Programme Cooperation, reflected on the experience in Lusaka, explaining, “When a major scandal was disclosed the only responsible way to deal with it was to withdraw funds,” but continuing, “Should we have been quicker in finding alternative non-state actors? Perhaps, but this would entail a risk because we could further undermine state institutions.”²⁰ A similar tension could be found in the Afghanistan case where the continued provision of essential security services was at odds with the commitment to a zero tolerance to corruption position.

The second competing agenda relates to wider state- and peace-building objectives. This is illustrated particularly by the LOTFA case in Afghanistan, where DPs were challenged to balance the need to support a visible, viable police force that was adequately paid against the need to deal with concerns of misuse of funds and/or possible corruption. A focus on anti-corruption may have been less of a priority for the military sections of some DP governments, as opposed to the development assistance arms of the same governments. A further complicating factor seemed to be the extreme discomfort in criticizing or putting any public pressure on multilateral administering agencies over corruption concerns. This may again have been due to a sense of dependency on these agencies to manage politically important and challenging programmes.

The third competing agenda relates to aid effectiveness objectives. This came out very clearly in Zambia. There is no doubt that the handling of this case by the DPs damaged the partnership with the government and the distrust that came with that situation remains part of the legacy. One of the problems with how the DPs responded to the crisis was that they created the potential for disempowerment of certain Zambian government agencies by “taking over” the process, contrary to the principle of ensuring that the partner government is in the driving seat. In Tanzania, a similar tension arose. Tanzania has since the 1990s been regarded as a “donor darling.” Tanzania’s willingness to introduce political and economic reforms was arguably rewarded with debt relief, rising aid budgets and the increased use of GBS as the principal delivery channel (Tripp 2012). In a context of many years of collaboration between DPs and government, and where DPs are invested in ensuring the continuation of this partnership, addressing corruption cases head-on can present challenges.

²⁰ This discussion was reported in *Development Today*, 16 October 2012.

The fourth competing agenda relates to DP domestic political and commercial interests. This may include geo-political interests, where maintaining a stable relationship with a given country is considered more important than responding robustly to corruption. There is also the increasing importance of commercial and investment relationships compared to the aid relationship, which in some instances shapes how corruption, amongst other issues, can be dealt with. Taking a robust stand on embezzlement of a dormant account in the central bank is one thing. Taking a robust stand in a case where a DP country's commercial interests may be at stake is quite another. This was not evident in the EPA case, but has been evident in some other cases in Tanzania (such as the British Aerospace radar purchase scandal discussed in Chapter 7). This is consistent with the observation in the Norad joint evaluation, which notes that where DPs feel they are bound by political considerations and decisions to remain engaged in a particular sector, they may stop short of pressing for tougher actions (ITAD and LDP 2011a).

There is no clear-cut answer to the question of how to resolve these competing tensions, but it is important that DPs are aware of these possible trade-offs and bear them in mind in their discussions of how to respond to corruption.

6. Lessons for the future agenda

The analysis of the case studies, including the identification of lessons for the future agenda, focused on how the responses from the DPs in the three cases measured up against the key factors for achieving more effective collective responses outlined in the OECD DAC publications on collective donor responses. The following three factors were singled out: (i) preparing collectively in advance of responses; (ii) acting predictably—implementing anti-corruption policies; and (iii) maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors.

(i) Preparing collectively in advance of responses

An important point to note with regards to the capacity to put in place robust response to corruption is the need for adequate risk analysis. The pattern of annual (or less frequent) assessments of fiduciary risks may leave the DPs insufficiently prepared to deal with emerging cases, especially if these assessments are not geared towards identifying and tracking specific red flags. There is also a need for improved analysis of the political dimensions of corruption risks. Finally, DPs need to become more prepared to construct coherent and sensible responses, not just during the immediate time period after the case emerges, but also in the longer-term period of follow up.

In summary the following lessons can be highlighted:

- *Take a more pro-active approach to assessing risks:* An important lesson is the need for more pro-active and better quality corruption risk assessments. This includes the need for DPs to (i) invest in dedicated analysis of corruption risks in key sectors, including possibly requiring DP sector groups to ensure access to necessary governance and financial management expertise; (ii) engage in frequent “reality checks” to assess whether regular audits and evaluations paint an accurate picture, including, for instance, by acquiring information from informal sources such as investigative journalists, private sector actors or embedded DP funded technical experts in a given government ministry or sector; and (iii) undertake a detailed political economy analysis of the national context and the government agency/sector in question to understand underlying drivers and incentives that might impact on the likelihood of corruption.
- *Make contingency plans for handling of corruption cases:* DPs need to improve their contingency planning for how to respond to possible corruption cases in a given programme or sector, come to a common position and implement joint responses when required. Such plans need to include (i) an assessment of the impact of different risks on the delivery of the programme; (ii) an outline of possible donor responses to different scenarios (cases) that includes a discussion of how to activate responses over the short- and long-term; and the (iii) identification of alternative implementation/delivery modalities that could be activated if the programme needs to be terminated.
- *Improve coordination structures:* The case studies point to the need for re-structuring and improving DP coordination and dialogue mechanisms. This relates particularly to the challenge of improving the quality and speed of decision-making on important issues such as the response to corruption cases. There is also a need to ensure that the DP community is organised in the most effective manner to draw together necessary resources to deal with emerging corruption cases (e.g., a blend of sector experts and governance, anti-corruption and financial management expertise).

(ii) Acting predictably—implementing anti-corruption policies

A second set of challenges relates to the widely differing interpretations by DPs of their “zero tolerance to corruption” policies in their response to concrete cases. Beyond the shared requirement for an audit to be completed and funds to be repaid, there seemed to be no clear understanding within individual agencies or across the DP group of the level of follow up by partner governments that would be required for the situations to return to normal in each of the cases examined. There was considerable variation in the understanding, even philosophical differences, amongst DPs when it came to what was considered a “good enough” response. This was, of course, a result of the fact that each DP must make its own calculations about the costs and benefits of responding robustly to corruption cases, bearing in mind the competing agendas at play. Even though it is not possible to resolve this tension, steps can be taken to limit its negative implications.

In summary the following lessons can be highlighted:

- *Agree on trends and “red lines”:* Reaching agreement on joint action on corruption cases is challenging. It is perhaps not so much a question of harmonising central anti-corruption policies, which do not tend to differ dramatically, but more a question of how these general policies are interpreted and applied in a specific context. DPs would be in a better position to act in a coordinated and predictable manner if they were to engage in frequent discussions of trend and trajectory, including discussing what would constitute un-crossable “red lines” in terms of deteriorating patterns. This could help the DPs reach greater clarity on their individual and collective “risk appetite” in the given country, and on the willingness to activate strong responses. One way of assuaging conflicting priorities could be to be for DPs to become more aware of their existence and discuss these challenges more openly.
- *Prioritise predictability of responses over severity:* In order for DP collective responses to corruption to be credible, and for DPs to be taken seriously by partner governments, their threats of sanctions must be credible. The case studies illustrate that DPs sometimes have difficulty “pulling the trigger,” particularly in fragile and conflict-affected settings. The international community must be willing to follow through to the end. If it does not, the consequence of previous inaction is a prevailing sense that DPs are not really committed to anti-corruption objectives. Criminology research indicates that the predictability of sanctions is more important than their severity. It is therefore important that the DPs carefully consider what their response is going to be to a particular case, communicate it clearly, and follow through on it.

(iii) Maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors

It is now widely understood and accepted that domestic levers of accountability have greater “purchase power” than diplomatic or aid related channels. The case studies illustrate that a lot more could have been done by DPs to open up discussions with the public, civil society and the media, in order to avoid the process of follow up predominantly being a private dialogue between DPs and government. The practice in the three cases is a testament to the closed manner in which DPs chose to deal with corruption cases.

In summary the following lesson can be highlighted:

- *Play with open cards:* The World Bank took an important step on 30 May 2012, by publishing decisions to sanction companies and individuals for misconduct related to corruption. This level of openness is still not common practice across the DP agencies. DPs should strive to increase openness and transparency around their handling of corruption cases.

This could include active communication of DP positions on corruption cases, in the local media in the country in question as well as in the media in their home countries. There could also be an effort to share the often detailed and in-depth analyses of cases being reviewed, for instance by making these analyses available on the DPs' own websites or by sharing them with credible interlocutors in the country in question. It should be noted, however, that certain DPs may face internal restrictions to operating in a more open fashion, which need to be considered. For instance, the departments responsible for fraud investigations are often unwilling to discuss cases while they are under investigation.

- *Involve a broad range of actors and accountability processes:* It would be sensible for DPs to ensure the active involvement of domestic interest groups in dialogue on concrete corruption cases. DPs could consider the following types of efforts: (i) engaging with parliament (where sections could be considered allies in the fight against corruption), for example, by ensuring that parliament receives a copy of any audit reports that are produced or by explicitly encouraging the government to share the action plan for follow up (or equivalent) with parliament; (ii) encouraging the government to allow civil society to participate in discussions of the case and to monitor follow up by the government (e.g., implementation of the action plan); and (iii) ensuring that DP requirements for follow up (such as audit exercises and sanctioning) are in line with government systems and support existing accountability processes.
- *Explore the possible involvement of an impartial entity for oversight:* There were several examples in the case studies of independent mechanisms of oversight for ensuring the follow up on corruption cases. The main example was the involvement of the MEC in the follow up of the Afghanistan case, which was essential to keeping the case alive and making clear recommendations for action to be taken by UNDP. Consisting of members nominated by the Afghan government as well as the international community, the MEC was able to maintain an impartial and credible oversight role. The Zambia case illustrated a more modest arrangement of an independent verification of the implementation of action plan. DPs should draw lessons from these examples and explore different models for independent verification and oversight in corruption cases. This could link back to the previous point, in terms of involving key national actors in the verification process.

Final note—will it make a difference?

When considering whether collective DP responses to corruption are likely to make a difference there are various aspects to consider. The impact needs to be looked at both in terms of safeguarding DP funds and in terms of the wider fight against corruption. Regarding the former, anecdotal evidence shows that DPs achieve improved short-term impact in terms of follow up on corruption cases where they join forces. This is illustrated by the cases included in this report, and can also be seen, for instance, in the much publicised on-going corruption cases in Uganda.²¹ The track record in terms of longer-term impact, especially in terms of sanctioning of cases and robust system improvement, is much more mixed. There is no systematic collection of data available on the sanctioning of individual corruption cases, but the examples included in this report paint a relatively poor picture.

²¹ The Office of the Auditor General (OAG) conducted a special audit in 2012 of the Peace, Reconstruction and Development Programme, which is a donor basket fund for Northern Uganda operated by the Office of the Prime Minister. This audit revealed fraud amounting to 12.9 million euros affecting DP funds. Another special investigation by the OAG reported in December 2012 revealed widespread fraud in relation to pensions administered by the Ministry of Public Service, with a total loss estimated at approximately US\$ 61 million.

Available research suggests that there is a limited likelihood of DPs influencing wider corruption trends. Money cannot buy policy reform, and domestic political considerations are the prime factors determining reforms (Kolstad, Fritz and O'Neill 2008: 70). However, if we consider long-term change as being made up of a series of smaller waves and changes in the political landscape, then we should also recognise that DPs form part of that landscape. Therefore the way DPs play their cards in response to corruption (both individually and collectively) might have some impact and, at a minimum, warrants serious thought. Furthermore, disparate and contradictory responses to corruption by DPs will likely have less impact and may at times even contribute directly to further delay and inaction.

In conclusion, DPs simply cannot afford to respond to corruption cases in the haphazard and poorly planned fashion that is current common practice. More attention and energy needs to be invested into how to respond to corruption cases in a strategic manner that focuses beyond “getting the money back” and stimulates domestic accountability.

7. Tanzania

7.1 Introduction and country context

7.1.1 Background

The case study examines response of the Tanzania Development Partners Group (DPG)²² to a grand corruption case involving the Bank of Tanzania, Tanzania's central bank. The evidence available on the case—which we call the External Payments Arrears (EPA) case—is strong. Most cases are not so clear-cut. This allows us to see how clearly articulated mechanisms of DP coordination and DP-government dialogue work and what their real potential is for coordinating effective responses to corruption.

7.1.2 Country context

Beginning in 2005, Tanzania's performance in a number of mainstream governance indices began to show a downward trend. The stability of the Tanzanian scores on the Mo Ibrahim Index of African Governance hides a decline that began in 2006 in that index's component measures of accountability (primarily focused on corruption) in Tanzania. A recent DP evaluation of joint anti-corruption initiatives links this decline to a series of well-publicised cases of grand corruption (ITAD and LDP 2011b). The East African Bribery Index and the Prevention and Combating of Corruption Bureau (PCCB) National Governance and Corruption Survey both paint a similar picture in terms of scale of the corruption problem.²³ Corruption remains a serious impediment for both individuals and firms seeking to access public services or to obtain government contracts. The East Africa Bribery Index for 2012 indicates that over 4 out of 5 of respondents saw corruption worsening, while nearly 3 out of 4 saw it likely to worsen. Increasingly reliable data from Tanzania's National Audit Office and Public Procurement Regulatory Authority confirm this problem (ITAD and LDP 2011b), as do proceedings of the standing parliamentary committees (Bofin and Kobb 2012).

Corruption was already a publicly recognised problem in the Nyerere era, which lasted from the early 1960s until the mid-1980s. By the early 1980s, one of the many nicknames of the ruling party, Chama cha Mapinduzi (CCM), was *Chukua Chako Mapema*, freely translated as "loot now" (Kiondo 1989: 110). Efforts to rein in the corruption had little success (Maliyamkono and Bagachwa 1990: ix-xix; Kiondo 1989: 238). In 1992, the reintroduction of multipartyism was hailed as the beginning of a new political era. DPs expected that this would boost accountability and democratic governance. What they did not fully appreciate at the time was that it would also increase the cost of staying in (or gaining) power, thus providing a significant incentive for grand corruption.

In 1994, relations between the government of Tanzania and DPs came close to breaking down over a massive tax-exemption scandal.²⁴ Following the 1995 elections, President Mkapa set up a public

²² DPG was established in 2004 as the main coordinating mechanism for Tanzania's bilateral and multilateral DPs and as a means of structuring dialogue between government and DPs. References to DPs in this case study refer to the DPG as well.

²³ Conducted in 2007 and 2009.

²⁴ Tanzania's nascent free press quickly coined the affair as "Malimagate" after the then Minister of Finance (and former socialist hardliner) Kighoma Malima. For example, the *Business Times* reported this in two articles produced between 25 November and 1 December 1994, respectively entitled "Malimagate" and "DPs want Malima out."

inquiry against corruption. The inquiry report documented systemic corruption at all levels of public life.²⁵ By the time of Mkapa's re-election in 2000, corruption had started to recede somewhat from the public agenda. DP-government relations were good and rapidly increasing foreign aid helped to shore up the image of Mkapa's government being efficient and capable. All the while, a number of corruption scandals continued to appear and simmer, including a case involving a BAE Systems sale of overpriced radars to the government and the "Richmond scandal," another case of a suspect and exceedingly costly power purchase agreement (Taylor 2012). A commission of inquiry led to the resignation of the prime minister and two other ministers, but no legal action ensued, mostly because the still larger EPA case appeared soon after. Both the Richmond and EPA cases originated during Mkapa's second term, the period when Tanzania was gaining a reputation as being a good governance success story. Significantly, strong circumstantial evidence suggests that both of these cases were conceived as schemes to raise funds for CCM to finance the 2005 elections.

This backdrop of domestic politics is key for understanding corruption dynamics in Tanzania. Firstly, institutions of the party and the state (rather than dominant individuals) exercise political power. This contrasts with neighbouring Uganda, Rwanda and Kenya, where power is concentrated in the hands of individuals. Secondly, formal mechanisms of accountability are weak. For instance, the parliament has seen its profile rise considerably, but it has been described as exercising its function more "through its role in the public domain as one of the main protagonists in the political discourse," rather than through exercise of its powers (Sundet 2010: 3). Thirdly, effective lines of accountability are often ambiguous. Formal mechanisms exist in the civil service *per se* but personal networks, and political priorities systematically override the formal mechanisms of accountability and oversight (*ibid.*). Finally, political competition is expressed in two ways—through internal party competition and through electoral competition. Both have become increasingly expensive and allegedly corrupt; indeed, it has been widely alleged that CCM's 2005 election campaign was funded by the EPA scam. Because of these allegations, internal party elections for CCM are now often conducted in the presence of PCCB officers, in order to guard against vote buying.

The Tanzanian anti-corruption legal framework is relatively comprehensive, but implementation has been given low priority and usually consists of only cosmetic, superficial support from government. Key institutions for tackling corruption are in place, but their effectiveness varies greatly. This is reflected in the 2011 Fiduciary Risk Assessment, which rates the fiduciary risk level in Tanzania as "substantial." The Tanzanian government has also developed a National Anti-Corruption Strategy and Action Plan (NACSAP),

Finally, traditional sources of aid, while remaining important sources of potential rents, are now complemented by non-traditional financing. This includes concessional financing from non-traditional DPs, such as India and China. For example, in October 2012, India announced a US\$ 178 million concessional loan to improve Dar es Salaam and Chalinze's water infrastructure, and a US\$ 40 million loan to import tractors and other agricultural tools. China is financing the Mtwara to Dar es Salaam gas pipeline with funding of over US\$ 1 billion. Private sources are also increasingly important. Tanzania agreed to a US\$ 250 million loan via Stanbic Bank in 2011 and since 2010 has been considering launching a Eurobond for twice that amount.

²⁵ Corruption remained high on the agenda for Mkapa's entire first term. The major corruption scandal was associated with a power purchase agreement that Independent Power Tanzania Limited, a state-owned company, made with a private Malaysian company. Payments made by the Malaysian company to secure the agreement were reportedly used to finance CCM's 1995 elections (Cooksey 2002).

7.2 Background on DP coordination on anti-corruption

7.2.1 DP coordination structures and approaches

DPs provide support for anti-corruption reforms directly through targeted interventions and indirectly through wide reform programmes such as the Public Service Reform Programme, the Public Financial Management Reform Programme and the Local Government Reform Programme. In addition to these reform interventions, which are aimed at strengthening core public-sector-management systems in government, DPs support a number of initiatives to strengthen demand-side accountability.

As described above, relations between Tanzania's government and DPs virtually broke down in 1994 in part as a consequence of corruption. As part of the effort to rebuild the partnership, the Danish Ministry of Foreign Affairs took the initiative to form a group of independent advisors to study development cooperation issues between Tanzania and DPs. This group of advisors prepared a high profile study, the Helleiner Report, named after the Canadian academic, Gerald Helleiner, who chaired the team (Helleiner et. al. 1995). The Helleiner Report brought home the importance of ownership and partnership to the development agenda. Following the report, the World Bank's country director for Tanzania, up until then based in Washington, DC, transferred to Dar es Salaam, and a respected Tanzanian economist, Benno Ndulu, was appointed as deputy country director. Likewise, starting in 1997, the Paris Group²⁶ moved its yearly consultative group (CG) meeting of DPs from Paris to Dar es Salaam. And this was also the time when the Highly Indebted Poor Countries process started, leading to the approval of the Tanzanian Poverty Reduction Strategy Paper (PRSP) in 2000, as well as Tanzania's subsequent qualification for debt relief under the HIPC initiative.²⁷ The annual CG meetings were the main forum for formalised DP–government dialogue. Issues and concerns related to corruption were presented to the group in papers on topics such as governance, but the group undertook no direct assessment of corruption issues, as it did in the area of general budget support (GBS) consultations (see below).

In connection with the PRSP's finalisation in 2000, representatives of civil society were for the first time invited to participate in what has now become the open session of the CG meeting.²⁸ When this was repeated in 2001, civil society participated actively and provided useful critical analysis. In fact, the 2001 CG turned out to be the apex of civil society involvement in the annual consultative process. In the subsequent session the CG provided more limited space for civil society involvement.

