THE POWER AND THE VAINGLORY:
Anatomy of a $100 Million Malaysian IPP in Tanzania

*Brian COOKSEY**

Forty years ago, Malaysia had a more or less similar economic development profile to most of sub-Saharan Africa. Since then, Malaysia has risen to "middle income" status in the international pecking-order, radically reducing poverty in the process, while sub-Saharan Africa remains the poorest, least developed continent in the world. Corruption helps explain why. This chapter describes a Malaysian investment that may bleed Tanzania of hundreds of millions of dollars in bloated payments for electricity that the country neither needs nor can afford.

Tanzania is not in the same class as Nigeria, Congo (former Zaïre) or Kenya as regards *political* corruption, but *grand* corruption in government is all too common. Major bribery in contracting and procurement, plus systematic petty corruption among government officials, constitute serious obstacles to foreign investment, economic growth, and social equity as well as undermining political legitimacy. Moreover, the complexity and unpredictability of the state bureaucracy make bribery an often self-defeating practice.

Foreign direct investment into Tanzania was virtually non-existent from the late nineteen-seventies to the late nineties. Most social and economic infrastructure was built with loans and grants from aid agencies. One would imagine, therefore, that a multi-million dollar investment in private power generation would be a most welcome addition to Tanzania's economic infrastructure. One would be wrong. As it stands, Tanzanian electricity consumers, taxpayers and donor agencies will be lining the pockets of Malaysian investors through corruptly earned rents for the next twenty years.

How this project was hatched, resisted, and eventually commissioned is the subject of this chapter.

Table 1: Chronology Of Main Events

Date	*Event*
1994	Drought leads to power shortages as hydro catchment areas run dry. State power utility Tanesco invites emergency solutions, eventually settling for two turbines financed by foreign aid.
1994	Joint venture set up between Mechmar Corporation of Malaysia (70%) and VIPEM of Tanzania (30%) known as Independent Power Tanzania Ltd (IPTL)
August 1994	IPTL sign a Memorandum of Understanding to provide electricity under an Independent Power Project arrangement as a 'fast track' measure, but a 'medium to long term solution' is proposed in November.
Nov 1994 – June 1995	IPTL starts negotiations with Tanesco through KTA Tenaga Sdn Bhd (Malaysia-engineering), Fieldstone Private Capital Group (USA-finance), and Long and Co. and Clyde and Co. (UK-legal affairs)
May - June 1995	IPTL and Tanesco sign a 20 year Power Purchasing Agreement (PPA) to build and run a 100 megawatt slow-speed diesel (SSD) power plant at Tegeta, Dar es Salaam at a cost of $163.5 million, including an Engineering Procurement and Construction contract (EPC) price of $126.39, and with a 'reference tariff' of $4.2 million per month plus 3.25 US cents per kWh of electricity actually produced. The final tariff

	will depend on actual costs incurred.
February 1995 - January 1996	Without informing Tanesco, IPTL negotiates with Wärtsila to build a cheaper medium-speed diesel (MSD) plant. Wärtsilä's EPC bid increases by 33%, from $85.7 million to $114.2 million, even though the scope of the project falls considerably.
February 1997	EPC contract signed.
May 1997	Mechmar/IPTL obtain $105 million loan from Sime Bank and Bank Bumiputra.
September 1997	Tanesco requests full documentation on actual costs incurred in order to negotiate final power purchase tariffs. IPTL produces the EPC at the end of February 1998.
April 1998	Tanesco issues Notice of Default to IPTL for unilateral substitution of MSD facility.
April-October 1998	Tanesco attempts unsuccessfully to negotiate a lower tariff reflecting the 'actual, verifiable and prudently incurred cost' to IPTL of building an MSD plant — as opposed to the contracted SSD plant.
November 1998	Tanesco requests arbitration before the International Centre for the Settlement of Investment Disputes (ICSID) after IPTL fails to justify cost structure and payments, including $6.4 million payments to Omni Technical Management Establishment and Prime Consolidated Establishment.
November 1999	IPTL takes Tanesco to court, claiming interim payments of $3.6 million a month. IPTL wins the case in March 1999, but execution of the ruling is stayed pending Tanesco's appeal.
May 2000	Two Tanzanian officials sign affidavits claiming they were offered bribes by IPTL director James Rugemalira. A third admits accepting a bribe.
February 2001	ISCID finds that IPTL was overpriced by $23.5 million but that the contract still stands since TANESCO was aware of the switch from SSD to MSD.
July 2001	Minister for Energy and Minerals announces that IPTL will start generating 100MW of electricity in October 2001, and that the SONGAS natural gas project will start in September.
January 15 2002	IPTL starts supplying power to the national grid for 13 US cents per unit.
March 1 2002	VIPEM petitions the Tanzanian High Court to wind up IPTL.

Dar es Salaam, 6 October 1997

Board members of the local chapter of Transparency International (TI) meet with Robert McNamara and Ahmedou Ould-Abdallah, respectively Co-Chairman and Executive Secretary of the Washington-based Global Coalition for Africa (GCA). GCA is a high-level policy forum linking African governments, their northern partners, and non-government groups working on African development issues. Michael Wiehen, former World Bank director and founder member of Transparency International, is the third member of the team. Their mission is to lobby selected African presidents, including Tanzania's Benjamin Mkapa, to endorse a major anti-corruption statement and a practical initiative in cleaning up public procurement championed by TI. Mkapa, who became Tanzania's third post-independence president in October 1995, ran on an anti-corruption ticket and in December 1996 published the report of the anti-corruption commission that he set up on coming to power.

The former Mauritanian diplomat and senior UN official, Ould-Abdallah, expresses surprise at the extent of official corruption in Tanzania and the apparent impunity of the corrupt. 'Even in my country, they would not have such an easy time of it!' he tells us with feeling. (People are questioning whether Mkapa has the power or the will to deal decisively with corruption, including those named in the commission's report. No senior official has been jailed for corruption to date).

It is McNamara's turn to speak. Already in his eighties, the former president of the Ford Motor Company, US Secretary of Defense during the Vietnam war, and president of the World Bank from 1968 to 1981, is still driven by an obsessive sense of personal mission.

'Have you people heard of this Malaysian power project?' he asks without ceremony. 'I saw things like this when I was President of the Bank! This stinks of grand corruption!' He stabs the air with his right index finger. 'I'm going to talk about this at the press conference tomorrow!' We agree to monitor the IPTL project and to keep GCA informed of developments. The same day I start to find out more about this 'Malaysian' power project.

About twenty-five journalists turn up at the press conference the following morning, including Nizar Fazal, bookkeeper turned investigative journalist, and fearless anti-corruption campaigner. McNamara fulminates about 'this power project' that will inflate electricity prices if it goes ahead, but stops short of naming IPTL. Fazal asks, somewhat tongue in cheek, whether the UN could not deploy a mobile military unit to help reinstate African presidents who are overthrown for attempting to fight corruption. McNamara replies that he does not think Tanzania has yet reached this point.

Dar es Salaam, 1994

Let us go back to 1994. The presidency of Ali Hassan Mwinyi, Tanzania's second post-independence leader, is coming to a close. In terms of fiscal management, Mwinyi's second term has been disastrous. Donor aid is frozen when a $200 million hole appears in an import support scheme plundered by private importers and public corporations in collusion with state-owned banks and government officials. Eventually, donor pressure obliges Mwinyi to sack the Minister of Finance, economics professor Kigoma Malima, who was at the centre of the scam and a related tax exemption racket.[1] Mwinyi's laissez-faire approach to governance has seen a quantum leap in levels of official corruption, fuelled by economic liberalisation that confers respectability on the formerly demonised, Asian dominated, private sector.

There is a long dry spell and the water level in Tanzania's main dam drops to crisis point. Hydro provides Tanzania with most of its power. Rationing begins. Industrial production slumps. The rich buy generators. Dar's shopping centre sounds like an industrial estate: every other *duka* has a noisy little generator spewing diesel fumes at passers-by. The government decides there is need for emergency power. A number of local businessmen come up with proposals to solve the crisis. Reginald John Nolan, an Irish businessman, proposes a 109 megawatt turbine manufactured by General Electric. Nolan's bid is based on a ludicrous tariff of 14 cents per unit of power, more than twice the current Tanzanian price and three or four times more expensive than electricity produced by modern diesel generators.

