



**TRANSPARENCY
INTERNATIONAL
UGANDA**

REPORT OF A WORKSHOP ON

**Business Ethics and the Fight against Corruption
in Uganda**

ORGANIZED BY

TRANSPARENCY INTERNATIONAL – UGANDA

In Collaboration with

TRANSPARENCY INTERNATIONAL NORWAY

GRAND IMPERIAL HOTEL, KAMPALA

6TH DECEMBER 2005

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Transparency International Uganda extends its appreciation to all the participants who attended the workshop organized for the business sector in Uganda on the theme “Business Ethics and the Fight against corruption in Uganda”.

Special thanks are due to TI-Norway for not only initiating the idea of a workshop on business principles in Uganda and providing the financial resources for running the workshop but also for ably taking the lead role in moderating the proceedings of the workshop.

TI Uganda is indebted to the Keynote speakers, Dr. Henry Onoria and Mr. Dag Sanne who ably shared their practical experiences on corruption in the business sector with the participants.

List of Acronyms

AU	African Union
BP	Business Principles
CPI	Corruption Perceptions Index
CSO	Civil Society Organisations
CSR	Corporate Social Responsibility
EU	European Union
NGO	Non-Governmental Organizations
NPM	National Programme Manager
TI	Transparency International
TI-Norway	Transparency International - Norway Chapter
TI-Uganda	Transparency International - Uganda Chapter
UN	United Nations
URA	Uganda Revenue Authority

TABLE OF CONTENTS

Acknowledgements.....	1
List of Acronyms	2
Introduction	
Workshop Setting	4
Workshop Objectives.....	4
Workshop Participants.....	4
Workshop Methodology.....	4
Workshop Proceedings	
Opening Remarks	6
Introductory Remarks	6
First Keynote Address	7
Second Keynote Address	8
Overview of the Business Principles for Countering Bribery	9
Group Discussions and Lessons Learnt	10
General Workshop Conclusion and Way Forward.....	11
Closing Remarks	12
Annexes	
1. Opening Remarks	13
2. Key Note address on <i>The Problem of Corruption in Ugandan Business Life: Consequences and Possible Solutions</i>	15
3. Key Note Address on <i>Ethics and Transparency in International Business: Why it Matters</i>	21
4. Presentation on <i>The Business Principles for Countering Bribery</i>	23
5. Groups Discussion Guiding Questions on Ethical Dilemmas Facing the Private Sector	27
6. Workshop Programme	29
7. List of Participants	30

INTRODUCTION

Workshop Setting

The workshop was organised by Transparency International Uganda (TI-Uganda) in collaboration with Transparency International Norway for the Ugandan Private sector. Under the theme “Doing well by Doing Good: Business Ethics and the Fight against Corruption in Uganda”, the workshop was conducted on 6th December 2005 at Grand Imperial Hotel, Kampala in Uganda.

The workshop was one of a series of activities under a project initiated by Transparency International Uganda to introduce business principles for countering bribery in Uganda. The one-day workshop aimed at providing a starting point and framework for business companies in Uganda to examine their work ethos and set the stage for developing systems to counter bribery and to effectively manage the related financial and reputation risks to their firms.

Workshop Objectives

1. To set the stage for fostering a long-term dialogue on business integrity in Uganda.
2. To provide companies, key opinion formers and disseminators with information on Business Principles and the current best practices on anti-bribery initiatives.
3. To foster a comprehensive understanding of the Business Principles as a useful guide in countering bribery and promoting transparency and accountability in business life.

Workshop Participants

The workshop targeted local and international business proprietors in Uganda and was attended by 40 participants, drawn from different business communities to include banks, hotels, hospitals, construction firms, trade merchants, consultants and business experts in Uganda. The participation also included the media fraternity and a cross section of umbrella organisations working on issues of corruption in Uganda. The workshop was graced by the attendance of Her Excellency the Ambassador of Norway in Uganda as an observer at its the beginning.

Workshop Methodology

The workshop was designed to achieve a balance between process and content in a manner that maximized both learning and sharing of experiences in plenary and working groups. It involved keynote presentations by experts on business issues followed by an open question and answer session in response to the presentations. There was a background note to set the tone for the workshop followed by a synopsis of what the Business Principles for

Countering Corruption are, how they were developed and how they can be used to fight corruption in the business sector. Group discussions engaged participants in tackling ethical dilemmas to get the participants to appreciate the challenges of upholding ethical values and principles in the business world. There was also a plenary session for drawing conclusions and working out a way forward.

WORKSHOP PROCEEDINGS

Opening Remarks

Mr. Charles Mubbale, National Program Manager, TI Uganda

Mr. Mubbale in his remarks pointed out that the workshop was one among a series of activities to be carried out in order to promote integrity in business dealings and an enabling environment in which business can operate without bribes that unnecessarily raise the costs of running businesses. He disclosed that the Transparency International Movement acknowledges the crucial role the private sector plays in the development of a country and therefore the need for it to be involved in the fight against corruption as well. He stated the major objectives of the workshop as being:

1. To set the stage for fostering a long-term dialogue on business integrity in Uganda.
2. To provide companies, key opinion formers and disseminators with information on Business Principles and the current best practices on anti-bribery initiatives.
3. To foster a comprehensive understanding of the Business Principles as a useful guide in countering bribery and promoting transparency and accountability in business life.

He introduced to the participants the two main workshop facilitators in the names of Mr. Jan Borgen and Ms. Gro Skaaren-Fystro from the Transparency International Chapter of Norway and the Keynote address speakers in the names of Dr. Henry Onoria from Uganda and Mr. Dag Sanne from Norway.

Introductory Remarks

Mr. Jan Borgen, Secretary General, TI Norway

Mr. Borgen observed that facilitation payments though often given in small amounts are actually bribes and dispelled the common belief that without facilitation payments business cannot move on smoothly. He underscored the importance of developing and nurturing ethical business principles and called upon the business community in Uganda to emulate the examples of some big multinational companies abroad that have developed principles of zero tolerance to bribery. As a course of action he prescribed intervention strategies for upholding the business principles in countering bribery in Uganda as requiring:

1. The development and adoption of self-regulations for clean business as a basis for good practice in the implementation of the Business principles to the effect that companies can impose regulations upon themselves against giving or accepting bribes in negotiating business contracts.
2. Engaging in dialogues with government and civil society organizations (CSOs) to push for changes in policies and regulations for the business sector so as to achieve the enabling legal framework for dealing with corruption.

