



UNODC

United Nations Office on Drugs and Crime

United Nations Convention against Corruption

Self-assessment Name: Self-Assessment for United Nations Convention against Corruption - Chapters III and IV

Country: United Kingdom of Great Britain and Northern Ireland

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Comments:

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A. General information

A. General information

1. General information

Please provide general information on the ratification and status of UNCAC in your country (use the "Use template answer" button in the answer field to see a generic text)

The United Kingdom (UK) signed the Convention on 9 December 2003. [C.N.1400.2003.TREATIES-15 (Depositary Notification)]. The UK subsequently ratified the Convention on 9 February 2006 [C.N.131.2006.TREATIES-7 (Depositary Notification)]. The Convention came into effect on 11 March 2006.

The United Kingdom, which is responsible for the international relations of the British Virgin Islands (BVI), extended the territorial application of the Convention to the BVI on 12 October 2006. [C.N.848.2006.TREATIES-35 (Depositary Notification)]. Furthermore, the United Kingdom, which is responsible for the international relations of the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man, extended the territorial application of the Convention to these territories on 9 November 2009.

Treaties do not, on ratification, automatically become incorporated into UK law. For this reason, the UK only ratifies international conventions once UK law is deemed by the Government to be compliant. The only primary legislation required to ensure UK compliance before ratification of the Convention was included in the Serious Organised Crime and Police Act 2005. This enabled the UK to comply with subparagraph 1(b) of Article 31, on the instrumentalities of crime. Secondary legislation was passed in December 2005 to ensure the UK met its remaining obligations [Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 and Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeitures) Order 2005].

Please briefly describe the legal, institutional and political system of your country.

The United Kingdom is a constitutional monarchy, whose current head of state is Queen Elizabeth II. The head of the Government is the Prime Minister. The legislative branch is a bicameral Parliament, consisting of a House of Commons and a House of Lords. The Parliament at Westminster in England remains the seat of Government for the UK, but Scotland, Wales, and Northern Ireland also have a degree of devolved government. The United Kingdom has independent judiciaries.

Under the structure of the United Kingdom legal system, there are both overarching laws that cover the entire UK and laws that cover only England and Wales, Scotland, and/or Northern Ireland. When different laws relevant to this review process cover different areas of the United Kingdom, all applicable laws are cited and distinguished by the scope of their applicability. In addition, while many provisions of law are statutory in nature, some are contained in the "common law" of England, Wales, and Northern Ireland, which consists of the historical legal traditions of the United Kingdom that have been interpreted and made binding through judicial precedent. While closely related, the legal traditions of Scotland, which has a mixed common law/civil law history, and the rest of the United Kingdom differ in some regards, with the relevant divergences also noted in this

self-assessment.

Government Departments which play a role in tackling corruption

The Ministry of Justice (MoJ) currently houses the international anti-corruption Champion and Secretariat functions. The Prime Minister appointed the Justice Secretary, Kenneth Clarke QC, to become the Government's international anti-corruption champion in June 2010. The role is a key co-ordination role for Government and demonstrates the Government's clear commitment to transparency and accountability. The Champion and Secretariat role coordinates activities across government, working closely with colleagues across Departments, devolved Administrations, law enforcement, prosecution authorities and regulatory agencies to ensure a coherent and joined-up approach to combat international corruption. The role is not specific to one particular Department; it has previously been held by the Department of Business, Innovation and Skills and the Department for International Development. MoJ is also the UK Government lead for GRECO.

The Department for International Development (DFID) is the UK Government lead for UNCAC. It also has a specific interest in preventing UK individuals and companies from contributing to corruption overseas, especially in developing countries. It funds the Metropolitan Police's Proceeds of Corruption Unit and the City of London Police's Overseas Anti-Corruption Unit, as well as a small corruption intelligence cell in SOCA and part of the asset recovery work of the Crown Prosecution Service. DFID also promotes the use of UNCAC in developing countries through its aid programmes.

The Department for Business, Innovation and Skills (BIS) coordinates UK implementation of the OECD Anti-Bribery Convention. BIS works with other departments including the Foreign and Commonwealth Office (FCO) and UK Trade and Investment (UKTI) to press for a global level playing field in bribery rules and to provide clear and practical advice on overseas security risks and bribery risk management tools. UK Embassies and other Overseas Posts are regularly instructed to report allegations of UK involvement in foreign bribery and to provide advice and assistance on managing the risks of corruption.

Law enforcement agencies which play a role in tackling corruption

The Attorney General for England and Wales (with his deputy known as the Solicitor General) is the Minister of the Crown responsible in law for superintending the main prosecuting authorities, the Crown Prosecution Service (CPS), headed by the Director of Public Prosecutions (DPP), and the Serious Fraud Office (SFO), headed by its Director (Previously also the Revenue and Customs Prosecutions Office, which has been merged with the CPS since 1st January 2010). A protocol was published in July 2009 which sets out the relationship between Attorney General and the Director of Public Prosecutions and the Director of the Serious Fraud Office. The Attorney General for England and Wales also holds the separate office of Advocate General for Northern Ireland. Northern Ireland has its own Attorney General.

In England, Wales and Northern Ireland, prosecutions for offences under the main anti-corruption legislation, The Bribery Act 2010, require the personal consent of the Director of one of the main prosecuting authorities (The Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Director

of the Serious Fraud Office, or the Director of Revenue and Customs Prosecutions). This replaced a previous requirement for the consent of the Attorney General.

In Scotland, the head of prosecutions is the Lord Advocate, who supervises the work of the prosecutorial Crown Office, with the other Law Officer, the Solicitor General. In Scotland, most serious corruption cases are handled by the Serious and Organised Crime Division contained within the Crown Office. In appropriate cases Crown Office liaises with the SFO and CPS. Some orders (e.g. those under the Proceeds of Crime Act) can be enforced across the UK. Otherwise a procedure is in place for Scottish warrants to be backed by a magistrate in England and Wales before enforcement.

The Public Prosecution Service (PPS) is the principal prosecuting authority in Northern Ireland. In addition to taking decisions as to prosecution in cases investigated by the police in Northern Ireland, it also considers cases investigated by other statutory authorities, such as HM Revenue and customs. The PPS is headed by the Director of Public Prosecutions for Northern Ireland

The Serious Fraud Office (SFO) is responsible for investigating and prosecuting serious or complex fraud cases, and is the lead agency in England and Wales for investigating and prosecuting cases of overseas corruption. Approximately 100 investigators work in the SFO's Bribery and Corruption Business Area. This investigates and prosecutes both domestic and foreign corruption cases. The SFO's Proceeds of Crime Unit is responsible for the restraint, freezing and confiscation of assets both in relation to suspected fraud and corruption cases.

The UK police service comprises 52 territorial police forces (43 for England and Wales, eight for Scotland - soon to be reduced to one - and one in Northern Ireland), along with four special police forces: the Ministry of Defence Police, the British Transport Police Force, the Civil Nuclear Constabulary, and the Scottish Drug Enforcement Agency. Police in the Crown Dependencies of Jersey and Guernsey are members of the UK Police Service, even though they are outside the UK prosecutorial system. Corruption-related specialised units exist within the Metropolitan Police ("the Met") and the City of London police (CoLP). The City of London Police, based in London's financial centre, is the UK's National Lead Police Force for Fraud. In addition to an Economic Crime Department the CoLP has an Overseas Anti-Corruption Unit, sponsored by DFID, which, alongside the SFO, handles all UK international foreign corruption cases. The Metropolitan Police has a Proceeds of Corruption Unit that investigates foreign Politically Exposed Persons (PEPs) committing theft of state assets. It also has a Fraud Squad that investigates domestic corruption in the public sector.

The Independent Police Complaints Commission (IPCC) was established by the Police Reform Act 2002 and began work on 1 April 2004. The IPCC deals with complaints and allegations of misconduct against the police in England and Wales. The IPCC has a Lead Commissioner for corruption and an Operational Lead for corruption at Director Level. The Police Complaints Commissioner for Scotland and the Police Ombudsman for Northern Ireland are the independent equivalents of the IPCC in Scotland and Northern Ireland respectively.

The Serious Organised Crime Agency (SOCA) was established by the Serious Organised Crime and Police Act 2005 (SOCAP). Its functions are set out in that Act and (in relation to civil recovery functions) in the Serious Crime Act 2007. The

functions are to prevent and detect serious organised crime; to contribute to its reduction in other ways and the mitigation of its consequences; and to gather, store, analyse and disseminate information on organised crime. SOCA works in close collaboration with UK intelligence and law enforcement partners, the private and third sectors, and equivalent bodies internationally. In Scotland, the SCDEA has a primary role in preventing and detecting serious organised crime.

SOCA houses the UK's Financial Intelligence Unit (UKFIU). The unit has national responsibility for receiving analysing and disseminating financial intelligence submitted through the Suspicious Activity Reports (SARs) regime, and receives over 200,000 SARs a year. These are used to help investigate all levels and types of criminal activity, from benefit fraud to international drug smuggling, and from human trafficking to terrorist financing. SOCA also has an Anti-Corruption Unit which supports UK partners (police and/or prosecutors) in tackling corruption that enables organised crime and works to increase knowledge of the use of corruption in support of organised crime. The unit also tackles corruption directed against SOCA, or public sector corruption impacting on SOCA.

The Financial Services Authority (FSA) regulates most of the UK's financial services sector. It has a wide range of rule-making, investigatory and enforcement powers in order to meet its statutory objectives, which include the reduction of the extent to which it is possible for a financial business to be used for a purpose connected with financial crime. Financial crime includes fraud and dishonesty, money-laundering and corruption.

The FSA does not enforce the Bribery Act. But authorised firms are under a separate, regulatory obligation to identify and assess corruption risk and to put in place and maintain policies and processes to mitigate corruption risk. The FSA can take regulatory action against firms who fail adequately to address corruption risk; for example, the FSA has fined two firms for inadequate anti-corruption systems and controls. The FSA does not have to obtain evidence of corruption to take action against a firm.

There are a number of coordination groups which bring together the different agencies working on corruption issues. The International Corruption Group is a co-ordination group for law enforcement agencies which coordinates casework on Politically Exposed Persons (PEPs), money laundering and corruption generally. It usually meets on a monthly basis and is attended by representatives from the SFO, Metropolitan Police, City of London Police, Serious Organised Crime Agency, FSA, Ministry of Defence Police and sometimes by HM Revenue and Customs. The Politically Exposed Persons (PEPs) Strategic Group, which meets quarterly, provides a strategic lead and co-ordinates government departments and agencies to tackle money laundering by corrupt PEPs. Operating underneath the PEPs strategic group is the PEPs tactical group, bringing together the law enforcement agencies that deal with corrupt foreign PEPs (the Metropolitan Police, City of London police, SOCA, and the FSA) to discuss progress on specific cases.

Plans were published in June 2011 which set out in more detail plans to create in 2013 a new National Crime Agency (NCA) to enhance the UK law enforcement response to serious and organised criminality. The NCA will be UK-wide and will respect the devolution of powers to Scotland and Northern Ireland. Building on the capabilities of SOCA, the NCA will comprise of distinct operational Commands including an 'Economic Crime Command' (ECC) dealing with economic crimes (defined as including fraud, bribery and corruption). The ECC is planned to

provide a national strategic and coordinating role with respect to the collective response to fraud, bribery and corruption across the UK organisations tackling these areas, which includes police forces, SFO, CPS, FSA, the Office of Fair Trading, Department for Business, Innovation and Skills, Her Majesty's Revenue and Customs and the Department for Work and Pensions. It will also have operational investigative capabilities focused on fraud, bribery and corruption linked to the areas of criminality which are the focus of the NCA's other Commands - organised crime, border policing and the child exploitation and online protection centre (CEOP).

Have you ever assessed the effectiveness of anti-corruption measures taken by your country? If available, please attach any relevant documents (e.g. gap analysis, reports of other international and regional review mechanisms, policy studies).

The UK has been assessed in three evaluation rounds by the Council of Europe's Group of States Against Corruption (GRECO). For each evaluation round a total of three reports are completed and published. Firstly the evaluation report, then the compliance report (12-18 months later to assess progress in meeting the recommendations made in the evaluation report) and finally the Addendum to the compliance report (between 12-18 months later) which assesses progress made against outstanding recommendations made in the compliance report.

By end September 2011 the UK will submit information to the GRECO evaluators for the "addendum to the compliance report" of the Round III evaluation. This assesses the UK's progress in; a) incriminations and b) corruption in the funding of political parties and electoral campaigns. The final Addendum report will be made public and published on the GRECO website once it has been adopted by the GRECO Plenary in early 2012.

All of GRECO's reports on the UK are published on the GRECO website:
http://www.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp

The UK last Mutual Evaluation (ME) under the Financial Action Task Force (FATF) was published in June 2007, ahead of the coming into force of the current Money Laundering Regulations (2007) which transposed the 3rd EU Money Laundering Directive in the UK. The 2007 ME highlighted several deficiencies with respect to core FATF recommendation 5 on customer due diligence (R5) and non-compliance on a series of other recommendations. The implementation of the Money Laundering Regulations in 2007 largely remedied these. As a result - and following the 2009 follow up report - the UK was removed from the regular follow up process. Beyond addressing shortcomings with respect to R5, the follow up stressed significant progress on measures with the introduction of enforceable obligations with regards to PEPs (R6) and correspondent banking (R7) and addressing requirements for Designated Non-Financial Businesses and Professions or DNFBPs (R12 & R24). The UK also addressed FATF concerns regarding R33 by introducing new requirements to identify the beneficial owners with respect to financial institutions and other DNFBPs.

The UK is currently working on providing updated information on the state of the anti-money laundering and counter terrorism financing regime in the context of the FATF biennial update due to be reviewed at the next plenary in October this year.

The 2007 evaluation is available on the FATF website:
http://www.fatf-gafi.org/document/9/0,3746,en_32250379_32236963_38917001_1_1_1_1,00.html

The OECD Bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions. The UK has been reviewed by our OECD peers three times at Phase 1 and twice at Phase 2. The Phase 3 process began in July 2011 and will conclude in March 2012. Reports on UK by the OECD Working Group Bribery are available here: http://www.oecd.org/document/28/0,3746,en_2649_34859_44583772_1_1_1_1,00.html

If applicable, please attach relevant draft bills, policies and/or other measures that you want to be taken into account in the present review

III. Criminalization and law enforcement

15. Bribery of national public officials

63. Subparagraph (a) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

England and Wales and Northern Ireland

Section 1 Public Bodies Corrupt Practices Act 1889 (repealed 1 July 2011)
"1 Corruption in office a misdemeanor.

(1) ...

(2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of a misdemeanor.";

Section 1 of the Prevention of Corruption Act 1906 (repealed 1 July 2011)
1 Punishment of corrupt transactions with agents.

(1) ...

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business";

Common Law offence of bribery (abolished 1 July 2011) - where a person in the position of trustee to perform a public duty takes a bribe to act corruptly in discharging that duty, it is an offence in both parties: R v. Whitaker [1914] 3 K.B. 1283.

Section 1 of the Bribery Act 2010 (commenced 1 July 2011)

"1 Offences of bribing another person

(1) A person ("P") is guilty of an offence if either of the following cases applies.

(2) Case 1 is where-

(a) P offers, promises or gives a financial or other advantage to another person, and

(b) P intends the advantage-

(i) to induce a person to perform improperly a relevant function or activity, or

(ii) to reward a person for the improper performance of such a function or activity.

(3) Case 2 is where-

(a) P offers, promises or gives a financial or other advantage to another person, and

(b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

(4) In case 1 it does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.

(5) In cases 1 and 2 it does not matter whether the advantage is offered, promised or given by P directly or through a third party."

2 ..."

"3 Function or activity to which bribe relates

(1) For the purposes of this Act a function or activity is a relevant function or activity if-

(a) it falls within subsection (2), and

(b) meets one or more of conditions A to C.

(2) The following functions and activities fall within this subsection-

(a) any function of a public nature,

(b) any activity connected with a business,

(c) any activity performed in the course of a person's employment,

(d) any activity performed by or on behalf of a body of persons (whether corporate or unincorporate).

(3) Condition A is that a person performing the function or activity is expected to perform it in good faith.

(4) Condition B is that a person performing the function or activity is expected to perform it impartially.

- (5) Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.
- (6) A function or activity is a relevant function or activity even if it-
- (a) has no connection with the United Kingdom, and
 - (b) is performed in a country or territory outside the United Kingdom.
- (7) In this section "business" includes trade or profession."

4 Improper performance to which bribe relates

- (1) For the purposes of this Act a relevant function or activity-
- (a) is performed improperly if it is performed in breach of a relevant expectation, and
 - (b) is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.
- (2) In subsection (1) "relevant expectation"-
- (a) in relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and
 - (b) in relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of trust mentioned in that condition.
- (3) Anything that a person does (or omits to do) arising from or in connection with that person's past performance of a relevant function or activity is to be treated for the purposes of this Act as being done (or omitted) by that person in the performance of that function or activity.

Expectation test

- (1) For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.
- (2) In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.
- (3) In subsection (2) "written law" means law contained in-
- (a) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or
 - (b) any judicial decision which is so applicable and is evidenced in published written sources."

Scotland

All of the statutory laws described above also apply to Scotland as they do/ did for other parts of the UK. In addition, under Scottish common law, the offence of bribery, was a common law offence in Scotland (abolished 1 July 2011):

"It is a crime at common law to bribe a judicial officer, to attempt to do so,

and for the officer himself to take a bribe. Hume describes the crime, when committed by a judge, as: '... the selling of his judgment for good deed or reward: Meaning by this, not only his taking a bribe to decide against his conscience, but in general his taking to show favour in his office...' The term 'judicial officer' extends beyond judges, sheriffs, magistrates and justices on the one hand to other officers of court such as clerks, procurator fiscals and macers, all of whom are punishable if they take a reward for showing favour in their office. Bribery of non-judicial officers, such as public officials, councillors and the like, may be criminal at common law but it is always prosecuted nowadays under statute, as are all other aspects of corrupt behaviour." (extract from Stairs Encyclopaedia)

Please attach the text(s)

Public Bodies Corrupt Practices Act 1889 -
<http://www.legislation.gov.uk/ukpga/Vict/52-53/69>;
Prevention of Corruption Act 1906 -
<http://www.legislation.gov.uk/ukpga/Edw7/6/34>;
case law on the common law offence of bribery (R v. Whitaker [1914] 3 K.B. 1283) (attached);
Bribery Act 2010 - <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Paul Kent held a position in the office of the Learning Skills Council (LSC) in Shropshire, an organisation established by an Act of Parliament to plan and fund high quality education and training courses for young people and adults. Kent's role involved the soliciting and evaluation of tenders from the private sector. He abused his position to form a contract rigging ring.

Once LSC contracts had been corruptly secured and monies paid on them, Kent received significant backhanders. In October 2010, Kent was sentenced to four years and six month's imprisonment for receiving corrupt payments of just over £300,000 on contracts valued at over £1.3M. He had admitted 11 counts of receiving corrupt payments contrary to s1(1) of the Prevention of Corruption Act 1906.

Two suppliers of training services, John Ford and Rebecca Hoyle, were sentenced to two years imprisonment and one year imprisonment suspended for two years respectively. Ford pleaded guilty to 5 counts of making corrupt payments to Kent contrary to s1 (1) of the Prevention of Corruption Act 1906. Hoyle pleaded guilty to 3 counts of corruption contrary to s1 (1) of the Prevention of Corruption Act 1906. Further information available at:

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/four-sentenced-in-shropshire-training-contracts-bribery-and-money-laund>

ering-case.aspx

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See tables attached. Available statistical data for England and Wales records the number of defendants prosecuted under section 1(1) and (2) of the 1889 Act and section 1 of the 1906 Act and the outcome. Statistics for offences in Scotland are also attached. These statistics do not differentiate between active and passive offences and, in the case of the 1906 Act, does not differentiate between offences in the public and private sectors.

64. Subparagraph (b) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

England and Wales and Northern Ireland

Section 1 (1) Public Bodies Corrupt Practices Act 1889 (repealed 1 July 2011)

"1 Corruption in office a misdemeanor.

(1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of a misdemeanour."

Section 1 of the Prevention of Corruption Act 1906 (repealed 1 July 2011)

"1 Punishment of corrupt transactions with agents.

(1) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person,

any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business";

Common Law offence of bribery (abolished 1 July 2011) where a person in the position of trustee to perform a public duty takes a bribe to act corruptly in discharging that duty, it is an offence in both parties: R v. Whitaker [1914] 3 K.B. 1283;

Section 2 of the Bribery Act 2010 (commenced 1 July 2011)

"2 Offences relating to being bribed

(1) A person ("R") is guilty of an offence if any of the following cases applies.

(2) Case 3 is where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).

(3) Case 4 is where-

(a) R requests, agrees to receive or accepts a financial or other advantage, and

(b) the request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.

(4) Case 5 is where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.

(5) Case 6 is where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly-

(a) by R, or

(b) by another person at R's request or with R's assent or acquiescence.

(6) In cases 3 to 6 it does not matter-

(a) whether R requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party,

(b) whether the advantage is (or is to be) for the benefit of R or another person.

(7) In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.

(8) In case 6, where a person other than R is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper."

see sections 3 - 5 Bribery Act 2010 as set out above in response to subparagraph (a)

Scotland

All of the statutory laws described above also apply to Scotland as they do/did for other parts of the UK. In addition, under Scottish common law, the offence of bribery, was a common law offence in Scotland (abolished 1 July 2011)

" It is a crime at common law to bribe a judicial officer, to attempt to do so, and for the officer himself to take a bribe. Hume describes the crime, when committed by a judge, as: '... the selling of his judgment for good deed or reward: Meaning by this, not only his taking a bribe to decide against his conscience, but in general his taking to show favour in his office...'The term 'judicial officer' extends beyond judges, sheriffs, magistrates and justices on the one hand to other officers of court such as clerks, procurator fiscals and macers, all of whom are punishable if they take a reward for showing favour in their office. Bribery of non-judicial officers, such as public officials, councillors and the like, may be criminal at common law but it is always prosecuted nowadays under statute, as are all other aspects of corrupt behaviour." (extract from Stairs Encyclopaedia

Please attach the text(s)

See links and attachments for subparagraph (a)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

See answer to subparagraph (a).

Mr Sarfraz Ibrahim, a Crown Prosecution Service official, was charged under s.1 of the Prevention of Corruption Act 1906, accused of corruptly accepting £20k for advising that no charges be laid against an individual in relation to an allegation of assault. He pleaded guilty and on 14 July 2010 was sentenced to 4 years 6 months imprisonment. A confiscation order was made in the sum of £10k. For further information see:

http://www.cps.gov.uk/news/press_releases/126_10/index.html

There is also one ongoing prosecution under section 2 of the Bribery Act involving a court official. for further information see:

http://www.cps.gov.uk/news/press_releases/123_11/

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such

information is collected and analysed.

See tables attached under subparagraph (a). Available statistical data for England and Wales records the number of defendants prosecuted under section 1(1) and (2) of the 1889 Act and section 1 of the 1906 Act and the outcome. Statistics for offences in Scotland are also attached. These statistics do not differentiate between active and passive offences and, in the case of the 1906 Act, does not differentiate between offences in the public and private sectors.

65. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

66. Paragraph 1 of article 16

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

England and Wales and Northern Ireland

Section 1 Public Bodies Corrupt Practices Act 1889 (repealed 1 July 2011)

"1 Corruption in office a misdemeanor.

(1) ...

(2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public

body as aforesaid is concerned, shall be guilty of a misdemeanor."

"7 Interpretation.

In this Act-

- The expression "public body" means any council of a county or county of a city or town, any council of a municipal borough, also any board, commissioners, select vestry, or other body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law or otherwise to administer money raised by rates in pursuance of any public general Act, and includes any body which exists in a country or territory outside the United Kingdom and is equivalent to any body described above:

- The expression "public office" means any office or employment of a person as a member, officer, or servant of such public body:

- The expression "person" includes a body of persons, corporate or unincorporate:

Section 1 of the Prevention of Corruption Act 1906 (repealed 1 July 2011)

1 Punishment of corrupt transactions with agents.

(1) ...

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business"

(2)...; (3) ...

"(4) For the purposes of this Act it is immaterial if-

(a)the principal's affairs or business have no connection with the United Kingdom and are conducted in a country or territory outside the United Kingdom;

(b)the agent's functions have no connection with the United Kingdom and are carried out in a country or territory outside the United Kingdom."

Common Law offence of bribery (abolished 1 July 2011)

where a person in the position of trustee to perform a public duty takes a bribe to act corruptly in discharging that duty, it is an offence in both parties: R v. Whitaker [1914] 3 K.B. 1283. ;

Anti-Terrorism Crime and Security Act 2001

section 108 - Bribery and corruption: foreign officers etc. [repealed 1 July 2011]

(1)For the purposes of any common law offence of bribery it is immaterial if the functions of the person who receives or is offered a reward have no connection with the United Kingdom and are carried out in a country or territory outside the United Kingdom.

section 109 - Bribery and corruption committed outside the UK [repealed 1 July 2011]

- (1) This section applies if-
 - (a) a national of the United Kingdom or a body incorporated under the law of any part of the United Kingdom does anything in a country or territory outside the United Kingdom, and
 - (b) the act would, if done in the United Kingdom, constitute a corruption offence (as defined below).
- (2) In such a case-
 - (a) the act constitutes the offence concerned, and
 - (b) proceedings for the offence may be taken in the United Kingdom.
- (3) These are corruption offences-
 - (a) any common law offence of bribery;
 - (b) the offences under section 1 of the Public Bodies Corrupt Practices Act 1889 (c. 69) (corruption in office);
 - (c) the first two offences under section 1 of the Prevention of Corruption Act 1906 (c. 34) (bribes obtained by or given to agents).
- (4) A national of the United Kingdom is an individual who is-
 - (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject, or
 - (c) a British protected person within the meaning of that Act.

Section 1 of the Bribery Act 2010 (commenced 1 July 2011)

"1 Offences of bribing another person

- (1) A person ("P") is guilty of an offence if either of the following cases applies.
 - (2) Case 1 is where-
 - (a) P offers, promises or gives a financial or other advantage to another person, and
 - (b) P intends the advantage-
 - (i) to induce a person to perform improperly a relevant function or activity, or
 - (ii) to reward a person for the improper performance of such a function or activity.
 - (3) Case 2 is where-
 - (a) P offers, promises or gives a financial or other advantage to another person, and
 - (b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
 - (4) In case 1 it does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.
 - (5) In cases 1 and 2 it does not matter whether the advantage is offered, promised or given by P directly or through a third party."
- 2 ...".

Section 6 of the Bribery Act 2010

"6 Bribery of foreign public officials

- (1) A person (“P”) who bribes a foreign public official (“F”) is guilty of an offence if P's intention is to influence F in F's capacity as a foreign public official.
- (2) P must also intend to obtain or retain-
- (a) business, or
 - (b) an advantage in the conduct of business.
- (3) P bribes F if, and only if-
- (a) directly or through a third party, P offers, promises or gives any financial or other advantage-
 - (i) to F, or
 - (ii) to another person at F's request or with F's assent or acquiescence, and
 - (b) F is neither permitted nor required by the written law applicable to F to be influenced in F's capacity as a foreign public official by the offer, promise or gift.
- (4) References in this section to influencing F in F's capacity as a foreign public official mean influencing F in the performance of F's functions as such an official, which includes-
- (a) any omission to exercise those functions, and
 - (b) any use of F's position as such an official, even if not within F's authority.
- (5) “Foreign public official” means an individual who-
- (a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory),
 - (b) exercises a public function-
 - (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory), or
 - (ii) for any public agency or public enterprise of that country or territory (or subdivision), or
 - (c) is an official or agent of a public international organisation.
- (6) “Public international organisation” means an organisation whose members are any of the following-
- (a) countries or territories,
 - (b) governments of countries or territories,
 - (c) other public international organisations,
 - (d) a mixture of any of the above.
- (7) For the purposes of subsection (3)(b), the written law applicable to F is-
- (a) where the performance of the functions of F which P intends to influence would be subject to the law of any part of the United Kingdom, the law of that part of the United Kingdom,
 - (b) where paragraph (a) does not apply and F is an official or agent of a public international organisation, the applicable written rules of that organisation,
 - (c) where paragraphs (a) and (b) do not apply, the law of the country or territory in relation to which F is a foreign public official so far as that law is contained in-
 - (i) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or

- (ii) any judicial decision which is so applicable and is evidenced in published written sources.
(8) For the purposes of this section, a trade or profession is a business."

Scotland

All of the statutory laws described above also apply to Scotland as they do/did to other parts of the UK. In addition, under Scottish common law, the offence of bribery, was a common law offence in Scotland (abolished 1 July 2011):

"It is a crime at common law to bribe a judicial officer, to attempt to do so, and for the officer himself to take a bribe. Hume describes the crime, when committed by a judge, as: '... the selling of his judgment for good deed or reward: Meaning by this, not only his taking a bribe to decide against his conscience, but in general his taking to show favour in his office...' The term 'judicial officer' extends beyond judges, sheriffs, magistrates and justices on the one hand to other officers of court such as clerks, procurator fiscals and macers, all of whom are punishable if they take a reward for showing favour in their office. Bribery of non-judicial officers, such as public officials, councillors and the like, may be criminal at common law but it is always prosecuted nowadays under statute, as are all other aspects of corrupt behaviour." (extract from Stairs Encyclopaedia).

Please attach the text(s)

Public Bodies Corrupt Practices Act 1889 -
<http://www.legislation.gov.uk/ukpga/Vict/52-53/69>;
Prevention of Corruption Act 1906 -
<http://www.legislation.gov.uk/ukpga/Edw7/6/34>;
case law on the common law offence of bribery (R v. Whitaker [1914] 3 K.B. 1283) (attached);
Bribery Act 2010 - <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Case of Julian Messent

Insurance Broker jailed for bribing Costa Rican officials

26 October 2010

Julian Messent was sentenced on 26 October 2010 to 21 months' imprisonment after admitting making or authorising corrupt payments of almost US \$2 million to Costa Rican officials in the state insurance company, Instituto Nacional de Seguros (INS) and the national electricity and telecommunications provider Instituto Costarricense de Electricidad (ICE) contrary to s1 (1) of the Prevention of Corruption Act 1906.

He was ordered to pay £100,000 compensation within 28 days to the Republic of Costa Rica or serve an additional 12 months imprisonment if he fails to do so. Further information at

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/insurance-broker-jailed-for-bribing-costa-rican-officials.aspx>

Case of Robert John Dougall British executive jailed for part in Greek healthcare corruption

Former DePuy executive Robert John Dougall pleaded guilty 14 April 2010 at Southwark Crown Court after admitting his involvement in £4.5 million corrupt payments to medical professionals within the Greek state healthcare system contrary to section 1 of the Prevention of Corruption Act 1906. He was sentenced to 12 months imprisonment. Further information at

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/british-executive-jailed-for-part-in-greek-healthcare-corruption.aspx>.

The Innospec case - On 18 March 2010, Innospec Ltd, a UK company an a wholly owned subsidiary of a Delaware company, Innospec Inc, pleaded guilty at Southwark Crown Court to conspiracy to corrupt contrary to s.1 of the Criminal law Act 1977. Innospec Ltd had conspired with its directors and others to make corrupt payments, contrary to section 1 of the Prevention of Corruption Act 1906, to public officials of the Government of Indonesia to secure contracts from the Government Of Indonesia for the supply of Tetraethyl lead (fuel additive). Further details at

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/innospec-judgment.aspx>

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See tables attached. Available statistical data for England and Wales records the number of defendants prosecuted under section 1(1) and (2) of the 1889 Act and section 1 of the 1906 Act and the outcome. Statistics for offences in Scotland are also attached. These statistics do not differentiate between active and passive offences and, in the case of the 1906 Act, does not differentiate between offences in the public and private sectors.

67. Paragraph 2 of article 16

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

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Please cite the text(s)

England and Wales and Northern Ireland

Section 1 Public Bodies Corrupt Practices Act 1889 (repealed 1 July 2011)

1 Corruption in office a misdemeanor.

(1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of a misdemeanour."

"7 Interpretation.

In this Act-

- The expression "public body" means any council of a county or county of a city or town, any council of a municipal borough, also any board, commissioners, select vestry, or other body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law or otherwise to administer money raised by rates in pursuance of any public general Act, and includes any body which exists in a country or territory outside the United Kingdom and is equivalent to any body described above:

- The expression "public office" means any office or employment of a person as a member, officer, or servant of such public body:

- The expression "person" includes a body of persons, corporate or unincorporate."

Section 1 of the Prevention of Corruption Act 1906 (repealed 1 July 2011)

"1 Punishment of corrupt transactions with agents.

(1) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business"

(2)...; (3) ...

"(4) For the purposes of this Act it is immaterial if-

(a) the principal's affairs or business have no connection with the United Kingdom and are conducted in a country or territory outside the United Kingdom;

(b) the agent's functions have no connection with the United Kingdom and are carried out in a country or territory outside the United Kingdom."

Common Law offence of bribery (abolished 1 July 2011) where a person in the position of trustee to perform a public duty takes a bribe to act corruptly in discharging that duty, it is an offence in both parties: R v. Whitaker [1914] 3 K.B. 1283;

Anti-Terrorism Crime and Security Act 2001

section 108 - Bribery and corruption: foreign officers etc. [repealed 1 July 2011]

(1) For the purposes of any common law offence of bribery it is immaterial if the functions of the person who receives or is offered a reward have no connection with the United Kingdom and are carried out in a country or territory outside the United Kingdom.

Section 109 - Bribery and corruption committed outside the UK [repealed 1 July 2011]

(1) This section applies if-

(a) a national of the United Kingdom or a body incorporated under the law of any part of the United Kingdom does anything in a country or territory outside the United Kingdom, and

(b) the act would, if done in the United Kingdom, constitute a corruption offence (as defined below).

(2) In such a case-

(a) the act constitutes the offence concerned, and

(b) proceedings for the offence may be taken in the United Kingdom.

(3) These are corruption offences-

(a) any common law offence of bribery;

(b) the offences under section 1 of the Public Bodies Corrupt Practices Act 1889 (c. 69) (corruption in office);

(c) the first two offences under section 1 of the Prevention of Corruption Act 1906 (c. 34) (bribes obtained by or given to agents).

(4) A national of the United Kingdom is an individual who is-

(a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 (c. 61) is a British subject, or

(c) a British protected person within the meaning of that Act.

From 1 July 2011 - Section 2 Bribery Act 2010

"2 Offences relating to being bribed

(1) A person ("R") is guilty of an offence if any of the following cases applies.

(2) Case 3 is where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or

activity should be performed improperly (whether by R or another person).

(3) Case 4 is where-

(a) R requests, agrees to receive or accepts a financial or other advantage, and

(b) the request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.

(4) Case 5 is where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.

(5) Case 6 is where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly-

(a) by R, or

(b) by another person at R's request or with R's assent or acquiescence.

(6) In cases 3 to 6 it does not matter-

(a) whether R requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party,

(b) whether the advantage is (or is to be) for the benefit of R or another person.

(7) In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.

(8) In case 6, where a person other than R is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper."

"3 Function or activity to which bribe relates

(1) For the purposes of this Act a function or activity is a relevant function or activity if-

(a) it falls within subsection (2), and

(b) meets one or more of conditions A to C.

(2) The following functions and activities fall within this subsection-

(a) any function of a public nature,

(b) any activity connected with a business,

(c) any activity performed in the course of a person's employment,

(d) any activity performed by or on behalf of a body of persons (whether corporate or unincorporate).

(3) Condition A is that a person performing the function or activity is expected to perform it in good faith.

(4) Condition B is that a person performing the function or activity is expected to perform it impartially.

(5) Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.

(6) A function or activity is a relevant function or activity even if it-

(a) has no connection with the United Kingdom, and

- (b) is performed in a country or territory outside the United Kingdom.
- (7) In this section "business" includes trade or profession."

4 Improper performance to which bribe relates

(1) For the purposes of this Act a relevant function or activity-

(a) is performed improperly if it is performed in breach of a relevant expectation, and

(b) is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.

(2) In subsection (1) "relevant expectation"-

(a) in relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and

(b) in relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of trust mentioned in that condition.

(3) Anything that a person does (or omits to do) arising from or in connection with that person's past performance of a relevant function or activity is to be treated for the purposes of this Act as being done (or omitted) by that person in the performance of that function or activity.

Expectation test

(1) For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.

(2) In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.

(3) In subsection (2) "written law" means law contained in-

(a) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or

(b) any judicial decision which is so applicable and is evidenced in published written sources."

Scotland

All of the statutory laws described above also apply to Scotland as they do/did to other parts of the UK.

In addition under Scottish common law, the offence of bribery, was a

common law offence in Scotland (abolished 1 July 2011):

, " It is a crime at common law to bribe a judicial officer, to attempt to do so, and for the officer himself to take a bribe. Hume describes the crime, when committed by a judge, as: '... the selling of his judgment for good deed or reward: Meaning by this, not only his taking a bribe to decide against his conscience, but in general his taking to show favour in his office...'The term 'judicial officer' extends beyond judges, sheriffs, magistrates and justices on the one hand to other officers of court such as clerks, procurator fiscals and macers, all of whom are punishable if they take a reward for showing favour in their office. Bribery of non-judicial officers, such as public officials, councillors and the like, may be criminal at common law but it is always prosecuted nowadays under statute, as are all other aspects of corrupt behaviour." (extract from Stairs Encyclopaedia)

Please attach the text(s)

See links/ attachments for paragraph 1

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Case of Ananais Gweinho Tumukunde - a Ugandan government official sentenced on 22 September 2008 to 12 months imprisonment for receiving corrupt payments totally more than £50k in relation to a contract with a British company (CBRN Team Ltd) for training and equipment for the Ugandan Army.

(Although charges under the Public Bodies Corrupt Practices Act 1889 could have been used, it was decided to prosecute for money laundering offences). For further information, see report:

<http://www.nortonrose.com/expertise/business-ethics-and-anti-corruption/business-ethics-and-anti-corruption-case-study-cbrn-team-ltd-non-fcpa-18410.aspx>

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See tables attached. Available statistical data for England and Wales records the number of defendants prosecuted under section 1(1) and (2) of the 1889 Act and section 1 of the 1906 Act and the outcome. Statistics for offences in Scotland are also attached. These statistics do not differentiate between active and passive offences and, in the case of the 1906 Act, does not differentiate between offences in the public and private sectors.