The last CG meeting took place in 2002, after which it was replaced by the GBS Annual Review, which follows a similar format. The GBS Annual Review is based on a partnership framework memorandum, which includes a description of "Underlying Principles" for the agreement as well as a formalised performance assessment framework (PAF) to monitor government performance. Anti-corruption is central to the GBS process and is captured both in the Underlying Principles²⁹ and in the PAF. Early PAF anti-corruption targets focused on the national anti-corruption strategy. By 2009, this had changed to refer to implementation of the EPA Action Plan—a set of commitments by the government of Tanzania to administrative and management reforms in the Bank of Tanzania, as well

²⁶ An informal group representing creditor countries of Europe, along with Japan and the US.

²⁷ See Gould and Ojanen (2003) for an analysis of the politics of the PRSP process, as well as a number of good insights into the political economy of DP–government relations and the influence, or lack thereof, of domestic actors, such as parliament and civil society.

²⁸ Sensitive issues were discussed in a closed session that took place on the final day of the CG meeting.

²⁹ Specifically, one of the Underlying Principles is "Good governance, accountability of the Government to the citizenry, and integrity in public life, including the active fight against corruption" (ITAD and LDP 2011b: 44).

as with respect to fraud investigation and asset recovery in government. The Underlying Principles have no clear assessment mechanism, though a breach can lead to a stop in funding. Many partners have, as part of their commitments to GBS, a variable tranche that can be withheld in the case of dissatisfaction with the government's actions against corruption. For example, Denmark withheld its variable tranche in 2008 as a consequence of the government's delay in tabling new anti-corruption legislation. Sweden has also withheld a GBS tranche over corruption concerns (ITAD and LDP 2011b).

The GBS process also provides for activation of a "high level dialogue" (HLD) if DPs have reason to believe that any of the Underlying Principles have been breached. A series of HLD meetings have been taking place since February 2011, at the request of DPs, and were triggered by on-going corruption concerns. The European Union and DFID in particular reportedly pushed for the HLD on anti-corruption. These HLD meetings have involved the "troika" of GBS DPs, that is, the chair and the successor and previous chairs of any one year, as well as sometimes the "troika+," which includes the IMF and the World Bank. The DP community has generally been pleased by the level of government involvement in these meetings, which it sees as a sign of commitment to the agenda. One DP representative noted that the only regular dialogue between the Tanzanian government and DPs occurs in the context of anti-corruption. In sum, the HLD process is widely regarded as a successful instrument allowing for sustained dialogue on anti-corruption and monitoring of concrete actions and particular cases.

Technical coordination between DPs is organised around the structure of the National Strategy for Growth and Reduction of Poverty (MKUKUTA). This strategy is organised around three clusters, and technical coordination focuses on Cluster III, Good Governance and Accountability. The DP Governance Working Group is the main forum for agreeing on targets and monitoring implementation of cluster commitments.

7.2.2 Risk Assessment

DPs undertake a number of risk assessment processes that inform their decisions to release GBS or sector support. However, only DFID's "Fiduciary Risk Assessment" follows a regular schedule—every three years with annual updates. DFID's Fiduciary Risk Assessment approach is also the only tool that by design contributes to a DP's decision to use the GBS channel as well as identifying specific fiduciary risks and means of mitigating them. DFID's carried out its most recent Fiduciary Risk Assessments in 2008 and 2010. In both cases, the level of fiduciary risk likely to be encountered by using Tanzanian public finance management channels was described as "substantial."

The World Bank's Country Performance Rating (CPR) is a combination of a Country Policy and Institutional Assessment (CPIA) and a performance measure of the Bank's portfolio in-country.³⁰ Internal World Bank staff undertake the CPIA annually. Based on the 2011 CPR, Tanzania scores consistently higher than average for international development assistance borrower countries. It scores highest on macro-economic management measures—monetary and exchange rate policy, fiscal policy and debt management. It performs most poorly—though still above average—in the realm of public sector management. Within that category, however, its poorest performance is rated to be in the level of corruption in the public service (World Bank 2011).

³⁰ The CPIA, also known as the IDA Resource Allocation Index, ranks countries against four cluster areas using 16 indicators. Just one of the sixteen indicators, "Transparency Accountability and Corruption in the Public Sector," deals with corruption per se (World Bank 2011).

The World Bank's Public Expenditure and Financial Accountability Reviews (PEFARs) assess the quality of public financial management and identify areas for support in the context of other reform programmes. By concentrating on aspects of accountability in financial management, they can help identify corruption risks. However, they do not measure the likelihood of such a risk. PEFARs have most recently been conducted in Tanzania in 2006 and 2009. The 2009 report noted weak controls on public finance—including procurement processes, expenditure approvals and asset management—that are resulting in considerable losses to the state. In addition, the report noted that the government routinely ignores recommendations of its National Audit Office, creating an environment conducive to corruption and fraud (World Bank 2010: xvii).

There is considerable evidence of the level of malfeasance in the NGO sector. In 2008, the Swedish National Audit Office conducted a three-country study that included Tanzania and identified widespread and systematic fraud in NGOs funded by Swedish agencies (Riksrevisionen 2008). The main channel for DP funding in Tanzania—the Foundation for Civil Society—was itself the site of a major fraud in 2008. Despite this, there appear to be no mutual process or criteria for DPs to mutually assess risk, agree to acceptable levels of risk, respond to instances as they arise or specify potential sanctions in proven cases.

In sum, project level risk assessment varies greatly between DPs, depending on their risk appetite, the amount of funds being committed and perceived risks in the sector or institution being supported. DFID is obliged to undertake a Fiduciary Risk Assessment for all projects as part of the “Business Case” (programme design) stage. Other DPs, such as the Royal Norwegian Embassy (RNE), prefer to undertake organisational assessments at the level of an individual grantee organisation. Taken together, the main risk assessment tools give a comprehensive picture of the state of public financial management in Tanzania and the corruption risks faced. However, they are weakened by not being undertaken regularly. Furthermore, while they are taken into account in programming GBS, the assessments and the management framework for funding (particularly GBS) are not explicitly linked. Nor does it seem that DPs systematically combine their analyses and information into a common assessment.

7.2.3 General notes on DP responses to corruption in Tanzania

DP responses to corruption in the past six years cannot be wholly differentiated from the reaction to the EPA scandal, the main case study dealt with below. The fraud that was uncovered was just one of a number that related to the Bank of Tanzania (the Bank). Others related to severe cost over-runs in the construction of the Bank's new offices and questionable payments to the Meremeta Gold and Tangold gold companies. Consequently, the DP response to these related issues became tied up in the processes that followed—the acceptance of the government's EPA Action Plan and on-going dialogue that was initially ad hoc but was later formalised in the shape of a formal HLD, beginning in 2011.

Below is an overview of DP responses to a few other recent corruption cases:

BOX 4: EXAMPLES OF DP RESPONSES TO PREVIOUS CASES**Case 1: Embezzlement of Royal Norwegian Embassy funding by staff of WWF**

This case involves the embezzlement of funds provided by the Royal Norwegian Embassy (RNE) to the World Wildlife Fund (WWF) for two separate projects. The fraud was simple—the presentation of fake receipts for travel, accommodation and subsistence.³¹

In November 2011, a whistle-blower approached RNE with allegations of corruption in one of two WWF programmes funded by RNE. The allegations ultimately led to the revelation of the embezzlement of over US\$ 400,000 across four projects, two funded by RNE and two funded by USAID. Following receipt of the allegations, RNE moved quickly to ensure that the project was put on hold, investigations took place and further disbursements were cancelled. The response followed internal Norwegian Ministry of Foreign Affairs procedures. It was clear to staff how the case should be handled, the steps to take and the likely consequences for WWF.

WWF contracted Ernst and Young to undertake an audit of the two RNE funded projects as well as two USAID funded projects. WWF also tasked Ernst and Young with looking into other allegations against a finance department staff member. The investigation moved swiftly. WWF sent its agreement letter to Ernst and Young on 15 December 2011, and the following day RNE was informed that from 19 December all project staff would be suspended and the audit would commence. The audit report from Ernst and Young was submitted just under four months later, on 10 April 2012. The report concluded that a total of US\$ 400,000 was defrauded from the four projects through fake hotel receipts.

The initial Ernst and Young report led to RNE requesting a further audit that focused on expenditures relating to both RNE funded projects. This was completed in October 2012 and will be followed by a report from WWF on actions taken. At that stage, a decision will be taken as to whether the two projects should be allowed to continue.

By the time the initial audit was completed in April 2012, eight employees had been dismissed and a further six resigned in the course of investigative and disciplinary processes. By October 2012, 44 staff (out of a total of 107) had either been dismissed or had resigned. RNE has not approached Tanzanian authorities (such as the PCCB) with regard to the allegations, preferring to leave that decision to the WWF.

RNE staff had clear procedures to follow in the case of a fraud being detected; these procedures involved the highest levels in the embassy and the fraud control unit in Oslo. These procedures set forth a clear decision path to follow, which undoubtedly contributed to the swift reaction. RNE also managed to maintain good lines of communication with WWF management throughout the investigation of the case, thus facilitating a prompt investigation. The case received considerable media coverage, within Tanzania and internationally. RNE's openness with press inquiries

³¹ This practice is believed to be widespread in Tanzania, particularly in the NGO sector. Two projects funded by USAID were also defrauded in the same way and at the same time. However, USAID did not respond to requests to discuss the case with the consultant, so its actions are not considered here. Investigations into the case had yet to be concluded by the time this report was being written.

demonstrated a willingness to address the problem openly. In terms of RNE's own crisis management, it also allowed RNE to influence the tone of media coverage.

RNE did not coordinate its response with the other main DP, USAID, and USAID did not respond to requests to discuss the case. The main DP coordinating body for NGOs working in the environment and natural resources sector is DPG. Each of the DPG sector working groups has a mandate that privileges policy dialogue with government. RNE updated DPG's environment working group at each stage of the case, but there appears to have been no mechanism for the lessons learned from this case to contribute to management of NGO contracts. Nor were there mechanisms in place for ensuring that risk and organisational assessments were shared between DPs.

Case 2: The Richmond scandal

In late 2006, a story hit the Tanzanian papers about a suspicious contract between Tanzania Electric Supply Company Limited (TANESCO), the national electricity utility, and Richmond Development Company, a company headquartered in Texas, US, to supply generators. The national media uncovered that Richmond appeared to be little more than a briefcase company, that one of the two registered directors of the company was a Tanzanian national and that the price for the generators appeared to be on the high side.

Members of parliament questioned what appeared to be a compromised process of procurement and formed a parliamentary commission of enquiry to investigate allegations of serious mismanagement. A CCM member of Parliament, Hon Dr. Harrison Mwakyembe, headed the commission. The report named the prime minister and two other ministers as being suspects of malfeasance, and all three subsequently resigned.

Many saw this investigation as a significant turning point in the way the political leadership is willing to address corruption at a high political level. The initial public goodwill generated by this incident has since, at least partially, worn off as four years have since passed, no formal case has been lodged and the resigned ministers have campaigned for and won the 2010 elections (Policy Forum 2009). The DPs played no noticeable role in this case, and the government's action, such as it was, was very much a response to domestic pressure.

7.3 Case study of the EPA fraud

This case study has particular characteristics that make it useful, even if not necessarily representative in all aspects. Of primary importance, strong evidence existed for the fraud that appears to have occurred. A thorough audit uncovered a clear paper trail of fraudulent payments, and their approval and final payees were clear. This provided a good basis for the DP to demand clear and measurable remedial action. The case also benefitted from a relatively high level of public scrutiny. In fact, during 2007 and much of 2008, the EPA case dominated the news, and the case is still featured in media coverage that touches on issues of corruption and public administration. Finally, the EPA case was typical in that it involved a suspected connection to political financing. There has been similar suspicion related to all of the big corruption cases in recent years—including not just the EPA case, but also the other cases discussed above.

7.3.1 Background on the EPA account

The EPA account was an effectively dormant account held by the Bank of Tanzania. It had been the main mechanism through which foreign exchange was rationed in the 1980s. Importers would lodge

Tanzanian shillings with the then state owned National Bank of Commerce (NCB), which would release foreign currency payments to suppliers either in foreign currency or as letters of credit. As the economy liberalised, this mechanism was abandoned. The account migrated from NBC to the Bank of Tanzania in 1985. Despite numerous attempts to relinquish the debts between 1985 and 2002, the account remained in place with a considerable balance. The EPA case was unique, but the obscure patterns of political financing and private greed that allegedly underpinned the fraud are not unexpected, bearing in mind Tanzania's current political economy.

As outlined below, specific governance weaknesses in the Bank of Tanzania allowed the fraud to take place. But the wider factors underpinning the case affect the public service as a whole; these factors include weak public finance management, poor accountability and a lack of sanctions.

7.3.2 The scope of the case

The Ernst and Young audit report concluded that 90 billion Tanzanian schillings (TZS) (ca. US\$ 65 million) were fraudulently paid out and raised questions about payments of a further TZS 42 billion (ca. US\$ 30 million). The report recommended criminal investigations into the payments. It also identified eight senior office holders who should be investigated, along with the then board of directors.

The audit identified a number of governance weaknesses in how the bank was governed generally and specifically how it managed the EPA funds on behalf of the Ministry of Finance. Its final recommendations were wide ranging, encompassing legislative amendments, reform of governance structures, changed management practices and criminal investigations.

BOX 5: THE EPA CASE – BASIC FACTS

The EPA scandal concerned fraudulent payments of over TZS 130 billion (ca. US\$ 78 million) in FY2005-06 to 22 Tanzanian companies to which creditor status had been fraudulently assigned. By 2012 four cases involving two individuals had been successfully prosecuted. It has shaped DP-government relations since 2007.

The EPA account was an effectively dormant account to be used for import payments. When it was operational in the 1980s, strict exchange controls were in place.

In 2005, forged documentation was prepared to assign the original overseas suppliers' debt to newly established shell companies. The fraud was uncovered during the course of a routine external audit in 2006, conducted for the Bank by Deloitte.

When Deloitte raised its concerns with the Bank, the Bank terminated its contract. The Bank's board, engaged in no significant follow up of the issues raised. Furthermore, for much of the period during which the fraudulent transaction occurred, there was no head of the Bank's internal audit department (IAD); hence, IAD staff were denied access both to the Deloitte audit and to the Bank's audit committee (also chaired by the governor).

The DP community became informally aware of the case in early 2007 at the latest. By mid-2007, allegations of fraudulent payments to one company, Kagoda Agriculture Ltd., made the newspapers and led to detailed media coverage over the next two years.

In response to the allegations, the National Audit Office commissioned a second forensic audit to examine management and administration of the EPA account in detail. IMF staff agreed to the terms of reference for this audit. The forensic audit, which was completed in late 2007, identified

fraudulent transactions relating to the account totalling about 1 per cent of Tanzania's GDP. Following this, an ad hoc presidential task force was established to investigate the case and seek to have the funds repaid.

Only one "high profile" figure, businessman Jayantkhumar Chandubai "Jeetu" Patel has been charged in relation to this case, but in May 2010 his case was "adjourned indefinitely." Thus far, only three mid-level Bank officials have been successfully prosecuted. They were punished with fines of TZS 5 million (ca. US\$ 3,000) each.

As well as these convictions, considerable sums are believed to have been repaid—up to TZS 53 billion (ca. US\$ 30 million). However, reliable figures cannot be obtained. Funds were to be directed to agriculture, through the Tanzania Investment Bank and the Ministry of Agriculture. By 2011, the relevant parliamentary oversight committee was unable to satisfy itself as to what amount of the returned funds had been allocated, and to where.

7.3.3 Chronology and DP responses

Below is a description of the key developments and the DPs' responses at different points of the process:

Case comes to light (mid 2007): The Bank became the subject of a number of corruption allegations in 2007. Initial allegations about the EPA account concerned payments from the account to a company called Kagoda Agriculture Ltd. (Kagoda). Other allegations that emerged at the same time concerned the high construction costs of the Bank's new offices (the "Twin Towers") and payments to controversial gold companies Meremeta Gold and Tangold, both which had connections to government.

Problems first came to light through a routine audit covering the 2005 to 2006 fiscal year and conducted by Deloitte in 2006. Deloitte sought clarification of payments to Kagoda authorised by the then minister for finance on the advice of the Bank's governor. The Bank initially stonewalled Deloitte's inquiries, so Deloitte terminated the audit. Rumours of the payments then leaked out into the DP community and later to the press. An IMF document suggests that Deloitte approached it with concerns (not allegations) (IMF 2010: 14). By the beginning of February 2007, the allegations were common knowledge, and they were listed as an agenda item at a heads of cooperation (HoC) meeting (a regular meeting held by GBS DPs).³²

Investigation (July 2007–January 2008): The rising tide of allegations and rumours forced the minister for finance to initiate another audit, undertaken by Ernst and Young (contracted by the National Audit Office), to reveal the extent of the fraud. The report was completed and submitted in January 2008.

The rumours were also taken seriously by outside organisations. By July 2007, it was also agreed that the IMF would conduct a "Safeguards Assessment" of the Bank of Tanzania. A Safeguards Assessment seeks to "mitigate potential risks of misuse of resources, including Fund resources, and misreporting of monetary program data" (IMF 2010). Such an assessment had not taken place since 2003, as Tanzania was no longer a recipient of IMF funding. Agreement on the Safeguards Assessment was reached in mid-2007, although the assessment did not actually occur until a year

³² Minutes of meeting of GBS HoC, 5 February 2007.

later.³³ By that time, the EPA Action Plan had become the basis of the response and dialogue around the case. The EPA Action Plan included a commitment to go ahead with the Safeguards Assessment.

The EPA case was an example of what has been referred to by DPs in Tanzania as a “show stopper”—a case so large and clear cut that it demands immediate reflection and possible action. Heads of cooperation discussed their frustration with emerging financial scandals at their meeting on 24 August 2007, noting that “over the past one year and half there has been a shift from optimism/enthusiasm to financial scandals.”³⁴

DP response—The Annual Review (November 2007): The DPs’ first chance to formally express their dissatisfaction was at the Annual Review of General Budget Support (GBS Annual Review) scheduled for November 2007. The deliberation on ratings provided during this process is a joint exercise conducted by the leads for the DP Good Governance Group and the Good Governance Coordination Unit of the Tanzanian president’s office. It is a bureaucratic exercise, which clearly presents some challenges in terms of using this mechanism to deal with a show-stopping incident.

The troika effectively led preparations for the Annual Review. During preparations, a number of DPs expressed strong concerns. The Ernst and Young audit report had not yet been completed and an IMF mission was to visit from September to October 2007 to conduct a review of Tanzania’s Policy Support Instrument.³⁵ There was some disagreement among the DPs about how to address the allegations of fraud during the Annual Review, and some DPs proposed limiting the discussion of these issues to the closed sessions between DPs and the government. This was proposed due to the serious nature of the suspicions and the strong likelihood that DPs would decide to halt disbursement of GBS.

In the end, the DPs agreed to limit the discussions of the EPA case to closed sessions as had been suggested. The EPA case was not discussed at all in the public session or mentioned in any public statements. But in the closed sessions, numerous debates about the case occurred, at times heated. The DPs presented a joint stand on the issue, even if some DPs also added their own candid comments about the alleged fraud. The government, which was well prepared, asked for time to deal with the case itself. The government also asked to be given credit for being open to discussions about the case and for being proactive in dealing with the case, for example, having commissioned the follow-up audit without delay.

Looking at the ratings given during the GBS Annual Review, the DP assessment of the government’s progress on the processes and principles of GBS presented for the year was particularly interesting. DPs gave a “satisfactory” rating to the “good governance” section of the PAF, in large part due to the Tanzanian government’s insistence on this rating. The DPs, on the other hand, had pushed for the less positive (though not particularly harsh) rating of “fairly moving.” The indicators for that year touched on progress with NACSAP and the number of prosecutions for corruption. More surprisingly, the

³³ This appears to have been due to the fact that it was pre-empted by the Ernst and Young audit.

³⁴ This was recorded in the minutes from the meeting held on 24 August 2007.

