AUSTRALIA'S TRADE AND INVESTMENT RELATIONSHIPS WITH THE COUNTRIES OF AFRICA

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I am making this submission in three capacities: [1] as the former Australian High Commissioner to Zambia and Malawi and Ambassador to Angola; [2] as a professional development expert with more than thirty years of working in and on African topics and [3] as someone who spends my days thinking about peace and development and working with the six African PhD students at UNE who have come to Australia to study how to build peace amidst violence and corruption. Most civil wars in Africa are about access to resources, especially mineral resources, and even when violent conflict does not ensue, the corruption associated with the extractive industries and the negotiation of disadvantageous terms of trade denies the mass of the citizens a fair share in the wealth of their countries, which could fund the education, health and transport infrastructure which they so desperately need.

In 2011 the Joint Standing Committee on Foreign Affairs, Defence and Trade (henceforth the 2011 Committee) issued its report on the Inquiry into Australia's Relationship with the Countries of Africa. Although that Inquiry's Terms of Reference were broader than those of the current Committee, most of their recommendations are still relevant and valuable and should be reviewed by this Committee in formulating their recommendations. Given the limited attention which Africa receives from our Federal Parliament, it is especially important that lessons learnt earlier should not be forgotten. As an academic, my support for Recommendation 10 to establish a Centre for African Studies (CAS) may well appear self-interested, but such a Centre could be of significant assistance in promoting Australian understanding of Africa, strengthening trade and investment relationships and assisting small to medium companies understand the African context.

This submission specifically addresses Terms of Reference [f] and [g] referring to the role of Australian based companies in contributing to development.

Without peace in any African country, there is unlikely to be much in the way of development, especially for the ordinary people at the grass-roots level. One core principle of development is at a minimum to 'Do no harm' through any intervention. The same principle should apply to mining and oil companies. Like the tango, corruption requires two participants: the party who accepts the bribe and the party who pays. Consider the contrast between peaceful Botswana with a per capita gross national income (GNI) of $16,380 in purchasing power dollars (PPP$) and a life expectancy of 65 years and Sierra Leone with a per capita GNI of $1,320 PPP$ and a sadly short life expectancy of just 51 years. Both countries are major diamond producers, but Botswana has had honest governments which have shared the wealth and Sierra Leone has not.

The rest of this submission focuses on to the inter-related topics of the Extractive Industries Transparency Initiative [EITI] and 'Publish what you pay" {PWYP]. EITI has become the global standard for transparency in extractive sectors. Initially designed as a voluntary process of extractive sector revenue disclosure for payments between companies and governments, the EITI has evolved into a broader instrument aiming to improve transparency and accountability along the whole natural resources value chain, including corporate beneficiary ownership. The premise behind the PWYP campaign is a very simple one, if mining companies make public what they pay to governments in the form of mining royalties, land rents, taxes etc. then the people can ask their governments where that money is going and stem corruption. Recent experience shows that companies also need to make public information on share swaps and other deals with companies owned and/or controlled by national politicians, government officials and their patrons.

To take the case of Nigeria, which in 2010 became compliant with EITI standards, her experience shows that the benefits extend well beyond the production and dissemination of revenue reports useful as they are to civil society. "Building democratic processes and public trust around a sector with a reputation for deep, institutionalised corruption may well take Nigeria many more years, but NEITI has succeeded in taking the first bold steps to deliver meaningful improvements that translate accounting into *accountability"*(Nigeria EITI: Making transparency count, uncovering billions- www.eiti.org). Nigeria has not achieved miracles through NEITI, but it has moved rapidly up from 177th out of 178 on Transparency International's Corruption Perception Index to 134th.

The 2011 Committee made three recommendations (13, 14 and 15) relating to EITI and corporate social responsibility policies. The ensuing government supported establishment of the Centre for Social Responsibility in Mining at the University of Queensland has been an excellent initiative and has led to some first class research work of direct practical utility.

On May 6th 2016 the Australian Government announced that it would implement the fiscal transparency principles of the EITI following a pilot conducted from 2011 to 2014. The Multi-Stakeholder Group Report to Government on the EITI was published in May 2015 and sets out why EITI is so important in developed and developing countries alike. By 2016 Australia had already contributed more than $20 million in global funding to the EITI to support increased transparency in developing countries. Australia is setting a good example at home, although a changing political landscape means that support for EITI is less vibrant than it used to be. Apart from full national EITI compliance and widespread publicity for the results, what remains is for Australian companies to assist in transparency in Africa through PWYP initiatives and refusing to be caught up in corrupt practices on that continent. Special dealings with companies belonging to relatives of the President dishonestly take benefits away from the people and constitute an interference in the politics of the country which may prop up a dictatorial regime or lead to its demise (together with the end of the deal and the exposure of the payer as well as the payee).

The significantly increased and allocated funding since 2016 for the Australian Federal Police to deal with corruption overseas is to be welcomed. There are clearly a number of areas where Australian law in this area needs to be changed to match the realities of bribery overseas which may, for example, include those standing for office as well as those already holding office (see Phillip Hoskin Forensic Blog for KordaMentha May 26 2017). Often United Kingdom legislation will provide pointers to appropriate reforms needing to be implemented in Australia. There is also the question as to whether Australia should adopt some form of 'deferred prosecution' to encourage companies to display greater honesty, especially in reporting corrupt behaviour by associates and subsidiaries. Often, in highly corrupt contexts, publicity may indeed be the best disinfectant.

Just this week (August 15th 2017) we have seen from the case of Perth based Iluka Resources and Sierra Leone ('Iluka Resources caught up in African bribery scandal', Nick McKenzie and Richard Baker, Sydney Morning Herald) just how politically powerful mining interests are in Africa – indeed they may well decide who is to be the next President of Sierra Leone. It should be noted with appreciation that Iluka is the organisation which has acted to reveal the corruption in this case and to knock back benefits which may have been corruptly secured.

In this kind of context, especially given Australia's extremely limited diplomatic resources in Africa (as discussed by the 2011 Committee), it is unrealistic to expect the Department of Foreign Affairs and Trade to provide better informed support for the larger mining companies, which have excellent resources and contacts of their own. What is needed, and would be more practicable, is backing and reinforcement for the many small Australian mining and extractive industry support companies which are involved in Africa to improve their social and environmental impacts there. This is where a national African Studies Centre could play a valuable role in providing models and short term training on how to improve their impact in country whilst remaining within their budgets.

FOOTNOTE

As a footnote, the brain drain may well not be considered under TOR (a) existing trade and investment relationships. However the reality is that where African countries train doctors, nurses, teachers and other professional and highly skilled workers who then migrate to work in Australia, these African countries are providing a direct benefit to Australia which is only partially recompensed by subsequent remittances to the home country. For the benefit of both sides of this exchange, Australia should do more work with the African diaspora to facilitate and increase substantive linkages between the two continents. Africans are often the best experts on Africa, especially when it comes to understanding corrupt practices and how to circumvent them so as to benefit the population at large rather than the bloated politicians and their cronies/