68. Technical Assistance

04/11/2011

United Kingdom of
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The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

69. Article 17

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Fraud Act 2006

Sections 2, 3, and 4 Fraud Act 2006

Jurisdiction

There is jurisdiction to prosecute all the offences in the Fraud Act if a "relevant event" occurred in England or Wales - Criminal Justice Act 1993, Part 1 (Archbold 2007, para. 2-37) and Home Office Circular 19/1999. A "relevant event" for the purposes of the Criminal Justice Act 1993 is defined in Section 2 (1) of that Act as

"any act or omission or other event (including the result of any one or more acts or omissions) proof of which is required for conviction of the offence."

In relation to an offence under Section 1 of the Fraud Act the definition of a relevant event has been extended by the insertion of subsection 1A after subsection 2 (1) of the Criminal Justice Act 1993. Subsection 1A states that in relation to an offence under Section 1 a "relevant event" includes:

- if the fraud involved an intention to make a gain and the gain occurred, that occurrence; and
- if the fraud involved an intention to cause a loss or to expose another to a risk of loss and the loss occurred, that loss.

This means that if, for example, a false representation is made in Scotland to a bank call centre in India resulting in a loss from a bank account in

London, there will be jurisdiction to prosecute a Section 1 offence in England and Wales although the actual loss is not an essential element of a Section 1 offence.

This provision applies in addition to the provisions in Section 4 of the Criminal Justice Act 1993 which lays down the rules for determining the location of events (Archbold 2007, para. 2-40).

By virtue of Section 3 (1) of the Criminal Justice Act 1993 a person may be guilty of an offence whether or not he was in England and Wales at any material time and whether or not he was a British citizen at any such time. The maximum sentence is 10 years imprisonment.

Common Law offence of conspiracy to defraud.

A conspiracy between a person in England and a person abroad to commit a crime in England is indictable in England.

The maximum sentence is 10 years imprisonment.

Misconduct in public office is an offence at common law triable only on indictment. It carries a maximum sentence of life imprisonment. It is an offence confined to those who are public office holders and is committed when the office holder acts (or fails to act) in a way that constitutes a breach of the duties of that office.

S1, 17 (1) (a) and (b) Theft Act 1968 - theft breach of trust.

Jurisdiction - Criminal Justice Act 1993 Part 1 - We can prosecute for certain offences of dishonesty (section 1) (Archbold, 2-37) provided a "relevant event" (section 2) occurred in England or Wales - Archbold 2-38). This applies whether or not the defendant was in England or Wales at any material time, and whether or not he was a British citizen at any such time (section 3). (Archbold, 2-44)

Statutory Limitations & Maximum Penalty: 10 years

THE POSITION IN NORTHERN IRELAND

Sections 2,3 and 4 of the Fraud Act 2006 extend to Northern Ireland as well as England and Wales and provision re jurisdiction to prosecute is made by the Criminal Justice (NI) Order 1996 Part 111 where article 39(1) defines 'a relevant event'. This definition was also extended by a consequential amendment in the Fraud Act. Article 40 of the Order determines that a person may be guilty whether or not they were in NI at

the time and Article 41 lies down rules for determining the location of events. The common law offences of conspiracy and misconduct in public office apply in NI. Similar provision for theft breach of trust is made in the Theft Act (NI) 1969 and again jurisdiction to prosecute is in the 1996 Order.

THE POSITION IN SCOTLAND

In Scotland the common law offence of embezzlement is defined as the dishonest appropriation of money, goods or the proceeds thereof, by a person who holds them on behalf of another person to whom he owes a duty to account, and on whose behalf he is in the process of carrying out a course of dealing with the money, goods or proceeds.

Please attach the text(s)

Fraud Act 2006 <http://www.legislation.gov.uk/ukpga/2006/35/contents>

Theft Act 1968 <http://www.legislation.gov.uk/ukpga/1968/60/contents>

Theft Act (NI) 1969 <http://www.legislation.gov.uk/apni/1969/16/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Scenario

“...the [embezzlement, misappropriation] or other diversion by a public official (PO) for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.”

Could form the basis of an offence under the Bribery Act 2010 as follows (particularly if you take embezzlement and misappropriation out of the equation and concentrate on ‘diversion’):

1. The PO diverts official funds, or the letting of a contract, in a way that would be ‘improper performance’ of his/her office or function as a result of a bribe (section 1)

As for Article 22 the same principle applies between private sector individuals or corporate bodies where the expectation of trust arises. The facts simply need adjusting to the private sector where A is bribed to embezzle, misappropriate (etc) by B.

Sections 1 and 2 and 7 of the Bribery Act 2010 could be engaged but again not section 6.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Statistical data on the number of investigation is not available for these offences as they form part of the overall offences.

70. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

71. Subparagraph (a) of article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

The UK has considered as part of its general review of the law of bribery the extent to which the conduct covered by Article 18 should be criminalised.

As regards private individuals, UK law does not criminalise the offering, promising or giving of advantages in relation to the exercise of influence generally, as this would catch legitimate lobbying and marketing etc. However, the general bribery offences in the Bribery Act 2010 address circumstances in which an advantage is offered, promised or given to

someone claiming to have influence with the intention that a person in public administration or public authority be induced to perform the function improperly as a result of the advantage given to the person exerting the influence. The circumstances may or may not involve the transfer of the advantage or part of the advantage to the decision maker in the public administration or public authority or to someone with whom the decision maker has a close personal relationship (e.g. money given to a family member) providing that the intention is that the decision maker is induced to perform a relevant function improperly. The scope of the offences is broad enough to cover circumstances in which no impropriety could be associated with the conduct of the decision maker but the person exerting the influence him or herself is induced by an advantage to perform his or her functions or activities improperly as defined by the Act, such as an activity connected to a business or a function of a public nature, and the person offering, promising or giving the advantage intends this.

See references to Bribery Act sections 1, 2 and 6 in Articles 15 and 16

Please attach the text(s)

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Not available

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Not available

72. Subparagraph (b) of article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

The UK has considered as part of its general review of the law of bribery the extent to which the conduct covered by Article 18 should be criminalised.

As regards private individuals, UK law does not criminalise the solicitation or acceptance of advantages in relation to the exercise of influence generally, as this would catch legitimate lobbying and marketing etc. However, the general bribery offences in the Act address circumstances in which an advantage is solicited or accepted by someone claiming to have influence with the intention that a person in public administration or public authority be induced to perform the function improperly as a result of the advantage received by the person exerting the influence. The circumstances may or may not involve the transfer of the advantage or part of the advantage to the decision maker in the public administration or authority or to someone with whom he or she has a close personal relationship (e.g. money given to a family member) providing that the intention is that the decision maker is induced to perform a relevant function improperly. The scope of the offences is broad enough to cover circumstances in which no impropriety could be associated with the conduct of the decision maker but the person exerting the influence him or herself is induced by an advantage to perform his or her functions or activities improperly as defined by the Act, such as an activity connected to a business or a function of a public nature, and the person soliciting or accepting the advantage intends this.

See references to Bribery Act sections 1, 2 and 6 in Articles 15 and 16

Please attach the text(s)

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Not available

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Not available

73. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

74. Article 19

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

The conduct described above could engage the following aspects of UK criminal law:

Theft under section 1 of the Theft Act 1976 (see Article 17);

Fraud under the Fraud Act 2006 (see Article 17);

The common law offence of Misconduct in Public Office - committed by a public official acting as such who wilfully neglects to perform his duty and/or wilfully misconducts himself to such a degree as to amount to an abuse of the public's trust in the office holder without reasonable excuse or justification - Attorney-General's Reference (No 3 of 2003) [2004] 2 Cr.App.R. 23, CA. The scope of the offences is wide and covers conduct that is intended to secure an advantage for the official in question or another person.

Bribery under section 2 of the Bribery Act (see Article 15)

Please attach the text(s)

Theft Act 1968 <http://www.legislation.gov.uk/ukpga/1968/60/contents>

Fraud Act 2006 <http://www.legislation.gov.uk/ukpga/2006/35/contents>

Bribery Act 2010 - <http://www.legislation.gov.uk/ukpga/2010/23/contents>

Attorney-General's Reference (No 3 of 2003) [2004] 2 Cr.App.R. 23, CA.
(attached)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Please see Articles 15 and 17 on Bribery and Embezzlement. Examples of misconduct in public office include:

R v. Speechley [2005] 2 Cr.App.R(S.) 15 - Mr Speechley was the leader of

a county council who owned a plot of land the value of which could be affected by the re-alignment of a road. As leader of the council he proposed an alteration to the route of the road which would favour his plot of land. He failed to declare his interest in discussions of the road and the proposals. Sentenced to 18 months' imprisonment which was upheld on appeal.

R v John-Ayo [2009] 1 Cr. App. R (S.) 71 - Ms John-Ayo worked as an administrative officer in the Home Office dealing with the issuing of travel documents ("refugee passports"). She issued to 64 to people whom she knew were not entitled to them and granted another 180 applications which she knew to be fraudulent. Sentenced to 9 years' imprisonment - upheld on appeal.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Not available

75. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

76. Article 20

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

Has your country adopted and implemented the measures described above? (Check one answer)

(N) No

Please provide an account of your country's efforts to date to implement the provision under review:

The establishment of a criminal offence as set out in Article 20 would be

contrary to the fundamental principles of our legal system. The presumption of innocence is a general principle of the criminal law of the United Kingdom in keeping with Article 6 of the European Convention on Human Rights. In UK jurisdictions the prosecution is ordinarily required to prove all elements of an offence to the criminal standard before an individual may be found guilty. In rare instances the burden of proving certain matters can shift to the defence. This is usually where having established a prima facie case it would be impossible for the prosecution to establish matters peculiarly within the knowledge of the defendant. We consider that creating an offence as suggested by Article 20 would lead to a significant risk of convicting innocent individuals where their explanation was simply not believed. We do not consider that is a sufficient basis on which to impose criminal liability and would unjustifiably infringe the presumption of innocence.

In addition, the UK believes that the introduction of an offence in accordance with Article 20 is unnecessary. Quite apart from the difficulties of monitoring the private wealth of public officials, public officials are already subject to a number of criminal offences such as bribery, fraud, theft or money laundering (which have no de minimis thresholds) as well as the offence of misconduct in public office. In addition civil servants in the United Kingdom are subject to the rules set out in the Civil Service Code as set out below. We do not consider an additional offence of illicit enrichment would add to those offences. Were a public official to be in possession of wealth disproportionate to his salary this could give rise to suspicion sufficient to justify a criminal investigation and evidence of this kind may be relevant to any charges preferred as a result of such an investigation.

Under the Constitutional Reform and Governance Act 2010, UK civil servants are bound by the Civil Service Code, which forms part of their contractual terms and conditions of employment.

Under the Civil Service Code, civil servants must:

* comply with the law and uphold the administration of justice

and must not:

* accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise their personal judgement or integrity.

Civil Service Code -

<http://www.civilservice.gov.uk/about/values/cscode/index.aspx>

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review

Not applicable

77. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

78. Subparagraph (a) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

England and Wales, Scotland and Northern Ireland

Section 1 of the Prevention of Corruption Act 1906 (repealed 1 July 2011);
"1 Punishment of corrupt transactions with agents.
(1) ...

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business";

Section 1 of the Bribery Act 2010 (commenced July 2011)
"1 Offences of bribing another person

- (1) A person ("P") is guilty of an offence if either of the following cases applies.
- (2) Case 1 is where-
- (a) P offers, promises or gives a financial or other advantage to another person, and
- (b) P intends the advantage-
- (i) to induce a person to perform improperly a relevant function or activity, or
- (ii) to reward a person for the improper performance of such a function or activity.
- (3) Case 2 is where-
- (a) P offers, promises or gives a financial or other advantage to another person, and
- (b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
- (4) In case 1 it does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.
- (5) In cases 1 and 2 it does not matter whether the advantage is offered, promised or given by P directly or through a third party."
- 2 ..."

"3 Function or activity to which bribe relates

- (1) For the purposes of this Act a function or activity is a relevant function or activity if-
- (a) it falls within subsection (2), and
- (b) meets one or more of conditions A to C.
- (2) The following functions and activities fall within this subsection-
- (a) any function of a public nature,
- (b) any activity connected with a business,
- (c) any activity performed in the course of a person's employment,
- (d) any activity performed by or on behalf of a body of persons (whether corporate or unincorporate).
- (3) Condition A is that a person performing the function or activity is expected to perform it in good faith.
- (4) Condition B is that a person performing the function or activity is expected to perform it impartially.
- (5) Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.
- (6) A function or activity is a relevant function or activity even if it-
- (a) has no connection with the United Kingdom, and
- (b) is performed in a country or territory outside the United Kingdom.
- (7) In this section "business" includes trade or profession."

4 Improper performance to which bribe relates

- (1) For the purposes of this Act a relevant function or activity-
- (a) is performed improperly if it is performed in breach of a relevant expectation, and
 - (b) is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.
- (2) In subsection (1) "relevant expectation"-
- (a) in relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and
 - (b) in relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of trust mentioned in that condition.
- (3) Anything that a person does (or omits to do) arising from or in connection with that person's past performance of a relevant function or activity is to be treated for the purposes of this Act as being done (or omitted) by that person in the performance of that function or activity.

5 Expectation test

- (1) For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.
- (2) In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.
- (3) In subsection (2) "written law" means law contained in-
- (a) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or
 - (b) any judicial decision which is so applicable and is evidenced in published written sources."

Please attach the text(s)

Prevention of Corruption Act 1906

<http://www.legislation.gov.uk/ukpga/Edw7/6/34;>

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Adam Hauxwell-Smith set up a number of companies to supply goods to the UK operation of IKEA. Between 1998 to 2000, Adam Hauxwell-Smith made corrupt payments to two IKEA executives in influential positions - John Brown (purchasing) and Paul Hault (retail sales) - to ensure that his companies' supplies and invoices would be approved, regardless of an IKEA policy whereby it would not take more than 40% of a supplier's turnover. Later, the corrupt payments were linked to the quantity of goods ordered. Adam Hauxwell-Smith admitted providing inducements to John Brown (£1,012,730) and Paul Hault (£286,168), which they admitted receiving, all contrary to the Prevention of Corruption Act 1906. Adam Hauxwell-Smith was sentenced in October 2007 to three years' imprisonment and was disqualified from being a company director for eight years. John Brown was sentenced to two years imprisonment and Paul Hault to thirteen months imprisonment. Further information can be found at:<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2007/three-sentenced-in-ikea-supplies-corruption-case.aspx>

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See tables attached. Available statistical data for England and Wales records the number of defendants prosecuted under section 1(1) and (2) of the 1889 Act and section 1 of the 1906 Act and the outcome. Statistics for offences in Scotland are also attached. These statistics do not differentiate between active and passive offences and, in the case of the 1906 Act, does not differentiate between offences in the public and private sectors.

79. Subparagraph (b) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

...

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

England and Wales Scotland and Northern Ireland

Section 1 of the Prevention of Corruption Act 1906 (repealed 1 July 2011);
"1 Punishment of corrupt transactions with agents.

(1) ...

(1) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business;

Section 2 of the Bribery Act 2010 (commenced 1 July 2011)

"2 Offences relating to being bribed

(1) A person ("R") is guilty of an offence if any of the following cases applies.

(2) Case 3 is where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).

(3) Case 4 is where-

(a) R requests, agrees to receive or accepts a financial or other advantage, and

(b) the request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.

(4) Case 5 is where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.

(5) Case 6 is where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly-

(a) by R, or

(b) by another person at R's request or with R's assent or acquiescence.

(6) In cases 3 to 6 it does not matter-

(a) whether R requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party,

(b) whether the advantage is (or is to be) for the benefit of R or another person.

(7) In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.

(8) In case 6, where a person other than R is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper."

Please attach the text(s)

See attachments for subparagraph (a)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

See case cited in response to subparagraph (a)

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See tables attached in response to subparagraph (a). Available statistical data for England and Wales records the number of defendants prosecuted under section 1(1) and (2) of the 1889 Act and section 1 of the 1906 Act and the outcome. Statistics for offences in Scotland are also attached. These statistics do not differentiate between active and passive offences and, in the case of the 1906 Act, does not differentiate between offences in the public and private sectors.

80. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

81. Article 22

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Fraud Act 2006

Sections 2, 3, and 4 Fraud Act 2006

Jurisdiction

There is jurisdiction to prosecute all the offences in the Fraud Act if a "relevant event" occurred in England or Wales - Criminal Justice Act 1993, Part 1 (Archbold 2007, para. 2-37) and Home Office Circular 19/1999. A "relevant event" for the purposes of the Criminal Justice Act 1993 is defined in Section 2 (1) of that Act as

"any act or omission or other event (including the result of any one or more acts or omissions) proof of which is required for conviction of the offence." In relation to an offence under Section 1 of the Fraud Act the definition of a relevant event has been extended by the insertion of subsection 1A after subsection 2 (1) of the Criminal Justice Act 1993. Subsection 1A states that in relation to an offence under Section 1 a "relevant event" includes:

- if the fraud involved an intention to make a gain and the gain occurred, that occurrence; and
- if the fraud involved an intention to cause a loss or to expose another to a risk of loss and the loss occurred, that loss.

This means that if, for example, a false representation is made in Scotland to a bank call centre in India resulting in a loss from a bank account in London, there will be jurisdiction to prosecute a Section 1 offence in England and Wales although the actual loss is not an essential element of a Section 1 offence.

This provision applies in addition to the provisions in Section 4 of the Criminal Justice Act 1993 which lays down the rules for determining the location of events (Archbold 2007, para. 2-40).

By virtue of Section 3 (1) of the Criminal Justice Act 1993 a person may be guilty of an offence whether or not he was in England and Wales at any material time and whether or not he was a British citizen at any such time. The maximum sentence is 10 years imprisonment.

Common Law offence of conspiracy to defraud.

A conspiracy between a person in England and a person abroad to commit a crime in England is indictable in England.

The maximum sentence is 10 years imprisonment.

Misconduct in public office is an offence at common law triable only on indictment. It carries a maximum sentence of life imprisonment. It is an offence confined to those who are public office holders and is committed when the office holder acts (or fails to act) in a way that constitutes a breach of the duties of that office.

S1, 17 (1) (a) and (b) Theft Act 1968 - theft breach of trust.

Jurisdiction - Criminal Justice Act 1993 Part 1 - We can prosecute for certain offences of dishonesty (section 1) (Archbold, 2-37) provided a "relevant event" (section 2) occurred in England or Wales - Archbold 2-38). This applies whether or not the defendant was in England or Wales at any material time, and whether or not he was a British citizen at any such time (section 3). (Archbold, 2-44)

Statutory Limitations & Maximum Penalty: 10 years

THE POSITION IN NORTHERN IRELAND

Sections 2,3 and 4 of the Fraud Act 2006 extend to NI as well as E&W and provision re jurisdiction to prosecute is made by the Criminal Justice (NI) Order 1996 Part 111 where article 39(1) defines 'a relevant event'. This definition was also extended by a consequential amendment in the Fraud Act. Article 40 of the Order determines that a person may be guilty whether or not they were in NI at the time and Article 41 lies down rules for determining the location of events. The common law offences of conspiracy and misconduct in public office apply in NI. Similar provision for theft breach of trust is made in the Theft Act (NI) 1969 and again jurisdiction to prosecute is in the 1996 Order.

THE POSITION IN SCOTLAND

In Scotland the common law offence of embezzlement is defined as the dishonest appropriation of money, goods or the proceeds thereof, by a person who holds them on behalf of another person to whom he owes a duty to account, and on whose behalf he is in the process of carrying out a course of dealing with the money, goods or proceeds.

Please attach the text(s)

Fraud Act 2006 <http://www.legislation.gov.uk/ukpga/2006/35/contents>

Theft Act 1968 <http://www.legislation.gov.uk/ukpga/1968/60/contents>

Theft Act (NI) 1969 <http://www.legislation.gov.uk/apni/1969/16/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Scenario

“...the [embezzlement, misappropriation] or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.” could form the basis of an offence under the Bribery Act 2010 as follows (particularly if you take embezzlement and misappropriation out of the equation and concentrate on ‘diversion’):

1. The public official (PO) diverts official funds, or the letting of a contract, in a way that would be ‘improper performance’ of his/her office or function as a result of a bribe (section 1);2. The PO offers to do likewise (section 2)3.

As for Article 22 the same principle applies between private sector individuals or corporate bodies where the expectation of trust arises. The facts simply need adjusting to the private sector where A is bribed to embezzle, misappropriate (etc) by B.

Sections 1 and 2 and 7 of the Bribery Act 2010 could be engaged but again not section 6.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Statistical data on the number of investigation in not available for these offences as they form part of the overall offences.

82. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

83. Subparagraph 1 (a) (i) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Proceeds of Crime Act 2002, section 327, 334(1)

Please also see response to Article 46 para 1 concerning Mutual Legal

Assistance.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Numerous. But in an international corruption context, the convictions of six associates and family of James Ibori, former Niger Delta State Governor, for laundering the assets he stole from Delta State. These are subject to court reporting restrictions pending Ibori's trial in November. Also Joyce Oyebanjo who was convicted of laundering the proceeds of Joshua Dariye's corruption as governor of Plateau State, Nigeria. Sentenced to three and a half years imprisonment and subject to a confiscation order for £200k and cash forfeiture of £120k.

Concerns arose about a senior barrister employed by the Crown Prosecution Service (CPS) after he was observed meeting the head of an organised crime group. The CPS requested that SOCA fully investigate his links to organised crime. He was subject to an intensive 'integrity test' which resulted in him discontinuing a case in return for a payment of £10,000. He pleaded guilty to misconduct in a public office, attempting to pervert the course of justice and corruption. In 2010/11, he was sentenced to four and a half years' imprisonment.

In April 2011, SOCA was granted a confiscation order for £925,000 against Francis McGrath, the former leader of Preston Council. McGrath was convicted of money laundering for Silvano Turchet and is currently serving a four and a half year prison sentence. Some of the money laundered was transferred to bank accounts abroad. Turchet imported heroin in his private plane from Belgium through Shrewsbury and is currently serving 21 years in prison for the importation of class a drugs and money laundering. SOCA was granted a confiscation order against Turchet for £750,000.

In July 2008, Stuart Creggy - a solicitor, senior partner, and magistrate - pleaded guilty to a charge of money laundering. Together with other defendants he had set up brokerage companies selling worthless shares to investors through marketing activities and telephone calls from brokers. More than 600 victims had been affected. Creggy also facilitated criminal payments through his solicitor's client account. The judge in this SOCA case made a confiscation order of over £900,000, sentenced Creggy to 18 months imprisonment suspended for two years, and disqualified him from working as a director of a company for seven years.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Statistics for calendar year 2009 (most recent year for which statistics are available)

Proceeded against - 362

Found Guilty - 263

Sentenced - 258

84. Subparagraph 1 (a) (ii) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Proceeds of Crime Act 2002, section 327, 334(1)

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

See above

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Statistics for calendar year 2009 (most recent year for which statistics are available)

Proceeded Against - 743

Found Guilty - 359

Sentenced - 338

85. Subparagraph 1 (b) (i) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Proceeds of Crime Act 2002, sections 329, 334(1)

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

See above

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Statistics for calendar year 2009 (most recent year for which statistics are available)

Proceeded Against - 1,332

Found Guilty - 788

Sentenced - 779

86. Subparagraph 1 (b) (ii) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) Subject to the basic concepts of its legal system:

...

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Principal Money Laundering offences in the UK (sections 327-329 of the Proceeds of Crime Act 2002),

together with section 340(11)(b)(c) of the Proceeds of Crime Act 2002

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

87. Subparagraphs 2 (a) and 2 (b) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

UK money laundering offences do not require predicate offences.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

88. Subparagraph 2 (c) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

...

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

As above. UK does not require a predicate offence to prosecute for money laundering. However, to prosecute for money laundering, it must be demonstrated that the person was dealing with criminal property. Criminal property is property which is derived from criminal conduct. Criminal conduct is defined in section 340 (2) of the Proceeds of Crime Act 2002. Criminal conduct is an offence in the UK or would constitute an offence were it to be in the UK.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

89. Subparagraph 2 (d) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

...

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

Has your country furnished copies of its laws to the Secretary-General of the United Nations as prescribed above? (Check one answer)

(Y) Yes

Please attach the text(s)

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

90. Subparagraph 2 (e) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

...

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

Does your country's domestic system contain fundamental principles as referred to in the provision above? (Check one answer).

(N) No

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

The UK can prosecute associates of anyone involved in money laundering.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

91. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

92. Article 24

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Proceeds of Crime Act, section 327 (concealment) and section 329 (retention)

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

All cases are considered as potential for a money laundering charge as an addition to any corruption charges where the corrupt funds obtained, or the benefit accrued from the bribery, are concealed and treated as proceeds of crime.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

93. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

94. Subparagraph (a) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

In England and Wales, witness intimidation offences are contained in section 51 of the Criminal Justice and Public Order Act 1994 and cover the following:

- Acting in a way which intimidates or is intended to intimidate a person knowing or believing that person is assisting in the investigation of an offence, or is a witness or potential witness, or a juror or potential juror in proceedings for an offence, with the intention of interfering with the course of the investigation or obstructing, perverting or interfering with the course of justice.
- Acting in a way which harms, would harm or is intended to harm a person known or believed to have assisted in an investigation into an offence or to have given evidence in proceedings for an offence or to have acted as a juror or to have concurred in a particular verdict in proceedings for an offence, who because of this is harmed. Such an offence can occur up to one year after the investigation began or trial ended.

Under this legislation the offences cover threats against a person, or against a person's finances or property. It is irrelevant whether the act of intimidation is carried out in the presence of the victim, or whether it is done to the victim, or through a third party.

Offences of witness intimidation can be prosecuted and sentenced separately to the original offence regardless of what the finding of that case subsequently is.

There is also the common law offence of perverting the course of justice. This offence is committed when an accused:

- does an act or series of acts;
- which has or have a tendency to pervert; and
- which is or are intended to pervert;
- the course of public justice.

The offence is contrary to common law and triable only on indictment. It carries a maximum penalty of life imprisonment and/or a fine. The course of justice must be in existence at the time of the act(s). The course of justice starts when:

- an event has occurred, from which it can reasonably be expected that an investigation will follow; or
- investigations which could/might bring proceedings have actually started; or
- proceedings have started or are about to start.

In *R v Cotter and Others* [2000] EWCA Crim 1033 it was held that 'the course of public justice included the process of criminal investigation following a false allegation against either an identifiable or unidentifiable individual.'

The offence of perverting the course of justice is sometimes referred to as "attempting to pervert the course of justice". It does not matter whether or not the acts result in a perversion of the course of justice: the offence is committed when acts tending and intended to pervert a course of justice are done.

Perverting the course of justice covers a wide range of conduct. The following are examples of acts which may constitute the offence:

- persuading, or attempting to persuade, by intimidation, harm or otherwise, a witness not to give evidence, to alter his evidence or to give false evidence;
- interference with jurors with a view to influencing their verdict;
- false alibis and interference with evidence or exhibits, for example blood and DNA samples;
- providing false details of identity to the police or courts with a view to avoiding the consequences of a police investigation or prosecution;
- giving false information, or agreeing to give false information, to the police with a view to frustrating a police inquiry; for example, lying as to who was driving when a road traffic accident occurred;
- lending a driving licence to another to produce to the police following a notice to produce, thereby avoiding an offence of driving whilst disqualified being discovered;
- agreeing to give false evidence;
- concealing or destroying evidence concerning a police investigation to avoid arrest;
- assisting others to evade arrest for a significant period of time; and
- making a false allegation which wrongfully exposes another person

to the risk of arrest, imprisonment pending trial, and possible wrongful conviction and sentence.

Aggravating and mitigation factors include:

- Nature and number of offences
- Whether premeditated or spontaneous
- Degree of persistence
- Arrest of innocent person
- Any impact upon prosecution

Other offences include perjury (section 1 of Perjury Act 1911) and offences of making a false statement (section 106 of the Magistrates Courts Act 1980 and section 89 of the Criminal Justice Act 1967).

Scotland

Offences against the administration of justice are a well established category of offences in Scotland. While there is overlap with other categories of crime in that other offences such as, assault or extortion, may be committed with an intention to interfere with the course of justice, nevertheless there are a number of well established crimes which are offences that operate independently of other categories. The offences against the administration of justice in Scotland are all common law offences. For the purposes of this article, the most relevant offences are attempting to pervert the course of justice and perjury.

Attempting to Pervert the Course of Justice

There are common law offences of attempting to pervert the course of justice or attempting to defeat the course of justice. These can be tried summarily (maximum 12 months imprisonment) or on indictment (which would carry a potential maximum sentence of life imprisonment).

These offences cover a wide spectrum of offences and would include interfering with witness testimony or any other evidence in criminal proceedings. The crime may consist of any conduct which tends to obstruct or hinder the course of justice. Therefore, this offence can be committed when a person:

- a) Intimidates a witness - *Hemphill V Donnelly* 1992 SCCR 770.
- b) Runs a witness down - *Brown V HM Advocate* 1992 SCCR 59.
- c) Threatens a witness with violence - *Kenny V HM Advocate* 1951 JC 104.
- d) Induces others to threaten the complainer - *Fyfe V HM Advocate* 1989 JC 138.
- e) Instructs a witness to give false evidence at trial - *HM Advocate V Park* 1967 JC 70.
- f) Escapes from lawful custody - *HM Advocate v Martin* 1956 J.C. 1.
- g) Knowingly makes a false statement to the police - *Watson v HM*

Advocate 1993 S.C.C.R. 875.

These offences can be tried separately from the original criminal offence.

The length of sentence will depend on the severity of the offence but could be up to life imprisonment and/or an unlimited fine.

Perjury

Perjury occurs where a person wilfully and unequivocally makes a false statement on oath or by affirmation in any judicial proceedings, (both civil and criminal). The mens rea of this offence is knowingly giving a false statement, or having an indifferent attitude as to the truth of the statement.

Subornation of perjury

Where a person induces another to give perjured evidence at a trial, this is the offence of subornation of perjury. The inducement must have been successful in that the person must have given the false evidence as a result of the inducement. Any means of inducement will do to amount to subornation, whether involving violence, threats of violence, bribery or persuasion. The main point is that the witness must have been induced to give false evidence.

Attempted subornation of perjury

If the inducement is unsuccessful and the false evidence is not given, then subornation of perjury is not completed, but a charge of attempted subornation of perjury may be made. It does not matter whether the inducements failed because the intended witness agreed but later lost their nerve, or because he/she resisted all threats and inducements. The subornation may be unsuccessful because the witness tells the truth at trial or, it seems, because no trial takes place. Therefore, attempted subornation may be charged in relation to inducement to give false evidence in a process which is only intended to be brought but has not started, including where no indictment has been served, and where the person on whom the inducements are practised has not been cited as a witness.

Northern Ireland

Northern Ireland's equivalent to section 51 of the Criminal Justice and Public Order Act 1994 is Article 47 of the Criminal Justice (NI) Order 1996. The case of Turley [2008] NICC 18 shows that judges in Northern Ireland will take into account the England and Wales sentencing ranges when sentencing for such offences in Northern Ireland.
(http://www.courtsni.gov.uk/NR/rdonlyres/0C74E3DE-39C9-4A12-B083-DD82B0749EC7/0/j_j_HAR7105Final.htm).

The Justice (Northern Ireland) Act 2004 which amends the 2002 Act. Specifically section 7 inserts a new section 32A into the 2002 Act which reads as follows:

Influencing a prosecutor

After section 32 of the 2002 Act,
"Influencing a prosecutor

(1) A person commits an offence if, with the intention of perverting the course of justice, he seeks to influence the Director, the Deputy Director or a Public Prosecutor in any decision as to whether to institute or continue criminal proceedings. (2) A person commits an offence if, with the intention of perverting the course of justice, he seeks to influence a barrister or solicitor to whom the Director has under section 36(2) assigned the institution or conduct of any criminal proceedings in any decision as to whether to institute or continue those proceedings. (3) A person guilty of an offence under this section is liable- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both, and (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both. (4) Proceedings for an offence under this section shall not be instituted without the consent of the Director."

There is a possibility that the UK Bribery Act 2010 (which came into force on 1 July 2011) might have a limited application to these types of offences. Section 1 covers offering or making of bribes. To come within the ambit of this offence an inducement would have to be made to someone who would have a particular status which would create an expectation that he/she carried out a function which could be corrupted. Thus it may be covered by the Act to offer or pay money to a judge or clerk of court to perform their function improperly by losing a file or deciding a case other than they should. In general seeking to offer an inducement to a witness would probably not be covered as, while it is obviously wrong and a crime for them to accept it in return for declining to give evidence or give false evidence, it would not be improper performance of a function as designated under the Act. It might be possible that offering an inducement to a policeman to give false evidence or tamper with productions may be covered as they would thus be performing an important part of their job in an improper manner.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/1994/33/contents>
<http://www.legislation.gov.uk/ukpga/Geo5/1-2/6>
<http://www.legislation.gov.uk/ukpga/1980/43/contents>
<http://www.legislation.gov.uk/ukpga/1967/80/contents>
<http://www.legislation.gov.uk/ukpga/2010/23/contents>
<http://www.legislation.gov.uk/nisi/1996/3160/contents>
<http://www.legislation.gov.uk/ukpga/2004/4/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

The following two guideline cases establish general principles for the intimidation offence under s 51 of the Criminal Justice and Public Order Act 1994 (case details appear below):

R v Williams [1997] 2 Cr.App.R.(S.) 97 held that:

- the offence of threatening witnesses was to be viewed extremely seriously
- it is an offence for which ordinary a deterrent sentence is appropriate.

R v Chinery [2002] 2 Cr.App.R.(S.) 55 held that sentencing judge entitled to pass consecutive sentences because the offences were not committed on precisely the same occasion and involved different victims

Relevant sentencing case law is as follows:

R v Williams [1997] 2 Cr.App.R. (S.) 97. Shortly after arriving in prison, the appellant wrote a letter to the victim of his offences in an assumed name threatening her with violence. Sentenced to two years imprisonment consecutive.

R v Watmore [1998] 2 Cr.App.R. (S.) 46. Offender after being committed for sentence assaulted victim. 4 years for revenge and 4 months concurrent for original assault upheld. The very fact that Parliament thought it necessary to enact this particular offence is ample reason for holding that it contains an additional element of criminality.

R v Chinery [2002] 2 Cr.App.R. (S.) 55. Offender (with no criminal record) twice approached witness and made comments about grassing and watching your back. 3 months consecutive on each upheld.

R v Lawrence [2005] 1 Cr.App.R.(S.) 83. Appellant pleaded guilty to threatening to take revenge on a witness, who was his father, for having called the police. Repeated threats in the presence of police officers. Sentence reduced to eight months imprisonment.

R v Parry [2007] 1 Cr.App.R.(S.) 62. Appellant struck a youth in his face and was asked to attend at a police station for interview. He approached the victim in the street and threatened that something bad would happen to him if the matter was not dropped. Sentenced to six months imprisonment for intimidating a witness and two months consecutive for common assault. Court of Appeal commented that had it been the slap alone, a non-custodial sentence would have been appropriate and made the sentences concurrent

R v McDonald [2008] 2 Cr.App.R.(S.) 100. Some time after his release

from custody, the appellant whilst in a supermarket approached a man who had been a prosecution witness at his trial and made threats to him, including a threat to kill him. The victim walked away from the appellant, who again approached and threatened him and then punched the victim. Sentence reduced to two and a half years imprisonment.

Relevant case law for sentencing in the offence of perverting the course of justice is as follows:

R. v Hurrell [2004] 2 Cr.App.R.(S.) 23

Appellant asked to provide a sample of breath, prevaricated, was arrested, offered the police officer £2,000 to forget about the test, and continued to try to bribe the officer while being conveyed to the police station. On arrival, he provided a sample. He said that his attempt to bribe had been light-hearted. Previous cases considered. Sentence for attempting to pervert reduced to three months imprisonment.

R. v Hall [2007] 2 Cr.App.R.(S.) 42

The appellant pleaded guilty to conspiracy to pervert the course of justice. He and others indulged over months in very serious and sustained attempts to threaten and intimidate a 15-year-old girl due to give evidence at his trial for a sexual offence against her. Sentence of seven and a half years imprisonment upheld

R. v Jones [2008] 2 Cr.App.R.(S.) 75

After a murder, one of those involved contacted the appellant, who agreed he would visit the murder scene to ensure that no one would speak to the police about it. The girlfriend of one of offenders agreed to provide evidence and was given witness protection. The appellant tried to persuade her to retract her evidence by threats and promise of money if she changed her statement. She gave evidence and the men were convicted. After his own arrest, the appellant caused further pressure to be put on her. Convicted. Sentence of 12 years imprisonment upheld.

R. v Hardy [2005] 2 Cr.App.R.(S.) 48. The appellant attended a Crown Court trial of two other men. On the second day, he (a large man with a closely shaven head) approached a juror, asked him what he thought the verdict would be and, said find them not guilty and shook the juror's hand. The juror reported the incident and the trial was aborted. The appellant pleaded guilty on the basis that the encounter had not been planned, but admitted that he had tried to influence the juror. The Court considered previous authorities Sentence reduced to 21 months imprisonment. False mitigation.

R v Bailey [2006] 2 Cr. App .R. (S.) 47. Appellant due to be sentenced for 3 offences of indecent assault on a child. He told a psychiatrist, the probation officer, his solicitor and counsel that he had had a relationship with a woman who was the mother of his child, and that the woman had been murdered and the child killed in a road accident within weeks of each other. In the light of this mitigation the sentencing court imposed a

community rehabilitation order. It subsequently emerged that there was no truth in the mitigation. The applicant had never had a partner or a child, and nobody had been killed. Two and a half years imprisonment upheld.

There are two guideline cases in terms of sentencing for the offence of perverting the course of justice:

R v Tunney [2007] 1 Cr. App. R. (S.) 91

The sentence appropriate for perverting the course of justice essentially depends on three matters:-

1. the seriousness of the substantive offence to which the perverting of the course of justice related;
2. the degree of persistence; and
3. the effect of the attempt to pervert the course of justice on the course of justice itself.

General sentencing brackets summarised in Archbold at 28-28 as follows:

- threatening or interfering with witnesses - 4 months to 24 months.
- concealing evidence - 4 months to 18 months, possibly longer if serious crime.
- false allegation of crime resulting in arrest of innocent person - 4 to 12 months.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See attachment

95. Subparagraph (b) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Scotland would rely on the same common law offences as stated above in

response to subparagraph (a).

The offences listed in subparagraph (a) would also be relevant in England and Wales. In addition, the following offences also apply:

Assault on Constable in the execution of his/her duty, contrary to section 89(1) Police Act 1996

The offence is committed when a person assaults either:

- a constable acting in the execution of his or her duty; or
- a person assisting a constable in the execution of his or her duty.

