

U4 PRACTICE INSIGHT

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Making development assistance work at home:

DfID's approach to clamping down on international bribery and money laundering in the UK

Corruption will remain a profitable crime in developing countries as long as counterparts in rich countries are willing to hide stolen resources. Working to improve governance in poor countries will only address part of the issues. To disrupt the mechanisms that enable illicit outflows, the UK Department for International Development is funding the City of London Police, the Metropolitan Police and the Crown Prosecution Service to increase investigations on money laundered by senior political figures in the UK. In 4 years, millions of pounds have been frozen and repatriated – indicating a shift in thinking in what counts as development work in a world with global patterns of corruption.

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Name of the project:

International Corruption Group (ICG)

Institutions involved:

UK Department for International Development, City of London Police, London Metropolitan Police Service and Crown Prosecution Service

Total funding in phase 1 (2006-2009):

£6 million

Total funding in phase 2 (2010 – 2014):

£7.1 million

Amounts frozen as of 2010:

Around £160 million (out of which £2 million already repatriated by the Met Police).

implementation of the OECD Anti-Bribery Convention),

- expanding activities in the field of mutual legal assistance and exchange of information with other countries and
- strengthening British police authorities' role in investigating processes that allowed the likes of Sani Abacha to bring stolen funds into the country.

Since then, different institutions within the UK public administration, such as the Ministry of Justice, the Serious Fraud Office (SFO) and the Crown Prosecution Service (CPS) have been called upon to address the UK systems' weaknesses.

This Practice Insight focuses on the role played by the UK Department for International Development (DfID) in this process. It presents the lessons learned from an experience that led DfID, an international development agency, to undertake responsibilities in relation to a number of its domestic agencies: the City of London Police and the Metropolitan Police, which operate under the authority of the UK Home Office, and the Crown Prosecution Service, the department responsible for prosecuting criminal cases investigated by the police in England and Wales. This paper also analyses DfID's strategy of addressing events that take place in its own backyard in order to improve development outcomes abroad.

This document is based on a review of project documents related to DfID's engagement with the three British institutions mentioned above. It draws also on interviews with staff of the UK government agencies concerned and external actors with an interest on the subject. Stronger focus will be placed on the work of the Metropolitan Police, given their responsibility over investigations of foreign Politically Exposed Persons⁵ (PEPs) and their illicit funds laundered in London.

Background

During the early 2000s, the UK was receiving increasing criticism for its poor record on anti-corruption efforts. On the international front, the OECD review¹ on the implementation of its anti-bribery convention criticized Britain for its outdated legislation on foreign bribery. In addition, strains on the UK as a member of the international community came from prosecutions in Lesotho,² as authorities in the African country bemoaned the lack of support from international donors in investigations around multinational companies involved in bribery. The reputation of the City of London, the second most important financial centre in the world, had also been tarnished. The Financial Services Authority (FSA), the UK's regulatory agency for the financial industry, revealed in 2001 that 23 London banks had knowingly handled £1.3 billion of illicit money belonging to family and friends of Nigerian General Sani Abacha.³

Britain had to work on several fronts to address these criticisms:

- modernizing its patchy anti-corruption legislation (the OECD review of 2001 listed at least nine scattered laws and acts, some of them almost a century old,⁴ that were relevant – yet not adequate – for UK's

Picking up the bill

DfID's engagement with the City of London (CoL) Police, the Metropolitan (Met) Police and the Crown Prosecution Service (CPS) is intended to strengthen the capacity of these institutions to work more systematically on corruption outside of the UK but involving UK companies or individuals. While the CoL Police's remit revolves around investigating allegations of bribery committed by British companies or individuals abroad, the Met Police focus is on investigation and prosecution of illicit money laundered by foreign PEPs in the UK. CPS supports both agencies in bringing investigations to prosecution in the courts. By supporting these organizations' work, DfID contributes to disrupting mechanisms that exist in developed countries and that enable corruption in developing countries to remain a profitable crime.

The Dariye case

DfID's engagement with these institutions started after a particular investigation in 2003.

In January 2003, the Met Police were investigating credit card fraud a company based in London. In one search at a property involved in the scheme, officers found a briefcase containing £11,000. The man in possession of the money stated that it belonged to his boss, a Nigerian, who had instructed that the funds should be deposited in his account with a British bank. Further investigation led the Met Police to identify more than 10 accounts with different British banks linked to the same Nigerian citizen. A series of suspicious activity reports⁶ (SARs) shed further light: a company had been making regular payments into his several accounts, totaling about £400,000. When investigation found property in the UK purchased through front men and linked to the same individual, a grand corruption case against Joshua Chibi Dariye, at that time Governor of Plateau State in Nigeria, started to take shape.

