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Other matters

**Statement submitted by Christian Aid and Tearfund,
non-governmental organizations in consultative status with the
Economic and Social Council**

The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

* CAC/COSP/IRG/2012/1.



Parallel Report and Questionnaire on the UK's Compliance with the United Nations Convention against Corruption

Questionnaire completed by: Bond Anti-Corruption Group,¹ alongside Public Concern at Work

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Name of Country: United Kingdom

Date: December 2011

Disclaimer

All reasonable efforts been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of September 2011.

Nevertheless, the members of the Bond Anti-Corruption Group cannot accept responsibility for the consequences of its use for other purposes or in other contexts. Policy recommendations reflect the collective opinion of the Bond Anti-Corruption Group but may not reflect the opinion of each member organisation. This Report has been produced for information only and should not be relied on for legal purposes. Legal advice should always be sought before taking action based on the information provided.

Executive Summary

The Bond Anti-Corruption Group conducted an independent, parallel review of the United Kingdom's compliance with two chapters (3 and 4) of the United Nations Convention Against Corruption (UNCAC). The review finds the UK to have a sound legal framework in place that complies with most of the relevant provisions of the UNCAC and that UK authorities have been transparent and inclusive in their review process. However, our overall conclusion is that compliance is incomplete, because:

- Although we welcome the introduction of far-reaching anti-bribery legislation, the Ministry of Justice's guidelines, while not legally-binding, risk weakening the legislation in certain areas and creates unnecessary confusion for companies.

¹ Bond is the membership body for UK international development organizations. Established in 1993, Bond has 360 members, ranging from large bodies with a world-wide presence, to smaller, specialist organizations working in certain regions or with specific groups of people. The Anti-Corruption Group within Bond has the following core members: CAFOD, Christian Aid, The Cornerhouse, Corruption Watch, Global Witness, Tearfund, Transparency International-UK and TIRI. For this review, the Anti-Corruption Group coordinated with Public Concern at Work.

- Embezzlement and misappropriation are crimes in the UK. But monitoring and auditing will be weakened by the impending abolition of the Audit Commission, and arrangements for its replacement are unsatisfactory.
- The UK's legal framework to criminalise the laundering of proceeds of corruption is largely sound. However, there has not been enough action against the facilitators of corruption, for example the lawyers, bankers and accountants that handle corrupt transactions. There is also a serious problem with the implementation and enforcement of the customer due diligence requirements, as shown by a recent report by the UK financial regulator, which found systemic weaknesses in banks' anti-money laundering systems.
- The UK provides strong and comprehensive protection for workplace whistleblowing. However, three out of every four adults do not know anything about the legislation on whistleblowing.
- The UK has systems in place to enable and support international cooperation in the investigation and prosecution of corruption offences. However, there is limited information in the public domain on mutual legal assistance casework.

Our key concern therefore is around enforcement. We believe the drivers of enforcement to be the following: a) institutional will to pursue corruption-related cases as a priority; b) adequate resources; c) availability of specialist teams; and d) a single agency responsible for investigation and prosecution. Institutional will to pursue corruption as a priority appears to have been eroded by the Ministry of Justice Bribery Act Guidance that created potential loopholes. It is not clear whether the Serious Fraud Office, which is principally in charge of enforcing the Bribery Act 2010, will be adequately resourced. And it is not clear how well the Crown Prosecution Service will liaise with the City of London Police or other police forces for prosecutions under the new Bribery Act.

Cases brought against commercial organisations have increased in recent years. But many have been settled short of criminal conviction, with civil recovery orders being made. Only two cases have resulted in corporate convictions for corruption offences. The most high-profile case, the SFO's investigation into the BAE Systems activities in Saudi Arabia, was dropped in circumstances which generated criticism both at home and abroad.

Furthermore, we are concerned that the UK is not improving standards in some areas. The UK does not collect information on the ultimate or beneficial owners of UK companies, nor does it exert pressure on Crown dependencies and overseas territories to publish their company registries. The 'revolving door' between public and private sector remains to be a problem, eroding standards in public life. Under English criminal law, the burden of proof for embezzlement still rests with the prosecution.

In light of these findings, we recommend that:

- The final UK UNCAC Self-Assessment Report be published and debated in Parliament
- The government should ensure UNCAC is extended to all Crown Dependencies and Overseas Territories.

- Sufficient dedicated resources to pursue prosecutions under the Bribery Act must be a priority in order for the Bribery Act 2010 to remain credible. Resource constraints should not undermine the capacity of law enforcement.
- Plans for the abolition of the Audit Commission should be put on hold until there has been proper consultation and a thorough assessment of alternative options.
- Stronger regulations be enforced on private consultancies and lobbying of government and Parliament. Legislation to require mandatory registration of lobbyists should be given a higher priority in Parliament's legislative programme.
- Legislation around regulation of the revolving door between government and the private sector need to be considered and introduced.
- More diligence be pursued in enforcing know-your-customers rules, and expanded to other professional services like accounting, law, and other service providers.
- Protection for whistleblowing be better publicised.
- The government should collate and publish corruption-related data on a regular basis.

Overall, we wish to emphasise that it has been difficult to understand the nature and extent of corruption in the UK, and therefore also to monitor the UK's compliance with international anti-corruption standards. This is because the government has no mechanism for tracking or categorising corruption cases and so data are either non-existent or very hard to obtain.

Note: This statement is endorsed by the Bond Anti-Corruption Group.