Nevertheless, Nolan's bid progresses well, with the support of some very senior politicians and a positive tender evaluation from Tom Gilette of Bankers Trust, New York. At the eleventh hour, World Bank Resident Representative Motoo Konishi rashly

[1] Malima died in London shortly after his dismissal.

writes a private note to Raphael Mollel, Principal Secretary at the Ministry of Water, Energy and Minerals, advising against Nolan's proposal. The note states that if the Nolan deal goes through, the Bank's reaction 'would not be pleasant.' Read: the World Bank would pull out of the energy sector, and other donors would probably follow. Mollel shows the note to the Permanent Secretaries in the Treasury and the Ministry of Planning, and to Chief Secretary Paul Rupia, and it soon reaches Tom Callahan, Director of African Affairs on the US Senate Foreign Relations Committee. Callahan promptly writes to Brady Anderson, the US Ambassador to Tanzania, accusing Konishi of libelling 'an American (*sic*) businessman[2] and casting doubt upon the integrity of Bankers Trust.' Though the World Bank stands up for Konishi, he is later sacked for his (as it turns out, successful) attempt to block the Nolan deal.[3]

Finally, the World Bank finances two turbines, adding 75 megawatts to the generating capacity of Tanesco, Tanzania's state-owned power utility.

A month before the Nolan negotiations begin, Malaysian company Mechmar and the Ministry of Energy and Minerals sign a Memorandum of Understanding (MOU) '[i]n the spirit of solving the power load shedding problem as soon as possible under the IPP concept, encouraging private participation and in furtherance of South-South co-operation…' Most MOU's do not lead to projects. This one — the first major private investment in Tanzania's energy sector — does. Nolan's bid fails, despite significant local support and international lobbying on his behalf. Where Nolan failed[4], IPTL — with an even more outrageous project proposal — succeeds.

Tanzania, 8 September 1997

There is another power crisis. Again, poor rains are blamed for the lack of water to run the hydro dams. Load shedding begins all over again. The power crisis goes on for months. Consumers are without power for up to five days a week. Usually hot and humid, Dar es Salaam swelters in its powerlessness. But the crisis is largely of the government's own making. While the dams are running dry, the four turbines[5] have been mostly idle. They are shut down from March to September 1996, through lack of cash to pay duty on the imported kerosene on which they run, and achieve only about 30% capacity utilisation from October 1996 to September 1997.

TANESCO is broke. Customers owe $55 million. The biggest sinners are government departments and parastatal companies, and the semi-autonomous island of Zanzibar. Lack of maintenance of existing plant further reduces the country's effective power generating capacity. Tanesco fails to respond to an offer from Finland to rehabilitate old diesel generators. While the Treasury refuses to waive the duty on fuel, it grants exemptions to an importer of cooking oil, leading local wags to speculate on whether the

---

[2] In his note to Mollel, Konishi mentions Nolan's 'dubious reputation.'

[3] Gilette also gets the sack. The integrity of Bankers Trust was subsequently put in doubt, inter alia, by The Economist (1995) for its 'deal-making culture'.

[4] In mid-2001, Nolan files for bankruptcy after another controversial investment – in shrimp farming – fails to take off.

[5] The two 'emergency' World Bank plus two existing Swedish-financed machines.

Ubungo turbines could be converted to run on cooking oil. Failure to fire up the turbines is the cause of the 1997 crisis, not the drought.

Conspiracy theorists in Dar es Salaam are convinced that this example of gross mismanagement is not accidental, but orchestrated by IPTL and its local supporters to sell their proposal to the public. Although the project was initially launched as a short-term solution to the 1994 power crisis, IPTL quietly drop this idea and instead negotiate a long-term investment in diesel generators. IPTL and government officials cite the ‘unmet demand’ for power and the consequent urgent need to increase generating capacity as reasons for completing IPTL without further delay. The 1997 drought ‘proves’ the dangers of relying on hydropower. But the addition of 75 megawatts at Ubungo (October 1995) and a further 180 megawatts from the donor-funded Kihansi hydro scheme that is soon to be commissioned are more than adequate to meet projected demand and avoid another power crisis. By the end of 1997, the hydro catchments are full again. In other words, IPTL amounts to excess capacity using one of the most expensive power generating technologies. But by now, politics is already firmly in control of power policy and the local technocrats and their foreign advisors are ignored.

Kuala Lumpur, 29 May 1997

IPTL is a joint venture between Mechmar Corporation (Malaysia) Bhd (70%) and VIPEM (30%). Mechmar’s largest shareholder HICOM (20%), is one of Malaysia’s largest industrial conglomerates. Mechmar, which is one of HICOM’s five listed associate companies, has a dozen subsidiaries of its own. IPTL becomes the thirteenth. Mechmar is a trading and marketing company. IPTL is its first big power project. Originally specialising in boilers and heaters, Mechmar branches out into men’s fashion wear (1990) and property development (1992). The company’s executive chairman is Tan Kean Wan. Datuk Baharuden Majid is Mechmar's managing director and Chairman of IPTL.

IPTL’s proposed power station is to be financed with a US$105 million ten year loan facility jointly organised by Sime Bank and Bank Bumiputra Malaysia Bhd (BBMB). The ‘lead managers’ are Sime International Bank (L) Ltd and BBMB Bhd International Bank (L) Ltd. Sime Bank Bhd of Singapore is the manager of the loan facility. Mechmar also issues RM88 million ($35 million then) worth of new shares to co-finance IPTL.

With a market capitalisation of $120 million, Mechmar records $37 million in engineering sales in 1996. At over $160 million, the Tanzanian investment is worth more than Mechmar itself.

After the loan signing ceremony, Tan tells a press conference that IPTL should turn over up to RM200 million in annual revenue (about US$80 million). The power station is expected to contribute more than 50 per cent of Mechmar’s profits from 1999 onwards (*New Straits Times*, 30 June 1997, p. 25).

IPTL's minority partner is VIPEMLtd, a Dar es Salaam company founded by the late Bakr Somji, a Muslim of the Ishnasheri (Shia) sect, and now run by his son Riaz. Itinerant businessman Anis Mamdani is said to be the brains behind VIPEM. Ahmed Daya is another director. VIPEM specialises in brokering deals between foreign companies and the Tanzanian government, sometimes financed by foreign aid. The company is heavily involved in the Tanzania Harbours Authority (THA), one of the country's richest and most corrupt public corporations.

IPTL's front man and 'fixer' is James Rugemalira, a former employee of the Bank of Tanzania (BOT). Rugemalira is a director of both VIPEM and IPTL. He is reportedly also the 'fixer' for Tritel, a company related to Mechmar and owned by tycoon Tajudin Ramli, a close associate of Daim Zainuddin, that enters the Tanzanian cell-phone market in 1998.

James Burchard Rugemalira is from Kagera in the North West of Tanzania. He obtained his first degree at the University of Dar es Salaam as a mature student. After an undistinguished career at the Bank of Tanzania, Rugemalira takes early retirement and enters the private sector. He is taken on board by VIPEM because of his contacts in BOT and the government. As an up-and-coming indigenous businessman, he is a prominent member of various business associations and official advisory committees, and sometimes travels with presidential delegations as a private sector representative.

Dar es Salaam, 10 October 1997

Jim McCardle is not happy. The World Bank is pressuring the government to sign off on Songas, a Canadian backed joint venture to develop Tanzania's huge reserves of natural gas, and the government is dragging its feet. The Bank is ready to lend Tanzania $200 million towards Songas' $350 million price tag. Songas, which McCardle manages, was conceived years before IPTL, yet no contract has been signed to date. The contrast with IPTL, which obtained government agreements, tax exemptions and other requirements in record time, is no accident. Without IPTL, Songas could have been up and running in time to help avoid the 1997 power crisis.