Mr. Borgen was optimistic that Uganda would be in a better position to fight corruption if there were a number of serious activist organizations to engage the state on corruption issues and to push for the domestication and effective implementation of the UN and AU Conventions on corruption. He also stressed that non-legal measures could be championed and called upon TI-Uganda to engage in more activities geared towards creating awareness to prevent corruption in the business sector.

First Keynote Address

The Problem of Corruption in Uganda's Business Life: Consequences and Possible Solutions

Dr. Henry Onoria, Lecturer, Faculty of Law, Makerere University

In his Keynote address, Dr. Onoria pointed out that corruption is one of the biggest problems facing the business sector in Uganda and that the existing anti-corruption laws are not adequate enough to deal effectively with issues of corruption in the private sector. He observed that Ugandan courts mostly treat corruption cases like any other general criminal cases and said that government has to come up with a specific legal framework for dealing with corruption cases. He said that the issue of facilitation payments is a rampant phenomenon in the private sector and is worsened by the connivance of both the facilitators and the receivers in equal measure.

Dr. Onoria pointed out that the main causes of corruption between the private sector and the government arise out of the fact that the government officials that the private sector deals with have extensive discretionary powers whose dispensation is not effectively monitored and that this leads to intentional delays that put the business people in situations of desperation.

He said that the consequences of corruption in the business sector are detrimental to business because they undermine the essence of a level playing field where bidders can have confidence in business negotiations; they can swing a vote to award a tender to a non meriting firm and stressed the fact that the act of corruption whether in public or private sector has direct gross effects on citizens' livelihoods and human rights. He asserted that corruption in the business life has a far reaching impact for society especially where the activities of firms entail the provision of delivery of goods and services; "Thus, while lower or no taxes as a result of bribes may make business sense for a profit-oriented firm, the

biggest victim is the public since the act of corruption deprives the government of income required to provide public goods and services”, he argued. He further pointed that the ramifications are experienced in poor or non-delivery of goods and services and that this spirals a cycle of poverty which ultimately impacts upon human rights, particularly socio-economic rights.

Dr. Onoria suggested the following measures as some of the possible solutions to the problems of corruption in the private sector:

- Speeding up the process of reforming the anti-corruption legislation to effectively deal with those who engage in corrupt practices.
- Streamlining taxes and getting rid of the bureaucratic delays that induce the private sector to resort to giving bribes to make short cuts.
- Enforcing codes of conduct for the private sector to address issues of good business and self-regulation as a good practice.
- Recognition of private companies that develop and practice anti-corruption initiatives as an encouragement for others to emulate
- Strengthening the roles of CSOs to enable them monitor the award of contracts and verification of the companies that actually do the bidding for the contracts to ascertain whether they have what it takes to offer value for money services.
- Changing the negative attitudes of people who tend to view the less corrupt who do not amass ill-gotten wealth as not progressive.
- The need to teach ethics and integrity starting right from primary level so as to bring up people who are morally up right to lessen the problem of corruption in the future.
- Allowing both government and non-governmental anti-corruption institutions to operate without state interference in order to be more effective in taking firm stands to expose and condemn corruption whenever it is detected

Second Keynote Address

Ethics and Transparency in International Business: Why it Matters

Mr. Dag Sanne, an expert on Business Ethical Issues in Norway

Mr. Sanne gave a background of his past work experience with international firms and explained how they had managed to deal with issues of bribery in their settings. He particularly cited the case of IBM where he worked for 25 years as having set up elaborate procedures to streamline issues of bribery, conflict of interest, social corporate responsibility and integrity as well as transparency in its operations worldwide. He disclosed that while Norway is largely known for being relatively corrupt free as illustrated by the Corruption Perception Indices by Transparency International, there is corruption none-the less particularly in the business sector and that it is a big issue in country.

Mr. Sanne however, explained that what has kept corruptions levels relatively lower is the culture of effective surveillance by a special police force, industry guidance, effective exposure of corruption incidences by the media, the vigilance of NGOs and employees in holding virtues of integrity, transparency and fair play. He emphasised that severe actions are taken against those implicated in corruption and that this has helped create a natural fear and an effective deterrent against corruption.

Mr Sanne emphasized the importance of corporate social responsibility against corruption which he said must be based on high ethics and trust and explained that trust is cultivated by doing good, being transparent, having integrity and making sure that corruption is kept away from ruining trust from partners and reputation to the firm. He however, acknowledged that ethical dilemmas in business are real, quite challenging and will always be there but that they should not be feared. He reiterated that the strength to overcome them lies in being open and setting goals to start the process against corruption. He emphasized that there is conflict between high ethics and good business and encouraged participants to go for it with full steam.

Mr. Sanne emphasized that the Business Principles matter because bribery is a major challenge to corporate governance, ethics and integrity and it has immense potential to undermine fair play and bring about inequalities and discrimination.

He explained how bribery harms the private sector directly through loss of trust in business, undermines good governance, fundamentally distorts public policy, leads to the misallocation of resources, hampers the private and public sector development and disproportionately hurts the poor who are least able to afford the costs of corruption.

Mr. Sanne argued that honesty, integrity and transparency in business transactions are requirements in the promotion of corporate governance and anti-bribery measures that serve business-interests well and that a code of conduct based on the Business Principles is essential for strengthening a culture of integrity and transparency within companies. He explained that good performance in anti-bribery practice contributes to the global standards and that good reputation makes a firm more attractive as a business entity both nationally and internationally.

He reiterated that Corruption Perception Index (CPI) ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians and plays a big part in determining where investors have to put their money. Mr. Sanne emphasized however, that that it is possible to fight bribery anywhere it occurs through legal procedures and by holding both parties to the bribery act equally accountable.

Mr Sanne submitted Business Principles against Bribery require:

- Maintaining of high standards for preventing and combating bribery
- Prohibiting bribery in any form
- Creating and maintaining trust-based internal cultures in which bribery and corruption are not tolerated
- Openly communicating details of anti-corruption efforts and building support for them
- Developing and implementing programmes to achieve the aims of the business principles

Overview of the Business Principles for Countering Bribery

Ms. Gro Skaaren-Fystro, TI Norway

Ms. Gro gave an overview of the Business Principles (BP) document as a practical tool for countering bribery in business life formulated by TI in consultation with a large number of business people with hands-on experience.