It is a summary only offence, which carries a maximum penalty of six months' imprisonment and/or a fine not exceeding the statutory maximum. If an assault on a constable results in an injury, a prosecution under section 89(1) Police Act 1996 will be appropriate, provided that the officer is acting in the execution of his or her duty.

Where the evidence that the officer was acting in execution of his or her duty is insufficient, but proceedings for an assault are nevertheless warranted, the appropriate charge will be common assault (section 39 Criminal Justice Act 1988) .

The fact that the victim is a police officer is not, in itself, an exceptional reason for charging an offence contrary to section 47 of the Offences Against the Person Act 1861, assault occasioning actual bodily harm, when the injuries are minor. When the injuries are such that an offence contrary to section 47 would be charged in relation to an assault on a member of the public, section 47 will be the appropriate charge for an assault on a constable.

Assault with intent to resist arrest, contrary to section 38 Offences Against the Person Act 1861

It is an offence to prevent the lawful apprehension/detention of himself/herself or another, for any offence.

It is an either way offence, which carries a maximum penalty on indictment of two years' imprisonment and/or an unlimited fine. Summarily, the maximum penalty is six months' imprisonment and/or a fine not exceeding the statutory maximum.

A charge contrary to section 38 may properly be used for assaults on persons other than police officers, for example store detectives, who may be trying to apprehend or detain an offender.

When a police officer is assaulted, a charge under section 89(1) will be more appropriate unless there is clear evidence of an intent to resist apprehension or prevent detention and the sentencing powers available under section 89(1) or for common assault are inadequate. This will rarely be the case when injuries are minor and inflicted in the context of a

struggle.

Serious Organised Crime and Police Act 2005 - section 51 obstruction of designated persons

The Act provides for any member of staff of SOCA to be designated with the powers of a constable (customs officer and/or an immigration officer). Section 51 sets out various offences relating to assaulting, obstructing or impersonating designated members of SOCA's staff.

Subsection (1) makes it an offence to assault a designated person acting in the exercise of his powers or to assault a person assisting a designated person who is so acting. Subsection (2) makes it an offence to resist or wilfully obstruct a designated person in the exercise of his powers or to resist or wilfully obstruct a person assisting a designated person. Subsection (3) makes it an offence, provided there is intent to deceive, to impersonate or pose as a designated person. It is also an offence for a designated person to make any statement or act in a way that falsely suggests that he has powers above and beyond those he in fact has.

In the case of the offences in subsections (1) and (3) the maximum penalty is a term of imprisonment of 51 weeks or a fine at level 5 on the standard scale (currently £5000) or both, while in the case of a subsection (2) offence the maximum penalty is a term of imprisonment of for 51 weeks or a fine at level 3 on the standard scale (currently £1000) or both.

In addition there are aggravating factors in sentencing. The seriousness guideline lists 'an attempt to conceal or dispose of evidence', and 'offence is committed against those working in the public sector or providing a service to the public'. There is also 'abuse of power' and 'abuse of trust', which may be of some relevance, and offence specific guidelines will include additional factors such as coercion, where relevant. All courts have a duty to follow the guidelines unless they find it would not be in the interests of justice to do so, and if they depart from the guidelines on this basis they must say why they are doing so in open court.

Please attach the text(s)

See legislation referenced in response to subparagraph (a). See also
<http://www.legislation.gov.uk/ukpga/2005/15/contents>
<http://www.legislation.gov.uk/ukpga/1996/16/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Regina v Lee (2000) The Times, October 24, Court of Appeal (section 38 of the Offences against the Person Act 1861)

Section 38 of the 1861 Act made it an offence to "assault any person with intent to resist or prevent the lawful apprehension or detainment of himself

or of any person for any offence". The mens rea required for an offence of assault with intent to resist arrest was that the defendant intended to resist arrest and that he knew that the person whom he assaulted was a person seeking to arrest him. It was irrelevant that the defendant honestly believed that the arrest was unlawful.

A genuine or honest mistake might afford a defence in relation to assault with intent to resist arrest: see *R v Brightling* [1991] Crim LR 364, or assaulting an officer in the execution of his duty: see *Blackburn v Bowering* [1994] 1 WLR 1324, if it related to whether or not the victim was a police officer. In such a case, the defendant's mistake might be relevant to whether he intended to assault a police officer and to whether he was acting in reasonable self-defence. However, to afford such a defence the mistake had to be one of fact. In *Blackburn*, Sir Thomas Bingham, referred to "the important qualification that the mistake must be one of fact (particularly as to the victim's capacity) and not a mistake of law as to the authority of the person acting in that capacity".

Please also see response to subparagraph (a).

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Please see statistics submitted in response to subparagraph (a).

96. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

97. Paragraphs 1 and 2 of article 26

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

Has your country established one or more of the forms of liability referred to in the provision above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

General provision is made by the Interpretation Act 1978. Subject to the appearance of a contrary intention, the word "person" in a statute is to be construed as including "a body of persons corporate or unincorporate".

"Legal persons" are therefore under the law of the different parts of the UK prima facie included within the scope of liability of all UK laws affording compliance with the offences established in accordance with this convention. This includes offences of bribery under common law, section 1 of the Public Bodies Corrupt Practices Act 1889, the offences under section 1 of the Prevention of Corruption Act 1906 and sections 1, 2 and 6 of the Bribery Act 2010 by virtue of the use of the word "person". It also includes the offences in the Theft Act 1976, the Fraud Act 2006 (Article 17 embezzlement), Money Laundering offences a (Article 28) and offences dealing with the obstruction of justice (Article 25).

The liability of a legal person for an offence for which it can be convicted is governed by the common law legal principle sometimes referred to as the "identification doctrine". Under this principle a legal person will have imputed to it the acts and state of mind of those of its directors and managers who represent its "directing mind and will" (Lennard's Carrying Co. v. Asiatic Petroleum Co. [1915] A.C. 705; Bolton (engineering) Co. v. Graham [1957] 1 Q.B. 159; Tesco Supermarkets Ltd v. Natrass [1972] A.C. 153 HL. In the case of an offence involving proof of mens rea, such as many bribery offences, it is possible to combine proof of the actus reus on the part of an employee or representative of the legal person who would not form part of the controlling mind with proof of mens rea on the part of a person who does form part of the controlling mind. The scope of attribution of acts to a company was further elaborated in the case of Meridian Global Funds Management Asia Ltd v. Securities Commission [1995] 2 A.C. 500, PC. In that case it was said that a company's rights and obligations are determined by rules whereby the acts of natural persons are attributed to the company; such rules are normally to be determined by reference to the primary rules of attribution generally contained in the company's constitution and implied by company law, and to general rules of agency. The company will appoint servants and agents whose acts, by a combination of the general principles of agency and the company's primary rules of attribution, count as the acts of the company. These principles apply to liability of a legal person as a principal offender and as a secondary participant in an offence of bribery.

In addition, section 7 of the Bribery Act provides for liability of a "relevant commercial organisation" that fails to prevent persons associated with it from bribing on its behalf in order to obtain or retain business or an

advantage in the conduct of business.

"7 Failure of commercial organisations to prevent bribery

(1) A relevant commercial organisation ("C") is guilty of an offence under this section if a person ("A") associated with C bribes another person intending-

(a) to obtain or retain business for C, or

(b) to obtain or retain an advantage in the conduct of business for C.

(2) But it is a defence for C to prove that C had in place adequate procedures designed to prevent persons associated with C from undertaking such conduct.

(3) For the purposes of this section, A bribes another person if, and only if, A-

(a) is, or would be, guilty of an offence under section 1 or 6 (whether or not A has been prosecuted for such an offence), or

(b) would be guilty of such an offence if section 12(2)(c) and (4) were omitted.

(4) See section 8 for the meaning of a person associated with C and see section 9 for a duty on the Secretary of State to publish guidance.

(5) In this section-

• "partnership" means-

(a)

a partnership within the Partnership Act 1890, or

(b)

a limited partnership registered under the Limited Partnerships Act 1907, or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom,

• "relevant commercial organisation" means-

(a)

a body which is incorporated under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere),

(b)

any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom,

(c)

a partnership which is formed under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere), or

(d)

any other partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom,

and, for the purposes of this section, a trade or profession is a business.

Please attach the text(s)

Interpretation Act 1978 -

<http://www.legislation.gov.uk/ukpga/1978/30/contents>

Bribery Act 2010 - <http://www.legislation.gov.uk/ukpga/2010/23/contents>

See also attachment: Tesco vs Natrass

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

The Innospec case - On 18 March 2010, Innospec Ltd, a UK company and a wholly owned subsidiary of a Delaware company, Innospec Inc, pleaded guilty at Southwark Crown Court to conspiracy to corrupt contrary to s.1 of the Criminal law Act 1977. Innospec Ltd had conspired with its directors and others to make corrupt payments, contrary to section 1 of the Prevention of Corruption Act 1906, to public officials of the Government of Indonesia to secure contracts from the Government Of Indonesia for the supply of Tetraethyl lead (fuel additive). Further details at <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/innospec-judgment.aspx>

In July 2009, Mabey & Johnson, a supplier of steel bridging, pleaded guilty to charges of corruption (and breaching UN sanctions). The prosecution for corruption arose from the company's voluntary disclosure of evidence indicating that the company had sought to influence decision-makers in public contracts in Jamaica and Ghana between 1993 and 2001. Further information

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2009/mabey--johnson-ltd-sentencing-.aspx>

If available, please provide information on cases involving the participation of legal persons in offences established by this Convention (statistics, types of cases, outcome). Please provide per annum figures, as available.

Available statistical data for England and Wales recording the number of defendants prosecuted for the offences established in accordance with this convention do not differentiate between legal and natural persons.

98. Paragraph 3 of article 26

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

*Has your country established one or more of the forms of liability referred to in the provision above?
(Check one answer)*

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Natural and legal person responsibility is treated as two entirely separate bases of liability in the law of the parts of the UK. A prosecution of a legal person is often accompanied with a separate prosecution for the individuals involved.

In addition section 14 of the Bribery Act provides for individual liability of senior officers who consent or connive in the commission of an offence by a body corporate.

Section 14 Bribery Act 2010

"14 Offences under sections 1, 2 and 6 by bodies corporate etc.

(1) This section applies if an offence under section 1, 2 or 6 is committed by a body corporate or a Scottish partnership.

(2) If the offence is proved to have been committed with the consent or connivance of-

(a) a senior officer of the body corporate or Scottish partnership, or

(b) a person purporting to act in such a capacity,

the senior officer or person (as well as the body corporate or partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) But subsection (2) does not apply, in the case of an offence which is committed under section 1, 2 or 6 by virtue of section 12(2) to (4), to a senior officer or person purporting to act in such a capacity unless the senior officer or person has a close connection with the United Kingdom (within the meaning given by section 12(4)).

(4) In this section-

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,

“senior officer” means-

(a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body corporate, and

(b) in relation to a Scottish partnership, a partner in the partnership."

Please attach the text(s)

Bribery Act 2010 - <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including recent cases where both natural and legal persons were liable

Mabey & Johnson Ltd convicted and sentenced in September 2009 for overseas corruption and breaching UN sanctions - Two former Directors and Sales Manager convicted and sentenced in February 2011 (David Mabey, Charles Forsyth and Richard Gledhill) For further information, see SFO Press Releases:

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2009/mabey--johnson-ltd-sentencing-.aspx>

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2011/mabey--johnson-ltd-former-executives-jailed-for-helping-finance-saddam-hussein's-government.aspx>

Please provide any available statistics of such cases. Please provide per annum figures as available

Available statistical data for England and Wales recording the number of defendants prosecuted for the offences established in accordance with this convention do not differentiate between legal and natural persons.

99. Paragraph 4 of article 26

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The maximum penalty for any legal person convicted of any bribery offence, common law or statutory is an unlimited fine.

The Public Bodies Corrupt Practices Act 1889

" 2 Penalty for offences.

Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted,-

(a) be liable-

(i) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; and
(ii) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine, or to both; and]

(b) in addition be liable to be ordered to pay to such body, and in such manner as the court directs, the amount or value of any gift, loan, fee, or

reward received by him or any part thereof; and

(c) ...

(d) ...

(e) ...

The Prevention of Corruption Act 1906

"Punishment of corrupt transactions with agents.

(1) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal: he shall be guilty of a misdemeanour, and shall be liable-

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine, or to both.

(2) For the purposes of this Act the expression "consideration" includes valuable consideration of any kind; the expression "agent" includes any person employed by or acting for another; and the expression "principal" includes an employer.

(3) A person serving under the Crown or under any corporation or any . . . , borough, county, or district council, or any board of guardians, is an agent within the meaning of this Act."

The Bribery Act 2010

"11 Penalties

(1) An individual guilty of an offence under section 1, 2 or 6 is liable-

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both,

(b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

(2) Any other person guilty of an offence under section 1, 2 or 6 is liable-

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to a fine.

(3) A person guilty of an offence under section 7 is liable on conviction on

indictment to a fine.

(4) The reference in subsection (1)(a) to 12 months is to be read-
(a) in its application to England and Wales in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, and
(b) in its application to Northern Ireland,
as a reference to 6 months."

In addition, the Proceeds of Crime Act 2002 provides for the confiscation of financial benefit from all crimes, including bribery. Proceeds can be recovered following a criminal conviction and also where there has been no conviction; i.e. in civil proceedings. It is important to note that the UK does not consider confiscation to be a sanction; rather it places the offender in the financial position they would have been in they had not committed their criminality.

Prosecutors in England and Wales will look for an asset recovery outcome in every criminal case. This will usually take the form of an application for criminal confiscation following conviction, but may also take the form of orders made for compensation, forfeiture, deprivation and costs. [See Article 30]

Please attach the text(s)

Public Bodies Corrupt Practices Act 1889 -
<http://www.legislation.gov.uk/ukpga/Vict/52-53/69/contents>
Prevention of Corruption Act 1906 -
<http://www.legislation.gov.uk/ukpga/Edw7/6/34/contents>
Bribery Act 2010 - <http://www.legislation.gov.uk/ukpga/2010/23/contents>
Proceeds of Crime Act 2002 -
<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Innospec Ltd (2010). The company was fined the sterling equivalent of US\$12.7m (£8.5m). Further information:
<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/innospec-judgment.aspx>

Mabey & Johnson (2009). The company was required to pay £6.6m in fines, confiscation and reparation orders, including a fine of £750,000 and reparations of £139,000 in relation to contracts in Jamaica and a fine of £750,000 and reparations of £658,000 in relation to contracts in Ghana.

Further information:

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2009/mabey--johnson-ltd-sentencing-.aspx>

Balfour Beatty (2008). The company agreed in a Consent Order before the High Court a settlement payment of £2.25m in relation to property obtained by unlawful conduct. This related to payment irregularities in respect of the execution of the contract by a subsidiary in a joint venture with an Egyptian company. Civil recovery powers under the Proceeds of Crime Act 2002 do not require a specific offence to be established against any particular company or individual, merely that the property sought is the proceeds of unlawful conduct. Further information:
<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2008/balfour-beatty-plc.aspx>

Macmillan Publishers Limited (2011), was required to pay in excess of £11 million in recognition of sums it received which were generated through unlawful conduct related to its Education Division in East and West Africa. The Order was made under civil recovery powers under the Proceeds of Crime Act 2002. Further information:
<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2011/action-on-macmillan-publishers-limited.aspx>

Scottish engineering company Weir Group admitted facilitating the payment of 'kickbacks' in return for contracts valued at £34m from Saddam Hussein's Iraqi Government using funds from the UN's Oil for food Programme. On 15 December 2010, the High Court in Edinburgh fined the company £3m and made a confiscation order for £13.9m under Proceeds of Crime legislation. For further information:
<http://www.copfs.gov.uk/News/Releases/2010/12/Crown-Secures-record-%C2%A3139-million-Weir-Group-convicted-paying-kickbacks-Iraq-contracts>

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Available statistical data for England and Wales recording the number of defendants prosecuted for the offences established in accordance with this convention does not differentiate between legal and natural persons.

100. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

101. Paragraph 1 of article 27

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

The common law of the different parts of the UK recognises the commission of offences by principals and by secondary parties. The principal is the person who most directly perpetrates the offence. It is possible for there to be more than one principal in the same crime. Secondary parties are those who aid, abet, counsel or procure the commission of an offence. Liability as a secondary party is a common law notion that applies across the whole of the criminal law and is not a creation of statute. Section 8 of the Accessories and Abettors Act 1861 and section 44 of the Magistrates' Courts Act 1980 are deeming provisions as to how secondary parties are to be dealt with at trial.

Accessories and Abettors Act 1861

"8 Abettors in misdemeanors.

Whosoever shall aid, abet, counsel, or procure the commission of any indictable offence, whether the same be an offence at common law or by virtue of any Act passed or to be passed, shall be liable to be tried, indicted, and punished as a principal offender."

section 44 of the Magistrates' Courts Act 1980

Aiders and abettors.

(1)A person who aids, abets, counsels or procures the commission by another person of a summary offence shall be guilty of the like offence and may be tried (whether or not he is charged as a principal) either by a court having jurisdiction to try that other person or by a court having by virtue of his own offence jurisdiction to try him.

Part 2 of the Serious Crime Act 2007 created new offences relating to encouraging and assisting crime. These are inchoate offences like attempts, which means that they do not require the commission of an offence.

44 Intentionally encouraging or assisting an offence

(1) A person commits an offence if-

(a) he does an act capable of encouraging or assisting the commission of an offence; and

(b) he intends to encourage or assist its commission.

(2) But he is not to be taken to have intended to encourage or assist the commission of an offence merely because such encouragement or assistance was a foreseeable consequence of his act.

45 Encouraging or assisting an offence believing it will be committed

A person commits an offence if-

(a) he does an act capable of encouraging or assisting the commission of an offence; and

(b) he believes-

(i) that the offence will be committed; and

(ii) that his act will encourage or assist its commission.

46 Encouraging or assisting offences believing one or more will be committed

(1) A person commits an offence if-

(a) he does an act capable of encouraging or assisting the commission of one or more of a number of offences; and

(b) he believes-

(i) that one or more of those offences will be committed (but has no belief as to which); and

(ii) that his act will encourage or assist the commission of one or more of them.

(2) It is immaterial for the purposes of subsection (1)(b)(ii) whether the person has any belief as to which offence will be encouraged or assisted.

(3) If a person is charged with an offence under subsection (1)-

(a) the indictment must specify the offences alleged to be the "number of offences" mentioned in paragraph (a) of that subsection; but

(b) nothing in paragraph (a) requires all the offences potentially comprised in that number to be specified.

(4) In relation to an offence under this section, reference in this Part to the offences specified in the indictment is to the offences specified by virtue of subsection (3)(a).

Please attach the text(s)

Accessories and Abettors Act 1861

<http://www.legislation.gov.uk/ukpga/Vict/24-25/94/contents>

Magistrates' Courts Act 1980

<http://www.legislation.gov.uk/ukpga/1980/43/contents>

Serious Crime Act 2007

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Those prosecuted on the basis of secondary participation (aiders and abettors) are tried as principal offenders. Similarly those prosecuted for the inchoate offences of encouraging or assisting offences established in accordance with the Convention under the Serious Crime Act 2007 are charged under the provisions of that Act. It is therefore not possible without a disproportionate allocation of resources to identify cases in which the conviction relates to participation or encouraging or assisting bribery rather than to principal conduct.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Prosecutions for bribery offences on the basis of secondary participation are recorded as prosecutions of the principal perpetration of the offence because of the operation of section 8 of the Accessories and Abettors Act 1861. Statistics relating to prosecutions on the basis of secondary participation are therefore not available. Statistics are similarly not available for offences under the provisions of the Serious Crime Act 2007 based on encouraging or assisting as these cases are recorded as offences under the relevant provision of the 2007 Act rather than specific offences.

102. Paragraph 2 of article 27

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

For the purposes of the common law offence of bribery, section 1 of the Public Bodies Corrupt Practices Act 1889, section 1 of the Preventions of Corruption Act 1906 and the Bribery Act 2010 an offer, request or solicitation of a bribe constitutes the commission of an offence and therefore most conduct that would constitute an attempted commission of an offence of bribery can be charged as a full offence.

The Criminal Attempts Act 1981 however applies to criminal offences more generally. (In relation to the above offences, the Act would deal with any conduct that was not, for example, a offer, request or solicitation of a bribe but was nevertheless conduct that was directed towards, and was more than merely preparatory to, the commission of a full bribery offence).

Criminal Attempts Act 1981

“1 Attempting to commit an offence.

(1) If, with intent to commit an offence to which this section applies, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.

(1A) Subject to section 8 of the Computer Misuse Act 1990 (relevance of external law), if this subsection applies to an act, what the person doing it had in view shall be treated as an offence to which this section applies.

(1B) Subsection (1A) above applies to an act if-

(a) it is done in England and Wales; and

(b) it would fall within subsection (1) above as more than merely preparatory to the commission of an offence under section 3 of the Computer Misuse Act 1990 but for the fact that the offence, if completed, would not be an offence triable in England and Wales.

(2) A person may be guilty of attempting to commit an offence to which this section applies even though the facts are such that the commission of the offence is impossible.

(3) In any case where-

(a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit an offence; but

(b) if the facts of the case had been as he believed them to be, his intention would be so regarded,

then, for the purposes of subsection (1) above, he shall be regarded as having had an intent to commit that offence.

(4) This section applies to any offence which, if it were completed, would be triable in England and Wales as an indictable offence, other than-

(a) conspiracy (at common law or under section 1 of the Criminal Law Act 1977 or any other enactment);

(b) aiding, abetting, counselling, procuring or suborning the commission of an offence;

(c) offences under section 4(1) (assisting offenders) or 5(1) (accepting or agreeing to accept consideration for not disclosing information about an arrestable offence) of the Criminal Law Act 1967.”

Please attach the text(s)

Public Bodies Corrupt Practices Act 1889 -

<http://www.legislation.gov.uk/ukpga/Vict/52-53/69>;

Prevention of Corruption Act 1906 -

<http://www.legislation.gov.uk/ukpga/Edw7/6/34>;

Bribery Act 2010 - <http://www.legislation.gov.uk/ukpga/2010/23/contents>

Criminal Attempts Act 1981 -

<http://www.legislation.gov.uk/ukpga/1981/47/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Prosecutions for attempted bribery are charged under the Criminal Attempts Act 1981 and are not recorded as specific bribery offences. It is therefore not possible without a disproportionate allocation of resources to identify cases in which the conviction relates to an attempted bribery.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See answer to previous question. No statistics available.

103. Paragraph 3 of article 27

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

"Preparation" of an offence, for example, of bribery with at least one other person is likely to fall within the scope of an offence of conspiracy to commit the offence (The Criminal Law Act 1977 s.1).

Planning of an offence that takes place could amount to aiding, abetting or procuring that offence (Accessors and Abettors Act 1861 and section 44 of the Magistrates' Courts Act 1980) or to the inchoate assisting or encouraging an offence under the provisions of the Serious Crime Act 2007.

Preparation of an offence of bribery by the person who commits it or an agreement to pay a bribe may also amount to a full offence under the Bribery Act 2010.

The Criminal Law Act 1977

1 The offence of conspiracy.

(1) Subject to the following provisions of this Part of this Act, if a person agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either-

(a) will necessarily amount to or involve the commission of any offence or

offences by one or more of the parties to the agreement, or
(b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible,
he is guilty of conspiracy to commit the offence or offences in question.

(2) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) above unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.

(4) In this Part of this Act "offence" means an offence triable in England and Wales"

Accessories and Abettors Act 1861

"8 Abettors in misdemeanors.

Whosoever shall aid, abet, counsel, or procure the commission of any indictable offence, whether the same be an offence at common law or by virtue of any Act passed or to be passed, shall be liable to be tried, indicted, and punished as a principal offender."

section 44 of the Magistrates' Courts Act 1980

Aiders and abettors.

(1) A person who aids, abets, counsels or procures the commission by another person of a summary offence shall be guilty of the like offence and may be tried (whether or not he is charged as a principal) either by a court having jurisdiction to try that other person or by a court having by virtue of his own offence jurisdiction to try him.

Part 2 of the Serious Crime Act 2007 created new offences relating to encouraging and assisting crime.

44 Intentionally encouraging or assisting an offence

(1) A person commits an offence if-

(a) he does an act capable of encouraging or assisting the commission of an offence; and

(b) he intends to encourage or assist its commission.

(2) But he is not to be taken to have intended to encourage or assist the commission of an offence merely because such encouragement or assistance was a foreseeable consequence of his act.

45 Encouraging or assisting an offence believing it will be committed

A person commits an offence if-

(a) he does an act capable of encouraging or assisting the commission of

an offence; and
(b) he believes-
(i) that the offence will be committed; and
(ii) that his act will encourage or assist its commission.

46 Encouraging or assisting offences believing one or more will be committed

(1) A person commits an offence if-

(a) he does an act capable of encouraging or assisting the commission of one or more of a number of offences; and

(b) he believes-

(i) that one or more of those offences will be committed (but has no belief as to which); and

(ii) that his act will encourage or assist the commission of one or more of them.

(2) It is immaterial for the purposes of subsection (1)(b)(ii) whether the person has any belief as to which offence will be encouraged or assisted.

(3) If a person is charged with an offence under subsection (1)-

(a) the indictment must specify the offences alleged to be the “number of offences” mentioned in paragraph (a) of that subsection; but

(b) nothing in paragraph (a) requires all the offences potentially comprised in that number to be specified.

(4) In relation to an offence under this section, reference in this Part to the offences specified in the indictment is to the offences specified by virtue of subsection (3)(a).

Please attach the text(s)

Accessories and Abettors Act 1861

<http://www.legislation.gov.uk/ukpga/Vict/24-25/94/contents>

Criminal Law Act 1977

<http://www.legislation.gov.uk/ukpga/1977/45/contents>

Magistrates' Courts Act 1980

<http://www.legislation.gov.uk/ukpga/1980/43/contents>

Serious Crime Act 2007

<http://www.legislation.gov.uk/ukpga/2007/27/contents>

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Those prosecuted on the basis of preparation of an offence as a secondary participant are recorded as principal offenders. It is therefore not possible to identify cases based on preparation without a

disproportionate allocation of resources. Prosecutions on the basis of preparation for the inchoate offences of encouraging or assisting crime under the Serious Crime Act 2007 do not disclose those relating to bribery specifically. Similarly prosecutions for conspiracy to bribe are not recorded as specific bribery prosecutions.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

See answer to previous question.

104. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

105. Article 28

Knowledge, intent and purpose required as an element of an offence established in accordance with this Convention may be inferred from objective factual circumstances.

In your country, can knowledge, intent and purpose required as an element of an offence established in accordance with the Convention be inferred from objective factual circumstances? (Check one answer)

(Y) Yes

Please cite and attach the applicable law(s), policy(ies), or other measure(s)

Please cite the text(s)

Section 8 Criminal Justice Act 1967 provides:

8. A court or jury, in determining whether a person has committed an offence,

(a) shall not be bound in law to infer that he intended or foresaw a result of his actions by reason only of its being a natural and probable result of those actions; but

(b) shall decide whether he did intend or foresee that result by reference to all the evidence drawing such inferences from the evidence as appear proper in the circumstances.

Scotland

Scots law operates in a way that requires proof of objective mens rea. Lord Justice-Clerk Cooper stated in *HM Advocate v Rutherford* (1974 JC 1 at 6, 1947 SLT 3 at 4) that '... no one can see inside any person's mind, and intent must always be a matter of inference - inference mainly from what the person does, but partly also from the whole surrounding circumstances of the case'.

Please attach the text(s)

Criminal Justice Act 1967

<http://www.legislation.gov.uk/ukpga/1967/80/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

Not available

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analysed.

Not available

106. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

107. Article 29

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

There is no statute of limitations in criminal law in the UK. There is therefore no statute of limitations for corruption offences.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not applicable

If available, please provide information (statistics, types of cases, outcome) on related court or other cases related to instances when you established a longer statute of limitations period or suspended the statute of limitations where an alleged offender had evaded the administration of justice. Please provide per annum figures, as available.

Not applicable

108. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

109. Paragraph 1 of article 30

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the text regarding applicable sanction(s) or other measure(s)

Please cite the text(s)

Criminal Justice Act 2003

143 Determining the seriousness of an offence

(1) In considering the seriousness of any offence, the court must consider the offender's culpability in committing the offence and any harm which the

offence caused, was intended to cause or might foreseeably have caused.

(2) In considering the seriousness of an offence ("the current offence") committed by an offender who has one or more previous convictions, the court must treat each previous conviction as an aggravating factor if (in the case of that conviction) the court considers that it can reasonably be so treated having regard, in particular, to-

(a) the nature of the offence to which the conviction relates and its relevance to the current offence, and

(b) the time that has elapsed since the conviction.

(3) In considering the seriousness of any offence committed while the offender was on bail, the court must treat the fact that it was committed in those circumstances as an aggravating factor.

(4) Any reference in subsection (2) to a previous conviction is to be read as a reference to-

(a) a previous conviction by a court in the United Kingdom, or

(b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 ("conviction" here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).]

(5) Subsections (2) and (4) do not prevent the court from treating a previous conviction by a court outside the United Kingdom as an aggravating factor in any case where the court considers it appropriate to do so.

(<http://www.legislation.gov.uk/ukpga/2003/44/contents>)

[See Articles 15, 16 and 21]

In relation to bribery offences:

The common law offence of bribery is punishable by a fine or imprisonment.

The Public Bodies Corrupt Practices Act 1889

" 2 Penalty for offences.

Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted,-

(a) be liable-

(i) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; and

(ii) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine, or to both; and]

(b) in addition be liable to be ordered to pay to such body, and in such manner as the court directs, the amount or value of any gift, loan, fee, or reward received by him or any part thereof; and

(c) ...

(d) ...

(e) ...

The Prevention of Corruption Act 1906

"Punishment of corrupt transactions with agents.

(1) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal: he shall be guilty of a misdemeanour, and shall be liable-

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; and
(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine, or to both.

(2) For the purposes of this Act the expression "consideration" includes valuable consideration of any kind; the expression "agent" includes any person employed by or acting for another; and the expression "principal" includes an employer.

(3) A person serving under the Crown or under any corporation or any . . . , borough, county, or district council, or any board of guardians, is an agent within the meaning of this Act."

The Bribery Act 2010

"11 Penalties

(1) An individual guilty of an offence under section 1, 2 or 6 is liable-

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both,

(b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

(2) Any other person guilty of an offence under section 1, 2 or 6 is liable-

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to a fine.

(3) A person guilty of an offence under section 7 is liable on conviction on

indictment to a fine.

(4) The reference in subsection (1)(a) to 12 months is to be read-
(a) in its application to England and Wales in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, and
(b) in its application to Northern Ireland,
as a reference to 6 months."

[See Article 17]

Fraud Act 2006 s. 2, 3 and 4

(3) A person who is guilty of fraud is liable-
(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
(b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).

Theft Act 1968 s.1 and 17(1)(a) and (b) A person convicted under this section is liable to imprisonment for up to 7 years or a fine or both.

Similar provision in Northern Ireland is made in the Theft Act (NI) 1969.

[See Article 23]

Proceeds of Crime Act 2002 s.327, 328 and 329

A person convicted of an offence under sections 327, 328 or 329 is liable to imprisonment for up to 14 years or a fine or both.

[See Article 25]

Section 51 of the Criminal Justice and Public Order Act 1994

(6) A person guilty of an offence under this section shall be liable-
(a) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both;
(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

The common law offence of perverting the course of justice is triable only on indictment. It carries a maximum penalty of life imprisonment and/or a fine.

Scotland

The Bribery Act 2010 offences and applicable penalties apply in Scotland

as well as England, Wales and Northern Ireland.

Under the common law of fraud in Scotland, the maximum penalty available is up to life imprisonment.

Proceeds of crime legislation also applies in Scotland.

Following conviction, courts in Scotland have full discretion in deciding what the appropriate sentence is for an offence and will take into account a range of factors, including the gravity of the offence.

Northern Ireland

In Northern Ireland the Criminal Justice (NI) Order 2008 introduced new prison sentences from 1 April 2009 where all offenders serving determinate custodial sentences of 12 months or more serve the first half of the sentence in custody followed by a licence period at the end of the sentence. Under article 7(3) of the 2008 Order the sentence is for such a term as in the opinion of the court is commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

Under article 9 of the 2008 Order a court shall take into account all such information as is available to it about the circumstances of the offence or (as the case may be) of the offence and the offence or offences associated with it (including any aggravating or mitigating circumstances). Article 9(2) provides that a court shall obtain and consider a pre-sentence report before forming any opinion. Pre-sentence reports prepared by the Probation Board for Northern Ireland provides the courts with an assessment of the nature and causes of a defendant's offending, the likelihood of re-offending, the risk of harm to the public, information on the range of appropriate disposals, areas to be addressed and additional measures.

Article 37 of the Criminal Justice (NI) Order 1996 also provides that in considering the seriousness of any offence the court may take into account any previous conviction of the offender or any failure of his to respond to previous sentences. In considering the seriousness of any offence committed while the offender was on bail, the court shall treat the fact that it was committed in those circumstances as an aggravating factor.

Attached links:

Criminal Justice (Northern Ireland) Order 2008

<http://www.legislation.gov.uk/nisi/2008/1216/contents>

Criminal Justice (Northern Ireland) Order 1996

<http://www.legislation.gov.uk/nisi/1996/3160/contents>

Please attach the text(s)

Criminal Justice Act 2003

<http://www.legislation.gov.uk/ukpga/2003/44/contents>

Public Bodies Corrupt Practices Act 1889

<http://www.legislation.gov.uk/ukpga/Vict/52-53/69/contents>

Prevention of Corruption Act 1906

<http://www.legislation.gov.uk/ukpga/Edw7/6/34/contents>

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

Fraud Act 2006 <http://www.legislation.gov.uk/ukpga/2006/35/contents>

Theft Act 1968 <http://www.legislation.gov.uk/ukpga/1968/60/contents>

Theft Act (Northern Ireland) 1969

<http://www.legislation.gov.uk/apni/1969/16/contents>

Proceeds of Crime Act 2002

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

Criminal Justice and Public Order Act 1994

<http://www.legislation.gov.uk/ukpga/1994/33/contents>

Criminal Justice (Northern Ireland) Order 2008

<http://www.legislation.gov.uk/nisi/2008/1216/contents>

Criminal Justice (Northern Ireland) Order 1996

<http://www.legislation.gov.uk/nisi/1996/3160/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

[Corruption] Two former Directors and Sales Manager of Mabey & Johnson Ltd convicted and sentenced in February 2011 in relation to foreign bribery (and sanctions offences). Charles Forsyth was sentenced to 21 months imprisonment, David Mabey to 8 months imprisonment and Richard Gledhill to 8 months imprisonment suspended. For further information, see SFO Press Releases:

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2011/mabey--johnson-ltd-former-executives-jailed-for-helping-finance-saddam-hussein's-government.aspx>

Mabey & Johnson Limited was also found guilty in relation to foreign bribery and sanctions offences and fined. See SFO Press Releases: <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2009/mabey--johnson-ltd-sentencing-.aspx>

If available, please provide information on criminal and non-imposed criminal sanctions

For the year ended 31 March 2011 the SFO prosecuted 17 trials, resulting in the conviction of 26 (out of a total of 31) defendants. The SFO's Proceeds of Crime Team identified £64 million for payments for the victims of economic crime and obtained one civil recovery order. In the previous year the SFO obtained one civil recovery order and conducted 13 trials of

which 22 (out of a total of 24) defendants were convicted. The average length of sentence for the years of 2009/10 and 2010/11 is 31.8 months and 30.1 months respectively.

The City of London Police Economic Crime Department initiated 49 prosecutions over the same period.

Where applicable, please provide information on the execution of sentences (e.g. time served, amount of money collection, etc.)

Not available

110. Paragraph 2 of article 30

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s) or rules

Please cite the text(s)

There are no immunities or jurisdictional privileges accorded to UK public officials as regards investigation, prosecution or adjudication of the offences established in accordance with this convention.

As regards bribery, section 16 of the Bribery Act expressly applies the Act to public officials.

"16 Application to Crown

This Act applies to individuals in the public service of the Crown as it applies to other individuals."

Please attach the text(s)

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not applicable

Have there been concrete instances where the issue of immunities and/or jurisdictional or other privileges accorded to public officials has arisen and addressed in official documents?

No. There are no immunities or jurisdictional privileges accorded to UK public officials as regards investigation, prosecution or adjudication of the

offences established in accordance with this convention.

If there have been any relevant official inquiries or reports, please cite, summarize or attach relevant documents

Not applicable - see above

111. Paragraph 3 of article 30

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The Code for Crown Prosecutors (2010) (http://www.cps.gov.uk/publications/code_for_crown_prosecutors/index.html) provides the general framework and principles in respect of the exercise of prosecutorial discretion. Further guidance such as the Guidance on Corporate Prosecutions (http://www.cps.gov.uk/legal/a_to_c/corporate_prosecutions/), which has been agreed by the Attorney General, also assist the prosecutor in arriving at decisions which accord with Article 30 of the Convention in discrete specialist areas.

The Director of Public Prosecutions and the Director of the Serious Fraud Office (SFO) have published specific guidance for prosecutors on the Bribery Act 2010 (http://www.cps.gov.uk/legal/a_to_c/bribery_act_2010/index.html).

Prosecutors in England and Wales will look for an asset recovery outcome in every criminal case. This will usually take the form of an application for criminal confiscation following conviction, but may also take the form of orders made for compensation, forfeiture, deprivation and costs.

The recovery of the proceeds of crime is set out in the Proceeds of Crime Act 2002 (POCA). This is intended to place the offender in the position they would have been if they had not committed their criminality. It is not a sanction as such. The court calculates the value of that benefit and orders the offender to pay an equivalent sum (or less where a lower sum is available for confiscation). In certain circumstances the court is empowered

to assume that the defendant's assets, and his income and expenditure during the period of six years before proceedings were brought, have been derived from criminal conduct and to calculate the confiscation order accordingly. Part 5 of POCA enables an enforcement authority to bring civil proceedings in the High Court (or Court of Session) to recover property that is or represents property obtained through unlawful conduct (civil recovery) and no criminal conviction is required. For further information: <http://www.legislation.gov.uk/ukpga/2002/29/contents>

The Director of Public Prosecutions (DPP) issued guidance on the prosecutor's discretion to instigate confiscation proceedings. This guidance was agreed by all of the major prosecutors in England and Wales

The Attorney General has also issued guidance to prosecutors concerning the exercise of their non-conviction based asset recovery powers (<http://www.attorneygeneral.gov.uk/Publications/Pages/AttorneyGeneralissuedguidancetoprosecutingbodiesontheirassetrecoverypowersunder.aspx>) under Part V of the Proceeds of Crime Act 2002 ('POCA') to ensure the primacy of criminal investigations and prosecutions as articulated in section 2A of POCA which states:

"A relevant authority must exercise its functions under this Act in the way which it considers is best calculated to contribute to the reduction of crime..."