In 2004, under full investigation, the Met Police tracked and arrested Dariye in a hotel in London. While on bail, he fled the country. For a long time, Dariye escaped an international arrest warrant placed by a London High Court due to the immunity he enjoyed as a political official in Nigeria. In January 2005, more incriminating evidence was found with the help of the Nigerian authorities. Dariye was transferring funds from an official Nigerian federal grant to Plateau State to his private accounts in London. He was also involved in inflated contracts between one of his private companies and the state government. Civil actions against Dariye and his associates in London courts led to confiscation of his assets in the UK, arrest of one of his associates, and eventual repatriation of funds back to Nigeria.⁷

At the same time, other developments in Britain suggested that addressing corruption in poor countries was a task that required action on British territory as well. The 2005 White Paper *Eliminating world poverty: Making governance work for the poor*,⁸ recognized that governance problems in developing countries were exacerbated by international factors. *The other side of the coin*,⁹ a document published by a British parliamentary committee in 2006, also acknowledged that UK companies and banks had a role in facilitating corruption in Africa. The White Paper hinted at the lack of attention given to the international aspects of corruption by the UK government. DfID had already tried to persuade the Home Office that this was an important area that regular police budgets needed to cover. Although some investigations of money laundered from corrupt activities in developing countries had been carried out, as in the Dariye case, the response from the Home Office indicated that prioritization pressures were unlikely to result in resources being targeted for that purpose. Understandably, fighting crime abroad competes with pressing domestic issues, such as local crime and fraud. In such a competition, it was difficult to make the case for scarce police resources to be spent on crime abroad, particularly because assets

recovered also must return to the country of origin, following the UN Convention against Corruption (UNCAC).¹⁰

In other words, if DfID wanted police officers to be devoted systematically and on a permanent basis to investigate such cases, it had to step in and fund the CoL Police and Met Police.

How does DfID support these institutions?

There are more than 140,000 police officers spread in more than 50 different police forces across the UK. Until 2005, due to resource limitations, neither the CoL nor the Met Police had funds to permanently follow up lines of investigation on corruption committed abroad and requiring work in several countries. Responsibility for investigations was not centralized but allocated to the local police force in which the individual, or the HQ of the company paying bribes abroad, was located. The absence of pooled skills, capacity and experience was also a major obstacle to pursuing often complex and expensive overseas investigations. Nonetheless, after the encouraging results of the Met Police investigation on Dariye, both institutions got DfID's attention for three particular reasons:

- They already had staff with expertise on complex investigations, and they were mandated to work on these crimes in London.
- The cases that DfID expected the police to address with its funding involved foreign PEPs laundering money in the UK and British companies bribing government officials in developing countries. Most of these cases would have connections to London because of the City's status as a financial centre and the fact that it houses the headquarters of many corporations.
- Finally, different from the Serious Fraud Office (SFO) and from the Serious Organized Crime Agency (SOCA), the Met and the CoL Police are able to deal with smaller and

medium cases of fraud and corruption, which include the likes of Dariye, and smaller and medium-sized British companies involved in bribery abroad which would often fail to be seen as priorities for the other agencies.¹¹

As a result, in 2006 DfID entered into an agreement with both institutions to establish the Proceeds of Corruption Unit (PoCU) within the Met Police, dedicated to investigate cases of PEPs' money laundered in London, and the Overseas Anti-Corruption Unit (OACU) in the CoL Police, to investigate cases of bribes paid abroad by British companies. In its first phase, from 2006 to 2009, the project disbursed £6 million to finance salaries and operating costs in both units.

Proceeds of Corruption Unit (PoCU): anti-money laundering work

The work routine of both institutions has not been altered as a result of DfID's funding. High standards and procedures of investigation were in place before the two new units were established. In the case of the PoCU, change came in the form of staff time allocated on a permanent basis to investigate foreign PEPs-related money laundering and a resulting increase in the number of such cases being investigated. At the time of the last project review, around 31 cases were in different stages of investigation. This is above the target of 6 cases per year that had been agreed between the Met Police and DfID at the start of the project.¹²

Six police investigators and analysts now work at the PoCU supported by DfID's funding. Investigations are carried out after a Suspicious Activity Report (SAR) is received by SOCA and assessed to check whether there are real grounds for suspicion. If there is enough evidence in the UK to proceed with a case, it will be taken forward. But in many circumstances, investigation requires gathering evidence on the predicate offense (the underlying crime that generated the illicit money) in the country where the crime took place, and cooperation with law enforcement

institutions can be challenging. After investigation is complete, prosecution can be taken forward by the CPS, which also deals with implementation of procedures to freeze, confiscate and repatriate assets. Both investigation and prosecution might take years for several reasons (see Box 1).

Box 1: Another Nigerian Governor

In 2007, Nuhu Ribadu, former chairman of the Nigerian Economics and Financial Crimes Commission (EFCC), was investigating James Ibori, governor of the Delta State in Nigeria from 1999 to 2007, for theft of state funds and money laundering. Given suspicion that the governor had laundered funds in the UK, the EFCC requested assistance from the UK authorities to investigate Ibori's activities in London. However, in late 2007, Ribadu was removed from the EFCC and later Ibori was acquitted of the corruption charges brought against him in Nigeria.¹³ But the case was kept open in the UK. In 2010, Ibori's wife, sister and mistress were sentenced to jail in London for assisting him in laundering money. Ibori was arrested in Dubai and, in April 2011, was extradited to the UK to face corruption charges.¹⁴

Overseas Anti-Corruption Unit (OACU): anti-bribery work

At the CoL Police, DfID currently funds 11 people to work at the OACU. The OACU investigates allegations of bribes paid abroad by UK companies. It also receives tips through a hotline and an email address that whistleblowers can use to report anonymously directly to the unit. At the time of writing, out of 28 cases investigated by the CoL Police, three were pursued jointly with the SFO. Prosecution, in this case, is a responsibility of the SFO.

