

Building Integrity and Reducing Corruption Risk in Defense Establishments

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Introduction

This article presents some new and constructive approaches to strengthening integrity and reducing corruption risk in defense establishments. Our organization, Transparency International, is active in this field because we believe that it is hugely important to ensure that national defense establishments have integrity and are free from corruption, both for reasons of national security and because of the damage that corruption does to governments and citizens if it is not actively addressed.

In our conversations with defense officials, security experts, defense companies, civil society, and development agencies, we hear the following reasons for the particular magnitude of the threat posed by corruption in the defense sector:

- Corruption is costly and a waste of scarce resources. Whether through corrupted procurement, payment of non-existent soldiers, or non-transparent privatization practices, corruption occurs at the expense of more socially productive investments, such as in health and education.¹
- Corruption dramatically impacts the operational effectiveness of the military forces.
- Corruption reduces public trust and acceptance of the military. Civilian and military staff pride in their service to the country is seriously degraded when they learn of corruption among their leadership.
- Corruption reduces the credibility of national and international forces deployed on peacekeeping missions.
- Defense acts as a “concentrator” of corruption across government, and involves numerous actors. Because money can be easily extracted from the sector, a network of corrupt middlemen, accountants, and lawyers is kept in business.
- Adequate security is one of the key conditions for promoting development and growth. The symbiotic relationship between security and development is now widely recognized; for instance, Hilary Benn, the U.K.’s former Minister for International Development, asserted that “development without security is impossible; security without development is only temporary.”

In this article we will present some of the work that our organization is doing in the

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¹ Paulo Mauro, “Corruption and Composition of Government Expenditure,” *Journal of Public Economics* 69 (1998): 263–79.

area of defense, some of the ways in which we are collaborating with NATO on the topic, and outline some of the tools that we are testing.

Transparency International

The Organization

Transparency International—or TI, as it is usually called—is a global civil society non-governmental organization (NGO) involved in leading the global fight against corruption. It brings people together in worldwide coalitions to end the impact of corruption on men, women, and children around the world. Transparency International’s mission is to facilitate change toward a world that is free of corruption. Transparency International U.K. is the United Kingdom chapter of the global movement.

TI is an independent, not-for-profit organization focused on developing constructive solutions to bribery issues. It was started fifteen years ago by World Bank lending officers for East Africa who were frustrated at the Bank’s loans being siphoned away corruptly. The officers quit the Bank in order to try to address the problem directly. TI caught a wave of enthusiasm for improving governance and other measures to tackle corruption worldwide, and the organization now has almost one hundred chapters around the world.

Many readers will be familiar with the Corruption Perception Index, one of TI’s headline products, that ranks corruption perception of countries around the world based on the aggregation of a large number of surveys. TI also produces a “Bribe Payers Index” that shows perceived bribe frequency by industry sector. The three worst-performing sectors for bribery are oil, infrastructure, and defense.

TI has five global priorities. Addressing corruption in public contracting has been a global priority since its founding. TI develops this work by engaging with governments and by developing coalitions between private firms, governments and public sector institutions, and civil society in order to achieve a wide base of support.

TI’s private-sector work, the “Business Principles for Countering Bribery” (BPCB) is one such example of this kind of cooperation.² TI worked with a multi-stakeholder group comprising companies, labor unions, and NGOs. These groups also now form the steering committee. The two basic principles are the prohibition of bribery and the implementation of an anti-bribery program. A version for small businesses (“SME” in U.K. parlance) has recently been launched. There is now a wide range of implementation tools, including a detailed TI guidance document, a six-step implementation process, a self-assessment tool, and a high-level check list. A process for providing external assurance is currently under development with the “Big Four” auditing firms. There is also sector guidance, and a tool that sets out scenarios and guidance on how to respond to corrupt requests. All this material is used by many companies, and is freely available for use. Similarly, TI has developed guidance tools for public contracting in a number of countries.

² Transparency International, “Business Principles for Countering Bribery,” 2003; available at www.transparency.org/global_priorities/private_sector/business_principles.

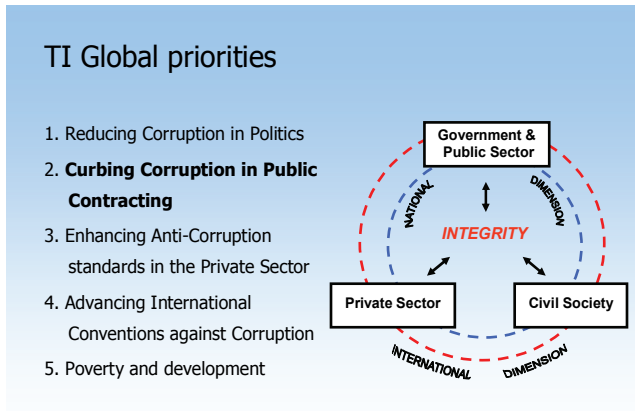


Figure 1: Transparency International's Global Priorities

Transparency International's Defense Work

Global Program. Transparency International U.K. began working to address corruption in the defense arena in 2000, bringing together exporting governments and defense companies to consider constructive measures to reduce corruption in defense. From two conferences, one in Stockholm, Sweden, and one in Cambridge, U.K., came a number of recommendations.³ This led to the formation of the “Defense Against Corruption” team, with funding from the British government, and additional funding from the Swedish government.

This global program has the objective of reducing the risk of corruption in the defense sector, through building integrity and promoting greater transparency. The Defense Against Corruption (DAC) Program is heavily engaged with defense ministries, defense contractors, exporting governments, and trans-national institutions. Its main activities are as follows:

- Building awareness in defense ministries and among parliamentarians that the subject can be tackled effectively, and implementing oversight tools for use in major defense procurement efforts
- Encouraging defense companies to collaborate internationally so as to build more integrity into international tendering
- Working with arms-exporting governments to enhance anti-corruption measures, including with senior officials in the United States, United Kingdom, Sweden, France, Germany, and Italy

³ Transparency International U.K., “Corruption in the Official Arms Trade,” Policy Research Paper (2002); available at http://www.defenseagainstcorruption.org/index.php?option=com_docman&task=doc_download&gid=11&Itemid=129.

