



The Turks and Caicos Islands

Standard Note: SN/IA/5038

Last updated: 11 April 2012

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Section: International Affairs and Defence Section; Economic Policy and Statistics Section

This note briefly reviews the crisis of political and economic governance which has affected the Turks and Caicos Islands since 2008, leading to the imposition of direct rule, the launching of anti-corruption investigations and, with the economy experiencing serious problems, the exceptional introduction by the British Government of a rescue package in the form of a loan guarantee of £160 million over five years. The British Government has expressed the hope that elections for a new Turks and Caicos Government can take place in 2012, bringing direct rule to an end. Direct rule has caused considerable discontent amongst some sections of the local population.

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1 Background

In July 2008, the previous Foreign Affairs Select Committee published a report on the Overseas Territories, in which it raised serious concerns about alleged corruption and dishonesty by ministers and officials of the Turks and Caicos Government, including the Premier, Michael Misick, and claiming that there was a “climate of fear” on the Islands. In response, and with the support of the previous UK Government, the then Governor, Richard Tauwhare, established a Commission of Inquiry chaired by Sir Robin Auld to look into these allegations. Following the publication of an [interim](#) report by the Auld Commission of Enquiry on 16 March 2009, the previous UK Government announced its provisional intention to suspend parts of the Constitution of the TCI for a period of up to two years ([HC Deb 16 March 2009 c39-40WS](#)). This would involve the suspension of Cabinet government and the House of Assembly and their temporary replacement by Governor’s rule. The previous UK Government laid a draft Order in Council before Parliament, which was due to come into force after Sir Robin Auld published his final report. The Order in Council provided for the establishment of an Interim Government, headed by the Governor, and supported by an Advisory Council and a Consultative Forum.

The [Final Report](#) of the Auld Commission of Inquiry was handed to Tauwhare’s successor as Governor, Gordon Wetherell, on 31 May 2009 and was published in redacted form on 18 July. It confirmed that the Commission of Inquiry had found evidence of “systemic corruption.” The Misick Government resigned. On 10 August 2009 Helen Garlick was appointed by the Governor as a Special Prosecutor, heading a Special Investigation and Prosecution Team (SIPT) with a mandate to investigate specific corruption allegations. Following a failed attempt to secure judicial review of the Order in Council in the British Courts by lawyers for Michael Misick, parts of the Constitution were duly suspended for two years on 14 August 2009. The Interim Government took office with immediate effect. Working with the Governor, it was tasked with implementing the reforms required to prevent any recurrence of the corruption identified by the Auld Commission of Inquiry.

On 31 March 2010 the Foreign Affairs Select Committee published a follow-up report. The Committee expressed concerns that the previous UK Government had failed to establish adequate funding arrangements for the SIPT, which had caused significant delays to its work. It concluded that this could undermine the effectiveness of investigations and damage public confidence. The Committee disagreed with the previous UK Government’s contention that the British taxpayer should not be required to fund the SIPT and that the Turks and Caicos Government should find the means to do so, arguing that the UK Government had a responsibility to fully fund it. The report also quoted from a letter sent by Sir Robin Auld to the then Foreign Secretary, David Miliband, on 23 March 2010, in which he criticised the previous Government’s failure to provide the resources required to implement the recommendations of his Commission of Inquiry. The Foreign Affairs Select Committee’s follow-up report raised other concerns, including regarding the planned 2011 elections. The Committee argued that, given the slow pace of reform, the previous UK Government’s preferred date for elections of July 2011 was not realistic. It called for elections to be delayed until reforms “have been fully embedded” (para 47).

2 Developments under the current Government

2.1 May-December 2010

On 1 July 2010, DFID announced a short-term loan of up to £10m to meet urgent financial commitments, ‘including staff salaries for the police, health and education services’ ([HC Deb](#)

[1 July 2010 c49WS](#)). Further short-term assistance was subsequently provided. In September 2010, the FCO announced that elections would not now be held in the TCI in 2011, although it made clear that it did not want to postpone elections any longer than was necessary and that the suspension was not indefinite. In December 2010, the 2009 Order-in-Council was [extended](#) (SI 2966/2010). On 9 December 2010, Henry Bellingham, the Parliamentary Under-Secretary of State for Foreign Affairs, highlighted “an unacceptable collapse in the fiscal governance of the territory, which needs urgently to be addressed” and stated that “the Department is reaching the final stages of putting in place a medium-term financial package” for the TCI. It also set out a series of specific milestones, including with regard to good governance and sound financial management, that would need to be met before elections could take place, hopefully in 2012 ([HC Deb 9 Dec 2010 c40WS](#)).