She disclosed that the main purpose for formulating the Business Principles document by Transparency International was to enhance corporate governance and ethical behaviour in relation to combating bribery and corruption in business life

She highlighted the specific forms of bribery to include; political contributions; charitable contributions; facilitation payments; gifts and hospitality expenses; and stressed that the Business Principles prescribed clear guidelines for giving or receiving them out.

Ms Gro noted that the document has strong guiding principles which the business sector would do well to adhere to in the fight against bribery by:

- Prohibit bribery in all forms
- Maintaining high standards for preventing and combating bribery
- Create and maintain a trust-based internal culture in which bribery and corruption are not tolerated
- Openly communicating details of anti-corruption initiatives to build support for them
- Developing and implementing programmes to achieve the aims of Business principles

She emphasised that the Business Principles was an important document to both the public and private sectors because bribery is a major challenge for corporate governance, ethics and transparency. It undermines good governance and harms the private sector and that good reputation makes the private sector more attractive as a business partner both nationally and internationally

Group Discussions of the Ethical Dilemmas

In this session of the workshop, participants were divided into working groups to discuss scenarios of business proposals that present ethical dilemmas to the business people in their day-to-day dealings. The basic idea was to help the participants to appreciate the various manifestations of indirect bribery in business engagements and where to draw the line when faced by tempting offers. In a plenary session the groups reported their group views and the following came out as learning points:

1. Business ethical principles have to apply at all times and in all circumstances in business dealings and should not be compromised by greed and opportunism
2. If all business organization took a firm stand to say “NO” to bribery, it would greatly reduce the incidences of unfair play and lead to healthy competition and reduce costs of doing business.
3. Short time gains made possible after gifts and entertainment offers have been given are a danger to the reputation of a firm and have the potential to greatly undermine the principles of fair play.
4. While it is impolite according to some cultures to refuse a gift, clear company rules have to be developed with regard to how gifts are handled to ensure that their being accepted does not compromise the independence in business decision-making.
5. Bribery is bribery whatever the form and is wrong.

The workshop also came up with proposals on how to involve the private Sector in TI Uganda’s work as follows:

- TI Uganda could send personal invitations to the private sector bodies to interest them to become active members of the anti-corruption crusade in Uganda.
- TI Uganda should encourage regular interactions through roundtable meetings, or seminars to share ideas and experiences of fighting corruption in the business sector at least once a year.
- TI Uganda could come up with awareness materials, information leaflets, or publications and send them out to the private sector and follow up with visits to secure commitment to abide with the requirements contained there in.

- Efforts should be made to cause the private sector to appreciate that they have obligations towards promoting a culture of no bribes in their business transactions as a measure to reduce the harmful effects of corruption.
- Participants in workshops on Business Principles should be encouraged to become ambassadors for spreading the ideals that promote corrupt free business dealings to their business partners and colleagues.
- Initiatives should be made to reach out to the busy business people at their places of work or at Trade Fairs since they appear not to have time for attending workshops.
- Efforts should be made to build the confidence of the business community in Uganda to work with TI Uganda on issues of corruption in the country. There is a tendency for the private sector to feel that associating with TI Uganda would make them lose business from government since the activities of TI Uganda are regarded by some sectors of the public as anti-government.

Workshop Conclusions and Way Forward

This last session of the workshop involved drawing conclusions and charting a way forward by way of recommendations. Participants acknowledged that corruption is an obstacle to corporate governance, ethics and transparency in Uganda; bribery harms the private sector development and endangers the proper and fair functioning of market economies, and therefore that a well functioning business sector based on integrity and transparency is the key for sustainable and equitable development in the country.

With a view to working towards a corrupt-free environment and level playing field, the participants agreed to do the following:

1. To promote the “Business Principles for Countering Bribery” by encouraging companies to develop tailor-made company specific codes of conduct to prohibit paying and receiving bribes.
2. Publicising and creating awareness on the “Business Principles for Countering Bribery” to business parties both in the private and public sectors.
3. Continue the dialogue on anti-corruption measures in business life by establishing a “Business Forum on Anti-Corruption in Uganda”.

Transparency International Uganda is to take the lead in organizing the activities of the Business Forum and will formulate an action-plan for the Business Forum to meet again after one year to take stock of the progress on practicing the Business Principles.

The Business Forum will actively cooperate and coordinate its efforts with other relevant institutions on anti-corruption issues, such as the Federation of Uganda Employers, the Private Sector Foundation and Enterprise Uganda etc.

CLOSING REMARKS

Ms Dominic Baru, Treasurer, TI Uganda

Ms Baru in her closing remarks thanked TI Norway for entering into a joint venture with TI Uganda and said that this was in line with the principles of Transparency International to encourage sharing of information, expertise and best practices in the promotion of the anti-corruption agenda worldwide. She pledged the commitment of TI Uganda to follow up on the workshop recommendations to ensure continuity and sustainability of the project on engaging the private sector on matters of corruption and thanked the participants for their enthusiasm and contributions during the workshop deliberations and expressed hope that they would be able to put in practice what they had learnt. She outlined some of the major programs of TI Uganda in the country and encouraged them not only to take interest and participate in them but also to become members of the TI Movement in Uganda so that the organization is made more formidable by the strength of numbers. In a special way she thanked TI Norway for initiating the project and for going the extra mile to source for the funds for conducting the workshop in Uganda.

Annex 1

OPENING REMARKS

*Charles Mubbale
National Program Manager,
Transparency International Uganda*

It gives me great pleasure on behalf of the organizers of this event to welcome you all to this workshop. This workshop has been organized by Transparency International Uganda, one of the over one hundred chapters and chapters in formation worldwide that constitute the global movement against corruption under the banner of TRANSPARENCY INTERNATIONAL. The workshop is one among a series of activities under a project initiated by the Uganda Chapter of Transparency International to introduce business principles for countering bribery to the business sector in Uganda. It is the first of its kind in the country and it is exciting for me to see that we are breaking ground in this area to start a discourse with the private sector on issues of corruption in this country.

The goal of this project is to achieve a level playing field in which businesses can operate in an honest and transparent manner. The workshop therefore aims at providing a starting point and framework for business companies in Uganda to examine their work ethos and set the stage for developing systems to counter bribery and to effectively manage the related financial and reputation risks to their firms.