³⁵ The IMF’s Policy Support Instrument is a programme to ensure that participating countries maintain economic equilibrium in the absence of IMF financial instruments. It is an important mechanism for ensuring macroeconomic stability.

heads of cooperation also deemed the rating on corruption as “satisfactory.”³⁶ Their discussions had mostly centred on corruption in the forestry sector, however.³⁷

Ultimately, the Annual Review report made no mention of any of the scandals emanating from Bank of Tanzania. This is despite the fact that the EPA case was acknowledged (indicated by the new audit that was then on-going) and was already delaying future DP commitments to GBS. The decision not to address the EPA case in any of the public sessions and to keep discussions on EPA behind closed doors raises questions about whether the DPs missed the opportunity to use the Annual Review as forum to publicly express their concern with the case and to demonstrate how it might affect their partnership with Tanzania. Further, by effectively keeping the dialogue with the government under wraps, an opportunity to open the DP–government dialogue on accountability was missed.

DP response—The audit is finalised, and talks begin (January 2008–May 2008): The Ernst and Young audit was finalised in January 2008 and concluded that over TZS 90 billion (ca. US\$ 65 million) had been fraudulently paid out. As well, the audit report raised questions about payments of a further TZS 42 billion (ca. US\$ 30 million). This kick-started a series of talks that, in one form or another, continue to this day and that revolve around the so-called “EPA Action Plan.” The British High Commissioner drove initial discussions on behalf of the DP community. These discussions included two letters regarding the suspected fraud sent to Minister for Finance Mustafa Mkullo in March and April of 2008. These letters led to the first talks between government and the troika in May 2008. Speaking notes for the meeting prepared for Minister Mkullo indicate a high degree of formality and little openness during these talks (URT 2008).

Meetings between the troika and the Ministry of Finance were held every few months. The troika reported back to the heads of cooperation, but the reports were not given wider distribution. While these discussions were on-going, the Tanzanian government drafted the EPA Action Plan and presented it to the troika. The EPA Action Plan covers a range of issues from administrative reforms in the Bank of Tanzania to investigation and prosecution to asset recovery. At this stage, the EPA Action Plan contained a series of 18 commitments made by the government of Tanzania to GBS DPs. The actors given responsibility to carry out the plan included the Bank itself, consultants working on reform of EPA management, the president’s office, PCCB and the Directorate of Public Prosecution. Contained within the Action Plan was the work of a presidential task force, established to investigate the possibility of prosecutions and funds recovery. The Action Plan provided a useful focus for the continued discussions between the government and DPs on the EPA case.

Nonetheless, despite the certainty of findings in the Ernst and Young audit, at this time in 2008 there seemed to be lack of clarity on DP positions with regards to the key responses required from the government. Broadly speaking, DPs appeared to be seeking two types of responses. Firstly, they wished to see timely action arising from the audit report in terms of strengthening the Bank’s governance and completing criminal prosecutions. Secondly, they wished to see stronger focus on commitments to anti-corruption in policy dialogue between DPs and government, which would be reflected in the PAF. They needed to see progress on these fronts in order to make decisions on GBS commitments, which were needed before the end of the financial year at the latest.

DP decisions—To continue to disburse? (May–June 2008): Following introduction of the EPA Action Plan, the question for DPs was whether enough progress was being made to allow for continued disbursements to support the government’s 2008–2009 budget. The “show-stopping” nature

³⁶ Minutes of meeting of PRBS HoC, 7 November 2007.

³⁷ These discussions related to the massive corruption in the forestry sector that had been documented by the “TRAFFIC Report” (Milledge, Gelvas and Ahrends 2007).

of the EPA case could not be handled by the existing PAF and there were challenges in terms of how it had been addressed in the GBS Annual Review. New criteria were needed for assessing corruption cases such as this, but DPs could not agree upon what these criteria should be. The issue of future disbursements was discussed at the HoC meeting in May 2008. Less than half of the DP representatives were able to agree on a common stance. Five of the twelve agreed on these three criteria to be used by the World Bank as the basis for continuing further disbursements:

- (i) Completion of the safeguards assessment and the Bank of Tanzania audit for 2006–2007;
- (ii) Agreement on a time-bound action plan for audits or investigations on other alleged corruption cases related to the Bank of Tanzania; and
- (iii) Discussion of the general audit of the Bank for 2006–2007 with respect to any EPA transaction not covered by the special audit.

These were straightforward process indicators, yet not all GBS DPs felt comfortable supporting them. DFID was ready to recommend disbursement the following month. Norway wanted to wait for joint assessment of GBS's underlying principles. Ireland wanted to see implementation of the EPA Action Plan, wait for the output of the presidential task force and take into account other DPs actions. Minutes of the HoC meeting do not give a sense of disagreement *per se* but rather a lack of common direction.³⁸

In short, more than a year after DPs first became aware of the EPA case, there still was not a clear agreement on actions and sanction mechanisms. Eventually, through continued discussions led by the troika and the heads of cooperation, the DPs finally agreed that that future GBS support would depend on implementation of the EPA Action Plan. Exactly how this common position was reached between 21 May and the end of June 2008 is not clear.

Accordingly, while there was a considerable delay of four months to the DPs' commitments, ultimately only Finland's second tranche for 2007–2008 (of just 2 million euros) was affected. More serious were delays to disbursements later in 2008, which amounted to 12 per cent of the budget for 2008–2009. These reflected concerns with perceived lack of zeal on the part of government in addressing Bank of Tanzania audit recommendations (Tilley 2009: 17). Delays on the part of DPs were considerable. No GBS payments were made until September 2008, and then only from Ireland and the UK. Further payments of initial tranches from other GBS DPs were spread over October, November and December 2008.

DP response—A new framework and increased dialogue (2009 to date): Implementation of the EPA Action Plan was raised higher up on the agenda in the 2009 PAF, by including more conditions related to anti-corruption controls. There was, however, no clear outcome indicator included to measure progress on the actions to which the government had agreed. Given the ambiguities of the EPA Action Plan this was perhaps not surprising. At the 2010 GBS Annual Review, progress on corruption received a “not satisfactory” rating for the first time. Central to this was the lack of implementation of key elements of the EPA Action Plan, particularly regarding completion of investigations and audits within the Bank of Tanzania and handling of future claims on the EPA account.

DPs were also frustrated with a breakdown in regular dialogue with the government, continued delays in bringing cases of grand corruption to trial and the fact that the government's National Governance and Corruption Survey continued to remain unpublished (URT 2010: 151). In February 2011, the DPs called a HLD meeting, which was followed by monthly meetings between the troika and the

³⁸ Minutes of meeting of PRBS HoC, 21 May 2008.

government, where DPs tracked implementation of the EPA Action Plan, as well as progress on other corruption cases. The HLD meetings continue to date, and there have been three such meetings in 2012. The 2011 GBS Annual Review noted that in 2011, “progress against the anti-corruption elements of the PAF have [sic] been supported by a much improved discourse on corruption” (URT 2011: 123–124). It is difficult for us to judge the quality of this discourse, however.

BOX 6: FINAL ACTION PLAN FOR FOLLOW UP ON EPA

The Tanzanian government proposed the EPA Action Plan in early 2008 in response to DP concerns about the EPA case and other cases. The Plan includes a number of recommendations and commitments drawn from the Ernst and Young audit report on the EPA account, the presidential task force that was established in the wake of the scandal and the successful prosecution of other cases related to the Bank of Tanzania. These other cases included (i) cost overruns on the Bank of Tanzania relating to office construction; (ii) the award of a gold auditing contract to Alex Stewart Assayers under suspicious circumstances; (iii) the Bank of Tanzania’s stake in the Mwananchi Gold Company and related payments to Mwananchi Gold; and (iv) payments to Meremeta Gold and Tangold (gold mining companies with state connections) by the Bank of Tanzania.

The Ernst and Young audit recommendations focused on internal Bank of Tanzania procedures related to the management of funds remaining in the EPA account, governance mechanisms and internal controls, as well as in regard to the Bank’s relationship to the Ministry of Finance. The audit also recommended investigating the payments criminally and taking steps to recover the funds. The presidential task force reported directly to the president. It engaged in an ad hoc investigation that sought to identify and have the stolen funds returned.

The EPA Action Plan represents not so much a concrete plan of action, but rather a description of three broad areas for action: (i) an agreed timeline for investigating other corruption cases related to the Bank of Tanzania; (ii) the public disclosure of the 2006–2007 audit report of the Bank of Tanzania; and (iii) in relation to the EPA issue, the undertaking of credible investigations with concrete outcomes. The DP community identified these key benchmarks as informing its decision to disburse GBS for the 2008–2009 fiscal year.

Results seven years later (January 2013): At this time, seven years after the fraud, six individuals have been prosecuted and convicted for playing a role in the scandal—three Bank officials and three individuals from assignee companies that received payments from the EPA. The three officials were each fined TZS 5.0 million (or three years in jail for failure to pay). The three businessmen received prison sentences of varying terms, but the convicts would serve only five years in prison because the sentences for their crimes would run concurrently. Up to 14 other EPA cases are currently on-going under the supervision of the Asset Forfeiture and Recovery Section that the Attorney General’s Chambers Division of Public Prosecutions created in 2012. The most high profile of the cases that has gone before the courts so far involved the prominent and politically well-connected Jeetu Patel; it was “adjourned indefinitely” in May 2010.

7.3.4 Overall assessment of the response

Positive and negative aspects of the response

On the positive side, the EPA case illustrates that the Tanzanian DPG was well organised and provided a clear structure that positioned the DPs to deal with corruption incidents as they emerge. The DPG is significantly different from the loose aid administration structures that were in place at the time of the last DP–government crisis in the mid-1990s. The introduction of the DPG in 2004

created a stronger aid coordination architecture, particularly relevant for the provision of GBS. This GBS framework, though imperfect, provided a basis for a coordinated response to the EPA case. It provided both a forum for developing collective responses and, importantly, an incentive for doing so: with GBS there is both a level of mutual accountability between DPs and a measure of interdependence. Other factors that contributed to the formulation of a joint response include the size of the case, sustained media attention and the timing. The case came on the tail of the Richmond case, which made it clear that grand corruption had reached a level that required action. It would have been impossible to justify continuing with GBS and “business as usual” without a proper response to the EPA case.

The troika’s mandate to lead the discussions with government, as well as the process for agreeing on a common stand through the meetings between the GBS DPs’ heads of cooperation and the troika, enabled the DPs to present a common front vis-à-vis the government. There is little doubt that this was instrumental in reaching an agreement for follow up through the government’s EPA Action Plan. As the Norad evaluation of anti-corruption efforts states, “there is a more or less unanimous view among GBS DPs that GBS has been effective in dealing with the EPA corruption scandal and in signalling to the GoT [government of Tanzania] that DPs will not tolerate inaction on grand corruption cases” (ITAD and LDP 2011b: 138). This seems like an overly positive interpretation of outcome of the process.

Even though there were positive achievements in terms of agreeing to a common position and signalling to government the importance of follow up on the case, there were also a number of *weaknesses* of the DP response:

- *Delay in reaching common positions.* The GBS architecture had clear weaknesses in terms of being able to deal swiftly with this case. More than a year after DPs first became aware of the EPA case, they still could not agree on priority actions or criteria for a return to a normal funding situation. Eventually, through the continued discussions led by the troika and the heads of cooperation, an agreement was finally reached in June 2008 that future GBS support would be dependent on the implementation of the EPA Action Plan.
- *Inability to ensure agreement and delivery of a clear set of actions.* As time went by, concerns arose that the dialogue around the EPA Action Plan was focusing on administrative reforms and not higher level issues of accountability. It became viewed by some as a diversionary tactic that consumed considerable energy, while not delivering any immediate, or even longer term, results that would help hold those responsible accountable. This is not an uncommon challenge. In similar cases elsewhere in the region DPs have tended to be content to return to normality once a comprehensive and seemingly credible plan for follow up is put forward. Even if DPs can manage to negotiate an action plan, their ability to influence government to implement the plan is more limited. Judging from the outcome of the criminal sanctioning process it also would seem that those involved, particularly at more senior levels, were let off the hook rather easily.
- *Failure to use opportunities to open the dialogue up to other actors.* As illustrated above, the DPs missed opportunities to involve other national actors in the discussions on the EPA case. Both at the time of the GBS review in 2007 and at subsequent key discussion points DPs seem to have made no attempt to involving parliament or civil society organisations in the discussion of the case or potential follow-up measures. The instinctive reaction of keeping the dialogue private between DPs and the government guided the DPs’ overall engagement.

Impact achieved

In terms of short-term impact, the DPs' response facilitated a few positive achievements:

- Procedures were developed regarding how to conduct a dialogue (the HLD) with government about corruption concerns.
- The DPs had some relative success in securing common DP positions on controversial issues.
- The DPs learned to adjust the PAF to become less rigid and formulaic.
- Because of the aforementioned positive achievements, DPs were able to undertake a HLD that allowed them to track commitments in the EPA Action Plan. The government initially showed a great deal of willingness to participate in this process, although this seems to have weakened over the last year.

The story in terms of *mid- to long-term outcomes* is much more mixed, not the least involving the question of the completion of the many commitments on follow up on the case:

- Looking at follow up on the case over the mid- to long term, now 5.5 years after the case came to light, the record in terms of implementation of the EPA Action Plan commitments is mixed. In terms of dealing with the reform challenges identified, there is little to show for the considerable amount of DP effort invested in coordination.
- As indicated previously in terms of sanctioning, the conviction of six individuals does not amount to satisfactory sanctioning of those responsible for the case. This is especially so given that the forensic audit showed that controls over the EPA were deliberately overridden at a high level. The DPs' relatively positive view of the government's action on the EPA case is largely based on the recovery of some of the funds as well as the prosecution and conviction of six individuals—three bank officials and three individuals from assignee companies that received payments from the EPA. The very likely political connection of the scam remains off the agenda, and this makes it highly unlikely that any pressure will be brought to bear to hold members of the political elite accountable for the crime. This might be a pragmatic approach, given an understanding of the difficulties in enforcing accountability on the designers of the scam. So to what extent has the collective response contributed decisively to improved accountability within Tanzania beyond this particular case? A definitive answer is beyond the scope of this paper, but it would seem that overall the impact has been limited.

7.4 Discussion of key lessons

The analysis of the case study, including the identification of lessons for the future agenda, focused on how the responses from the DPs measured up against the key factors for achieving more effective collective responses outlined in the OECD DAC publications on collective donor responses. The following three factors were singled out: (i) preparing collectively in advance of responses; (ii) acting predictably—implementing anti-corruption policies; and (iii) maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors.

(i) Preparing collectively in advance of responses

An important point to note with regards to the capacity to analyse and respond to cases relates to the limited understanding of the political context of the case. To a large extent, at least in terms of official communication, the development and diplomatic corps did not openly acknowledge that at least part

of the motivation for the illegal appropriation of the EPA funds was the need for political financing. The transfers took place in the period leading up to the 2005 elections, which led to some speculation that the fraud was linked to electoral fund raising. The IMF Safeguards Assessment of July 2010 states explicitly that “controls were deliberately overridden at a high level” (IMF 2010: 43) As discussed previously, this is a common feature of many of the large corruption schemes in Tanzania. This may have weakened the quality of the analysis of the case, and may have influenced the response. It is not evident that this case has encouraged a marked change in the DPs tendency to bypass the obvious political dimensions of corruption.

On a more technical level, it would seem that the pattern of annual (or less frequent) assessments of fiduciary risks meant that DPs were insufficiently geared towards quickly adjusting their assessment risks based on “red flags.” Given that the Richmond case had emerged just before the EPA case, one could perhaps have expected more of a response in terms of analysing the risk of similar corruption scandals, and a better preparedness for dealing with the EPA case when it broke.

In summary, the following lesson can be highlighted:

- **Pro-active approach to assessing risks:** This is perhaps the area where the clearest lessons can be drawn from the EPA case, as well as from the other cases mentioned. There is clearly no shortage of tools that are in use for assessing risk and measuring past performance. There is also an appreciation of Tanzania’s political economy and the particular corruption risks that it gives rise to. Nevertheless, it seems that despite this knowledge that DPs were relatively unprepared for the EPA case when it emerged. DPs’ risk assessments are severely limited so long as they are not based upon an understanding of the linkages and relationships among corruption, the financing of politics and the exercise of power.
- **Better planning of responses:** There was no evidence of contingency planning for how DPs would respond to “show stopping cases.” It took over a year from when the EPA case emerged in the media to when the DPs developed a clear position on what action to take. Understandably, DPs were concerned with allowing due process (including the audit, the safeguards assessment and the Presidential Task Team), but there is nevertheless a sense that greater preparedness for how to respond is required.

(ii) Acting predictably—implementing anti-corruption policies

Despite the positive aspects of GBS DP coordination, the EPA case demonstrates some of the limitations of the way the DPG approaches corruption matters and how this impacts on the GBS. It is recognised that the PAF framework—particularly the one in place at the time of EPA—was unsatisfactory as a framework for dealing with this case. It is a rigid and process oriented tool that was not well equipped to handle the show-stopping nature of the EPA case. The DPG is currently considering making changes to the GBS model, which would allow more flexibility to address issues that were not anticipated at the beginning of the year when the PAF was agreed.

A second set of challenges relates to the widely differing views of the different DPs in terms of what type of response was required from the DPs and how to best manage the process. The lengthy negotiations on key criteria for assessing government progress on the EPA Action Plan illustrate this clearly. There was considerable variation in terms of the understanding that individual DPs had of what would constitute a “good enough” response in this particular case.

There might also be a need to rethink the way in which DPs chose to respond (whether individually or jointly). In 2012, the picture is quite different. Aid is less important to Tanzania, and aid’s importance to the budget is decreasing. In the 2011–2012 budget, it accounted for just 28 per cent of government expenditures. This compares to 45 per cent in 2007–2008, the year in which this case study emerged

(World Bank 2012a). The current framework for DP government relationships in Tanzania was established in 2005–2006. Considering the relatively poor results in terms of being able to negotiate follow up on previous cases, the DPs might need to become more nimble and think more creatively about how to respond to cases.

It is clear that DPs have competing agendas in terms of how to respond to individual corruption cases. Tanzania has since the late 1990s, and particularly during the presidency of Benjamin Mkapa, been regarded as a “donor darling.” Tanzania’s willingness to introduce political and economic reforms was arguably rewarded with debt relief, rising aid budgets and the increased use of GBS as the principal delivery channel (Tripp 2012). Considering the many years of successful collaboration between DPs and government, where DPs are invested in ensuring the continuation of this partnership, addressing corruption cases head-on can present challenges. In order to maintain positive relations, DPs may be wary of being too critical of the government and the political elite. These positive relations may be considered important to securing continued commitment to the on-going reform agenda. This might be one reason, for example, why the DPs often hesitate to commission or publish political economy analyses that discusses issues such as the connection between grand corruption and political financing or that question the fundamental commitment that a government has to objectives of supported government reforms. The consequences of this type of trade-off, i.e., avoiding politically challenging analyses in order to secure support for technocratic reforms, is a question that could be interesting for further research. Tanzania was one of three countries (along with Mali and Uganda) where the World Bank decided to study the relationship between corruption and political financing. Following the completion of the rather informative Uganda study in 1998, the Bank cancelled the work on Mali and Tanzania and has not conducted work on this subject since then.

Another example of competing agendas is the increasing importance of commercial and investment relationships compared to the aid relationship, which in some instances shapes how corruption is dealt with vis-à-vis other issues. Taking a robust stand on embezzlement of a dormant account in the central bank is one thing. Taking a robust stand in a case where a DP country’s commercial interests may be at stake is quite another. This was not evident in the EPA case, but has been evident in some other cases in Tanzania (such as the BAE radar purchase case). And DPs are rarely, if ever, candid about any of their own vested interests (political or commercial) that may relate to their not addressing corruption more assertively.

