

# GOVERNANCE

## WHY IS GOOD GOVERNANCE IMPORTANT?

Effective, stable and accountable governments are essential in the fight against poverty. They protect human rights, provide security, promote economic growth and deliver essential services, such as health and education.

- It is estimated that \$20–40 billion has been illegally and corruptly appropriated from some of the world's poorest countries, most of them in Africa, by politicians, soldiers, business people and other leaders, and kept abroad in the form of cash, stocks and bonds, real estate and other assets.<sup>1</sup>
- The poor suffer the most under weak, ineffective and corrupt regimes because they are the most reliant on free public services and are the first to suffer when these services are unavailable or of bad quality. The poor are also hurt the most by inflated prices. Corruption can inflate the cost of consumer goods by as much as 20%.<sup>2</sup>
- The World Bank estimates that good governance and corruption control could lead to a three- or four-fold increase in income per capita and to major reductions in other manifestations of poverty, such as child mortality.<sup>3</sup>

## WHAT DID THE G8 PROMISE?

The Gleneagles Communiqué explicitly recognised the efforts made by African governments and institutions to promote and enhance effective governance. In response, the G8 pledged to support African efforts in a number of ways, including:

### AFRICAN PEER REVIEW MECHANISM

**PARAGRAPH 14A:** '...through support to the African Peer Review Mechanism (APRM), while respecting African ownership, such as through contributions to the APRM Secretariat Trust Fund; appropriate and co-ordinated

support to African countries in the implementation of their good governance national strategies, including their country action plans for implementation of APRM recommendations.'

### EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

**PARAGRAPH 14D:** 'As part of our work to combat corruption and promote transparency, increase support to the Extractive Industries Transparency Initiative (EITI) and countries implementing EITI, including through financial and technical measures. We support the development of appropriate criteria for validating EITI implementation. Transparency should be extended to other sectors, as the G8 is doing in pilot projects.'

### UN CONVENTION AGAINST CORRUPTION (UNCAC)

**PARAGRAPH 14F:** 'Work vigorously for early ratification of the UN Convention Against Corruption and start discussions on mechanisms to ensure its effective implementation. Work to establish effective mechanisms, consistent with the provisions of UNCAC and previous G8 commitments, within our own administrations for the recovery of assets, including those stolen through corruption, taking into account final disposal of confiscated property where appropriate, and to return assets to their legitimate owners. We encourage all countries to promulgate rules to deny entry and safe haven, when appropriate, to officials and individuals found guilty of public corruption, those who corrupt them, and their assets.'

### OECD CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

**PARAGRAPH 14H:** 'Reduce bribery by the private sector by rigorously enforcing laws against the bribery of foreign public officials, including prosecuting those engaged in bribery; strengthening anti-bribery requirements for those applying for export credits and credit guarantees, and continuing our support for peer review, in line with the OECD Convention; encouraging companies to adopt anti-

bribery compliance programmes and report solicitations of bribery; and by committing to cooperate with African governments to ensure the prosecution of those engaged in bribery and bribe solicitation.’

### UPDATING THE COMMITMENT

At the St. Petersburg Summit, the G8 reaffirmed existing commitments on governance but did not make additional commitments.

### INTERPRETING THE COMMITMENT

While the Gleneagles Communiqué included strong rhetoric on the subject, eliminating corruption and promoting good governance is an ambitious project, and it is difficult to categorise all necessary actions into measurable commitments. Responsibility for more effective, accountable and transparent governance in Africa rests primarily with African leaders but, given the G8’s recent commitments and individual historic relationships with African countries, G8 countries have an important role to play in this area.

Because the G8’s commitments are the focus of this report, DATA has chosen to examine the four areas mentioned specifically in the Communiqué (and quoted above), while also noting African progress in these same areas:

- **THE AFRICA PEER REVIEW MECHANISM**

This section measures African progress towards implementing the APRM and notes the different ways in which G8 donors have supported Africa in this effort.

- **THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE**

This section measures financial support for the EITI.

- **THE UN CONVENTION AGAINST CORRUPTION**

This section notes whether donors have ratified the Convention and considers progress towards implementation.

- **OECD CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS**

This section measures the extent to which the Convention is being implemented by donor nations.

## HOW AMBITIOUS ARE THE G8’S PROMISES?

While DATA has identified four specific and measurable commitments on governance, further action by African governments and donors is clearly necessary across a wide range of issues in order to truly deliver the goal of improved governance in Africa. For instance, as part of their support for the APRM, the G8 should provide financial assistance for the implementation of recommendations in countries that have undergone a peer review. Similarly, support for the EITI should imply that G8 members encourage enforcement of its provisions and, if necessary, apply sanctions against companies and countries that contravene their EITI obligations.