It is our belief in the Transparency International Movement, and I think rightly so, that companies can no longer ignore bribery without risking serious domestic and international consequences. The costs and risks of corrupt behaviour to companies have been highlighted many times by high profile corporate scandals that have led to increasing public concern and debate about governance and accountability of business probity. The experts are in this room this morning, either as victims, activists against, unconscious perpetrators or WORSE. In this game, each of us belongs somewhere!

Given that the private sector in Uganda has a vital role to play in the development and sustaining of practices of accountability and transparency, both in relationships with government – in the context of competing for government contracts, and in dealings within the private sector, this workshop has been organized with three core objectives:

- To set the stage for fostering a long-term dialogue on business integrity in Uganda
- To provide companies, key opinion formers and disseminators with information on Business Principles and the current best practices on anti-bribery initiatives
- To foster a comprehensive understanding of the Business Principles Module as a useful guide in countering bribery and promoting transparency and accountability in business life.

And to take us through what we need to know and do with regard to the issues at hand in this workshop today are experts of some sort both from Uganda and Norway. At this juncture allow me to introduce to you our key facilitators and resource persons: **Mr. Jan Borgen** and **Ms. Gro Skaaren-Fystro** from the Transparency International Chapter of Norway as the facilitators. Then we have the Keynote address speakers in the names of **Dr. Henry Onoria** from Uganda and **Mr. Dag Sanne** from Norway. They will be speaking as people who have seen how corruption undermines good business and economic prosperity and they will bring perspectives on ways and means towards promoting transparency and integrity in the business sector.

The workshop has been designed to achieve a balance between process and content in a manner that we hope will maximize both learning and exchange of experiences in plenary and working groups. In this context we are all going to be both resource persons and learners and at the end of it all we shall validate our worthwhile participation by receiving Certificates at the end of this workshop. It is my prayer that the theme of this workshop: *“Doing Well by Doing Good: Business Ethics and the Fight against Corruption in Uganda”* truly translates into what we must commit ourselves to by this humble beginning.

Thank you, for coming, thank you for honouring us with your presence and we look forward to learning from one another.

Thank you!

Annex 2

KEYNOTE PRESENTATION 1

The Problem of Corruption in Uganda's Business Life: Consequences and Possible Solutions

*Dr. Henry Onoria**

*Senior Lecturer, Department of Public & Comparative Law
Faculty of Law, Makerere University*

(Paper presented as a Keynote Address at a workshop organised by Transparency International – Uganda on the theme *Doing Well by Doing Good – Business Ethics and the Fight against Corruption in Uganda* held at Grand Imperial Hotel on December 6, 2005)

Corruption is one of the biggest risks to business here. Because business relationships are very mercenary with a profit obsession underlying most business dealings, trust becomes a major issue. It is difficult to find partners who you can trust, and it is difficult to design, implement and maintain business systems that are tightly controlled and can prevent money from disappearing ... Micro management is a fact of life and keeping your hand on the cash box, and an eye on all of your employees and partners is a reality in business here ...¹

1 Introduction

Corruption has perhaps had most varied definitions and conceptualisations. The phrase 'corrupt' is very elastic and is capable of including a wide range of disapproved behaviour or conduct. A definition of corruption does often tend to commence with its 1931 conceptualisation by the *Encyclopaedia of the Social Sciences* as the '*misuse of public power for private profit*' – the crucial key elements in the seven-worded definition are 'misuse', 'public' and 'private'. Other definitions have been offered over the past decades and years including more broadly:

Corruption is, in its simplest terms, the *abuse* of entrusted power for *personal gain* or for the benefit of a group to which one owes allegiance. The word 'corruption' is commonly applied to situations of *dishonesty* in general ... 'corruption' involves behaviour on the part of officials in the *public sector*, whether politicians or civil servants, who *improperly* and *unlawfully enrich* themselves or those close to them by the *misuse* of *public power* entrusted to them.²

In Uganda, the Inspector General of Government Act defines corruption as:

* LL B (Hons) (MU); Dip LP (LDC); LL M, Ph D (Cantab).

¹ B Brick, 'Doing Business in Uganda', posted on November 29, 2005 at http://soultripper.typepad.com/space_to_create/2005/11/doing_business_1.html

² P Langseth, 'The Role of a National Integrity System in Fighting Corruption' (1997) 23 *Commonwealth Law Bulletin* 499.

The abuse of office for private gain and includes but is not limited to embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial loss or property loss or false accounting in public affairs.³

The concern with these definitions of corruption is with misconduct in the *public* sector (rather than private sector). This is because it is within the public sector that corruption has the most profound impact – in terms of hurting public resources and the delivery of services (e.g. education, health care, and infrastructure). To that end, ‘corruption’ can be said to encompass acts or conduct that cause harm to public funds, improper use of official office for personal benefit, getting or obtaining of bribes or commissions on government projects, and unlawful gains. However, it can also occur where public and private sectors meet, where a public official has direct responsibility for the provision of goods and services to be delivered by the private sector. Further, private individuals and organisations connected with the public sector (e.g. procurement firms) may take advantage of the opportunity to make ‘easy’ money through corrupt means.

Although the brunt of corruption is faced or undertaken by individuals in their day-to-day dealings with public officials, the manifestation of acts of corruption is not lost upon the business enterprise. In fact, historically, in Uganda, corruption has been a feature of business life and characterised the collapse of the economy in the 1970s (in the shape of *magendo*, black-marketeering and hoarding) and the early 1980s. In the post-1986 period of the “Movement” government, research has shown the rampant nature of corruption in business life.⁴ This is notwithstanding efforts to revamp and strengthen the legal and institutional framework and the introduction of policy measures to combat corruption.

This keynote address seeks to highlight the manifestations of corruption in business enterprise in Uganda, the consequences (to the business sector and society) and possible solutions to the problem. The purpose here is not to provide concrete evidence and offer tailor-made answers but to sound out the problem as it afflicts business life in light of the theme of this workshop ‘doing well by doing good’.

2 Nature and manifestations of corruption in business enterprise

The primary form of corruption that manifests in business enterprise is bribery, the bribery in this regard taking the form of *active* and *passive* corruption. Thus it is common practice, as Svensson attests, that business firms have to pay bribes in order to secure public or government services crucial to their operations or activities.⁵ Further, according to him, there are three major features discernable with regard to bribery and its levels in business life in Uganda.

