

Integrity practices in Defence: Developments in Europe

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Mark Pyman and Admiral Hugh Edleston

‘Defence against Corruption’ Programme,
Transparency International (UK)

Mark Pyman is Project Leader for Transparency International’s collaborative project on preventing corruption in the defence sector. His background is as Chief Financial Officer for large corporations, mostly with Shell International, in Europe, West Africa, and China, and in procurement posts such as Head of Procurement and Chairman of the Acquisitions Board in various countries.

Rear Admiral Hugh Edleston works with Transparency International (UK) as military consultant for its defence sector programme. He recently completed service with UK Royal Navy after extensive operational command experience and senior posts within policy directorates in the UK’s Ministry of Defence. Most recently he served in Bosnia and Herzegovina as military advisor to the International Community’s High Representative (Lord Paddy Ashdown) and as director of the OSCE’s Department for Security and Defence.

1. Introduction

Transparency International, or TI, as we call it, is an independent, not-for-profit, professional organisation, focused on developing constructive solutions to bribery issues. Today it is present in some 100 countries, including here in the USA. Many of you will know Nancy Boswell, the Managing Director here in Washington.

TI has had a team focused on defence since 2004. We are working collaboratively with international defence companies, reform-minded Defence Ministries, and trans-national defence and security organisations like NATO. Now in our fifth year, we have a team that includes former senior military officers, procurement and anti-corruption experts.¹ⁱ

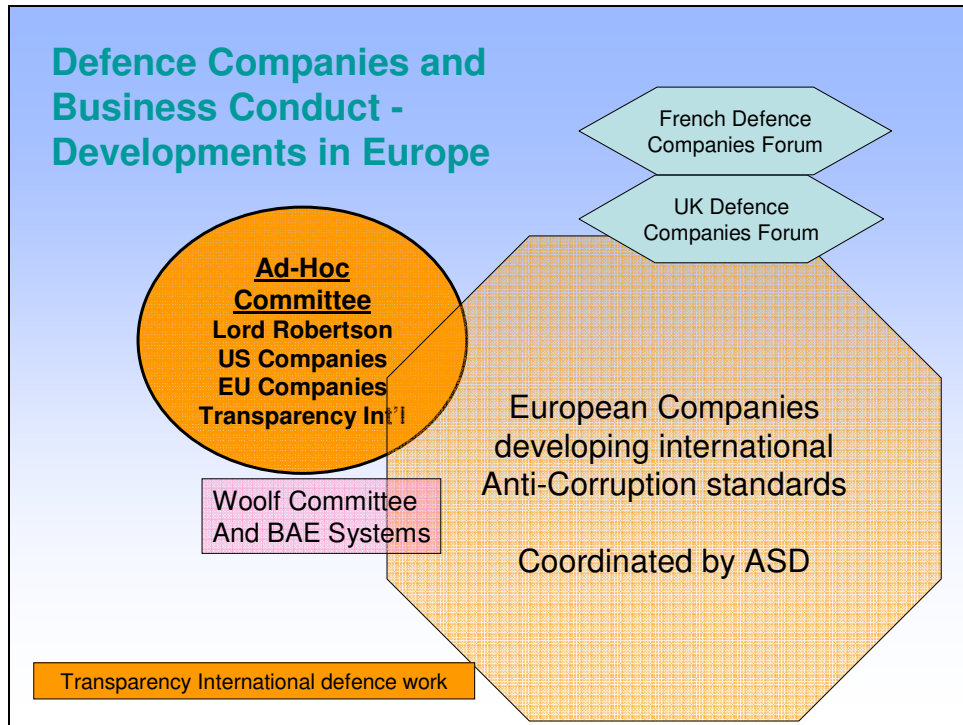
Our purpose today is to show to you three areas of work which represent major developments. We hope to enthuse you, and to give you new thoughts, tools, and material to take away and work with.

- The first is work that the European defence companies have been doing on raising Business Conduct standards
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- The second is the tools being developed as part of a new NATO initiative to strengthen defence institutions in NATO ally and partner countries
- The third is other work that we are currently engaged in

2. Defence Companies

There is a lot going on in Europe. The diagram below gives an overview of the main collaborative activities:



- The first is the Ad Hoc Committee of major defence companies. This meeting comprises the major US and European defence companies, and is facilitated by Transparency International
- The second is the initiative by defence companies to bring together all the European defence companies within a single international anti-corruption standard
- The third is the early beginnings of Best practices forums for defence companies in the UK and in France
- The fourth is the Woolf Committee, set up by BAE Systems to recommend ways it should improve its business conduct standards

First, we will start with the Ad Hoc Committee chaired by Lord Robertson:

Lord Robertson, TI and the Ad-hoc Defence Companies Committee

- Purpose: Collaborative action to raise international anti-corruption standards in defence sales
- Initiated by TI in 2005. Has met 4 times to date
- Chair is Lord Robertson, former Secretary General of NATO
- Brings together US and European companies:
US: AIA, Lockheed Martin, Raytheon, Northrop Grumman, Boeing, Rockwell Collins, and others
EU: ASD, EADS, Thales, BAES, Finmeccanica, Dassault, Saab, Ruag, Thyssen, Rolls Royce, MBDA, Kongsberg, Agusta Westland, VT, SBAC
- Led to the European ASD initiative
- Reflects the common will of the companies to raise standards

This Committee is a good example of an industry coming together to seek collaborative solutions. We initiated it in 2005, and it comprises, as you can see, most of the major European and US defence companies. This group was instrumental in leading to the European initiative.

European Companies and the Common Industry Standards

- Stimulated by defence companies (US and European) and Transparency International
- At TI/ Lord Robertson hosted event in 2005
- Industry Task force
- Standard focused on **anti-corruption**
- Standard agreed in April 2007
- All 30 defence associations across Europe signed up.
- Companies now being asked to sign in each country
- To be launched officially in July 2008

The European companies saw themselves as having a wide variety of practices, and felt that a Europe-wide anti-corruption standard was a necessary first step towards a global standard code.

The Standard has been agreed by the companies, and by all the national defence industry associations, which is a major accomplishment; there are 30 national defence industry associations who have signed, across 27 nations. The Standard will be launched at the Farnborough air show in July this year.

The Common Industry Standards

No-corruption commitment
Active compliance Programme
'Tone at the top'

1. Compliance with laws and regulations
2. Extent of application - through to subsidiaries and affiliates
3. Prohibition of corrupt practices
4. Gifts and Hospitality
5. Political Donations and Contributions
6. Agents, consultants and intermediaries
7. Integrity Programmes
8. Sanctions

Five pages, detailed text on agents (due diligence, agreements, etc)

The document itself is short, about 5 pages long. Most of the Principles are ones that are easily recognisable to US firms. However, there are two important points to note. First, it is focused on anti-corruption, not on the broader range of business ethics issues. That was deliberate; corruption is seen as the biggest issue, and is the biggest reputational risk. It was also felt that unless there was a clear focus the document would lack clarity. Second, the main detail is on agents and intermediaries. This is a major known problem. Although the text will seem unexceptional to US firms – containing familiar terms such as 'due diligence', or 'disclosure' – it is a major shift for many European companies.

There are three major next steps in getting to a truly international anti-corruption standard that encompasses all major arms exporters:

- To agree the standard or code that forms the basis of the agreement
- To agree what is the organisation that will oversee and implement the agreement
- And to invite companies from the other major arms exporting countries.

This is now a critical time, when we can see if the hard work that the defence companies, Lord Robertson, and TI have put in will pay off. Our hope at TI is for the following to happen:

- The Common Industry Standards, which have been agreed by 30 defence industry associations, are a good first stab at an international set of principles. We encourage all the US Defence companies to support this and not to insist on a special US one.
- The organisation is probably clear – ASD and AIA exist and have suitable structures for bringing in such a code.
- Finally, we hope that the priority in the next round of discussions will be for Russian companies to join. They are very active in major export markets, for example India, and they too have a large share of the defence export market.

Let us turn to BAE Systems and the Woolf Committee. This Committee was initiated by BAE itself, by the Chairman, to advise BAE on what it needs to do to attain leading standards of business conduct. The Committee was chaired by Lord Woolf, who until last year was the most senior Judge in the UK. Woolf had four conclusions and 23 recommendations. The conclusions were as follows:

BAES and the 'Woolf Committee'

Initiated by BAE Systems plc
Committee of four eminent people, led by former Lord Chief Justice
Reported publicly and to BAES on May 6
BAES undertook in advance to implement all recommendations in full

- The rate of progress must be accelerated, sustained and embedded within the Company's culture
- Internal and external assurance of higher standards ... is required
- This must be demonstrated through greater openness and transparency..
- The company needs to raise its sights .. to match the benchmarks of global companies

There is insufficient opportunity to go through the 23 recommendations here, but let us flag up a few important aspects which are of wide r interest.

- Offsets – these are a major and neglected area of corruption risk, and we are pleased to see this recognised by Woolf
- Facilitation payments – Woolf recommends that BAE phase these out completely

- A pro-active approach to internal investigations and disclosure to the authorities – this is welcome, and a practice that is much less common in Europe than in the USA.
- An independent external audit of BAE's business conduct practices
- And finally, a series of observations on how the UK government needs to be more attentive to business conduct issues than it has in the past.