- Working with NATO to develop a common approach to increasing transparency, building integrity, and reducing corruption
- Working with other international bodies, such as the World Bank and the African Development Bank, to leverage defense anti-corruption knowledge and best practices across many countries
- Conducting trials in the use of a new oversight and monitoring tool—the Defense Integrity Pact—in major defense tenders
- Developing other tools for use by all countries and civil society
- Working with the British government’s Department for International Development to initiate a “Transparency in Defense Expenditures” initiative in Africa.

TI’s global program has exceeded all initial expectations: governments, defense firms, and trans-national institutions are proving ready to engage in reform of this sector.

Other National Chapter Activity. Defense sector reform efforts—often facilitated or instigated by local chapters of Transparency International—around the world include:

- *Korea:* TI Korea has been actively engaged with the defense establishment for some years. New tendering regulations were passed that require the presence of an ombudsman for large procurements (discussed in further detail below).
- *India:* A requirement was recently initiated for integrity pacts to be implemented on large defense procurement contracts.
- *Croatia:* National defense procurement needs and the full defense budget for the next ten years have been published. TI Croatia has been active in engaging the defense establishment on the issue of enhanced transparency in the defense sector.
- *Colombia:* Defense procurement functions were reorganized into a single organization serving all the armed services and run by professionally qualified civilians. This process of centralization is viewed as having reduced corruption risk in the Colombian defense sector.
- *Poland:* The defense ministry has pressed for competitive methods in buying military equipment in order to limit single-source procedures, while declarations on conflicts of interest have been enhanced to include a wider range of family members and to cover a broader range of involvement (including other contracts) with tender participants. Transparency International Poland has engaged the defense establishment to encourage and advise reform efforts.
- *Georgia:* Reforms of the Georgian Defense Ministry include enhanced civilian oversight of the ministry (including appointment of a civilian defense minister) and enhanced parliamentary control. Similar to its Polish counterpart, the Georgian chapter of Transparency International has engaged defense establishments to encourage and advise reform.

NATO Initiatives

Partnership Action Plan on Defense Institution Building (PAP-DIB)

NATO's initiatives to promote defense reform were given added momentum at the Istanbul Summit in 2004 when the forty-four allies and partners in the Euro-Atlantic Partnership Council (EAPC) reaffirmed a shared conviction that efficient and transparent defense institutions under civilian control are fundamental to stability and international cooperation over security. In Istanbul, the EAPC heads of state and government endorsed the Partnership Action Plan on Defense Institution Building, or PAP-DIB, a bilateral cooperation initiative between Partner nations and NATO that provides a framework for planning reform, exchanging experiences, and giving practical advice on achieving ten specific objectives in the defense and security sector.

Of the ten PAP-DIB objectives, four stress the need for transparency, while an additional two refer to other openness measures. These six are listed below:

- Develop effective and transparent arrangements for democratic control of defense activities
- Enhance civilian participation in developing defense and security policy
- Develop effective and transparent legislative and judicial oversight of the defense sector
- Develop arrangements and practices to ensure compliance with international norms and practices in the defense sector, including export controls
- Develop effective and transparent personnel structures and practices in the defense forces
- Develop effective and transparent financial, planning, and resource allocation procedures in the defense area.

Shrivenham July 2007 Workshop

An advanced research workshop was held in July 2007 on "Building Integrity and Reducing Corruption in the Defense Sector." This workshop was organized jointly by NATO, the Defense Academy of the United Kingdom, and Transparency International U.K. It followed almost eighteen months of constructive engagement between NATO international staff and Transparency International, which focused on ways that an integrity and anti-corruption agenda could support Partner and NATO member nations in defense institution building. The purpose of the workshop was fourfold:

- To initiate development of a training module for senior defense officers and officials that could be given in Partnership for Peace training centers, NATO training centers, and national defense colleges
- To examine the merits of a NATO policy on building integrity and reducing corruption risk, what such a policy would contain, and how it would be useful in practice

- To bring together personnel with expertise in defense ministries and related organizations, and through this, to start to build an international community with expertise in methods of improving transparency, building integrity, and reducing corruption in defense establishments
- To consider how best to advance the initiative across NATO member and Partner countries.

The meeting included fifty participants, drawn from sixteen Allied, Partner, and “Mediterranean Dialogue” nations.⁴ The workshop was oversubscribed, and several nations had to be turned away. The format of the sessions was highly participatory. Feedback after the workshop showed a high level of satisfaction with the event, and a strong desire to see this initiative move forward. It was co-directed by Mark Pyman of Transparency International U.K., Maitre Hassan Rahmouni of Morocco, and Ignas Stankovicius of Lithuania. The conference resulted in sixteen specific recommendations to NATO.⁵

EAPC Program

The Euro-Atlantic Partnership Council is supporting work in the area of combating corruption in the defense sector, with a program entitled “Approaches for Building Integrity in Defense Establishments.” The program builds on work done by international staff in NATO, with contributions from Transparency International U.K. Three areas of work are under way:

1. Development of a training module on building integrity and reducing corruption risk. This is being developed by the Defense Academy in the U.K., and will be given trial deliveries in 2008 at three different locations
2. Development of an integrity self-assessment tool for nations
3. Development of a compendium of best practices in building integrity and reducing corruption risk.

Transnational Experience Exchanges: TI National Chapters and NATO

Besides the exchanges at the Shrivenham workshop described above, NATO and representatives of twelve chapters of Transparency International and the Transparency International Secretariat met with NATO officials in June 2007.⁶ The purpose of the meeting was to share experiences and explore commonalities between NATO’s de-

⁴ Nations that sent participants to the workshop include Albania, Bulgaria, Canada, Croatia, Georgia, Israel, Latvia, Lithuania, Morocco, Poland, Romania, Serbia, Slovakia, Tunisia, Ukraine, the U.K., and the U.S.

⁵ The report of the workshop is in the process of publication. In the meantime, the draft report can be found on TI’s defense website, at www.defenseagainstcorruption.org.

⁶ The twelve chapters were from Albania, Algeria, Armenia, Croatia, France, Georgia, Germany, Latvia, Norway, Poland, the U.K., and the U.S.

fense institution-building work with Transparency International's anti-corruption work in the defense sector.

Sessions touched on NATO's current political agenda, the contribution of NATO's Partnership for Peace program to building integrity in the defense and security sectors, defense reform, lessons learned from national experiences in building integrity in the defense and security sectors, and an overview of Transparency International country perspectives on defense corruption. Representatives of both organizations broadly endorsed the approach of NATO's partnership with Transparency International in building integrity and reducing corruption in defense institutions.