³ Inspector General of Government Act, Cap. 167, sec. 2.

⁴ J Svensson, ‘The Cost of Doing Business: Ugandan Firms’ Experience with Corruption’, *Africa Region Working Paper Series* No. 6 (June 2000); *ibid.*, ‘Who must Pay Bribes and How Much? Evidence from a Cross-section of Firms’ (2003) *The Quarterly Journal of Economics* 207-30.

⁵ *Ibid.*, ‘The Cost of Doing Business’, pp. 4-10.

- (a) Firstly, the nature of the business enterprise. The business firms in the *informal* sector (and therefore operating in sectors with little or no contact with the public sector) were less likely to pay bribes as opposed to those in the *formal* sector.⁶
- (b) Secondly, the pre-eminence of *discretionary power* in bureaucratic regulatory systems. This allows public officials to exercise provision of public services as an extortionist tool to extract bribes from the business firms.⁷
- (c) Thirdly, the size of the enterprise. The larger business firms are likely to pay (more) bribes.⁸

These features (or perhaps hypotheses) may not adequately explain the key manifestations and levels of bribery as corruption in the business life in Uganda. Nevertheless, they are a starting point to perhaps a diagnosis of the problem of this form of corruption in the business sector. Thus, it is perhaps difficult seeing the informal sector in Uganda directly removed from contact with public officials since most of the bulk of the informal sector, although it is involved in petty trade (local or international), must deal with public officials in terms of licensing, taxes, etc. This is probably true of most of the *kikubo* businesses and those engaged in farm produce in markets, etc. Their business activities would invariably come within the clutch of bureaucratic extortion in bribery.

The (mis-)use of discretionary power by public officials is a well-known factor in extortion of bribery and commissions in provision of public services and goods especially given, in Uganda's situation (and other countries), existing regulatory systems are riddled with bureaucratic processes and procedures. This therefore allows for 'delays' to be endogenously factored into explicitly extracting bribes with respect to documentation (e.g. business registration, customs or export/ import clearance) or services (e.g. licensing requirements, permissions, taxes, exemptions, utilities), etc. Conversely, the discretionary power can be disabused to aid in wrongdoing (e.g. tax evasion, falsifying or reducing tax assessments on goods, property or sale price of public land) or evading the law. Finally, while it is a truism that large firms are likely to pay bribes (or more bribes), small firms are not entirely removed from the bribes that may only seem proportionate to their size, yet drive them out of business altogether.

Second to bribery as the primary form of corruption in the business life in Uganda are the related incidences of financial impropriety in the business enterprise itself. These do not engage the public sector or officials, except perhaps their prosecution as criminal acts. These include various forms of financial wrongdoing in business enterprise by employees and managers of firms, e.g. embezzlement, false (or fraudulent) accounting, uttering false documents and statements, and causing financial (or property) loss. Notably, these acts are criminalized under the penal law and prosecuted as 'criminal acts', although not as 'acts of corruption' when committed by individuals in the private sector.

⁶ Ibid., p. 7.

⁷ Ibid., pp. 7, 12-4.

⁸ Ibid., pp. 7, 9.

3 Consequences of corruption for business sector and society

The consequences of corruption in the business sector can be varied and dependent from what viewpoint. From a business firm's point of view, a bribe may swing a vote to award a tender in its way or avail governmental favours in return and therefore financial rewards and profits. The reality could be the reverse, especially in extortionist situations where ultimately the bribery payments outweigh total investment (or are higher than other running business costs such as wages, security, fuel, etc.). Further, there may in fact be no correlation between bribery and timely delivery of public services (e.g. utility connection) sought. Ultimately, as Svenson observed, evaluating the effects of corruption (for instance on firm growth) is a tricky exercise.⁹ In fact, on another level, corruption undermines the growth of a vibrant private economic sector (as the costs of business as the result of bribery rise). On the more pertinent level, corruption damages the image of business especially firms that may be involved in certain activities or the provision of certain goods and services – for as they say 'one rotten apple ruins the whole barrel' or that 'it takes one frog to mud a pond'. Ultimately, corruption is damaging to not only business *ethics* but to *enterprise*.

On the other hand, corruption in the business life has a far more reaching impact or consequence for society, especially where the activities of firms entail the provision of delivery of goods and services. Thus while lower or no taxes as a result of bribes may make business sense for a profit-oriented firm, the biggest victim is the public since the act of corruption deprives the government of income required to provide public goods and services.¹⁰ Further, the ramifications are experienced in poor or non-delivery of goods and services by business firms winning tenders that have no expertise in the provision of the goods or services in question (e.g. road or building construction, health care) for which public resources have been specifically earmarked. And in that regard, corruption is closely linked to poverty and the continued impoverishment of sectors of society. Thus poor or non-delivery of essential goods and services keeps intended beneficiaries in a cycle of poverty. What though is poverty? Here, a multi-dimensional view of poverty must be taken, i.e. poverty is not simply a matter of income but encompasses many other dimensions, e.g. basic needs for shelter, clean water, health and education, access to assets in order to build sustainable livelihoods and factors which are often referred to as social exclusion – the voicelessness or lack of empowerment that the poor experience. Generally, corruption in the business sector can result in 'misallocation' of resources and 'inefficiency' in service delivery. This can be evident in sectors such as health care, education, infrastructure, etc. (due to shoddy work (e.g. use of inadequate building materials or through award of tenders to unqualified business firms).

Ultimately, these deprivations and endemic cycle or situation of poverty ultimately impacts upon human rights, particularly *socio-economic rights*– this is especially so in respect to delivery of services in the context of policies and measures that would secure the rights to education, food, satisfactory health care and social development (see chart 1). Therefore,

⁹ Ibid., at p. 10. Elsewhere, he observes that it is difficult to disentangle the benefits a firm receives due to lower taxes as a result of a bribe, from the actual cost of the bribe: *ibid.*, at p. 14. The case may perhaps be different if it is a situation of tax evasion.

¹⁰ Ibid., p. 14.

corruption in business life affects socio-economic development, affecting productivity, cost of procurement and the quality of services.

Finally, corruption may together with bureaucratic inertia ultimately affect capacity of a country like Uganda to attract investment, especially foreign investment.