Paragraph 1 provides that:

"the reduction of crime is in general best secured by means of criminal investigations and criminal proceedings."

The SFO's International Strategy (<http://www.sfo.gov.uk/about-us/our-policies-and-publications/international-strategy.aspx>) sets out the SFO's commitment to maximizing outcomes in cross-jurisdictional cases.

Scotland

The Crown Office and Procurator Fiscal Service is Scotland's sole prosecution authority. They operate to serve the public interest while maintaining public confidence in the system, to prosecute cases independently, fairly and efficiently, to work closely with other agencies in the criminal justice system to make Scotland a safer place and to engage with local communities and respond to their needs and priorities. In carrying out their duties, they have 5 five main objectives:

- to deliver swift, effective justice, giving priority to serious crime, including sexual offending, serious violence, organised crime and drug

trafficking;

- to work with the police, local communities and others to solve problems caused by persistent offending, helping people live their lives free from crime, disorder and danger;
- to ensure that all deaths reported to the Procurator Fiscal are investigated appropriately;
- to provide services that meet the information needs of victims, witnesses and nearest relatives, in co-operation with other agencies; and
- to respect and protect diversity, and promote tolerance.

Part V of the Proceeds of Crime Act 2002 applies in Scotland as it does elsewhere in the UK.

Please attach the text(s)

The Code for Crown Prosecutors (2010)

http://www.cps.gov.uk/publications/code_for_crown_prosecutors/index.html

Guidance on Corporate Prosecutions

http://www.cps.gov.uk/legal/a_to_c/corporate_prosecutions/

Guidance for prosecutors on the Bribery Act 2010

http://www.cps.gov.uk/legal/a_to_c/bribery_act_2010/index.html

Proceeds of Crime Act 2002 (POCA)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

Attorney General's guidance to prosecutors concerning the exercise of their non-conviction based asset recovery powers

<http://www.attorneygeneral.gov.uk/Publications/Pages/AttorneyGeneralIssuedGuidanceToProsecutingBodiesOnTheirAssetRecoveryPowersUnder.aspx>

SFO's International Strategy

<http://www.sfo.gov.uk/about-us/our-policies-and-publications/international-strategy.aspx>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

Not available

112. Paragraph 4 of article 30

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to

seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Section 4 of the Bail Act 1976 creates a presumption in favour of bail, but under Schedule 1, Part 1, Paragraph 2 of the 1976 Act a court may refuse bail if it is satisfied that there are substantial grounds for believing that, if released on bail, the defendant would abscond, commit an offence, or interfere with witnesses or otherwise obstruct the course of justice. The court must decide whether the defendant presents such a bail risk as to justify a remand in custody, or whether it would be appropriate to grant bail, but subject to certain conditions (breach of which would make the defendant liable to immediate arrest). The court has to make a risk assessment, balancing the risk which releasing the defendant on bail may pose to the public or to the administration of justice, against the consideration that it is a serious step to remand in custody.

Bail for accused persons and others

Section 4 Bail Act 1976

"4 General right to bail of accused persons and others.

(1) A person to whom this section applies shall be granted bail except as provided in Schedule 1 to this Act.

(2) This section applies to a person who is accused of an offence when-

(a) he appears or is brought before a magistrates' court or the Crown Court in the course of or in connection with proceedings for the offence, or
(b) he applies to a court for bail [or for a variation of the conditions of bail] in connection with the proceedings.

This subsection does not apply as respects proceedings on or after a person's conviction of the offence or proceedings against a fugitive offender for the offence.

(3) This section also applies to a person who, having been convicted of an offence, appears or is brought before a magistrates' court to be dealt with under Part II of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach of certain community orders).

(4) This section also applies to a person who has been convicted of an offence and whose case is adjourned by the court for the purpose of enabling inquiries or a report to be made to assist the court in dealing with him for the offence.

(5) Schedule 1 to this Act also has effect as respects conditions of bail for

a person to whom this section applies.

(6) In Schedule 1 to this Act "the defendant" means a person to whom this section applies and any reference to a defendant whose case is adjourned for inquiries or a report is a reference to a person to whom this section applies by virtue of subsection (4) above.

(7) This section is subject to section 41 of the Magistrates' Courts Act 1980 (restriction of bail by magistrates' court in cases of treason).

(8) This section is subject to section 25 of the Criminal Justice and Public Order Act 1994 (exclusion of bail in cases of homicide and rape).

(9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant ("controlled drugs" and "misuse" having the same meanings as in the Misuse of Drugs Act 1971)."

Schedule 1 to the Bail Act.

"Part 1

Defendants to whom Part I applies

1 Where the offence or one of the offences of which the defendant is accused or convicted in the proceedings is punishable with imprisonment the following provisions of this Part of this Schedule apply.

Exceptions to right to bail

2 The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would-

(a) fail to surrender to custody, or

(b) commit an offence while on bail, or

(c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

2A The defendant need not be granted bail if-

(a) the offence is an indictable offence or an offence triable either way; and

(b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.

3 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.

4 The defendant need not be granted bail if he is in custody in pursuance of the sentence of a court or of any authority acting under any of the Services Acts.

5 The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

6 The defendant need not be granted bail if, having been released on bail

in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act."

Scotland

Part III of the Criminal Procedure (Scotland) Act 1995 provides the bail legislative framework in Scotland. In general, bail is to be granted except where it is not in the public interest to do so. In deciding whether it is in the public interest that an accused should be refused bail, the court can take into account a range of factors, including:

- any substantial risk that the person might if granted bail abscond; or fail to appear at a diet of the court as required;
- any substantial risk of the person committing further offences if granted bail;
- any substantial risk that the person might if granted bail-
 - (i)interfere with witnesses; or
 - (ii)otherwise obstruct the course of justice, in relation to himself or any other person;
- any other substantial factor which appears to the court to justify keeping the person in custody.

If an accused is granted bail, standard bail conditions are set which include:

- the accused appears at the appointed time at every diet relating to the offence with which he is charged of which he is given due notice; or at which he is required by this Act to appear;
- the accused does not commit an offence while on bail;
- the accused does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person;
- the accused does not behave in a manner which causes, or is likely to cause, alarm or distress to witnesses;
- the accused makes himself available for the purpose of enabling enquiries or a report to be made to assist the court in dealing with him for the offence with which he is charged.

Northern Ireland

The authority of the magistrates' court to release a person on bail is laid down in the Magistrates Courts (NI) Order 1981. Article 47 (1) provides that when a person appears before a magistrates court for a criminal offence, the court in adjourning the proceedings, may remand the accused in custody or on bail and take from him a recognizance conditioned for his subsequent appearance before such court. The court has a power to vary the order on future appearances and to order an accused person to be brought before it at any time before the expiration of the remand period.

Section 51 of the Judicature (Northern Ireland) Act 1978 sets out the process whereby the Crown Court may compel appearance. Section 51 (3) provides that where any person charged with or convicted of an offence has entered into a recognizance conditioned for his appearance before the Crown Court and in breach of that recognizance fails to appear, the Crown Court may without prejudice to the enforcement of the recognizance issue a warrant for his arrest.

The jurisdiction of the High Court to grant bail falls within the inherent jurisdiction of the Court and the procedures to be followed are found in Order 79 of the Rules of the Court of Judicature (NI) 1980.

The Criminal Justice (NI) Order 2003 introduced general provisions regarding the enforcement of court and police bail. This legislation provides a general duty to surrender to the police or into the custody of a court or a prison governor at an appointed time. A distinction is drawn between the powers of arrest pertaining to persons released under a duty to surrender into the custody of a court and other persons on bail. Persons charged with offences and those on trial will usually be under a duty to surrender to the custody of a court. Persons released on pre charge bail will usually be placed under a duty to attend a police station and those on compassionate bail may be under a duty to surrender into the custody of a prison governor.

If a person released under a duty to surrender into the custody of the court fails to surrender at the appointed time or upon surrendering absents himself from the court without permission the court may issue a warrant for his arrest. Further the police may arrest without warrant a person under a duty to surrender into the custody of the court if the police officer has reasonable grounds for believing that he or she is unlikely to surrender to custody or if a surety notifies the police in writing that the person is unlikely to surrender to custody and the surety wishes to be relieved of their duties. A lay magistrate may issue a warrant authorising a police officer to enter and search premises if there are reasonable grounds for believing that a person liable to arrest for an anticipated failure to surrender is present.

Article 5 of the 2003 Order created two new offences relating to breach of bail - failing to surrender to custody in answer to bail without reasonable cause and failing to surrender to custody in answer to bail as soon as reasonably practicable after a failure to surrender with reasonable cause. Finally in addition to the possibility of a criminal charge if a person is on court bail, any recognizance entered into by him may be estreated by the

court. If a person on bail fails to appear before a magistrates court contrary to a condition of their recognizance, the court must order the estreat of the recognizance and direct the issue of a summons to any surety requiring the surety to appear to show cause why they should not pay the amount by which they are bound. The power to order estreat of a recognizance is also mandatory in the Crown Court but discretionary in the High Court.

Please attach the text(s)

Bail Act 1976 <<http://www.legislation.gov.uk/ukpga/1976/63/contents>>

Criminal Procedure (Scotland) Act 1995

<<http://www.legislation.gov.uk/ukpga/1995/46/contents>>

Magistrates Courts (NI) Order 1981

<<http://www.legislation.gov.uk/nisi/1981/1675/contents>>

Judicature (Northern Ireland) Act 1978

<<http://www.legislation.gov.uk/ukpga/1978/23/contents>>

The Criminal Justice (NI) Order 2003

<<http://www.legislation.gov.uk/nisi/2003/1247/contents>>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

Not available

113. Paragraph 5 of article 30

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The gravity of an offence is taken into account in early release or parole decisions.

All offenders serving determinate custodial sentences of 12 months or

more are subject to automatic release at the half-way point of their sentence (under section 244 of the Criminal Justice Act 2003) and serve the second half of their sentence on licence in the community (see answer to paragraph 10). Release earlier than required may be made under arrangements for Home Detention Curfew (HDC). HDC is designed to assist the resettlement of low-risk prisoners serving short sentences.

Any offender sentenced to serve 4 years or more because of the gravity of the offending is either excluded by law or must be presumed unsuitable for HDC depending on the date of sentence. (The Government has recently introduced draft legislation which will outlaw HDC for all prisoners serving 4 years or more regardless of date of sentence.) All eligible offenders who are not presumed unsuitable for HDC must pass a risk assessment, which tests the likelihood of serious harm, re-offending or lack of curfew compliance on release.

- section 34A of the Criminal Justice Act 1991 (as amended by sections 99-100 of the Crime & Disorder Act 1998), <http://www.legislation.gov.uk/ukpga/1991/53/contents>)

and

- Section 246 of the Criminal Justice Act 2003.

(<http://www.legislation.gov.uk/ukpga/2003/44/contents>)

For those currently serving determinate sentences and eligible for parole release, (those with sentences of 4 years or more where the Parole Eligibility Date (PED) fell before 09/06/08), the Secretary of State has issued directions under section 32(6) of the Criminal Justice Act 1991 for the Parole Board stating "before recommending release on parole licence, the Parole Board shall consider:

- (a) whether the safety of the public would be placed unacceptably at risk. In assessing such a risk, the Board shall take into account;
 - (i) the nature and circumstances of the index offence including any information provided in relation to its impact on the victim or the victim's family;
 - (ii)...."

Scotland

Prisoners serving a sentence of less than four years are released automatically and unconditionally after serving half their sentence in custody. Prisoners serving a sentence of less than four years may be released on home detention curfew up to four months early. Prisoners released on home detention curfew will need to meet certain conditions, which will be monitored by an electronic tag.

Prisoners serving a sentence of four years or more are considered by the parole board for parole after serving half their sentence. If the Parole

Board grants parole, the prisoner will be released on licence. If parole is not granted at this point, they are automatically released on licence after serving two thirds of their sentence. In some cases there may be a further parole hearing. Prisoners remains on licence and can be recalled to custody at any point until the expiry of their sentence. Prisoners can be released on parole if the Parole Board decides that they will not present an unacceptable risk to public safety if released.

When prisoners are released on parole, the release will be on licence with certain conditions attached to it. If prisoners break any of the conditions they can have parole denied and be returned to prison. The parole eligibility date is the earliest date that a prisoner could be released on parole.

Attached links:

http://www.scottishparoleboard.gov.uk/page/about_the_parole_board

Northern Ireland

Under the Criminal Justice (NI) Order 2008 all offenders serving determinate custodial sentences of 12 months or more are subject to automatic release at the half way point of their sentence and serve the second half on licence in the community. Prisoners given these sentences will not receive remission on their custody part. (There is provision in the 2008 Order for the Justice Minister to release a fixed term prisoner on licence before they serve the requisite custodial period however to date this has not been commenced).

For offences and sentences of less than 12 months under the Criminal Justice (NI) Order 1996 offenders automatically receive 50% remission and there are no supervision or licence arrangements.

Attached link:

Criminal Justice (Northern Ireland) Order 2008

<http://www.legislation.gov.uk/nisi/2008/1216/contents>

Criminal Justice (Northern Ireland) Order 1996

<http://www.legislation.gov.uk/nisi/1996/3160/contents>

Please attach the text(s)

Criminal Justice Act 1991

<http://www.legislation.gov.uk/ukpga/1991/53/contents>

Criminal Justice Act 2003

<http://www.legislation.gov.uk/ukpga/2003/44/contents>

Criminal Justice (Northern Ireland) Order 2008

<http://www.legislation.gov.uk/nisi/2008/1216/contents>

Criminal Justice (Northern Ireland) Order 1996

<http://www.legislation.gov.uk/nisi/1996/3160/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

Not available

114. Paragraph 6 of article 30

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

Has your country established the procedures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable procedure(s) or other measure(s)

Please cite the text(s)

The management of the UK Civil Service is set in statute under the Constitutional Reform and Governance Act 2010. Civil servants are bound by the Civil Service Code, which forms part of their contractual terms and conditions of employment. The Civil Service Code includes the requirements for civil servants to:

- * comply with the law and uphold the administration of justice;
- * always act in a way that is professional and that deserves and retains the confidence of all those with whom they have dealings;
- * carry out their fiduciary obligations responsibly (that is make sure public money and other resources are used properly and efficiently);

and sets out that civil servants must not:

- * misuse their official position, for example by using information acquired in the course of their official duties to further their private interests or those of others;
- * accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise their personal judgement or integrity;

The Civil Service Code also requires civil servants to report evidence of criminal or unlawful activity to the police or other appropriate regulatory authorities.

Any breach of the Civil Service Code or other terms and conditions of employment would be dealt with under departmental disciplinary arrangements (which could include dismissal).

Please attach the text(s)

Civil Service Code -

<http://www.civilservice.gov.uk/about/values/cscode/index.aspx>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

Not available

115. Subparagraph 7 (a) of article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office;

Has your country established the procedures described above? (Check one answer)

(P) Yes, in part

Please cite and attach the applicable procedure(s) or other measure(s)

Please cite the text(s)

In respect of positions of elected office, section 1 of the Representation of the People Act 1981 disqualifies any person from becoming a Member of the House of Commons who has been imprisoned either i) indefinitely or ii) for more than one year, following conviction for any offence. This therefore encompasses anyone convicted of offences established in accordance with the Convention. Any person so disqualified is also disqualified from becoming i) a Member of the European Parliament (as per Section 10(1)(a) of the European Parliamentary Elections Act 2002); ii) a Member of the Scottish Parliament (Section 15(1)(b) of the Scotland Act 1998); iii) a Member of the Welsh Assembly (Section 16(2) of the Government of Wales Act 2006); or iv) a Member of the Legislative Assembly of Northern Ireland (Section 36(4) of the Northern Ireland Act 1998. A person is disqualified from being a member of a Local Government Authority if, within five years before the day of their election or since their election, he has been sentenced to imprisonment for more than three months for any offence.

There are additionally statutory provisions that relate to specific public offices; for instance, it is a standard provision in legislation that an office-holder may be removed if he is convicted of an offence. There are also statutory provisions concerning the suspension of Judges who are the subject of criminal proceedings or who have been convicted of an offence. Any Judge who accepts a bribe loses his office.

Before appointing civil servants, departments will make a number of employment checks, including vetting. Previous offences would form part of the consideration. Procedures will vary depending on the gravity of any offence.

Please attach the text(s)

Representation of the People Act 1981 -
<http://www.legislation.gov.uk/ukpga/1981/34/contents>
European Parliamentary Elections Act 2002 -
<http://www.legislation.gov.uk/ukpga/2002/24/contents>
Scotland Act 1998 - <http://www.legislation.gov.uk/ukpga/1998/46/contents>
Government of Wales Act 2006 -
<http://www.legislation.gov.uk/ukpga/2006/32/contents>
Northern Ireland Act 1998 -
<http://www.legislation.gov.uk/ukpga/1998/47/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

Not available

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the full implementation of the provision under review.

116. Subparagraph 7 (b) of article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

...

(b) Holding office in an enterprise owned in whole or in part by the State.

Has your country established the procedures described above? (Check one answer)

(P) Yes, in part

04/11/2011

United Kingdom of
Great Britain and
Northern Ireland

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Please cite and attach the applicable procedure(s) or other measure(s)

Please cite the text(s)

Please see answer to paragraph 7 (a) in relation to the Civil Service.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the full implementation of the provision under review.

117. Paragraph 8 of article 30

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Under the Constitutional Reform and Governance Act 2010, civil servants are bound by the Civil Service Code which forms part of their contractual terms and conditions of employment. See response to paragraph 6 above.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related disciplinary cases

118. Paragraph 10 of article 30

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable reintegration programme(s) or measure(s)

Please cite the text(s)

All offenders serving determinate custodial sentences of 12 months or more are subject to automatic release at the half-way point of their sentence (under section 244 of the Criminal Justice Act 2003) and serve the second half of their sentence on licence in the community. The release licence has standard conditions plus any additional conditions specific to the offender, and all conditions must have regard to the protection of the public, the prevention of re-offending, and securing the successful re-integration of the prisoner into the community (as set out in section 250 of the Criminal Justice Act 2003).

Section 250 of the Criminal Justice Act 2003

"8) In exercising his powers to prescribe standard conditions or the other conditions referred to in subsection (4)(b)(ii), the Secretary of State must have regard to the following purposes of the supervision of offenders while on licence under this Chapter-

(a) the protection of the public,

(b) the prevention of re-offending, and

(c) securing the successful re-integration of the prisoner into the community."

Scotland

Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993 provides how the system of the release of offenders operates, including at what point offenders can be released prior to the end of their sentence. The system is designed to, amongst matters, facilitate the re-integration of the offender into the community.

The Rehabilitation of Offenders Act 1974 applies in Scotland (as it does across the UK) and provides that anyone who has been convicted of a criminal offence and sentenced to less than two and a half years in prison can be regarded as rehabilitated after a specified period with no further convictions. After the specified period the original conviction is considered to be spent. The specified period varies between 6 months and 10 years depending on the length of sentence. Convictions involving sentences of over 2.5 years are never spent.

The general rule is that, once a conviction is spent the convicted person does not have to reveal it and cannot be prejudiced by it. This means that if an ex-offender whose convictions are all spent is asked on a job

application form, or at a job interview, whether they have a criminal record they do not have to reveal or admit its existence. Moreover, an employer cannot refuse to employ someone or dismiss someone because of a "spent" conviction.

Northern Ireland

In Northern Ireland there is similar provision in the Criminal Justice (NI) Order 2008 for offenders serving determinate custodial sentences of 12 months or more, where article 24 (8) provides that when proscribing licence conditions the Justice Minister shall have regard to the protection of the public, the prevention of re-offending and the rehabilitation of the offender.

For those who are convicted and given a custodial disposal, rehabilitation legislation exists to allow many offenders to put the past behind them when it comes to seeking employment and starting afresh. The length of time during which an offender must declare his/her conviction is based on the seriousness of the offence. But in recognition of the fact that their offending may have been due to their inexperience and lack of maturity, for young offenders in particular rehabilitation periods are shorter than those for adults.

For those in custody, Government provides programmes and services to assist with successful return to the community. The Northern Ireland Prison Service provides a range of prisoner programmes; trains its staff to deliver such programmes; and employs a range of professionals including psychologists to help offenders prepare for successful return to the community. The Probation Service works with and in prisons to deliver pre and post release programmes and services. On return to the community, a number of voluntary sector bodies, with financial assistance from Government, provide services for the care and resettlement of offenders

Please attach the text(s)

Criminal Justice Act 2003

<http://www.legislation.gov.uk/ukpga/2003/44/contents>

Prisoners and Criminal Proceedings (Scotland) Act 1993

<http://www.legislation.gov.uk/ukpga/1993/9/contents>

Rehabilitation of Offenders Act 1974

<http://www.legislation.gov.uk/ukpga/1974/53/contents>

Criminal Justice (NI) Order 2008

<http://www.legislation.gov.uk/nisi/2008/1216/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

If you collect statistics on recidivism rates, please provide them

Not available

119. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

120. Subparagraph 1 (a) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

Section 6, Proceeds of Crime Act 2002 (for England and Wales). Please also see response to paragraph 1 of Article 46 concerning Mutual Legal Assistance.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

In June 2011, a solicitor, James Thorburn-Muirhead, was sentenced to 16 months' imprisonment after a SOCA investigation revealed his links to a drug dealer, his involvement in the theft of clients' monies and his failure to disclose information under the SARs regime. Muirhead had been operating as a sole proprietor solicitor. Evidence seized during searches in July 2007 linked Muirhead with a drug trafficker but also pointed to other criminality including the misappropriation of money from clients' accounts. In July 2009, Muirhead was charged with 10 counts of theft and false accounting, one count of money laundering and one count of failing to disclose under the Proceeds of Crime Act. A plea bargain was offered by his defence team with Muirhead pleading guilty to four counts of theft and false accounting and the one count of failing to disclose. Muirhead's benefit from criminal conduct was agreed at £196,198.00 and a Confiscation Order was made for the same amount, payable within 9 months. A two year default sentence will apply if he fails to meet that deadline and he will still be liable to pay the sum. He was also ordered to pay a Compensation Order of £12,666.67 and will pay £25,000.00 towards prosecution costs.

2008: £35,500 confiscated from UK accounts of Ugandan officials for repatriation to Uganda.

2010: Joint case between the Serious Organised Crime Agency and the Serious Fraud Office which resulted in \$100,000 compensation to Costa Rica.

2011: Joint case between the Serious Organised Crime Agency and the Serious Fraud Office - civil recovery of £11.2m regarding publishing contracts in Sub-Saharan Africa.

If available, please provide information on the number and types of cases in which proceeds were confiscated. Please provide per annum figures, as available.

If available, please provide information on the amount of proceeds of offences established in accordance with this Convention confiscated. Please provide per annum figures, as available.

121. Subparagraph 1 (b) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

...

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 allows us to forfeit the instrumentalities of crime.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2000/6/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information on the amount/types of property, equipment or other instrumentalities confiscated

If available, please provide information on recent cases in which such confiscations took place

122. Paragraph 2 of article 31

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

Has your country adopted and implemented the measures described above? (Check one answer)

(P) Yes, in part

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

Under the Proceeds of Crime Act 2002, we can trace, freeze or seize the proceeds of crime, but there is no specific power in respect of the instrumentalities of crime. Under the Police and Criminal Evidence Act 1984, we can seize anything which is evidence of an offence and this would include the instrumentalities of crime.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

<http://www.legislation.gov.uk/ukpga/1984/60/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

In February 2011, a formerly high ranking Nigerian government official was ordered by the High Court to hand assets worth £1.25 million to SOCA. The order was granted by the High Court in London against Christopher Orumgbe Agidi from Lagos in Nigeria, trading as Orion Worldwide Consult Limited. Mr Agidi was the former Director of the Federal Ministry of Education and the former Director of the National Civil Registration Directorate with the

Nigerian civil service from 1995 until his retirement in 2002. In its civil recovery application, SOCA submitted that Mr Agidi had derived the majority of his assets through corruption over a five year period and that he used his consultancy firm in London as a front to launder the cash. SOCA's investigation identified that Mr Agidi had received bribes from two international companies whilst he was in post. The Czech and French companies both had contracts with the Nigerian Government at the time. His Honour Mr Justice Sweeney deemed Mr Agidi's UK assets, which include a house in Golders Green and a bank account containing over £650,000, to be the proceeds of crime.

Assets in this case were traced and frozen using powers under the Proceeds of Crime Act 2002, namely a Disclosure Order and a Property Freezing Order. In addition funds held in an investment bond in Ireland were returned to the UK using a Repatriation Order, to enable their eventual recovery.

If available, please provide information on the cases and amount of money/value of property frozen or seized. Please provide per annum figures, as available

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the full implementation of the provision under review.

123. Paragraph 3 of article 31

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

In the case of restraint orders and receivership orders, the powers of the receiver may vary from case to case. Direction of powers are conferred by the court.

See also http://www.cps.gov.uk/legal/d_to_g/enforcement/ especially the section headed 'receiver's powers'

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Please provide any reports or assessments of the administration of frozen, seized or confiscated property

124. Paragraph 4 of article 31

4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

UK confiscation law is value based (see section 8 of the Proceeds of Crime Act 2002). It is difficult to answer this question because specific property is not subject to confiscation. In the UK we calculate the value of the proceeds of a person's crime and set that as a confiscation.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

125. Paragraph 5 of article 31

5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

As above. The UK does not confiscate property. A value is set of the person's proceeds of crime which they then have to meet.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic,

Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

126. Paragraph 6 of article 31

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

UK confiscation is value based. Section 8 of the Proceeds of Crime Act 2002 empowers a court to determine what the defendant's benefit has been from his criminal conduct.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

127. Paragraph 7 of article 31

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

Section 348(4), 368 and 374 of the Proceeds of Crime Act 2002

See also Tournier Rules (attached)

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

See also Tournier Rules (attached)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

128. Paragraph 8 of article 31

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

Has your country adopted and implemented the measures described above? (Check one answer)

(P) Yes, in part

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

A fundamental principle of UK law is "he who accuses must prove".

However, in extended confiscation, i.e. if a person has been convicted of serious criminality, the court can assume that all their property is criminally derived unless the court believes there is a serious risk of injustice (Section 10 of the Proceeds of Crime Act 2002).

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information on recent cases where an offender has been required to demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the full implementation of the provision under review.

129. Paragraph 9 of article 31

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

Value based confiscation in the UK, if correctly applied, would rule out the value of the property that belongs to third parties. In enforcement hearings, third parties have a right to join as interested parties to make representations

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and, if available, information on recent cases where bona fide third parties were involved and their rights were protected

130. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

131. Paragraph 1 of article 32

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

UK chief officers of police and heads of law enforcement agencies have access to a range of measures to protect witnesses ranging from personal and home security measures, such as panic alarms, mobile phones, additional locks, sensors, fireproof letterboxes and CCTV to full witness protection programmes. Such programmes typically involve witness relocation and (in some circumstances) a change of identity.

The decision as to who will be accepted on to a witness protection programme will be made by chief Officers of the relevant force area or the Director-General of the law enforcement agency involved in the case.

The powers to provide “protected persons status” are defined in law under s. 82 of the Serious Organised Crime and Police Act 2005 and granted to chief officers of police and heads of law enforcement agencies.

The Act requires that such “protection providers” should consider certain factors when deciding whether a person can be protected under the legislation. This includes:

- (i) the extent and risk to their safety;
- (ii) the cost of the arrangements;
- (iii) the importance of their testimony; and
- (iv) the likelihood that they will cope with relocation and/or a change in identity.

Those eligible for protection under the Act are defined in schedule 5. This includes::

- (i) witnesses in the proceedings;
- (ii) informants and other assisting offenders;
- (iii) criminal justice practitioners including police, prison and other law enforcement officers, judges, magistrates and prosecutors;
- (iv) jurors;
- (v) family members of those who have lived or are living in the same household or who have a close personal relationship with the person specified above.

Protection providers also receive support from a central services unit within the National Policing Improvement Agency - the Central Witness Bureau -

which provides the following services:

- A national training programme for protection officers and managers.
- A good practice guide to promote national standards of service.
- The National Witness Mobility Service (NWMS) which arranges the relocation of witnesses living in social housing to safer areas.
- Identity Changes.
- Client Support Services providing specialist advice and support to witness protection officers aimed at developing speedier and more effective witness protection arrangements. This includes providing better access to sustainable welfare packages, education, training and employment opportunities, medical care, psychological and emotional support and drug treatment. Memoranda of understanding and service level agreements are being developed, where appropriate.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2005/15/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information on the number of witnesses or experts and their relatives or other persons close to them who have required protection and how long they needed it. Please provide per annum figures since, as available.

In 2009/10 forces across the UK managed a total of 763 protected person cases (192 of which were new cases and the remainder ongoing) involving 1500 individuals.

In most cases protection is provided for life.

If you have a witness protection programme, how many witnesses or experts and their relatives or persons close to them have entered it? Please provide per annum figures, as available.

Please see response above.

Do you have an estimated cost per protected person ?

The UK national average cost per case in 2009/10 was £24,846. The

132. Subparagraph 2 (a) of article 32

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

Witness protection is typically achieved by relocating the witness and (in some circumstances) changing his or her identity, both of which are supported by a high degree of confidentiality to prevent the disclosure of the whereabouts of the witness.

Part 2, Chapter 4 of the Serious Organised Crime and Police Act 2005 contains offences for disclosing information relating to protection arrangements. Section 86 creates the offence of disclosing information about a person's protection arrangements. Section 88 creates the offence of disclosing information about a protected person's new identity. The purpose of these provisions is to deter individuals and organisations from disclosing information which could be harmful to protected persons. They also apply to protected persons themselves in cases where they reveal their true identities in order to cause harm to another protected person, such as an ex-partner.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/2005/15/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

There are currently around 1500 individuals being protected in national protection programmes. Forces take on between 150-200 new cases per year, most of which will involve permanent relocation and around a quarter of which will involve a full identity change.

If applicable and available, please provide information on the number of witnesses or experts who have received physical protection, type of protection received and cost

There are currently around 1500 individuals being protected in national protection programmes at a cost of around £20 million. Forces take on between 150-200 new cases per year, most of which will involve permanent relocation and around a quarter of which will involve a full identity change. The average cost per case is around £25,000.

133. Subparagraph 2 (b) of article 32

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

...

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable rule(s), policy(ies) or other measure(s)

Please cite the text(s)

In England and Wales, Chapter 23 Part II Chapter 1 of the Youth Justice and Criminal Evidence Act 1999 provides for a number of 'Special Measures' to assist vulnerable or intimidated witnesses give their best evidence in court. This includes:

- Live links which enable the witness to give evidence during the trial from outside the courtroom through a televised link. The witness may be either accommodated within the court building or in a suitable location outside the court. This is particularly helpful in cases where intimidated witnesses have been relocated for their own safety and would not wish to return to the area.
- Screens may be made available to shield the witness from the defendant.
- Evidence given in private excludes from the Court of members of the public and the press (except for one named person to represent the press).

Similar provisions apply in Scotland. The Vulnerable Witnesses (Scotland) Act 2004 amended the Criminal Procedure (Scotland) Act 1995 to provide for a number of "special measures" which are designed to make it easier for vulnerable adult witnesses to give their evidence in court. It applies to all hearings in criminal courts (except Justice of the Peace Courts) and not just the trial. Similar to the position in England and Wales, the types of special measures that can be used include:

- use of a live television link
- use of a screen
- use of a supporter
- giving evidence in chief in the form of a prior statement
- taking evidence by a commissioner

Additionally, the court can, at common law, make or authorise any special arrangements for the taking of evidence by any person.

The Northern Ireland equivalent to Part II of the Youth Justice and Criminal Evidence Act 1999 is Part II of the Criminal Evidence (NI) Order 1999. Various categories of witness are eligible to avail of special measures in criminal proceedings in Northern Ireland at present under the provisions of the Criminal Evidence (Northern Ireland) Order 1999. These categories include witnesses whose evidence is likely to be diminished by reason of fear and distress in connection with giving evidence.

The Criminal Evidence (Northern Ireland) Order 1999 contains a variety of special measures for witnesses in criminal proceedings. The types of measure are as follows:

The use of screens

Giving evidence by way of live television link

Giving evidence in private

The removal of wigs and gowns

Video-recorded evidence-in-chief

Video-recorded cross-examination or re-examination

Examination of a witness through the use of an intermediary and the use of aids to communication.

Witnesses who are eligible for special measures on the basis that the quality of their evidence is likely to be diminished by reason of fear or distress in connection with giving evidence are allowed to apply for any special measure apart from the ones which permit the use of intermediaries or aids to communication.

The Justice (Northern Ireland) Act 2011 amends these provisions by the extension of special measures for the giving of evidence by vulnerable and intimidated witnesses and also the extension of the range of matters that can be dealt with by way of video-link.

In addition, the Northern Ireland Law Commission recently recommended that a scheme of special measures be put in place on a statutory basis in relation to civil proceedings in Northern Ireland.

In England and Wales and Northern Ireland, Chapter 25 Part 3 Chapter 2 of the Coroners and Justice Act 2009 provides for the court to make a “witness anonymity order” allowing measures to be taken which the court

thinks appropriate to ensure that the identity of the witness is not disclosed in or in connection with the court proceedings. This could include one or more of the following:

- The witness's name and other identifying details being (i) withheld or (ii) removed from materials disclosed to any party to the proceedings.
- The witness using a pseudonym.
- The witness not being asked questions that might lead to him/her being identified.
- The witness being screened from the defendant.
- The witness's voice being modulated so that their natural voice cannot be heard by the defendant.

Breach of the order by the unauthorised disclosure of a witness's identity will be dealt with as contempt of court

The legislation sets out three conditions for making an order, i.e. that:

- the measures must be necessary in order to protect the safety of the witness or another person or in order to prevent real harm to the public interest;
- the defendant must receive a fair trial, and
- the order must be in the interests of justice.

The legislation sets out a non-exhaustive list of considerations to which the court must have regard when deciding whether these conditions are met. These cover:

- the defendant's general right to know the identity of a witness;
- the extent to which credibility is relevant;
- whether the witness's evidence might be the sole or decisive evidence implicating the defendant;
- whether the witness's evidence can be properly tested;
- whether the witness has a tendency or any motive to be dishonest;
- whether alternative means could be used to protect the witness's identity.

Sections 271 N to Z of the Criminal Procedure (Scotland) Act 1995 were amended by section 90 of the Criminal Justice and Licensing (Scotland) Act 2010 to make provision for a statutory regime for applications for witness anonymity orders. Applications may be made by the prosecutor or defence to a court in solemn or summary proceedings where it is necessary to protect the safety of the witness or another person, prevent serious damage to property or prevent real harm to the public interest. Steps which might be authorised include the withholding of identifying

details, use of pseudonyms, restrictions on questions, use of screens and voice modulation.

Please attach the text(s)

Youth Justice and Criminal Evidence Act 1999

<http://www.legislation.gov.uk/ukpga/1999/23/contents>

Vulnerable Witnesses (Scotland) Act 2004

<http://www.legislation.gov.uk/asp/2004/3/contents>

Criminal Evidence (Northern Ireland) Order 1999

<http://www.legislation.gov.uk/nisi/1999/2789/contents>

Justice (Northern Ireland) Act 2011

<http://www.legislation.gov.uk/nia/2011/24/contents>

Coroners and Justice Act 2009

<http://www.legislation.gov.uk/ukpga/2009/25/contents>

Criminal Justice and Licensing (Scotland) Act 2010

<http://www.legislation.gov.uk/asp/2010/13/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

In England and Wales, a total of £9.2m has been invested in replacement programmes since 2005 providing modern video recording and broadcasting equipment in both Crown and Magistrates' Courts. Amongst other benefits, the new equipment can easily be upgraded to allow videoconferencing links to be made. These enable evidence to be given remotely, which means that victims and witnesses will not have to go to the courthouse where the trial is being held, but give evidence from another location.

All Crown Court centres have video link equipment enabling the witness to give evidence from within the court building but without entering the courtroom. 60 out of 78 Court Centres have videoconferencing links, which allow witnesses to give evidence remotely.

There is currently £2.8m worth of videoconferencing equipment in place across the Scottish court estate. The three High Courts of Justiciary, namely, Glasgow, Edinburgh & Aberdeen all have video conference links available. A total of 46 out of 49 Sheriff Courts have at least one court that is fully equipped to take the evidence from suitably equipped remote sites.

There are no facilities at any District or Justice of the Peace Courts. Mobile equipment is also available to enhance service provision where required.

All Crown venues in Northern Ireland have remote evidence link facilities and in total 16 out of 23 court venues have this service. All but two court venues are able to conduct remand hearings via video link between prisons and courts.

Seven court venues in Northern Ireland are 'Hi-Tech Courts' with remote CCTV Links and Video Conferencing Technology that enable the court to view and hear witness testimony from a separate room within the court building and remote video conferencing from virtually anywhere in the world. Two courthouses have secure live video links to designated off-site witness suites to further safeguard vulnerable victims and witnesses.

If applicable and available, please provide information on recent cases in which witnesses or experts have given testimony using video or other communications technology

The use of live television links for the giving of evidence and other special measures is widely used in courts in England, Wales, Scotland and Northern Ireland, for trials involving young and other vulnerable witnesses. There have also been a number of cases in which the evidence-in-chief of witnesses is given by means of a recorded video.

Witness anonymity orders are granted in around 50 cases per year in courts in England and Wales. 21 Witness Anonymity Orders have been granted in the courts in Northern Ireland since January 2009. The provisions in relation to witness anonymity orders in Scotland apply to all cases where the trial or hearing begins on or after 28 March 2011 .

Measures such as giving evidence anonymously or by live link have been used in trials in a number of high profile cases such as the racist murder of Anthony Walker in Liverpool, and the gang related murders of Letisha Shakespeare and Charlene Ellis in Birmingham and Rhys Jones in Liverpool.

Communications technology was used in a high profile case in 2009 relating to the murder of Andrew Robb and David McIlwaine in Armagh in 2000.