Analysis: Understanding Corruption Risk and Integrity

Definition of Corruption

Transparency International defines corruption as "the abuse of entrusted office for private gain." While there are many other definitions, our experience is that most people know what it is when they see it, even if their precise definitions may differ. The list below indicates some of the diversity in contemporary institutional definitions of corruption:⁷

- "Authority is a trust: and abuse of malicious exploitation thereof is absolutely prohibited, so that fundamental human rights may be guaranteed."⁸
- "Corruption involves behavior on the part of office holders in the public and private sectors, in which they improperly and unlawfully enrich themselves or those close to them, or induce others to do so, by misusing the position in which they are placed."⁹
- "The abuse of entrusted office for private gain."¹⁰
- "The privatization of public policy."¹¹

Types of Corruption in Defense

Figure 2 below lays out our "typology" of corruption in the defense sector, based on an earlier political economy analysis of corruption in post-communist countries.¹²

⁷ It should be noted that the United Nations Convention Against Corruption does not actually contain an explicit definition of corruption. The text of the convention is available at www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.odf.

⁸ Islamic Conference of Ministers, Cairo, 1990 (quoted in John Pope, *TI Sourcebook*, Transparency International, 2000:06).

⁹ Government of Pakistan, 2002; available at http://www.transparency.org/news_room/faq/corruption_faq.

¹⁰ Transparency International, www.transparency.org/news_room/faq/corruption_faq.

¹¹ Daniel Kaufmann, "Myths and Realities of Governance and Corruption" (n.d): 82, available at www.worldbank.org/wbi/governance/pdf/2-1_GCR_Kaufmann.pdf.

¹² R. Karklins, *The System Made Me Do It: Corruption in Post-Communist Societies* (New York: M. E. Sharpe, 2005).

Defense and Security Building Integrity and Reducing Corruption Risk

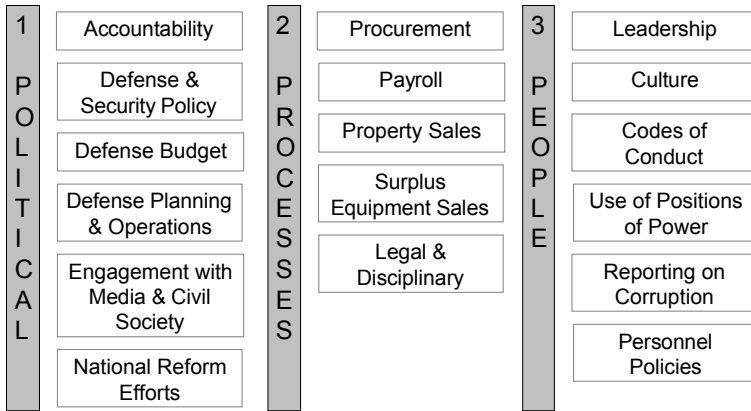


Figure 2: Forms of Defense Sector Corruption

There are three main categories of corruption: political context & control, processes within the defense establishment, and personal-level corruption (interactions between defense officials and society).

In the first category are issues related to areas in which the defense establishment should be under the democratic control of the political authority. Corruption in this context encompasses over-elaborate defense policy, hidden defense budgets, cronyism at the leadership level, links to organized crime, misuse of intelligence for corrupt purposes, and ultimately state capture by officials linked to the defense establishment. To quote John Githongo, former Permanent Secretary of Good Governance in Kenya, “Defense is the last refuge of grand corruption.” Within defense processes, the area of vulnerability that is most often cited is procurement. Other problem areas include diversion of salaries, fraudulent sales of second-hand or surplus equipment, the operation of private businesses within the defense establishment, and corruption of the recruitment, reward, and promotion systems. In many countries it is easy to extract money corruptly from the defense budget. Some explanations for this are listed in Figure 3 below.

Finally, at a personal level, a common problem is officers and officials who do not observe rules regarding conflicts of interest, hospitality, and other standards of business conduct. Even more common is low-level petty corruption; examples include “difficulties” at security checkpoints and bribery to avoid conscription, etc.

Defense Processes: **Procurement**

Vulnerabilities

- Secrecy & National Security
- Technical Requirements open to manipulation
- Multiple layers of subcontractors
- Contract and product complexity
- Use of agents/brokers
- Military hierarchy
- Revolving doors
- National manufacturers
- Government pressure
- Post-contract support
- Off-budget funding
- Offsets

Figure 3: Corruption Risks in the Procurement Process¹³

Integrity in Defense

Integrity is an important word in the defense environment. It has both a technical and a moral meaning. In a technical sense, we say that the hull of a ship has “integrity.” This means that the whole system works properly: the outer skin of the ship does not leak, and all the various systems that make up and support the hull are sound and function correctly. In a personal and moral sense, it means that work is conducted honestly and sincerely, and is uncorrupted. In this article, when we use the word *integrity*, we mean the following:

- An *individual* has integrity if they are doing their work competently, honestly, and completely
- A *process* has integrity if it works as it is intended to, and fits seamlessly into the larger system of which it is a part
- An *organization* has integrity if its work is executed with proper accountability, competence, and is done to completion and without diversion of output or resources to corrupt or dishonest ends.

Integrity is the opposite of corruption. We find that this is a powerful lens through which to understand a defense establishment. Figure 4 below shows the counterpart to the corruption typology chart shown in Figure 2.

Figure 4 demonstrates the importance of building public trust as one key ingredient of building integrity, and of personal values and individual codes of conduct, which need to be the foundation of integrity, and thus of any efforts to combat corruption.

¹³ The “revolving door” phenomenon refers to the practice of retiring senior military or defense establishment officials moving immediately into positions within the defense industry that may involve a conflict of interests.