Meanwhile, in November 2010, the FCO reported that Helen Garlick’s investigations were “making good progress” and that she was “hopeful that she will be able to prefer charges early next year” ([HC Deb 9 November 2010 c131-2](#)). The cost of the investigations and their alleged lack of transparency were [criticised](#) by some residents of the TCI.

2.2 2011

DFID loan guarantee

Between May 2010 and February 2011, the TCI received £30m in loans from DFID. At the end of February 2011, agreement was finalised on a five-year £160m guarantee from DFID on TCI government borrowing, intended to enable the islands to access commercial lending. Using borrowing secured against this guarantee, the original £30m loan was to be repaid. The guarantee was issued subject to the TCI government reforming its management of public finances and achieving fiscal surplus by March 2013. On announcing that the guarantee had been finalized, the Minister of State Alan Duncan wrote that it was “in line with DFID’s responsibility to underpin the reasonable needs of all British overseas territories”. Nonetheless, loan guarantees are a highly unusual measure for DFID.

Below is the full text of the written ministerial statement by Alan Duncan announcing that the loan guarantee had been finalized ([HC Deb 28 February 2011 c14-15WS](#)):

The Minister of State, Department for International Development (Mr Alan Duncan): Further to the written statement by the Under-Secretary of State for Foreign and Commonwealth Affairs, the hon. Member for North West Norfolk (Mr Bellingham) of 9 December, *Official Report*, columns 40-41WS, and the Department for International Development’s minute of 3 February notifying Parliament that the Secretary of State for International Development had approved in principle a loan guarantee to the Turks and Caicos Islands Government (TCIG), I would like to update the House.

The Department for International Development (DFID) has now finalised a guarantee in favour of Scotiabank (Turks and Caicos) Ltd to provide TCIG with access to a maximum capital amount of US\$ 260 million over the next five years. I confirm that TCIG will immediately repay DFID its loan of £29.9 million plus interest.

This level of commercial borrowing is vital if TCIG is to turn around its dire financial situation. It will provide the time TCIG needs to implement budget measures which will lead to achieving a fiscal surplus in the financial year ending March 2013. As the Under-Secretary of State, my hon. Friend the Member for North West Norfolk, and I reported to Parliament on 9 December 2010, this is one of a number of key milestones to be reached before a date for elections can be set. Once the territory is in fiscal surplus it will be able to start to pay off its debt and should, after the five-year period is

over, if not before, be able to secure new and reduced bank lending without the need for a UK Government guarantee.

The guarantee is intended to cost the UK taxpayer nothing. It will ensure that TCI does not fall victim to financial ruin and it is in line with DFID's responsibility to underpin the reasonable needs of all British overseas territories.

The current chief financial officer has done an excellent job in getting a grip on TCIG's public finances. To ensure that the financial plan stays on track to achieve a fiscal surplus DFID reserves the right to require TCIG to retain the position of chief financial officer for as long as the guarantee is in force and to nominate the holder of this post who shall then be appointed by the governor.

A new Constitution approved

On 13 July 2011, following a 15-month period of consultation, a new [Turks and Caicos Islands Constitution Order](#) (S.I. 1681, 2011), intended to underpin good governance and sound public financial management, was approved by the Privy Council. It was laid before Parliament on 20 July. The Order will come into force once the milestones set out in Henry Bellingham's parliamentary statement of 9 December 2010 have been met. After it has come into force, elections must be held within 30 days.¹ Henry Bellingham stated in a wide-ranging [speech](#) made on 14 July, during a visit to the Turks and Caicos Islands:

As expected, consensus on all the provisions was not possible; and I had to take difficult decisions on some sensitive and important issues. But I am convinced that we have got a good result for the people of the Turks and Caicos Islands.

He described the new Constitution as "fit for purpose". The Order required that a number of new Ordinances be introduced with regard to the electoral process and the regulation of political parties; integrity and accountability in public life; and public financial management. The Order also provides for the phasing out over time of the term 'Belonger' and its replacement with 'Turks and Caicos Islander'.

Other developments

On 10 March 2011, the Foreign Secretary, William Hague announced a "discretionary grant of £6.6 million to the Turks and Caicos Islands Government to reimburse the costs incurred in the past year pursuing corruption and violent crime" ([HC Deb 10 March 2011 c170WS](#)).

He added:

This is for the special investigation and prosecution team; related civil recovery work; and the Royal Turks and Caicos Islands police. My officials have co-ordinated this carefully with DFID's work to underpin the territory's public finances.