Besides investigations of UK businesses involved in corrupt deals abroad (see Box 2), the OACU has contributed to training police officers from Vietnam, Romania, Macedonia, Kenya, Zambia and Morocco. It has also been involved in

awareness raising activities among the business community in the UK in an effort to prevent companies from offering or accepting to pay bribes abroad in the first place.

Operational management and intra-government coordination

The management of such structure, which should put different governments departments in close cooperation, presents challenges. The response has been through a two-tiered management structure:

- Operational issues for investigation on PEPs and bribery are dealt with by two separate groups attended by law enforcement agencies. These are specialized technical groups which manage decisions such as which institution is responsible for taking forward which cases. These are groups involving only a few of the actors presented in Figures 1 and 2 and they meet as necessary. They are supposed to refer high-level policy issues up to two strategic groups (those in Fig 1 and 2).
- Strategic decisions are taken by the strategic groups which meet quarterly to review UK efforts on PEPs anti-money laundering and anti-bribery work. As mentioned, DfID has no direct involvement in the daily work of the PoCU or the OACU, but it is part of these strategic groups. Membership in such groups includes different UK government departments, with the objective of coordinating policy decision making among the several agencies with a stake in these processes. In the case of the PEPs Strategy Group (Figure 1), led by the Treasury, the main interest is to make sure the UK's policies on economic and white-collar crime include attention to the problem of foreign PEPs laundering money. The Foreign Bribery Strategy Board (Figure 2) has been chaired by the UK Attorney General's Office and assesses the UK's implementation of the country's Foreign Bribery Strategy. This latter