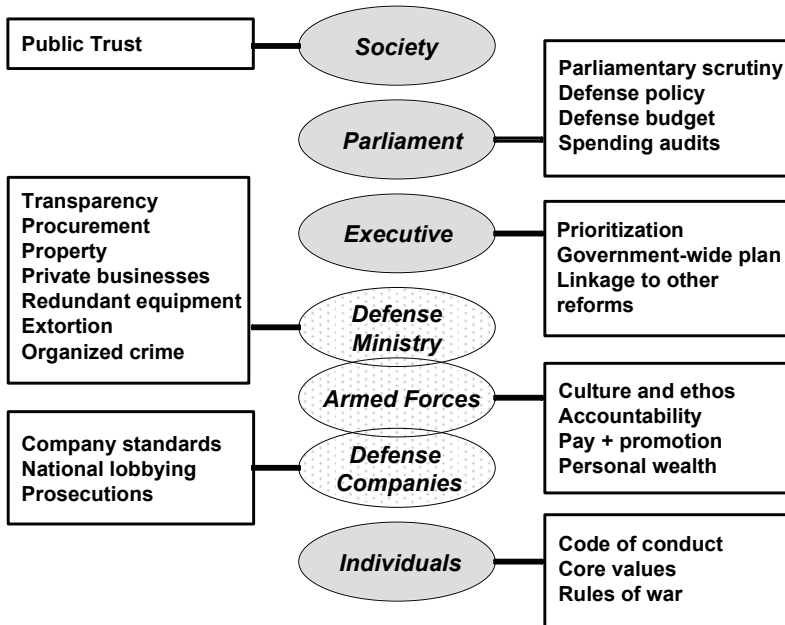


Figure 4: A Framework for Integrity in Defense

Taking Action

Governments

National defense ministries and the military leaders of states have a primary role to play in pursuing defense-sector reforms that respond effectively to corruption. The disciplined nature of the military facilitates the work of reformist leaders seeking to initiate change in the sector. While they can tackle this only through controls and legal measures, there is as much, if not more, leverage to be obtained through the “building integrity” route.

The high regard that the public generally has for the military around the world, as evidenced in the TI/Gallup survey the “Global Corruption Barometer,” broadly supports this notion. As the chart from the 2006 survey shows in Figure 5 below, taking a global average, the military is in the top three most respected institutions, and is almost as trusted in terms of corruption as NGOs and religious bodies.¹⁴

¹⁴ The original report and data set can be found at www.transparency.org/policy_research/surveys_indices/gcb.

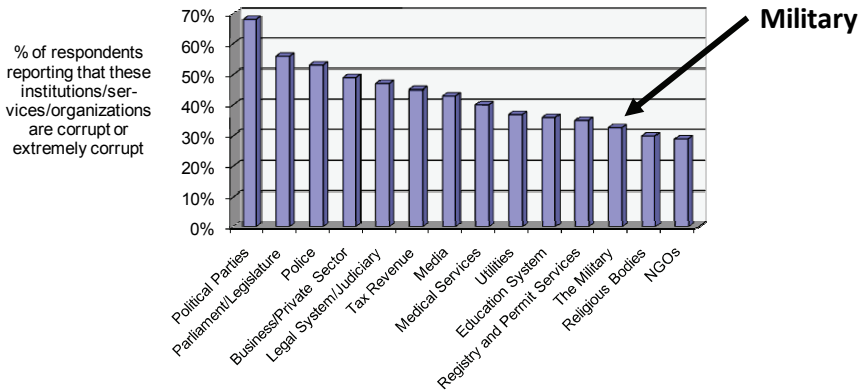


Figure 5: Perceived Corruption by Sector

The military outperforms political parties, parliament/legislature, business and the private sector, as well as the media; all of these sectors are perceived to be more corrupt than the military. The average score awarded to the military by the population of each country is presented in Figure 6 below.¹⁵

Figure 6 shows that the standing of the military varies across countries and regions in terms of its perceived level of corruption. In Israel, the United States, and countries of Western Europe, for instance, the military is broadly perceived as being free of corruption. However, in the newly independent states of Central and Eastern Europe, and in Africa and Latin America in particular, the military does not fare as well.

The message from the survey is that in many countries the military as a highly regarded institution can act as a beacon of reform and an inspiration for wider institutional reform within a country. For countries where the military is not highly regarded in terms of being free from corruption, it can be concluded that reform of this institution is particularly pressing, and successes in this area may yield significant and positive externalities for other institutions within the country.

Academies, Training Schools, and Think Tanks

Defense academies, universities, and training agencies are a huge resource for creating change. They help to build capacity by bringing the topic of building integrity and reducing corruption into all career development programs for officers and defense ministry officials. Moreover, they put the subject on the map with workshops, conferences, and expert seminars. There is huge potential for such establishments to have a significant impact.

¹⁵ Transparency International U.K., “Corruption Perceptions of the Military around the World” (2007); available at www.defenseagainstcorruption.org/index.php?option=com_docman&task=doc_download&gid=92.

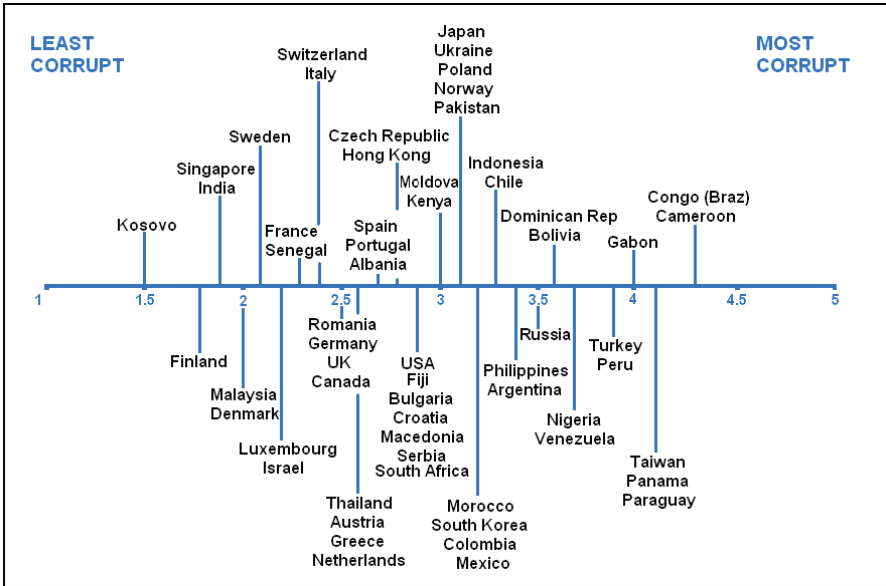


Figure 6: Perceived Corruption of the Military by Country

Defense Companies

Private firms involved in the defense sector can be a partner in helping to champion these reforms. A number of international companies are increasingly ready to play their part in raising anti-corruption standards for military procurement. National defense suppliers can also be brought into reform efforts. The positive shift in private-sector support reflects how international attitudes on corruption have improved since the days of the Cold War. Companies are well aware of the damage that their reputations can suffer in connection to corruption scandals, and are all too conscious of the increasing readiness of many governments to prosecute them for any misdeeds. In addition, many defense firms attribute a high share of their business to non-military sectors. This fact makes it important for them to demonstrate that their defense work adheres to the same corporate standards as their other operations.