This is an exceptional case. Our basic principle remains that it is an integral part of good governance for a territory Government to ensure that the criminal justice system is properly funded. Territories should not look to the UK to fund criminal investigations or prosecutions that they are reluctant to pursue themselves. But the burden in this case has been exceptional. The fiscal rescue package put in place by DFID should enable future costs to be met from the Turks and Caicos Islands Government public purse in the normal way.

¹ Lord Howell subsequently stated in an August 2011 written answer that the Constitution will come into force when "sufficient progress has been made" against the milestones. However, this is the only occasion on which a concept of sufficiency has been cited by a government minister. See: HL Deb 11 August 2011 c449WA

On the same day, there was a [debate](#) on the British Overseas Territories in the House of Lords, in which the situation on the Turks and Caicos Islands was one of the main issues discussed. In the debate, Lord Jones of Cheltenham said that one senior lawyer on the Islands who had written to him had likened the current situation to a “dictatorship”.² During the previous week, there had been demonstrations on the Turks and Caicos Islands calling for a date to be set for elections. Critics also alleged that the real motivation of successive British Governments had been to frustrate moves towards political independence for the Islands. In addition, some claimed that there was a racial element underpinning official actions, with predominantly black ministers in the former Misick Government being targeted for persecution on spurious financial grounds. Such claims have all been dismissed by British Governments.

Replying to the Lords debate for the Government, Lord Howell reiterated that it would stick to its target of holding elections in 2012 but that the Governor “remains open to dialogue with responsible community representatives to discuss their concerns.”³

On 9 June 2011, a [press statement](#) by Helen Garlick, Special Prosecutor and head of the SIPT, was reported by the *Turks and Caicos Sun*. The statement provided information about its activities and sought to respond to criticisms that had been levied against it:

The Special Investigation and Prosecutions Team (SIPT) have interviewed a large number of persons in the Turks and Caicos Islands (TCI) and have made some arrests and executed a number of search warrants.

In a media statement released on Thursday June 9th, the SIPT said: “Investigators have interviewed a large number of persons across the islands, including former Ministers and in other foreign jurisdictions in the US, Canada and Europe. We are working jointly with other law enforcement bodies in these areas to pursue information and evidence pertinent to the SIPT mandate. A considerable number of statements have been obtained which cover the wide range of investigations that the SIPT have been asked to carry out. Arrests have been made and search warrants executed.”

According to the statement, the SIPT has been fully operational now for 14 months and has had a permanent presence on the island since April 2010. “The SIPT are very aware that the public wants to know more about their activities, but the investigation has entered a phase where its activities within the TCI and elsewhere in the world have to be kept confidential, to protect the integrity of the investigation and the rights of those individuals involved,” the statement added. “The SIPT continues to make good progress and is keeping to its targets and deadlines. This has been achieved with the help, support and cooperation of the TCI communities throughout the difficult period that they find themselves in.”

In relation to budgeting, the SIPT said it submitted a budget in September 2009 which was approved, adding that there was no increase in budget for the financial year 2010-11 and none planned for this financial year (2011-12).

“Despite the remit of the SIPT widening considerably during the 2010-11 financial year, the SIPT has ended that period under spent by over 12.5%. The SIPT is ever conscious about the cost of the investigations and seeks every opportunity to reduce costs where possible. The challenge continues, to provide value for money for the TCIG and to continue to ensure financial prudence across all areas,” the SIPT statement continued.

² Ibid., c1773

³ Ibid., c1794

Regarding their present accommodation at the Veranda, the SIPT said the move to that location achieved a saving of over 25% on the previous accommodation costs (at the Yacht Club at Turtle Cove) and allowed for more accommodation at a lower cost, noting that all SIPT staff share self-catering accommodation on island.

As far as staffing is concerned, the SIPT release said that numbers of staff in TCI varies depending on the requirements of the investigations. However, there are normally between 15 and 25 staff on island at any one time.

The release said that all SIPT staff are selected independently and have no direct or indirect link to any member of the TCI Government or Interim Administration, now or in the past. This was in reference to reports that Mark Capes' wife was employed with the SIPT.

In a parliamentary answer of 14 November 2011 it was reported that the SIPT had cost US \$4.6 million in financial year 2010/11 and would cost US \$6 million in 2011-12.⁴ Another parliamentary answer of the same date reported that the civil recovery programme had cost US \$4.2 million in 2010/11 and would cost the same amount in 2011/12. By this date, 29 separate recoveries of land and/or cash had been made.⁵

As the year progressed, SIPT began charging individuals, with the media claiming in late November that [at least nine people had been charged](#) to date. SIPT took the position that it would not make any public comment about any arrests made or charges laid until individuals had been brought before a court of law. The Government took the same position.⁶ The identity of some of these individuals nonetheless became publicly known. For example, one was former Minister Lillian Boyce, who was charged with conspiracy to defraud the government in connection with a land deal. It was also clear that former Premier Michael Misick, who left the Islands in 2010 and is widely [believed to be in the Dominican Republic](#), which does not have an extradition treaty with the Islands, had not been charged. His assets were frozen by a court order in June 2011.