4 Possible solutions to the problem of corruption

The traditional approach to corruption has been legislation in the form of anti-corruption and penal legislation. In Uganda, there is the Prevention of Corruption Act (enacted in 1970) and the Penal Code Act. However, these pieces of legislation are now in dire need of reform. More pertinent, with exception of incidences of financial impropriety in the private sector, the legislation has always targeted corruption in the public sector. On the other hand, the legislation and policy need to be backed and supported by strong institutional mechanisms, standards and processes. In this regard, this paper sounds out some possible solutions to addressing corruption in the business sector in Uganda as –

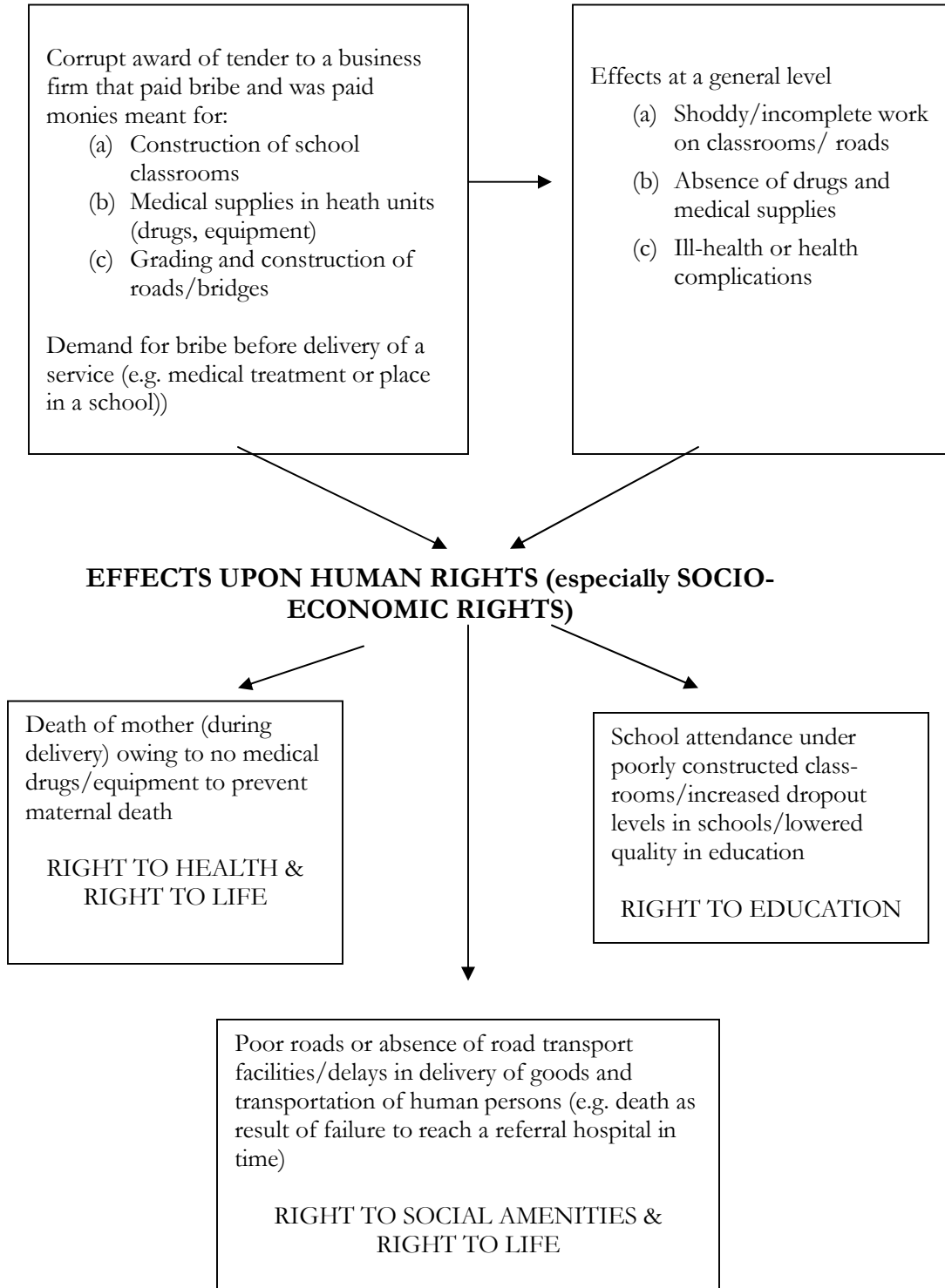
- (i) Strengthening and extending the law to address acts of bribery (and other forms of corruption) in the private sector.
- (ii) Streamlining taxes in the tax policy and legislation which is to be buttressed by stringent accounting and audit procedures for both business firms and tax authorities (URA)
- (iii) Privatisation and outsourcing provision for public goods and services (e.g. licensing, permissions, utilities). This removes the tendency for bureaucratic extortion and delays. The instance of vehicle licensing by DFCU is in the right direction.
- (iv) Developing codes of conduct for private sector in which the bulk of business enterprise falls.
- (v) Self-regulation and anti-corruption initiatives from business sector that encourage good corporate governance, including collecting and dissemination information about corrupt firms/businesses; developing guidelines and standards for the provision of services; increment of individual business firm commitment to zero or no-bribery; and recognition of business entities making efforts to resist and punish corrupt practices
- (vi) Empowering civil society to monitor and scrutinise business firms that seek and undertake to provide goods and services.

5 Some broad conclusions

This paper is intended to invoke discussion on corruption in the business sector in Uganda and how to address the problem and its consequences. It recognises that bribery is the foremost form of corruption that manifests in business life (mainly to win government favours or to cut through red tape or avoid statutory obligations, such as taxes). The paper determines that corruption in the business sector does harm not only business ethics and enterprise but also negatively impacts on service delivery to society. The paper proposes

certain possible solutions to the problem of corruption in the business life beyond traditional measures of legislation to encompass initiatives from the private sector itself.

Chart 1: Consequences of corruption upon availability of services in communities and the overall impact on socio-economic rights



Annex 3

KEYNOTE PRESENTATION 2

Power Point Presentation

Ethics and Transparency in International Business: Why it Matters.