Figure 1: Membership of the PEPs Strategic Group

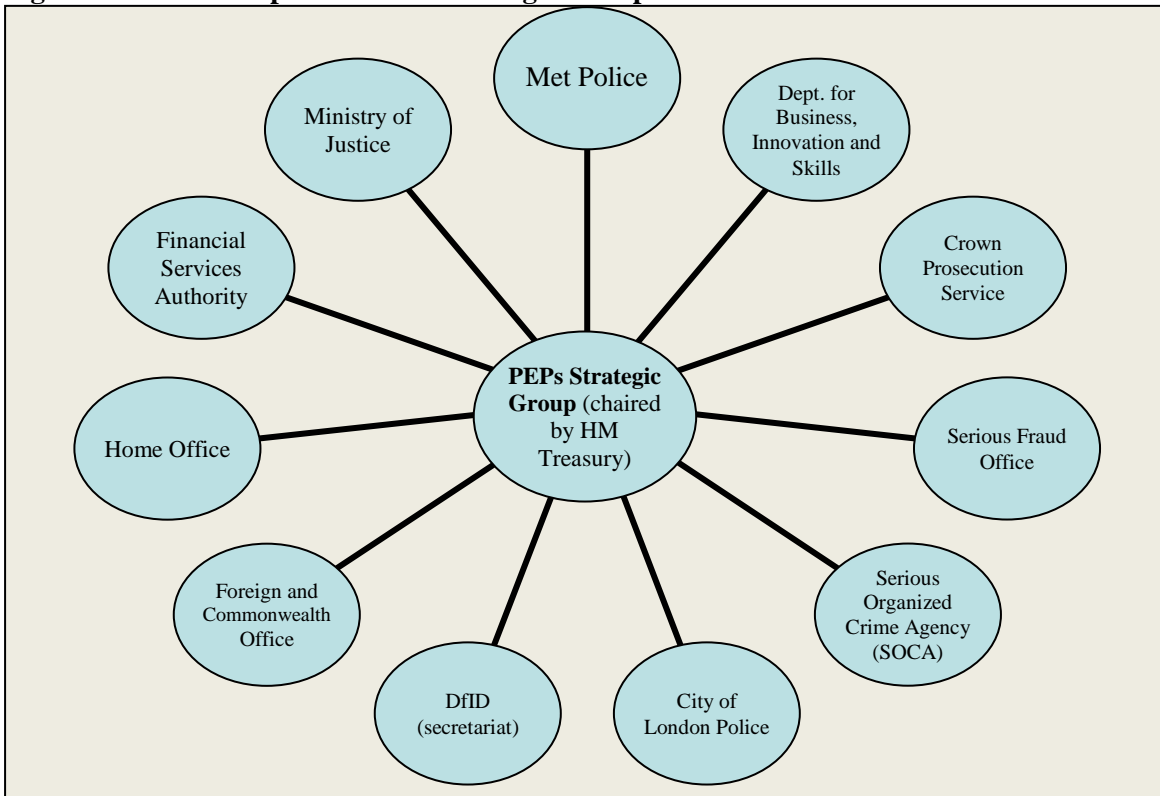
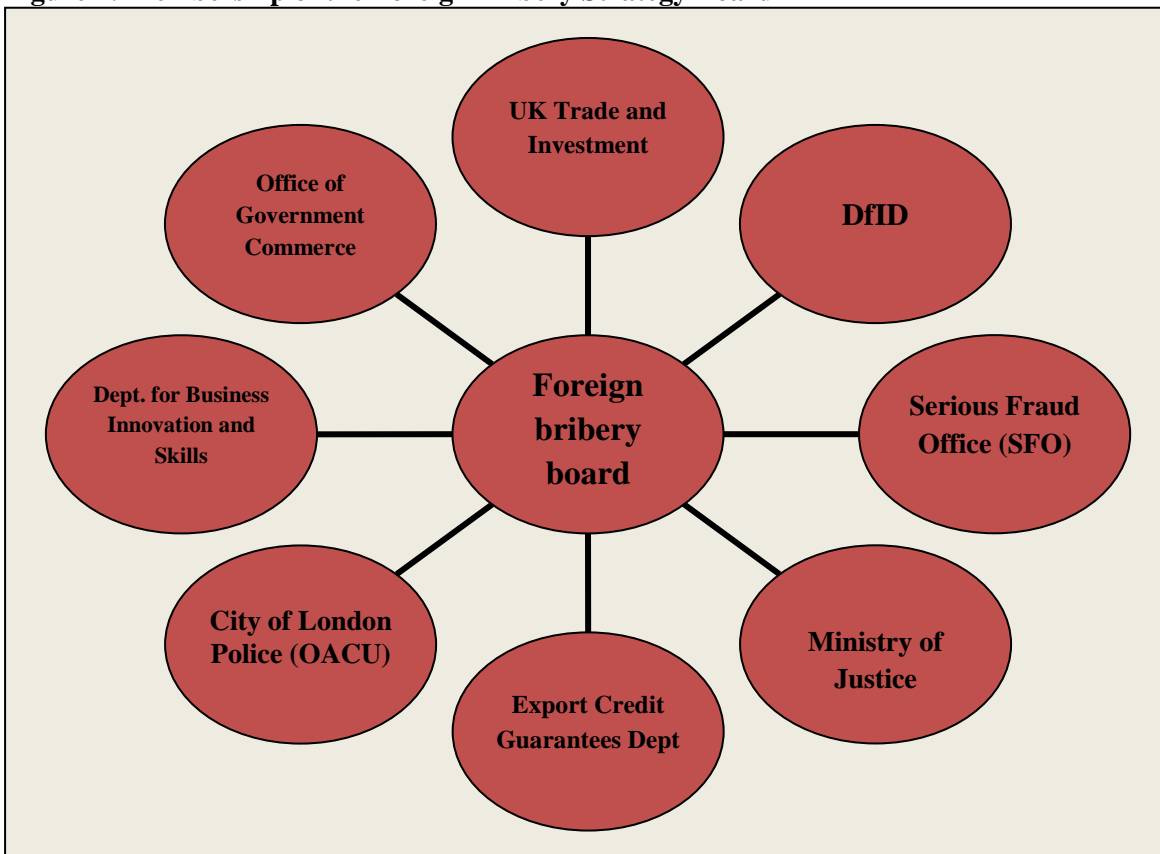


Figure 2: Membership of the Foreign Bribery Strategy Board



group is currently in abeyance since 2010, pending cross-Departmental consideration on extending its mandate beyond bribery. Both groups function under the auspices of the Anti-Corruption Champion, a position currently held by Justice Secretary Kenneth Clarke. Together these institutions hold the collective responsibility for strategic management of the UK government efforts to deal with the problem of international corruption and are giving shape to something akin to a 'whole of government approach' in dealing with the issue.

Box 2: Illicit UK Plc

In 2010, the OACU arrested the CEO of a UK company following an investigation into a deal involving a forest concession in Liberia. With the support of OACU, a Liberian committee set up to investigate a proposed carbon credit deal between the country's Forest Development Authority (FDA) and this British company established that procedural requirements relative to the forest concession had not been followed and that the proposal had not been subject to a tender process. It was also indicated that there were plans to pay £1.7m in bribes in order to obtain concession of the 400,000 hectare forest - a fifth of Liberia's rainforest- in order to sell carbon credits, which might have led to a financial loss of US\$2 billion to Liberia.¹⁵

In 2008, the OACU was also responsible for the investigation leading to UK's first conviction for bribe payments abroad. Niels Tobiasen, director of a British security company, and Ananias Tumukunde, advisor to Uganda's president, were jailed in England in connection with the payment of £80,000 in bribes in a defense project to protect world political leaders attending an event in Kampala. However, Tobiasen pleaded guilty to paying bribes and was given a five-month jail sentence which was suspended. Tumukunde, who had been demanding payments from the British company, was jailed for a year.¹⁶

The idea of using development aid to fund core activities of institutions operating in the home country is new. The evolving outlook of the project reflects this experimental nature, so it might be one of the reasons for which it looks piecemeal and confused. It is a reflection as well of the nature in which new policy develops in the UK, out of need and using strengths already existent. This evolving nature has, however, allowed a degree of openness and flexibility to the ICG project to incorporate new institutions as part of the project as and when perceived necessary. As investigations on PEPs moved forward, prosecution services – and mutual legal assistance for asset repatriation to the country of origin – started to be required. For that reason, the CPS was added to the ICG project in 2010, reflecting the need for adequately resourcing the final end of investigations and guaranteeing that funds are repatriated to countries which originally owned them.