Songas plans to build a pipeline to Dar es Salaam to fuel the existing four turbines that are currently running on expensive kerosene. IPTL say they will happily convert to natural gas when it comes on stream, but this is disingenuous on their part.[6] Tanesco has a serious cash flow problem. If both IPTL and Songas are commissioned, Tanesco will be saddled with monthly bills for gas and electricity of $11 million that it could not possibly meet out of income from electricity sales.

McCardle admits that Songas seriously underestimated IPTL. 'Nolan was a joke. Nobody could take his project seriously. We thought nobody would take IPTL seriously either. We were wrong!'

[6] Conversion will cost $12-15 million.

When the cabinet hesitates to endorse IPTL because of the cost implications for electricity, James Rugemalira accuses the World Bank and Songas of mounting a joint conspiracy against him, with Patrick Rutabanzibwa, Permanent Secretary at the Ministry of Energy and Minerals, as their front man. At one point, he refers to Songas as 'the stillborn child of the World Bank' (February 1999). In a brilliant tactical move, the government announces final agrrements with IPTL and Songas on the same day, as related below.

Dar es Salaam, April 1998
Patrick Rutabanzibwa , briefs President Mkapa on IPTL. Like James Rugemalira, Rutabanzibwa is from Kagera, but there the similarity ends. Rutabanzibwa is from an aristocratic clan and is the son of a former ambassador. He studied in the US and the UK. He is a brilliant technocrat, dedicated to the development of Tanzania.

Rutabanzibwa was Commissioner for Energy when the IPTL project was first launched. He knows there is no need for extra generating capacity and that even if there was, IPTL would be the most expensive, rather than the 'least cost' provider. But he is surrounded by pro-IPTL lobbyists in Tanesco, his Ministry, and the government, who are constantly trying to undermine him. He knows that when investment projects are taken over by politicians, technocrats like himself are sidelined, and only wheeled out to endorse decisions, however crazy, that have already been made.

Rutabanzibwa tries to convince the President that IPTL 'is a disaster waiting to happen.' If the cost of IPTL is passed on to the consumer, Mkapa will not make many friends. Business and private consumers will face huge increases in electricity prices. Donors will be incensed. Their dismissive attitude towards IPTL is on record.[7]

On the other hand, many heavyweights in the party and cabinet are in favour of IPTL. They try to convince the President that Rutabanzibwa is in the pay of the Bank and Songas. There *will* be another power crisis if IPTL is not added to the national grid, they argue. What if the rains fail again? Demand for power is growing fast….

Rutabanzibwa puts his job on the line: 'I promise you, Mr President, there will be no more power cuts between now and the next elections. If I'm wrong, I will resign.'

Rutabanzibwa has made his calculations. The 'El Niño' rains have struck East Africa. The dams are full to overflowing. An extra 180 megawatts of donor-financed hydro will come on stream in less than a year. Tanesco's demand projections for electricity are way too high. The big mining companies are signing power supply agreements with Tanesco — and bringing in their own generators to run the mines.

Benjamin William Mkapa does not know what to do. He is caught in a hugely difficult bind. Malaysian Prime Minister Mahathir had buttonholed him at a recent meeting of Commonwealth heads of government in Edinburgh to ask why Mechmar's project was not progressing faster. Rugemalira is publicly challenging the government to put up or

[7] IPTL unsuccessfully approached the World Bank, CDC and others to back the project.

shut up, as IPTL's affairs become increasingly convoluted. Cancelling IPTL would look like capitulation to donor pressures, a point hammered home in the press by IPTL.

Events conspire to force Mkapa's hand. In December 1997, we learn that IPTL has ordered medium- — rather than slow-speed — engines. An 'independent' report commissioned by IPTL claims that Tanesco was consulted and agreed to the switch, a claim hotly denied by Tanesco's Managing Director Baruany Luhanga. IPTL dismiss references to slow-speed engines in the PPA as a 'typing error'. Moreover, IPTL stick to the original project cost of $163 million, and refuse to provide documentary evidence demonstrating that they exercised due diligence in developing their project . IPTL claim there was an open tender, but that the relevant documents are 'lost'.

The unauthorised switch from slow- to medium-speed engines , refusal to produce evidence of the actual project costs as a basis for calculating tariffs, and dams full to capacity, lead Rutabanzibwa to urge Mkapa to cancel the deal. Finally, reluctantly, he agrees to challenge the project costings.

Box 1: Press Release

When the Government approved the Power Purchase Agreement between IPTL and TANESCO in 1995, it did so based on the express understanding that prior to the commencement of commercial operations …, TANESCO and IPTL would negotiate a final tariff based on (1) actual, reasonable and verifiable capital costs incurred by IPTL …, (2) actual, reasonable and verifiable costs to operate the project, and (3) a fair return to IPTL's investors.

Without informing TANESCO, IPTL unilaterally decided to substitute medium-speed diesel engines for the slow-speed engines stipulated in the PPA. … on April 9, 1998, TANESCO issued a Notice of Default to IPTL…

[In] meetings held on April 14-16, 1998 … IPTL denied that there was a default, … and steadfastly refused to discuss any matters related to the tariff unless and until TANESCO withdrew its Notice of Default.

The Government will not … allow Tanzania's electricity consumers and the economy to be burdened with extraordinarily high electricity tariffs. … As it now stands under the PPA, electricity tariffs … will need to be increased by nearly 50 percent … by the end of 1998 to enable TANESCO to meet its financial commitments to IPTL. The price of electricity is likely to be even higher in 1999 and the subsequent years.

Source: State House, 22 April 1998 (excerpts).

Tanesco's Notice of Default is greeted with a mixture of jubilation and relief in the anti-IPTL camp. The International Monetary Fund's representative in Tanzania, Festus Osunsade, tells Reuters that 'the government's handling of [the IPTL deal] has been a critical factor in resuming the talks on the Enhanced Structural Adjustment Facility (ESAF). The ESAF review talks were suspended in March after the IMF expressed concern about the power-supply contract.' (*Daily Mail*, 20 April 1998)

Rugemalira seems to have seriously underestimated the impact IPTL's unilateral switching of engines would have on informed opinion, and his robust refusal to negotiate a reasonable tariff with Tanesco until the Notice of Default is withdrawn further undermines his credibility. His arrogance and apparent disdain for the government — the State House Press release says that 'IPTL should recognize that the Government represents a sovereign state, free to select internal and external experts, advisers and partners…' — infuriate Mkapa, giving him perhaps the emotional impetus to finally bite the IPTL bullet after months of vacillating. By the time Rugemalira adopts a more conciliatory negotiating strategy, the damage is already done. By 1999, the Ministry of Energy and Minerals is negotiating directly with Mechmar to find possible solutions to the impasse.

Dar es Salaam, 26 November 1998

After months of further wrangling and posturing, Rutabanzibwa persuades President Mkapa to go one step further and to refer the case for arbitration, as provided for in the PPA: 'The wrangle between Tanesco and IPTL took a new twist yesterday when the Government ordered both sides to take the issue to the International Centre for the Settlement of Investment Disputes for arbitration.'(*The African*, 27 November 1998)

This is a further blow for IPTL. Such cases may take years to settle. IPTL should have been commissioned in the second half of 1998. In a witness statement dated 8 May 2000, Rugemalira admits that after the 1997 rains, there was no longer any need for IPTL power: 'The El-Nino rains that followed in December 1997 and changed the deficient hydropower energy supply scenario that had persisted since 1993 should not be allowed to penalize IPTL for relying on previous Government commitments and assurances and proceeding to build the Plant to completion under the PPA….'

In his favour, of course, is the government's agreement to proceed with IPTL. Caveat emptor!

Tendering Without Due Diligence

IPTL's investment consisted of ten state-of-the-art medium speed diesel generators, manufactured in the Netherlands by Wärtsilä, a Finnish company with a global reputation for quality engineering.

There were problems, though. First, the PPA signed in 1995 specified slow-, not medium-speed generators, as explained above. Second, what IPTL claim to have paid for the plant and its installation was arguably anything up to twice its actual cost.

There is nothing wrong with MSD generators, if oil-fuelled generators are the least cost choice. But there was never any attempt to establish which generators were the most appropriate in terms of construction and running costs, efficiency and expected life span.