On UNCAC, the G8 must ensure that sufficient resources are available for following up and monitoring the implementation of the convention. This should include assistance with asset recovery for sub-Saharan countries. The G8 must contribute to the fight against corruption by regulating the financial havens under their jurisdiction to prevent corruption. At Monterrey, donors discussed the desirability of increasing aid flows to well-governed countries as a possible means of encouraging improvements in governance. While we have not tracked this here, since it is not an explicit G8 commitment, it does represent another possible way of measuring donor commitment to good governance.

Finally, there is the potential for emerging donors such as China to undermine efforts to increase aid flows to better-governed countries. The G8 should not use this as an excuse for inaction. Rather, they should work aggressively to keep their Gleneagles aid promises so that poor countries are not forced to look elsewhere, while simultaneously reaching out to emerging donors to ensure that they work consistently with the good governance and aid efficacy goals agreed at Monterrey and in the OECD Paris Declaration.

## DELIVERING THE PROMISE: WHAT DO THE G8 NEED TO DO?

### AFRICAN PEER REVIEW MECHANISM (APRM)

The African Peer Review Mechanism (APRM) is a voluntary mechanism introduced by the African Union in 2003 to help African countries improve their governance. Participating countries agree to implement the African Union's Declaration on Democracy, Political, Economic and Corporate Governance and are subject to periodic progress reviews by other participating African countries, which measure the extent to which each country is compliant.

National ownership and leadership by the participating country are essential factors underpinning the effectiveness of the APRM.<sup>4</sup> The process is funded primarily by the participating member states, though some donors have also made contributions.

#### WHAT AFRICAN COUNTRIES HAVE DONE

As of March 2007, 27 African countries had acceded to the APRM. Ghana, Rwanda and Kenya have already completed their review and must now act upon the recommendations. In Rwanda, the first country to complete its review, implementation of the recommendations is already under way. The review process has also started in Nigeria, South Africa and Algeria.

#### WHAT G8 DONORS HAVE DONE

Because the APRM is an African-owned initiative, G8 donors have not been involved in the peer review process itself. However, Canada and the UK have supported the review mechanism through financial contributions, delivering totals of \$570,000 and \$2 million respectively.

### EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI)

The EITI is a voluntary initiative involving governments, companies, civil society groups, investors and international organisations that support improved governance in resource-rich countries, through the full publication and verification of company payments and government revenues from oil,

gas and mining. The EITI's goal is for all countries that are classified as resource-rich by the IMF (17 of which are in sub-Saharan Africa) to commit to the initiative.<sup>5</sup> Africa's oil and gas resources are vital to global energy supplies, but research has clearly linked oil wealth in weak states with high levels of corruption and poor development outcomes. Africa now holds close to 10% of the world's oil reserves and it is estimated that oil-producing countries in Africa will see revenue inflows of \$52 billion over the next 10 years.<sup>6</sup>

The purpose of the EITI is to hold decision-makers accountable for the use of revenues by publishing transparently what companies pay and what governments receive. Ensuring that revenues from natural resources are transferred to government budgets is key to reducing poverty, promoting democracy and reducing the risk of conflict. The EITI is financed through resources from implementing countries and through the Multi-Donor Trust Fund (MDTF), which provides grants to help countries meet EITI criteria. While the EITI currently focuses on extractive industries, the initiative can provide a model for implementing countries to extend revenue transparency to other sectors of the economy that are prone to corruption, such as construction or public procurement. The EITI therefore is an essential first step for Africans to be able to reap the benefits of their continent's natural wealth and economic development.

#### WHAT AFRICA HAS DONE

Thus far, 14 countries in sub-Saharan Africa have committed to the principle of revenue transparency in the extractive industries by signing up to the EITI. Currently Nigeria, Ghana, Cameroon, Mauritania and Guinea have reconciled reports of revenues received against company payments made.

#### WHAT THE G8 HAS DONE

Implementing the EITI will require \$15 million for the MDTF for at least the next three years, based on an estimated six to seven grant agreements with implementing countries per year.

The UK (\$6.4 million), Germany (\$600,000) and France (\$500,000) are the only G8 countries to have made contributions to the EITI-MDTF.<sup>7</sup> Canada is currently negotiating a contribution of \$1 million to the fund. The US has contributed \$1 million bilaterally to the EITI, including \$545,000 in Nigeria and the DRC. Germany and the UK

have also supported EITI activities bilaterally in countries such as Ghana, Nigeria and Angola. Nevertheless the MDTF, which includes financial support from G8 and other donors, is currently at least \$10 million short of the estimated funds required over the next three years.