134. Paragraph 3 of article 32

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation

of persons referred to in paragraph 1 of this article.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable agreement(s), arrangement(s) or other measure(s)

Please cite the text(s)

The UK Government has formal agreements with the International Criminal Court and other international tribunals to provide witness protection. Police forces across the UK have regular arrangements with EU countries under Europol Relocation Guidelines. Other arrangements can be made on an ad-hoc basis via Ministerial agreement and are co-ordinated by the Central Witness Bureau.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See above

If applicable and available, please provide information on the number of witnesses or experts who have been relocated to other States through arrangements or agreements. Please provide per annum figures, as available.

In 2009/10, a total of seven witness protection cases were being managed by UK law enforcement agencies involving relocations to countries outside of the UK and thirty cases, involving a total of 73 individuals, involving relocations into the UK from abroad.

135. Paragraph 4 of article 32

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

In your domestic legal system, do the provisions of this article also apply to victims insofar as they are witnesses? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies), arrangement(s), agreement(s) or other measure(s)

Please cite the text(s)

All the legislation, policies and measures described above apply to victims in so far as they are witnesses.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See response to subparagraph 2(a)

If you have a protection programme, how many victims have been protected by it and in how many different cases? Please provide per annum figures, as available.

See response to paragraph 1

If applicable and available, please provide information on the number of victims who have received physical protection. Please provide per annum figures, as available.

See response to paragraph 1

If applicable and available, please provide information on the number of victims who have been permitted to give testimony in a manner that ensures their safety, such as video or other communications technology. Please provide per annum figures, as available.

UK figures are not available.

Although no specific figures are available at this time for Scotland for those permitted to give evidence, or those that actually proceed on the day, over 450 notices/applications are currently submitted per annum for special measures involving the use of videoconference technology.

If applicable and available, please provide information on the number of victims that have been relocated to other States through arrangements or agreements. Please provide per annum figures, as available.

See response to paragraph 3.

136. Paragraph 5 of article 32

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Decisions about providing protection for victims in the UK are taken in full consultation with the individual concerned. This includes consideration of their ability to adjust to any change in circumstances as a result of the protection arrangements (s.82(4)(c) Serious Organised Crime and Police Act 2005). Detailed protection arrangements will be agreed through a formal memorandum of understanding between the law enforcement agency and the protected person concerned.

In deciding whether to grant special measures to a victim to assist them in giving evidence in court, the court must take account of the views of the

victim concerned (s. 19 (3)(a) Youth Justice and Criminal Evidence Act 1999; Article 7(3)(a) of the Criminal Evidence (NI) Order 1999). This is also true in Scotland under s271E(2) of the Criminal Procedure (Scotland) act 1995, as amended by the terms of the Vulnerable Witnesses (Scotland) Act 2004.

In England and Wales victims can be heard during proceedings through a Victim Personal Statement. Victim Impact Statements are also available in Northern Ireland, and Victim Statements in Scotland.

In England and Wales arrangements are in place to ensure that witnesses have access to support and advice when attending court and the opportunity to express their views and discuss their needs. Witness Care Units are responsible for updating witnesses about the progress and result of their case and providing them with any assistance they need to attend court. They can put them in touch with the Witness Service which has supporters available to meet witnesses in advance and provide pre-trial visits to see the courtroom. On the day they provide moral and physical support to witnesses in a secure and comfortable area and ensure that the separate witness entry point is used if required. The Witness Service can also explain the processes involved in a trial. Court Witness Liaison Officers have a specific role in ensuring the consistent and appropriate care for victims and witnesses whilst they are attending court.

Up until 2010 in England and Wales, the views of victims and witnesses were collated through a regular quarterly survey - the Witness and Victim Experience Survey (WAVES). However this has now been discontinued, as many of its measures remained stable over time, and it surveyed a subset of victims and witnesses whose cases had resulted in a criminal charge. Many groups of interest were excluded, such as victims and witnesses whose cases resulted in an out of court disposal, or remained undetected; vulnerable victims and witnesses, such as those whose cases involved sexual offences or domestic violence; and victims and witnesses aged under 18.

The Ministry of Justice is therefore wishing to explore alternative options for surveying victims and witnesses who have had contact with the criminal justice system to provide nationally representative information on their experiences and perceptions for a wider group of victims and witnesses than covered by WAVES.

Please attach the text(s)

Serious Organised Crime and Police Act 2005
<http://www.legislation.gov.uk/ukpga/2005/15/contents>

Youth Justice and Criminal Evidence Act 1999
<http://www.legislation.gov.uk/ukpga/1999/23/contents>
Criminal Evidence (Northern Ireland) Order 1999
<http://www.legislation.gov.uk/nisi/1999/2789/contents>
Vulnerable Witnesses (Scotland) Act 2004
<http://www.legislation.gov.uk/asp/2004/3/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See above. Also, in the criminal justice system in Northern Ireland there are various opportunities for victims to express their views and opinions including victim impact statements, surveys, complaints procedures and other feedback processes.

The Northern Ireland Victim and Witness Survey (NIVAWS) is carried out annually and respondents are initially required to relate their specific experiences with the various stages of the criminal justice process (e.g. while making a statement, waiting for the trial, giving evidence at court, claiming criminal injury compensation etc.). Having done this, respondents are then asked to reflect on their overall experience of the criminal justice system and to rate their overall level of satisfaction with:-

- (i) the information they were given about the criminal justice system process;
- (ii) how well they had been kept informed about the progress of their case;
- (iii) the way they were treated by staff in the criminal justice system; and
- (iv) the contact they had with the criminal justice system.

The views of victims are also sought by independent monitoring bodies as, for example, the recent inspection into the care and treatment of victims in the NI criminal justice system which is shortly to be published by Criminal Justice Inspection Northern Ireland.

If available, please provide information on the number of victims who have presented their views and concerns at any stage of criminal justice proceedings against offenders. Please provide per annum figures, as available.

The statistics available for England and Wales from the WAVES findings indicate that:

- **43% of victims remember being given the opportunity to make a VPS (WAVES, cases closed in 2009/10)**
- **of those who remember being given the opportunity, 55% made a statement**
- **of those who made a statement, 68% thought it was taken into account during the CJS process (combining those who answered 'fully' (39%) and 'to some extent' (28%))**
- **of those who made a VPS, 34% were made aware of how to make a complaint if they were unhappy about the service they received from**

CJ agencies

This data covers victims and prosecution witnesses aged 18 and over whose case resulted in a charge and covers the following crime types; violence against the person; robbery; burglary; criminal damage; theft and handling stolen goods. It does not include victims and witnesses in sensitive cases, such as sexual offences or domestic violence, crimes involving a fatality, and any crime where the defendant was a family member or a member of the witnesses' or victims' household (which were not included on ethical grounds). It also excludes police officers or other CJS officials assaulted in the course of duty, and all police or expert witnesses.

In Northern Ireland the numbers of Victim Impact Statements lodged in court is not currently monitored. For the most recent NIVAWS exercise during January 2011 the target sample comprised 1,057 victims and witnesses involved in cases which closed between January and June 2010. As explained above there is a wide variety of fora for the presentation of victims' views and, because of the range of organisations and formats involved, it is impossible to provide a total annual figure for the numbers involved.

137. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

138. Article 33

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Public Interest Disclosure Act (PIDA) 1998

Designed to protect most workers from being unfairly dismissed by their employer or suffering other detriment whenever they have reported their concerns to the employer or the regulatory authorities. In addition, details of any unfair dismissal or detriment claim that is submitted to the employment tribunals under PIDA are forwarded, with the agreement of the complainant, on to the relevant regulatory authorities, so that they can then decide whether to investigate the underlying issues (such as fraud or non-compliance with health and safety law) further.

Please attach the text(s)

<http://www.legislation.gov.uk/ukpga/1998/23/contents>

See also table on outcomes of applications to Employment Tribunals under PIDA

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

The Act is confined to protecting workers from victimisation by their employers if they “blow the whistle” in a responsible way. It has no free standing provisions, but works by amending the Employment Rights Act 1996 to add “whistleblowers” to others given special protection against dismissal or other detrimental treatment. It is an employment-protection measure, and one that we believe has generally been successful.

See also table attached to previous response.

139. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

140. Article 34

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

In addition to the criminal sanctions imposed against those found guilty of acts of corruption (further detail of which is given in response to Article 30), a person (whether an individual or a corporate body) can be excluded from bidding for public sector contracts and/or have their existing public sector contracts terminated in the event of a conviction for specified bribery or corruption offences. Furthermore contracting authorities have a discretion to exclude a person from bidding for a public sector contract in the event of that person having: -

- i) been convicted of a criminal offence relating to the conduct of his business or profession; or
- ii) committed an act of grave misconduct in the course of his business or profession.

Mandatory Exclusion

In accordance with Regulation 23(1) of the Public Contracts Regulations 2006 (SI 2006/5), which is applicable to England, Wales and Northern Ireland, contracting authorities are required to exclude an economic operator from a procurement process if that economic operator (including its directors or any other person who has powers of representation, decision or control) has been convicted of any of the following offences: -

(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906, where the offence relates to active corruption;

(c) the offence of bribery, where the offence relates to active corruption;

(ca) bribery within the meaning of section 1 or 6 of the Bribery Act 2010;

unless there are overriding requirements in the general interest. 'Active corruption' for these purposes means 'corruption as defined in Article 3 of the Council Act of 26 May 1997 or Article 3(1) of Council Joint Action 98/742/JHA' and in effect

relates to giving, rather than receiving, a bribe.

Similar provisions are contained within Regulation 23(1) of the Public Contracts (Scotland) Regulations 2006 (SI 2006/1), which provides for mandatory exclusion in the event of a conviction for: -

(b) corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

(c) bribery or corruption within the meaning of sections 68 and 69 of the Criminal Justice (Scotland) Act 2003;

The Defence and Security Public Contracts Regulations 2011 (SI 2011/1848) which apply throughout the UK reflect the provisions stated above, but also require mandatory exclusion for a conviction under section 2 of the Bribery Act 2010 (offences related to being bribed); regulation 23(1) provides for mandatory exclusion in the event of a conviction for: -

(c) corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

(d) the offence of bribery;

(e) bribery within the meaning of section 1, 2 or 6 of the Bribery Act 2010;

(f) bribery or corruption within the meaning of section 68 and 69 of the Criminal Justice (Scotland) Act 2003;

Discretionary Exclusion

All three sets of Regulations provide contracting authorities with a discretionary power to exclude an economic operator from bidding in the event a person has: -

- i) been convicted of a criminal offence relating to the conduct of his business or profession; or
- ii) committed an act of grave misconduct in the course of his business or profession.

It is possible that, for example, the first ground could result in an exclusion for a conviction under section 7 of the Bribery Act 2010 (failure of a commercial organisation to prevent bribery) and the second ground could result in an exclusion where there are allegations of bribery, but no conviction.

Please attach the text(s)

Public Contracts Regulations 2006 <http://www.legislation.gov.uk/uksi/2006/5/contents>

See also <http://www.legislation.gov.uk/uksi/2011/2053/regulation/15/made>

Public Contracts (Scotland) Regulations 2006
<http://www.legislation.gov.uk/ssi/2006/1/contents/made>

The Defence and Security Public Contracts Regulations 2011
<http://www.legislation.gov.uk/uksi/2011/1848/contents/made>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

141. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

142. Article 35

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Under the law of England and Wales a range of measures exist in the civil law to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for the damage in order to obtain compensation. Whilst there is no specific tort that gives rise to this right, there are a number of economic torts that cover a wide range of circumstances that may amount to corrupt activity, providing between them a range of remedies. Whilst Scotland and Northern Ireland are separate, distinct, legal jurisdictions their civil law regarding corruption is broadly similar in substance and effect to the civil law in England and Wales. The main torts are briefly outlined below:

Deceit

The tort of deceit covers circumstances in which a claimant suffers loss by relying on a misrepresentation made by the defendant. The claimant must prove that the defendant has made the false representation knowingly, or without belief in its truth, or recklessly with the intention that the claimant should act upon it. Usually the representation will consist of written or spoken words, but it may be assumed that any conduct calculated to mislead will suffice. Active concealment of the truth whereby the claimant is prevented from getting information which he otherwise would have got is sufficient misrepresentation even though no positive misrepresentation is made. In addition, where the defendant has expressly approved or adopted a representation made by some third person he may himself be held to commit the tort.

Conspiracy

Another tort that may provide a cause of action to compensate for damage suffered as a result of corrupt activity is the tort of conspiracy. This tort takes two principal forms. These are:

(1) unlawful means conspiracy - where two or more persons cause loss to a claimant by combining to do an unlawful act, or a lawful act by unlawful means;

(2) simple conspiracy - where two or more persons combine wilfully, and without justification, to injure another in his trade and cause damage to his trade results.

In relation to "simple conspiracy" the tort is committed when the main purpose of the defendants' combination is deliberately to inflict damage on the claimant. It is not enough for a claimant to demonstrate that the defendants were well aware that damage to the claimant was an inevitable consequence of their actions.

Intimidation

The tort of intimidation involves the defendant using an unlawful threat successfully to compel another to act, or refrain from acting, in a particular manner that that will cause harm to the claimant. The tort can apply either where the threat is issued directly to the claimant or, as is more often the case, where the person threatened is a third party. The case law in relation to intimidation suggests that the threat does not necessarily have to involve the threat of violence.

Intentionally harming another's trade or other economic interests by unlawful means

This has developed as a general tort intended to apply in a wide range of circumstances to enable claimants to protect their economic interests. In order to bring a successful action a claimant must be able to prove that there has been interference with the claimant's economic interests by unlawful means that was intended to injure the claimant and that caused actual injury. There has been some debate over what equates to unlawful means, however, it now seems to be accepted that the doing of anything that one is not entitled to do under either the civil or criminal law will suffice.

Remedies

Compensatory damages are available for each of these torts to provide redress for any loss suffered as a result of the defendant's actions. The standard of proof in tort is the balance of probabilities, and that while the economic torts do not specifically cover the same ground as the criminal offences relating to corrupt activity, a conviction for one of those offences will be likely to form the basis of proof for a claim in tort.

In relation to deceit these damages can cover both pecuniary and non-pecuniary loss, although exemplary damages are not currently available in such cases. This position is also generally reflected across the other economic torts, although in relation to intimidation the position regarding the availability of damages for non-pecuniary loss is less well defined in case law.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and, if available, information on recent cases, including amount and type of compensation emanating from legal proceedings initiated by a victim against those responsible for a damage resulting from an act of corruption

It is difficult to easily identify individual cases, because actions can be brought under the economic torts that we have identified in a wide range of circumstances and these will not all necessarily relate to damage resulting from corrupt activities. However, one particular case of interest is *Marlwood v. Kozeny* in which the proceedings are ongoing, following a decision that a claim could proceed on the basis of various economic torts related to corruption (*Marlwood v. Kozeny and others* [2006] EWHC 872). We are also aware of prospective litigation between Alpstream and PK

AirFinance where the Technology and Construction Court has noted in ordering pre-action disclosure that there may be a case in economic tort such as conspiracy to injure or unlawful means.

143. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

144. Article 36

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies), institutional arrangements, law(s) or other measure(s):

Please cite the text(s)

In the UK, there are a number of specialised independent authorities (within England and Wales, Scotland, and Northern Ireland) with responsibility for combating corruption, as outlined below.

ENGLAND AND WALES

Crown Prosecution Service:

Role of the CPS

The Crown Prosecution Service (CPS) is the principal prosecuting authority in England and Wales, established and regulated by the Prosecution of Offences Act 1985. The CPS has competency to provide

advice on and to prosecute cases investigated by any police force. Although the CPS works closely with the police and other investigators, it is independent of them.

The CPS is competent to bring prosecutions for any offence, including for foreign bribery conduct (subject to cases in which the SFO exercises its jurisdiction) and cases involving conduct related to foreign bribery, such as money laundering and fraud.

The CPS advises on criminal investigations carried out by the police - including the City of London Police and the Ministry of Defence Police. Two specialist casework groups - Central Fraud Group and Serious Crime Group - deal with the prosecution of cases of serious crime, including bribery and corruption.

The Central Fraud Group of the CPS works closely with these police investigative bodies in foreign bribery and related cases in which the SFO is the prosecuting authority but does not exercise its jurisdiction.

Specialist Complex Casework Units in 13 CPS regional Areas deal with corruption cases that fall outside the remit of the Central Groups.

The CPS conducts prosecutions in the criminal courts where it considers that a prosecution is justified on the evidence and in the public interest.

Legal Guidance

The Director of Public Prosecutions and the Director of the SFO have published joint guidance for prosecutors on the Bribery Act 2010 to set out the Directors' approach to prosecutorial decision-making in respect of offences under the Act (see also the section on the Serious Fraud Office below). Proceedings under the Bribery Act 2010 require the personal consent of the Director of Public Prosecutions or the Director of the SFO (as set out in section 10 of the Act).

There is existing legal guidance on offences in 'the Prevention of Corruption Acts 1889 to 1916') and bribery at common law. These offences will continue to be relevant for bribery offences committed in whole or in part before 1 July 2011.

There is also existing legal guidance on other potentially relevant offences such as 'misconduct in public office' and 'perverting the course of justice' at common law as well as offences under the Fraud Act 2006 and the Proceeds of Crime Act 2002.

Serious Fraud Office:

The Serious Fraud Office for England and Wales and Northern Ireland ("SFO") is the lead agency in England and Wales for investigating and prosecuting cases of overseas corruption as referenced in the Joint

Prosecution Guidance on the Bribery Act 2010 issued by the Director of the SFO and the Director of Public Prosecutions (which can be found at <http://www.sfo.gov.uk/media/167348/bribery%20act%20joint%20prosecution%20guidance.pdf>). The SFO also investigates serious or complex fraud. The Director of the SFO ("the Director") discharges his functions under the superintendence of the Attorney General. The Director may exercise his investigation powers for the purpose of enabling him to determine whether to start an investigation in a case where it appears to him that a corruption offence may have taken place. The Director's investigation powers are set out in sections 2 and 2A of the Criminal Justice Act 1987. The criteria applied by the SFO in determining whether to commence and continue with an investigation can be found at <http://www.sfo.gov.uk/about-us/our-policies-and-publications/does-the-fraud-fit-sfo-criteria.aspx>.

SFO Activities and Operations

The SFO has two operational business areas each led by a member of the Senior Civil Service with a number of dedicated case managers who are responsible for the day-to-day management of cases. Case managers are either investigators or lawyers. The nature of a case and the stage it is at, determine whether a lawyer or an investigator is in charge of it. Multi-discipline case teams are established and members are allocated according to the skills and expertise the case requires. Cases are reviewed at least monthly to ensure that they are on track and that they still fit with the SFO's aims.

SFO Operational Remit

The SFO may deal with any type of complex or serious fraud or overseas corruption. The Enterprise Act 2002 criminalised anti-competitive behaviour by individuals and the SFO is jointly responsible with the Office of Fair Trading (OFT) for conducting criminal prosecutions under this legislation. The Bribery Act 2010, which came into force on 1 July 2011, provides jurisdiction to prosecute bribery committed abroad by any person (individual or corporate) who has a close connection with the UK (see s. 12). The SFO is responsible for registering all allegations received in this area and reviewing cases which appear to fall within the SFO's criteria for accepting cases. If the case does not fall within the SFO's case acceptance criteria it will pass the case to the most appropriate law enforcement or regulatory body for their consideration. The SFO has two small specialist units that amongst other things maintain the register of complaints of suspicion of corruption overseas and conduct an increasing number of applications to restrain the proceeds of crime.

The SFO's Annual Report and Accounts for 2010/2011 can be found at <http://www.sfo.gov.uk/media/175084/resource-accounts-2010-11.pdf>

City of London Police:

The City of London Police (CoLP) host, accommodate and partially resource the specialist Overseas Anti-Corruption Unit (OACU) which has extraterritorial jurisdiction in respect of UK residents and companies associated with the UK, through the powers conferred by existing legislation and the Bribery Act 2010. Unit personnel are resourced from the Economic Crime Directorate, all independent serving police officers and experienced economic crime investigators (12). Whilst the Department for International Development (DFID) are the main funding body, the CoLP retain all operational decision making and investigative control.

SCOTLAND

The Crown Office and Procurator Fiscal Service (COPFS) provides the independent public prosecution service for Scotland, and is a Ministerial Department of the Scottish Government. The department is headed by Her Majesty's Lord Advocate, who under the Scottish legal system is responsible overall for prosecution. In Scotland, almost all prosecution of criminal offences is by the Crown.

A prosecutor fiscal is a local public prosecutor in Scotland. For the majority of crimes in Scotland the procurators fiscal present cases for the prosecution in the local courts. COPFS is divided into eleven areas, each of which has an Area Procurator Fiscal. These areas normally coincide with the boundaries of the eight Scottish police forces (except for Strathclyde). COPFS has a direct role in instructing and directing police investigations under the Police (Scotland) Act 1967.

The Serious and Organised Crime Division of COPFS is made up of multi-disciplinary lawyers, forensic accountants/analysts, settlement negotiators and confiscation officers, and liaises closely with Law Enforcement Agencies with the primary responsibility for the co-ordination, investigation and prosecution of large and complex serious and organised crime and corruption cases (and recovery of proceeds of crime) throughout Scotland. The Serious and Organised Crime Division is divided into three units under the overall control of the Head of Division, namely the Proceeds of Crime Unit, the Economic Crime Unit, and the Organised Crime Unit. The Economic Crime Unit has primary responsibility for the investigation and prosecution of serious fraud and economic crimes of a scale and importance that require handling in a specialist unit.

NORTHERN IRELAND

The Public Prosecution Service (PPS) was established on 13 June 2005 by the Justice (Northern Ireland) Act 2002. The Act creates the Public Prosecution Service and defines its statutory duties and commitments and the legislative framework within which it provides its services.

The PPS is the principal prosecuting authority in Northern Ireland. It is

responsible for all criminal cases previously prosecuted by the former Department of the Director of Public Prosecutions (DPPNI) and the Police Service of Northern Ireland. In addition to taking decisions as to prosecution in all cases initiated or investigated by the police in Northern Ireland, it also considers cases initiated or investigated by other statutory authorities, for example, HM Revenue and Customs.

The PPS is headed by the Director of Public Prosecutions who is appointed by the Attorney General for Northern Ireland. There is also a Deputy Director. The Deputy Director has all the powers of the Director but must exercise them subject to his direction and control. Both posts are public appointments made by the Attorney General of Northern Ireland.

The PPS is a regionally based organisation. There are four regions, each coterminous with one or more court divisions. Each of the four regions is headed by a Regional Prosecutor (Assistant Director). The Regional Prosecutor has overall responsibility for decisions as to prosecution and for the conduct of all prosecutions in that region, with the exception of those cases which are considered by prosecutors in Headquarters.

There are also a number of other sections within the Service, each headed by an Assistant Director, which deal with specialised areas of work. These include Central Prosecutions, Fraud and Departmental Prosecutions, Policy and Information and High Court and International Matters.

The primary role of the PPS is to reach decisions to prosecute or not to prosecute and to have responsibility for the conduct of criminal proceedings.

Prosecution decisions are taken by qualified solicitors or barristers who are appointed as Public Prosecutors by the Director of Public Prosecutions. Cases involving corruption are dealt with in the PPS Central Casework Section. This is a specialised Section which deals with complex cases.

Prosecutions are instituted or continued only where the public prosecutor is satisfied that the Test for Prosecution is met as set out in the Code for Prosecutors issued under Section 37 of the 2002 Act.

The Code also explains the relationship that the PPS has with the Investigator including the provision of prosecutorial and pre-charge advice.

The PPS is an organisational member of the International Association of Prosecutors who have recently produced guidance entitled "Best Practice in Combating Corruption in Public Office"

The Director is a member of the International Association of Anti-Corruption Authorities (IAACA). The establishment of the IAACA was initiated at the High-Level Political Conference for the Purpose of Signing the United Nations Convention against Corruption (UNCAC) in 2003. The former Director of Public Prosecutions, Sir Alasdair Fraser, QC, remains

an honorary member of the Executive Committee.

Please attach the text(s)

Links embedded in text above

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See answer above

Please provide information on the measures adopted to ensure the independence of the specialized body

The position in England and Wales is outlined below.

The SFO is an independent investigating and prosecuting authority. The Director of the SFO discharges his functions under the superintendence of the Attorney General. Like the Director of the SFO, the DPP exercises his statutory prosecutorial functions independently of Government and subject only to the superintendence of the Attorney General.

A protocol has been agreed between the Attorney General and the Prosecuting Departments (the Crown Prosecution Service, and the Serious Fraud Office) which confirms that the Director of the SFO and the Director of Public Prosecutions are responsible for making prosecuting decisions except in exceptional circumstances where the Attorney General will consider the possibility that he or she may direct that a prosecution is not started or not continued (or, in the case of the SFO, that an investigation is not to take place or not to continue) where the Attorney General is satisfied that it is necessary to do so for the purpose of safeguarding national security. The Protocol can be accessed at <http://www.attorneygeneral.gov.uk/Publications/Documents/Protocol%20between%20the%20Attorney%20General%20and%20the%20Prosecuting%20Departments.pdf>.

City of London Police:

The City of London Police (CoLP) is an independent law enforcement body operating under The Police Act 1996. Control for all aspects of the force rests solely with the Chief Officer, with the activities of the Force overseen by an independent Police Authority. Performance is overseen by the independent Her Majesty's Inspectorate of Constabulary (HMIC) and Public Confidence issues by the Independent Police Complaints Commission (IPCC). The CoLP Overseas Anti Corruption Unit (OACU) provides the UK with an International Anti-Corruption independent investigation capability under the terms of the Memorandum of Understanding between the Department For International Development

(DFID) and the Commissioner of Police for the City of London, with the latter retaining exclusive operational responsibility. Collaborative and partnership arrangements between OACU and other agencies are dealt with by the use of legal agreements, authorised by the Police authority, or formal local agreements, authorised at Chief Officer level. All operational engagement is directed by the Chief Officer with Tasking and co-ordination on joint inter-agency investigations subject to the authorisation of the Chief Officer.

In Scotland, the prosecutor fiscal decides what charges will be brought against a person and has the discretion not to raise criminal proceedings in court and to pursue alternatives to prosecution, but is always subject to the directions of the Crown Office and the Lord Advocate. The Lord Advocate is the head of the system of prosecution, the senior of the two Scottish Law Officers (the other being the Solicitor General for Scotland). The Law Officers have always acted independently of other Ministers and, indeed, of any other person. That duty is now expressly set out in section 48(5) of the Scotland Act 1998. No one can compel the Lord Advocate to instigate criminal proceedings, nor discontinue them.

In Northern Ireland, the Justice (Northern Ireland) Act 2002 provides that as the Director of Public Prosecutions should have independence in the exercise of his functions, subject to the accountability measures and limits set out in this legislation. The relevant provisions include but are not limited to the following:

- Section 42(1) of the Justice (Northern Ireland) Act 2002 [hereafter referred to as the Act] provides that the functions of the Director shall be exercised by him independently of any other person.

- Section 42(3) of the Act provides that the Attorney General and the Director may (from time to time) consult each other on any matter for which the Attorney General for Northern Ireland is accountable to the Assembly.

- Section 39 of the Act provides that the Director must prepare an Annual Report on how he has exercised his functions during the financial year. Section 42(6) provides that the Attorney General must lay before the Assembly a copy of each Annual Report received by him from the Director

- By virtue of section 7 of the Justice (Northern Ireland) Act 2004 which inserted section 32A into the Act, a person commits an offence if, with the intention of perverting the course of justice, he seeks to influence the Director in any decision whether to institute or continue criminal proceedings.

A Concordat between Her Majesty's Government and the Northern Ireland Executive has been entered into concerning the independence of the Public Prosecution Service. This includes the relationship between the Attorney General and the Director.

The independence of the PPS is also recognised in its designation as a non-ministerial government department.

If available, please provide information on how staff is selected and trained

ENGLAND AND WALES

Crown Prosecution Service:

CPS reviewing lawyers are professionally qualified solicitors or barristers with a current practising certificate issued by the Solicitors Regulation Authority or the Bar Council. They are recruited by open competition or by internal selection by procedures based upon the establishment of relevant skills and competencies.

Training is provided by attendance at relevant courses provided both internally and externally and through distance 'e-learning' through the CPS Prosecution College.

A specialist training programme is being prepared by the CPS, SFO and the police to train prosecutors and police officers during October 2011 on the practical application of the joint guidance for prosecutors.

Serious Fraud Office:

The SFO investigates and prosecutes cases by means of multi-discipline case teams comprising lawyers, investigators, forensic accountants and specialists in IT. Staff are recruited from across government, the private sector and the police with a diverse range of skills and experience. The SFO provides its own in-house training and when appropriate supports relevant training delivered externally by other departments and organisations.

The City of London Police OACU:

OACU staff are selected by way of a competitive interview process in

response to force-wide advertisements for applicants. Each process make use of an independent panel member. Most staff are selected because of their relevant experience and investigative skills whilst training is further supplemented through national police training courses, local force training and independent specialist training from external recognised bodies.

SCOTLAND

Trained staff in the Serious and Organised Crime Division of COPFS take the lead on corruption matters for prosecution in Scotland. The Division recruits qualified individuals and focuses on experience, education, and skills required to successfully fulfil requirements for this type of work. Specialised training and performance reviews, conducted at least annually, are designed to ensure that multi-disciplinary expertise within the Division is retained and enhanced. There have been secondees within the division from police forces and HM Revenue and Customs to share training and experience and one member of staff has recently returned to the Division from a lengthy secondment to the SFO.

NORTHERN IRELAND

Recruitment of all staff, both legal and administrative is achieved through a competitive process in line with requirement of Northern Ireland Civil Service Recruitment.

Public Prosecutors must be fully qualified solicitors or barristers entitled to practice in Northern Ireland.

All newly appointed staff go through a training and induction programme. Public Prosecutors require a high degree of specialised skills. Public Prosecutors when appointed must complete an intensive induction course before they are able to make individual prosecution decisions. The Legal Induction Course has been recognised and achieved a regional training award in a national competition.

The PPS invests heavily in the training of its legal staff and arranges and facilitates specialised training both internally and with the use of external experts.

All staff are subject to internal performance reviews and quality assurance of decisions and prosecution decisions are tested in the Criminal Courts in the UK and Europe.

Any training issues which arise during review are identified and addressed.

145. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

146. Paragraph 1 of article 37

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Sections 71 to 75 of the Serious Organised Crime and Police Act 2005 (SOCPA) as amended by section 113 of the Coroners and Justice Act 2009.

The same legislation applies in Northern Ireland.

In Scotland, for any offence (including bribery and corruption offences), the court is able to take into account a range of factors in deciding an appropriate sentence. That would include any mitigating factors such as provision by the offender of substantial cooperation. For any offence (including bribery and corruption offences), the Crown Office and Procurator Fiscal Service decide whether it is in the public interest to prosecute an accused person. They will take into account the whole circumstances before reaching a decision and that would include whether a person had provided substantial cooperation.

Please attach the text(s)

Serious Organised Crime and Police Act 2005 (SOCPA)
<http://www.legislation.gov.uk/ukpga/2005/15/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Since 2006 the Crown Prosecution Service has issued 7 immunities and 11 restricted use undertakings under SOCPA sections 71 and 72 respectively. There have been 114 written agreements with assisting offenders (section 73) for the purposes of obtaining a guilty plea and facilitating a sentence discount and 26 agreements under section 74, which allows referral for sentence review where the offender is still serving a sentence. (Those figures include cases dealt with by the Revenue and Customs Prosecution Office.)

The Serious Fraud Office (SFO) has used powers in sections 71 and 73 of SOCPA and followed the Attorney General's guidelines on plea discussions in cases of serious or complex fraud. In early 2008 one defendant was given immunity having pleaded not guilty in R v Shulton and Others (case reference BLC01). In June 2009 an agreement was entered into with an offender in relation to the SFO's investigation into the affairs of DePuy International Ltd. The offender pleaded guilty to one count of conspiracy to corrupt and among other things agreed to cooperate with any foreign competent judicial authority (see further under paragraph 5). The SFO has entered into similar agreements under section 73 of SOCPA in 6 other cases, 2 of which are ongoing.

Section 113 of the Coroners and Justice Act 2009 added to the list of "specified prosecutors" who can use the SOCPA provisions the Financial Services Authority (FSA) and the Secretary of State for Business, Innovation and Skills. That reflects the fact that both prosecute serious financial crime, such as insider dealing and major fraud, under a number of Acts. The amendment came into force on 6 April 2010. Since then the FSA has signed one agreement under section 73.

In addition, on 13 May 2008 the FSA issued a Final Notice against an individual (Mr A) imposing a penalty of £56,098 for market abuse. As part of a settlement with the FSA Mr A agreed to provide ongoing assistance to the investigation of another individual who was subsequently charged with insider dealing in relation to the same facts. In return the FSA agreed to sanction Mr. A using its regulatory powers rather than a criminal prosecution and Mr. A's fine was reduced substantially. That agreement

was reached using existing common law powers.

The Department for Business, Innovation and Skills has had a small number of cases where consideration has been given to use of the SOCPA provisions but has not yet used them. Prior to being vested with those powers it had a small number of cases where similar approaches were used using existing common law powers.

If available, please provide information on the number and nature of such cases that have contributed to depriving offenders of the proceeds of crime and to recovering such proceeds. Please provide per annum figures, as available.

Not available

147. Paragraph 2 of article 37

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

See response to paragraph 1

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See response to paragraph 1

If available, please provide information (statistics, types of cases, outcome) on related legal (civil, administrative or criminal) cases or other processes related to instances where punishment of an accused person who provided substantial cooperation was mitigated. Please provide per annum figures, as available.

See response to paragraph 1

148. Paragraph 3 of article 37

3. Each State Party shall consider providing for the possibility, in accordance with the fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

See response to paragraph 1

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See response to paragraph 1

If available, please provide information (statistics, types of cases, outcome) on legal (civil, administrative or criminal) cases or other process related to instances where immunity from prosecution was granted to persons who had provided substantial cooperation. Please provide per annum figures.

See response to paragraph 1

149. Paragraph 4 of article 37

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

Such persons can be granted protected status under section 82 of the Serious Organised Crime and Police Act 2005. Informants and those receiving a reduction in sentence or immunity from prosecution are specified within the Act (Schedule 5) as eligible for such protection. Such persons are also eligible for Special Measures such as screens around the witness box (Part II Chapter 1 of the Youth Justice and Criminal Evidence Act 1999) and giving evidence anonymously (Part III Chapter 2 of the Coroners and Justice Act 2009).

Please attach the text(s)

Serious Organised Crime and Police Act 2005
<http://www.legislation.gov.uk/ukpga/2005/15/contents>
Youth Justice and Criminal Evidence Act 1999
<http://www.legislation.gov.uk/ukpga/1999/23/contents>
Coroners and Justice Act 2009
<http://www.legislation.gov.uk/ukpga/2009/25/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic,

Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

In 2009 law enforcement agencies across the UK were managing 32 protection cases involving persons assisting the prosecuting authorities.

If available, please provide information on the number of cooperating defendants/offenders who have received physical protection, how long they required protection, type of protection received and cost. Please provide per annum figures, as available.

See above

If you have a defendant/offender protection programme, how many cooperating defendants/offenders have entered it? Please provide per annum figures, as available.

See above

If applicable and available, please provide information on the number of cases where cooperating defendants/offenders have been permitted to give testimony using video or other communications technology. Please provide per annum figures, as available.

Not available

If applicable and available, please provide information on the number of cooperating defendants/offenders who have been relocated to other States through arrangements or agreements. Please provide per annum figures, as available.

Not available

150. Paragraph 5 of article 37

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable agreement(s), arrangement(s) or other measure(s)

Please cite the text(s)

See response to paragraph 1

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

The case of R v Dougall [2010] EWCA Crim 1048 provides an example of a case involving substantial international corruption in which an agreement under section 73 of SOCPA entered into on 10 June 2009 included the following requirement:

"[The offender] must also provide full co-operation with any other foreign

Competent Judicial Authority or law enforcement body investigating the affairs of [the company]; its Directors; executives; its agents or any other person or company benefiting from the criminality disclosed by any criminal investigation. This will include, but not be limited to, co-operation with the United States Department of Justice ("DOJ"); the Securities & Exchange Commission ("SEC") and any other foreign Competent Judicial Authority or law enforcement body that may investigate matters to which [the offender] can speak."

The Court of Appeal noted that by May 2010 the offender had already twice been to the United States to assist in the investigations.

151. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

152. Article 38

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

- (a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or
- (b) Providing, upon request, to the latter authorities all necessary information.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

In the United Kingdom, civil servants serve the elected government of the day, in line with the standards set out in the Civil Service Code (full text attached). The Code sets out the standards of conduct and behaviours expected of all civil servants in upholding the core Civil Service values, and in carrying out their duties and responsibilities, and makes clear what

they can and cannot do. The core Civil Service values and behaviours as set out in the Code are:

- integrity - putting the obligations of public service above your own personal interests;
- honesty - being truthful and open;
- objectivity - basing your advice and decisions on rigorous analysis of the evidence; and
- impartiality, including political impartiality - acting solely according to the merits of the case and serving equally well the governments of different political persuasions.

The Code also makes clear that civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Where an actual or perceived conflict of interest arises between a civil servant's official duties and responsibilities and their private interests, they must make a declaration to senior management so that senior management can determine how best to proceed.

The Code also sets out the procedure that civil servants should follow if they believe that they are being required to act in a way that conflicts with the Code, or if they have concerns about a possible breach of the Code. This includes raising the matter with line management, or with departmentally nominated officers who have been appointed to advise staff on the Code. It also includes the option to take the matter directly to the independent Civil Service Commissioners. The Public Interest Disclosure Act 1998, which protects individuals who make certain disclosures of information in the public interest, may apply.

The Constitutional Reform and Governance Act 2010 provides the statutory framework for the Civil Service by providing a power for the Minister for the Civil Service (the Prime Minister) to manage the Civil Service, and making provision for a code of conduct for civil servants which specifically requires them to carry out their duties in accordance with the core Civil Service values set out above. The Act also provides for recruitment to the Civil Service to be on merit on the basis of fair and open competition, and provides for a statutory Civil Service Commission to safeguard and oversee the application of this fundamental principle, and to investigate complaints under the Civil Service Code.

In respect of financial investigations under the Proceeds of Crime Act 2002, a Government Department has the same duty of confidentiality to those in their employment as any other employer. The legislation therefore

makes provisions that a court-issued production order can be served on a Government Department; this overcomes any restriction on the disclosure of information and allows them to provide identified material relevant to an investigation under the Proceeds of Crime Act.