In summary the following lesson can be highlighted:

- **Harmonisation of DP responses:** Reaching agreement on joint action on corruption cases is challenging. This was evidenced in the EPA case, where there was strong and undisputed evidence of corrupt practices, and where there also were fairly well established mechanisms, through the GBS process, for DPs to reach agreed actions. Perhaps it is not so much a question of harmonising central anti-corruption policies, which don’t tend to differ dramatically, but more a question of how these general policies are interpreted and applied to a specific context. For instance, frequent discussion amongst DPs regarding what would constitute “red lines” in terms of deteriorating patterns, and what the responses might be, could be helpful.
- **Creative thinking about new ways to respond:** DPs might need to act more like political and diplomatic actors than aid bureaucrats. One corollary of this is that they must find entry points that are close to power and influence. This implies means of engagement that are more personalised, less formal and probably less predictable. The challenge in such an approach may as much be maintaining trust between DPs as building relationships with government. The second corollary of this is that diplomatic and political influence will most likely be wielded by the most powerful DPs.

- **Balancing conflicting DP priorities:** On the one hand, they need to demonstrate to their own constituencies, as well as to domestic actors in the recipient country, that they take the accountability for the funds they disburse seriously. On the other hand, they are sensitive to the need to maintain workable relations with the recipient government in order to ensure that programmes are implemented, funds disbursed and (hopefully) reportable results achieved. One way of assuaging conflicting priorities could be to be more aware of their existence and discuss these challenges more openly.

(iii) **Maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors**

The EPA Action Plan has never been shared with the public, and the nature of the discussions between the Government and DPs on the EPA case is not publicly known. This limits the ability of civil society and the media to follow up on the case and exercise. For example, there has been little or no follow up on who has repaid money paid under the EPA scam, the exact sums repaid and, not the least, what these sums have been allocated to and spent on. It is also relevant to note, that since the 2011 GBS Annual Review, members of civil society and parliament are no longer invited to participate. They do, however, participate in the Annual National Policy Dialogue that follows immediately after the Review, where progress against MKUKUTA is reviewed and discussed. This signifies a shift to a more technical and diplomatic approach to reviewing the PAF, which is deliberately moved out of the political arena. This raises questions on what the DPs have learned from the way the EPA case has progressed. There is little sign that the DPs support more openness around the aid discourse, including a willingness to accept the political dimensions of corruption as well as to address the increasingly obvious lack of a political commitment to reform that would require more openness and stronger checks and balances.

Tanzania is changing, with competing interest groups across society becoming more vocal. This can be seen in the private sector, civil society, religious groups and political sphere. It is accepted that these domestic forces will be the real drivers of enhanced accountability and consequent sanctioning. The challenge for the DP community is tracking such change, identifying coalitions of reform and developing strategies for supporting them. A relentless focus on the EPA case and the tracking of individual cases provided a framework for formal dialogue at the highest level, but closed down other less formal and maybe more persuasive channels. Domestic levers of accountability may, however, have greater “purchase power” than diplomatic or aid related channels.

In summary the following lesson can be highlighted:

- **Involvement of a broad range of actors:** DPs could sensibly ensure the active involvement of domestic interest groups in the dialogue surrounding concrete corruption cases. This could be achieved by more clearly publicising the process and ensuring that DP positions in the dialogue are in the public domain. In a changing aid and cooperation landscape, knowing the individuals and institutions that can be termed reformers and leveraging their influence where possible will become more important. The WWF case illustrates some very basic risks of simple project funding models, particularly in the Tanzanian context. But funding models do not build political reform. If DPs wish to be influential, they will need to develop relationships with civil society that go beyond consultation and funding frameworks.

8. Afghanistan

8.1 Introduction and country context

8.1.1 Background

This case study examines DP responses to alleged corruption within the Afghan Ministry of Interior (MOI) and the United Nations Development Programme (UNDP) in the administration of the Law and Order Trust Fund for Afghanistan (LOTFA). The case serves as an example of the challenges DPs face in post-conflict contexts, where they have to take into account political and security considerations as well as pressure to deliver when considering how to respond to cases of corruption.

8.1.2 Country context

With the fall of the Taliban regime in December 2001, Afghanistan saw the establishment of a significant international presence aimed at bringing security and development to the country after several decades of war. This was accompanied by an unprecedented inflow of DP assistance. From the outset, the state building agenda was largely determined by the Bonn Agreement (Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, 2001). The focus was primarily on political objectives, that is to say, putting in place a functioning governance structure.

As in many other (post-) conflict contexts, in the early years of the international intervention, corruption in Afghanistan did not figure prominently in the minds of DPs, nor was it part of the dialogue between DPs and the Afghan government. This issue slowly began to appear on the DPs' agenda in late 2005. However, it was not until the 2006 London Conference on Afghanistan and the resulting Afghanistan Compact that corruption and anti-corruption efforts finally emerged as a priority (LCA 2006). Despite this late awakening, available indicators, albeit imperfect, all pointed in the same direction. Corruption was and is a major and increasing problem in Afghanistan.

Since the country was included in Transparency International's Corruption Perceptions Index (CPI) it has been on a downward trajectory. In 2005, Afghanistan ranked 117 out of 159 countries. By 2007 it had dropped to 172 out of 180. In 2011, Afghanistan ranked 180 out of 183 countries. By 2012, Afghanistan had reached the very bottom on the index—tied with North Korea and Somalia. A recent national survey conducted by the United Nations Office on Drugs and Crime (UNODC) and the High Office of Oversight and Anti-Corruption (HOOAC) notes a slight decrease in the percentage of the population having paid a bribe in 2012 compared to 2009. The size and frequency of bribes had increased, however (UNODC and HOOAC 2012).

This development is also reflected in the 2012 national corruption survey carried out by Integrity Watch Afghanistan (IWA 2012). The earlier IWA national corruption survey from 2010 had already concluded, "Corruption is rampant and has become more entrenched in all areas of life in Afghanistan" (IWA 2010: back matter) Furthermore, "[t]he findings of [the] survey show[ed] that corruption threatens the legitimacy of state-building, badly affects state-society relations, feeds frustration and the support for the insurgency, leads to increasing inequality, impedes the rule of law according to Afghan standards, hinders access to basic public services, which impacts the poor most severely, and has a major negative effect on economic development" (*ibid.*).

The Afghanistan Compact focused on a broader set of issues than had the Bonn Agreement, including security, governance and economic and social development. It also established clear benchmarks for anti-corruption initiatives.³⁹ The Afghanistan Compact and the subsequent 2006 interim Afghanistan National Development Strategy (i-ANDS) set out the Afghan Government's commitment to undertake a series of concrete anti-corruption measures (IRA 2006). Subsequent international conferences on Afghanistan would see further calls from the international community for a stronger commitment on the part of the Afghan government to address corruption as well as for renewed or additional promises to act by the Afghan government.

The government did put in place several measures in accordance with the commitments made to the international community, such as the ratification of the United Nations Convention Against Corruption (UNCAC), adoption of an anti-corruption law, development of an anti-corruption strategy and establishment of the HOOAC. Yet despite these steps to establish formal laws and institutions and repeated statements by the government asserting its support of anti-corruption measures, the willingness of the government to take serious steps against corruption has frequently come into question. One senior diplomat stated ahead of the 2012 Tokyo Conference on Afghanistan that President Karzai and his team have not been serious about addressing corruption (Rennie 2012).

There has been a competing discourse since the early efforts of the international community to address corruption, frequently voiced by President Karzai, that corruption stems mainly from the conduct of DPs over the last decade, with international assistance tending to be fragmented, uncoordinated and lacking in transparency (Rubin 2011; Sud 2013: 14). With DP interventions sometimes being off-budget and with the DPs on the ground facing pressure to spend the budgeted aid funds and deliver measurable results within the foreseen budget cycle, opportunities to build the capacity of government institutions have been lost, as this takes more time and requires the absorptive capacity of national institutions to be in line with huge amounts of funds.

This has led many Afghans to see the international community as a major contributor to corruption. As noted by Cordesman, "The lack of unclassified transparency and credibility has been a critical problem . . . particularly in the almost total lack of credibility in reporting on the impact of aid, quality and integrity of governance, and presence of a functioning justice system" (2012: 2). Development assistance to Afghanistan and the anti-corruption agenda has to be seen within a broader set of political and security considerations that have at times diverted attention from the consequences of not addressing corruption. This is of course particularly the case with security and stabilisation objectives.

8.2 Background on DP coordination on anti-corruption

8.2.1 DP coordination structures and approaches

The level of DP coordination around anti-corruption efforts has ebbed and flowed over time, with a heightened level of activity at the time of the international conferences. In general, DP coordination peaks around these conferences, which are seen as one of the main venues for the international community to put pressure on the Afghan government to undertake reforms. As such, corruption, albeit the third most important concern of the population after security and unemployment (IWA 2010), is one of many topics competing for a place on the agenda. Ahead of the 2006 London Conference, DPs—with a core membership of the Asian Development Bank (ADB), UNODC, UNDP

³⁹ For example, it stated, "The UN Convention against Corruption will be ratified by end-2006, national legislation adapted accordingly by end-2007 and a monitoring mechanism to oversee implementation will be in place by end-2008" (LCA 2006: 7).

and the World Bank—met informally and were successful in advocating for anti-corruption to be placed solidly on the agenda.

Subsequent to the 2006 London Conference, the Joint Coordination and Monitoring Board (JCMB), co-chaired by the Afghan government and the United Nations Assistance Mission to Afghanistan (UNAMA) on behalf of the international community, was established. The role of the JCMB was to oversee the implementation of the Afghanistan Compact and i-ANDS. The establishment of the JCMB also saw the emergence of a formal mechanism for the Afghan government and DPs to coordinate around anti-corruption efforts, through the Anti-Corruption Cross-Cutting Theme Group (CCTG).⁴⁰ Charged with monitoring the implementation of the Compact, the CCTG served primarily as a venue for the government and the international community to coordinate its support to the achievement of the benchmarks set forth in the Afghanistan Compact.

The CCTG was co-chaired by the General Independent Administration on Corruption (GIAAC, the government institution charged with coordinating the fight against corruption) and UNDP. When a new head of GIAAC was appointed in 2007 formal coordination efforts came to a halt as he was considered unsuitable for the position.⁴¹ The international community took a stance not to attend CCTG meetings and a letter co-signed by a number of the DP's was sent to the Afghan government asking for a review of management arrangements for the fight against corruption. The combined international pressure eventually resulted in GIAAC being dissolved and the HOOAC being established by presidential decree in July 2008 as the new anti-corruption body.

While the CCTG had never been a venue to raise sensitive issues, the international community's boycott of CCTG meetings meant that informal DP coordination again took on greater importance. With time, informal meetings started to develop a higher degree of formality. Interestingly it was the NATO International Security Assistance Force (NATO/ISAF), as part of its stability efforts, that took the initial lead on coordinating DP responses to corruption. In 2010 the role was taken over again by UNAMA in cooperation with the US embassy (which had not participated actively in prior coordination efforts) and resulted in the establishment of the International Corruption, Transparency and Accountability Working Group (ICTAWG).

Although some attempts were made to arrive at a common position on certain issues (e.g., lack of performance of the HOOAC), ICTAWG primarily served as a platform for information sharing. ICTAWG did however play a role in coordinating DP messaging on anti-corruption issues ahead of the 2010 London and Kabul Conferences. As will be discussed in greater detail below, the ICTAWG also played a role in coordinating a DP position around the National Priority Programme on Transparency and Accountability (NPP2), where the international community came together to agree a set of conditions that would have to be met before the NPP2 could be approved and funds dispersed.⁴²

The 2010 London Conference on Afghanistan and Kabul International Conference on Afghanistan saw the strongest language yet from the international community in response to the perceived continued challenge posed by increasingly high levels of corruption. This stood in stark contrast to the

⁴⁰ The CCTG brought together government institutions with a role in the fight against corruption and DPs providing support to the fight against corruption. The participants in the CCTG meetings were typically relatively junior with the exception of participants from the General Independent Administration on Corruption (GIAAC).

⁴¹ He had previously been convicted and imprisoned in the US for drug trafficking (Pennington 2007).

⁴² NPP2 is one of 22 national priority programmes of the Afghan National Development Strategy, designed to ensure national ownership over Afghanistan's development agenda.

2008 Paris Conference where it had merely been acknowledged that corruption needed to be addressed. For example, the Kabul International Conference communiqué noted the international community's "strong support for channelling at least 50% of development aid through the Afghan Government's core budget within two years while . . . the Afghan Government achieves the necessary reforms to strengthen its public financial management systems [and] reduce corruption" (KICA 2010).⁴³ In line with this, the Afghan government pledged to "undertake all necessary measures to increase transparency and accountability and tackle corruption," (*ibid.*: 4) including the establishment of the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC, see Box 7). Subsequent international conferences (held in Bonn in 2011 and Chicago and Tokyo in 2012) saw a return to more general statements that corruption is a problem that needs to be addressed and references to the need to meet commitments from previous international conferences, without including specific activities to be undertaken.

BOX 7: THE INDEPENDENT JOINT ANTI-CORRUPTION MONITORING AND EVALUATION COMMITTEE

The legal foundation for the MEC was established in March 2010 by Presidential Decree, after the need for a body to independently monitor and evaluate anti-corruption efforts had been identified at the 2010 London Conference. The need for this new body was reportedly derived from the frustration of the DP community about the lack of effectiveness and willingness of the HOOAC to take rigorous action against corruption (see Box 8). In accordance with the Presidential Decree, the MEC is responsible for independently monitoring and evaluating national and international efforts to fight corruption in Afghanistan and reporting on its findings to the President, Parliament, people and international community. During the subsequent Kabul Conference in July 2010 the Afghan government and the international community jointly committed to having the MEC and its secretariat established and fully operational within three months. While this timeline was not kept, the MEC was inaugurated in May 2011 and became fully functional when the secretariat was fully staffed in May 2012.⁴⁴

The MEC is unique in that it is independent of both the Afghan government and the international community. It is composed of six committee members, three appointed on the recommendation of the Afghan government and three appointed on the recommendation of the international community. The independence and mix of national and international committee members is intended to ensure that the MEC can credibly carry out its mandate in a transparent manner without undue influence. In addition, the diversity of membership is intended to help make the MEC's recommendations more acceptable in a context where the Afghan government and international community often disagree as to the causes of corruption and to the responsibilities to be taken to address it properly. Since its establishment, the MEC has played an important role in contributing to the fight against corruption by raising and keeping attention on certain key issues of great importance (for example, the 2010 Kabul Bank scandal described in Box 8) and openly calling for investigations (for example, in the LOTFA case).

⁴³ The communiqué from the preceding London Conference used stronger language, stating that on-budget support would be "conditional" upon the Afghan government taking steps to address corruption (ALC 2010).

⁴⁴ Nonetheless, the MEC began conducting missions and issuing reports soon after its establishment in 2011.

At the time of the writing, a number of bilateral and multilateral DPs (all of which are part of the ICTAWG) have come together to form a new as of yet unnamed anti-corruption coordination group.⁴⁵ The ambition is for this group to go beyond information sharing and focus on harmonizing the anti-corruption efforts of the international community. This new initiative again reflects a sense within the international community of the need for increased coordination around corruption.

8.2.2 Risk Assessment

It is perhaps not surprising that today virtually all major DPs recognize corruption as an issue to be addressed. This also means that several DPs explicitly recognize that corruption poses a risk to their own interventions. The World Bank, for example, notes in its Interim Strategy Note that high risks are associated with its engagement in Afghanistan, including the risk of fraud and corruption, and that these risks must be acknowledged and managed (2012b). Similarly DFID's 2011–2015 Afghanistan Operational Plan acknowledges that corruption poses a threat to its ability to achieve value for money with its support (2012).

As noted above, however, while corruption is now recognized as a risk this was not necessarily the case at the outset of the international endeavour in Afghanistan. The agenda was initially, in accordance with the Bonn Agreement, focused on putting in place a functioning government structure. Emphasis was on achieving quick impact at a time when there was barely any functioning banking system, much less mechanisms for public financial management. There was a perceived need to quickly show progress in the post-Taliban era. Corruption was considered an evil that had been present before and that would be addressed once basic institutions were in place. This state of affairs was exacerbated by the fact that there were few assessments on corruption, that DPs on the ground had limited capacities to deal with many competing priorities and anti-corruption expertise within DPs was not really given priority until 2006.

As said, today the situation is different and corruption is also recognized as a risk to the international community's strategy to hand over the responsibility for security to the Afghan government in 2014. At the same time the Afghan government is expected to take the lead on development through the national priority programmes. As stated in the World Bank's Interim Strategy Note, not only will "the risk of corruption and fraud . . . influence . . . how the Afghan people judge the legitimacy of their Government," but it also will affect "the size and shape of donor flows" (2012: iv).

As a result, a mixed picture emerges as to whether corruption and potential vulnerabilities to corruption were taken into consideration in DPs' decision-making processes. Virtually all those interviewed for this case study also acknowledge that, even now, while corruption is recognized as a major threat, political imperatives often get the upper hand. A number of donors, however, are adopting policies that are increasingly explicit about the need for thorough risk assessments, such as DFID in its anti-corruption strategy for Afghanistan (2013).

8.2.3 General notes on DP responses to corruption in Afghanistan

In a context as complex as Afghanistan, it is difficult to point to generalised lessons on DP responses to corruption. As noted by Hussmann "Military and foreign policy objectives of DP countries have continued to crowd out other concerns... To date, powerful political, operational and geo-strategic constraints on the DP side have hindered effective joint DP responses to corruption" (2009: 1). At the same time, DPs face strong pressure to show results, not the least to their domestic audiences.

⁴⁵ Denmark, Germany (GIZ), the UK, UNAMA, UNDP and the US (State Department and USAID) form this group.

Therefore DP actions when encountering cases of corruption in their own projects and programmes have often not been made public, partly out of fear of jeopardizing higher level development and security goals, but also due a lack of well-managed, frank and realistic communication strategies.

A number of other cases that did make the headlines or were described by interviewees are summarised in Box 8. These provide examples of how DPs have responded to concrete instances of corruption or perceived lack of progress on the part of the Afghan government in the fight against corruption.

BOX 8: EXAMPLES OF DP RESPONSES

Case 1: Coordinated efforts on HOOAC

By mid-2010 there was an increasing dissatisfaction in the international community with the perceived inability or unwillingness of the HOOAC to take concrete steps against corruption. Dissatisfaction was particularly high amongst those who were funding the HOOAC. In the ICTAWG, DPs agreed to inform the HOOAC that, in the absence of tangible progress, the US and some other DPs would withdraw, postpone or greatly reduce their assistance to HOOAC. When HOOAC showed no sign of improvement, not all DPs were fully able to hold that line, but overall assistance was reduced, postponed or eliminated. While it appears that this did not have any significant impact on the behaviour of the HOOAC, this experience may have played a role in encouraging DPs to work towards the establishment of an independent MEC (see Box 7).

Case 2: DP response to Kabul Bank scandal (see MEC 2012b)

Although there were earlier signs of irregularities within the Kabul Bank, it was a February 2010 Washington Post article that exposed the level of political corruption within the bank (Higgins 2010). Ultimately a “sophisticated operation of fraudulent lending and embezzlement” (MEC 2012b: 9) by Kabul Bank’s controlling shareholders, key supervisors and managers resulted in the near collapse and eventual placement in conservatorship of Kabul Bank in September 2010 and an estimated loss of some US\$ 935 million. To put this into perspective, this amounts to approximately 5 to 6 per cent of Afghanistan’s gross domestic product. Those implicated in the scandal were politically well-connected, including members of President Hamid Karzai’s family. At the time of its collapse, the Kabul Bank held 34 per cent of total bank assets in Afghanistan, and a significant proportion of Afghan public employees received their salaries through the bank.

When the situation deteriorated and there was a run on the bank by depositors, USAID, together with the US Treasury, the International Monetary Fund, the World Bank and Deloitte met in August 2010 to develop a strategy to deal with the crisis. At the same time, IMF included a number of preconditions related to Kabul Bank for the renewal of the Extended Credit Facility Program, which was set to expire in September 2010. These included a forensic audit, placing Kabul Bank in receivership, an independent review of the crisis, criminal prosecutions and a plan to recapitalize the government’s reserves following the earlier bailout of the bank.