Russia is the only G8 member that is officially counted as a resource-rich country by the IMF, but it has not yet made any attempt to implement the EITI at home or to support its implementation elsewhere.

### THE UN CONVENTION AGAINST CORRUPTION

The UN Convention against Corruption (UNCAC) is the first global anti-corruption instrument focusing on prevention, investigation and prosecution of offenders, criminal law enforcement, international legal cooperation, asset recovery and monitoring. Countries that ratify the Convention must establish effective anti-corruption practices and agree to cooperate with one another in the global fight against corruption.

Once ratified, numerous actions are needed by national governments to implement UNCAC. The specific actions will differ from country to country, but many developing countries will require technical assistance in order to design appropriate laws for full compliance. In order to provide assurance of action by all parties, an effective follow-up monitoring mechanism is needed to ensure timely and effective implementation. Transparency International estimates that an UNCAC follow-up monitoring programme would cost approximately \$6.5 million per year.<sup>8</sup>

At the Conference of State Parties held from 10–14 December 2006 in Jordan, countries that had ratified the Convention established a working group to review implementation, a working group on asset recovery and a working group on the technical assistance required for implementation of the Convention. All three groups will hold their first meetings in 2007.<sup>9</sup>

### WHAT AFRICA HAS DONE

As of March 2007, 25 African countries had signed and ratified the Convention; an additional 12 countries have signed the Convention but have not yet ratified it.<sup>10</sup>

### WHAT THE G8 HAS DONE

At present, only four G8 countries (the US, the UK, France and Russia) have ratified the UNCAC. In Germany, urgent reform to the criminal code is required for the country to fulfil UNCAC requirements, especially regarding bribery of parliamentarians and the ability to charge corporations with bribery offences, as opposed to only individuals. Canada, Japan and Italy have also failed to ratify the Convention thus far.

### THE OECD CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

The OECD Convention came into force in 1999 and covers all 30 OECD members together with six non-members (none of these countries are in Africa). It requires all signatories to criminalise within their own national law the bribery of public officials of foreign countries. Monitoring is carried out by the OECD's Bribery in International Business Transactions Working Group through a peer review mechanism. The costs of the OECD monitoring programme are in the range of \$1.3–2.6 million per year, not including the costs incurred by the country being monitored.<sup>11</sup> The Convention stipulates that the parties to it must bear the costs of monitoring implementation. The OECD Working Group prepares and publishes regular monitoring reports, which are paid for by the parties to the Convention.

All G7 members have ratified the OECD convention against bribery of foreign officials. However, the quality and enforceability of the implementing laws are unclear (see following table).<sup>12</sup> On the positive side, there were 50 prosecutions in the US in 2006, compared with 35 in 2005.<sup>13</sup> France had eight prosecutions in 2006, including several against major multinational companies, compared with only three in 2005. There was also significant enforcement in Germany, with three prosecutions in 2006 compared with only one in 2005.<sup>14</sup> However, there were no prosecutions in Japan or the UK and only one in Italy, and one minor case in Canada. As a result, Transparency International finds that, among the G8, it is 'particularly urgent' that Japan, the UK, Italy and Canada meet their commitments under the OECD Convention.<sup>15</sup>

## CORRUPTION: A TAX ON THE POOR

“

Effective, stable and accountable governments are essential in the fight against poverty. They protect human rights, provide security, promote economic growth and deliver essential services.

”

# \$20bn to \$40bn

The estimated sum that has been illegally and corruptly appropriated from some of the world's poorest countries, most of them in Africa.

In addition to the actual number of prosecutions, Transparency International has identified eight key areas where government action is needed for effective enforcement of the OECD Convention.<sup>16</sup> These include the organisation of enforcement mechanisms, available resources, complaint procedures, whistleblower protection, public awareness, auditing and accounting requirements, private sector efforts and the adequacy of the legal framework for foreign bribery prosecutions. The table below summarises how many areas still require action by G8 governments. The US and France have satisfied requirements in all eight of the areas identified by Transparency International. Germany and Japan, on the other hand, have unsatisfactory provisions in more than half of these areas.

### **MONITORING THE IMPLEMENTATION OF ANTI-CORRUPTION CONVENTIONS**

By signing an international convention, a state expresses its intention in principle to become a party to the convention. However, signature alone does not legally oblige the state to take further action – ratification is required for such a binding commitment. Once ratified, in order to implement the convention, the state may have to introduce new legislation, allocate additional funds for follow-up or train government officials in enforcing the provisions of the convention.