Please attach the text(s)

Civil Service Code

<http://www.civilservice.gov.uk/about/values/cscode/index.aspx>

Public Interest Disclosure Act 1998

<http://www.legislation.gov.uk/ukpga/1998/23/contents>

Constitutional Reform and Governance Act 2010

<http://www.legislation.gov.uk/ukpga/2010/25/contents>

Proceeds of Crime Act 2002

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See above

If available, please provide information on the number of times and cases in which such information has been shared. Please provide per annum figures, as available.

Not available

153. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

154. Paragraph 1 of article 39

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Suspicious Activity Reporting under the Money Laundering Regulations 2007

Court orders under the Proceeds of Crime Act 2002

Please attach the text(s)

Money Laundering Regulations 2007 <http://www.legislation.gov.uk/uksi/2007/2157/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

SOCA works with the private sector to improve understanding of the threats faced by industry and shares information to help protect UK businesses. It also develops collaborative responses to serious threats affecting business. Company reputation, consumer confidence, and staff corruption are just some of the major risks. To help protect businesses, SOCA works closely with industry to minimise these harms, by engaging with private sector stakeholders, regulators and practitioners at every level in order to deny and frustrate criminal activities across the UK, and overseas through foreign law enforcement partners and the overseas liaison network. SOCA provides specific targeted information to industry in the form of SOCA Alerts - designed to inform and warn of emerging risks or threats in an effort to reduce the harm caused by organised crime.

The UKFIU has good relationships with the reporting sector and the Regulated sector and its supervisors. It has outreach paths to share information and encourage dialogue in respect of money laundering and terrorist financing reporting under Part 7 POCA 2002 and the Terrorism Act 2000.

The UKFIU/SOCA forms part of the cross-governmental International Corruption Group which is intended to:

- Establish an effective deterrent against bribery, corruption and PEPs money laundering through enhanced knowledge derived from diverse intelligence sources;
- Optimise the regulated sector's reporting of suspicious activity on bribery, corruption and PEPs money laundering;
- Maximise the recovery of stolen assets in the UK and the disruption of those who facilitate bribery, corruption and PEPs money laundering;

- Sustain and develop a legal and regulatory environment that effectively combats bribery, corruption and PEPs money laundering at minimum cost to business.

The International Corruption Group is split into strategic and coordination sub groups.

The Strategic Group aims to achieve and sustain system-wide improvement of efforts to combat bribery, corruption and PEPs money laundering. The Strategic Group will:

- Report progress to the UK Anti-Corruption Champion
- Provide strategic direction to the UK's efforts and periodically refresh the PEPs, bribery and corruption delivery plans;
- Monitor implementation and delivery;
- Identify and manage risks and address critical concerns affecting progress as they arise, ensure roles and responsibilities are clear, resourcing issues are addressed and that the programme is consistent and coherent with UK efforts to combat financial crime and recover the proceeds of crime;
- Report and communicate results and benefits, and oversee the functioning of the Coordination Group.

The Coordination Group focuses on case assessment, information and intelligence sharing with an increased role in coordinating communication activities and strategies.

If available, please provide information on recent cases in which entities of the private sector have collaborated with national investigating or prosecuting authorities

In 2010/11, partnership working between SOCA, UKBA and an international airline resulted in the closure of an air route used since 2009 to smuggle illegal migrants into Europe. SOCA intelligence, confirmed by a UKBA investigation, identified a number of staff working at an African airport who were taking bribes to smuggle illegal migrants into Europe. As a direct result of sharing this information with the airline, a corrupt official was removed from post. The airline is subsequently working more closely with both UKBA and SOCA and has put in place more stringent security measures on flights from the airport in question as a result.

Strong evidence provided by SOCA about the threat posed to the UK by corrupt private investigators helped inform a decision in September 2008 by Home Office Ministers to introduce the licensing of the private investigation industry.

In March 2010, banknote wholesalers stopped supplying the €500 note

after evidence from SOCA showed that over 90% of UK demand came from criminals. The note has not been criminalised, but people will no longer be able to get hold of it over the counter in the UK. Criminals try to reduce the bulk of the cash as far as possible, exchanging low denomination notes for high denomination notes, and move it undetected out of the country. This is the first formal analysis of the UK market, and for the first time there is hard evidence of the scale of criminal abuse of the £500 note. SOCA's analysis was carried out over several months with input from banknote wholesalers, academics, the financial industry, the FSA, ACPO forces, HMRC and UKBA.

155. Paragraph 2 of article 39

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The UK Financial Intelligence Unit (UKFIU) is situated within SOCA and has national responsibility for the receiving, analysing and dissemination of financial intelligence submitted through Suspicious Activity Reports (SARs). POCA 2002 establishes two distinct regimes for the handling of suspicions about criminal funds (ss.330-338); and there are similar provisions in the Terrorism Act 2000. The first requires institutions in the reporting sectors to disclose (as SARs) to the UKFIU any suspicions that arise concerning criminal property or money laundering. The second allows nominated persons within the reporting sectors, to avail themselves of a defence against money laundering charges by seeking the consent of SOCA to undertake an activity (a 'prohibited act') about which they have concerns. SARs make a major contribution to the task of identifying corrupt politically exposed persons (PEPs) and assist dedicated UK law enforcement teams to prevent money laundering by those involved in corruption or allegations of bribery.

Please attach the text(s)

Proceeds of Crime Act 2002

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

Terrorism Act 2000 <http://www.legislation.gov.uk/ukpga/2000/11/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

In the calendar year 2010, the UKFIU reviewed 8,962 SARs which indicated corrupt PEP activity and disseminated 221 intelligence packages to partners within the International Corruption Group as a result. Many of these intelligence disseminations have initiated or supported successful intervention activity against corrupt foreign officials.

If you have hotlines or other mechanisms for offences to be reported, how many reports have you received? Please provide per annum figures, as available.

The following figures are for total numbers of Suspicious Activity Reports, not only those related to corruption (which are not recorded separately)

	Oct'07-Sept'08	Oct'08-Sep'09	Oct'09-Sep'10
Total SARs Received	210,524	228,834	240,582
Consent SARs	13,223	13,618	14,334

If financial incentives are offered to encourage such reports, please provide details, available reports and relevant statistics

If anonymous reports are given due consideration by appropriate authorities, how many of the reports received have contributed to the investigation or prosecution of an offence established in accordance with the Convention? Please provide per annum figures, as available.

156. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

157. Article 40

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

Has your country adopted the mechanisms described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable mechanism(s):

Please cite the text(s)

Part 8, Proceeds of Crime Act 2002. Sections 348(4), 368 and 374.
Schedule 1, Police and Criminal Evidence Act 1984
Tournier Rules

Please attach the text(s)

Proceeds of Crime Act 2002
<http://www.legislation.gov.uk/ukpga/2002/29/contents>
Police and Criminal Evidence Act 1984
<http://www.legislation.gov.uk/ukpga/1984/60/contents>
Tournier Rules - attached

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

All corruption cases rely on financial investigations of the questioned UK accounts of suspects so each adopted case will involve at least one Police and Criminal Evidence Act 1984 (PACE) Production Order to allow the banks to reveal the suspicious transactions.

If available, please provide information (statistics, types of cases, outcome) on related legal (civil, administrative or criminal) cases or other processes. Please provide per annum figures, as available.

Not available

158. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

159. Article 41

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable law(s), policy(ies), or other measure(s)

Please cite the text(s)

Sections 98 to 113 of the Criminal Justice Act 2003 as amended by paragraph 1 of Schedule 17 to the Coroners and Justice Act 2009. Articles 6 to 17 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 as amended by paragraph 2 of Schedule 17 to the Coroners and Justice Act 2009. Sections 101, 266, 270 and 275A of the Criminal Procedure (Scotland) Act 1995.

Please attach the text(s)

Criminal Justice Act 2003

<http://www.legislation.gov.uk/ukpga/2003/44/contents>

Coroners and Justice Act 2009

<http://www.legislation.gov.uk/ukpga/2009/25/contents>

Criminal Justice (Evidence) (Northern Ireland) Order 2004

<http://www.legislation.gov.uk/nisi/2004/1501/contents>

Criminal Procedure (Scotland) Act 1995

<http://www.legislation.gov.uk/ukpga/1995/46/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

The provisions in the 2003 Act set out the circumstances in which courts may admit evidence of a person's "bad character", which includes evidence of previous convictions. The 2009 Act amended those provisions to clarify that a conviction under the law of any country outside England and Wales can be admitted to the same extent as a conviction in England and Wales, provided that the offence would also have been an offence in England and Wales if it had been done there. That amendment came into force on 15 August 2010.

The 2004 Order set out similar arrangements for Northern Ireland where the amendment created by the 2009 Act came into force on 1 June 2011.

In Scotland, previous convictions are generally not admissible as evidence

in criminal proceedings (section 101 of the Criminal Procedure (Scotland) Act 1995 in relation to the most serious cases). There are some very limited exceptions, primarily where an accused seeks to falsely claim previous good character or to impugn the character of the alleged victim or witness (sections 266 and 270 of the 1995 Act). Certain previous convictions in relation to sexual offences may also be led where allegations have been made in relation to the sexual history of the alleged victim (section 275A of the 1995 Act).

As an example of use of the provisions, the UK authorities obtained previous convictions from Poland of five of six subjects, with previous offences including grievous bodily harm, robbery and burglary. Five of the six individuals were found guilty in a trial which was set to take seven weeks. After seven days they offered pleas and the result was that they received 11 years imprisonment with a recommendation that they be deported upon completion. The previous convictions were used in the trial and subsequent sentencing.

Please provide information on recent cases where you took an alleged offender's previous conviction(s) in another State into consideration for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention

This information is not available.

160. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

161. Subparagraph 1 (a) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

It is a general principle of the criminal law that there is jurisdiction over offences committed in the United Kingdom. (Archbold 2-33: "The primary basis of English criminal jurisdiction is territorial, it being the function of the English Criminal Courts to maintain the Queen's Peace within her realm. ") This principle will apply where statute law is silent

Jurisdiction may also be established by statute and we would draw attention in particular to the following:

[Articles 15, 16 and 21]

Section 12 of the Bribery Act 2010 - offences under this Act: territorial application

(1) An offence is committed under section 1, 2 or 6 in England and Wales, Scotland or Northern Ireland if any act or omission which forms part of the offence takes place in that part of the United Kingdom.

.....

(5) An offence is committed under section 7 irrespective of whether the acts or omissions which form part of the offence take place in the United Kingdom or elsewhere.

[Article 17]

The Criminal Justice Act 1993 Part 1 provides jurisdiction to prosecute offences in the Fraud Act 2006 if a "relevant event" occurred in England & Wales (section 2 of the 1993 Act). Subsection 2(1A) states that a relevant event for the purposes of an offence under section 1 of the 2006 Act includes:

- (a) if the fraud involved an intention to make a gain and the gain occurred, that occurrence; and
- (b) if the fraud involved an intention to cause a loss or to expose another to a risk of loss and the loss occurred, that occurrence.

Similarly, offences under the Theft Act 1968 (section 1 and 17(1)(a) and (b)) may be prosecuted if a "relevant event" occurred in England and Wales (Criminal Justice Act 1993 (Part 1))

Scotland

Section 11 and 11A of the Criminal Procedure (Scotland) Act 1995 provide for how certain offences committed outside Scotland can be prosecuted in Scotland, including under section 11(4) offences relating to property that an offender has in his possession in Scotland but has stolen in other parts of the UK.

Attached links:

<http://www.legislation.gov.uk/ukpga/1995/46/section/11>

<http://www.legislation.gov.uk/ukpga/1995/46/section/11A>

Northern Ireland

The Criminal Justice (NI) Order 1996 provides jurisdiction to prosecute offences in the Fraud Act 2006 and the Theft Act (NI) 1969 if a 'relevant event' occurs in Northern Ireland.

Attached links:

<http://www.legislation.gov.uk/nisi/1996/3160/contents>

Please attach the text(s)

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

Criminal Justice Act 1993

<http://www.legislation.gov.uk/ukpga/1993/36/contents>

Criminal Procedure (Scotland) Act 1995

[<http://www.legislation.gov.uk/ukpga/1995/46/contents>](http://www.legislation.gov.uk/ukpga/1995/46/contents)

The Criminal Justice (NI) Order 1996

[<http://www.legislation.gov.uk/nisi/1996/3160/contents>](http://www.legislation.gov.uk/nisi/1996/3160/contents)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

Not available

162. Subparagraph 1 (b) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

...

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Jurisdiction in relation to offences committed on board ship or aircraft has been established by:

Magistrates' Court Act 1980

3A Offences committed on ships and abroad.

Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act

Senior Courts Act 1981

46A Offences committed on ships and abroad.

(1) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act

Merchant Shipping Act 1995

280 Jurisdiction over ships lying off coasts.

(1) Where the area within which a court in any part of the United Kingdom has jurisdiction is situated on the coast of any sea or abuts on or projects into any bay, channel, lake, river or other navigable water the court shall have jurisdiction as respects offences under this Act over any vessel being on, or lying or passing off, that coast or being in or near that bay, channel, lake, river or navigable water and over all persons on board that vessel or for the time being belonging to it.

(2) The jurisdiction under subsection (1) above shall be in addition to and not in derogation of any jurisdiction or power of a court under the Magistrates' Courts Act 1980 or the Magistrates' Courts (Northern Ireland) Order 1981.

281 Jurisdiction in case of offences on board ship.

Where any person is charged with having committed any offence under this Act then-

(a) if he is a British citizen and is charged with having committed it-

(i) on board any United Kingdom ship on the high seas,

(ii) in any foreign port or harbour, or

(iii) on board any foreign ship to which he does not belong; or

(b) if he is not a British citizen and is charged with having committed it on board any United Kingdom ship on the high seas;

and he is found within the jurisdiction of any court in any part of the United Kingdom which would have had jurisdiction in relation to the offence if it had been committed on board a United Kingdom ship within the limits of its ordinary jurisdiction to try the offence that court shall have jurisdiction to try the offence as if it had been so committed.

282 Offences committed by British seamen.

(1) Any act in relation to property or person done in or at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time is employed in a United Kingdom ship, which, if done in any part of the

United Kingdom, would be an offence under the law of any part of the United Kingdom, shall-

(a) be an offence under that law, and

(b) be treated for the purposes of jurisdiction and trial, as if it had been done within the jurisdiction of the Admiralty of England.

(2) Subsection (1) above also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.

(3) Subsections (1) and (2) above apply to omissions as they apply to acts.

Civil Aviation Act 1982

92 Application of criminal law to aircraft.

(1) Any act or omission taking place on board a British-controlled aircraft or (subject to subsection (1A) below) a foreign aircraft while in flight elsewhere than in or over the United Kingdom which, if taking place in, or in a part of, the United Kingdom, would constitute an offence under the law in force in, or in that part of, the United Kingdom shall constitute that offence; but this subsection shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when taking place outside the United Kingdom.

(1A) Subsection (1) above shall only apply to an act or omission which takes place on board a foreign aircraft where-

(a) the next landing of the aircraft is in the United Kingdom, and

(b) in the case of an aircraft registered in a country other than the United Kingdom, the act or omission would, if taking place there, also constitute an offence under the law in force in that country.

(1B) Any act or omission punishable under the law in force in any country is an offence under that law for the purposes of subsection (1A) above, however it is described in that law.

Please attach the text(s)

Magistrates' Court Act 1980

<http://www.legislation.gov.uk/ukpga/1980/43/section/3A>

Senior Courts Act 1981

<http://www.legislation.gov.uk/ukpga/1981/54/section/46A>

Merchant Shipping Act 1995

<http://www.legislation.gov.uk/ukpga/1995/21/contents>

Civil Aviation Act 1982

<http://www.legislation.gov.uk/ukpga/1982/16/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

Not available

163. Subparagraph 2 (a) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)

(N) No

Please provide an account of your country's efforts to date to implement the provision under review:

The United Kingdom does not exercise jurisdiction based on an offence being committed against one of its nationals

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review

Not applicable

164. Subparagraph 2 (b) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)

(P) Yes, in part

Please cite and attach the applicable measure(s)

Please cite the text(s)

Jurisdiction on the basis described in 2(b) does exist in respect of bribery [Articles 15, 16 and 21]:

Until the commencement of the Bribery Act 2010 - Section 109 of the Anti-Terrorism Crime and Security Act 2001 - Bribery and corruption committed outside the UK (Repealed 1 July 2011)

(1) This section applies if-

- (a) a national of the United Kingdom or a body incorporated under the law of any part of the United Kingdom does anything in a country or territory outside the United Kingdom, and
- (b) the act would, if done in the United Kingdom, constitute a corruption offence (as defined below).

(2) In such a case-

- (a) the act constitutes the offence concerned, and
- (b) proceedings for the offence may be taken in the United Kingdom.

(3) These are corruption offences-

- (a) any common law offence of bribery;
- (b) the offences under section 1 of the Public Bodies Corrupt Practices Act 1889 (c. 69) (corruption in office);
- (c) the first two offences under section 1 of the Prevention of Corruption Act 1906 (c. 34) (bribes obtained by or given to agents).

(4) A national of the United Kingdom is an individual who is-

- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject, or
- (c) a British protected person within the meaning of that Act.

Bribery Act 2010 (Commenced 1 July 2011)

12 Offences under this Act: territorial application

....

(2) Subsection (3) applies if-

- (a) no act or omission which forms part of an offence under section 1, 2 or 6 takes place in the United Kingdom,
- (b) a person's acts or omissions done or made outside the United Kingdom would form part of such an offence if done or made in the United Kingdom, and
- (c) that person has a close connection with the United Kingdom.

(3) In such a case-

- (a) the acts or omissions form part of the offence referred to in subsection (2)(a), and
- (b) proceedings for the offence may be taken at any place in the United Kingdom.

(4) For the purposes of subsection (2)(c) a person has a close connection with the United Kingdom if, and only if, the person was one of the following

- at the time the acts or omissions concerned were done or made-
- (a) a British citizen,
 - (b) a British overseas territories citizen,
 - (c) a British National (Overseas),
 - (d) a British Overseas citizen,
 - (e) a person who under the British Nationality Act 1981 was a British subject,
 - (f) a British protected person within the meaning of that Act,
 - (g) an individual ordinarily resident in the United Kingdom,
 - (h) a body incorporated under the law of any part of the United Kingdom,
 - (i) a Scottish partnership.

Please attach the text(s)

Anti-Terrorism Crime and Security Act 2001

<http://www.legislation.gov.uk/ukpga/2001/24/contents>

Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

A former director of London-based insurance business PWS International Ltd -Julian Messent- pleaded guilty to two counts of making corrupt payments between February 1999 and June 2002, contrary to s1 (1) of the Prevention of Corruption Act 1906. Messent admitted making or authorising corrupt payments of almost US \$2 million to Costa Rican officials in the state insurance company, Instituto Nacional de Seguros (INS) and the national electricity and telecommunications provider Instituto Costarricense de Electricidad (ICE). He also asked for 39 similar offences to be taken into consideration.

Former DePuy executive Robert John Dougall pleaded guilty after admitting his involvement in making £4.5 million of corrupt payments to medical professionals within the Greek state healthcare system, contrary to section 1 of the Prevention of Corruption Act 1906, in relation to the award of contracts for the supply of orthopaedic products in favour of DePuy International Limited

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the full implementation of the provision under review.

165. Subparagraph 2 (c) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such

offence when:

...

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)

(N) No

Please provide an account of your country's efforts to date to implement the provision under review:

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review

166. Subparagraph 2 (d) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(d) The offence is committed against the State Party.

Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)

(N) No

Please provide an account of your country's efforts to date to implement the provision under review:

The United Kingdom does not exercise jurisdiction based on an offence being committed against the State Party.

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review

167. Paragraph 3 of article 42

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The United Kingdom cannot refuse an extradition request on the basis that the person is a UK national or resident. (Extradition Act 2003)

Please attach the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

Not applicable

168. Paragraph 4 of article 42

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

Has your country adopted and implemented the measures described above? (Check one answer)

(N) No

Please provide an account of your country's efforts to date to implement the provision under review:

The United Kingdom would always seek to provide co-operation on the basis of extradition. Under Section 194 of the Extradition Act 2003, the UK can consider an extradition request made in the absence of a formal treaty basis.

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review

169. Paragraph 5 of article 42

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Investigating and prosecuting authorities in the United Kingdom are able to consult as appropriate with the competent authorities in other States to co-ordinate their actions. Legislative measures are not required for this purpose.

Prosecutors have reference to the following, where appropriate:

- European Union 2000 Mutual Legal Assistance Convention, in force since 2005, and which also sets out the legal framework for Joint Investigation Teams in article 13 of the convention;
- Eurojust Guidelines
(http://www.cps.gov.uk/legal/h_to_k/jurisdiction/#annexa) ; and
- US-UK AG (+Lord Advocate) Concurrent Jurisdiction Guidelines.
(<http://www.publications.parliament.uk/pa/ld200607/ldlwa/70125ws1.pdf>)

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and details on factors facilitating such collaboration and coordination

Consultation would be routine in multi-jurisdictional cases

170. Paragraph 6 of article 42

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Has your country adopted any grounds of criminal jurisdiction other than those described above? (Check one answer)

(N) No

No additional comments on other forms of jurisdiction as such but we would note that the UK is fully compliant with subparagraph 2(c) of Article 23 in relation to predicate offences committed both within or outside the UK, subject to dual criminality.

171. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

IV. International cooperation

44. Extradition

172. Paragraph 1 of article 44

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s), including your policy on dual criminality

Please cite the text(s)

PLEASE NOTE: On 8 September 2010, the UK Government commissioned a review into the UK's extradition arrangements to ensure they operate effectively and in the interests of justice. The review is being led by Sir Scott Baker, who is being assisted by David Perry QC and Anand Doobay, two independent lawyers with experience in extradition cases. The panel is expected to report back to the Government imminently.

At the time of responding to this questionnaire the UK is unsure of the outcome of the extradition review and whether it will affect any of the answers to the following questions.

The UK's primary legislation for extradition is the Extradition Act 2003. Part 1 of the Extradition 2003 Act covers extradition to Category 1 territories (EU Members States), where the European Arrest Warrant is in operation. Part 2 of the Extradition Act concerns non-EU Member States. The UK has designated our non-EU extradition partners as category 2 territories.

Under Section 193 of the Extradition Act 2003 the UK can have extradition relations with parties to international conventions relating to specific very serious crimes, of which the UK is also a signatory and who have been designated by an order under Part 2 of the Extradition Act 2003. Furthermore, Section 194 of the Extradition Act 2003 provides for the negotiation of a special arrangement for extradition of an individual with

states with which no other extradition provisions exist. Part 2 of the Extradition Act 2003 would apply to requests made with these provisions.

Section 137 (<http://www.legislation.gov.uk/ukpga/2003/41/section/137>) of the Extradition Act 2003 provides that, in cases where the person is accused or convicted of the offence (but has not been sentenced), the conduct for which a person's extradition is sought must be an offence in both the requesting and requested states (dual criminality) and punishable by a term of at least 12 months' detention in both territories.

137 Extradition offences: person not sentenced for offence

(1) This section applies in relation to conduct of a person if-

(a) he is accused in a category 2 territory of the commission of an offence constituted by the conduct, or

(b) he is alleged to be unlawfully at large after conviction by a court in a category 2 territory of an offence constituted by the conduct and he has not been sentenced for the offence.

(2) The conduct constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-

(a) the conduct occurs in the category 2 territory;

(b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;

(c) the conduct is so punishable under the law of the category 2 territory (however it is described in that law).

(3) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-

(a) the conduct occurs outside the category 2 territory;

(b) the conduct is punishable under the law of the category 2 territory with imprisonment or another form of detention for a term of 12 months or a greater punishment (however it is described in that law);

(c) in corresponding circumstances equivalent conduct would constitute an extra-territorial offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment.

(4) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-

(a) the conduct occurs outside the category 2 territory and no part of it occurs in the United Kingdom;

(b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;

- (c) the conduct is so punishable under the law of the category 2 territory (however it is described in that law).
- (5) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-
- (a) the conduct occurs outside the category 2 territory and no part of it occurs in the United Kingdom;
- (b) the conduct is punishable under the law of the category 2 territory with imprisonment for a term of 12 months or another form of detention or a greater punishment (however it is described in that law);
- (c) the conduct constitutes or if committed in the United Kingdom would constitute an offence mentioned in subsection (6).
- (6) The offences are-
- (a) an offence under section 51 or 58 of the International Criminal Court Act 2001 (c. 17) (genocide, crimes against humanity and war crimes);
- (b) an offence under section 52 or 59 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);
- (c) an ancillary offence, as defined in section 55 or 62 of that Act, in relation to an offence falling within paragraph (a) or (b);
- (d) an offence under section 1 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity and war crimes);
- (e) an offence under section 2 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);
- (f) an ancillary offence, as defined in section 7 of that Act, in relation to an offence falling within paragraph (d) or (e).
- (7) If the conduct constitutes an offence under the military law of the category 2 territory but does not constitute an offence under the general criminal law of the relevant part of the United Kingdom it does not constitute an extradition offence; and subsections (1) to (6) have effect subject to this.
- (8) The relevant part of the United Kingdom is the part of the United Kingdom in which-
- (a) the extradition hearing took place, if the question of whether conduct constitutes an extradition offence is to be decided by the Secretary of State;
- (b) proceedings in which it is necessary to decide that question are taking place, in any other case.
- (9) Subsections (1) to (7) apply for the purposes of this Part.

Section 138 (<http://www.legislation.gov.uk/ukpga/2003/41/section/138>) of the Extradition Act 2003 provides that, in cases where the person has been convicted and sentenced, the conduct for which a person's extradition is sought must be an offence in both the requesting and

requested states (dual criminality), punishable by a term of at least 12 months' detention in the UK and a sentence of at least four months has been imposed on the requesting State.

138 Extradition offences: person sentenced for offence

(1) This section applies in relation to conduct of a person if-

(a) he is alleged to be unlawfully at large after conviction by a court in a category 2 territory of an offence constituted by the conduct, and
(b) he has been sentenced for the offence.

(2) The conduct constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-

(a) the conduct occurs in the category 2 territory;
(b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;
(c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct.

(3) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-

(a) the conduct occurs outside the category 2 territory;
(b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct;
(c) in corresponding circumstances equivalent conduct would constitute an extra-territorial offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment.

(4) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-

(a) the conduct occurs outside the category 2 territory and no part of it occurs in the United Kingdom;
(b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;
(c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct.

(5) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied-

(a) the conduct occurs outside the category 2 territory and no part of it

occurs in the United Kingdom;

(b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct;

(c) the conduct constitutes or if committed in the United Kingdom would constitute an offence mentioned in subsection (6).

(6) The offences are-

(a) an offence under section 51 or 58 of the International Criminal Court Act 2001 (c. 17) (genocide, crimes against humanity and war crimes);

(b) an offence under section 52 or 59 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);

(c) an ancillary offence, as defined in section 55 or 62 of that Act, in relation to an offence falling within paragraph (a) or (b);

(d) an offence under section 1 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity and war crimes);

(e) an offence under section 2 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);

(f) an ancillary offence, as defined in section 7 of that Act, in relation to an offence falling within paragraph (d) or (e).

(7) If the conduct constitutes an offence under the military law of the category 2 territory but does not constitute an offence under the general criminal law of the relevant part of the United Kingdom it does not constitute an extradition offence; and subsections (1) to (6) have effect subject to this.

(8) The relevant part of the United Kingdom is the part of the United Kingdom in which-

(a) the extradition hearing took place, if the question of whether conduct constitutes an extradition offence is to be decided by the Secretary of State;

(b) proceedings in which it is necessary to decide that question are taking place, in any other case.

(9) Subsections (1) to (7) apply for the purposes of this Part.

Please attach the text(s)

Extradition Act 2003

<http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including cases where dual criminality issues were raised and resolved

We have not received any extradition requests made to the UK for

offences falling under the United Nations Convention against Corruption.

173. Paragraph 2 of article 44

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

Has your country adopted and implemented the measures described above? (Check one answer)

(N) No

Please provide an account of your country's efforts to date to implement the provision under review:

Please see the response to Paragraph 1.

UK law only permits extradition for offences where dual criminality has been established.

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review

Not Applicable. The UK does not allow extradition for offences not punishable under UK law.

174. Paragraph 3 of article 44

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

Has your country adopted and implemented the measures described above? (Check one answer)

(N) No

Please provide an account of your country's efforts to date to implement the provision under review:

If extradition is sought for a number of offences, some of which meet the sentence threshold criteria (please see the response to paragraph 1) and some of which do not, the District Judge and, in Scotland, the Sheriff, should refuse extradition for the lesser offences because they cannot be defined as 'extradition offences' in accordance with the Extradition Act 2003.

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review

Not applicable

175. Paragraph 4 of article 44

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Please refer to the answer to paragraph 1 - this details extraditable offences under the Extradition Act 2003.

Section 81 provides for the District Judge and, in Scotland, the Sheriff, to refuse extradition if it appears that the extradition request has been received for the purpose of punishing the person on account of his political opinions.

81 Extraneous considerations

A person's extradition to a category 2 territory is barred by reason of extraneous considerations if (and only if) it appears that-

(a) the request for his extradition (though purporting to be made on account of the extradition offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality, gender, sexual orientation or political opinions, or

(b) if extradited he might be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, gender, sexual orientation or political opinions.

Please attach the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

None. We have not received any extradition requests made to the UK for offences falling under UNCAC.

Please provide a sample of relevant extradition treaties

The Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States provides for extradition between the 27 EU Member States.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0584:EN:HTML>

The UK has bilateral Extradition treaties with the following countries:

Algeria,

http://www.fco.gov.uk/resources/en/pdf/pdf10/fco_cm6928_algeriaextradition

Argentina,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1894/2>

Bolivia,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1899/10>

Brazil,

http://www.fco.gov.uk/resources/en/pdf/pdf17/fco_ref_cm3759brazilextradition

Chile,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1898/12>

Colombia,

Signed October 1888 - Unable to provide link. Hard copy available if needed.

Cuba,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1905/15>

Ecuador,

Signed September 1880 - Unable to provide link. Hard copy available if needed.

El Salvador,

Signed 23 June 1881 - Unable to provide link. Hard copy available if needed.

Guatemala,

Signed July 1885 - Unable to provide link. Hard copy available if needed.

Guyana,

Hong Kong Special Administrative Region,
http://www.fco.gov.uk/resources/en/pdf/pdf17/fco_ref_ts30-98i_hksar_surren

Haiti,

Signed December 1874 - Unable to provide link. Hard copy available if needed.

Iraq,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1933/13>

Liberia,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1894/6>

Libya,

<http://www.fco.gov.uk/resources/en/pdf/3706546/3892733/10149409/TrLibya3.2009Extrad>

Nicaragua,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1906/7>
Panama,
<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1907/25>
Paraguay,
<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1911/19>
Peru,
<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1907/13>
Thailand,
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needed
the United Arab Emirates,
http://www.fco.gov.uk/resources/en/pdf/pdf19/fco_ref_cm7283_uaeextraditi
on
the United States of America,
http://www.fco.gov.uk/resources/en/pdf/pdf18/fco_cm7146_usaextraditiontr
eaty

The UK is also party to multi-lateral treaties:
the European Convention on Extradition
<http://conventions.coe.int/Treaty/en/Treaties/Html/024.htm>

Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia,
Georgia, Iceland, Israel, Liechtenstein, Macedonia (FYR) Moldova,
Monaco, Montenegro, Norway, Russian Federation, San Marino, Serbia,
South Africa, Switzerland, Turkey, Ukraine,

the London Scheme for Extradition within the Commonwealth
http://www.thecommonwealth.org/shared_asp_files/uploadedfiles/%7B56F55E5D-1882-4421-9CC1-71634DF17331%7D_London_Scheme.pdf
Antigua and Barbuda, Australia, The Bahamas, Bangladesh, Barbados,
Belize, Botswana, Brunei, Canada, Cook Islands, Dominica, Fiji, The
Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati,
Lesotho, , Malawi, Malaysia, Maldives, Mauritius, Mexico, Nauru, New
Zealand, Nigeria, Papua New Guinea, Saint Christopher and Nevis,
Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone,
Singapore, Solomon Islands, Sri Lanka, Swaziland, Tanzania, Tonga,
Trinidad and Tobago, Tuvalu, Uganda, Uruguay, Vanuatu, Western
Samoa, Zambia and Zimbabwe

176. Paragraph 5 of article 44

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention

the legal basis for extradition in respect of any offence to which this article applies.

Does your country make extradition conditional on the existence of a treaty? (Check one answer)

(N) No

177. Paragraph 6 of article 44

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

Does your country make extradition conditional on the existence of a treaty? (Check one answer)

(N) No

178. Paragraph 7 of article 44

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The UK does not make extradition conditional on the existence of a treaty providing the offence in question is deemed an extraditable offence. Details of extraditable offences have been provided in the response to paragraph 1.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation (i.e. information on recent extradition cases between your country and other States parties for offences established in accordance with this Convention)

There are none. Please see response to paragraph 1.

179. Paragraph 8 of article 44

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s), including relevant domestic law(s) and conditions

Please cite the text(s)

The offence must be deemed an extraditable offence (please see response to paragraph 1).

The Extradition Act 2003 contains bars to extradition as follows:

80 Rule against double jeopardy

A person's extradition to a category 2 territory is barred by reason of the rule against double jeopardy if (and only if) it appears that he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction if he were charged with the extradition offence in the part of the United Kingdom where the judge exercises his jurisdiction

81 Extraneous considerations

A person's extradition to a category 2 territory is barred by reason of extraneous considerations if (and only if) it appears that-

- (a) the request for his extradition (though purporting to be made on account of the extradition offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality, gender, sexual orientation or political opinions, or
- (b) if extradited he might be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, gender, sexual orientation or political opinions.

82 Passage of time

A person's extradition to a category 2 territory is barred by reason of the passage of time if (and only if) it appears that it would be unjust or oppressive to extradite him by reason of the passage of time since he is alleged to have committed the extradition offence or since he is alleged to have become unlawfully at large (as the case may be).

83 Hostage-taking considerations

(1) A person's extradition to a category 2 territory is barred by reason of

hostage-taking considerations if (and only if) the territory is a party to the Hostage-taking Convention and it appears that-

(a) if extradited he might be prejudiced at his trial because communication between him and the appropriate authorities would not be possible, and
(b) the act or omission constituting the extradition offence also constitutes an offence under section 1 of the Taking of Hostages Act 1982 (c. 28) or an attempt to commit such an offence.

(2) The appropriate authorities are the authorities of the territory which are entitled to exercise rights of protection in relation to him.

(3) A certificate issued by the Secretary of State that a territory is a party to the Hostage-taking Convention is conclusive evidence of that fact for the purposes of subsection (1).

(4) The Hostage-taking Convention is the International Convention against the Taking of Hostages opened for signature at New York on 18 December 1979.

84 Case where person has not been convicted

(1) If the judge is required to proceed under this section he must decide whether there is evidence which would be sufficient to make a case requiring an answer by the person if the proceedings were the summary trial of an information against him.

(2) In deciding the question in subsection (1) the judge may treat a statement made by a person in a document as admissible evidence of a fact if-

(a) the statement is made by the person to a police officer or another person charged with the duty of investigating offences or charging offenders, and

(b) direct oral evidence by the person of the fact would be admissible.

(3) In deciding whether to treat a statement made by a person in a document as admissible evidence of a fact, the judge must in particular have regard-

(a) to the nature and source of the document;

(b) to whether or not, having regard to the nature and source of the document and to any other circumstances that appear to the judge to be relevant, it is likely that the document is authentic;

(c) to the extent to which the statement appears to supply evidence which would not be readily available if the statement were not treated as being admissible evidence of the fact;

(d) to the relevance of the evidence that the statement appears to supply to any issue likely to have to be determined by the judge in deciding the question in subsection (1);

(e) to any risk that the admission or exclusion of the statement will result in unfairness to the person whose extradition is sought, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings.

(4) A summary in a document of a statement made by a person must be treated as a statement made by the person in the document for the purposes of subsection (2).

- (5) If the judge decides the question in subsection (1) in the negative he must order the person's discharge.
- (6) If the judge decides that question in the affirmative he must proceed under section 87.
- (7) If the judge is required to proceed under this section and the category 2 territory to which extradition is requested is designated for the purposes of this section by order made by the Secretary of State-
 - (a) the judge must not decide under subsection (1), and
 - (b) he must proceed under section 87.
- (8) Subsection (1) applies to Scotland with the substitution of "summary proceedings in respect of an offence alleged to have been committed by the person (except that for this purpose evidence from a single source shall be sufficient)" for "the summary trial of an information against him".
- (9) Subsection (1) applies to Northern Ireland with the substitution of "the hearing and determination of a complaint" for "the summary trial of an information".

85 Case where person has been convicted

- (1) If the judge is required to proceed under this section he must decide whether the person was convicted in his presence.
- (2) If the judge decides the question in subsection (1) in the affirmative he must proceed under section 87.
- (3) If the judge decides that question in the negative he must decide whether the person deliberately absented himself from his trial.
- (4) If the judge decides the question in subsection (3) in the affirmative he must proceed under section 87.
- (5) If the judge decides that question in the negative he must decide whether the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial.
- (6) If the judge decides the question in subsection (5) in the affirmative he must proceed under section 86.
- (7) If the judge decides that question in the negative he must order the person's discharge.
- (8) The judge must not decide the question in subsection (5) in the affirmative unless, in any proceedings that it is alleged would constitute a retrial or a review amounting to a retrial, the person would have these rights-
 - (a) the right to defend himself in person or through legal assistance of his own choosing or, if he had not sufficient means to pay for legal assistance, to be given it free when the interests of justice so required;
 - (b) the right to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

86 Conviction in person's absence

- (1) If the judge is required to proceed under this section he must decide whether there is evidence which would be sufficient to make a case requiring an answer by the person if the proceedings were the summary trial of an information against him.

(2) In deciding the question in subsection (1) the judge may treat a statement made by a person in a document as admissible evidence of a fact if-

(a) the statement is made by the person to a police officer or another person charged with the duty of investigating offences or charging offenders, and

(b) direct oral evidence by the person of the fact would be admissible.

(3) In deciding whether to treat a statement made by a person in a document as admissible evidence of a fact, the judge must in particular have regard-

(a) to the nature and source of the document;

(b) to whether or not, having regard to the nature and source of the document and to any other circumstances that appear to the judge to be relevant, it is likely that the document is authentic;

(c) to the extent to which the statement appears to supply evidence which would not be readily available if the statement were not treated as being admissible evidence of the fact;

(d) to the relevance of the evidence that the statement appears to supply to any issue likely to have to be determined by the judge in deciding the question in subsection (1);

(e) to any risk that the admission or exclusion of the statement will result in unfairness to the person whose extradition is sought, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings.

