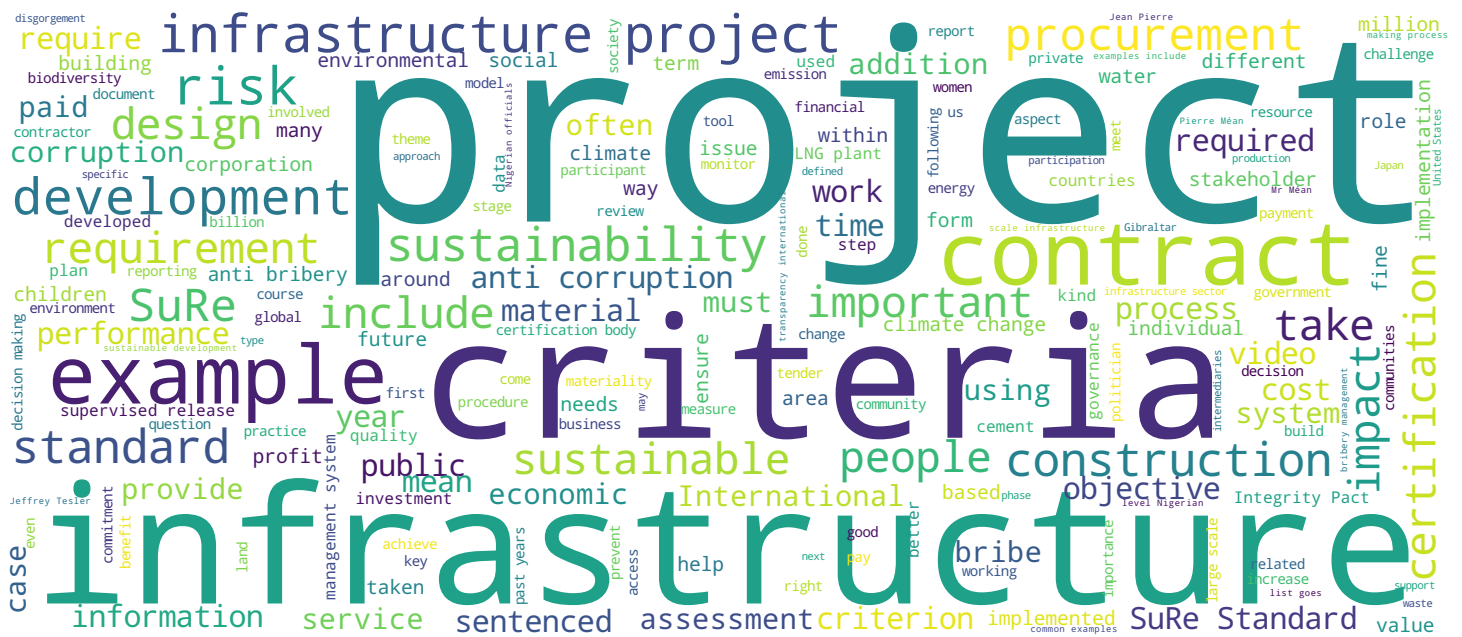




Corruption in Large Infrastructure Projects

Building expertise on sustainable and resilient infrastructure

Louis Downing & Jean-Pierre Méan



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Introduction



Hello, I'm Louis Downing. In this video, we will take a look at one of the issues covered by the Shore Standard, anti-corruption and transparency. The infrastructure sector is badly fraught with examples of corruption, both on large and small scales. The large sums of money changing hands, and the sheer complexity of many projects, means that there are many, many avenues that corruption can go unnoticed. A few common examples include price fixing during tendering, bribery to win the contract or subcontracts, corruption in the negotiation of contracts, where senior government officials may grant concessions or contracts in exchange for a future kickback. This might take the form of future consulting fees for doing very little, for example. False invoicing, where a contractor may procure inferior supplies to those invoiced, or simply procure less than stated. This is a practice that has often resulted in structural deficiencies, and is most likely behind some of the recent high-profile and tragic infrastructure failures that have resulted in the loss of hundreds of lives. Other common examples include, so-called facilitation payment for various permits, overstatement of profit or performance with the objective of securing higher bonus payments.