The Afghan government did not initially agree with the proposed strategy, nor did it accept the preconditions set by IMF. As the Extended Credit Facility Program is used by several DPs as a benchmark to ensure that the governments they support are financially responsible, several DPs were no longer willing to commit funding without it being renewed. Positions between the international community and the Afghan government remained deadlocked until April 2011, when

the government realized the implications of nonrenewal of the program on DP funds. At this point the Afghan president announced that the bank would be placed in receivership and that an investigative commission would be established to look at the case. The Extended Credit Facility was approved in November 2011 after the conditions of forensic audit and receivership had been met.

By withholding funding, the DP community was moderately successful in getting the Afghan government to take action on the case. A public report into the case conducted by the MEC and published in November 2012, however, found that only about a third of the missing assets had been recovered and no convictions had been brought against any of the key actors. In addition, the Afghan parliament passed a bill in October 2011 to recapitalize the government's reserves over a period of eight years, essentially leaving the Afghan taxpayers and the international community to foot the bill of the bailout.

Case 3: DP Coordination around NPP2

One of the more noteworthy examples of DP coordination has been around the development and signing off of the National Priority Program on Transparency and Accountability (NPP2). A total of 22 national priority programmes form the basis of increased national ownership over Afghanistan's development process. As such, each of the programmes has considerable DP funding attached. For funding to become available, however, the international community must sign off on the respective programmes. As of March 2013, NPP2 is one of only two programmes that have not yet been approved. While not formally involved in the development process, the ICTAWG has served as a platform for the international community to coordinate its position vis-à-vis the Afghan government's request for NPP2 to be approved. DPs used this as an opportunity to establish four "red lines" or conditions that have to be met before approval: (i) passage of a new audit law; (ii) passage of an access to information law; (iii) simplification of the permit process for commercial and private buildings; and (iv) a demonstration of clear progress by HOOAC on registering and verifying asset declarations. While Afghanistan already made commitments to take these steps in the 2010 London and Kabul Conference communiqués, DPs saw the NPP process as a useful leverage to again push for these conditions to be met. As of March 2013, it appears that significant progress has been made on the first three red lines. However, it remains to be seen whether the international community will hold fast, should all conditions not be met.

8.3 The case study

The following sections present the history of the case study selected and provides an analysis on various aspects of the collective DP response.

8.3.1 Background on the LOTFA case

After the fall of the Taliban, establishing a national police force was naturally seen as essential to restoring stability and security in Afghanistan. As a first step, a sustainable police force required a reliable mechanism for the payment of salaries, in a country where virtually no modern banking infrastructure existed. In 2002, the Law and Order Trust Fund for Afghanistan (LOTFA) was established—with UNDP as the trust fund manager—as a mechanism for the international community to mobilize and channel the resources necessary for to establish a police force, the Afghan National Police (ANP). The intention was also to gradually build and implement a modern mechanism for paying the ANP throughout Afghanistan.

At the time, UNDP was a convenient choice for DPs as a funding vehicle, as the UN was one of the few international organizations with long-term presence and experience in Afghanistan. DPs initially

had limited presence on the ground, so a multi-donor fund was a useful way to pool resources for a common goal. It also had the advantage of allowing the international community to fund what eventually came to be an essential part of the counter-insurgency with development funds.

Despite its critical function in funding the ANP, it appears that LOTFA was not well integrated into overall security sector reform and efforts to build the capacity of the police force. Thus, LOTFA has not played a major role in the International Police Coordination Board, where most coordination around police reform takes place. In addition, it was noted in a management review of LOTFA that MOI itself feels little ownership over the programme (UNDP 2012b). Again, this is likely due to the fact that LOTFA was primarily conceived of as a payroll mechanism. Support to MOI and ANP in general has been fragmented, with different DPs taking different approaches and supporting different parts of the police force build up.

Since its inception, LOTFA has mobilized and delivered approximately US\$ 2.5 billion to support the MOI (UNDP 2012) and it currently pays the salary of some 140,000 police and 5,000 uniformed personnel of the Central Prison Department (UNDP 2013). While MOI is the implementing entity for LOTFA, funds are channelled through the Ministry of Finance (MOF). As such, funds channelled through LOTFA are “on-budget.” The number of DPs contributing to the programme has varied between 10 and 15. DPs, together with the Afghan government and the UN, make up the LOTFA steering committee, which is intended to provide oversight and guide the implementation of the programme (UNDP 2011: 32).

LOTFA was designed to be rolled out in phases, with new project documents prepared and additional resources mobilized from DPs for each new phase. The time horizon for each phase has been relatively short, with no long-term strategy adopted.

At the outset there were only very minor components aimed at infrastructure creation and capacity development in the programme, as this was not the main purpose of LOTFA. While the DPs primarily saw LOTFA as a mechanism to pay police salaries, UNDP over time pushed for increasing the capacity development component as it was not comfortable, as a development agency, with the role of a “pure” payment agent. Additional capacity development components were added, but at a relatively late stage (mainly in the current Phase VI of LOTFA). LOTFA continues to be primarily a mechanism for disbursement of salaries.

While not considered capacity development *per se*, UNDP also introduced and relied heavily on IT systems, electronic payroll systems and electronic funds transfer systems to reduce corruption in MOI and ANP payrolls. In all likelihood these systems have helped reduce leakages. Yet in 2013 some 20 per cent of the ANP force was still being paid in cash due to an insufficiently banking sector (UNDP 2013: 7), meaning that there are still opportunities for abuse and corruption.

8.3.2 The scope of the case

The LOTFA case is atypical in that there was no specific corruption scandal that emerged to prompt DPs to take action. Rather there was a growing concern amongst LOTFA DPs of possible mismanagement and corruption within the programme. The concerns related to alleged corruption within the MOI, as well as within UNDP. It would appear that the types of corruption differed between the two, but it is unlikely that corruption in one could have taken place without some involvement or knowledge on the part of the other.

8.3.3 Chronology and DP response to the case

Build up—Emerging allegations and lack of action (2006–2011): Rumours of corrupt behaviour in the MOI date back to at least 2006, and serious concerns were raised in several audits and evaluations

from 2009 and onwards. As noted above, the lack of clarity on the number of actual MOI and ANP personnel who belonged on the payroll was reported by the US GAO (2009). The report also made reference to earlier reports that the number of police was inflated, with senior officers allegedly collecting the salaries of “ghost police” (*ibid.*: 23).

Other reports and evaluations also raised “red flags,” including the US SIGAR audit published in April 2011, which specifically addressed ANP payroll costs and workforce strength. In particular, the audit noted that, as of September 2010, neither UNDP nor MOI was able to verify payroll data or confirm that only actual ANP officers had been paid. Other evaluations, including those commissioned by UNDP itself, such as the Atos Consulting evaluations of Phase IV (2009) and V (2012) of LOTFA raised critical questions, albeit diplomatically. The KPMG Management letter following the KPMG 2011 audit expressed further concerns regarding possible misuse of funds in the MOI and insufficient management oversight within UNDP (2011).

At the time, none of these concerns appear to have resulted in coordinated demands from DPs for UNDP to respond to the findings in any significant manner or for an assessment of LOTFA’s vulnerability to corruption to be undertaken. The European Commission reportedly tried to place conditions on future assistance to LOTFA, contingent on the issue of the ghost employees being addressed. But it did so unilaterally, apparently without consulting with or gaining the agreement of other bilateral DPs, including EU member states. With little political backing for the European Commission action, this effort ultimately came to nothing (Buckley 2010). As a result, the concerns raised went largely unanswered.

The noise gets louder (February–April 2012): In February 2012, the MEC was to conduct its fourth two-week mission in Afghanistan. Based on reports from numerous whistle-blowers, it was decided that the mission would also look into the use of DP funds in LOTFA. The subsequent mission report, dated April 30, 2012, quoting the findings of April 2011 US SIGAR audit, noted that UNDP as LOTFA administrator was not able to provide assurance “that only ANP personnel who worked received pay and that LOTFA funds were used to reimburse only eligible ANP costs” (2012a). Furthermore, it was noted that just over 20 per cent of ANP “were still paid cash and neither MOI nor UNDP have verified payroll data and cannot confirm that only ANP who work have been paid” (*ibid.*). In view of this the MEC concluded that “oversight and accountability of LOTFA . . . [is] insufficient for a Trust Fund of this size and importance” (*ibid.*). The report stressed that LOTFA needed to strengthen internal controls as well as external oversight, and that a thorough risk assessment of LOTFA should be carried out. At the same time several interviewees indicate that DPs were receiving an increasing number of direct and indirect complaints about irregularities involving the LOTFA programme, UNDP and its staff, and the MOI and ANP.

Following this report, in May 2012 a series of articles in *The Wall Street Journal* alleged serious corruption in the LOTFA programme. The articles echoed prior reports of whistle-blowers pointing to wrongdoing within the UNDP itself as well as to corrupt practices inside the MOI and ANP (Hodge 2012; Hodge, Trofimov and Fidler 2012; Nissenbaum 2012a & 2012b). Initially, UNDP strongly refuted the allegations, stating that there was no evidence of wrongdoing and that sufficient measures had been put in place to protect against vulnerabilities to corruption. At this point, however, the allegations could no longer be overlooked.

Initial DP response (May 2012): Subsequent to the first article appearing in *The Wall Street Journal*, the ICTAWG met with the MEC on May 13 and discussed LOTFA, among other things. Following the meeting, the European Commission appears to have taken the lead on discussing and then drafting a letter to UNAMA for all DPs to consider and, if willing, sign. As a result, LOTFA DPs were able to coordinate their response and a letter was sent to UNAMA on May 19, 2012 (Usackas 2012).

In the letter, the DPs acknowledged the “swift reaction” by UNAMA and UNDP and dialogue with DPs providing funding to LOTFA regarding the allegations in *The Wall Street Journal*. They also stressed that the DPs would consider withholding further funding if they felt the integrity of their funds were at risk. In line with this, the DPs urged UNAMA and UNDP to take the following actions: (i) to carefully preserve all evidence of alleged wrongdoing; (ii) to safeguard the rights of all whistleblowers; (iii) to keep the DPs informed of the UNDP Office of Audit and Investigation (OAI) investigation, consistent with confidentiality requirements; (iv) to implement the MEC’s recommendations, including to conduct a corruption risk assessment and develop a risk mitigation plan; and (v) to establish a payroll monitoring plan.

While it cannot be confirmed, it appears that the OAI investigation was already on-going when the *Wall Street Journal* articles were published. A result of that investigation, several UNDP staff involved in LOTFA were dismissed or placed on administrative leave, strongly pointing to real cases of mismanagement and corruption in UNDP.

DPs grow impatient (September 2012): By early September 2012 there had been no further significant communication to the LOTFA DPs regarding the OAI investigation or on the last two actions urged by the DPs. Also, UNDP had convened no LOTFA steering committee meetings since the initial dialogue between the UNAMA and UNDP, and the DPs. As a result of this perceived inaction by UNDP, the LOTFA DPs agreed to prepare a second letter. This letter was drafted but was never sent, as UNDP called a meeting to explain that the OAI investigation was still on-going and to request more time to answer the DPs’ other questions. UNDP also informed the DPs that it was in the process of contracting an independent management review to, among other things, evaluate the LOTFA trust fund mechanism, enhance LOTFA’s capacity development aspects, more effectively manage and share risks and assess and identify measures to strengthen the disbursement component of the programme (UNDP 2012a).

Having received this assurance, the DPs agreed to wait until receiving a further report from UNDP before taking action. UNDP suggested that it could make an interim summary report available in October, although the full OAI investigation would not be completed until December 2012. However, contrary to the DPs’ request, the OAI investigation was focused only on wrongdoing by UNDP staff and did not focus on broader allegations of corruption within the MOI, as this was outside of the OAI’s mandate. This would be the role of the UNDP management review, which was to take place in mid-December 2012.

Current status—DP demands partly met (First quarter 2013): LOTFA Phase VI, which was set to conclude in March 2013, was extended to the end of 2013 by agreement of the steering committee, in order to provide sufficient time to develop the next phase of LOTFA (UNDP 2012a). This, of course, is a clear indication that LOTFA will continue, and that it will continue with UNDP as the trust fund manager. At the time of this report, it appears that almost all of the LOTFA DPs have been sufficiently satisfied with the actions taken by UNDP to date to agree to continue its funding. These actions include (i) the conclusion of the OAI investigation; (ii) the removal of staff involved in wrongdoing; (iii) the conclusion of the UNDP management review; and (iv) a review of LOTFA management and staffing structures. The review of LOTFA management and staffing structures has, amongst other things, resulted in a threefold increase in the number of international and national staff; adequate staffing is a necessary component to effectively managing a large trust fund like LOTFA. In fact, UNDP has even been able to bring on two additional DPs that will make contributions to LOTFA.

However, UNDP’s focus appears to have been primarily on strengthening its own management structures, processes and procedures. This also seems to be where the DPs have placed their emphasis. No action appears to have taken place within the MOI. One respondent, speaking off the record, suggested that the focus on UNDP had deflected attention away from MOI and the ANP. Thus, while

it appears that DPs through a coordinated effort were able to apply pressure on UNDP and achieve changes in the management of LOTFA, they do not appear to have been able or willing to address the allegations of corruption within MOI and the ANP. Some respondents indicate that this was in part a result of differing priorities amongst DPs in relation to the MOI, the ANP and overall security sector reform in Afghanistan.

The 2012 Chicago Summit Declaration on Afghanistan states, “Sustaining a sufficient and capable ANSF [Afghan National Security Force] is the responsibility of the [Afghan government] supported by the International Community. . . . [B]uilding upon existing mechanisms, we [the international community] will play our part in developing appropriate, coherent and effective funding mechanisms and expenditure arrangements for all strands of the ANSF. Such mechanisms will be flexible, transparent, accountable, cost-effective and will include measures against corruption” (NATO 2012). In line with this, LOTFA Phase VII will have to put in place measures to transfer its functions to MOI over time. But before these functions are transferred, the question remains whether DPs will be able to coordinate around a set of demands for changed systems and practice within the MOI, together with meaningful conditions. The MEC might offer an important vehicle and opportunity to keep an eye and pressure on these issues.

8.3.4 Overall assessment of the response

Positive aspects of the response

With the publication of the *Wall Street Journal* articles, LOTFA DPs took swift action. With the European Commission taking the lead, the other LOTFA DPs followed suit and jointly communicated to UNAMA and UNDP, in no uncertain terms, the actions that they expected to see and the consequences if action was not taken.

DPs were able to leverage the fact that LOTFA is one of the major programmes managed by UNDP in Afghanistan and thus UNDP’s management fees contribute a considerable amount to UNDP globally. In addition, LOTFA was a major reputational liability for UNDP. As a result of UNDP’s tarnished reputation, UNDP stood to lose DP funding not only in Afghanistan, but also worldwide. This created an environment where UNDP was receptive, even though initially slowly, to the DPs’ demands, ultimately meeting most of them.

Negative aspects of the response

However, the international community, and the LOTFA DPs in particular, could have acted on concerns about corruption at a much earlier stage. It was not until allegations of mismanagement and corruption became public, with the potential to reach domestic audiences, that DPs were prompted to act. In a sense, this was an example of DPs applying a zero-tolerance to corruption only when issues surrounding the use of their funds are made public.

DPs focused primarily on affecting change within UNDP and its management of LOTFA, largely ignoring (at least publicly) possible corruption within the MOI and ANP. When UNDP had met the DPs’ initial demands, DPs relatively quickly agreed to continue funding for LOTFA. But issues within MOI were left largely untouched. DPs focused their attention on the “easier” target where they had the most control and could expect to see quick results. As a result, the potential for continued corruption within the MOI and ANP remains, and sooner or later DPs may have to deal with a new scandal.

Impact achieved

In the *immediate term*, the coordinated DP response resulted in quick action to sanction UNDP staff allegedly involved in mismanagement or corruption. It also resulted in a review of LOTFA management arrangements, the development of a risk management plan and a significant increase in the staffing of the programme (UNDP 2012b). The increase in staffing was aimed at providing sufficient human resource capacity to effectively manage a trust fund the size of LOTFA. The case also served as an opportunity for MEC to increase its credibility as an impartial actor in that it was not only looking into possible corruption within Afghan institutions. As such, the impact achieved is largely limited to UNDP in its role as the trust fund manager.

Given the relative recentness of the case, it is hard to predict what the *mid- to long-term outcomes* of this case will be. It seems that UNDP will be under increased scrutiny and DPs will seek to play a more active role in the LOTFA steering committee. Yet, as noted above, it is unclear whether DP interests will sufficiently align for a coordinated stance vis-à-vis the MOI and ANP that would encourage these Afghan institutions to take action on corruption within themselves. If the priority is to maintain a funding mechanism to ensure relatively smooth payment of the ANP and uniformed correctional facility employees on a regular basis, a certain level of corruption may be seen as an acceptable cost of ensuring stability following the departure of international combat forces in 2014.

8.4 Discussion of key lessons

The analysis of the case study, including the identification of lessons for the future agenda, focused on how the responses from the DPs measured up against the key factors for achieving more effective collective responses outlined in the OECD DAC publications on collective donor responses. The following three factors were singled out: (i) preparing collectively in advance of responses; (ii) acting predictably—implementing anti-corruption policies; and (iii) maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors.

(i) Preparing collectively in advance of responses

- **Pro-active approach to assessing risks:** The lack of proper corruption risk assessments regarding LOTFA resulted in DPs being ill-prepared to act on allegations of corruption. The potential risk of corruption has frequently taken a backseat to a perceived need to achieve rapid results through DP interventions. Broader political and security considerations came into play, and perhaps there also was an assumption that UNDP's systems were sufficiently robust to prevent corruption. In any case, DPs did not pay sufficient attention to the risk of corruption at the outset of the LOTFA programme. Even had they undertaken a proper risk assessment, DPs would in all likelihood have had to accept a certain risk of corruption, given the lack of even the most basic government functions as well as the political imperative to try to secure stability. However, with the knowledge gained from a proper risk assessment, DPs would have been better prepared to deal with cases of corruption when they arose.
- **Need for effective response mechanism:** The LOTFA steering committee's rather passive role did not allow for adequate and timely remedial action on corruption allegations. The steering committee should have been the venue for DPs, UNDP and the Afghan government to work together to identify potential risks and agree on remedial action, in particular, in light of growing indications of corruption from formal reports and whistle-blower allegations. The independent management review noted, however, that the steering committee was involved in few substantive decisions and that reports shared with committee members tended to give an impression that all was well in LOTFA. DP representatives on the steering committee tended to come from the "political" side of the embassies and consequently had limited technical

knowledge. They may therefore not have been able to, nor had an interest in, identifying vulnerabilities to corruption, preferring not to stir the pot and to maintain good relations with the Afghan government. Embassy staff of LOTFA DPs were also overburdened with little time to get into the details of the programme. Together, this meant that the steering committee was unable to be an effective mechanism to address corruption concerns.

- **Coordination of a plan for response:** The proliferation of coordination mechanisms does not lead automatically to effective coordination, strong and decisive leadership or a common clear purpose. Afghanistan has seen a proliferation of coordination mechanisms, both within the international community and between the international community and the Afghan government. The challenge has been to ensure coordination between the many different coordination mechanisms, and to avoid coordination itself from becoming too time consuming. In the LOTFA case, there seems to have been a disconnect between coordination mechanisms at the technical and political level, resulting at times in unrealistic expectations on what could be achieved in the fight against corruption. As a result, it seems that DPs had not agreed on a coordinated approach to dealing with corruption in the management of LOTFA. The one commonality was an expression on the part of DPs of zero tolerance for corruption once the case was out in the open.