Asset recovery work is expensive and work intensive. The defendants (those willing to challenge asset confiscation and repatriation procedures) are likely to be able to afford experienced teams of lawyers. Even though the number of cases might not be high, the values involved are. Regarding British authorities' capacity to recover the costs of investigation and prosecution, under UNCAC it is not clear what can be considered reasonable costs which can be deducted from the assets that are to be repatriated to the country of origin. In contrast, in cases of domestic asset recovery involving fraud against the government in the UK, 50% of proceeds recovered go to the UK Treasury, 18,7% stay with prosecutors, a similar amount goes to the enforcement agencies, and 12,5% remain with the courts services.

Some of the cases prosecuted in the UK courts involve amounts as high as the whole yearly budget of the unit responsible for asset repatriation work in the CPS. "In a case we are currently handling, if the defendant had won the court proceedings and CPS had to pay for his

lawyers' costs, the whole yearly budget of the Proceeds of Crime Unit [within the CPS] would be wiped out in one single case," said a senior staff at CPS in July 2010.

Ultimately, without adequate human and financial resources, it was clear that CPS would not be able to take in many PEPs cases even if Met Police's capacity to investigate increased. For that reason, the CPS was added to the ICG project. Additional DfID funds to cover the salaries of specialized lawyers were earmarked, focusing on case work involving freezing, confiscation, and repatriation of money laundered by foreign PEPs (DfID's funding only covers the asset recovery phase, not prosecution.) Given the flow of cases coming out of investigations, currently only 2 new positions have been filled, but when the full structure is active, there will be 4 specialized prosecutors working on asset recovery related to PEPs from developing countries.

Impact

Results of the ICG project have been monitored in terms of **value for money** (i.e., how much DfID has invested in the project and how much money has been frozen and repatriated to developing countries). In such terms, the project has fared well. At the time of the last review, in 2009, there were 31 cases of money laundering involving foreign PEPs under investigation at the Met Police and 30 investigations of bribery abroad in which the OACU was involved – above the target per year. The latest update indicates around £160 million had been restrained (although repatriation figures are lower – around £1.3 million – as they are subject to progress on cases, judges' decisions on recovery orders, challenges to orders by defendants, etc.) against an investment of £13 million in two phases.

Another important indicator is the **disruption impact** of the project – the ability to preemptively stave off illicit money coming from developing countries into London's financial centre. This relates directly to the project's goal: to enhance

overall accountability of political elites in poor countries by increasing UK capacity to enforce action against corruption occurring between developed and developing countries. This is a more intangible and difficult indicator to measure, though this difficulty is not unique to the ICG project and is inherent to anti-money laundering regimes.

However, police officers in Nigeria involved in the cases of the State Governors suggest that the investigations had an important symbolic effect indicating that the UK would pursue money launderers regardless of their political power. Moreover, a senior investigative officer in Nigeria stated that "there was an 80% drop in Nigerian assets going to the UK after the cases of the governors in London." According to a British diplomat working for the High Commission in Nigeria and involved in convincing the Nigerian authorities to collaborate with the investigations on Dariye case, the position UK adopted was highly appreciated locally, particularly by ordinary Nigerians. "It sent a powerful message to unaccountable powerful figures in the country," says the High Commission official.

The case had repercussions in the Nigerian press for a long time. This suggests that using aid to fund public institutions in the UK is likely to have had a positive impact in Nigeria and clearly worked in **support of UK's reputation** among the population in Nigeria. In the UK, however, ICG lacked a strategy to publicize the results achieved with the investigations involving the Nigerian governors and may not have benefited as much from the positive attention this would generate to the different police units involved (eventually garnering popular support for funding to these institutions to be included in the regular police budget).

Finally, another indicator needs yet to be identified to indicate the correlation between this part of DfID's work to its broader efforts on **poverty reduction**. It is still a problem to identify how disruption of grand corruption improves the

lives of poor people in countries where money is stolen. This is an issue on which DFID is conducting further research on the back of its work in Nigeria.

In the UK

DfID deserves recognition for its efforts to change behavior around the UK government. DfID was an important **driving force behind the debates** that led Whitehall to pass the Bribery Act in 2010.¹⁷ It had a decisive role in putting the topic of UK's responsibility on corruption abroad on the domestic political agenda. However, the effort falls short in that "DfID is not as powerful as the UK Treasury or the Department for Business, Innovation and Skills and its leverage can only reach so far," according to the staff of a British NGO that investigates cases of money laundered by PEPs. Regardless of how convincing DfID can be at home, there are limitations to its capacity to influence other institutions. These will be analyzed in the next section focusing on the lessons learned from the ICG project.