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The list goes on. We are joined today by an internationally renowned anti-corruption expert, Mr. Jean-Pierre Méan. Mr. Méan has been involved in establishing anti-bribery management systems in multinational corporations, and was first Chief Compliance Officer of the European Bank for Reconstruction and Development. He helped to develop the business principles for countering bribery issued under the ages of transparency international and is a member of the Commission on Corporate responsibility for anti-corruption of the International Chamber of Commerce. The list goes on. Mr. Méan shared his thoughts with us regarding corruption in the infrastructure sector, and this is what he said. My name is Jean-Pierre Méan. I am a lawyer. I've been involved in anti-corruption for the past 20 years. That's the preventive side of corruption, how to prevent corruption, and to detect it before it happens. Large infrastructure projects are particularly prone to corruption because there is a large amount of money involved and because the financial structure of projects is not very transparent, there is no market price for a project, so it is easy to include bribe payments in the expenses of the project.

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1m 31s



Marubeni



- Consultants hired : Marubeni Corp. and Jeffrey Tesler
- Contracts obtained : \$ 6 billion
- Bribes paid : \$ 182 mio approx. 3%

In addition, the decision-making process is such that often in this project, most of the time, actually, decision, they need to be taken by politicians, and in many countries, a politician are quite receptive to bribes. As an example of a large-scale infrastructure project, I've taken the Bonny Island, LNG plant in Nigeria. An LNG plant is a plant for the production of liquid natural gas. It is a project which implies an investment of over \$6 billion in different stages. The companies that were interested in doing the engineering of the plant hired consultants, they hired two consultants, Marubeni Corporation, a global trading corporation of Japan, and Jeffrey Tesler, a British lawyer based in Gibraltar. From the 6 billion investment of the project, about \$182 million were paid in bribe. That's about 3% of the total worth of the project.