(ii) Acting predictably—implementing anti-corruption policies

- **Coordination of competing agendas:** DPs addressing specific cases of corruption often consider political and security considerations to be of greater importance than addressing corruption in a “confrontational” way. There were multiple competing agendas in the LOTFA case, as well as in the other corruption cases described. The overriding tendency seems to be to ignore allegations of corruption for as long as possible; however, if a case becomes public, DPs are forced to act, sometimes in a coordinated manner and other times unilaterally. According to interviewees, the willingness at the political level within the international community to a large extent depends on the current status of the relationship between DPs and the Afghan government. Corruption is seen as a sensitive topic, and the Afghan government frequently reacts to criticism or corruption by alleging that it is the DPs who are the cause of corruption. Other political and security considerations often take the upper hand, and the DPs themselves are not a homogenous group. For some, the security agenda is imperative, whereas other may be more concerned with development. Where security is the main concern, corruption may simply be seen as a necessary evil.
- **Credibility of threats of sanctions:** If the international community is to be taken seriously, threats of sanctions must be credible. The Afghan government’s many unmet commitments demonstrate the difficulty DPs have “pulling the trigger” in fragile and conflict affected settings such as Afghanistan. As a November 2012 *Wall Street Journal* article on President Karzai and his relationship with the United States observes,

The lesson that Mr Karzai has learned from these confrontations with Washington, a former palace insider said, is that the U.S. will end up yielding to him no matter what he demands. “He kept telling us: ‘The U.S. has no breaking point; when you push them, the Americans always step back.’ He said, ‘They will never say that you’re a bad boy and we’re leaving.’” (Trofimov 2012)

On the other hand, the response to the Kabul Bank case was partially successful because DP funds were actually withheld. In the case of LOTFA, UNDP took action because there were serious concerns over future funding. Every time, however, that DPs do not hold the Afghan government accountable they undermine their own credibility.

- **Consistent follow through:** Ultimately, DPs only achieved part of their objectives in relation to LOTFA because they did not sustain sanctions or follow up on unmet obligations. With a tendency to move from one crisis to the other there is also a limited capacity within the international community to pay sustained attention to a specific case or issue. Also, the fact that government commitments to fight corruption have gone unmet without any real consequences is likely to have signalled to the government that it had little to worry about if corruption within government institutions were revealed. In other words, the Afghan government could reasonably assume that DPs would not cut funding to the ANP. Ultimately this is the consequence of previous inaction on the part of DPs on cases of corruption. This is also likely part of the explanation for why the DPs decided to put pressure on UNDP rather than on the MOI in the LOTFA case; this was where they could expect to achieve results.
- (iii) **Maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors**
- **Collaboration between DPs and other actors:** The LOTFA case saw limited collaboration between DPs and other actors. Apparently there were no real efforts on the part of DPs to communicate with the public on actions taken in relation to UNDP or LOTFA. International media played an important role in publicly raising concerns about LOTFA, but this was obviously not done in collaboration with the DPs. Only a limited number of Afghan civil society organizations are involved in the fight against corruption, and domestic media remains relatively weak with limited capacity for investigative journalism. As such, civil society and the media were not significant factors.
 - **Impartial oversight entity:** The existence of an impartial entity can play an important role in a sensitive context. Even though there may not have been any overt collaboration between the MEC and the LOTFA DPs, the MEC was able to keep the LOTFA case alive and make clear recommendations for actions to be taken by UNDP, actions which the DPs themselves backed. Consisting of members nominated by the Afghan government as well as by the international community MEC has been able to maintain an impartial role. With the credibility that this gave the MEC, it seems to have encouraged whistle-blowers to come forward with concerns around LOTFA, concerns which the MEC was then able to investigate and make public. The MEC mechanism may be one to consider in similar conflict/post-conflict contexts.

9. Zambia

9.1 Introduction and country context

9.1.1 Background

The Zambia country case study contained in this report is focused on a sector-wide corruption scandal in the health sector that had substantial repercussions for the front line delivery of essential services. This case was selected because it was high profile, it raised fundamental issues for government–DP relations with regards to corruption situations and it has had a continuing impact on health sector funding in Zambia. The case study provides a description of the different stages in the handling of the health corruption scandal and seeks to identify the main challenges facing DPs in acting collectively and decisively in response to corruption.

9.1.2 Country context

International measurements suggest that corruption in Zambia is a serious and embedded problem, but some positive trends are also evident. Transparency International's Corruption Perception Index (CPI), while only presenting a limited snapshot of opinions, shows Zambia making slow but consistent progress since 2007, after a period of stagnation. The current CPI score of 37 moves Zambia ahead of many of its neighbouring countries (Transparency International 2012). Zambia's CPI score has improved as confidence in the fight against corruption in Zambia has grown.⁴⁶ The survey data is, however, somewhat ambiguous. In a recent survey over 65 per cent of people in Zambia felt that corruption has increased in the past three years while 42 per cent confirmed paying a bribe in the past twelve months (Transparency International 2011).

The Zambian economy relies heavily on the mining industry and on windfall gains from copper mining. This contributes to shaping both the economic and political landscape, with a perceived weakening of the basis for a "social contract" and accountability of the state to its citizens. In terms of institutional development, Zambia has the basis of a modern bureaucracy with patrimonial practices persisting. State resources are used extensively as part of the process of establishing and maintaining power interests, and a distinction between state and party political finances is not maintained. Political power in Zambia historically centred on the presidency and leaders of the ruling political party of the day. Patronage has been an essential part of building a political power base from the time of independence. Multiparty politics in Zambia are keenly contested, and politics, business and corruption are closely associated. Political advantage is sought through co-opting potential competitors, using state power to weaken political opponents, or using state resources to gain advantage.⁴⁷

On a positive note, electoral corruption in Zambia has clearly been reducing over recent elections. In 2004, electoral corruption in Zambia was very widespread. However, it decreased in scale in the 2006 elections, with further improvements in 2010 (Husmann and Chikalanga 2007). The improved

⁴⁶ This might suggest that the anti-corruption efforts of recent governments are reflected in changing perceptions within the population. Actions such as taking the ex-president Chiluba to court may have contributed to a recognition that government has the power to address corruption, if not always the will.

⁴⁷ Both President Banda and his predecessor President Mwanawasa faced relatively weak electoral mandates and power bases within their own parties when they came to power. As a result, both had to invest significantly to shore up their authority (OECD 2012).

electoral contest in 2010 was judged as an important step forward in building credible and accountable political institutions. The fact that presidential impunity has lessened somewhat over time and that oversight institutions, civil society and media have gained strength contributes to a more transparent electoral process. The current government's manifesto outlines its intention to address public service reforms and strengthen the mandate and capacity of the Office of the Auditor General and the Anti-Corruption Commission (ACC) (Patriotic Front undated). Important first steps have been taken with the passage of the ACC Act 2012, which reinserts the abuse of office provision removed by President Banda and enacts whistle-blower legislation. However, President Sata like his predecessors faces the same need to build coalitions and reward allies in the short and long term. His political challenge is to accomplish this without undermining his anti-corruption credentials.

Zambia has a wide range of law enforcement, oversight institutions and reform programmes that play a role in controlling corruption, but significant implementation gaps remain. The institutional capacity of these agencies has remained weak, not only due to limited funding and support, but also due to the nature of the exercise of political power in Zambia.⁴⁸ National efforts aimed at reducing corruption are heavily influenced by politics, and progress is not a continuum. The process is very much affected by both the personality of the particular president in office and the political pressures facing that individual, often from within the president's own ruling party.⁴⁹ In conclusion, it is clear that the progress made on anti-corruption reforms is not a linear process and is dependent on political incentives.

9.2 Background on DP coordination on anti-corruption

9.2.1 DP coordination structures and approaches

A recent evaluation of anti-corruption work in Zambia concluded that DP anti-corruption interventions in Zambia have been closely aligned to the country's own strategies and responsive to government priorities. However, DP efforts have yet to translate into increased domestic accountability or to entice behavioural changes (ITAD and LDP 2011c). In reality, DP interventions, however effective within their particular remit, only form a minor part of the overall process of societal change. Therefore, DPs need to be realistic about what can be achieved by supporting institutional development. The renewed concerns about corruption and financial mismanagement since 2009 may be taken as illustrating the continuing fragility of progress towards a more developmental state in Zambia (Oxford Policy Management 2008: 14).

Efforts to enhance DP coordination on corruption issues became increasingly important in Zambia when it emerged in 2001 that Zambia had the most anti-corruption DP-supported projects in Sub-Saharan Africa (Chanda 2003). As a result, a DP working group on corruption (WGC) was established in 2001. The group met regularly and also had meetings with Zambian counterparts. In 2002, the group reported that all DPs were interested in fighting corruption, but few had a clear policy in place or procedures and capacity to engage systematically. The study presented recommendations to strengthen the DP structures, capabilities and a "sense of common purpose" through collective and

⁴⁸ For example, the ACC was established in 1980 as a progressive anti-corruption initiative but subsequently suffered for a prolonged period with neglect and at times hostility. In the period of the Chiluba presidency (1991–2001) consideration was given to abolishing the ACC. "Until 2001, it is fair to say that the ACC operated in a deeply hostile political environment exacerbated by acute resource constraints" (Doig, Watt and Williams 2005: 80).

⁴⁹ For example President Mwanawasa's war on corruption caused internal divisions within the government because it brought some senior party members into disrepute with others (including Chiluba) who were made to face charges relating to the plunder of public resources (Saasa 2010: 11).

individual actions (Mathisen 2003). With the establishment of a task force on corruption in 2002 for the investigation of President Chiluba's alleged involvement in corruption (see Box 9), the WGC became the focal point for DP interaction with the task force on corruption and represented the first multi-donor umbrella for sharing information and making public statements on corruption. In 2008, following some concern about the quality of DP coordination in the anti-corruption area, an anti-corruption group (AC Group) was established under DFID's leadership.⁵⁰ The AC Group is part of a governance group that in turn feeds up to the Cooperating Partners Group (CPG) which is represented by a troika in negotiations with government.

These coordination arrangements played an important role in dealing with the 2009 health scandal that is the subject of this case study. These groups also supported negotiations with the Ministry of Health (MoH) in the aftermath of the case. The process was led in the first place by the health working group, supported by the AC Group, which enabled DPs to unify their demands for additional safeguard measures and corrective actions and increase the leverage they had on the government of Zambia. However a recent evaluation found that the effectiveness of these platforms has been mixed.

In the aftermath of the 2009 health scandal, and in response to a Swedish initiative, the AC Group began the process of developing a joint code of conduct on anti-corruption issues, in line with OECD Development Assistance Committee (DAC) Principles. The framework for a graduated response included (i) a rolling script (i.e. a checklist for responding to corruption concerns) to support a more strategic dialogue; (ii) proposals for data gathering and analysis; (iii) ideas for better coordination of technical reforms, including joint action on cases; and (iv) a proposal for taking a more informed approach based on a realistic assessment of Zambia as a high risk corruption environment. These proposals were under consideration when the change of government occurred in 2011. The view of the CPG was that the new government needed time to settle in and begin its own programme of work. Pursuing a challenging anti-corruption agenda with government at such an early stage could have been misunderstood as a lack of confidence in a government that was considered to be demonstrating a genuine commitment and taking action.

g.2.2 Risk Assessment

There is overall a mixed record in terms of the quality of DPs' up-front and on-going corruption risk assessments for development programmes in Zambia. In the years prior to the 2009 health scandal, DP assessments considered the levels of fiduciary risk in Zambia to be high. However, given their commitment to harmonisation and local ownership, DPs emphasised the utilisation of national systems to identify and control fiduciary risks over independent DP actions to guard against such risks. DPs placed considerable reliance upon Public Expenditure and Financial Expenditure (PEFA) reviews to assess fiduciary risk in the country. The 2005 PEFA assessment noted, "In recent years, there has been an increased focus on accountability . . .," but also noted that "capacity constraints and weaknesses in the accuracy and availability of financial information hinder the effectiveness of financial management" (Mwansa et al. 2005: 5–6). The 2008 Public Financial Management (PFM) performance report noting considerable progress since 2005, stating, "Measured against the six core PFM objectives examined by the assessment, the assessment indicates that there have been improvements in a number of areas in recent years, which have served to increase the transparency, comprehensiveness and accountability of fiscal management" (Njolomba et al. 2008: v).

⁵⁰ Priority areas identified for the AC Group in its first year of operation were to offer strategic guidance, lobby for the approval and implementation of a national anti-corruption policy and strategy, lobby for various legislative and institutional reforms, broaden DPs' focus of support beyond individual institution and give greater emphasis to corruption prevention strategies and programmes (such as money laundering) (ITAD and LDP 2011c).

Regardless of these improvements, in 2009 a Danida risk assessment noted that corruption was “endemic in the public sector” and considered that the planned Good Governance Programme was likely to be exposed to corruption risks (Danida 2009: 105). In an earlier example, a 2006 Swedish internal assessment accepted that, although “corruption in the sector is a definite risk,” nevertheless, “with an increasing effort to develop systems within the SWAp (Sector-Wide Approach)⁵¹ to ensure transparency and accountability the general impression is that major fraud in the sector is now extremely difficult to get away with.”⁵² This report suggested that support for civil society would help build local accountability and protect against clear corruption risks at district level. In general, DPs also increasingly relied on PFM reform programmes and on the development of improved data management and human resources systems as barriers to corruption.

A 2011 Norad evaluation found that “donor analysis of corruption in Zambia remains relatively succinct and principally focused on policy measures, grand corruption and public financial management . . . there is no differentiated analysis of petty corruption across sectors; political economy analysis (in relation to corruption) remains sparse” (ITAD and LDP 2011c: 20). However, the report noted that this situation was clearly improving in more recent assessments. For example, Sweden and DFID produced their own fiduciary risk assessments (FRAs), mostly using PEFA indicators and highlighting the direction of changes in PFM reforms. A joint FRA for Zambia in 2010 concluded that the fiduciary risk in the country is “substantial” (an increase in risk level), while the risk of corruption is “high” (*ibid.*). Since its origin in 2008, the AC Group gathers information on current cases, but it does not undertake or commission more substantial research of these cases, primarily due to resource constraints. Thus the capacity to address emerging corruption risks, including in the sectors, remains limited. In addition while the practice of conducting FRAs is increasing, more could be done to introduce sector specific assessments and to generally broaden the scope of the analysis.

9.2.3 General notes on DP responses to corruption in Zambia

On a number of occasions, DPs have responded to individual corruption cases involving their funds in Zambia. Allegations of corruption have tended to lead to an immediate freeze of disbursements, often followed by an audit or investigation as well as a process of negotiation with the receiving organisation on the conditions for the resumption of their funding. The conditions for the resumption of their assistance typically have entailed the recovery of the misappropriated funds and remedial measures to strengthen beneficiaries’ systems. Notably, all DPs have stopped short of reporting cases of irregularities to the police or the ACC for legal investigation and prosecution, leaving this aspect to the Zambian authorities (ITAD and LDP 2011c: 57). The misuse of funds—not just fraud—can trigger likely sanctions. For example, a 2010 in-depth financial review of the DFID supported Public Service Reform Programme revealed that US\$ 522,000 had been either misapplied or was not accounted for. Although there was no direct suggestion of fraud or corruption associated with these findings, the Zambian Ministry of Finance and National Planning (MoFNP) agreed that the funds be returned to DPs (DFID 2012).

A number of other cases are summarised in Box 9 as examples of how DPs have responded to concrete instances of corruption.

⁵¹ A SWAp is an approach to international development that brings together governments, donors and other stakeholders within a sector around a single development strategy.

⁵² This quotation comes from an internal assessment document dealing with the health sector, entitled “Background Memo of Handling Funds and Events in the Health Sector,” which was produced in Lusaka on 2 August 2009.

BOX 9: EXAMPLES OF DP RESPONSES TO PREVIOUS CASES**Case 1: The Chiluba case (see OECD 2012)**

In 2001, at the behest of President Mwanawasa, the Zambian National Assembly lifted the presidential immunity of his predecessor, President Frederick Chiluba. This opened the way for Chiluba and his key associates to be prosecuted for corruption. The government set up a task force to investigate the public corruption, prosecute those responsible and recover assets for the period 1991–2001. The task force bypassed existing anti-corruption architecture, including the ACC, which lacked the capacity to conduct such a complex and multijurisdictional investigation. The task force also had the added advantage of reporting directly to the president, making it a powerful political tool. The international community, including DPs, provided significant technical and financial support to the task force, not only funding the task force's core functions, but also helping pay for high level technical support (e.g., forensic accounting and international legal investigations, including from the UK Serious Fraud Office).

In 2003, a criminal case against Chiluba was filed in Lusaka, alleging that he and two key associates had defrauded the Zambian state of more than US\$ 40 million through diverting funds to the London branch of the Zambia National Commercial Bank (ZANACO). In 2008, the Zambian government stated that it had recovered nearly US\$ 60 million in assets allegedly stolen during the 1990s. Chiluba was acquitted of all charges in 2009. However, four of his associates were found guilty and imprisoned for three years each. Meanwhile, in 2006, a civil action was filed in London against Chiluba and 20 of his associates. This case was also based on the alleged diversion of state assets to private ZANACO accounts in London. In 2007, the high court found that Chiluba and his associates were liable for a total of US\$ 46 million (later US\$ 58 million). The political impetus for continuing to pursue Chiluba weakened with the death of President Mwanawasa in 2008, and the government task force was finally dissolved in 2010.

Key drivers for this case included President Mwanawasa's desire to legitimise his anti-corruption credentials and cement political authority, support from DPs, pressure from civil society and international media coverage of the case. In addition to the immediate effects listed above, the case brought about secondary effects such as a strengthened institutional capacity to investigate complex corruption cases (although this dissipated somewhat when the task force was abandoned), stronger inter-agency co-operation and teamwork within the Zambian government during the lifetime of the task force.

Case 2: Zambia National Aids Network (ZAN)

ZNAN was established in 1994 with the primary objective of promoting coordination among NGOs and CBOs involved in HIV/AIDS prevention and care. It provided financial and technical support to NGOs and CBOs, along with sub-granting, capacity building and advocacy. In 2003, ZNAN was selected to be one of four principle recipients of funds from the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM). Funds were also mobilised from other DPs. The overall impact of these funding streams (excluding GFATM) was to increase total funding for ZNAN by approximately 550 per cent in the three years from 2003 to 2006. In addition, in the same period and extending up to December 2010, GFATM provided funding via ZNAN of approximately US\$ 45.5 million. A Norad commissioned evaluation of ZNAN provided a very positive assessment of the work of ZNAN and encouraged further investment in its operations through the joint financing arrangement (Dhaliwal

and Nyirenda 2008). However, the 2009 GFATM audit report found that, while ZNAN had met agreed targets, several instances of fraud and/or misappropriation had occurred at the sub-recipient level to the tune of US\$ 1.6 million (GFATM 2010). The report recommended that US\$ 1.7 million be refunded.

ZNAN clearly did a lot of good work, but it was unable to put in place the kind of management, oversight and monitoring structures that were needed to control such large and rapidly increasing funding. ZNAN was faced with enormous pressure to soak up very large amounts of DP funds and to operate extensive nationwide programmes. This would have been demanding for a well-developed, mature organisation, never mind a small organization like ZNAN. It seems reasonable to question why such large amounts were given to an organization with significant structural weaknesses. The Norad evaluation, while pointing out weaknesses in monitoring and evaluation as well as the operational capacity of some sub-recipients, did not adequately address core issues in the terms of reference relating to capacity, future growth and consolidation. Thus, this evaluation was somewhat blinded by ZNAN's success and hence recommended continued rapid expansion. The inclusion on the evaluation team of due diligence skills might have helped.

In a situation where there are few available options for effective recipients DPs may at times have a tendency to "chase" projects, so as to meet the need for a funding portfolio in a sensitive area such as HIV. The evaluation concluded that "funding from GFATM [was] based on principles of 'additionality' and 'scaling up', hence adequate levels of funding from other sources, viz. JFA, DCI and DfID [was] critical" (Dhaliwal and Nyirenda 2008: 20). The extent to which such principles drive multiple streams of funding must raise concerns and could place all DPs—as well as recipient organisations—in a very vulnerable position. As a result, ZNAN was faced with multiple granting and reporting arrangements that ultimately led to the mismanagement of funds. DPs and recipients should carefully consider the lessons from ZNAN.