Typically, medium speed generators are significantly cheaper to build and install than slow speed. On the other hand, they are more costly to maintain and have a shorter working life. Although there are many companies that manufacture both types of generators, IPTL negotiated seriously with only two: Wärtsilä of Finland, who eventually got the contract, and Hyundai from South Korea.

In October 1994, Hyundai had proposed IPTL an Engineering Procurement and Construction (EPC) cost of $99.7 million for five slow speed engines, and $109.3 million including provisional items (a jetty, fuel storage and other items). In November, they also submitted an alternative proposal for eight medium speed engines at a turnkey price of $91 million, excluding provisional items. Estimating provisional items at $12.69 million, in November 1994, IPTL proposed Tanesco a SSD plant for $112.4 million.

On 19 October 1994, Wärtsilä proposed 11 MSD generators to produce 116 MW for $53 million, including auxiliary equipment. On 15 February 1995, Wärtsilä submitted an EPC bid for a 10 x 10 MSD plant at a turnkey price of $85.7 million. According to Tanesco's submission to the ICSID (January 2000: 39): 'Curiously, during the course of the procurement process for the EPC contract under IPTL's stewardship,[8] the project narrowed in scope while the bid prices, particularly that of Wärtsilä, increased.'

Gone from the EPC was a jetty ($5 million), the number of housing units to be built ($7.6 million) was reduced from 37 to 6, with no corresponding adjustment in the EPC price. More important, Wärtsilä's turnkey bid increased by a third, from $85.7 million in February 1995 to $114.2 million in January 1996.

Table 2: Price Increases In Wärtsilä's EPC Bid (US$ million)[9]

Cost item	*February 1995*	*January 1996*
Diesel engine generators and auxiliary systems	51.7	60.4
Main Fuel Oil & Standby Fuel Oil Storage Tanks and Handling System	3.6	5.7
Civil Works	5.6	10.0
Housing	3.2	7.6
Total	64.1	83.7

The original housing bid was for 37 units. This was reduced to ten, and the total price increased by over 130%. In fact, only six houses were actually built, prompting Tanesco's lawyers to conclude laconically 'One does not need to be a Tanzanian real estate appraiser to know that $7,566,000 for six single-storey duplex houses… is beyond exorbitant.' (ICSID 2000: 41).

Wärtsilä's EPC bid for a MSD plant was nearly $1.0 million more than Hyundai's bid for a SSD plant of the same capacity. Instead of proceeding with Hyundai, the only company offering the SSD plant specified in the PPA, IPTL, 'without consulting Tanesco and in violation of the express requirements of the PPA, unilaterally decided to contract with Wärtsilä for a 10 x 10 MW MSD plant.' (ICSID 2000: 41-2).

Someone who clearly knows what he is talking about wrote to me after reading one of my articles to provide supplementary information. 'I just want to make you aware that the Wärtsilä company is playing a role in the whole scam that is far from innocent.' For example:

> … the EPC cost is extremely inflated. Wärtsilä has given offers for similar plants in other African countries for around USD 60 million. By doubling the price for the plant, Wärtsilä makes it possible for MechMar and itself to get the equity back before the project has hardly started. No risk here! … Wärtsilä was 'chosen' as EPC contractor not because of a competitive offer, but

[8] That is, after taking over from consultants KTA Tenaga, who received over $1 million in fees.
[9] Tanesco's submission to ICSID (2000: 41).

> because they agreed to play along and fraudulently inflate prices. … If Wärtsilä had not agreed to inflate its prices there would have been no way for MechMar to present a project cost as exorbitant as the one that Tanzania now has to live with.

There are a number of unanswered questions concerning the devious process described above. Was it simply Mechmar/IPTL's plan to quietly switch from SSD to MSD in order to benefit from the large price difference between the two plants? Was the overpricing a way of creaming off some of the $105 million bank loan without the knowledge of Sime Bank and Bank Bumiputra? Or was this part of a more sophisticated crony conspiracy with a political dimension? Were Tanesco aware of the switch and just kept quiet about it? How did Wärtsilä come to replace Hyundai in Mechmar's game plan, and how pro-active were Wärtsilä in the whole affair? Did they get a cut in exchange for their complicity?

IPTL: Those In Favour … Those Against

> 'Kama huu ndiyo ushirikiano wa nchi za kusini, bora ukoloni urudi.'
> ('If this is 'South-South co-operation', then colonialism is preferable.')
> *Julius K Nyerere commenting on IPTL*

Who supported IPTL, and who didn't? Those actively opposing the project were a small minority. Rutabanzibwa was appointed Permanent Secretary (PS) by President Mkapa precisely because of his integrity and technical competence. On becoming PS, he found systematic corruption in the energy and minerals sector and in his ministry's own finances. Fire fighting on three fronts at once, Rutabanzibwa had his work cut out. Many a lesser person would have succumbed to the temptations of corruption, the dangers of honesty, or to sheer exhaustion. Without Rutabanzibwa, IPTL would have been commissioned in 1998 rather than 2002, and at a tariff even more ruinous for Tanzania's industrial prospects than that negotiated after the arbitration.

Ruling party CCM Secretary General and Minister for Planning, Horace Kolimba (since deceased) was involved in the original brokering that led to IPTL. In July 1994, Kolimba visited Malaysia and raised the power-rationing problem with the Malaysian government. The latter advised Kolimba that Malaysia had solved similar problems by licensing and promoting independent power producers (IPPs). The Government of Malaysia arranged for Kolimba and his delegation to meet with potential Malaysian investors, who were then invited to visit Tanzania for an assessment of the situation. Datuk Baharuden Majid of Mechmar made his first visit to Tanzania in August 1994. Mechmar had already built a 2.75 megawatt wood-fuel plant for the Commonwealth Development Corporation in Tanzania (1993), and already knew Tanesco well. He held discussions with the Minister for Water, Energy and Minerals Jakaya Kikwete, Simon Mhaville of Tanesco, Esther Masunzu, Assistant Commissioner for Energy, and Juma Ngasongwa, Personal Assistant to President Mwinyi responsible for economic affairs, all of whom confirmed that Tanesco and the government welcomed the IPP solution. A month later, an MOU was signed and IPTL was launched.

Tanesco's Managing Director Simon Mhaville was heavily pro-IPTL, as was his PS at the time, Raphael Mollel. Mollel continued to support IPTL from the Treasury, where he was appointed Deputy PS. A friend of Mhaville told me that Mhaville claims to have been anti-IPTL, and Mollel claims he was 'only following orders.' Mhaville's successor, Baruany Luhanga has distanced himself from IPTL. Minister of Energy and Minerals, William Shija, was pro. There is widespread agreement that President Mwinyi gave IPTL his tarnished imprimatur. It is precisely the Mwinyi heritage surrounding IPTL that Mkapa has struggled to contain since coming to power in 1995.

A major player throughout was Andrew Chenge, the Attorney General and a personal friend of Mkapa. Chenge's office reviewed the IPTL contract on behalf of the government, and found it acceptable to the letter. At the time, Tanesco advisors -- Acres (Canada) and Hunton and Williams (U.K.) -- had written damning reports pointing out that IPTL: (1) was a long term solution to a short-term problem; (2) did not constitute part of a 'least cost' power policy[10]; (3) constituted excess capacity[11]; and that (4) the project was highly overpriced.[12] Both also criticised the proposed IPTL contract, which was generous to the supplier and passed all the risk to the government of Tanzania. IPTL was not time bound, and the final cost to Tanesco would be negotiated after the project was completed!

The PPA was appraised for the government by Mary Ndosi, a State Attorney in Chenge's office. Acknowledging that the Acres and Hunton and Williams comments on IPTL had been reviewed, Ndosi states, with magnificent insouciance: 'Their advice should be treated as part of our advice on this proposal only to the extent it is not in contradiction to what is contained herein.' There is an affidavit (see below) claiming that Mary Ndosi actively supported IPTL.