*Mr. Dag Sanne
Norwegian Business Expert*

Agenda

- *Background*
- *What is my definition of CSR?*
- *CSR in Norway*
- *CSR and corruption*
- *No conflict between high ethics and good business*
- *Don't be afraid of discussing dilemmas*

Background

- *IBM*
- *CSR Network*
- *Practical projects*

What is my definition of CSR?

- *Economic responsibility*
- *Ecological responsibility*
- *Social responsibility*

Kofi Annan: "We don't ask the companies to do other things, but to do them differently."

CSR in Norway

Natural part of day to day business

- *Surveillance still needed*
 - *Special police force*
 - *Industry guidance*
 - *Media*
 - *NGOs*
 - *Employees*

- *Severe actions*
- *Natural demand for transparency*

CSR and corruption

- *CSR must be based on high ethics and trust. Trust will be ruined by corruption.*
 - Internally
 - Vis a vis your customer
 - Vis a vis the authorities
 - Vis a vis all other stakeholders

No conflict between high ethics and good business

- *Example from IBM:*
 - Account managers
 - New Business marketing

Don't be afraid of discussing dilemmas; they will always be there!

- *Openness means strength!*
- *Set yourself goals and start the process*

Annex 4

Power-Point Presentation on

The Business Principles for Countering Bribery

Ms Gro Skareen-Fystro

TI-Norway

Overview

- What is the Business Principles?
- Why it matters
- How to apply the BPs
- Dilemmas are here to stay

What is the Business Principles?

- BP is a practical tool for countering bribery in business life
- A set of principles formulated by TI in consultation with a large number of companies – business people with hands-on experience

Purpose of BP

- To enhance corporate governance and ethical behaviour in relation to combating bribery and corruption in business life.

Scope of BP

- Bribery, not wider forms of corruption
- Bribery wherever it happens including private-to-private
- May be used by enterprises of all sizes.
- International and domestic

Definition of bribery

- An offer or receipt of any gift, loan, fee, reward or other advantage to or from any person as an inducement to do something which is dishonest, illegal or a breach of trust, in the conduct of the company's business

Specific forms of bribery (described in the BP document)

- Political contributions; not to gain contracts; fully disclosed
- Charitable contributions; not used for bribery; fully disclosed
- Facilitation payments; they are bribes; work to eliminate
- Gifts hospitality and expenses; clear guidelines for giving and receiving

The Business Principles state that:

- The enterprise shall prohibit bribery in any form whether direct or indirect
- The enterprise shall commit to implementation of a Programme to counter bribery

The principles

- Maintain high standards for preventing and combating bribery
- Prohibit bribery in any form
- Create and maintain a trust-based internal culture in which bribery and corruption are not tolerated
- Openly communicate details of anti-corruption efforts under way thus building support
- Develop and implement programme to achieve aims of principles

The programme

- Publish clear anti-bribery policies
- Implement and monitor adherence to these policies
- Implement sanctions in case of non-adherence
- Publish good and bad results
- Conduct outreach programmes to local business and NGOs.
- Lobby governments to improve standards
- Work with industry competitors to level playing field.

Why it matters

- Bribery is a major challenge for corporate governance, ethics and transparency. It undermines good governance and harms the private sector.

The international legal framework

- UN Anti-Corruption Convention
- African Union Convention on Preventing and Combating Corruption
- Inter-American Convention Against Corruption
- OECD: Anti-bribery Convention
- EU/Council of Europe Conventions
- African Union Convention on Preventing and Combating Corruption
- Concerned with the negative effects of corruption and impunity on the political, economic, social and cultural stability of African States and its devastating effects on the economic and social development of African peoples.

How bribery harms the private sector (directly)

- Loss of trust in business
- Significance in transition and developing economies
- Reputational and business risk

How bribery harms the private sector (indirectly)

- Bribery undermines good governance.
- It fundamentally distorts public policy.
- It leads to the misallocation of resources.
- It harms the private and public sector development.
- It particularly hurts the poor.

Doing well by doing good

- Corporate governance and anti-bribery measures serve business-interests well.
- A code of conduct based on the Business Principles strengthens a culture of integrity and transparency within your own company.
- Good performance in anti-bribery practice contribute to the global standards.
- A good reputation make you more attractive as business partner both nationally and internationally.

Corruption Perception Index (CPI)

- It ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians.
- The 2005 CPI ranks 159 countries.
- Uganda is ranked at 117.
- It is a composite index, drawing on a number of polls and surveys from independent institutions carried out among business people, the general public and country analysts.

How to apply the Business Principles?

- Determine responsibilities within your own company
- Apply the programme in all business relationships
- Human Resources
- Training
- Raising concerns and seeking guidance
- Communication
- Internal controls and audit
- Monitoring and review

Six step process for applying the Business Principles

- Decide on a no-bribes policy and on implementing a programme
- Plan the implementation
- Develop the programme content
- Implement the programme
- Monitor
- Evaluate the programme

Dilemmas are here to stay

- A code of conduct based on the Business Principles is necessary, but not sufficient.
- Creating a culture of integrity and transparency is a long term project.
- Management has a particular responsibility in demonstrating by example the values reflected in the code of conduct. How they tackle dilemmas will be observed, and copied by staff.
- Individual staff members will meet situations and face dilemmas where they need to use their good judgement. The business culture forms the outcome.

Fighting bribery works

- Lesotho Highland Water Project – and Lessons learnt
- Prosecuting international companies engaged in bribery is possible
- Legal aspects of corruption have been thoroughly tested.
- Both sides of a bribery are equally held accountable (briber and bribe taker)
- World Bank debarment of a major international companies

Annex 5

GROUP WORK DISCUSSION EXERCISES

Ethical dilemma

Instructions:

Discuss each question and be ready to respond on behalf of your group in the plenary session afterwards. Designate a spokesperson for your group

Where do you draw the line?