On 16 June 2011 the Foreign and Commonwealth Office announced that the new Governor of the Turks and Caicos Islands from September 2011 would be [Damian Roderic \(Ric\) Todd](#). In a [press statement](#) issued on 14 December, he offered an "upbeat" assessment of the prospects for the Turks and Caicos Islands in 2012. He described returning to fiscal surplus in 2012/13 as "perhaps our most challenging milestone", but welcomed signs of economic recovery. He held open the possibility that elections could be held by the end of 2012.

2.3 Developments during 2012

On 19 January, Governor Todd published a [full assessment](#) of the progress that was being made against specific milestones. This is intended to be the first in a series of quarterly assessment reports. At the end of January, Alan Duncan published the British Government's "progress report" in the form of a written ministerial statement ([HC Deb 30 January 2012 c34-6WS](#)). Below is the full text of the statement:

Further to the written statement of the Under-Secretary of State for Foreign and Commonwealth Affairs, my hon. Friend the Member for North West Norfolk (Mr Bellingham) of 9 December 2010, *Official Report*, columns 40-41WS, setting out milestones that Ministers judged would have to be met before elections could take

⁴ HC Deb 14 November 2011 c652W

⁵ Ibid

⁶ HC Deb 14 November 2011 c651W

place in the Turks and Caicos Islands (TCI), my hon. Friend and I wish to update the House.

The Department for International Development and the Foreign and Commonwealth Office currently jointly assess progress towards achieving the milestones to be the following:

Implementation of a new Turks and Caicos Islands constitution order, in support of recommendations of the commission of inquiry, which underpins good governance and sound public financial management.

A new constitution order was laid before Parliament in July 2011. In due course it will be brought into force by the Governor, after which elections must take place within 30 days.

Introduction of a number of new ordinances, including those making provision for: (i) the electoral process and regulation of political parties; (ii) integrity and accountability in public life; (ii i) public financial management.

A legislative drafting team is working on numerous ordinances (locally enacted laws) relating to TCI Government business, including public accountability and financial management. Ordinances relating to elections, conduct of political parties and the Integrity Commission are also all currently being drafted. It is expected that drafting of a number of these should be completed by the end of March.

Establishment of robust and transparent public financial management processes to provide a stable economic environment and a strengthening of the Turks and Caicos Islands Government 's capacity to manage their public finances.

Expenditure control has been largely re-established. Consolidated Government financial statements have been produced and submitted for audit for three of the past four years. Public reports on the state of the public finances are being issued quarterly. Rolling 13-week cash-flow forecasts are being produced. The Finance Ministry is being restructured to be more effective in managing the finances and newly appointed permanent secretaries will be firmly held to account for the sound management of finances in their Ministries.

Implementation of budget measures to put the Turks and Caicos Islands Government on track to achieve a fiscal surplus in the financial year ending March 2013.

New taxes and fee increases are expected to boost revenue by 20% compared to 2010-11, reaching US\$164 million in 2011-12. But expenditure is expected to be higher than originally forecast leading to a budget deficit of US\$26.8 million, which is considerably higher than the budgeted deficit of US\$3 million. Additional revenue measures, a reduction in the size of the public service and revisions to the national health insurance plan have been put in place designed to bring the budget into surplus in 2012-13.

Implementation of a transparent and fair process for acquisition of belongingship.

In November the TCI Consultative Forum launched a territory-wide consultation on the options for a new pathway to Turks and Caicos Islander status. The consultation process will finish in February. Initial reaction has been favourable. In the meantime, the backlog of permanent residence applications has been cleared.

Significant progress with the civil and criminal processes recommended by the Commission of Inquiry, and implementation of measures to enable these to continue unimpeded.

To date, over 900 acres of Crown land worth approximately US\$150 million and US\$2 million in cash has been recovered by the civil recovery team. In December 2011, 11 people, including four former Ministers, appeared in court to face criminal charges. They are due to appear before the Supreme Court in TCI in early February.

Implementation of a new Crown land policy.

Key decisions have been taken on this sensitive issue. A new policy to manage Crown land better in the future was announced in 2011 after discussion in the Consultative Forum and Advisory Council. The Crown land ordinance will be ready soon.