TI (U.K.) has been actively engaged with the major defense companies in the United Kingdom since 2004. We facilitated the creation of the recently established, ASD-coordinated European defense industry anti-corruption task force, which is developing common defense industry standards for application across Europe.¹⁶ TI (U.K.) also hosts an ad hoc international defense industry meeting, chaired by Lord Robertson of Port Ellen, the former U.K. Secretary of State for Defense and former

¹⁶ AeroSpace and Defense Industries Association of Europe.

Secretary-General of NATO. TI (U.K.) is pleased to see this collaboration making such progress. Nonetheless, it is not enough to hold meetings; the project must have an actual impact. We continue to press for the internationalization of a set of anti-bribery standards that must be both exacting and rigorously enforced.

TI (U.K.) has held numerous meetings and workshops with defense industry representatives and exporting government officials in the course of developing this work. We also organize seminars, together with host country defense ministries, for defense companies to come together and discuss this issue. Such seminars have been held to date in the U.K. and in Sweden.

Arms-Exporting Governments

Countries that export arms need to be supportive of anti-corruption efforts that are being pursued both by domestic firms and by countries to which these firms sell arms. Some arms-exporting governments, like France and the United States, are showing new resolve in taking large defense companies to court in corruption cases. Reform-minded ministries are also embarking on efforts to increase the integrity of the national defense establishment. Unfortunately, the termination of the British government's investigation in 2006 into arms sales to Saudi Arabia is a notable retrograde step.

Civil Society

Civil society organizations (CSO) have an essential part to play when it comes to fighting defense corruption. Although they often avoid engaging with defense and security organizations on principle or because of threats to personal safety, CSOs can have a major national impact when a reform-minded defense establishment is in place. They can initiate public debate—for example, on an upcoming defense procurement—that raises awareness and builds accountability and trust with the public.

International Financial Institutions

International development banks can promote reform by demanding equally high standards and budget transparency from the defense sector as they do from other sectors of government. Such banks are rightly taking an interest in defense, not only because of the costs but also because it is increasingly recognized that poor security is one of the biggest barriers to economic development.

Conflict and Post-Conflict Environments

Increased partnership with many of these different key actors is particularly needed in order to tackle the challenges of corruption in conflict and post-conflict countries. Development partners may be uncertain about how to prioritize corruption reform efforts given the pressure to maintain peace and consolidate cease-fire agreements. In spite of the need to establish government institutions that can lead the country into lasting peace and development, addressing corruption in defense establishments is often completely absent from assistance programs. Peacekeeping forces can support reform efforts by developing joint strategies for fighting corruption that make use of local knowledge and expertise. This is a topic outside the scope of this article, but it needs to

be a priority for transnational organizations charged with making interventions in conflict environments.

Civil Society Oversight: Defense Integrity Pacts

What Are Defense Integrity Pacts?

Defense Integrity Pacts are a tool used to combat corruption at the tendering and contract stage of procurement. They bind all the bidders and the government together in a contract to reduce the possibility of corruption occurring both during and after the tendering. The pact includes some or all of the following elements:

- Pledge and undertakings by bidders not to offer or accept bribes
- Pledge and undertakings by the government, their consultants, and advisers (the anti-bribery part of the pledge is comparable to that signed by the bidder)
- Restrictions on government officials from obtaining work at bidding firms or their partners for a set period after the bid
- Disclosure of details of agents or intermediaries; this disclosure may only be of the name and services contract of the agent, but may also require disclosure of payments to and from the agent
- The appointment of an independent monitor or monitoring team, who is to be provided access to all meetings, and should be given unrestricted access to all material documents
- Publication of some or all of the documents, evaluation criteria, bidders' proposals, and the detailed results of the evaluations (in some cases, public hearings should be held for discussions of the bid)
- Bidders agree to withdraw if there is evidence of breach of the pledge; further sanctions may involve exclusion from bidding for subsequent contracts.

In addition, the government may encourage the involvement of civil society groups like Transparency International.

Integrity pacts work on several levels to support the procurement process, namely by:

- Supplementing weak laws by making contractual requirements (e.g., for greater disclosure of information)
- Attracting more bidders by providing independent technical scrutiny
- Giving more confidence to bidders through a visible effort at clean procurement (e.g., providing a process for complaints to be addressed)
- Reducing the costs of contracts
- Supplementing weak or slow enforcement by strengthening sanctions (e.g., by making them applicable at the time of the tender, rather than after the award)

- Being customized to provide independent assurance throughout the execution phase of the contract as well as the tender phase
- Strengthening public confidence, and serving to temper the public cynicism that can surround large, secretive contracts; the defense procurement process often has a poor reputation, and is subject to political influence, both internally and externally.

Integrity Pact Experience in Other Industry Sectors

The experience of integrity pacts dates from their development in the 1990s in some dozen countries, including South Korea, Germany, Chile, Argentina, Ecuador, Mexico, Colombia, and Italy. In several Latin American countries they have become an established tool of addressing corruption risk in government procurement. Integrity pacts are being developed for global application within the construction and engineering industry (for instance, in the construction of the Berlin airport).

Defense Integrity Pacts are being developed by Transparency International in countries where the defense establishment is keen to enhance the integrity of their organization. This work started with an extensive engagement with the Defense Ministry in Colombia, as well as ongoing work with Poland (see below for further details). In addition, other Transparency International chapters are working with their national governments. In South Korea, integrity pacts are to become a regular anti-corruption tool in major procurements, with a specific ombudsman office set up for the purpose. Integrity pacts are beginning to be applied on defense procurements in India. This is an important step forward, since India was the second largest global importer of defense products from 2002–06.¹⁷

Developing Defense Integrity Pacts is an ongoing process. We have been engaged in such efforts to date in Colombia and in Poland, and discussions are in progress with another country. We believe that the evidence so far is positive in the defense procurement arena. Integrity pacts are not, however, a panacea: for example, they do not address structural issues, like reform of the procurement organization, or legal issues. They must be used as part of a broader anti-corruption strategy in the defense sector.