Regular monitoring and evaluation of progress with ratification, implementation and enforcement is critical to ensuring the effectiveness of the convention. An inter-governmental monitoring mechanism creates peer pressure and generates mutual support to ensure that all parties to a convention fulfil their obligations. Regular monitoring helps civil society, the private sector, and international organisations to maintain pressure on the signatory governments and provides a forum where common problems can be identified and discussed.

**SOURCE**  
TRANSPARENCY INTERNATIONAL <sup>17</sup>

## ARE THE G8 ON TRACK?

DONOR	UN CONVENTION		OECD CONVENTION		EITI	APRM
	RATIFIED	COMMENT	NUMBER OF PROSECUTIONS IN 2006 (2005 IN PARENTHESES)	SAT	UNSAT	SUPPORT
<b>CANADA</b>	No		1 (1)	6	2	Committed \$670,000 in February to the EITI-MDTF. Has made contribution of \$570,000 to APRM Trust Fund.
<b>GERMANY</b>	No		3 (1)	2	6	Committed to focus on extractive industry revenues during its G8 and EU presidencies. It has contributed \$600,000 to the EITI-MDTF. The BMZ (the Federal Ministry for Economic Cooperation and Development) also contributes to EITI regional initiatives in Central Africa and to a public-private partnership project. <sup>19</sup>
<b>ITALY</b>	No		1 (1)	5	3	Attended donor conference; no contributions yet. No support offered thus far.
<b>JAPAN</b>	No		0 (0)	3	5	Attended donor conference; no contributions yet. No support offered thus far.

<b>FRANCE</b>	July 2005	Contributed to the transposition into national law and to the training of officials that is necessary for ratification of the UN and African Union conventions against corruption. <sup>20</sup>	8 (3)	8	0	Contributed \$500,000 to the EITI-MTDF.	No support offered thus far.
<b>UK</b>	February 2005	Development Secretary Hilary Benn has promised to publish an annual UK Action Plan to tackle corruption affecting developing countries and to report on progress every six months; set up a new unit to investigate money laundering and allegations of bribery affecting UK firms; and to help developing countries to track assets and carry out investigations. <sup>21</sup>	0 (0)	5	3	Contributed \$6.4 million to the EITI-MDTF and \$4 million bilaterally to support the EITI in Nigeria and Sierra Leone. Development Secretary Hilary Benn seeks to expand the EITI to other sectors such as construction, procurement and health, via a resolution in the UN General Assembly. <sup>22</sup>	Has made contribution of \$2 million to the APRM Trust Fund.
<b>US</b>	October 2006		50 (35)	8	0	Contributed \$545,000 bilaterally to the EITI in Nigeria and the DRC.	No support offered thus far.
<b>JAPAN</b>	May 2006		N/A <sup>23</sup>	N/A	N/A	None	None

## OVERALL ASSESSMENT

The G8's performance on the APRM, the EITI and the UN and OECD Conventions provide an indication of the donors' overall commitment to promoting good governance and fighting corruption. However, DATA acknowledges that G8 performance on these four indicators by no means offers a complete assessment of any particular government's overall commitment to building on governance and fighting corruption. Signing conventions and funding specific initiatives, while measurable, cannot convey the breadth of activities required to support good governance. Investments in governance are difficult to track, since they depend on the political will of both national governments and donors to tackle structural issues and build capacity. While grouping France and the US as 'Relatively On Track' in the section below may raise the eyebrows of governance experts, it is the case that, on the indicators measured in this chapter, they perform relatively better than the other G8 members – although by no means superlatively. DATA welcomes suggestions for additional, credible indicators to use in future reports.

### RELATIVELY ON TRACK

**US** has ratified UNCAC, and has contributed \$1 million bilaterally to supporting the EITI in three countries, two of which are in Africa. The US has the best record on implementing the OECD convention.

**UK** has ratified UNCAC and has made financial contributions to both the APRM and the EITI. The UK has a mixed record on implementation of the OECD Convention.

**CANADA** has not ratified UNCAC, but it has contributed to the EITI and to the APRM. Canada has performed well in most of the key areas needed for effective enforcement of the OECD Convention.

**FRANCE** has ratified UNCAC and supports the EITI financially. France also has a good record on implementation of the OECD Convention, having met requirements in eight key areas necessary for successful implementation of the Convention.

### RELATIVELY OFF TRACK

**GERMANY** has not yet ratified UNCAC. It has contributed \$600,000 to the EITI Multi-Donor Trust Fund and also contributes to EITI regional initiatives, but it has not contributed to the APRM. Germany is seriously behind in its implementation of the OECD Convention.

**ITALY AND JAPAN** have not ratified UNCAC and both have poor records of compliance with the OECD Convention. Neither has made any commitment to the EITI or to the APRM.