Dr Abdallah Kigoda was appointed Minister of Energy and Minerals by President Mkapa in February 1997. Kigoda's rise from a relatively junior post in the Planning Commission to high office was meteoric. On becoming Treasurer to CCM, he joined the inner circle of the ruling party. After one visit to Malaysia, he came home with a large cash contribution to finance an important CCM meeting, though the amount that was eventually used for this purpose is open to dispute. Until events forced him to fall in line behind the Mkapa/ Rutabanzibwa position, Kigoda was a staunch supporter of IPTL. He had stated that there was no contradiction between IPTL and Songas, and that both would be commissioned.

After the 2000 presidential and parliamentary elections, Kigoda was replaced by Edgar Maokola-Majogo, a career politician who had consistently toed the pro-IPTL/anti-Rutabanzibwa line in Cabinet, arguing on at least one occasion for Rutabanzibwa to be sacked.

---

[10] Hydro and natural gas are much cheaper, and both locally available — fuel oil has to be imported.

[11] IPTL claimed — though it was not part of the PPA — that they would run at a minimum capacity utilisation rate of 85%; otherwise they would increase their price from 10 cents per unit to nearly thirteen, or even more.

[12] At that time, neither advisor knew that IPTL had switched medium for slow speed engines: the project was actually much more overpriced than either imagined.

Mkapa's first Minister of Finance, Daniel Yona, another senior pro-IPTL figure, likewise declared nonchalantly that the government could always foot the bill if Tanesco ran out of cash.

From early on, the Prevention of Corruption Bureau, which reports directly to the President, took a lively interest in IPTL. Edward Hoseah, Director of the Bureau and Co-ordinator of the government's anti-corruption strategy, actively pursued the case, and at one point was ready to arrest Rugemalira on corruption charges. Hoseah was systematically thwarted by the Bureau's Director General, Maj. Gen. A L Kamazima, who along with Chenge, repeatedly told the President that there was no evidence of corruption in IPTL.

I was struck by the fact that there was very little adverse commentary from the business community or from the opposition parties concerning IPTL. Looking for a critical local voice, I approached John Cheyo, an opposition Member of Parliament and Chairman of the Public Accounts Committee (PAC). We met in the lobby of the Dar es Salaam Sheraton. It was not a good choice. As we talked, none other than James Rugemalira came over to greet him in the warmest manner. I hastily turned over my pile of newspaper cuttings so that he could not see what we were talking about. But it was too late. The following day, Cheyo held a press conference in which he sang the praises of private investments in the power industry, telling the government not to meddle with them! I later heard that he was aggressively anti-Rutabanzibwa in meetings of the PAC. On other occasions, Cheyo has been a strong critic of official misuse of public funds.

Much of the anti-IPTL commentary came from the donor community or from foreign journalists. The World Bank's Resident Representative Ron Brigish was more guarded than his predecessor Motoo Konishi, but he did not hide the Bank's concerns with the economic implications of IPTL. Just before becoming Swedish Ambassador to Tanzania, Sten Rylander also went on record criticising IPTL. The Swedish aid agency SIDA, heavily involved in supporting Tanesco over many years, had noted:

> Recent events, especially the IPTL affair, (an unsound contract … for capital costs, commercial arrangements, and security package resulting in a cost of procured energy to Tanesco significantly above its own selling price) have shown that in spite of support to least cost discrete infrastructure projects like Kihansi and Kidatu, the total cost structure for power production can be jeopardised by uninformed Government-private sector deals outside the agreed least cost project frame. … The IPTL contract and the energy policy review have highlighted the need for a proper regulatory regime, anchored in legislation, to ensure competition on fair and equitable conditions … to make the market in the energy sector work…' (Swedish International Development Agency, Dar es Salaam, 1999)

The IPTL issue was raised at the Consultative Group meeting between Tanzania and donor agencies in Dar es Salaam in December 1997 and again in May 2000. In an interview with Reuters, European Delegation Head Peter Christiansen gave voice to continued donor concerns: 'The European Union was concerned that the government was silent in cases where top ruling party officials and senior government officers were implicated as in the case involving Malaysian-backed IPTL.' (*Guardian*, 24 May 2000: 1)

Reuters' Mark Dodd left Tanzania in July 1998. He regretted that he had failed to get a final interview with President Mkapa 'to ask about the role of the Attorney General and Minister for Minerals and Energy in the signing … of a contract … with IPTL … described by the IMF as "an unsustainable burden on the economy."' He continued: 'The IPTL saga also raises the nagging question of whether a small group of Tanzanian elite are (*sic*) so devoid of moral scruples as to ruthlessly exploit the long suffering Wananchi [citizens] for short-term gain under the guise of South-South co-operation. … Tanzanians are possibly the worst exploiters of Tanzanians…'. (*Daily Mail*, 15 July 1998)

The local press was used by both pro- and anti-IPTL groups. The state-owned *Daily News* and *Sunday News* regularly ran pro-IPTL pieces. Many of my articles and editorials were published in the *Family Mirror* and *Business Times*. Most of the time, the other English dailies and weeklies were prepared to carry my pieces. English and Kiswahili papers also carried pro-IPTL commentary, frequently ghosted, and during much of 1998, a healthy debate flourished. My files show that over 40 articles, letters and editorials on IPTL appeared in local English newspapers during the month of May 1998. Never has a single issue generated so much public controversy.

When Tanesco finally issued its Notice of Default, the local Transparency International Chapter Chairman, PriceWaterhouseCoopers' director Ibrahim Seushi, and I drafted a press release, which appeared in the *Family Mirror*, *Business Times* and the *Sunday Observer* (June 12 and 14, 1998) and in the launch edition of *East African Alternatives* (September 1998) (see Box 2).

Box 2: Some Negative Tanzanian Comments on IPTL

The Government remains committed to any and all legally binding agreements entered into with IPTL's foreign and local investors. … negotiations are underway to ensure that the tariff is based on actual, reasonable and verifiable capital and operating costs, a fair return to IPTL's investors, and an affordable tariff to TANESCO and the national economy. The Government cannot allow Tanzania's electricity consumers and the economy to be burdened with extraordinarily high electricity tariffs.

President Benjamin Mkapa, *the Express*, 28 May 1998

Ruta[banzibwa] has been opposed to this project for quite some time. Even his bosses know this, and some of them have not been thanking him for it. It is generally known that his views on the subject were consistently given short shrift. Nor was he alone in this, because Tanesco voiced its objections only to find that it did not matter.

Jenerali Ulimwengu, former MP, media owner, *the African,* 24 April 1998.

Had it not been for the donor agencies raising eyebrows, the whole controversial IPTL project would have been rammed down our throats with ugly consequences. Whilst the South-South cooperation in all matters is very much desired it should be only for the mutual benefit of South-South countries and not otherwise.

Nizar Fazal**,** investigative journalist, *Business Times,* 8 May 1998

Look at the contract agreement of MBI and IPTL. It is indeed absurd. Those who sanctioned on the part of the government or Tanesco should be put to task for mishandling these contracts. Their zeal of accumulating financial support should not cripple the economy of this country.

Brigadier General Joachim Burcard Ngonyani (Rtd), *the African,* 3 August 1998

In Tanzania we have a history of things going awry through negligence. Take the IPTL deal – those who signed on the dotted line and thus burdened the peasantry of this country with such a lop-sided deal, are probably sleeping quite soundly at night.

Hashim Saggaf, CCM Member of Parliament, *the East African*, 26 April 1999

Like Tanzania, most African governments are trying to encourage foreign investment, and many are selling off state-owned corporations or entering into management contracts with private companies to supply power and other public goods. If these worthwhile processes are corrupted by opportunistic foreign and local investors in collusion with public officials, then the move towards a viable and competitive market economy will be severely, perhaps definitively compromised.