Example: Modern Combat Aircraft Purchase, Colombia

In early 2004, Transparencia por Colombia (TPC), one of the worldwide chapters of Transparency International, requested specialist technical assistance from Transparency International U.K. in relation to a pending contract by the Colombian military to purchase new combat aircraft. Transparency International U.K. agreed to review the contract and aircraft specification documents, provide appropriate comments, and supply in-country advice prior to the formal contract launch.

Introduction. The requirement for modern combat aircraft to replace Colombia's existing aging operational fleet had been under consideration for several years by the Colombian government. In 2004, some USD 237 million was earmarked to purchase about twenty-two airframes. An earlier acquisition attempt stalled, owing to a lack of

¹⁷ *SIPRI Yearbook 2007* (New York: Oxford University Press, 2007), 418.

clarity over aircraft type and associated capability; in particular, the debate was between whether to purchase turboprop aircraft, powered by a jet engine driving a propeller to provide thrust, or turbo fan aircraft, which use a jet engine to provide thrust directly.

TPC's early involvement throughout the tendering process was considerable, and influenced the parties' agreement to the inclusion of an integrity pact in the negotiation process, an agreement to the use of independent monitors, and approval to review tender documentation prior to release to bidders. Possessing considerable local knowledge but without specialist technical expertise, TPC formally requested assistance from the British chapter of Transparency International.

The entire range of bid documents was made available by the Colombian government before they were released to contractors; these documents were passed to TI (U.K.) by TPC. Their review was undertaken immediately, against an exceptionally challenging deadline. It was considered by the team that the major areas had been identified and addressed. Observations were separated into operational, commercial, and management aspects.

Immediate, but very subjective, in-house reflections centered on a range of issues. The first concern was around team composition. The team needed to have military, contract, procurement, and anti-corruption experience. The expanded team fulfilled these requirements, worked well together, and was able to prepare a most comprehensive report against daunting deadlines. The second issue related to the volume and complexity of material. The bid document packet was substantial and very technically detailed; thus, the provision of a definitive report would have required considerable staffing and legal advice, which would have been costly both in terms of manpower and time. Third, the quality of some elements of the specifications gave rise to serious concerns on some of the technical aspects regarding corruption potential.

Early Workshops. The initial—and probably most important—meeting included one of the independent anti-corruption assessors, the FAC Commander, several other generals, the acquisition project leader, specialist technical staffs, Ministry of Defense officials, and specialist contract lawyers. It was clear during the meetings that there was considerable pressure from the Secretary General's office for complete openness and a desire for the technical specification to be as precise as possible, thereby reducing the potential for corruption. There was also considerable support from the military, especially the project team, who realized that TI (U.K.)'s comments could have a considerable positive impact on the operational effectiveness of the aircraft. However, treading the line between providing an impromptu consultancy service and ensuring that the errors or inconsistencies in the project owed to lack of expertise and not to corruption was at times difficult. The relationship between TI (U.K.) and the team appeared very good, and was enhanced due to the high level of technical dialogue and mutual respect during the meetings.

Feedback on the Technical Specifications. The major technical and contract observations, with their associated potential for corruption, were as follows:

- *Core Purpose and Capability*: The bid's Terms of Reference documents were considered not sufficiently clear, especially on key items like core purpose and required aircraft capability
- *Future Capability Insufficiently Defined*: It was considered that the tender had not sufficiently addressed the long-term operational capability required of the aircraft and systems
- *Flight Simulation Not Considered*: Acquisition of a flight simulator to support the aircraft and crews had not been considered
- *Inadequate Operational Evaluation*: The evaluation of the aircraft was based on simple criteria rather than on a phased approach based on operational capability
- *Prototypes*: Inclusion of prototypes within the competition was considered unwise
- *Tender Evaluation Matrix*: It was considered that the tender evaluation matrix was insufficiently balanced, and too heavily weighted towards operational criteria rather than economic considerations
- *Pre- and Post-Contract Award Controls*: It was considered that pre- and post-contract award controls outlined in the bid documentation required further detailed work
- *Offset Program*: The proposed offset program was considered to have corruption potential, and required improvements to enhance transparency.

There was a clear willingness from all government and military officials interviewed to support transparency and anti-corruption measures. Indeed, it was pleasing to note that many of those involved fully supported TI's comments, and that a great number of them were in the process of being implemented at the time of the TI team's visit to Colombia. Following the visit to Colombia, we provided a full report and detailed analysis of our observations. This resulted in considerable technical and bid document revision before they were made available to the potential contractors. However, for a number of reasons the tender did not subsequently proceed. Shortly after the collapse of the tender, TPC was able to interview three of the companies involved in the bidding process. Those interviewed indicated that corruption was not a factor in their withdrawal. Indeed, two of them positively commented that they thought that the process had been clean.

Lessons Learned. In addition to the practical outcomes of the contracting process, Transparency International gained valuable experience that can help better structure their future work. These lessons learned cover a wide range of areas, outlined below.

- *Human factor*: Good working relationships with the local national chapter of Transparency International, the government, and military staffs are of prime importance.
- *Structure of Transparency International support*: The preferred format was for an agreement between the responsible government ministry and the local TI chapter, with resources from another chapter—in the Colombia case, TI (U.K.)—brought in

as technical experts providing assistance to the local TI chapter. For the directly engaged TI organization, a formal “participation agreement” is necessary in order to outline precise boundaries and responsibilities between relevant parties. The current participation agreement template builds on this experience.