Following the release of the report, we conducted our own detailed analysis of all the recommendations and proposed ways in which we think BAE and MOD can make best use of the recommendations. Overall, TI broadly welcomes the report. There are many excellent recommendations, but three disappointments:

- On Agents – there is only a 'general presumption' of disclosure
- On Non Executive Directors – we believe they should be playing a much stronger role
- On the new Saudi 'Salam' contract:
 - It is impossible to judge its integrity so lightly, and to have ignored offsets
 - it needs both governments to set up greater disclosure and oversight of the contract and its related industrial cooperation contracts (offsets)

The TI analysis is public and available on the TI defence project website: www.defenceagainstcorruption.org

3. NATO Engagement in building integrity

In a quite different endeavour from the company work, we have also had success in engaging international bodies. Nowhere has this work been more advanced than with NATO, which, with all its 49 nations, has decided to start to engage on business conduct standards. They have approved a new programme, which they call Building Integrity and reducing corruption risk'.

NATO and 'Defence Institution Building'

- NATO Programme on 'Building Integrity and Reducing Corruption risk'
- Approved by the 26 Ally and 23 Partner nations in Nov 07
- Ratified at the NATO summit April 2008
- Led by Poland and the UK, USA supporting
- Focused on practical tools

- 5 day Training module - 3 pilots in 2008
- Integrity Self Assessment tool - pilots in 2008
- Building an international network of experts
- Developing a 'Best practices' Compendium

It has four main components:

- A training course, to be used all over NATO countries
- an integrity self-assessment tool for nations
- developing a community of experts
- and developing a compendium of best practice.

The training module is a very exciting and immediate development. We are at the stage of having developed the content, and it will be given in three pilot courses. The first will be in the UK in July at the UK Defence Academy, with whom we have developed the module; the second will be at the NATO training school in Germany in September; and the third will be in Bosnia in December. It is a five day course, designed for Defence Ministry and Armed Forces personnel, and aimed at Colonel level staff.

The course content ranges from the types of corruption in defence, through to corruption issues in military operations and in Peacekeeping, through to national experiences in a number of country Defence Ministries. It is very focused on practical experience and how officers and civilian in the middle of the hierarchy can cope and effect change.

NATO 5 day TRAINING MODULE				
<i>Course elements</i>				
Workshop Exercise Lecture/discussion	What is Corruption?		Govt and Civil Society	A NATO View Corruption in my country
Mil corruption vulnerabilities	Personal conduct	Legal enforcement	Integrity & AC tools	Operations Iraq/Afghanistan - Organised crime - Media
Asset/eqpt disposal	Conduct with industry	Reform – The Bulgarian view		Exercise 'Defence Procurement'
Integrity Building - Change Management Processes		Georgia MOD/NGO experience		States in Transition Workshop Syndicate Presentations
Education as an Integrity Tool	Integrity Building - How will I tackle it?			

The second development at NATO is of a self-assessment tool for nations. This is at its heart a detailed questionnaire, with a follow up visit from an expert team, led by NATO. The first pilot is due next week, with the Government of Bosnia. The content of the questionnaire is under nine headings. Let me just point you to Number 9, the

engagement of defence companies. This is because at NATO and at TI we believe that companies can play a very proactive role in helping reform-minded Defence Ministries to adopt better practices

Integrity Self Assessment tool

aimed at national Defence Ministries

- Questionnaire based on 150 questions
- At fourth draft stage: group of 5-10 nations
- NATO review team follow-up
- Pilot in Bosnia July 08
- More pilots in 2008, finalise 2009

Questionnaire headings

1. Democratic control and engagement
2. Anti-corruption laws and policy
3. Anti-Corruption policy in defence and security
4. Personnel – behaviour, policy, leadership, training, discipline
5. Planning and budgeting
6. Procurement integrity
7. Procurement special topics
8. Other financial processes
9. Engagement with defence companies

A third aspect of our NATO engagement has been a series of workshops we have been hosting in Ally and Partner nations, bringing together anti-corruption experts from many countries, including the USA. They are for about 50 people each time, each with a particular focus.

- UK July 2007 - 15 nations, link to devising training module
- Georgia Feb 08 - link to economic imperatives
- Geneva May 08 - link to common development agenda
- Planned: Croatia - Nov 08, reviewing Self Assessment learning

We also hope that there will be one in the USA early next year, at the Defence Management Resources institute in Monterey, California.

Emerging from this process of engagement have been all sorts of puzzles. One of the most relevant concerns our experience that business conduct practices in most government are much less sophisticated than at the large defence companies. Just look at the array of expertise at this forum – this is probably more expertise in business conduct practices than across much of Europe! How can we get some of the benefits of all your knowledge and programmes into governments?