Substantial progress in the reform of the public service.

Plans have been drawn up to reduce the number of Ministries from nine to five by the end of March. Five new permanent secretaries have been recruited by rigorous open competition and have been appointed on fixed-term, performance-monitored contracts. Technical support to ensure the effectiveness of the new Ministries is under consideration. A voluntary severance scheme, which will reduce numbers in the public sector by 300-400, is due to be completed in February.

Summary

Much work has been done by the TCI Government and by the TCI public service, with the support of the United Kingdom Government. Assistance has also been provided by the European Union and Canada. Good progress is being made thanks to the commitment and hard work of the interim TCI Government and the people of TCI. However, there is much still to be done.

Finally, setbacks last year have adversely affected progress towards achieving a budget surplus. Our view remains that the UK Government will only be able to set a date for the elections when the milestones have been reached. It is not yet certain when we will be able to say that all of the milestones have been met, but the interim Government, with UK-financed technical assistance, is working hard to achieve them. We still hope that they will be met in time for elections to take place during 2012.

In February, Mr Duncan also informed the House that DFID had provided £1.7 million in technical assistance between February 2011 and January 2012.⁷ During the same month, the Interim Government published a [White Paper](#) setting out proposals for legislative reform across a wide range of issue.

By mid March, the number of people [charged by SIPT](#) had reportedly reached 13, most of them well-known former ministers. All those who have been charged have been given bail. Those charged are scheduled to appear before the Supreme Court on 17-18 April, which will then adjudicate on whether there is enough evidence to justify their going to trial.

There was controversy in March following a radio appearance by Governor Todd in which he responded to a questioner in a way which he later acknowledged had been a “mistake”. Former Premier Michael Misick issued a [statement](#) from his place of exile calling on the Governor to resign, or be recalled, leading to an exchange of public statements between the two men in which the Governor called on Mr Misick to return to the Turks and Caicos Islands

⁷ HC Deb 27 February 2012 c56W

to face the questions that SIPT wants him to answer. Mr Misick is also [calling](#) for an election date to be set and for a referendum to be held on the future relationship of the Turks and Caicos Islands with the UK. He has questioned the fairness of the judicial system on the Islands, asserting that a fair trial for him would be impossible.

On 19 March, SIPT announced that an [international arrest warrant](#) had been issued for Mr Misick. The process of securing such a warrant had reportedly begun in February. On the same day, Mr Misick issued a public statement declaring that he was seeking [political asylum](#), although he did not state in which country he was doing so.

In late March, a Westminster Foundation for Democracy delegation, led by John Spellar MP, visited to discuss the proposed new Election Ordinance, a draft of which was [published](#) on 29 March. The consultation period ended on 10 April. Mr Spellar declared that having elections by the end of 2012 was "[perfectly doable](#)".

On 5 April, the *Miami Herald* published a report in which it claimed that there is a "backlash" against the British Government in the Turks and Caicos Islands and in other Overseas Territories in the Caribbean. The Chief Minister of Anguilla was quoted as saying: "The British were fully aware that corruption existed in the Turks and Caicos Islands and Anguilla for many years. But in many instances they closed their eyes to it; they condoned it." Governor Todd was quoted as saying: "We want to restore self-government. But before we do that, we need to put in measures, which would ensure that that self-government is sustainable and that the problems in the past don't reappear."⁸

A future flashpoint could be if the Interim Government is successful in getting permission from the courts to [demolish the headquarters](#) in Providenciales of the former ruling Progressive National Party, this on the grounds that it was built illegally on Crown Land, and then seeks to do so. Party leaders have claimed that hundreds of people are "[prepared to die](#)" to prevent this from happening.

3 Further reading

Foreign Affairs Committee, *Overseas Territories*, [HC 147 I-II](#), Session 2007-08, 6 July 2008

Seventh Report of the Foreign Affairs Committee, Session 2007-08, Overseas Territories: Response of the Secretary of State for Foreign and Commonwealth Affairs, [Cm 7473](#), September 2008

Foreign Affairs Committee, *Turks and Caicos Islands*, [HC 469](#), Session 2009-10, 31 March 2010 [Letter from Sir Robin Auld to David Miliband, 23 March 2010 – See Ev 10-11 of the above report]

Government response to HC 469 ([HC 623](#), First Special Report, Session 2010-11, published 29 November 2010)

Entry in the [CIA World Factbook](#) on the Turks and Caicos Islands

BBC [profile](#) of the Turks and Caicos Islands (last updated January 2012)

⁸ "British receiving backlash in Turks and Caicos, elsewhere in Caribbean", *Miami Herald*, 5 April 2012