Chairman and Board of Transparency International, Tanzania Chapter, June 1998

Finally, Tunku Abdul Aziz, board member of Transparency International and a major figure in the global integrity movement, lent his eloquent prose to the cause. He wrote:

> The cancellation of the Malaysian power project by the Tanzanian authorities … has been a matter of great rejoicing in Tanzania because, rightly or wrongly, the perception is that the award of this major contract has been made in indecent haste, and without the accompanying transparency and accountability normally expected in an exercise of this nature. Other Malaysian investments in Africa … have been savagely criticised as being "not in the interests" of the countries concerned, and in all of them, again, rightly or wrongly, the perception is that Malaysian companies have bribed and are bribing their way into lucrative, near monopolistic, niches.
> … such poor developing countries as Tanzania and Malawi … are already wrestling with massive problems of corruption, and the last thing they need are large doses of our "Made in Malaysia" grease to turn the wheels of their bureaucracy and help entrench what can quite easily become a way of life. (*East African Alternatives*, September 1998, p. 23)

I soon ran foul of IPTL. In a long letter to *the African* (1 June 1998) titled 'Brian's phobia against South-South Commission', I am dubbed a racist with a 'pathological hatred of South-South cooperation', with 'derogatory tendencies towards African governments, leaders and its people.' In a letter to Minister of Planning, Nassoro Malocho, IPTL copied an article that appeared in *East African Alternatives*, and accuse me of having vested interests in Songas. I am referred to as a 'dangerous underground advisor,' 'an academic and business crook,' with 'prejudices against African and Asian leaders'. I am further described as a tax-evader, an unlicensed gemstone dealer, a frequenter of a disreputable Dar es Salaam dance hall, a 'foreigner and a self-appointed energy expert.' *East African Alternatives* promptly published excerpts from this five-page diatribe. Minister Malocho never got in touch, though he did circulate the letter among the pro-IPTL group of ministers.

Getting The Bigger Picture

The ideology of South-South cooperation that led to the establishment of the South Commission and its report *Challenge to the South* (1990) has been cynically manipulated to justify dubious South-South investments of all kinds, including many emanating from Malaysia. IPTL is one such investment.

Colleagues from national chapters of Transparency International gave me examples of Malaysian investments in their countries bearing striking similarities to IPTL. John Githongo, Kenyan journalist and co-founder of TI-Kenya, gave me details of Sabah Shipyard's involvement in the Kenya power industry, via subsidiary Westmont Power, brokered by the ubiquitous Nicholas Biwott, President Moi's right hand man. William Nyarko of the *Ghanaian Chronicle* told me about the part purchase of Ghana Telecom by

Telecom Malaysia and another deal involving TV3. John Makumbe of TI-Zimbabwe told me about the highly underpriced purchase of the Wankie power plant by YTL Corporation Bhd. Hudson Anika filled me in on the purchase of Uganda Commercial Bank by Westmont Land (Asia) Bhd. Examples of real estate deals in South Africa have been documented in this book by Vishnu Padayachee and Imraan Valodia of the University of Natal.

In meetings in London and Kuala Lumpur, and via e-mail, Tunku Abdul Azizpulled me gently, but firmly, into line with invaluable advice on the subtleties of the relationship between the Malaysian state and the promotion of foreign investment. In the article cited above, he declared that:

> … the sight of the Prime Minister [Mahathir] herding a gaggle of assorted “businessmen” on his official overseas trips and bending over, ever so protectively, witnessing the signing of one grand MOU after another, has created the impression that the Prime Minister has a direct personal interest in all these deals. … we are dealing, very often, with people in places where corruption is so rampant that they cannot imagine that there are Malaysians who can win major overseas contracts without resorting to corruption. (*East African Alternatives*, September 1998, p. 24)

Dr Johann Lambsdorff of Göttingen University, the brains behind TI’s annual Corruption Perception Index, engaged me in a lively exchange on the extent to which trade patterns do or do not implicate Malaysia in international corruption. His published research (Lambsdorff 1998) suggested that Malaysian exports to Africa were less than they would have been had corruption been driving trade and investment. In fact, his econometric analysis found Malaysia to be one of the cleanest major trading nations in the world. My more qualitative and journalistic approach led me to diametrically opposed conclusions.

In 1999, TI and Gallup International surveyed nearly 800 senior executives, accountants, members of chambers of commerce, bankers and lawyers in fourteen emerging markets worldwide. The sampled countries — India, Indonesia, Philippines, South Korea and Thailand in Asia; Argentina, Brazil and Columbia in South America; Hungary, Poland and Russia in Europe; and Morocco, Nigeria and South Africa in Africa — account for about 60 percent of all imports to emerging economies. The nineteen countries listed are the biggest global traders in good and services. The experts were asked to assess the propensity to pay bribes to get business among companies from the countries listed. The countries are ranked on a 1-10 scale, with low numbers indicating high levels of corruption. Table 1 summarises the results (Transparency International www.transparency.de).

Table 3: Perceptions Of The World’s Major Bribe Givers

Most corrupt countries: Score 3.1 to 3.9	*Moderately corrupt countries Score 5.1 to 6.2*	*Least corrupt countries: Score 6.8 to 8.3*

China/Hong Kong 3.1 South Korea 3.4 Taiwan 3.5 Italy 3.7 Malaysia 3.9	Japan 5.1 France 5.2 Spain 5.3 Singapore 5.7 United States 6.2 Germany 6.2	Belgium 6.8 United Kingdom 7.2 Netherlands 7.4 Switzerland 7.7 Austria 7.8 Canada 8.1 Australia 8.1 Sweden 8.3

The bribers' index gave the lie to Prime Minister Mahathir's rhetoric claiming that it is invariably companies from the North which bring corruption to the South, the argument he used to denounce TI's corruption perception index in 1997.[13]

My own investigations led me to a number of simple conclusions on the pattern of Malaysian investments in Africa. First, the speed with which MOUs and contracts are signed suggests that Malaysian investors circumvent the lengthy procedures that DFI into poor countries normally involves. It is rare for a Malaysian company to lose a 'competitive' tender. This suggests, second, high level political support for the proposed investments, and, third, the likelihood that systematic bribery is involved. Fourth, sectors targeted by Malaysian companies are often those undergoing privatisation — with pressure and funding from the Bretton Woods institutions and the donor community — including power, telecommunications, and banking. In all these sectors, rents can be earned as long as the privatisation process and regulatory environment are non-transparent and open to manipulation. This was also true of Malaysia's experience of privatisation, of course (Gomez and Jomo 1999).

Another similarity, fifth, is the mobilisation of targeted political and diplomatic support for the proposed investments. Prime Minister Mahathir actively supports Malaysian investments in Africa and elsewhere, appealing to South-South solidarity as a means of 'delinking' from the hegemony of Northern multinationals in the global economy. Mahathir actively lobbies for Malaysian-backed projects when he meets with African heads of state at various international gatherings. There is no secret that Malaysia contributed to the ANC's election campaign in 1994.

Sixth, finding well-placed local middlemen to champion the cause is also a common characteristic. The best choice is a senior politician or retired government official with good access to the political leadership. This 'comprador' often advises on the best lobbying strategy, makes the key introductions, facilitates setting up joint ventures to manage the investment, fends off opposition that may arise from potential competitors or nosey donor agencies, and buys positive press coverage.

Little or nothing distinguishes the above description from the manner in which certain British, French, Italian, US or other companies operate in similar contexts. Britain's

[13] Mahathir's view is not incompatible with the continued dominance of OECD-based companies in international bribery. However, the growth of the major Asian economies, particularly China, will soon change this balance. See Seagrave (1995) for an historical perspective.

huge arms sales to the Saudis under Margaret Thatcher's Conservative government, with her son acting as broker, come readily to mind. In Malaysia, the appalling Pergau dam hydro project ($375 million) was implemented by a major British engineering company with the help of large export subsidies, in exchange for over $2 billion worth of British arms' purchases. The project was illegal, overpriced and of economically questionable value (Moody-Stuart 1997: 45). It is difficult to imagine a better model for Malaysian investment abroad, where the bill for grand corruption is ultimately footed by the power consumer and the taxpayer.