Case 3: Commercialisation of Medical Stores Limited (MSL)⁵³

Medical Stores Limited's (MSL) core function is to provide warehouse storage and distribution, supplying primarily essential drugs and medical supplies to health facilities throughout Zambia (including those funded by DPs). In February 1998, a tender was floated through the Zambian National Tender Board for the commercialisation of MSL. The contract was awarded to GMR, a private foreign company based in South Africa and Italy. The cooperating partners seriously criticised the award of the contract to GMR, due to irregularities in the procurement process—specifically a lack of transparency before and during the process of hiring GMR and the high fees involved. This led to Sweden pulling out its support to the supply of health centre drug kits in 1998 and DFID embarking on an exercise to fund an alternative/parallel storage and distribution system. At the end of the contract period, with poor performance of GMR noted, the contract was retendered. The DPs provided detailed assistance for the procurement process, including a representative who was able to give "no objections" at various points in the procurement process (following wider consultation). This time, the procurement process was managed well, which renewed DP confidence in the sector and led to increased investments in MSL and the discontinuation of parallel drug storage and distribution systems.

⁵³ Drawn from an internal memo of the Swedish Embassy in Zambia, 2 August 2009 (on file with authors).

9.3 The case study

The following sections present the history of the main case study selected and provide analysis on various aspects of the collective DP response.

9.3.1 Background on the MoH 2009 corruption case

Zambia experienced an improved health status in the years leading up to 2009, although health indicators remain poor overall. Life expectancy was around 46 and off track for meeting the health Millennium Development Goals (MDGs). Maternal mortality remains unacceptably high at 591 per 100,000 live births and infant mortality at 70 per 1000. There have been some successes. Measles immunisation rates are high at 85 per cent. There has been a 65 per cent reduction in malaria, and 75 per cent of people living with HIV/AIDS who need anti-retroviral drugs (ARVs) are receiving treatment. At the same time, capacity in the health sector is noticeably weak and there is a severe shortage of trained health workers. The sector struggles to deliver services to a dispersed population in a country with poor transport infrastructure and a large geographical area. This situation is further compounded by a socioeconomic infrastructure that favours urban areas, which adversely impacts the provision of social services in rural hard-to-reach areas.

The Zambian health budget had been increasing consistently and had risen in nominal terms from US\$ 316 million in 2004 to US\$ 435 million in 2009. As a share of the government's discretionary budget, it is still below the target set in the Abuja Declaration of 15 per cent. However, the government's proportion of the total budget is increasing consistently, and this is expected to continue up to 2015. Notably, in 2009 and 2010 actual government funds releases exceeded budget expectations, in response to the withdrawal of DP funds.

In 2009, DPs were due to provide over half of the national health budget of US\$ 273 million. The EU planned to disperse US\$ 16.5 million as sector budget support and Sweden and the Netherlands planned to provide US\$ 38 million into the MoH's expanded health basket. Canada released US\$ 5 million at the beginning of the year to the MoH's human resource basket. The GFATM planned to disburse US\$ 128 million to the MoH in 2009 whilst the US provided US\$ 276 million for health and HIV through its vertical programmes. Below is an overview of the budget and expenditure in the health sector (in US\$ million, constant 2008 prices) (de Kemp, Faust and Leiderer 2011: 270).

| Budget | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|---------------------------|------------|------------|------------|------------|------------|------------|------|
| GRZ | 153 | 156 | 184 | 245 | 260 | 273 | 296 |
| CP | 163 | 181 | 173 | 115 | 144 | 162 | - |
| Sector support and basket | 72 | 56 | 47 | 64 | 57 | 78 | 0 |
| Projects | 91 | 125 | 126 | 51 | 87 | 84 | |
| Total | 316 | 337 | 357 | 360 | 404 | 435 | |
| MoH as % of total budget | 8.5 | 9.0 | 10.6 | 10.1 | 11.0 | 11.8 | 8.2 |
| Expenditure MoH: | | | | | | | |
| GRZ releases | 175 | 167 | 209 | 221 | 274 | 299 | 314 |

An important part of the background to the case relates to structural reforms in the health sector. Prior to 2004, the Central Board of Health (CBoH) was responsible for service delivery at primary health care level and later at the hospital level. Considerable efforts were successfully applied to build its financial and administrative systems. This increased DP confidence and led to an increased flow of

funds through CBoH. Finance management at the district level was also an area of focus. Rigorous expenditure assessments were undertaken through quarterly health sector committee meetings and weekly resource allocation sub-committee meetings. DPs participated actively, and DP funding was based on the joint assessments. However, in 2004 a decision was made to abolish the CBoH and to roll its functions into MoH. The government argued that this was part of rationalising out-dated structures and reducing transaction costs. At the same time, it was argued that intense coordination with DPs should be scaled back in the light of the harmonisation process. This was expected to greatly reduce DP access at all levels of health policy implementation.⁵⁴ There may have been elements of opportunism involved in the decision, since CBoH's success represented a threat to the standing of the MoH and to its control over resources. Not all DPs supported this decision, which divided what had earlier been a closely knit DP group.

The transition from CBoH to MoH was seen as jeopardising established financial management systems and increasing corruption risks. As a result, the DP community provided technical assistance to assess and support the improvement of MoH financial management systems. Given the positive trend in PFM reform and the assumed deterrent effect of the on-going court cases involving high level officials arising from the government task force (discussed in Box 9 above) corruption was seen as less likely to affect the central level. Nevertheless, negative experience regarding corruption in previous health sector procurement was taken seriously and special provisions to handle those risks were built into the joint DP memorandum of understanding (MoU) signed in 2006. As the process moved forward, MoH was urged to incorporate the control systems of CBoH, but, as time would show, MoH lacked the capacity and the will to adopt strong accountability systems—and DPs failed to press home the provisions for procurement audits. (Eriksson and Parry 2011)

Zambia's Office of the Auditor-General (OAG) has been conducting annual audits on the MoH since 2006. Whilst the quality of these audits appears to have improved over the years, they failed to detect the fraudulent activity that was occurring. However the audits did identify weaknesses that would make such misappropriations of funds easier. The government's response to the findings of previous OAG reports tended to be weak. In addition, lengthy delays in producing the reports (18 months after the close of a financial year) weakened this accountability mechanism. Finally, DP funding in the MoH was not specifically reported on in the OAG reports.⁵⁵

⁵⁴ This had been recommended in the health sector mid-term review.

⁵⁵ This section draws on an internal DFID report (on file with the authors).

9.3.2 The scope of the case

The basic facts of the case are outlined below:

BOX 10 HEALTH CORRUPTION SCANDAL – THE BASIC FACTS

In March 2009, a whistle-blower tipped off the ACC about the existence of corruption in MoH involving per diem payments for high level government officials on training and workshops that did not take place.⁵⁶

In 14 May 2009, following a press report, the ACC confirmed that it was investigating the misappropriation of over 10 billion Zambian kwacha (ZMK) (ca. US\$ 1.7 million) from the MoH.⁵⁷

A total of 32 senior civil servants, including the MoH's former permanent secretary (PS), were suspended in late May as a result of the investigation.⁵⁸

The OAG conducted a forensic audit requested by President Banda (with DP support), with interim results showing a misappropriation over ZMK 27 billion (ca. US\$ 4.6 million).

The forensic audit report completed in July 2009 confirmed that US\$ 7.7 million could not be accounted for from 2006 to 2009. Of this, 59 per cent (US\$ 4.5 million) was from government funds, 32 per cent (US\$ 2.5 million) was from "basket funds" (provided by Sweden, the Netherlands and Canada) and 5 per cent (US\$ 385,000) was from the GFATM. Since 59 per cent of the funds misappropriated came from government, it was clear that general budget support (GBS) funds could have been affected. The report also confirmed that the paper trail was essentially "clean," indicating a significant degree of collusion, since some documents had required over ten signatures.

At the same time, the GAVI Alliance (GAVI) reported findings from its own audit, showing US\$ 120,000 unaccounted for in its funds meant to strength health systems.⁵⁹ The World Bank also commenced an investigation into irregularities in its health sector funding.

Eight MoH officials were subsequently charged. The case against MoH Human Resources and Development Officer Henry Kapoko and 10 others accused of theft is still continuing (Zambian Watchdog 2012).

In terms of the key findings, the forensic audit revealed that funds had been misappropriated through imprest not being retired and through bad procurement practice.⁶⁰ The audit identified some clear

⁵⁶ The whistle-blower was reportedly the girlfriend of the main accused. As a result of an alleged assault, the girlfriend went to the authorities to report the theft.

⁵⁷ Information contained in this section was apparently reported to *The Post* on 1 July 2009. That newspaper appears to have expressed concern that more evidence could be destroyed, stating that too many people were involved. It also alleged that MoH funds had for a long time been used to obtain money for election campaigns of the ruling MMD party and that this weakened the accountability systems and opened doors for individual gain.

⁵⁸ The suspended PS was Dr. Simon Miti, who was PS between June 2002 and January 2009. In 2008, he moved from the MoH to become PS of the Ministry of Science and Technology, but at the end of May 2009 he was placed on forced leave to pave way for the on-going investigations.

⁵⁹ This information is based on an internal DFID assessment document.

⁶⁰ An imprest system is a petty cash system where money is advanced and later receipted and reconciled on a weekly or monthly basis. The organizers of an event or workshop would call down an imprest to cover the cost

examples of theft, with procurement contracts being awarded to companies owned by MoH officials for amounts significantly above the market price. Many of the goods to be provided under these contracts had never been delivered. Other unaccounted-for funds appeared to result from sloppy management or poor record keeping.

Notably, the staff involved followed financial and procurement procedures in form. The staff involved prepared and signed off on the requisite forms. The fraud was only detected through further investigation. For instance, signed attendance sheets, receipts and bank slips existed for workshops that never took place. Records were falsified and meeting minutes doctored to increase the volume and price for procurement awards. Given the number of signatures required for the various stages of a procurement process, it is clear that a corrupt network was in operation and/or that senior staff were not taking their responsibilities seriously by making relevant checks when signing.

The audit also revealed significant weaknesses in financial management and record keeping. These included keeping financial records on unprotected Excel spreadsheets (making them vulnerable to fraud); not maintaining financial records at all for the MoH for 2006 due to records having been destroyed or lost; and using DP money for foreign currency trading between 52 separate bank accounts.⁶¹ In response to the forensic audit, GFATM commenced a routine audit, which found further irregularities. GFATM examined all four principal recipients of its funding in Zambia, namely MoH, MoFNP, ZNAN and the Church Health Association of Zambia. GFATM's draft findings identify a further US\$ 11.6 million of misappropriated funds across the four organisations, including US\$ 6.5 million from the MoH.

9.3.3 Chronology and DP responses to the case

Below is a description of the key developments and the DPs' responses at different points of the process:

Case comes to light (mid-May 2009): On 14 May 2009, following a press report, the ACC confirmed it was investigating the misappropriation over ZMK 10 billion (ca. US\$ 1.9 million) from the MoH. The following day, the Swedish Embassy immediately stopped a disbursement that it had released the previous day. The Canadians also froze US\$ 5 million of their funds already in the human resource basket. The health troika (DFID in the lead with Sweden and the World Health Organisation) met with the MoH's PS on 15 May. The PS had been recently appointed and was by now under pressure from the ACC and the OAG to facilitate investigations and a forensic audit. It was clear the PS had little or no information and like the troika was trying to find out the basis of the allegations. The PS was informed of the delayed disbursement and was now faced with a major cash flow problem and the prospect of stalled health service delivery.

On 18 May, the MoH wrote to the troika outlining the information available from the ACC and stating its commitment to cooperate with the ACC and take action against any officer involved. The MoH began to seek information as to what needed to happen to resume funding. At this point, DPs—in particular Sweden—were concerned about publicity on the home front.⁶² Sweden informed the DPs of its intention to delay funding and issued a press release in Stockholm. Within two days, the

of allowances for food, travel, attendance and other expenses. Then, they would collect receipts and reconcile the payments made against verified attendance. In this case, imprest was given, but was routinely not receipted or verified. This allowed for “ghost” events and/or participants.

⁶¹ It is unclear if this was as a result of the fraud or mismanagement of records.

⁶² Any action by Sweden also involved the Netherlands, since Sweden handled funds on behalf of the Netherlands.

information in the press release found its way into *The Post* newspaper in Lusaka and created the impression of a breakdown in dialogue between DPs and the Zambian government. A public debate ensued on the impact of DPs withholding funds. Health sector DPs wrote a joint letter expressing their concern and seeking clarity. Separately, Sweden and the Netherlands confirmed to the Minister of Finance their decision to temporarily delay financial disbursement. President Banda called a meeting with all DPs to discuss health and other governance issues.

Funding frozen (end of May 2009): When the case emerged, DPs supporting the health budget were at different stages of disbursement. The forensic audit report presented to the president confirmed that US\$ 7.7 million could not be accounted for from 2006 to 2009. In response to the forensic audit findings, Sweden and the Netherlands froze funding to the expanded health basket, delaying a payment of US\$ 38 million. GFATM delayed its release of US\$ 120 million to the MoH for 2009, and GAVI also delayed its release of US\$ 200,000 to the MoH. In addition, DFID held back its second Poverty Reduction Budget Support (PRBS) disbursement of 11 million British pounds (GB£) due in May 2009 until certain conditions relating to a “Governance Action Plan” were met (see next section). Whilst DFID was not funding the health sector directly, it regarded around 20 per cent of its PRBS as passed on to the health sector, and the payment of GB£ 11 million represented just over a third of DFID’s budget support commitment to Zambia for 2009. DFID subsequently reduced by GB£ 2 million its general budget support in the light of the situation.

Zambia’s health system was in crisis. Overnight 50 per cent of the national health budget had been frozen. This seriously threatened the continuation of health services in Zambia. Both DPs and the government were in turmoil, with the MoH facing the challenge of dealing with this crisis with a new PS and with many of its senior staff suspended. Meanwhile DPs faced the challenge of responding in a coordinated fashion despite the pressures and sometimes differing demands from their capitals and from their differing bilateral management and audit procedures. Both DPs and the Zambian government faced the challenge of responding in the face of intense media interest, mainly in Zambia, but also in DP countries.

DP response and Governance Action Plan signed (June – July 2009): On 27 May, OAG presented the forensic audit to the president and the report was passed to the law enforcement agencies. Twenty-three MoH staff were taken in for questioning. The PS confirmed that these staff members would be suspended while the investigation took place and she issued letters of forced leave. Also at this point MoFNP sought discussions around conditions for a restart of funding. On Tuesday 3 June OAG confirmed to DPs that ZMK 27 billion (US\$ 5.2 million) had been embezzled from the health sector in 2008. Of this ZMK 14 billion (US\$ 2.7 million) likely came from the expanded health basket and from the global fund, with the rest coming from government funds. Other transactions from 2006 to 2009 were also under investigation, and it is likely that the total amount embezzled will increase as these investigations are finalized.

The troika met with MoH’s PS, who welcomed DP assistance to conduct a systems audit as well as financial audits of the expanded health and human resources baskets. The PS asserted that measures were being put in place to strengthen financial management, and staff were seconded to replace suspended staff. MoFNP provided the full monthly budgetary allocation to MoH. Measures to re-establish confidence in MoH systems were discussed. In terms of the development of the Governance Action Plan, the prime responsibility fell to DFID as chair of the health partners group, with considerable contributions from Sweden, the Netherlands and Canada, as well as from the other group members.

On 1 July the Governance Action Plan was agreed and signed. The Governance Action Plan laid out immediate actions to be taken in the health sector to address the current corruption scandal and put into place immediate safeguards. The actions in the plan were set up to occur in three stages, and it was agreed that normalisation of funding would only resume when all three stages were completed

satisfactorily. An independent verification process was included as part of the plan, whereby a firm of auditors were retained to verify the extent of implementation of each phase of the plan. In addition, a policy governance committee (PGC) was established to provide oversight on strengthening internal controls and financial management in the sector.

BOX 11: FINAL ACTION PLAN FOR STRENGTHENING ACCOUNTABILITY AND FINANCIAL CONTROLS IN THE MOH (GOVERNANCE ACTION PLAN)

DPs and the Zambian government agreed to and signed the Governance Action Plan on 1 July 2009. The Governance Action Plan laid out immediate actions to be taken in the health sector to address the corruption scandal and put into place immediate safeguards. The plan included actions to be taken in three stages, as follows:

Stage 1: Commitment that funds alleged to be misappropriated will be recovered and repaid to DPs; agreement on terms of resumption of funding by DPs; drafting of terms of reference for a comprehensive systems audit; drafting an action plan for strengthening internal audit, accounts and procurement; establishment of an internal audit committee in MoH; additional oversight by OAG of the sector; pursuit of on-going investigations; and sharing of the findings of the OAG initial forensic report with DPs (completion target date July 2009).

Stage 2: Completion of comprehensive system and financial performance audit agreement on recommendations; reconstitution of the MoH audit committee and implementation of measures outlined in the action plan for internal audit, account and procurement; commencement of legal actions against those involved in the fraud; recovery and repayment of DP funds; reconstitution of the board of the Medical Stores board (completion target date September 2009).

Stage 3: Implementation of audit recommendations; restructuring of accounts system; establishment of policy consultative committee established; commitment to conduct of external audits; drafting of an implementation plan for the MoH governance strategy; continuance of legal actions against those involved in the fraud; development and implementation of core values in civil service; amendment of 2006 health MoU (completion target date March 2010).

Conditions required that at the completion of each stage an external audit firm would complete an independent verification mission, which would allow DPs to release a tranche of funds to the MoH. It was agreed that normalisation of funding would only resume when all three stages were completed satisfactorily. This was done and three separate reports were made.

Progress meeting on Governance Action Plan (end of July 2009): The PCG met to discuss progress on the Governance Action Plan, including the terms of reference for the comprehensive audit. A major issue raised was the slow progress on commitments to refund stolen funds and a lack of information on the results of the forensic audit.

Suspension of funds following the audit (August 2009 – December 2010): GFATM confirmed suspension of funds following the comprehensive audit. The GFATM ruled that the MoH could no longer be a principal recipient of its funding. In December 2010 it was agreed that UNDP could take over as principal recipient and receive and manage GFATM grants on behalf of the MoH; however, it took another year to put the arrangements in place to allow this to happen.

Verification and delays to audit processes (July 2011 – December 2012): In July 2011, the interim verification report on the second tranche of funding was completed. Considerable delays were experienced in completing the audit processes. By September 2012, the final verification of the

second tranche of funding was completed and approved by the DPs but the systems audit was still not published. Sweden received a refund of 6.7 million Swedish kroner (SEK, ca. US\$ 1.7 million) for its losses, out of a total estimated embezzlement of SEK 55 million (ca. US\$ 7.1 million).

Results 3.5 years later (January 2013): Now, 3.5 years after the corruption was first revealed and one year past the end of the original five year frame for health aid support worth SEK 555 million (US\$ 72 million), Sweden has resumed funding but still “owes” SEK 150 million (US\$ 19.4 million) in aid to Zambia. According to the original schedule, this amount should have been fully disbursed by 2011; however, it will likely not be paid out until 2013. In addition, SEK 300 million in budget support was lost. Below is an estimated summary of the total amounts of DP funds withdrawn as a result of the corruption in the health sector.