(4) A summary in a document of a statement made by a person must be treated as a statement made by the person in the document for the purposes of subsection (2).

(5) If the judge decides the question in subsection (1) in the negative he must order the person's discharge.

(6) If the judge decides that question in the affirmative he must proceed under section 87.

(7) If the judge is required to proceed under this section and the category 2 territory to which extradition is requested is designated for the purposes of this section by order made by the Secretary of State-

(a) the judge must not decide under subsection (1), and

(b) he must proceed under section 87.

(8) Subsection (1) applies to Scotland with the substitution of "summary proceedings in respect of an offence alleged to have been committed by the person (except that for this purpose evidence from a single source shall be sufficient)" for "the summary trial of an information against him".

(9) Subsection (1) applies to Northern Ireland with the substitution of "the hearing and determination of a complaint" for "the summary trial of an information".

87 Human rights

(1) If the judge is required to proceed under this section (by virtue of section 84, 85 or 86) he must decide whether the person's extradition would be compatible with the Convention rights within the meaning of the

Human Rights Act 1998 (c. 42).

(2) If the judge decides the question in subsection (1) in the negative he must order the person's discharge.

(3) If the judge decides that question in the affirmative he must send the case to the Secretary of State for his decision whether the person is to be extradited.

88 Person charged with offence in United Kingdom

(1) This section applies if at any time in the extradition hearing the judge is informed that the person is charged with an offence in the United Kingdom.

(2) The judge must adjourn the extradition hearing until one of these occurs-

(a) the charge is disposed of;

(b) the charge is withdrawn;

(c) proceedings in respect of the charge are discontinued;

(d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted pro loco et tempore.

(3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the judge may adjourn the extradition hearing until the sentence has been served.

(4) If before he adjourns the extradition hearing under subsection (2) the judge has decided under section 79 whether the person's extradition is barred by reason of the rule against double jeopardy, the judge must decide that question again after the resumption of the hearing.

89 Person serving sentence in United Kingdom

(1) This section applies if at any time in the extradition hearing the judge is informed that the person is serving a sentence of imprisonment or another form of detention in the United Kingdom.

(2) The judge may adjourn the extradition hearing until the sentence has been served.

90 Competing extradition claim

(1) This section applies if at any time in the extradition hearing the judge is informed that the conditions in subsection (2) or (3) are met.

(2) The conditions are that-

(a) the Secretary of State has received another valid request for the person's extradition to a category 2 territory;

(b) the other request has not been disposed of;

(c) the Secretary of State has made an order under section 126(2) for further proceedings on the request under consideration to be deferred until the other request has been disposed of.

(3) The conditions are that-

(a) a certificate has been issued under section 2 in respect of a Part 1 warrant issued in respect of the person;

(b) the warrant has not been disposed of;

(c) the Secretary of State has made an order under section 179(2) for further proceedings on the request to be deferred until the warrant has been disposed of.

- (4) The judge must remand the person in custody or on bail.
- (5) If the judge remands the person in custody he may later grant bail.

91 Physical or mental condition

- (1) This section applies if at any time in the extradition hearing it appears to the judge that the condition in subsection (2) is satisfied.
- (2) The condition is that the physical or mental condition of the person is such that it would be unjust or oppressive to extradite him.
- (3) The judge must-
 - (a) order the person's discharge, or
 - (b) adjourn the extradition hearing until it appears to him that the condition in subsection (2) is no longer satisfied.

92 Case sent to Secretary of State

- (1) This section applies if the appropriate judge sends a case to the Secretary of State under this Part for his decision whether a person is to be extradited.
- (2) The judge must inform the person in ordinary language that-
 - (a) he has a right to appeal to the High Court;
 - (b) if he exercises the right the appeal will not be heard until the Secretary of State has made his decision.
- (3) But subsection (2) does not apply if the person has consented to his extradition under section 127.
- (4) The judge must remand the person in custody or on bail-
 - (a) to wait for the Secretary of State's decision, and
 - (b) to wait for his extradition to the territory to which extradition is requested (if the Secretary of State orders him to be extradited).
- (5) If the judge remands the person in custody he may later grant bail.

93 Secretary of State's consideration of case

- (1) This section applies if the appropriate judge sends a case to the Secretary of State under this Part for his decision whether a person is to be extradited.
- (2) The Secretary of State must decide whether he is prohibited from ordering the person's extradition under any of these sections-
 - (a) section 94 (death penalty);
 - (b) section 95 (speciality);
 - (c) section 96 (earlier extradition to United Kingdom from other territory).
- (3) If the Secretary of State decides any of the questions in subsection (2) in the affirmative he must order the person's discharge.
- (4) If the Secretary of State decides those questions in the negative he must order the person to be extradited to the territory to which his extradition is requested unless-
 - (a) he is informed that the request has been withdrawn,
 - (b) he makes an order under section 126(2) or 179(2) for further proceedings on the request to be deferred and the person is discharged under section 180, or
 - (c) he orders the person's discharge under section 208.
- (5) In deciding the questions in subsection (2), the Secretary of State is not

required to consider any representations received by him after the end of the permitted period.

(6) The permitted period is the period of 6 weeks starting with the appropriate day.

94 Death penalty

(1) The Secretary of State must not order a person's extradition to a category 2 territory if he could be, will be or has been sentenced to death for the offence concerned in the category 2 territory.

(2) Subsection (1) does not apply if the Secretary of State receives a written assurance which he considers adequate that a sentence of death-

- (a) will not be imposed, or
- (b) will not be carried out (if imposed).

95 Speciality

(1) The Secretary of State must not order a person's extradition to a category 2 territory if there are no speciality arrangements with the category 2 territory.

(2) But subsection (1) does not apply if the person consented to his extradition under section 127 before his case was sent to the Secretary of State.

(3) There are speciality arrangements with a category 2 territory if (and only if) under the law of that territory or arrangements made between it and the United Kingdom a person who is extradited to the territory from the United Kingdom may be dealt with in the territory for an offence committed before his extradition only if-

- (a) the offence is one falling within subsection (4), or
- (b) he is first given an opportunity to leave the territory.

(4) The offences are-

- (a) the offence in respect of which the person is extradited;
- (b) an extradition offence disclosed by the same facts as that offence, other than one in respect of which a sentence of death could be imposed;
- (c) an extradition offence in respect of which the Secretary of State consents to the person being dealt with;
- (d) an offence in respect of which the person waives the right that he would have (but for this paragraph) not to be dealt with for the offence.

(5) Arrangements made with a category 2 territory which is a Commonwealth country or a British overseas territory may be made for a particular case or more generally.

(6) A certificate issued by or under the authority of the Secretary of State confirming the existence of arrangements with a category 2 territory which is a Commonwealth country or a British overseas territory and stating the terms of the arrangements is conclusive evidence of those matters.

Please attach the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

None. See response to paragraph 1

Please provide information on conditions and grounds upon which extradition requests were refused

Not applicable

180. Paragraph 9 of article 44

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Section 71(3) of the Extradition Act 2003 states that the evidence supplied in support of the extradition request should be sufficient to justify the District Judge and, in Scotland, the Sheriff issuing a warrant for the person's arrest if the conduct for which extradition is sought had occurred in the Judge's jurisdiction.

Evidentiary requirements for the UK's partners under the European Convention on Extradition and certain long-established extradition partners, designated under Section 71(4), have been simplified. These countries are required to provide information to satisfy the District Judge and, in Scotland, the Sheriff, to issue an arrest warrant following an extradition request. These countries are:

Albania, Andorra, Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Canada, Croatia, Georgia, Iceland, Israel, Liechtenstein, Macedonia FYR, Moldova, Montenegro, New Zealand, Norway, Russian Federation, Serbia, South Africa, Switzerland, Turkey, Ukraine and the United States of America.

These countries have been designated by the following Statutory Instruments:

<http://www.legislation.gov.uk/uksi/2003/3334/contents/made>
<http://www.legislation.gov.uk/uksi/2004/1898/contents/made>
<http://www.legislation.gov.uk/uksi/2005/365/contents/made>
<http://www.legislation.gov.uk/uksi/2005/2036/contents/made>
<http://www.legislation.gov.uk/uksi/2006/3451/contents/made>
<http://www.legislation.gov.uk/uksi/2007/2238/contents/made>
<http://www.legislation.gov.uk/uksi/2008/1589/contents/made>
<http://www.legislation.gov.uk/uksi/2010/861/contents/made>

71 Arrest warrant following extradition request

(1) This section applies if the Secretary of State sends documents to the appropriate judge under section 70.

(2) The judge may issue a warrant for the arrest of the person whose extradition is requested if the judge has reasonable grounds for believing that-

(a) the offence in respect of which extradition is requested is an extradition offence, and

(b) there is evidence falling within subsection (3).

(3) The evidence is-

(a) evidence that would justify the issue of a warrant for the arrest of a person accused of the offence within the judge's jurisdiction, if the person whose extradition is requested is accused of the commission of the offence;

(b) evidence that would justify the issue of a warrant for the arrest of a person unlawfully at large after conviction of the offence within the judge's jurisdiction, if the person whose extradition is requested is alleged to be unlawfully at large after conviction of the offence.

(4) But if the category 2 territory to which extradition is requested is designated for the purposes of this section by order made by the Secretary of State, subsections (2) and (3) have effect as if "evidence" read "information".

(5) A warrant issued under this section may-

(a) be executed by any person to whom it is directed or by any constable or customs officer;

(b) be executed even if neither the warrant nor a copy of it is in the possession of the person executing it at the time of the arrest.

(6) If a warrant issued under this section in respect of a person is directed to a service policeman, it may be executed in any place where the service policeman would have power to arrest the person under the appropriate service law if the person had committed an offence under that law.

(7) In any other case, a warrant issued under this section may be executed in any part of the United Kingdom.

(8) The appropriate service law is-

(a) the Army Act 1955 (3 & 4 Eliz. 2 c. 18), if the person in respect of whom the warrant is issued is subject to military law;

(b) the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), if that person is subject to air-force law;

(c) the Naval Discipline Act 1957 (c. 53), if that person is subject to that Act

Please attach the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

None. See response to paragraph 1.

181. Paragraph 10 of article 44

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

For countries that have been designated as category 2 territories sections 73 and 74 of the Extradition Act 2003 provide for provisional arrest warrants and arrests made under a provisional arrest warrant.

73 Provisional warrant

(1) This section applies if a justice of the peace is satisfied on information in writing and on oath that a person within subsection (2)-

(a) is or is believed to be in the United Kingdom, or

(b) is or is believed to be on his way to the United Kingdom.

(2) A person is within this subsection if-

(a) he is accused in a category 2 territory of the commission of an offence, or

(b) he is alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory.

(3) The justice may issue a warrant for the arrest of the person (a provisional warrant) if he has reasonable grounds for believing that-

(a) the offence of which the person is accused or has been convicted is an extradition offence, and

(b) there is written evidence falling within subsection (4).

(4) The evidence is-

(a) evidence that would justify the issue of a warrant for the arrest of a person accused of the offence within the justice's jurisdiction, if the person in respect of whom the warrant is sought is accused of the commission of the offence;

(b) evidence that would justify the issue of a warrant for the arrest of a person unlawfully at large after conviction of the offence within the justice's jurisdiction, if the person in respect of whom the warrant is sought is alleged to be unlawfully at large after conviction of the offence.

(5) But if the category 2 territory is designated for the purposes of this section by order made by the Secretary of State, subsections (3) and (4)

have effect as if “evidence” read “ information”.

(6) A provisional warrant may-

(a) be executed by any person to whom it is directed or by any constable or customs officer;

(b) be executed even if neither the warrant nor a copy of it is in the possession of the person executing it at the time of the arrest.

(7) If a warrant issued under this section in respect of a person is directed to a service policeman, it may be executed in any place where the service policeman would have power to arrest the person under the appropriate service law if the person had committed an offence under that law.

(8) In any other case, a warrant issued under this section may be executed in any part of the United Kingdom.

(9) The appropriate service law is-

(a) the Army Act 1955 (3 & 4 Eliz. 2 c. 18), if the person in respect of whom the warrant is issued is subject to military law;

(b) the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), if that person is subject to air-force law;

(c) the Naval Discipline Act 1957 (c. 53), if that person is subject to that Act.

(10) The preceding provisions of this section apply to Scotland with these modifications-

(a) in subsection (1) for “justice of the peace is satisfied on information in writing and on oath” substitute “ sheriff is satisfied, on an application by a procurator fiscal,”;

(b) in subsection (3) for “justice” substitute “ sheriff”;

(c) in subsection (4) for “justice's”, in paragraphs (a) and (b), substitute “ sheriff's”.

(11) Subsection (1) applies to Northern Ireland with the substitution of “a complaint” for “ information”.

74 Person arrested under provisional warrant

(1) This section applies if a person is arrested under a provisional warrant.

(2) A copy of the warrant must be given to the person as soon as practicable after his arrest.

(3) The person must be brought as soon as practicable before the appropriate judge.

(4) But subsection (3) does not apply if-

(a) the person is granted bail by a constable following his arrest, or

(b) in a case where the Secretary of State has received a valid request for the person's extradition, the Secretary of State decides under section 126 that the request is not to be proceeded with.

(5) If subsection (2) is not complied with and the person applies to the judge to be discharged, the judge may order his discharge.

(6) If subsection (3) is not complied with and the person applies to the

judge to be discharged, the judge must order his discharge.

(7) When the person first appears or is brought before the appropriate judge, the judge must-

- (a) inform him that he is accused of the commission of an offence in a category 2 territory or that he is alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory;
- (b) give him the required information about consent;
- (c) remand him in custody or on bail.

(8) The required information about consent is-

- (a) that the person may consent to his extradition to the category 2 territory in which he is accused of the commission of an offence or is alleged to have been convicted of an offence;
- (b) an explanation of the effect of consent and the procedure that will apply if he gives consent;
- (c) that consent must be given in writing and is irrevocable.

(9) If the judge remands the person in custody he may later grant bail.

(10) The judge must order the person's discharge if the documents referred to in section 70(9) are not received by the judge within the required period.

(11) The required period is-

- (a) 45 days starting with the day on which the person was arrested, or
- (b) if the category 2 territory is designated by order made by the Secretary of State for the purposes of this section, any longer period permitted by the order.

(12) Subsection (4)(a) applies to Scotland with the omission of the words "by a constable".

In line with Section 74(11) of the Extradition Act 2003, certain countries have longer time periods with which to ensure the necessary documents are received in time. This longer period takes account of the different time periods specified in particular bilateral extradition treaties. These time periods have been designated by the following Statutory Instruments:

<http://www.legislation.gov.uk/uksi/2003/3334/contents/made>

<http://www.legislation.gov.uk/uksi/2004/1898/contents/made>

<http://www.legislation.gov.uk/uksi/2005/365/contents/made>

<http://www.legislation.gov.uk/uksi/2005/2036/contents/made>

<http://www.legislation.gov.uk/uksi/2006/3451/contents/made>

<http://www.legislation.gov.uk/uksi/2007/2238/contents/made>

<http://www.legislation.gov.uk/uksi/2008/1589/contents/made>

<http://www.legislation.gov.uk/uksi/2010/861/contents/made>

For territories where Section 194 of the Extradition Act 2003 applies (countries where no general extradition arrangements exist), the special ad

hoc arrangements must be in place prior to the provisions on provisional arrest (sections 73 and 74) can apply.

Please attach the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

None. See response to paragraph 1.

If applicable and available, please provide information on recent court or other cases in which a person whose extradition was sought and who was present in your territory has been taken into custody and cases in which other appropriate measures were taken to ensure his or her presence at extradition proceedings (please describe those measures)

Not applicable.

182. Paragraph 11 of article 44

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite, summarize and attach the applicable practice(s) or measure(s)

Please cite the text(s)

UK law allows for the extradition of UK nationals so long as none of the bars to extradition contained in the Extradition Act apply.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not applicable

If available, please provide information on recent court or other cases submitted for prosecution by your authorities (statistics, types of cases, outcomes). Please provide per annum figures, as available

183. Paragraph 12 of article 44

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

UK law allows for the extradition of UK nationals so long as none of the bars to extradition contained in the Extradition Act apply.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not applicable

If available, please provide information on court or other recent cases of conditional extradition or surrender (including number of cases, outcomes, etc.). If possible, please provide per annum figures, as available

184. Paragraph 13 of article 44

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

UK law allows for the extradition of UK nationals so long as none of the bars to extradition contained in the Extradition Act apply.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic,

Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

None- see above

If applicable and available, please provide information on court or other recent cases in which such a sentence has been enforced

185. Paragraph 14 of article 44

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or measure(s):

Please cite the text(s)

Section 87 of the Extradition Act 2003 provides that a person's extradition must be compatible with his human rights as set out in European Convention on Human Rights, incorporated into United Kingdom domestic legislation by the Human Rights Act 1998.

87 Human rights

(1) If the judge is required to proceed under this section (by virtue of section 84, 85 or 86) he must decide whether the person's extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998 (c. 42).

(2) If the judge decides the question in subsection (1) in the negative he must order the person's discharge.

(3) If the judge decides that question in the affirmative he must send the case to the Secretary of State for his decision whether the person is to be extradited.

Sections 103 - 116 of the Extradition Act 2003 provides for appeals to be made in the following circumstances:

In the UK a requested person may appeal within 14 days to the High Court if:

1. the district judge sends the case to the Secretary of State and
2. the Secretary of State orders his extradition.

In England, Wales and Northern Ireland a decision of the High Court in an

extradition case may be appealed against in the Supreme Court by either a requested person (or if a person is discharged by the High Court, by a requesting state) provided that leave to appeal has been granted. An appeal to the Supreme Court can only be made on a point of law of general public importance and where it is agreed by the High Court that the point is one which should be considered by the Supreme Court. Section 114 of the 2003 Act sets out the details and time limits for such an appeal.

These sections can be found at the following link:
<http://www.legislation.gov.uk/ukpga/2003/41/contents>

Sections 182 - 185 provide for a person subject to an extradition request to be granted legal aid.

These sections can be found at the following link:
<http://www.legislation.gov.uk/ukpga/2003/41/contents>

In Scotland, for Secretary of State it reads Scottish Ministers (Extradition Act 2003 s 141). There is no right of appeal to the Supreme Court from the Appeal Court (High Court of Justiciary) in Scotland under the Extradition Act 2003 (Extradition Act 2003 s114 (13) and s 116). However, the Scotland Act 1998 s52 and schedule 6 provides for devolution issues which prohibit the Lord Advocate acting in a manner incompatible with the fugitive's convention rights. If a devolution issue is lodged in an extradition hearing and raises a convention right, this provides a mechanism for review by the Supreme Court of the determination of the devolution issue.

Please attach the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

None - see above.

186. Paragraph 15 of article 44

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or

political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies), practice(s), or measure(s)

Please cite the text(s)

Section 81 of the Extradition Act 2003 provides a bar in these cases.

81 Extraneous considerations

A person's extradition to a category 2 territory is barred by reason of extraneous considerations if (and only if) it appears that-

(a) the request for his extradition (though purporting to be made on account of the extradition offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality, gender, sexual orientation or political opinions, or

(b) if extradited he might be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, gender, sexual orientation or political opinions.

Please attach the text(s)

Extradition Act 2003 - <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

None - see above.

If applicable and available, please provide information on recent court or other cases where extradition was refused on such grounds

Not applicable

187. Paragraph 16 of article 44

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

An extradition request will be considered for an offence involving fiscal matters, providing it is deemed an extraditable offence (see response to paragraph 1)

Please cite and attach the applicable policy(ies) or measure(s):

Please cite the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

None - see above

Please provide information on recent cases in which extradition involving fiscal matters was not refused

188. Paragraph 17 of article 44

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The UK will liaise with the requesting State if additional information is required.

Under Section 75 of the Extradition Act 2003, the District Judge and, in Scotland, the Sheriff, can adjourn the Extradition hearing if extra information is required.

75Date of extradition hearing: arrest under section 71

(1)When a person arrested under a warrant issued under section 71 first appears or is brought before the appropriate judge, the judge must fix a date on which the extradition hearing is to begin.

(2)The date fixed under subsection (1) must not be later than the end of the permitted period, which is 2 months starting with the date on which the person first appears or is brought before the judge.

(3)If before the date fixed under subsection (1) (or this subsection) a party to the proceedings applies to the judge for a later date to be fixed and the judge believes it to be in the interests of justice to do so, he may fix a later date; and this subsection may apply more than once.

(4)If the extradition hearing does not begin on or before the date fixed under this section and the person applies to the judge to be discharged, the judge must order his discharge.

Under Section 99 of the Extradition Act 2003 the Secretary of State has a certain amount of time to consider the extradition request, this can only be extended on application to the Court.

99 Time limit for order for extradition or discharge

(1) This section applies if-

(a) the appropriate judge sends a case to the Secretary of State under this Part for his decision whether a person is to be extradited;

(b) within the required period the Secretary of State does not make an order for the person's extradition or discharge.

(2) If the person applies to the High Court to be discharged, the court must order his discharge.

(3) The required period is the period of 2 months starting with the appropriate day.

(4) If before the required period ends the Secretary of State applies to the High Court for it to be extended the High Court may make an order accordingly; and this subsection may apply more than once.

Please attach the text(s)

Extradition Act 2003 <http://www.legislation.gov.uk/ukpga/2003/41/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Please provide information on recent court or other cases and illustrations of relevant exchanges between your country and other States

189. Paragraph 18 of article 44

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach any other bilateral or multilateral agreement(s) or arrangement(s) related to extradition that have not already been attached in previous answers related to this article

Please cite the text(s)

Although the UK does not make extradition conditional on the basis of an extradition treaty, the UK has concluded a number of bilateral and multilateral treaties.

The Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States provides for extradition between the 27 EU Member States.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0584:EN:HTML>

The UK has bilateral Extradition treaties with the following countries:

Algeria,

http://www.fco.gov.uk/resources/en/pdf/pdf10/fco_cm6928_algeriaextradition

Argentina,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1894/2>

Bolivia,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1899/10>

Brazil,

http://www.fco.gov.uk/resources/en/pdf/pdf17/fco_ref_cm3759brazilextradition

Chile,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1898/12>

Colombia,

Signed October 1888 - Unable to provide link. Hard copy available if needed.

Cuba,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1905/15>

Ecuador,

Signed September 1880 - Unable to provide link. Hard copy available if needed.

El Salvador,

Signed 23 June 1881 - Unable to provide link. Hard copy available if needed.

Guatemala,

Signed July 1885 - Unable to provide link. Hard copy available if needed.

Guyana,

Hong Kong Special Administrative Region,

http://www.fco.gov.uk/resources/en/pdf/pdf17/fco_ref_ts30-98i_hksar_surren

Haiti,

Signed December 1874 - Unable to provide link. Hard copy available if needed.

Iraq,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1933/13>

Liberia,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1894/6>

Libya,

<http://www.fco.gov.uk/resources/en/pdf/3706546/3892733/10149409/TrLibya3.2009Extrad>

Nicaragua,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1906/7>

Panama,

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1907/25>

Paraguay,
<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1911/19>
Peru,
<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1907/13>
Thailand,
Signed September 1883. Unable to provide link. Hard copy available if needed
the United Arab Emirates,
http://www.fco.gov.uk/resources/en/pdf/pdf19/fco_ref_cm7283_uaeextradition
on
the United States of America,
http://www.fco.gov.uk/resources/en/pdf/pdf18/fco_cm7146_usaextraditiontreaty

The UK is also party to multi-lateral treaties:
the European Convention on Extradition
<http://conventions.coe.int/Treaty/en/Treaties/Html/024.htm>

Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Iceland, Israel, Liechtenstein, Macedonia (FYR) Moldova, Monaco, Montenegro, Norway, Russian Federation, San Marino, Serbia, South Africa, Switzerland, Turkey, Ukraine,

the London Scheme for Extradition within the Commonwealth
http://www.thecommonwealth.org/shared_asp_files/uploadedfiles/%7B56F55E5D-1882-4421-9CC1-71634DF17331%7D_London_Scheme.pdf
Antigua and Barbuda, Australia, The Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Canada, Cook Islands, Dominica, Fiji, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, , Malawi, Malaysia, Maldives, Mauritius, Mexico, Nauru, New Zealand, Nigeria, Papua New Guinea, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Uruguay, Vanuatu, Western Samoa, Zambia and Zimbabwe

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

190. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

191. Article 45

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach applicable bilateral or multilateral agreement(s) or arrangement(s) related to the provision under review.

Please cite the text(s)

The repatriation of Prisoners Act 1984 governs the transfer of prisoners into and out of the United Kingdom. The Act enables the Secretary of State to issue an order for the transfer of a prisoner where there is a relevant international arrangement in place providing for the transfer of prisoners. The UK has prisoner transfer arrangements with over 100 countries and territories. The principal prisoner transfer arrangement is the Council of Europe Convention on the Transfer of Sentenced Persons which has been ratified by 64 countries. In addition, the UK is a party to the Commonwealth Scheme for the Transfer of Convicted Offenders. In addition the UK is a party to a number of bilateral prisoner transfer agreement. Each of these agreements provided for the transfer of a prisoner where the offence committed by the prisoner is an offence in both countries.

Please attach the text(s)

Repatriation of Prisoners Act 1984

<http://www.legislation.gov.uk/ukpga/1984/47/contents>

Council of Europe Convention on the Transfer of Sentenced Persons

<http://conventions.coe.int/Treaty/en/Treaties/Html/112.htm>

Commonwealth Scheme for the Transfer of Convicted Offenders

http://www.thecommonwealth.org/shared_asp_files/uploadedfiles/%257BBF5E0493-DE14-43D6-A5E8-7641447B2CB1%257D_convicted_criminals.pdf

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See answer above

192. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

193. Paragraph 1 of article 46

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please summarize applicable mutual legal assistance laws and arrangements, including existing bilateral or multilateral agreement(s).

Please provide the summary.

The UK legislation that governs the provision of mutual legal assistance is the Crime (International Co-Operation) Act 2003 ("CICA"). This Act provides (at s14) for evidence to be obtained, providing that the request for assistance is made in connection with:

- a) criminal proceedings or a criminal investigation, being carried on outside the United Kingdom
- b) administrative proceedings, or an investigation into an act punishable in such proceedings, being carried on there,
- c) clemency proceedings, or proceedings on an appeal before a court against a decision in administrative proceedings, being carried on, or intended to be carried on there.

S14 (2) continues that evidence can be obtained providing that an offence under the law of the country in question has been committed or there are reasonable grounds for suspecting that such an offence has been

committed, and that proceedings in respect of the offence have been instituted in that country or that an investigation into the offence is being carried on there. An offence includes an act punishable in administrative proceedings.

The provisions of the International Criminal Court Act 2001 (ICCA) govern mutual legal assistance arrangements with the International Criminal Court. The UK also publishes a set of Mutual Legal Assistance Guidelines ("Guidelines") (see attached), which provide requesting states with the information that they need to make a request to the UK, and also confirms what assistance can be provided.

Guidelines are also provided to executing authorities, such as the police (see attached).

CICA also provides for assistance to be made by a UK authority overseas.

S7 is the relevant provision of the Act:

Requests for assistance in obtaining evidence abroad

(1) If it appears to a judicial authority in the United Kingdom on an application made by a person mentioned in subsection (3)-

(a) that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed, and
(b) that proceedings in respect of the offence have been instituted or that the offence is being investigated,
the judicial authority may request assistance under this section.

(2) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom any evidence specified in the request for use in the proceedings or investigation.

(3) The application may be made-

(a) in relation to England and Wales and Northern Ireland, by a prosecuting authority,
(b) in relation to Scotland, by the Lord Advocate or a procurator fiscal,
(c) where proceedings have been instituted, by the person charged in those proceedings.

(4) The judicial authorities are-

(a) in relation to England and Wales, any judge or justice of the peace,
(b) in relation to Scotland, any judge of the High Court or sheriff,
(c) in relation to Northern Ireland, any judge or resident magistrate.

(5) In relation to England and Wales or Northern Ireland, a designated prosecuting authority may itself request assistance under this section if-

(a) it appears to the authority that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed, and
(b) the authority has instituted proceedings in respect of the offence in question or it is being investigated.

• "Designated" means designated by an order made by the Secretary

of State.

(6) In relation to Scotland, the Lord Advocate or a procurator fiscal may himself request assistance under this section if it appears to him-

(a) that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed, and

(b) that proceedings in respect of the offence have been instituted or that the offence is being investigated.

(7) If a request for assistance under this section is made in reliance on Article 2 of the 2001 Protocol (requests for information on banking transactions) in connection with the investigation of an offence, the request must state the grounds on which the person making the request considers the evidence specified in it to be relevant for the purposes of the investigation.

The UK is also party to 35 bilateral mutual legal assistance treaties.

Please attach the text(s)

Crime (International Co-Operation) Act 2003

<http://www.legislation.gov.uk/ukpga/2003/32/contents>

International Criminal Court Act 2001 (ICCA)

<http://www.legislation.gov.uk/ukpga/2001/17/contents>

MLA guidelines and guidance for police (attached)

UK's Bilateral Mutual Legal Assistance Treaties

Algeria

http://www.fco.gov.uk/resources/en/pdf/pdf10/fco_cm6929_algeriamutualassistan

Antigua & Barbuda

http://www.fco.gov.uk/resources/en/pdf/pdf8/fco_cm6336_barbudacrimepceeds

Argentina

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1994/31>

Australia

http://www.fco.gov.uk/resources/en/pdf/pdf13/fco_ts77-00_au_investig_crime

The Bahamas

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1991/13>

Barbados

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1993/31>

Bahrain

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1994/7>

Brazil

http://www.fco.gov.uk/resources/en/pdf/pdf9/fco_cm6734_brazilmutuallegal

Canada

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1990/84>

Exchange of Notes:

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1993/74>

Chile

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1997/63>

Colombia

http://www.fco.gov.uk/resources/en/pdf/pdf13/fco_ts40-00_colombia_mutual

Ecuador

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1993/18>

Grenada

Unable to locate link - have hard copy if needed

Guyana

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1997/9>

Hong Kong SAR

http://www.fco.gov.uk/resources/en/pdf/pdf6/fco_cm5502_chinalegalmatter

India

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1995/69>

Ireland

Unable to locate link - have hard copy if needed

Italy

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1995/33>

Libya

<http://www.fco.gov.uk/resources/en/pdf/3706546/3892733/10149409/TrLibya2.2009MLA>

Malaysia

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1995/42>

Mexico

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1991/57>

The Netherlands (supplementing the Council of Europe 1990 Convention)

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1994/45>

Nigeria

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1994/18>

Panama

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1994/46>

Paraguay

http://www.fco.gov.uk/resources/en/pdf/pdf16/fco_ref_cm5259_paraguay_drugs

Romania

http://www.fco.gov.uk/resources/en/pdf/pdf20/fco_ts132-00_romaniarestraint

Saudi Arabia

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1992/65>

Spain

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1993/74>

Sweden

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1992/72>

Thailand

http://www.fco.gov.uk/resources/en/pdf/pdf20/fco_ref_cm3783_thailandcriminal

UAE

http://www.fco.gov.uk/resources/en/pdf/pdf19/fco_ref_cm7282_uaemutual
[la](#)

Ukraine

http://www.fco.gov.uk/resources/en/pdf/pdf17/fco_ref_cm3731_ukrainecriminal

USA (Bilateral Instrument implementing the EU-US MLA Agreement)

http://www.fco.gov.uk/resources/en/pdf/3706546/3892733/10149409/TS_US1_2009EUMLAExtradCm7613

Uruguay

<http://www.fco.gov.uk/resources/en/pdf/treaties/TS1/1994/4>

Vietnam

[http://www.fco.gov.uk/resources/en/pdf/3706546/3892733/10149409/Tr.Viet.1.2009.MLA\(Crim\)Cm7587](http://www.fco.gov.uk/resources/en/pdf/3706546/3892733/10149409/Tr.Viet.1.2009.MLA(Crim)Cm7587)>

EU MLA Treaties

EU-Japan

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:039:0020:0035:EN:PDF>>

EU-Norway and Iceland

[http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22004A0129\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22004A0129(01):EN:HTML)>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

The UK is committed to assisting investigative, prosecuting and judicial authorities in combating international crime, and is able to therefore provide a wide range of MLA.

The UK is party to 35 bilateral mutual legal assistance treaties, plus has ratified another 7 international conventions, and is party to a further 2 EU MLA treaties.

Bilateral treaties have been made with countries such as the USA, India, Canada, UAE and Thailand. The UK has ratified the following international conventions:

- the 1959 European Convention on Mutual Assistance in Criminal Matters, its Additional Protocol of 1978 and its Second Additional Protocol of 2002;
- the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention);
- the 1990 European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime;
- the Convention implementing the Schengen Agreement ;
- the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union 2000 and its Protocol thereto;
- The United Nations Convention against Transnational Organised Crime 2000;
- The United Nations Convention against Corruption 2003.

The UK also uses the Commonwealth Scheme Relating to Mutual Assistance in Criminal Matters (also known as the Harare Scheme) and is party to the EU-Japan MLA Agreement, and the EU-Norway and Iceland

MLA Agreement.

The UK is able to provide assistance to any country or territory in the World, whether or not that country is able to assist the UK. The UK can also provide most forms of MLA without the need for a treaty basis, a bilateral or other international agreement.

Article 46 of UNCAC is deemed to be self executing and it therefore became the law of the United Kingdom upon ratification of the Convention in 2006.

The UK is able to provide a very wide range of mutual legal assistance, under the broad statute referred to above. Informal assistance is also encouraged through law enforcement channels. Indeed, a request for MLA is encouraged only when a formal request for evidence is required by a requesting state's legislation, as it can be quicker and easier to obtain material on an intelligence basis. In many countries, intelligence can constitute admissible evidence, and it is therefore a matter for a requesting state, to determine, whether in relation to their legislation, a request for evidence or intelligence is more appropriate.

The UK has three designated central authorities for mutual legal assistance:

1. The UK Central Authority (UKCA), which has jurisdiction for England, Wales and Northern Ireland
2. The Crown Office, which has jurisdiction for Scotland
3. HM Revenue and Customs, which has jurisdiction for some limited customs matters (HMRC are not a relevant central authority for the purposes of the Convention)

The Crown dependencies, such as the Channel Islands, and the UK Overseas Territories, are not part of the UK and have their own jurisdictional arrangements for providing mutual legal assistance

As the UK does not require a treaty basis to provide MLA, the basis on which requests are made are not recorded within our statistics. Most requests from EU countries are made under the 1959 Convention, and all requests from countries where there is a relevant bilateral treaty are made under that treaty (for example, the USA, India, from where a number of corruption requests have been received). The UK does not require reciprocity but would expect assistance from countries which are parties to

relevant bilateral or international agreements with the UK.

A small number of requests have been made under the Convention, but these tend to be made by developing countries, such as Bangladesh, Malawi and Mauritius. The numbers from each of these states are small (for example, we have only received one request from Malawi). These cases are ongoing in the UKCA at present.

The Crown Office, as the Central Authority for execution of such requests in Scotland, has received no requests for assistance under this particular treaty.

194. Paragraph 2 of article 46

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Please see answer to paragraph 1

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related court or other cases, whether you were a requesting or a requested State

Please see answer to paragraph 1

195. Subparagraphs 3 (a) to 3 (i) of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;

- (d) Examining objects and sites;
- (e) Providing information, evidentiary items and expert evaluations;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;

Can your country afford the forms of mutual legal assistance listed in the provision above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The provisions of CICA allow for a wide range of assistance to be granted, dependent on certain criteria being met. The types of specific assistance can be seen at Section 3 of the Guidelines.

Some specific types of assistance are dealt with below

Taking Evidence or statements from persons:

Please see page 15 of the associated mutual legal assistance guidelines, which explain how statements and evidence are taken in practice.

Evidence may be taken on oath under the provisions of S15 of the Act, which allows for the central authority to nominate a court to hear evidence.

Nominating a court etc. to receive evidence

(1) Where the evidence is in England and Wales or Northern Ireland, the Secretary of State may by a notice nominate a court to receive any evidence to which the request relates which appears to the court to be appropriate for the purpose of giving effect to the request.

(2) But if it appears to the Secretary of State that the request relates to an offence involving serious or complex fraud, he may refer the request (or any part of it) to the Director of the Serious Fraud Office for the Director to obtain any evidence to which the request or part relates which appears to him to be appropriate for the purpose of giving effect to the request or part.

(3) Where the evidence is in Scotland, the Lord Advocate may by a notice nominate a court to receive any evidence to which the request relates which appears to the court to be appropriate for the purpose of giving effect to the request.

(4) But if it appears to the Lord Advocate that the request relates to an

offence involving serious or complex fraud, he may give a direction under section 27 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (directions applying investigatory provisions).

(5) Schedule 1 is to have effect in relation to proceedings before a court nominated under this section.

Evidence may also be given by video or telephone link (see SS 30 and 31 of the Act).

Service of documents is provided for by s1 of the Act, which allows:

Service of overseas process

(1) The power conferred by subsection (3) is exercisable where the Secretary of State receives any process or other document to which this section applies from the government of, or other authority in, a country outside the United Kingdom, together with a request for the process or document to be served on a person in the United Kingdom.

(2) This section applies-

(a) to any process issued or made in that country for the purposes of criminal proceedings,

(b) to any document issued or made by an administrative authority in that country in administrative proceedings,

(c) to any process issued or made for the purposes of any proceedings on an appeal before a court in that country against a decision in administrative proceedings,

(d) to any document issued or made by an authority in that country for the purposes of clemency proceedings.

(3) The Secretary of State may cause the process or document to be served by post or, if the request is for personal service, direct the chief officer of police for the area in which that person appears to be to cause it to be personally served on him.

(4) In relation to any process or document to be served in Scotland, references in this section to the Secretary of State are to be read as references to the Lord Advocate.

UK domestic law permits procedural documents to be sent directly by a requesting state by post, and this is encouraged for means of speed and convenience, unless it is not permitted by the requesting state's domestic law.

The UK reserves the right not to serve process or procedural documents where to do so would place a person's life at risk.

(see also page 13 onwards of the attached Mutual Legal Assistance Guidelines)

Search warrants may be obtained upon application to a judge. However, searches are a very coercive measure in the UK, and additional information is almost always required from a requesting state before a

warrant can be applied for at court. It is possible that a warrant may not be granted, and the UK courts will not simply accept a search warrant or order issued in the requesting state. In addition, the UK reserves the right to execute search warrant requests in another way that does not require a coercive measure.