IPTL has been fraught with problems, and was the subject of lengthy and costly arbitration. This leads me to one final characteristic of the Malaysian investment strategy in Africa: *it does not necessarily work.* There is no argument that investing in Africa can be a high-risk venture, and that, therefore, the potential profits have to be very large. But the regularity with which Malaysian-backed projects turn sour suggests that the investors have overestimated the capacity of their local partners to deliver.[14]

Dar es Salaam, May 2000

Further evidence is brought to the London arbitrators to prove that IPTL involved systematic corruption. Patrick Rutabanzibwa has sworn an affidavit that James Rugemalira offered him $200,000 to support IPTL. Rugemalira left a package containing Shs 500,000 at Rutabanzibwa's home during Christmas 1994. Rutabanzibwa says he returned the package, at the time worth eight and a half months' salary, to Rugemalira. Rutabanzibwa's former assistant, Prosper Victus, also testified that he was offered a similar amount to keep key information from Rutabanzibwa. Victus also implicates Mary Ndosi (later Maria Kejo), the state attorney who endorsed the IPTL contract on behalf of the government: 'When she telephoned me, Mrs Ndosi said … that "we want you to help us get this power project approved" and then she reminded me that Mr Rugemalira would give me 100,000,000 Tanzanian Shillings if the IPTL project were approved. I was shocked to learn that Mrs Ndosi had apparently been corrupted by Mr. Rugemalira.' (Witness Statement, 19 April 2000, p. 3).

Another former assistant, Esther Mzunzu, testified to the Prevention of Corruption Bureau that she accepted a bribe from Rugemalira, albeit a rather small one. She alleges that Rugemalira came to her office sometime in December 1994 and said: "If our proposal goes through, I can give you money. How about $20,000?" She claims that she refused, but later accepted Shs100,000. Her generally pro-IPTL behaviour suggests that, if she only received Shs100,000, she was cheap at the price.

In a long letter to Attorney General Andrew Chenge, Rugemalira defends himself against these accusations and claims, as he has done many times before, that there is a conspiracy between Songas and the World Bank to drive him out of the market. He also announces his intention to sue Rutabanzibwa, Victus and Masunzu for personal defamation. Unless IPTL wins the arbitration case, James Rugemalira's days of unbridled hubris are behind

[14] Chabal and Daloz (1999) argue that, within limits, corruption is instrumental in the functioning of African polities based on vertical patronage systems. Bayart *et al.* (1999) see patron-client relations slipping towards a generalised *criminalisation* of the African state.

him, and it would serve as an object lesson to like-minded international corrupters if the roles of Wärtsilä, Mechmar, Sime Bank, and Bank Bumiputra in this entirely unseemly saga were to be fully investigated. The list of senior Tanzanian politicians and officials implicated in IPTL is so long that I cannot imagine anyone being brought to justice for taking or offering bribes, even though the Prevention of Corruption Bureau has a file *that* thick on IPTL.

London, 2 February 2001

The International Centre for the Settlement of Investment Disputes rules that Tanesco had enough information to challenge IPTL's change from low- to medium-speed diesel generators well in advance of their installation. Tanesco should therefore proceed to negotiate terms with IPTL for the purchase of electric power. These negotiations will be based on an assumed project cost of $123.5 million, or $26.5 million less than the $150 million that IPTL had claimed as project costs. The tribunal finds that IPTL had indeed failed to act with due diligence in regard to the switch from SSD to MSD technology without challenging the significant price increase by the manufacturers Wärtsilä between their initial and their final bid.[15]

Another plus from Tanesco's point of view is the tribunal's refusal to award IPTL claims for lost income of over $50 million, as a result of failure to produce the relevant costing information to Tanesco and for their part in the unauthorised technology switch.
In Dar es Salaam, the tribunal's verdict is hailed as a 'victory' for Tanesco.[16] I try to put the record straight by pointing out that *any* deal with IPTL represents an unnecessary burden on Tanzania's power consumer, since the power that IPTL will generate is readily available from cheaper alternative sources.[17]

The London tribunal rejects Tanesco's evidence concerning corruption, on the grounds that Tanesco had presented too little, too late. The additional evidence that Tanesco had planned to present to the tribunal was blocked in Dar es Salaam. Under Tanzanian law, proof of corruption is enough to invalidate a contract. Both the Prevention of Corruption Bureau and the Directorate of Criminal Investigations have collected large amounts of information on the corruption dimension of IPTL, but President Mkapa has resisted all attempts to allow the case to be brought to court.

On July 26, 2001, Minister of Energy and Minerals Edgar Maokola-Majogo announces to Parliament that IPTL will start generating at full capacity in October.[18] In a subsequent press conference, the Minister announced that Tanesco will incur costs of around $2.8 million a month to meet IPTL's 'capacity charge', that is, the project's standby costs and capital repayments, before any power is generated.

---

[15] Companies collaborating on dubious deals should not make the fundamental mistake of documenting their contents for all the world to see. We can only speculate on what actually transpired between Mechmar and the engine manufacturers (Hyundai and Wärtsilä), but since Mechmar did not challenge the significant price increase, one can only conclude that collusion took place. I have cited inside information claiming that this was indeed the case.
[16] 'Tanesco wins arbitration', Charles Kisigha, *Daily News*, February 13, 2001.
[17] 'An ABC of Independent Power Tanzania Ltd', *the East African*, Nairobi, March 5, 2001.
[18] Early 2002 is more likely, when Tanesco'd clients may also expect a tarrif hike labelled 'IPTL'.

Tanesco can only meet these costs by increasing power tariffs, already high by African standards. If Tanesco cannot find the money, the Treasury will be called upon to honour the debt, since Tanesco's contract with IPTL is guaranteed by the Tanzanian government. Basil Mramba, who replaced Minister of Finance Daniel Yona after the 2000 elections, is unsympathetic to IPTL.[19] Even so, the 2001/2 national budget includes a provision of $20 million to bale out TANESCO in the (likely) event that it is unable to meet IPTL's 'capacity charge' plus operating costs.[20]

As a result of the London tribunal findings, James Rugemalira tries to dissociate himself from involvement in the overpricing of IPTL, putting all the blame on Mechmar. He claims that VIPEM, the Tanzanian partner in IPTL, 'was cheated by Mechmar on the issue of the true capital cost in the same way as TANESCO was cheated. The problems arose out of apparent business dishonesty by our Malaysian partners…' Thus, the disallowed capital costs and the cost of delay in implementation should be picked up by Mechmar, not IPTL.[21] For good measure, Rugemalira presents Mechmar with an invoice for nearly $800,000, including unspecified 'miscellaneous expenses' incurred between 1994-2001 worth $200,000.[22]

In an email to Mr Rugemalira, Mechmar's financial advisor Willy Lim reacts to Rugemalira's letter to Minister Majogo: 'What were you thinking of? That you should absolve yourself of any blame …? That you could equate your perception of being "cheated" by Mechmar in the same way that you felt that TANESCO was "cheated" by Mechmar? You cannot say with a straight face that you have IPTL's interests at heart.'[23]

15 January 2002

Seven and a half years after signing the MOU, IPTL finally starts supplying power to the Tanzanian grid. In an article in the East African on February 18, I estimate that, running at 50% capacity, IPTL will cost Tanesco $4.6 million a month, or $55 million a year. At nearly 13 cents a unit, IPTL power is twice as expensive as a similar plant run by Wärtsilä in Kenya. I refer to the extra six cents per unit as the 'IPTL mark-up.'[24] **Box 3** contains further quotes from the article:

---

[19] Minister of Energy and Minerals Abdallah Kigoda is also demoted in Mkapa's first reshuffle after being reelected president, apparently for making a rash statement to parliament to the effect that power tariffs would soon be *reduced* by 30%…

[20] The figure includes over $12 million for an IPTL escrow account. These provisions were not discussed during the 2001/2 budget session or the September 2001 Consultative Group meeting in Dar es Salaam.

[21] ibid.

[22] Rugemalira to IPTL company secretary dated 9th May 2001. Rugemalira's travel costs to London and Kuala Lumpur are billed at $80,000, and land compensation and legal fees at $350,000.

[23] Email from Lim to Rugemalira, June 2001.

[24] The East African, February 18, 2002, page 28.

Box 3: ***And IPTL Said: Let There Be Light… But It's Going to Cost You***

'IPTL will bankrupt Tanesco, force up the price of electricity to industrial and domestic users alike, and oblige the Treasury to introduce power subsidies. The consequences are likely to be catastrophic for the industrial sector, foreign investment prospects, and the planned privatisation of Tanesco. … In brief, by Tanzanian standards, IPTL is a rip-off of unprecedented proportions. …

In the event that Tanesco runs short of cash, the Treasury will step in to foot the bill. The 2001 Finance Act contains a provision to that effect, although it did not figure in the Minister of Finance's budget speech of 14th June. The Treasury have already held discussions with the International Monetary Fund on how to pay Tanesco a monthly cash subsidy to offset the cost of IPTL.