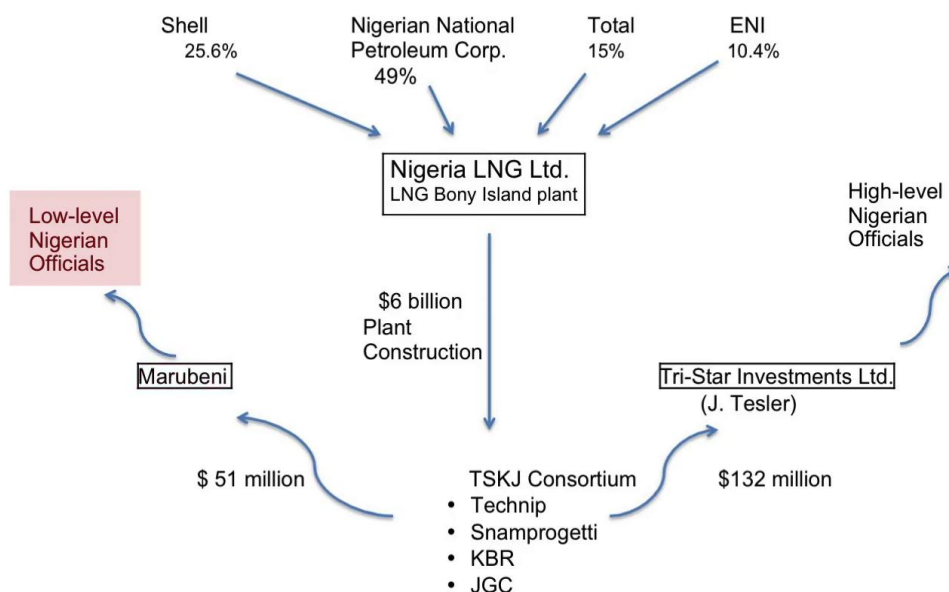
Notes

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3m 09s

Bribery Channels



JPM / UNIGE07/10/16

Here is a sketch of the channels to which the bribes were paid. In the centre is the company owning the LNG plant, Nigeria LNG Limited, owned by Shell, Total, Eni, Shell of the Netherlands, Total of France, Eni of Italy, and 49% by Nigerian National Petroleum Corporation, which is a government-owned Nigerian company. From the payments received by the engineering firms involved in the project, Technip of France, now project of Italy, KBR of the United States, JJC of Japan, they'd formed the TSKJ consortium. \$132 million were paid through a company owned by Jeffrey Tresler in Gibraltar to high-level Nigerian officials. \$51 million were paid through Marubeni to low-level Nigerian officials.

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4m 35s

Corporations sentenced



	USD (million)	
	Fine	Disgorgement
KBR	402	177
Snam Progetti	240	125
JGC	218	
Marubeni	54	
Total	1154	400
Grand total Corporations:		<u>USD 1554 Million</u>

The corruption scheme flew up, and individuals and corporations were sentenced for their participation in the scheme. The individuals sentenced were Albert Stanley, a KBR executive, who was sentenced to 30-month imprisonment plus three-year supervised release, and who had to forfeit \$10.8 million that he had benefited from the scheme. Jeffrey Tesler, a consultant, was sentenced to 20-month imprisonment plus two-year supervised release, had to pay a modest fine of \$25,000, but had to forfeit the incredible amount of \$149 million. Finally, Wojciech Chodan, who was a Vice President of M.W. Kellogg Limited, was sentenced to one year of supervised release, and fine of \$20,000, and forfeiture of \$726,000. His role was rather modest in the case. In addition to the sentences imposed on individuals, the corporations that implemented the corruption schemes were also sentenced. Here is a table showing the amount paid in fines, and in disgorgement of profit by the five partners. The grand total is 1.554 billion. These fines and disgorgement of profit are ranked among the 10 highest paid ever.

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5m 45s





- Public tendering and procurement rules
- Anti-corruption clause in contracts
- Participants to implement anti-bribery measures, e.g. ISO 37001
- Disclosure of intermediaries
 - Due diligence
 - Payments
- Appoint monitor for the project

In addition to this, the corporation also had to retain a corporate compliance consultant for 2-3 years to review the design and the implementation of a compliance program, to enhance the compliance program, and to ensure that the programme satisfied certain standards, and also they had to cooperate with the Department of Justice in the United States in ongoing investigations. How do we prevent, how do we fight corruption in large-scale infrastructure projects? There are different tools which can be used. First of all, the public tendering process and the procurement rules, that should be shaped so as to guarantee the highest level of impartiality, and to prevent the involvement of private parties in the decision-making process. There is an anti-corruption clause which should be included in contracts with the participants in the project. One could require the participants to implement anti-bribery measures. For example, the new ISO standard 37001 on anti-bribery management systems which builds on best practices developed in the past 10 years. The disclosure of intermediaries should be required.

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7m 31s

Transparency International integrity pacts

- Pact among Project participants
- Commitment to transparency
- Monitor
- 300 in 15 countries



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The due diligence process should be very strict, and the payments made through intermediaries should also be disclosed to make sure that these payments are reasonable payments for their work, and do not include the margin for the payment of bribes. Finally, you can appoint a monitor for the project that will, for example, take an act on suspicions of corruption and follow up and investigate. Transparency International has developed its own tool called Integrity Pact. This is a pact among project participants, that includes a commitment to transparency, and a commitment not to pay any bribes in any shape or form. It also includes the appointment of a monitor, who will closely watch over the implementation of the Integrity Pact. To date, about 300 projects have implemented an Integrity Pact in 15 countries, and one of these projects is the Riga trans project in Latvia.

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