The ICG project was envisaged as a 'proof of concept' exercise to assess whether benefits can be proven worthy to be included in the regular UK police systems. In other words, DfID expects to convince the UK administration as whole of the seriousness and harmful effects of such problems to Great Britain. It also aims to prove to the whole UK government that they will actually be supporting good governance in developing countries by focusing on such topics, through freeing financial resources that should be invested in development (instead of stashed in London banks) and enhancing accountability lines between political figures in developing countries and their constituencies. After that is achieved, DfID expects to phase out its funding to the three different institutions and, where appropriate, be replaced by other British authorities so continuation of the work is guaranteed. As it will be seen below, under budget constraints, the UK authorities are yet to be persuaded to pick up the

bill of the new units established with DfID's funds.

Therefore, **sustainability** of the exercise is an issue. DfID's engagement with the Met Police's PoCU and CPS has been extended until 2014. Funding to the City of London Police's OACU was expected to cease in March 2011. The passing of the Bribery Act in 2010 seemed to indicate that bribery abroad had been acknowledged as a serious threat to the UK and that British authorities would take the responsibility to continue work on that front, and enforce the new legislation. However, no other UK institution had stepped in to fund the OACU as of until the summer 2010 following elections and an unclear process of reorganization of British arrangements to respond to economic crime. So DfID extended its support to the CoL Police until March 2013. DfID expects that when new structures to overhaul the UK's response to economic crime are in place, they will provide a permanent solution for funding the units dedicated to investigation and prosecution of corruption involving developing countries and the UK.

Another decision in early 2011 by the Ministry of Justice – to postpone the coming into force of the new Bribery Act – was perceived as backpedaling on the UK efforts to deal with corruption. The delay was a reaction to claims by the business community that the act is not clear on aspects such as corporate hospitality. Since then, it has been decided that the Act will come into force on 1 July 2011.¹⁸

Lessons learned

Invest resources where it pays off

As many of the investigators in the units funded by DfID stated, the police agencies in the UK need to coordinate intelligence better in order to be strategic about decisions on which cases to follow up. Since work on this topic is expensive, demands skilled human resources, and requires a long-term investment, strategic decisions need to be made regarding which investigations should be

cut short to avoid waste of resources. Those that will be axed are likely to be the ones where there is no clear commitment to collaborate from authorities in the country of origin. "We need to work with countries that are making an effort themselves to investigate these powerful figures", suggested one of the detectives at the Met Police. DFID has contributed further funding to an intelligence cell within SOCA to further develop intelligence management related to overseas corruption.

Better monitor the financial sector

The financial industry lacks incentive to conduct proper Know Your Customer¹⁹ (KYC) procedures. In a country like the UK where the financial industry corresponds to a large proportion of the GDP, the resistance to change coming from a powerful sector needs to be factored in.

Most investigations conducted by the PoCU start after a SAR is received. SARs are a result of a well-conducted KYC procedure, an investigation inside a bank that requires work and does not bring profits, other than a clean reputation. However, for dishonest clients with a lot of money to hide, a clean reputation is not the priority feature in choosing a particular bank. As acknowledged by the Financial Services Authority, "there is not a big incentive for banks to take this seriously, and it is difficult to inculcate this culture."

A further component of the project may envisage contributing to better monitoring banks that do not do enough to track and deter illicit flows into the UK. This could take the form of working with the banking authority on guidance and methodologies to make filing SARs an easier task and improve the quality and focus of SARs. It could also mean supporting training of bank staff via the FSA to guarantee better enforcement of regulations, which means that failing to identify customers or submit SAR when one should have been aware are presumably criminal offences. That would lead to banks being adequately prosecuted, with

sanctions more powerful than the current fines that do not really represent a significant threat to the business model that relies on illicit money. As for sanctioning bank officials, this can be done under the Proceeds of Crime Act 2002. This direction would extend the range of institutions targeted by the ICG Project and would bring some benefits such as increasing DfID's work and outreach to domestic institutions in the UK. But it also adds to the challenges of intra-government coordination.

'Whole-of-UK' approach

ICG's objective is ambitious: to contribute to enhance overall accountability of political elites in developing countries by increasing UK capacity to take effective enforcement action against corruption occurring between developed and developing countries and to return stolen assets.²⁰

In practice, there have been challenges on different fronts to achieve this objective. In the case of the strategic groups, their capacity to clearly separate strategy from operational planning has been questioned, regardless of the existence of the smaller operational groups. More broadly, the UK's overarching approach to dealing with economic crime, domestic and abroad, has been criticized as non strategic, piecemeal and confused – and the ICG project is an integral part of such approach. Efforts to address the weaknesses of the groups have been undertaken. In the case of the PEPs group, a delivery plan was put in place to help give it more strategic direction. The plan aimed to maximize the impact of asset recovery and to contribute to a regulatory environment to combat PEPs money laundering.²¹

More importantly, there is a need to enhance knowledge sharing on money laundering among relevant actors, improving the follow up on SARs and using different sources of information in cases of investigation, expanding the data gathering to areas outside of the UK, according to a DfID staff. It is for this reason that DfID has now agreed to fund a new unit, as mentioned above, within

SOCA, the agency responsible for receiving SARs, to better mesh SARs with other available intelligence material from other parts of the UK system.