… Without IPTL, the Ubungo turbines would now be running on natural gas. (The Songo Songo project was purposely held up by IPTL intrigue). Not that it matters: three of the Ubungo turbines have been 'shut down and need a staggering (sic) 4bn/- for repairs, Tanesco engineers told the *Daily News*.' (December 14th).

… The current rains have raised water levels in the dams. Curious therefore that Tanesco should decide to shut down one of Kidatu's 50 megawatt turbines - for 'routine maintenance' - just as water levels are rising. Why not wait for a few months until water levels begin to fall? … Tanesco may soon be forced to spill water from our dams in order to keep IPTL chugging along as planned.'

Source: East African, February 18, 2002

Hardly two months after IPTL start power production, its minority shareholders VIPEM file a suit in the Tanzanian High Court to wind up the company unless they receive thirty percent of IPTL equity. VIP are concerned that they may not receive their 'fair share' of the dividends from IPTL over the project's twenty year life span. VIP estimate the net present value of their share of these dividends at $100 million. They enter into negotiations to sell their interests in IPTL to the National Social Security Fund for this amount.[25]

The commissioning of IPTL passes almost without comment.[26] The pros and cons of the project are no longer an object for public discussion. The press, business associations, donors[27] and 'civil society' are deafeningly silent over the catastrophe that is IPTL. This is a sure sign that, at least for the moment, the 'system' has won. One donor argues that for 'Tanzania not to meet its external commitments' would send the wrong signals to potential investors! But Tanzanian electricity is the most expensive in central and southern Africa. IPTL could help seal the fate of Tanzania's already uncompetitive manufacturing industry.[28]

[25] NSSF Director General to IPTL, 2 January 2002.

[26] Only the indefatigable Nizar Fazal picks up the issue in a long letter to The Guardian (February 21, 2002)

[27] The silence of the donor community may be the result of Tanzania reaching the 'completion point' for debt relief, one of only four 'Heavily Indebted Poor Countries' to do so to date. Privately, donors are already questioning Tanzania's commitment to pro-poor policies, the jointly agreed basis for debt relief. Together, IPTL and a wasteful radar deal worth $40million consume the current year's total debt relief of $70million.

[28] 'Tanzanian Industry Divided Over IPTL Ruling' Joseph Mwamunyange and Mike Mande, East African, July 30, 2001. On the optimistic side, Confederation of Tanzania Industry chairman Arnold Kileo is quoted as saying: 'We must congratulate the government and Tanesco for winning the … case because at the end of the day it is the customer who'll benefit.'

Epilogue

The direct and opportunity costs of IPTL to the Tanzanian economy are extremely high. Without IPTL, the country would already be exploiting its huge resources of natural gas and saving on imported kerosene for the Ubungo turbines. The losses to the Tanzanian economy as a result of the power shortages of 1997 could have been avoided had Songas been implemented on time rather than sidelined by IPTL. Huge private investments in stand-by generators were another avoidable cost. The amount of time, energy and travel wasted by government officials in chasing after IPTL, including international arbitration, particularly by Patrick Rutabanzibwa, could have been put to much better use.[29]

Countries like Tanzania will never be able to aspire to the rates of economic growth and social development achieved by countries like Malaysia in the absence of ruling élites whose rent-seeking strategies *contribute to* rather than *subtract from* the public good. It is one thing for politicians and bureaucrats to take a cut from a valid investment that generates significant employment, turns out useful products, and contributes to government revenue. It is quite another for this group to take a corrupt cut from a project that derails a key national policy, and imposes huge additional costs on end-users and tax payers. If IPTL continues,Tanzania will be one significant step further down the road to permanent underdevelopment, and an unholy alliance of Malaysian investors and Tanzanian politicians and bureaucrats will be to blame.

* *Acknowledgements*: Many people have contributed to the apparently successful struggle against IPTL described in this chapter. Foremost among them is Patrick Rutabanzibwa, without whom the electricity consumed typing these words would have carried, at the very least, a 50% IPTL premium. I would also like to mention the owners, editors and journalists of Tanzania’s independent press, who played a major role in bringing the IPTL scandal into the public domain, a most vital contribution given the general lack of concern shown by opposition parties and private sector lobbies. Those who gave me invaluable information, advice and encouragement include: Hudson Anika, Tunku Abdul Aziz, David Bell, Garry Boucher, Sudhir Chavda, Laurence Cockcroft, Peter Davis, Mark Dodd, Peter Eigen, Hansjörg Elshorst, Nizar Fazal, Des Foynes, John Githongo, Clark Hall, Margit Van Ham, Edward Hoseah, Hashim Ismail, Michael Hershman, Ghalib Jafferji, Jomo K S, Beatrice Kashangaki, Hamza Kasongo, Willy Kitima, Johann Graff Lambsdorf, Aileen Marshall, Jim McCardle, Malcolm MacLellan, Donald MacPhail, Robert McNamara, Stiaan van de Merwe, Robert Mihayo, Elvis Musiba, William Nyarko, Jeremy Pope, Ahmed Rajab, Clive Richardson, Patrick Rutabanzibwa, Ibrahim Seushi, Wallace Shundi, Cynthia Stacey, Hashim Sagaaf, Jenerali Ulimwengu, Frank Vogl, Fidelis Wamara, Joseph Warioba, and Michael Wiehen. Those I have not thanked will understand why.

Sources

Much of this chapter is based on reports published in local and international newspapers and journals. Tanzanian sources are as follows: *Daily News*, *Sunday News*, *Sunday Observer*, *the Guardian*, *the African*, *the Daily Mail*, *Business Times*, *Arusha Times*, *Family Mirror*, *the Express*, *Financial Times*, *the Democrat*, *Taifa Letu*, *Rai*, *Mtanzania*,

---

[29] The arbitration cost the Tanzanian government $7 million.

Majira, *Uhuru*. Also cited are the *East African*, *East African Alternatives* (Nairobi), *Financial Times* (London), *Africa Analysis* (London), and the *New Straits Times* (Kuala Lumpur).

All that I have said above can be backed up with documentary and/or first hand evidence. I have avoided citing widely repeated opinions and plausible sounding gossip not on the record or not narrated to me as first-hand information. A few pieces of the puzzle have been purposely left out even where material evidence exists to avoid causing unnecessary embarrassment to innocent parties, or to myself.

References

Acres International (1997). 'Report to Tanesco on the IPTL contract', October.

Economist, The (1995). 'Bankers Trust: Blurred vision of a model modern bank', London. April 14.

Gomez, Edmund Terence, and Jomo K.S. (1999). *Malaysia's Political Economy: Politics, Patronage and Profits*, Second Edition, Cambridge University Press, Cambridge.

Lambsdorff, Johann Graf (1998). 'An Empirical Investigation of Bribery in International Trade', *European Journal of Development Research*, Vol. 10, No. 1, June, pp. 40-59.

London Economics (1997). Independent Power Tanzania Ltd (IPTL), November.

Moody-Stuart, George (1997). *Grand Corruption: How Business Bribes Damage Developing Countries*, WorldView Publications, Oxford.

Rugemalira, James (1999). 'IPTL has been a victim of World Bank propaganda', Press Release, Dar es Salaam, 4 February.

Seagrave, Sterling (1995). *Lords of the Rim: The Invisible Empire of the Overseas Chinese*, Corgi Books, London.

South Commission (1990). *The Challenge to the South*, Oxford University Press, Oxford.

Tanzania Electric Supply Company (2000). 'Submission to the International Centre for the Settlement of Investment Disputes', January.

Transparency International (1999). Corruption Perception Index, Bribers Perception Index, Berlin, September www.transparency.de.

Zakaria, Ishak, Mohamad Yusof, Khem Thadani and Mohamed Rahman (1997). 'Independent Assessment of 100 MW Diesel Fired Power Plant in Tanzania', December.