- *Action post-contract collapse*: What happens when a bid collapses? The withdrawal of all bidders from the competition bar one was unexpected and unforeseen. Although the Colombian government was keen to retain TI engagement to scrutinize procurement, the process had already been compromised given the withdrawal of the bidders. Given the lack of any degree of competition, TI (U.K.) felt obliged to decline to continue to support and scrutinize a process that had fallen apart.
- *Different perspectives*: During the document and procedure review, it was noticeable that those with considerable expertise in the corruption arena looked at some issues with a different perspective from those with a purely technical background. For example:
 - A technical requirement for the aircraft might be clear and necessary, but it might be something that only one bidder is able to deliver—e.g., self-sealing fuel tanks. Is this a reasonable and appropriate technical prerequisite, or is it a subtle form of bias toward one bidder?
 - The operational test requirements are clear, sensible, and carry significant weight in the evaluation. However, the test flights are to be flown by junior pilots who could be easily subject to influence from more senior officers, unless the evaluation were better structured.
 - Some military requirements are only capable of being fulfilled by some countries. The requirements might be reasonable, but the limited number of companies who can fulfill them may be a deliberate competition restriction.
- *Value for money vs. the corruption risk*: It was at times difficult to differentiate between value for money and a potential corruption risk. A functional expert would comment that a particular specification was not an efficient or effective way to satisfy the requirement. In most cases, it was much more likely simply to be a different professional opinion. Our conclusion was that both perspectives are relevant and mostly complementary. In addition, the value for money aspect can be one way of “selling” the significance of such reviews to defense ministry staff. In the case of Colombia, the value for money comments were extremely well received.
- *Equipment requirement*: Should establishing the requirements for a piece of military hardware be part of the anti-corruption review? One of our early findings was that the operational imperative for the aircraft replacement lacked clarity. Was it therefore part of the monitor’s role to query the requirements as well as to comment on the documentation and mechanisms used in the acquisition process? The creation of unnecessary needs is one of the classic ways in which corruption in defense is manifested. Ideally, monitoring should begin in the requirement phase, unless there is an open and agreed requirement, and in the case of Colombia the issue had been extensively debated in the parliament.

Subsequent Development

Since this work in Colombia, TI has developed the core Defense Integrity Pact contract further, and has also developed template agreements for the civil society monitor and his/her relationship to the ministry and to supporting organizations like TI U.K. TI U.K. is also engaging international defense companies in the design of the contract. A recent application in Poland has been presented at a conference and is publicly available.¹⁸ The TI defense team is keen to engage with other reformist defense practitioners to pilot this technique for enhancing transparency and accountability.

Civil Society Engagement: Procurement Integrity Reviews

There is another approach that we have also tested on a trial basis in Colombia, that of carrying out independent reviews of the defense procurement organization and its record of defense acquisitions. The TI defense team and Transparencia por Colombia (TPC), the Colombian chapter of TI, have been pioneering a methodology for the independent review of the defense procurement process in a national defense establishment. The approach was tested in Colombia in 2002–04. It has been written up in a detailed document available on the TI defense website, from which the extract below is taken.¹⁹

At the beginning of 2002, the Colombian defense minister asked TPC to engage with the ministry of defense in order to find mechanisms to reinforce transparency in defense procurement processes. TPC's work with the ministry included the conduct of six workshops with the contracting work team to identify the most vulnerable processes and the measures that should be taken, and the conduct of five work sessions with the legal office and the contracting work team to address the contract implementation stage.

After producing a map of risks and arriving at appropriate solutions to mitigate them, TPC presented and recommended the use of integrity pacts in addition to an anti-corruption commitment document that had previously been used. The ministry supported the recommendation to implement integrity pacts in all procurement processes, including the "payments declaration" contained within the anti-corruption commitment. As a result, the ministry required every contract bidder to sign two documents: both the integrity pact and the anti-corruption commitment (declaration of payments).

¹⁸ Mark Pyman and Maciej Wnuk, "Reducing Corruption, Building Integrity in Defense and Security Institutions," presentation delivered at the International Anti-Corruption Conference, Guatemala City, Guatemala (2006); available at www.defenceagainstcorruption.org/dac/index.php?option=com_content&task=view&id=142&Itemid=244.

¹⁹ Transparency International UK and Transparencia Por Colombia, "Defense Procurement and Integrity Pacts in Colombia," Report 1 (2006); at http://www.defenceagainstcorruption.org/index.php?option=com_docman&task=doc_download&gid=17; and Report 2, available at www.defenceagainstcorruption.org/index.php?option=com_docman&task=doc_download&gid=16.

In order to analyze the procurement process and the initial impact of integrity pacts, TPC then performed a study of defense contracts from 2003. Out of a total of fifty-seven contracts completed during the period, TPC selected for detailed review twenty-three that were armament related. The study was conducted at the premises of the Ministry of Defense, where appropriate files were made available. The willingness and the openness of the team at the ministry was most important.

Finally, TPC and TI (U.K.) interviewed four defense companies (“bidders”), in order to listen to their concerns. Two of the companies had a track record over a long period of winning contracts (one large international company, one representative office of an overseas weapons manufacturer), and two had a track record of losing (one large U.S. company, one small trading company). Selected findings from the study and from the meetings will be presented in the three sections below.

Procurement Procedures

Colombian laws that deal with procurement by the government permit an exemption to the standard procedures in procurement cases related to the defense sector. However, in every one of the 2003 contracts, the Ministry of Defense followed the formal procedures and *did not* use the exemption.

Procurement Centralization. In 2003, the Ministry of Defense decided to centralize almost all purchasing activities. Forming the army, navy, and air force elements into a single unitary group in the centralized contracting team was not an easy task, although it has brought unique benefits in terms of transparency. Disputes between military officers and civilians within the ministry were discussed with TPC. The former believed that their power was being curtailed, and were not happy about the new arrangements; on the other hand, the civilians were content with enhanced transparency and improved technical procedures. Although it was difficult for the ministry to put into effect, centralization was considered an effective way of minimizing the risks inherent in the procurement processes regarding discretionary decisions in each military service. Bidding companies also welcomed this development for fighting corruption and simplifying the process.

Expansion of the Contractor Base. One of the reasons most procurements are made openly is in an effort to attract new bidders. In spite of this, the ministry has noticed that for most contracts the bidders are exactly the same. One of the driving forces for the work toward integrity and anti-corruption was to give foreign companies confidence to enter defense tenders.

Procurement Balance. The overall balance of contracts awarded in all defense procurement activities in Colombia was 95 percent to public bids, and 5 percent government-to-government/single source contracts. This is unusual in defense, and suggests that the procurement process is more open than in many other countries. Competition is a valuable first step in reducing corruption risk.

Bidder Meetings. All four bidders in the aircraft procurement discussed above felt that the Colombian Ministry of Defense’s procurement processes had improved substantially over the last few years, mentioning in particular centralization, the new law on publishing more information at an early stage, and clear political will. Interestingly,

one interviewee did not feel this so strongly: the company had withdrawn from the bid eighteen months previously, after having won only one small contract out of forty bids. There was a very marked difference between “winning” bidders and “losing” bidders. The winning ones were very happy with the process, and felt that, when they had concerns, the ministry was good at taking these into account. The losing ones were emphatic about being excluded, and were quite specific about how it happened.