It will be difficult for DfID to achieve this without full engagement of the UK government as a whole and to influence certain aspects of the UK government and its engagement with the topic of international corruption will present challenges. Funding the Met Police does not prevent, for example, that branches of British banks located in the Crown Dependencies and Overseas Territories accept ill-acquired money. Neither the Met Police nor the CoL Police have jurisdiction over these territories so they can only participate in investigation there upon request of their local police (although the existence of the units funded by DfID can provide a helpful conduit for developing countries to access the authorities in Overseas Territories). Albeit far from the two police institutions' influence, such locations are under the reach of the UK government as their ultimate guardian of good governance. So making sure that the police in these places are also investigating money laundering and bribe payments is a responsibility of the Foreign and Commonwealth Office and relevant home affairs departments in these territories. If nothing is done on that front, illicit funds generated from corruption will in fact continue to be hidden in UK territory.

Integrate the work at home with that taking place in developing countries

For the sake of policy coherence and to guarantee the investment DfID is making at home brings fruit to developing countries, better integration is required between the work at the developing country level and efforts in the UK. Currently, DfID's field staff are still learning on how to take forward the illicit financial flows agenda. It is important to integrate this topic into the portfolio of DfID's country officers working on governance so they are prepared to collaborate with the host country institutions dealing with money

laundering and corruption issues, and to share information with DfID's headquarters or the UK police authorities when asset recovery cases arise.

This could initially take shape through raising awareness around this issue for DfID staff in field offices. It could be followed by capacity building for counterparts to the CoL, Met Police and CPS, such as investigators and prosecutors in host countries, to deal with complex cases that require mutual legal assistance.²² The cases in which the UK authorities' investigations came to a halt were a result of lack of capacity to conduct investigation and mutual legal assistance procedures in the country of origin of money coupled, in many instances, with political pressure on developing countries' investigative authorities to refrain from meddling with influential politicians. DFID (and the British Foreign and Commonwealth Office) engaging locally at the political level in such circumstances becomes a vital part of the overall effort.

An additional stream of work for building capacity at the local level would focus on assisting developing countries' banking regulatory systems to better monitor their own financial centres to avoid outflows of money to start with. The deeper illicit money circulates into financial markets, the more complicated it is to trace and recover it. When proceeds are at the international asset recovery stage, formalities (such as requests for mutual legal assistance) can cause significant delays while funds flow swiftly through electronic wire transfers. To a limited extent, DFID does this through support for regional bodies, such as the East and Southern African Anti-Money Group (ESAAMLG). Expanding initiatives in this area as part of regular DFID's country assistance would have positive effects.

Finally, recent efforts to repatriate assets have led also to the question of how to manage resources after the funds are back in the country where they belong to make sure they are spent on development and not misappropriated again. This is an area where global practice is still emerging.

DFID supports the World Bank Stolen Assets Recovery Initiative and the International Centre for Asset Recovery in Basel to monitor and document evolving practice.

A good idea for others?

Through the ICG project, DfID has not only benefited developing countries and helped rebuild the UK's reputation; it has also responded to a need to comply with requirements as a party to UNCAC and the OECD's Anti-Bribery Convention.²³ So development agencies in other countries that are either recipient of illicit money or the home of companies that resort to bribery abroad may wish to consider DfID's experience.

Compared with other countries, DfID was able to propose and implement a fairly innovative way of international development work. In the US, for example, it would be unlikely that the US State Department or USAID would be able to use aid money to fund core activities of its peer public agencies. Regardless of its strict anti-bribery laws,²⁴ if there was a need for more staff time to be dedicated to money laundering investigations, for example, at the Federal Bureau of Investigations or the Department of Justice (respectively, in charge of investigations and prosecutions for cases of money laundering and corruption involving foreign countries), a budget request to the Congress would be the only way to guarantee these institutions receive allocations to reflect their actual resources needs. In countries under federal systems, investigative authorities might be funded locally and removed from the influence of a development agency placed at the central level.

Another discussion refers to the way in which such funds would be counted: should the salaries of such police officers be considered development assistance? They are no different in practice to the staff that donors regularly support within anti-corruption agencies in developing countries, for example. This points, however, to the need to revisit conventional understandings of

development assistance in light of today's global patterns of corruption

In any case, much of the work against illicit financial flows undertaken by international development agencies is not done in developing countries but is a political 'tug of war' at the domestic and international levels. Many development agencies can work to influence international standards or put the topic onto the political agenda at home as it can be seen from the experience of DfID.²⁵ Framing the problem from the perspective of other government departments – building a case that resonates with other departments' interests, such speaking to the Treasury in terms of the reputational risks for London's banking sector – is a strategy that seems removed from development interests but, as DFID's case illustrates, might have positive development impact.

