

UNCAC Coalition Statement

**Countering laundering of corruption proceeds:
Building on the momentum of the Panama Papers
and the London Anti-Corruption Summit**

The Panama Papers leak brought to light unprecedented insights into decades of the financial secrecy business.¹ Coordinated global media reporting on the trove of documents has significantly increased public awareness of this industry and its links to corruption and other abuses. There is now enormous momentum for efforts to increase financial transparency.

In the 11.5 million leaked documents there was new information about individuals and companies that conduct their business in secrecy enabled by numerous companies such as Mossack Fonseca – beyond the radar of nation states, their tax regimes and their sanctioning mechanisms.² Civil society has long been calling for reforms to increase financial transparency so as to curtail corruption and secret or opaque financial transactions more broadly.

The Panama Papers exposed the dark side of the global financial system that enables these corrupt or otherwise secret dealings in every part of the world. The international networks through which these acts are enabled and facilitated need to be the shared focus of our work.

International networks cannot be tackled by individual states alone³: they require an international approach. This was recognised at the London Anti-Corruption Summit in May 2016 with the “shared commitment” of world leaders to:

... expose corruption wherever it is found, to pursue and punish those who perpetrate, facilitate or are complicit in it, to support the communities who have suffered from it, and to ensure it does not fester in our government institutions, businesses and communities.⁴

It is vital that the second cycle of UNCAC reviews support this kind of commitment and pushes for international coordination and progress to counter the laundering of corrupt proceeds. Particular emphasis should be given to anti-money laundering measures, including beneficial ownership transparency and cracking down on the facilitators of corruption crimes.

Beneficial ownership transparency

Public access to information on the beneficial owners of companies is essential for curbing corruption, tax avoidance and money laundering facilitated by anonymous entities.

The UNCAC requirement to promote the transparency of legal entities (UNCAC Article 12(2c)) and to identify beneficial owners (UNCAC Articles 14(1a), 52(1) and 52(3)) in order to

¹ See Heywood, P. Panama Papers: Why we're looking at global corruption the wrong way, The Conversation, University of Nottingham, 12 April 2016. Heywood lists NGOs that “have long expressed their concerns about money laundering and the role of enablers”.

² See Hough, D. Finding a Way Through the Corruption: Three Lessons from the Panama Papers, Political Insight, 11 April 2016.

³ Heywood 2016.

⁴ See: www.gov.uk/government/publications/global-declaration-against-corruption/global-declaration-against-corruption.

combat money laundering is supported by resolutions 4/4, 5/3 and 5/4 of the UNCAC Conference of States Parties.

However, opportunities abound for concealing the beneficial ownership of companies. A 2011 StAR report noted that 70 per cent of the 159 countries evaluated by FATF did not have clear legal requirements in place to identify the beneficial owners of companies.⁵

An increasing number of countries are committing to introducing public registers of beneficial ownership, in recognition that this is a key measure needed to counter corrupt dealings. This includes country commitments made at the London Anti-Corruption Summit.

The UNCAC Coalition therefore recommends:

- States Parties should endorse as best practice under UNCAC the collection and maintenance of beneficial ownership information through national-level public registers of companies and trusts.
- States Parties should require any company bidding for public contracts or purchasing property to disclose on whose behalf they are operating.
- The 2nd cycle of UNCAC reviews should pay close attention to beneficial ownership transparency standards in States Parties and UNODC should be requested to prepare a report on this subject.

Facilitators of corruption

Corruption so often takes place with impunity because there is a network of actors, institutions and even states that facilitates anonymity and secrecy in business dealings. These facilitators (or enablers) include tax advisors, financial institutions and corporate and trust service providers,⁶ which together provide cover for illicit and illegal activities to go untraced and unchallenged.

The facilitators are by no means “passive facilitators of illicit financial flows and other abusive activities. They are often active, and sometimes aggressive purveyors of these facilities”.⁷ For corruption prevention, it is crucial to ensure their due diligence as it eliminates the defence of ignorance and obliges facilitators to collect information that may prove useful in subsequent investigations.⁸

Under Article 14(1)(a) States Parties are required to “institute a comprehensive domestic regulatory and supervisory regime” for all institutions susceptible to money-laundering, including “requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions.”

However, enforcement of such measures is often weak as was found in a 2011 study on the UK’s compliance with the UNCAC, which reported “a serious problem with the implementation and enforcement of customer due diligence requirements.”⁹ Countries need to devote adequate resources to effectively policing compliance, including supervising service providers and imposing civil or criminal penalties for noncompliance.

⁵ De Willebois et al., *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It*, The StAR Initiative, Washington DC: The World Bank/ UNODC, 2011, p.13.

⁶ See: <http://www.taxjustice.net/topics/finance-sector/enablers-and-intermediaries/>.

⁷ See: <http://www.taxjustice.net/topics/finance-sector/enablers-and-intermediaries/>.

⁸ See De Willebois et al., p. 6.

⁹ Barrington, R. et al. *Report on the UK’s Compliance with the UN Convention against Corruption*, London: Bond, 2011, p. 4.

The UNCAC Coalition therefore recommends:

- States Parties should strengthen and enforce customer due diligence obligations for banks and other service providers, including lawyers, trust and company formation service providers, real estate agencies and other non-financial business professions. States Parties should establish more effective oversight and sanctions for these sectors.
- The 2nd cycle of UNCAC reviews should pay close attention to the adequacy of due diligence standards and practices in States Parties and UNODC should be requested to prepare a report on this subject.