Technical Specifications. The technical specification and technical evaluation phases are the prime areas for corruption in the overall procurement process: bidders can be rejected easily, depending on how these elements are phrased or interpreted. For instance, too rigid a specification allows almost anyone to be rejected on a small point; specifying a country of origin as a requirement is a blatant restriction of competition; and writing the specification so that only one or two companies can comply is common. Bidders had specific examples of cases where specifications were used to subtly exclude certain competitors.

The bidders regard the technical specifications as the most important part of the process, but sometimes find how the specifications are set to be extremely confusing. All bidders complain about this area, but there is no common thread. One bidder observed that specifications were too specific; another noted that they should be clearer and permanent; and another stated that the technical specification should concentrate more in the area of applications and not on systems. Thus technical specifications are an area of corruption potential.

Independent Monitor and Technical Assessor. The main improvement that bidders wished to see was for an independent review and independent oversight of the technical specification phase to determine if corruption had taken place, or could potentially do so. The individual/s responsible for the oversight would also provide a ready point of access for issues and concerns—for example, such a person could clarify the reasoning behind requirements that favored one particular commercial company.

Other Civil Society Approaches to Defense Integrity

Public Roundtables on Upcoming Defense Procurements

A “roundtable” in this context means a public meeting at which a major forthcoming defense procurement is discussed by interested parties, facilitated by the TI (U.K.) defense team. Roundtables benefit defense sector stakeholders by raising awareness of the issue of corruption risk, especially through media coverage of the event. Roundtables are a demonstration of government appetite for integrity in defense procurement. Transparency International Croatia hosted a roundtable event in Zagreb in 2007, under the patronage of the President of Republic of Croatia. TI (U.K.)’s defense team facilitated the event. Croatia’s NATO membership ambitions gave added momentum to the event, in particular in light of significant forthcoming defense procurements.

The template agenda for a roundtable can be as follows:

1. Introduction by office of the president and by civil society institution (joint hosts)
2. Overview by civil society institution of defense procurement corruption risks

3. Overview of defense procurement process in the country
4. Good industry practice outlined by a leading defense firm
5. NATO overview (NATO HQ representative)
6. Specific defense corruption risks—such as agents and offsets—and tools for combating risks relevant to the country and the pending procurement
7. Discussion.

The Zagreb roundtable was focused on a major pending procurement of armored vehicles. A broad range of stakeholders attended:

- Representative of the Office of the President
- Minister of Defense
- Permanent Under Secretary for Defense
- Shadow Minister of Defense (opposition party)
- Head of defense procurement
- Head of Government Commission for Supervision of Public Procurement
- Country Ambassador to NATO
- OSCE Mission to country
- NATO HQ representative
- Defense attachés and ambassadors of interested countries
- Delegation of European Commission in the country
- Defense companies likely to engage in the procurement
- Academics and media representatives
- Civil society.

The event was well covered by the media, and seen to be a success. It also led to further interest within the defense ministry, with a follow-up workshop on best practices.

Procurement Workshops

Procurement workshops are gatherings of procurement experts from the defense ministry and the armed forces of a nation, in a meeting to review corruption risks in upcoming defense procurements. TI facilitates these workshops, which can be a traditional workshop, or based on hypothetical procurement decision-making scenarios. At the Shrivenham advanced research workshop in July 2007, a procurement decision-making exercise provided a group of participants with a hypothetical procurement notification from the Chief of the Air Staff to the Defense Minister. Participants were asked to assess the letter and identify areas of potential corruption and mismanage-

ment. Participants were divided into sub-groups to consider the letter, and were then asked to comment (in particular to identify corruption risks).²⁰

Using an Ombudsman

Korea provides an example of the use of an ombudsman to enhance transparency and accountability in defense procurement. In Korea, as in many other countries, defense acquisition projects were perceived as one of the most corruption-prone areas. In 2003, President Noh and his government organized a special committee under the Prime Minister to prepare reforms in the defense procurement system. The final proposal of this committee to promote transparency, fairness, and efficiency was accepted by the President and embodied into DAPA (the Defense Acquisition Program Administration), based on the new Law on Defense Acquisition enacted in December 2005. Transparency International Korea was a participant in this committee.

DAPA was launched in January 2006. All defense acquisition programs are handled by this new agency and are subject to review by the Defense Acquisition Program Review Committee, including civilian members. DAPA has also adopted integrity pacts to promote transparency and accountability in the defense procurement process.

DAPA appointed three civilian ombudsmen: Transparency International Korea, PSPD (People's Solidarity for Participatory Democracy), and an organization of ex-officers from the Board of Audit and Inspection respectively. They receive complaints from companies as well as other related persons, investigate individual cases (if needed), and make recommendations to promote transparency and accountability in defense acquisition programs. Throughout this process they consequently monitor the whole process of defense acquisition, including the performance of integrity pacts.

The ombudsman has full access to secret defense documents. A record of names of all those involved in acquisition projects is kept to ensure traceability, and a three-year conflict of interest regulation is designed to stop the "revolving door," in which people move from jobs in the defense ministry to positions with private firms in the defense industry.

Despite these steps, there are still some additional areas for possible reform. One is that, under the current system, the ombudsman's office does not have any statutory authority to conduct investigations on its own initiative. Further, past assessments of the general (not just defense) ombudsman system have suggested that the ombudsman's limited authority for investigation negatively affects their impact, and that recommendations for corrective measures toward the relevant government agency have no binding legal force.

²⁰ An exercise letter can be found in the proceedings of the Shrivvenham conference (July 2007); available at www.defenceagainstcorruption.org/index.php?option=com_docman&task=doc_download&gid=68.

Final Remarks

The examples discussed above demonstrate to us and to those involved that there are many new ways through which the integrity and transparency of a defense establishment can be strengthened. Transparency International's experience, in these examples and elsewhere, shows that positive change is eminently possible, and that it is realistic for defense establishments to engage constructively with both civil society and with defense companies to strengthen the integrity of their institutions. We encourage defense ministries to build such collaboration and engagement into their reforms, and we are happy to engage with them in helping them do so.

This is very much a work in progress. We are keen to work with the many other professionals who have expertise in this area. Countries that have emerged from difficult times often have some of the best experts in reform. There are many national defense colleges who can provide expertise or run courses of their own. (We are collaborating with NATO and with the U.K. Defense Academy to develop such a course that can be widely used in other nations; this should be ready around the end of 2008.) For readers who would like to be in touch, please visit the TI defense website, at www.defenceagainstcorruption.org.

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