Summary of DP funding withdrawn from the health sector

| DP | Amount suspended/ withdrawn (millions) | Total refunded to DP (millions) | Total amount lost to the health sector (millions) | Comments |
|------------------------|--|---------------------------------------|---|---|
| Global Fund (GFATM) | US\$ 120.0 | US\$ 9.5 | US\$ 120.0 | Refund does not include civil society organisations |
| Sweden/ Netherlands | US\$ 18.3 | US\$ 1.9 | -- | Approximate amounts for 2009 |
| | US\$ 21.0 | -- | US\$ 38.3 | 2010 |
| Sweden | US\$ 18.8 | -- | US\$ 38.8 | Bi-lateral aid 2009 |
| | US\$ 20.0 | -- | | Bi-lateral aid 2010 |
| | | | | Total for 2009 & 2010 |
| Canada | US\$ 4.735 (CAD 5) | US\$ 4.735* (CAD 5) | US\$ 13.7 (CAD 14.5) | Aid provided to the human resources for health strategy programme (Exchange rate .947 CAD to \$ at 31/12/2009) |
| GAVI | US\$ 2.4 | -- | US\$ 2.4 | |
| Germany | | -- | | Germany withheld €10m of which, €2.5 million was released to support strengthened parliamentary control. The balance was never released. It has not been included in the total as it was not earmarked for the health sector. However a further €7.5m (\$10.7m) was lost to the Zambian exchequer Exchange rate 1.43 € to \$ at 31/12/2009 |
| Total | | | \$213.2 | |

*It is unclear whether this amount was actually refunded

DFID lobbied the MoFNP to release more funds to the health sector, which occurred, but not to a sufficient extent to overcome the losses incurred by the withdrawal of DP funds. MoH and DPs managed to find some alternative mechanisms to get funding down to districts or to prevent drug stock outs. For example, Sweden financed the distribution of drugs through medical stores in July 2009. Vertical DPs (the US and the Clinton Foundation) agreed to provide additional funds to service

delivery points. DFID provided funding through UNICEF for the Child Health Week. These steps were essential for maintaining Zambia's high immunisation rates and polio free status. According to a DFID internal assessment of the crisis, DFID felt that providing funds for these crucial activities bought political capital with the government at a time when it might have otherwise felt alienated by most of the DP community. Despite these efforts, though, during the first 6 months of 2009 districts only received 38 per cent of the budgeted funding.

Progress on the delivery of the Governance Action Plan has been mixed. The Action Plan required a number of actions by the government, such as the repayment of any stolen DP funds; financial, systems and procurement audits of the MoH; and the prosecution of officials involved. These activities required the approval of other government arms, such as the MoFNP and the cabinet, and those approvals took much longer to secure.⁶³ The primary delays in the implementation of the Action Plan came from forces that were outside of MoH's jurisdiction or control. Even though the MoFNP was a signatory to the Governance Action Plan and co-chaired the PGC, the DPs did not fully understand the dynamics between different arms of the Zambian government. Under the circumstances, the MoH was unable or unwilling to persuade other parts of government to deliver on their actions. Even the MoFNP had relatively little power to deliver. It was not long after the Governance Action Plan was adopted before push back developed against the reforms being imposed and senior officials became reluctant to take action, which undermined the sustainability of the reforms. The original target for completion of all phases of the Governance Action Plan was March 2010; however, final verification was not concluded until September 2012.

9.3.4 Overall assessment of the DP response

Positive and negative aspects of the response

On the positive side, once DPs took their early (individual) decisions on suspending funding, the DP response to the scandal was well coordinated and swift. The completion of the Governance Action Plan within 2 to 3 weeks was an achievement and suggests that the DPs worked well and leveraged their position to good effect. Given the anger and emotion surrounding the situation, the fact that the DPs and the government worked together to achieve a positive forward looking programme of action to address accountability and financial management systems in the MoH was a credit to all those involved. DFID as health group lead was responsible for developing the Governance Action Plan. DFID had credibility and objectivity because of its role in providing poverty reduction budget support. In addition, DFID was one step removed from the case, since none of its funds were involved in the corruption. DFID also received active support from other group members, especially Sweden, the Netherlands and Canada. The well-established DP coordination structures and active communication within the DP group (not just between the ones affected) were essential for developing and maintaining a unified position. These factors allowed DPs to get involved to the extent that they felt comfortable and did not force DPs to take positions. These factors also were successful in involving those DPs that were not represented in Zambia but whose funds had been affected, particularly the GFATM and GAVI. It was necessary to engage with these DPs' headquarters and understand their procedures and requirements in order to ensure that the Action Plan met their needs.

On the negative side, despite the overall good coordination of the actual response, a number of weaknesses of the response can be highlighted and will be discussed further in the key lessons section below:

⁶³ Over 80 per cent of the short term actions were delivered by September 2009, which suggests that in the areas under MoH control there was a willingness to move forward.

- *Once the case emerged there was limited room for a discussion of a more nuanced response.* The headquarters of the various DPs took an intense interest in proceedings, at times with different contradictory perspectives. For example, the need to go to the press in Sweden had local repercussions in Lusaka at a sensitive time. The headquarters of Sweden, the Netherlands and Canada pre-empted any real consideration of a more nuanced response by choosing to withdraw their funds immediately. Similarly the decision to impose independent verification was a headquarter decision by Sweden that came at the last minute of negotiations and made for a difficult wrapping up of the process. The need for all DPs to mediate between their own headquarters and the DP groups complicated the situation, but was a necessary part of the process.
- Delays were recorded in the process of verification of the Governance Action Plan partly because the targets were overly ambitious. In hindsight, the DPs agree that the targets were unrealistically ambitious, especially in areas where cooperation from institutions outside of the MoH was needed.⁶⁴ The Action Plan included a number of actions that required the approval of other arms of government (such as the MoFNP and the cabinet), including repayment of stolen DP funds; financial, systems and procurement audits of the MoH; and a commitment to prosecuting officials. The dynamics between different arms of government were not fully understood and therefore were not addressed in framing the action plan. Ultimately, the MoH was unable or unwilling to persuade other parts of government to deliver on their required actions. Even the MoFNP had relatively little power to deliver. It was therefore vital for DPs to engage directly with key central ministries such as the MoFNP, the cabinet and senior civil servants to move issues forward. It was fortuitous for the DP group that amongst them were DPs with diplomatic power, such as vertical DPs with large scale funding, health basket fund DPs and also DFID. This ensured that MoFNP and the cabinet office focussed on the issues, even if belatedly.
- *DPs front-loaded their response.* Related to the above point is the challenge of the DPs front-loading their attention and dialogue in the first 6 to 9 months after the case emerged. The Governance Action Plan was focussed on the immediate need to repair systems and to normalise funding and relationships. As time went by the attention to the Governance Action Plan dwindled as implementation faltered, and this reduced the likelihood of achieving the complete follow up that the case required (in terms of system strengthening, but more importantly in terms of sanctioning of responsible officials). DPs had no strategy for how their response would pan out over a longer time-frame.
- *DPs failed to engage with other actors.* In relation to the media, some communications were issued jointly by MoH and DPs. However the DP community did not place sufficient emphasis on getting its point of view across or engaging with other actors, apart from Sweden's efforts on the home front. An effective communications strategy would have helped to explain the DPs' position, which was left to interpretation by others.

Impact achieved

Having discussed the key positive and negative aspects of the response, what impact did the DPs' response have on the case? There were some *short-term positive outcomes* from the response to the scandal:

⁶⁴ This was a consistent view taken in interviews with key informants.

- **Zambian accountability institutions, particularly the ACC and OAG uncovered, investigated and started to address the misappropriation of funds.** However, the robustness of the DP response risked dissuading the government from uncovering and publicising such failings in the future. Did the financial sanctions and the implementation of the Governance Action Plan deliver effective results? Undoubtedly, the scale of the withdrawal of funds and the number of DPs involved meant that the government had little choice but to respond. This coordinated response from DPs meant that the government would have jeopardised relations with all of the DP community, including GFATM and GAVI if it had not responded. With over 50 per cent of the health sector budget at stake, there was just too much to lose. Thus, in terms of addressing the financial loss aspect, the DPs' response was effective.
- **The insistence by DPs on the adoption of the Governance Action Plan was important because it focussed attention on remedial action.** It is unlikely that such comprehensive steps would have been taken, at least in the short-term, without the pressure of the Action Plan. The late inclusion of independent verification at the insistence of Sweden upset the government, but also put considerable pressure on the government to deliver. In that sense it was successful. It also meant that the verification process did not cause further tensions in the relationship, as the verification was an external exercise.

The story in terms of *mid- to long-term outcomes* is more mixed, not least involving the question of the completion of the many commitments on follow-up on the case:

- **Whether the Governance Action Plan will have lasting benefits remains to be seen over the next few years as the quality of the financial management, procurement and overall management systems are tested.** However as the case description indicates, it was not long before there was a push back against the reforms being imposed and any reluctance on the part of senior officials to continue to implement the reforms will certainly undermine their sustainability. Particular areas of delay in this case included systems, procurement and performance audits, as well as full implementation of audit recommendations.
- **In November 2012, the former MoH human resources officer (Henry Kapoko), who had been a central suspect in the health scandal, was acquitted of theft charges, along with eight others.** He was also acquitted in December 2012 of further charges of fraud. The ACC has indicated its intention to appeal. Dr. Simon Miti who was the MoH permanent secretary during the period when the fraud took place was appointed in December 2012 as a permanent secretary in the cabinet office dealing with parliamentary business. Dr. Miti had been cleared by the ACC and testified in the case against Kapoko.

9.4 Discussion of key lessons

The analysis of the case study, including the identification of lessons for the future agenda, focused on how the responses from the DPs measured up against the key factors for achieving more effective collective responses outlined in the OECD DAC publications on collective donor responses. The following three factors were singled out: (i) preparing collectively in advance of responses; (ii) acting predictably—implementing anti-corruption policies; and (iii) maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors.

(i) Preparing collectively in advance of responses

Despite the overall strong response when the case emerged, it is fair to say that the DPs were ill-prepared for the events that overtook them in this case. The case is a perfect example of why the framework for a collective response is so important. The situation contained all the elements that a collective response is seeking to address—unexpected events arising in the most sensitive sector,

unpredictable responses, unknown consequences, international publicity, conflicting interests and demands—all of which took place in a highly emotional atmosphere. The immediate suspension of funding without planning for alternative channels left the collective DP community accused of caring more about their own money than the lives of Zambians. In addition, given the speed with which the issue reached the newspapers, there was no time to develop a media strategy, which is an essential part of managing a crisis.

Although DPs had undertaken risk assessments in the period leading up to the scandal, these efforts proved inadequate in terms of a preventative management of risks. The weaknesses in MoH were well known. The previous three reports of the OAG drew attention to the persistent weaknesses in MoH systems, particularly procurement. An analysis of a series of OAG reports showed that, in general terms, between 1995 and 2007 there was a “downward trend in estimated total mismanagement of public expenditures as a percentage of actual expenditures. (Eriksson and Parry 2011: 41)” An agreed audit of procurement was not undertaken, and this could have been crucial in uncovering aspects of the fraud. In the period leading up to the 2009 health corruption scandal, risk analysis focused on the broad assessment of corruption. It was not the practice to undertake sector specific corruption risk assessments, or to analyse the political economy of corruption in specific sectors.

In summary the following lesson can be highlighted:

- **Pro-active management of corruption risks:** An important lesson is that corruption red flags should not be ignored even if sector performance is showing positive trends. The discussion of how to mitigate corruption risks and respond to possible cases of corruption should have a firm place in the joint structures for planning and follow-up established by the Zambian government and the DPs. In the health sector SWAp the issue of corruption is included in the MoU, but is not connected in terms of performances measurement to OAG reports and findings. In hindsight, it can be argued that the DPs should have taken a stronger and more active stance regarding the follow up of the OAG reports at an earlier stage (Eriksson and Parry 2011: 39-42). This could have included investing in a dedicated analysis of corruption risks in key sectors. Going forward, sector strategic plans should specifically address governance and fiduciary risks as well as the technical sector issues. This might require DP sector groups to ensure that they have access to necessary governance and financial management expertise within their group.

(ii) Acting predictably—implementing anti-corruption policies

In terms of ensuring DP alignment on DPs’ responses to corruption, there were evident philosophical differences in the way DPs interpreted the MoU between the government and all DPs covered by the Joint Assistance Process (JASZ).⁶⁵ The MoU contains fundamental principles that form the foundation of the government–DP relationship in managing general and sector budget support and this includes a commitment to peace, democratic principles, the rule of law, good governance, integrity in public life, including the fight against corruption. The MoU put in place agreed mechanisms, including a “high level political dialogue” (HLPD) that can be activated by any signatory DP. The underlying principles are subject to continuous monitoring by the Poverty Reduction Budget Support (PRBS) group and a perceived violation of the underlying principles is enough to trigger a HLPD. The underlying principles thus constitute the core of the PRBS conditionality and provide a key starting point for DPs in the dialogue with government. But because

⁶⁵ There are currently nine Cooperating Partners who have signed the MoU (the European Commission, DFID, Germany, Norway, Sweden, Finland, the Netherlands, the World Bank, and the African Development Bank) while a number of other partners have expressed their interest to join in the short and medium term.

the underlying principle relating to corruption is so general and no mechanism for measurement is included, it is a matter of judgement as to whether the government is in breach of the principle or not.⁶⁶

It is at this point of judgement that DPs seem to have diverged on the issue of budget support. The difference in interpretations of the responsibilities of the government in relation to the Underlying Principle (i.e., their commitment to the fight against corruption) was an issue. One view was that the government fundamentally failed in its responsibility (a view taken by Sweden, the Netherlands and Canada), while the alternative view (notably reflected by the EU) was that while the tip off came from a whistle-blower the government institutions were on the case and DPs should have let that process run its course as this demonstrated government commitment. This position was reflective of the various assessments that judged the government to be making good progress in PFM areas and supported the government's leadership role. However, in reality the decision to withdraw funding was not a collective one, as it was made by headquarters on behalf of the embassies of Sweden, the Netherlands and Canada; the process was merely one of confirming the decision to the other DPs. One consequence was that while Sweden, the Netherlands and Canada withdrew health sector funding, at the same time the European Union and the African Development Bank increased their contributions. The net effect was a somewhat higher than expected level of budget support.

The case raises a general question about what is considered an adequate response to a corruption case from the DPs' side. The cancellation of all funds in 2009 and 2010 by Sweden (including joint funding with the Netherlands) and by Canada could be considered excessively punitive with the resultant loss in the region of US\$ 78 million. In addition, the report estimates a total loss to the government of US\$ 217 million. Given that US\$ 1.7 million was the amount refunded to Sweden, the punishment would seem to be disproportionate to the crime.

This case illustrates that the willingness to act on corruption is influenced by competing agendas between and within DP agencies. A number of competing agendas were at play with regards to the follow up on this particular corruption case:

Firstly, there was clear tension between broader commitments to partnership and collaboration with the government, on the one hand, and the need to respond strongly to the corruption scandal, on the other hand. There is no doubt that the handling of this case by both the DPs and GRZ damaged the quality of the partnership. The broken trust remains part of the legacy of the case. There was also a significant sense of power imbalance. The MoH was nominally in a strong leadership position. However the practical reality was different. The World Bank calculated that only 25 per cent of the health funding passed through the MoH, and the 2007 Public Expenditure Tracking Survey suggests, "The GRZ [government of Zambia] health budget and 'basket funds' by cooperating donor partners is being 'overrun' by large global disease initiatives" (MoH et al. 2007: 1; see also ITAD and LDP 2011c: 40). This combination of factors inevitably placed MoH in a very vulnerable position when confronted with large-scale fraud allegations and the overnight freezing of DP funds to the ministry. The strain on the relationship between the DPs and the MoH created by the case came on top of a situation where the MoH already perceived a lack of trust.⁶⁷

⁶⁶ Notable that the underlying principle in relation to macroeconomic policies is judged by objective assessment conducted by the IMF.

⁶⁷ The 2006 Health Sector MoU requires that MoH "consult in advance on envisaged changes to policies, plans, management arrangements, or budget allocations that have significant implications for the NHSP [National Health Strategic Plan] or for the CPs [Cooperating Partners] that support it" (MoH and Cooperating Partners 2006: 5).

Secondly, there was a marked tension between the commitment to follow-up on corruption and the need to ensure continued provision of health services. In a recent interview with *Development Today*, Georg Andrén, Sida’s Director for Programme Cooperation, reflected on the experience in Lusaka. In terms of the initial freezing of health aid, he explained that it was the only option for the DPs, but continued, “Should we have been quicker in finding alternative non-state actors? Perhaps, but this would entail a risk because we could further undermine state institutions.”⁶⁸ The DPs directly involved felt there was only one option available—the immediate complete freezing of funding for the health basket. Alternative options were not under consideration with the decision having been made at headquarters. As such, there was clearly no “plan B” to cope with the fall out of the removal of 50 per cent of the health budget overnight. The full realisation of the impact of the funds withdrawal left DPs open to accusations of being self-interested. It also left DPs scrambling for alternative channels of funding to fill at least some of the gaps. As pointed out by the joint evaluation of the JASZ, one of the lessons identified by DPs in the health sector was that it was important to think through responses to these types of scandals in advance, come to a common position, and implement it quickly when the occasion required (Oxford Policy Management 2010: 27).

In summary the following lessons can be highlighted:

- **Clarity on responses:** It is clear from the case that although DPs have adopted similar anti-corruption policies at the centre, the implementation of these policies varies in the context of a concrete case. Judgements about what level or type of corruption cases requires a response, and about the type of response that is appropriate, is shaped by calculations made at DP headquarters, based on the particular context and case in question. DPs needs to become much clearer about what they consider to be acceptable follow up on corruption cases and how they can best position themselves to negotiate those responses. As indicated above, there is a tendency to front load the response, with attention dwindling over time. This makes it difficult to secure the complete follow up and sanctioning required.
- **Scenario planning for handling of corruption cases:** Given the scale of DP support to the health sector, it seems reasonable to suggest that this type of corruption event was predictable. It is important to think through responses to these types of scandals in advance, come to a common position, and implement joint responses when the occasion requires it. The use of structured scenario planning would be a useful way of working through the issues and responses so as to prepare for future events. Such an approach could provide options or a “plan B” in relation to how DPs will collectively respond to a given set of circumstances, including, for example, establishing the viability of alternative channels of funding. The involvement of headquarters would be important to give them some comfort as to planning and control.

(iii) Maintaining a dialogue on multiple levels, including with respect to transparency and collaboration with non-state actors

Based on evidence from across the region it seems obvious that the process of transformation must come from within Zambian society. It will not come about through government–DP accountability mechanisms. There is therefore a need to reinforce parliament and civil society in holding the government to account as part of the anti-corruption/accountability agenda. There was little effort to open the dialogue around the corruption case to actors outside the private relationship of the DPs and the government. For example, Parliament was not party to the discussions. Civil society was involved

⁶⁸ Quoted in *Development Today*, 16 October 2012.

in the public debate of the case, but did not take an active role in the discussions of government's follow-up on the Governance Action Plan.

In summary the following lesson can be highlighted:

- **Support for wider accountability processes:** It is critical that DPs creatively reach out to involve actors other than the executive in the follow up of corruption cases. The strengthening of the Public Accounts Committee of parliament is particularly important in this respect, as well as the reinforcing of the advocacy role of civil society. Major corruption cases tend to set DPs against government and it is important to bring as many players as possible into the dialogue. Given the existence of strong sector advisory groups with broad participation, it may be possible to expand dialogue at the sector level, so that the anti-corruption/accountability issues are being addressed where the real action is taking place rather than at a higher level of government where it is hard to relate to the impact on service delivery.

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In 2006, the OECD Development Assistance Committee (DAC) Ministers of Development expressed a desire to move towards more effective collective responses to corruption. A policy and follow up reports were developed, and Uganda was the first country where the new ideas were put into practice. This report, which includes a study of cases from Afghanistan, Tanzania and Zambia, contributes to expanding the understanding of development partner responses to concrete corruption incidents. The reports seeks to explore the factors that influence the extent to which donors are able to act collectively as a joint, credible enforcer of anti-corruption policies in response to concrete cases. As a backdrop to the case studies, a literature review was conducted, with a focus on what drives change with regards to corruption—and whether there is a role for development partners in effectuating or supporting such change. It also looks at what the literature says about the key factors that influence the response of development partners to corruption cases.