1. Your company is eager to get a major contract worth a million dollars for a government road construction contract. If you don't get this contract you are out of business, and all your staff will be unemployed. You know however, that you can overcome the last hurdles of red-tape and getting the contract signed if you pay a "fee" of some 50.000 dollars to the Ministry. That way you will also secure employment for your staff for the next 5 years. Do you go for it?
2. You are a businessman and politician, and you need to raise funds for your election campaign. Business is going well, and you meet contractual agreement with customers - but at a lesser quality than the costs involved. That way you save money for your political campaign. Is it acceptable?
3. You are negotiating a major contract with a potential business-partner – a contract that will determine the existence of your company for the next three years. However, the negotiations are at a standstill, due to some differences. One day you receive an invitation to the wedding of that business-associate's daughter. The wedding that includes a series of pleasurable events over a long-weekend is paid for by the host including accommodation. Do you accept the invitation?
4. You are invited to a dinner by a business-associate with whom you have a major contract. Should you go?
5. You accept the dinner and move on to a nightclub later on. Is it OK that your business-associate pays also for that?
6. What about an invitation to staying at your contract-partners vacation house in Zanzibar? You can bring your spouse at their expense. Do you accept the invitation?
7. Do you always accept gifts/favours from business-associates? What about three bottles of good wine ...
 - In the midst of negotiating a contract?
 - For Christmas?

8. You sign a larger contract, and the contractor gives you the pen to thank you for the signing of the contract. You realize that the pen is worth some USD 200. Is that acceptable?
9. You sign a larger contract, and the contractor gives you the pen to thank you for the signing of the contract. You realize that the pen is worth some USD 200. Is that acceptable?
10. You are considering two tenders for refurbishing your company's offices. When comparing all aspects of the tender, you find that the two are equally attractive, except on one point. One of the firms offers to renovate the kitchen in your own apartment for free. Which firm do you go for?

Towards a policy on business ethics

11. In relationship with business-associates, partners and customers, where do you draw the line between business and pleasure – any general rules?
12. That is an acceptable level of gift or hospitality? Should there be a fixed sum for all types of gifts/services/favours?
13. Should the rules apply to all regardless of the unit they work in and rank?
14. What should be done when refusal of a gift or hospitality would cause offence?
15. Should the rules apply regardless of the country you operate in?

Annex 6

WORKSHOP PROGRAMME

TIME	ACTIVITY	RESPONSIBLE PERSON
08.00am-08.30am	Arrival and Registration of Participants	TI-Uganda Administrator
08.30am-08.45am	Welcome Remarks	Mr. Charles Mubbale, National Program Manager, TI Uganda
08.45am-09.15am	Introduction, orientation of participants to the process and content objectives of the workshop	Facilitator, Mr. Jan Borgen
09.15am-10.00am	Key Note Address The Problem of Corruption in Ugandan Business Life: Consequences and Possible Solutions	An expert on issues of Business Ethics and Integrity in Uganda Dr. Henry Onoria
10.00am-10.45am	Key Note Address Ethics and Transparency in International Business. Why it Matters.	High level representative from Norwegian business Community, Mr. Dag Sanne
10.45am-11.00am	Tea/Coffee Break	All Participants
11.00am-12.15pm	The Business Principles for Countering Bribery	Facilitator, Ms. Gro Skaaren-Fystro
12.15pm-01.30pm	Lunch	All Participants
01.30pm-02.30pm	Working groups on ethical dilemmas facing the private sector and recommendations	Facilitator: Jan Borgen All
02.30pm-03.15pm	Plenary report back by the groups	Group Representatives
03.15pm-03.30pm	Conclusions and the way forward	All Participants
03.30pm-04.00pm	Summing up and closing Remarks	Mr. Charles Mubbale and TI Board Chairman
04.00pm	Closure and Departure	All

Annex 7

LIST OF PARTICIPANTS

1. Mr. James Njoroge, AAR Health Services Uganda Ltd
2. Ms Suzan Bukenya, UMEME
3. Mr. Charles Kitasimbwa, Nsambya Hospital
4. Mr. Erasmus Musisi Mugerwa, Mengo Hospital
5. Mr. Joseph Baliddawa, Price Water Cooper House
6. Mr. Stephen Mondo, Private Sector Foundation of Uganda
7. Ms. Jullie Solberg, The Green Planet Group
8. Mr. Sujay Chowdlory, The Green Planet Group
9. Mr. Lawrence Rugumambaju, Norplan Uganda Ltd
10. Ms Mary Mabweijano, Embassy of Norway
11. Mr. Karl Skaar, UNOPHOWE/UNOCREDIT Uganda Ltd
(Norwegian Firm)
12. Ms Rene Mwanji, Community Resource Development Initiatives
(CRDI)
13. Mr. Joseph Ntiro, Uganda Rural Development and Training Program
14. Mr. John Byamukama, ULA
15. Mr. Alex Akona, Uganda Coalition for Sustainable Development
(UCSD)
16. Mr. Samuel Musiime, UNCCI
17. Mr. Deus Bajurizi, Special Police Branch Kololo
18. Mr. Abel Atwine, Uganda Human Rights Commission
19. Mr. Rwakabake Geoffrey, Anticorruption Coalition of Uganda
20. Ms Muyomba Lillian, Anticorruption Coalition of Uganda
21. Mr. Fred Lakidi, Northern Uganda Anticorruption Coalition
22. Mr. Waidha Moses, International Anticorruption Theatre Movement
23. Ms Oliver Alowo, Uganda Debt Network

24. Prof. Foster Byarugaba, Faculty of Social Sciences, Makerere University
25. Ms Dominic Baru, Inspectorate of Government
26. Mr. Japhes Biimbwa Mukiibi, Danish Association for International Cooperation (MS Uganda)
27. Ms Monica Agena, Student
28. Mr. Elwatu Francis Moses
29. Mr. Paul Kiwuuwa, The New Vision newspaper
30. Mr. Robert Ssempala, Radio Sapienta
31. Mr. Emma Masumbuko, The Daily Monitor newspaper
32. Ms Marion Alina, WBS Television
33. Mr. Wilfred Sanya, The New Vision Newspaper
34. Mr. Mubarak Ssesanga, Uganda Broadcasting Corporation (Radio)
35. Mr. Caesar Mukasa, KFM Radio

Special Guest

Her Excellency the Ambassador of the Royal Embassy of Norway,
Ms Bjorg Leite

Resource Persons

1. Ms Gro Skaaren-Fystro, TI Norway
2. Mr. Jan Borgen, TI Norway
3. Mr. Dag Sanne, Norwegian Business Expert
4. Dr. Henry Onoria, Makerere University

TI-Uganda Staff

1. Mr. Charles Mubbale
2. Mr. Paul Onapa
3. Ms Diana Aletiru
4. Mr. Abdu-Fatah Wadriff
5. Ms Barbara Nambi