4. Other TI Engagements in Defence

We shall now discuss in brief four other activities that we are engaged in: Defence Integrity Pacts, Round Tables, Business Conduct Standards, and Offsets.

Defence Integrity Pacts

One practical tool we have been developing in order to reduce the impact of corruption during the procurement of major defence equipment has been the Defence Integrity Pact (DIP). There are three main features of a Defence Integrity Pact:

- A contract, in which all the bidders and the Government agree to specified no-bribery pledges, and the bidders agree to enhanced disclosure rules. In addition, the bidders agree to sanctions, particularly withdrawal from the tender in the event that they violate the pledges
- An Independent Monitor, who ensures that all the parties abide by their commitments under the pact. This usually includes an independent technical expert who reviews the tender documents for bias and corrupt influence
- Increased public transparency of documents and process, allowing for civil society to have an input and to see that the principle of transparency is being undertaken

The example here concerns our experience of the use of a Defence Integrity Pact during the acquisition of combat aircraft in Colombia.

Defence Integrity Pacts *applications in Colombia and Poland*

- Contract between bidders and procuring Government
- Analysis of tender documents. Analysis of evaluation
- Independent Monitor. Increased Public Transparency
- Sanction: bidder exclusion if non compliant.

Example: Colombia aircraft purchase (\$250mIn)

Monitors: Two respected retired Parliamentarians
Supported by reform minded Defence Minister

Requirements analysis:
Tender Evaluation Matrix - much too operationally weighted
Offsets - very insufficient controls

'Roundtable' Events to raise the public profile of major procurements

Roundtable events are a further source of engagement of much interest. We have developed a format whereby a broad range of 40-60 people sit round a table and discuss what is going to be done to make sure that a forthcoming procurement is done to a high standard of integrity. Bringing a Defence Ministry out to talk in public about an upcoming procurement can be a transformative experience! The example shown here concerns a procurement in Croatia. We hope Croatia will shortly hold another one, this time for a fast jets procurement.

National Round-Table ***Croatia February 2007***

Purpose – raise the public profile of a very large upcoming defence procurements

Feb 07 for armoured vehicles. Sept 08 for fast jets

Attending: Defence Minister, officials, companies, procurement chiefs, MPs, diplomats, TI, civil society, media.

Defence companies: Feb 07: Lockheed Martin, Steyr, Saab

Perception: positive: put the contracts more in the eye of the public and MPs, and more onto the agenda of the defence ministry. Much subsequent media analysis

Standard of Conduct in Armed Forces and Defence Establishments

This is current work for us. We found that we were often getting called by journalists asking questions about what was ethical for top military chiefs to be doing. We could not find easily what the national standards were. So we are asking 60 nations for the standards that they hold their military chiefs to and their senior Ministry officials. At present, we have detailed responses from 30 countries. We find a very fragmented picture. In many cases the key documents are not integrated, and training is very limited.

Corruption risk of Offsets

The question of offsets is an important one because it is so hidden. We think that offsets, and the related industrial cooperation contracts, are a major, uncontrolled corruption risk. The industry is remarkably unregulated. There are three specific risks that we see:

- i. **Improperly influencing the need for a capability:** The choice by government of what is needed – or even *whether* a capability is needed – can be influenced by the other ‘goodies’ that can be on offer in a defence purchase.
- ii. **Influencing the competitive decision in non-transparent ways:** It can be unclear, sometimes deliberately so, just how the relative merits of the bidders offset packages are balanced against the other decision criteria
- iii. **Allowing favours to be repaid.** Offsets arrangements are often commitments that are not centred into until some time after the award of the contract. They can then take years to be fully established. Through this time delay, and the usual lessening of political and media scrutiny, there is scope for opaque deals and the return of favours that helped ensure the award of the contract.

TI is looking to work with partners to develop an assessment tool to guide nations and companies in using offsets with integrity.

5. Concluding Remarks

There is a real willingness now, both in defence companies and in governments, to see tangible progress in reducing corruption in international defence sales. US Companies are actively playing their part. I have a plea to those of you in the major US companies who are engaged in these transatlantic discussions – we should go with these Common Industry Standards now as the international anti-corruption standards. They are not perfect, but they are written as an international document and have the agreement of 30 national defence industry associations already. Please go with them, and move this debate where it needs to get to – to develop a proper global set of standards, bringing the other major nations, based on real industry collaboration across the sector. Thank you.

Contact: mark.pyman@transparency.org.uk
www.defenceagainstcorruption.org
www.transparency.org
www.transparency.org.uk
