

## **Statement to Plenary**

14 October 1999

### **Justice Mervyn King**

Brait South Africa Limited

Thank you, Chair, for that introduction of “once a judge, always a judge”, but let me tell those who do not know me, that I resigned my judicial appointment in December 1979, in South Africa. I was, at the time, the youngest judge appointed in South Africa and I still retain the world distinction of having been the youngest judge in the world to have resigned. I say no more than that I resigned on the principle of corruption and maybe that’s the force that has driven me to head corporate governance in this country and to be a party – now together with Peter Eigen – in a world drive towards better governance.

It’s interesting that the private sector advisory group to The World Bank, of which I am a member, has decided to try and develop paradigms for corporations based on a principle – and I simplify it – of good governance equals good corporations equals good economies, bad governance equals bad companies equals bad economies. So the principle is that you need to tackle the question of governance and corruption on a bottom-up basis, rather than a top-down basis. So I want to address you on a basis of : ‘What do you do in an organisation as a leader?’. There are issues in every organisation – be it public or private – that have to be managed. For example: if in a warehouse you know that the receipt of goods is not being properly done it is an issue which has to be managed and you have to correct it. Let me say at once that I stand here at the moment as Chairman and Director of several large corporations in South Africa – one having 687 stores throughout Southern Africa, another being a major manufacturing concern – I’ll name it: Dunlop Africa, which manufactures in Southern Africa, North Africa, South America, Indonesia, China and I’m the Chairman. Do you honestly believe as I stand here now that no corrupt act is being committed in those 687 stores and in those manufacturing entities in all those countries? If I believed that I would be an ostrich – and I’m not. So, therefore, it is an issue which has to be managed. You have to accept that the principle of greed is something that is real and it’s human nature and you have to manage it – the question is how? What is the strategy, what is the system? And that is what this plenary session is about.

Firstly, my experience, and I speak from pragmatic experience, I became the Chairman of a large corporation, or which the head office was in Durban – 37,000 employees - it was in terrible trouble and one of the major reasons was corruption. It had been operating for over 60 years, it was the largest organisation of its type on the African continent, one of the largest in the Southern Hemisphere. It had enormous influence in the South African economy and was rotten to the core. But what did I do about it? Well, first of all, one has to accept that a fish is usually rotten from the head, so as a leader you have to establish principles and conduct yourself on a basis of integrity – not only must you do it, but it must be seen that you are doing it and one of the hallmarks is to act with courage. You have to be courageous in dealing with corruption and if a person is corrupt – particularly amongst your leaders – you have to deal with it courageously. So what do you do? The most important thing in an entity – be it public or private – is to have a value system. Now it’s true you have to define the

purpose of an organisation – what it is for – but it is equally important to define what it stands for and values are not a kind of ethics, it's an ethos by which you have to live daily. You have to run your organisation – be it public or private – on that daily basis.

Experience has taught me that there are three basic principles: one is respect for the individual – you have to have respect for the people in the company or an organisation and that respect translates in what I call peer erosion. When one is committing a corrupt act, you must realise through respect for your individual and your peer, that it is in fact your colleague and your friend that you are placing in jeopardy. Organisations are faceless, they are not natural persons, corporations have no hearts or minds of their own – it's the people with whom you work that you are placing in jeopardy by your corrupt acts. Then the second principle is integrity – on the basis that facts cannot be compromised in managing a corporation – be in public or private. If you compromise a fact you start on a compounding basis, multiplying the stakes and if you get that principle on the standard and live it on a daily basis you start getting a base of integrity into an organisation. The third thing is to act with responsibility – it's all very well expounding the rights of individuals in corporations, but you must also spell out what their responsibilities and their duties are, because unless they know that there is no imperative to action.

So, you need to live on a daily basis a various system of respect, integrity and responsibility. Secondly, you need the well-known principles of controlling systems of internal and external audit and thirdly, you need what I have developed and call a corruption audit in an anti-corruption paradigm. What do I mean by that? Well, the paradigms are sanction and reward, which Peter Eigen touched on. As a leader of a corporation you need to make known, both internally and externally, through internal and external stakeholders – your employees, your suppliers externally – that you have a sanction. Be it your supplier, be it any stakeholder, be it an employee – if some corrupt act is committed and it is discovered, you will prosecute that act, not only criminally, but civilly, if necessary to bankruptcy – that sends a message. The reward is that you reward honesty, you need to create a culture of challenge and this is where respect for the individual comes in. There must be an understanding that it is good to challenge a corrupt act, it's good that when you go to your friend's barbecue over the weekend there must be an understanding that if you are committing a corrupt act your friend must be able to say to you, "John, this is not in the best interests of our organisation and ourselves, you are in fact jeopardising my job, my employment" and you've got to get that culture of realisation that the organisation is a faceless thing, the organisation is in fact the people themselves.

Now what is a corruption audit? It's an ongoing process which must be known, internally and externally, that you do. I'm just going to touch on a few things and I'm sure it will trigger in your minds aspects in your organisations that you should be auditing on an ongoing basis. Is there a dominant manager in your organisation that continuously overrides controls? If so, red light. Is a manager's lifestyle changing? You have an over-zealous employee that works nights, weekends and doesn't take leave. Usually you'll find he's covering up and hoping not to have something discovered. Is there a proper segregation of duties? It will be, of course, sacrilegious to have your internal auditor as your warehouseman, for example. Are your controls tight enough? Does knowledge of a certain aspect of your organisation vest in one person only? Are the opportunities to act corruptly limited? Particularly in regard to capital expenditure, does it vest in one person or is there more than one person? Because then you need conspiracies. What is the morale in your organisation? Low morale could equal corruption. Are you properly staffed, both skill-wise and numbers in regard to controls. Are

your employees properly looked after and adequately paid, having regard to the industry or the organisation in which you're working and benchmarked? Have you properly checked the references of people coming into your organisation? Do you have a principle of rotating people in your organisation or do you leave someone in a situation year after year? Those are the matters which need ongoing management – they are issues which must be checked.