¹ OECD (2001): *Review of implementation of the convention and 1997 recommendation*, at <http://www.oecd.org/dataoecd/12/50/2498215.pdf>

² The Highlands Water Project in Lesotho (expected to cost approximately US\$ 8 billion) comprised a system of several dams and tunnels, located in Lesotho's Highlands to augment the water supply to the Gauteng Region of South Africa. More than US\$ 6 million in bribes was exchanged to win contracts in the bidding process and four British companies were allegedly involved in the process. Water Integrity Network (2008): *Lesotho: A precedent for prosecution of grand corruption committed by multinational companies*, No. 5/2008.

³ BBC (2001): *Britain goes after Abacha millions*, at <http://news.bbc.co.uk/2/hi/africa/1606565.stm>

⁴ Such as the Corruption Act from 1906.

⁵ PEPs are individuals who are or have been entrusted with prominent public functions in a country, for example Heads of State or government and senior politicians. PEPs' business associates and family members are also considered PEPs because of the similar risks they incur in regards to money laundering.

⁶ SARs are reports required to be filed by financial institutions (other institutions may also be subject to the requirement) for any activity suspected to be fraudulent. Usually, the Financial Intelligence Unit of each country is recipient of these reports.

⁷ Around £ 1.3 million have been repatriated to Nigeria as of 2010 as a result of different prosecutions involving several state governors with illicit bank accounts and property in the UK.

⁸ Moore, M and Unsworth, S (2006): Britain's New White Paper: Making Governance Work for the Poor, *Development Policy Review*, 24(6), ODI, London, UK.

⁹ Africa All Party Parliamentary Group (2006): *The other side of the coin: UK and corruption in Africa*, March, London, UK.

¹⁰ Under UNCAC, all assets recovered as part of investigations involving a foreign country need to be returned to the country of origin. However, article 57 of the Convention allows State Parties to deduct 'reasonable' expenses incurred in investigations and prosecutions. It is unclear whether this would include payment of regular expenditures such as the salaries of police officers and prosecutors or only extra temporary experts, such as forensic accountants, hired on a need basis according to each case.

¹¹ SFO's role is to investigate and prosecute cases of complex corporate fraud. The threshold for SFO involvement in an investigation is £1 million. The institution does not have police powers of arrest and needs the support of the City of London Police, whose officers accompany SFO investigators on searches or work jointly during whole investigative processes. SOCA deals with international criminal networks (such as drug and human trafficking) and their links into the UK.

¹² Beggan, P (2009): *Review of the International Corruption Group Project*, DfID.

¹³ BBC (2009): *Nigeria dismisses James Ibori money laundering charges*, 17 December, at <http://news.bbc.co.uk/2/hi/africa/8418302.stm>

¹⁴ BBC (2011): *Nigerian ex-governor James Ibori remanded in custody*, 16 April, at <http://www.bbc.co.uk/news/uk-13102655>

¹⁵ Financial Times (2010): *Probe as carbon deal hit by bribe accusations* by Michael Peel and Fiona Harvey, Financial Times, June 4

¹⁶ Guardian (2008): *First executive convicted of foreign bribery escapes jail term* by Rob Evans and Paul Lewis, The Guardian, September 27

¹⁷ Expected to replace the old and fragmented legislation, the Bribery Act creates an offence of bribery of foreign officials with the objective of guaranteeing or maintaining business for UK companies and other institutions operating abroad. TI UK (2010): *2010 UK Bribery Act: A briefing for NGOs*, June 2010

¹⁸ OECD (2011): *UK: Chair of OECD Working Group on Bribery concerned over delay of new Bribery Act*, at http://www.oecd.org/document/13/0,3746,en_21571361_44315115_47020557_1_1_1_1,00.html

¹⁹ KYC is the set of procedures that financial institutions, banks and other regulated companies must put in place to identify their clients in order to engage in doing financial business with them.

²⁰ DfID (nd): *Project Document: Enhancing International Action against Corruption*, DfID

²¹ Beggan: *Review of the International Corruption Group Project*

²² For example, in 2010 DfID was working with Interpol to set up a facility that could be deployed when a country requests support so that international experts can contribute to investigation and prosecution in developing countries involved in asset recovery work. DfID's work with prosecutors in Uganda goes also in the direction of building their capacity to conduct complex multijurisdictional investigations.

²³ For example, to comply with article 31, 43, 46 and 48 of UNCAC, State Parties need to have investigative and prosecution authorities competent and resourced to take the necessary measures to investigate and confiscate illicit funds as well as to cooperate with other countries conducting such investigations.

²⁴ The US Foreign Corrupt Practices Act, which makes it a crime to make payments to foreign government officials to assist in obtaining or retaining business, was passed in 1977.

²⁵ Another relevant example comes from Norway. Norad, the Norwegian Agency for Development Cooperation, and the Norwegian Ministry of Foreign Affairs have been a driving force behind the Norwegian government's attention to the issue of illicit capital flight out of developing countries, having set the Task Force on Financial Integrity and Economic Development and commissioning a seminal study in 2009 on the impacts of illicit financial flows on development (NOU (2009): *Independent Commission on Capital Flight from Poor Countries on Tax Havens and Development: Status, Analysis and Measures*. Official Norwegian Reports 19:2009. Norad, Oslo, Norway).

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