In Scotland, the Lord Advocate (the head of the system of public prosecution in Scotland) may direct a procurator fiscal (local prosecutor) to obtain a search warrant where the evidence sought is located in the procurator fiscal's territorial jurisdiction. With regard to the dual criminality test, the conduct must constitute a crime in Scotland must be an offence punishable by imprisonment. Neither the police nor HMRC can apply for a search warrant in Scotland. Interested parties are not notified of the application for a search warrant. The concept of legal privilege applies equally in Scotland.

UK law also permits the temporary transfer of prisoners to the requesting state to assist with overseas criminal investigations and proceedings (see S4 and S5 Criminal Justice (International Co-operation) Act 1990 (<http://www.legislation.gov.uk/ukpga/1990/5/contents> and page 25 of the Mutual Legal Assistance Guidelines).

Please attach the text(s)

Crime (International Co-Operation) Act 2003

<http://www.legislation.gov.uk/ukpga/2003/32/contents>

Criminal Justice (International Co-operation) Act 1990

<http://www.legislation.gov.uk/ukpga/1990/5/contents>

MLA guidelines

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation of these measures, including court or other cases in which you have made or received a request for forms of mutual legal assistance listed in the provision under review.

See answer above - the UK has received requests for assistance under the Convention, but is unable to identify specific cases because data is not recorded in that way. However, the UKCA has received 8 cases from Bangladesh, seeking a mixture of assistance, including restraint, witness evidence and banking evidence, one case from Malawi, also seeking a number of different types of assistance, and one from Mauritius, seeking banking evidence. These are currently in the process of being executed.

196. Subparagraphs 3 (j) and 3 (k) of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

...

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

Can your country afford the forms of mutual legal assistance listed in the provision above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The provisions of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 allow for the recognition of an overseas judgement for restraint and confiscation of funds.

For the specific requirements for a restraint request, please see page 21 of the mutual legal assistance guidelines. Requests for restraint and confiscation require dual criminality and a full justification as to why it is necessary, as without this information, a court will be unable to give an order to freeze assets.

The UK authority dealing with the request will make the appropriate applications before a court for assets to be restrained and will inform the requesting authority as soon as this is done.

The order to freeze assets can be obtained by a court on behalf of a foreign jurisdiction at the investigative stage.

Please attach the text(s)

Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005
<http://www.legislation.gov.uk/ukxi/2005/3181/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation of these measures, including court or other cases in which you have made or received a request for forms of mutual legal assistance listed in the provision under review.

Please see answer to above questions. The UK has received requests for assistance under the Convention (for example, from Bangladesh) but is

unable to determine specific cases further.

197. Paragraph 4 of article 46

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party to this Convention.

Is it possible for your country to transmit information as described above?

(Y) Yes

Please cite and attach the applicable policy(ies) or measure(s):

Please cite the text(s)

Spontaneous exchanges of information are permitted in relation to material that may be held by the UK which may lead to a mutual legal assistance request by a state party, or which may relate to an MLA request by a state party. This can be done without a formal request for assistance.

Information may also be exchanged on an informal basis via police co-operation routes, and is channelled through SOCA International.

The UK did not need a legislative basis for this provision, and this can be dealt with practically.

Please see page 28 of the attached mutual legal assistance guidelines.

Please attach the text(s)

MLA guidelines

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related mutual legal assistance and other cases.

The UK is unaware of any cases that have relate to this provision. However, information has recently been sent to Vietnam under the terms of the bilateral treaty between the UK and Vietnam, and the provisions are similarly worded.

198. Paragraph 5 of article 46

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restriction on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or measure(s):

Please cite the text(s)

The UK will always comply with requests to maintain confidentiality with regards to such requests. This is a matter of practice, and is in accordance with the UK's domestic legislation on data protection.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related mutual legal assistance and other cases.

The UK is not aware of any particular cases involving this paragraph.

199. Paragraph 8 of article 46

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The UK may nominate a court to receive evidence under the provisions of S15 of the Act. This provision allows for third party confidentiality to be overridden as witnesses giving banking evidence are served with a witness summons to give evidence. This provision is often used to overcome issues of third party confidentiality.

Requests for assistance made to the UK are not declined on grounds of bank secrecy.

The investigation provisions of the Proceeds of Crime Act 2002 (specifically Sections 348(4), 368 and 374) are also explicit in this regard.

Please attach the text(s)

Crime (International Cooperation) Act 2003
<http://www.legislation.gov.uk/ukpga/2003/32/contents>
Proceeds of Crime Act 2002
<http://www.legislation.gov.uk/ukpga/2002/29/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including recent cases in which bank secrecy rules or issues did not impede effective mutual legal assistance

The UK does not decline to provide assistance on grounds of bank secrecy, so there are no examples of cases that can be given here.

200. Subparagraph 9 (a) of article 46

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies), practice(s), or other measure(s)

Please cite the text(s)

As stated in the legislative guide, the provisions of Article 9-29 only apply where a country does not have other mutual legal assistance arrangements in place. The UK does not require a treaty basis to provide assistance, but may do so on the basis of reciprocity. Indeed, the UK has ratified a number of other mutual legal assistance agreements (see answer to previous questions for details). Therefore the provisions of Article 9-29 do not apply to the UK.

However, the UK does not require dual criminality to provide mutual legal assistance in most cases. However, the UK would require dual criminality to be present for coercive measures, such as search warrants. The UK will always seek to provide the widest form of assistance possible.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related mutual legal assistance and other recent cases

There are no applicable cases.

201. Subparagraph 9 (b) of article 46

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies), practice(s) or other measure(s)

Please cite the text(s)

Please see answer to subparagraph 9 (a):

As stated in the legislative guide, the provisions of Article 9-29 only apply where a country does not have other mutual legal assistance arrangements in place. The UK does not require a treaty basis to provide assistance, but may do so on the basis of reciprocity. Indeed, the UK has ratified a number of other mutual legal assistance agreements (see answer to previous questions for details). Therefore the provisions of Article 9-29 do not apply to the UK.

With regards to the issue of de minimis, the UK would urge that requests made are proportionate, particularly for resource intensive measures. The police forces in the UK are operationally independent (as are other executing bodies such as the Serious Fraud Office), and thus MLA requests are prioritised alongside domestic work (in Scotland, the police may be directed by the Lord Advocate/Procurator Fiscal to carry out enquiries). De minimis cases are unlikely therefore to be prioritised. Priority is granted to more serious offences, which may include large scale offences of corruption under the Convention.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please explain what measures you consider to be coercive; please attach any available definitions

or relevant legal texts

There are no definitions in UK law of the term "coercive". However, it is generally recognised that requests seeking search warrants, restraint and confiscation of assets, and summoning of witnesses to court, are regarded as coercive measures. Therefore, the definition encompasses anything that is not done voluntarily.

Please explain what matters you consider to be of a de minimis nature; please attach any available definitions or relevant legal texts

There are no definitions in UK law of the term "de minimis". Please see answer above for prioritisation of cases.

Please provide examples of implementation and related mutual legal assistance and other cases

Please see answer to previous questions regarding the identification of current cases.

Please provide information on the types of non-coercive actions taken when rendering assistance in the absence of dual criminality

The UK is able to provide a wide range of assistance in the absence of dual criminality, including witness evidence, banking and telecoms evidence, and exchanges of information through formal statements of documentation held by government bodies (for example, tax information, company registration documents).

Please provide information on recent cases in which your country refused mutual legal assistance on the ground of absence of dual criminality

The UK is not aware of any cases under the Convention where requests have been refused on the grounds of dual criminality. Offences such as those under the Convention have equivalent conduct offences in UK law.

Please provide information on recent cases in which your request for mutual legal assistance was refused on the ground of absence of dual criminality

See previous answer

202. Subparagraph 9 (c) of article 46

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies), practice(s), or other measure(s)

Please cite the text(s)

Please see answers to previous questions about the types of assistance

available in the UK.

The provisions of Article 9-29 only apply where a country does not have other mutual legal assistance arrangements in place. The UK does not require a treaty basis to provide assistance, but may do so on the basis of reciprocity. Indeed, the UK has ratified a number of other mutual legal assistance agreements (see answer to previous questions for details).

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

203. Paragraph 10 of article 46

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent;
- (b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

As stated in the legislative guide, the provisions of Article 9-29 only apply where a country does not have other mutual legal assistance arrangements in place. The UK does not require a treaty basis to provide assistance, but may do so on the basis of reciprocity. Indeed, the UK has ratified a number of other mutual legal assistance agreements (see answer to previous questions for details). Therefore the provisions of Article 9-29 do not apply to the UK.

The provisions of the Criminal Justice (International Co-operation) Act 1990 allow for the temporary transfer of prisoners who consent to assist with overseas investigations and prosecutions.

The relevant provisions are set out below. Please also see page 25 of the

attached mutual legal assistance guidelines.

Please attach the text(s)

Criminal Justice (International Co-operation) Act 1990
<http://www.legislation.gov.uk/ukpga/1990/5/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

The UK is not aware of any requests made under this provision.

204. Paragraph 11 of article 46

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

As stated in the legislative guide, the provisions of Article 9-29 only apply where a country does not have other mutual legal assistance arrangements in place. The UK does not require a treaty basis to provide assistance, but may do so on the basis of reciprocity. Indeed, the UK has ratified a number of other mutual legal assistance agreements (see answer to previous questions for details). Therefore the provisions of Article 9-29 do not apply to the UK.

However, the UK complies with the terms of this provision through the provisions of the Criminal Justice (International Co-operation) Act 1990 (see above) and this is also regarded as general good practice.

Please attach the text(s)

Criminal Justice (International Co-operation) Act 1990

<http://www.legislation.gov.uk/ukpga/1990/5/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

The UK is not aware of any cases made under this provision

205. Paragraph 12 of article 46

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or measure(s):

Please cite the text(s)

This is a matter of practice in the UK and there are no legislative provisions.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

The UK is not aware of any cases made under this provision.

206. Paragraph 13 of article 46

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive

requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

Has your country established a central authority(ies) as described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable arrangement(s) or measure(s)

Please cite the text(s)

As referred to previously, the UK Central Authority is the designated central authority for England, Wales and Northern Ireland, and the Crown Office is the designated authority for Scotland. The UK Central Authority acts under delegated powers from the Secretary of State for the Home Department (Home Secretary).

Please attach the text(s)

Note Verbale 19 of 2010 from the UK permanent Mission to the United Nations in Vienna to the Secretariat of the Conference of States Parties to the UN Convention against Corruption (attached)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

There are no specific examples of implementation.

The UKCA receives over 3000 requests for mutual legal assistance each year. These range from the very basic requests for assistance, in, for example, internet frauds, through to serious and complex cases of corruption, murder, and terrorism.

From statistics available, the UK has received approximately 500 cases categorised as bribery or corruption cases. Of these, approximately 100 are live cases. It is not possible to determine which Treaty basis these cases have been made on.

The UKCA is also responsible for the onward transmission of outgoing requests from the UK to overseas authorities, with the exception of EU States under the Schengen arrangements, under which requests for evidence can be sent directly to the overseas state.

From current statistics available, the UKCA has transmitted approximately 150 requests concerning bribery and corruption, of which under 20 are still open.

Again, it is not possible to identify which of these cases have been made under the provisions of the Convention.

If applicable and available, please provide recent court or other cases

207. Paragraph 14 of article 46

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

Is your country in compliance with this provision with regard to the communication of requests for mutual legal assistance? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s) and language(s)

Please cite the text(s)

There are no specific legislative requirements that cover the language of requests made to the UK, or requests made out from the UK to other states parties. The only legislative requirement is that the request meets the standards as set out to allow us to accept a request under s14 of the Act (see below):

14 Powers to arrange for evidence to be obtained

(1) The territorial authority may arrange for evidence to be obtained under section 15 if the request for assistance in obtaining the evidence is made in connection with-

(a) criminal proceedings or a criminal investigation, being carried on outside the United Kingdom,

(b) administrative proceedings, or an investigation into an act punishable in such proceedings, being carried on there,

(c) clemency proceedings, or proceedings on an appeal before a court against a decision in administrative proceedings, being carried on, or intended to be carried on, there.

(2) In a case within subsection (1)(a) or (b), the authority may arrange for the evidence to be so obtained only if the authority is satisfied-

(a) that an offence under the law of the country in question has been

committed or that there are reasonable grounds for suspecting that such an offence has been committed, and

(b) that proceedings in respect of the offence have been instituted in that country or that an investigation into the offence is being carried on there.

An offence includes an act punishable in administrative proceedings.

(3) The territorial authority is to regard as conclusive a certificate as to the matters mentioned in subsection (2)(a) and (b) issued by any authority in the country in question which appears to him to be the appropriate authority to do so.

(4) If it appears to the territorial authority that the request for assistance relates to a fiscal offence in respect of which proceedings have not yet been instituted, the authority may not arrange for the evidence to be so obtained unless-

(a) the request is from a country which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party, or

(b) the authority is satisfied that if the conduct constituting the offence were to occur in a part of the United Kingdom, it would constitute an offence in that part.

It is however, a part of the mutual legal assistance guidelines (see page 9) that requests are made on the headed notepaper of the issuing authority, signed and if, the request is not in English, a translation must be provided. The details of the requesting authority must also be given, to allow the UK Central authorities to properly judge the bona fides of the request.

Requests should be sent by post to the UK Central authorities, although in urgent cases, an advance copy may be sent by e-mail or fax.

Please attach the text(s)

Note Verbale 19 of 2010 from the UK permanent Mission to the United Nations in Vienna to the Secretariat of the Conference of States Parties to the UN Convention against Corruption (attached)

Crime (International Co-operation) Act 2003

<http://www.legislation.gov.uk/ukpga/2003/32/contents>

Mutual Legal Assistance guidelines

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

208. Paragraphs 15 and 16 of article 46

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

- (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
 - (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
 - (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
 - (e) Where possible, the identity, location and nationality of any person concerned; and
 - (f) The purpose for which the evidence, information or action is sought.
16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s) and types of additional information you may need

Please cite the text(s)

There are no legislative requirements that govern this in UK law, but page 9 of the mutual legal assistance guidelines provides for all of this information to be provided. This information is also provided on requests made from the UK prosecutors to overseas states.

The UK Central Authorities reserve the right to revert back to a requesting state where this information is not given, to obtain proper information before making a decision to accept a request for assistance.

The request must contain the information necessary to progress the request as specific in s15 of the Act:

14 Powers to arrange for evidence to be obtained

(1) The territorial authority may arrange for evidence to be obtained under section 15 if the request for assistance in obtaining the evidence is made in connection with-

- (a) criminal proceedings or a criminal investigation, being carried on outside the United Kingdom,
- (b) administrative proceedings, or an investigation into an act punishable in such proceedings, being carried on there,
- (c) clemency proceedings, or proceedings on an appeal before a court against a decision in administrative proceedings, being carried on, or intended to be carried on, there.

(2) In a case within subsection (1)(a) or (b), the authority may arrange for the evidence to be so obtained only if the authority is satisfied-

- (a) that an offence under the law of the country in question has been committed or that there are reasonable grounds for suspecting that such an offence has been committed, and
- (b) that proceedings in respect of the offence have been instituted in that

country or that an investigation into the offence is being carried on there. An offence includes an act punishable in administrative proceedings.

(3) The territorial authority is to regard as conclusive a certificate as to the matters mentioned in subsection (2)(a) and (b) issued by any authority in the country in question which appears to him to be the appropriate authority to do so.

(4) If it appears to the territorial authority that the request for assistance relates to a fiscal offence in respect of which proceedings have not yet been instituted, the authority may not arrange for the evidence to be so obtained unless-

(a) the request is from a country which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party, or
(b) the authority is satisfied that if the conduct constituting the offence were to occur in a part of the United Kingdom, it would constitute an offence in that part.

Please attach the text(s)

Crime (International Co-operation) Act 2003 <http://www.legislation.gov.uk/ukpga/2003/32/contents>
MLA guidelines

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related cases

There are no relevant examples available.

209. Paragraph 17 of article 46

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

There are no specific legislative requirements that govern these requirements.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

It is a matter of practice that the UK will seek to execute the request in accordance with any specific requirements to ensure the evidence is admissible in the requesting state. The UK will reserve the right to execute particular types of request in another way, if it is not appropriate to do so - for example, a request for material under a search warrant that may more appropriately be obtained via a witness summons. The UK will always seek to consult with a requesting state in advance of obtaining evidence, so that the requesting state may agree to obtain evidence in such a way. In Scotland, if no specific requirements are communicated as to the form of authentication of documents or other evidential requirements in relation to the recovery of material, police forces will recover evidence in accordance with domestic law and practice.

Please provide information on requests executed in ways specified in the request other than those envisaged in your domestic law

There are no examples available.

210. Paragraph 18 of article 46

18. Whenever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

Does your country permit hearings of individuals mentioned above to take place by video conference as described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

S30 of the Crime (International Co-operation) Act 2003 permits this.

The relevant text is:

30Hearing witnesses in the UK through television links

(1)This section applies where the Secretary of State receives a request, from an authority mentioned in subsection (2) (“the external authority”), for a person in the United Kingdom to give evidence through a live television link in criminal proceedings before a court in a country outside the United Kingdom.

Criminal proceedings include any proceedings on an appeal before a court against a decision in administrative proceedings.

(2)The authority referred to in subsection (1) is the authority in that country

which appears to the Secretary of State to have the function of making requests of the kind to which this section applies.

(3) Unless he considers it inappropriate to do so, the Secretary of State must by notice in writing nominate a court in the United Kingdom where the witness may be heard in the proceedings in question through a live television link.

(4) Anything done by the witness in the presence of the nominated court which, if it were done in proceedings before the court, would constitute contempt of court is to be treated for that purpose as done in proceedings before the court.

(5) Any statement made on oath by a witness giving evidence in pursuance of this section is to be treated for the purposes of-

(a) section 1 of the Perjury Act 1911 (c. 6),

(b) Article 3 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/ 1714 (N.I. 19)),

(c) sections 44 to 46 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) or, in relation to Scotland, any matter pertaining to the common law crime of perjury,

as made in proceedings before the nominated court.

(6) Part 1 of Schedule 2 (evidence given by television link) is to have effect.

(7) Subject to subsections (4) and (5) and the provisions of that Schedule, evidence given pursuant to this section is not to be treated for any purpose as evidence given in proceedings in the United Kingdom.

(8) In relation to Scotland, references in this section and Part 1 of Schedule 2 to the Secretary of State are to be read as references to the Lord Advocate.

See also page 20 of the mutual legal assistance guidelines.

Please attach the text(s)

Crime (International Co-operation) Act 2003

<http://www.legislation.gov.uk/ukpga/2003/32/contents>

Mutual Legal Assistance Guidelines

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

The UK Central Authorities are not aware of any cases made under this provision.

211. Paragraph 19 of article 46

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

S9(2) of the Act provides the following:

9Use of evidence obtained

(1)This section applies to evidence obtained pursuant to a request for assistance under section 7.

(2)The evidence may not without the consent of the appropriate overseas authority be used for any purpose other than that specified in the request.

(3)When the evidence is no longer required for that purpose (or for any other purpose for which such consent has been obtained), it must be returned to the appropriate overseas authority, unless that authority indicates that it need not be returned.

(4)In exercising the discretion conferred by section 25 of the Criminal Justice Act 1988 (c. 33) or Article 5 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/ 1847 (N.I. 17)) (exclusion of evidence otherwise admissible) in relation to a statement contained in the evidence, the court must have regard-

(a)to whether it was possible to challenge the statement by questioning the person who made it, and

(b)if proceedings have been instituted, to whether the local law allowed the parties to the proceedings to be legally represented when the evidence was being obtained.

(5)In Scotland, the evidence may be received in evidence without being sworn to by witnesses, so far as that may be done without unfairness to either party.

(6)In this section, the appropriate overseas authority means the authority recognised by the government of the country in question as the appropriate authority for receiving requests of the kind in question. There are no legislative requirements governing this provision.

Evidence is only provided by the UK Central Authorities to a requesting state with the following caveat:

If you need to use the evidence for any other proceedings, which were not outlined in the original request, you must seek the authorisation of the UK Central Authority in advance of the material being used for those proceedings.

Please attach the text(s)

Crime (International Co-operation) Act 2003

<http://www.legislation.gov.uk/ukpga/2003/32/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

There are no relevant cases under this provision.

212. Paragraph 20 of article 46

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There are no specific legislative requirements covering this provision. However, the UK Central Authorities will always endeavour to maintain the confidentiality of requests, and will neither confirm nor deny the existence of a request, or its content outside the government agencies, the courts or enforcement agencies. This is in line with established international practice. Requests are not disclosed further than it is necessary to obtain the co-operation of the witness or other person concerned. In the event that confidentiality requirements make the execution of a request difficult or impossible, the Central Authorities will consult the requesting authorities and the requesting state will be given the opportunity to withdraw the request before disclosure to third parties is made.

If a public statement is made by an overseas authority in relation to a request where assistance is requested from the UK, the Central Authorities should be notified so that appropriate handling issues can be managed.

Please see page 6 and 7 of the Mutual legal assistance guidelines.

Please attach the text(s)

Mutual Legal Assistance Guidelines

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and cases in which it was not possible to comply with the requirement of confidentiality

The Central Authorities are not aware of any cases under the Convention where it was not possible to comply with the requirement of confidentiality

213. Paragraph 21 of article 46

21. Mutual legal assistance may be refused:

- (a) If the request is not made in conformity with the provisions of this article;
- (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;
- (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
- (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

Does your country's legal system recognize any ground for refusal? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The Central Authorities will consider each request individually, and may decide to refuse a request in line with the above requirements, Requests may be returned to a requesting state if there is insufficient information given within the request.

S13 of the Act allows for the fact that the authority "may" obtain the evidence so a discretion is retained party by statute.

Please attach the text(s)

Crime (International Co-operation) Act 2003

<http://www.legislation.gov.uk/ukpga/2003/32/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

If applicable and available, please provide information on court or other cases in which you refused mutual legal assistance

The UK Central Authorities are not aware of any cases made under the Convention where assistance has been refused on this basis.

If applicable and available, please provide information on other cases in which you were refused mutual legal assistance

The UK has refused assistance in less than 6 cases over the last 5 years - in the majority of cases, this was due to reasons of national security.

214. Paragraph 22 of article 46

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

S14 of the Crime (International Co-operation) act 2003 provides the following:

If it appears to the territorial authority that the request for assistance relates to a fiscal offence in respect of which proceedings have not yet been instituted, the authority may not arrange for the evidence to be so obtained unless-

- (a) the request is from a country which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party, or
- (b) the authority is satisfied that if the conduct constituting the offence were to occur in a part of the United Kingdom, it would constitute an offence in that part.

Please attach the text(s)

Crime (International Co-operation) Act 2003

<http://www.legislation.gov.uk/ukpga/2003/32/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

There are no available examples of implementation under this provision

215. Paragraph 23 of article 46

23. Reasons shall be given for any refusal of mutual legal assistance.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There are no specific legislative requirements, but this provision is part of the UKCA's general practice. Prior to refusing any requests, the UK authorities will generally seek further information from a requesting state, if it appears that the reason for refusal would be lack of specification in the request, rather than legal impossibility.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

There are no examples of when a request has been refused under the provisions of the Convention

216. Paragraph 24 of article 46

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There are no specific legislative requirements covering this requirement.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related cases

It is a matter of practice within the UK Central Authorities that appropriate case handling measures are in place for cases.

Cases are allocated a complexity and an urgency rating depending on the nature of assistance required and the type of case. Cases such as requests for search and seizure, restraint of funds, proposed arrests or cases where there is a very sensitive element, are prioritised. Each case is allocated to a designated caseworker, (in Scotland, a procurator fiscal depute at Crown Office) who will follow up cases, and will endeavour to provide updates in a timely manner. The more sensitive and complex the case, the more likely it is to be dealt with by senior staff within the Central Authorities.

Once a case is referred to an executing authority, it is prioritised by that authority amongst the other work, which in the case of police forces, may mean prioritisation amongst domestic work.

Please provide information on the customary length of time between receiving requests for mutual legal assistance and responding to them

It is impossible to give statistics on the length of time to process cases from receipt to closure.

The UKCA will respond to urgent cases customarily within 5 working days, and routine cases within 10 working days. However, the length of time that it takes to execute a request depends on the complexity of the evidence required, and other factors, such as court time, availability of witnesses and executing authority resources.

217. Paragraph 25 of article 46

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There is no specific legislative requirement covering this provision, but Central Authority policy is to comply with this provision. The Central Authorities will always seek to consult with the requesting state and the executing authority to see if there is a mutually acceptable compromise in the absence of full execution.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide information on cases in which you postponed the provision of mutual legal assistance on the ground that it interfered with an ongoing investigation, prosecution or judicial proceeding

There are no specific cases under this Convention. However, there have been cases not under the Convention where provision has been postponed because of an ongoing domestic investigation.

218. Paragraph 26 of article 46

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There is no specific legislative requirement covering this provision. The Central Authorities will comply with this provision as a matter of practice and procedure.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, related cases, and ways in which they were handled

There are no specific examples that can be given.

219. Paragraph 27 of article 46

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There are no legislative provisions covering compliance with this provision.

Compliance is matter of practice.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

220. Paragraph 28 of article 46

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable policy(ies) or other measure(s)

Please cite the text(s)

There are no specific legislative requirements covering this requirement.

The provisions on costs are outlined on page 11 of the mutual legal

assistance guidelines.

The exceptions to this rule are:

- a) fees and reasonable expenses of expert witnesses
- b) costs of operating video conferencing, interpretation and transcription
- c) costs of transferring persons in custody
- d) costs of an extraordinary nature agreed with the requesting state.

Please attach the text(s)

MLA guidelines

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of arrangements related to such costs

There are no specific examples under the provisions of the Convention. However, agreements have been made with other central authorities on the costs of an extraordinary nature, such as the processing of large amounts of computer material under a search warrant, large amounts of courier costs for shipping evidence to a state, or lawyers fees in relation to court applications made in the UK on behalf of a requesting state.

221. Subparagraph 29 (a) of article 46

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There are no specific legislative requirements covering this provision./

Records are provided as a matter of practice and policy.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

If available, please provide information on how such records, documents or information can be obtained and how they were provided to the requesting State Party

There are no specific examples available under the Convention. However, requests are routinely made to the UK for material held at Companies House (Company registry), Registry of Births Marriages and Deaths, Land Registry and other government registry where material is ordinarily available to the general public, albeit on payment of relevant fees.

This material can be provided in any format that is admissible in the requesting state, so that relevant evidential requirements can be met.

222. Subparagraph 29 (b) of article 46

29. The requested State Party:

...

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

There are no specific legislative requirements covering this provision.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases where such information was provided.

There are no specific cases available under the Convention, but the UK is routinely asked to provide material such as that held by the Revenue and Customs Office, Passport Agency, Driver and Vehicle Licensing Agency, Department for Work and Pensions, and other government agencies where material is not routinely available to the public.

223. Paragraph 30 of article 46

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable bilateral or multilateral agreement(s) or arrangement(s) or other measure(s)

Please cite the text(s)

The UK is already the signatory to numerous conventions, and bilateral treaties (see above).

However, the UKCA is prepared to consider individual requests for negotiations of bilateral treaties on a country by country basis, if it considers it appropriate to do so.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See treaties cited in answer to paragraph 1

224. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

225. Article 47

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

It is possible to transfer proceedings to other jurisdictions. Guidance for prosecutors (see extract attached) sets out the possibility of transferring proceedings and some of the issues which should be considered.

Please attach the text(s)

Extract from CPS legal guidance on "International Enquiries"

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Not available

If available, please provide information on recent court or other cases in which proceedings for the prosecution of an offence of corruption have been transferred to and from you

No information is kept centrally on the transfer of proceedings to other jurisdictions.

226. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

227. Subparagraph 1 (a) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The UK implements this measure in practice. Please see examples below which illustrate this.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

The UK's Serious Organised Crime Agency acts in a variety of roles to support law enforcement activity within the UK and abroad. SOCA has a mandate as the UK's national agency with a statutory remit for tackling serious organised crime affecting the UK, and, as a centre for international police cooperation (for example, hosting the UK Interpol National Central Bureau and the UK Europol National Unit), for activity supporting international law enforcement conventions, should be noted in this context. SOCA's information exchange procedures ensure that we adhere to the requirements of these conventions. SOCA's role is also under statute to be the national recipient for certain material, including counterfeit currency and suspicious activity reports.

The Serious Fraud Office (SFO) has investigated and prosecuted a number of cases based on breaches of the UN Oil for Food programme in Iraq. The SFO investigation focused on offences in respect of the supply of goods that were purchased with the proceeds from the sale of oil, but was later extended to include the sale of oil itself under the Oil-for-Food Programme. At the start of the investigation the SFO's priority was to establish links with other member states so as to expedite the exchange of information/evidence concerning breach of Iraqi sanctions in a secure way. It is not uncommon for overseas enquiries to lead to a significant delay in progressing investigations but in this case the SFO was able to expedite its investigation by establishing a close working relationship with the competent authority. This allowed the SFO to access relevant information on an informal basis at a much earlier stage. The SFO was therefore able to assess the value of the information to its investigation before requesting it in a formal letter of request. The member state was also able to refer to the SFO to investigate other suspect corporations and/or individuals. Concurrent jurisdictional issues were also resolved at a much earlier stage than would otherwise have been the case.

The SFO was able to establish close links with the authorities in other member states by: (i) calling for and attending a Eurojust meeting of competent authorities (this meeting was followed by separate meetings with those members states which shared a common interest in an individual suspect(s) and/or who could assist the SFO with its investigation into suspect(s)), (ii) where there was no obvious forum/means to establish links and channels of communication the SFO relied on diplomacy to arrange meetings by video/telephone, or on a one-to-one basis.

The SFO's approach to this investigation also enabled it to keep abreast of how other member states were enforcing the Iraqi sanctions, the evidential and procedural challenges they were facing, and the legal challenges that were mounted. Consequently, the SFO was able to speak with authority in court on how other jurisdictions were enforcing and disposing of their cases.

Do you have a database through which information can be shared?

There is no *single* database for sharing information - data sharing is managed under arrangements for implementing measures as indicated.

If available, please provide examples of recent cases in which your law enforcement authorities

have exchanged information with those of other State Parties for offences covered by this Convention (please describe the aspects of such offences covered by information exchanges)

The SFO has investigated and prosecuted a number of cases based on breaches of the UN Oil for Food programme in Iraq (see above). In this series of cases payments were made to the Iraqi regime to secure contracts. In the case of oil purchases a surcharge payment was paid; in the case of humanitarian goods a kickback payment was paid.

If applicable, please provide information on exchange of information for recent cases involving other criminal activities

In the SFO cases referred to above, information concerning alleged corrupt activities of some suspects in other jurisdictions was supplied to the SFO during the exchange of information

Examples of non-corruption related cases:

In June 2006, an investigation into an organised crime group involved in the importation of heroin into the UK identified that the head of the organised crime group who was wanted in the UK, Damien O'Connor, was resident in Belgium throughout the investigation. Following his arrest in February 2007 in Belgium, he was surrendered to the UK on a European Arrest Warrant (EAW) and charged along with 12 other members of the group. He received a custodial sentence of 20 years in February 2009 and a 10-year travel restriction order. His subsequent appeals against conviction and sentence were dismissed. In November 2010, despite contesting the benefit figure, he was ordered to pay £1,021,300 with a five and a half year sentence in the event of default.

Following SOCA support to a Hungarian-led investigation, a man involved in the trafficking of illegal immigrants, primarily to work in cannabis factories in the UK, was surrendered on 29 June 2010 to Hungary on a European Arrest Warrant (EAW). Do Huan Nguyen was described as being instrumental to an organised crime group which is believed to have trafficked more than 50 Vietnamese nationals via Moscow and Hungary to the UK on fraudulently obtained Hungarian passports. Once in the UK, they were required to re-pay their debt by working in premises used for the commercial-scale cultivation of cannabis. The other 17 members of the group were convicted in 2009 by a Hungarian court.

In 2010-11, one of the hostage takers responsible for the kidnap of a five-year old British boy in Pakistan in 2010 was sentenced to 60 years' imprisonment. SOCA coordinated the response to the kidnap investigation by providing tactical and strategic advice which resulted in the safe recovery of the child. A ransom payment sequence under the control of Greater Manchester Police (GMP) and SOCA was initiated in Manchester and taken by courier whilst under surveillance by British, French and Spanish officers. The hostage takers released the child when they received information that the £400,000 had safely been delivered in Spain. A number of arrests were then made in Pakistan, Spain and France and the ransom money was recovered.

228. Subparagraph 1 (b) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

SOCA provides a gateway to a wide range of international services, responding to requests from UK and overseas partners:

- SOCA's network of liaison officers and UK support teams work closely with partners around the world.
- SOCA act as the UK's national central bureau for international law enforcement networks, including Interpol, Europol and Schengen:
 - SOCA is the Europol National Unit in the UK.
 - SOCA is the UK National Central Bureau for Interpol services - allows police in member countries to share critical crime-related information through a common platform.
- SOCA is the UK Central Authority for the European Arrest Warrant, a fast track arrest and extradition process operating between EU member states

There are a number of international (and EU) mechanisms in place to facilitate the use of joint operations. Amongst others these include:

- Bilateral engagement through the SOCA Liaison Officer Network; Engagement through Europol (facilitating engagement through the UK Liaison Bureau (UKLB), through information sharing with Europol and Member States to identify opportunities for operational engagement and, through setting up coordination meetings, etc);
- Engagement through Interpol (information sharing (entity data on persons, objects and biometric data), circulating notices on persons and objects of interest (including wanted persons), and, through setting up coordination meetings);
- Engagement through Eurojust, e.g. to facilitate the exchange of International Letters of Request;
- Schengen: whilst the UK is partial signatory of the Schengen convention, the UK currently participates in some measures including Article 40 (cross-border surveillance) and Articles 39 and 46, which support the exchange and provision of information in relation to a person or object of interest;
- The European Arrest Warrant, administered through SOCA International;
- Engagement through the Comprehensive Operational Strategic Planning for Police (COSPOL) framework projects - the UK participates in all seven existing projects, which provide a platform for Member States to establish agreed objectives and plans to tackle specific areas of criminality. Europol is also key to the effective running of COSPOL projects, allocating specialists to each project and providing analytical support through its Analysis Workfiles (AWFs);
- SOCA advocates the use of Joint Investigation Teams (JITs) as a mechanism for supporting international operational engagement.

SOCA also sits on the European Anti Corruption Network - an EU body to facilitate the development of standards and sharing of best practice for corruption practitioners. This is a contact point network with no policy remit but does promote standards around anti-corruption and police oversight. (The Independent Police Complaints Commission also sit as one of the UK reps). This can be a forum for sharing strategic intelligence on corruption practices and trends but there is no tasking or referral process as part of the group. The contacts from the group are usually the first port of call for any bi-lateral operational matters.

SOCA acts as the focal point in the UK for conducting overseas operations to track down serious organised crime threats that originate in the UK. For example, Operation CAPTURA, a campaign which identifies individuals on the run in Spain who are wanted by UK law enforcement agencies for serious crimes committed in the UK. The campaign highlights appeals for information on individuals facing prosecution in the UK who have European Arrest Warrants issued against them. In 2010, SOCA and Crimestoppers joined forces in a similar campaign called Operation RETURN, targeting criminals in Amsterdam.

SOCA (UKFIU) has, as part of the responsibilities of the International Corruption and Asset Recovery Team (ICART), designated the head of ICART as the UK representative on the StAR/Interpol Asset Recovery Focal Point Group (ARFPG). This forum, comprising national practitioners, aims to promote cooperation in the tracing and securing of assets derived from UNCAC related criminality. The UK ARFPG representative is responsible for ensuring that intelligence is shared with operational law enforcement partners (within the UK International Corruption Group) to maximise the opportunities for intervention activity; or passed to relevant international anti-corruption partners overseas.

The UK is a member of the Egmont Group, an international forum for Financial Intelligence Units to stimulate cooperation, particularly in the areas of information exchange, training and the sharing of expertise in the fight against money laundering and the financing of terrorism. There are over 100 worldwide FIUs in the Egmont Group. Membership allows the UKFIU to seek financial intelligence from other members to support law enforcement operations and projects, including those led by SOCA.

An EU Council Framework Decision was taken in December 2007 that Member States should have designated national Asset Recovery Offices (AROs). These are responsible for assisting with the tracing and identification of proceeds of crime and other crime-related property which may become the subject of a freezing, seizure or confiscation order under the legislation of another Member State. The UK has two AROs: one for England, Wales and Northern Ireland and one for Scotland. The Home Office nominated SOCA as the ARO for England, Wales and Northern Ireland. The other ARO is part of the Scottish Money Laundering Unit of the Scottish Crime and Drug Enforcement Agency (SCDEA). The ARO activity within SOCA is undertaken by the UKFIU. This provides access to financial intelligence and research tools to enable effective co-ordination and asset tracing. The ARO has access to the Joint Asset Recovery Database (JARD), a multi-agency system that records information about asset recovery activity and performance across the UK criminal justice sector. JARD is maintained by the National Policing Improvement Agency (NPIA). The UKARO also makes use of the SLO network to maintain and enhance relationships with asset recovery partners abroad and has two officers based in strategic financial capitals in Europe. The ARO incorporates membership, on behalf of UK law enforcement, of the (wider) Camden Assets Recovery Inter-Agency Network (CARIN) asset recovery community.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

Example of corruption-related:

In February 2011, a formerly high ranking Nigerian government official was ordered by the High Court to hand assets worth £1.25 million to SOCA. The order was granted by the High Court in London against Christopher Orumgbe Agidi from Lagos in Nigeria, trading as Orion Worldwide Consult Limited. Mr Agidi was the former Director of the Federal Ministry of Education and the former Director of the National Civil Registration Directorate with the Nigerian civil service from 1995 until his retirement in 2002. In its civil recovery application, SOCA submitted that Mr Agidi had derived the majority of his assets through corruption over a five year period and that he used his consultancy firm in London as a front to launder the cash. SOCA's investigation identified that Mr Agidi had received bribes from two international companies whilst he was in post. The Czech and French companies both had contracts with the Nigerian Government at the time. His Honour Mr Justice Sweeney deemed Mr Agidi's UK assets, which include a house in Golders Green and a bank account containing over £650,000, to be the proceeds of crime.

229. Subparagraph 1 (c) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

This is done under the overall arrangements for implementing measures in Subparas a and b.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Non-corruption related examples:

In summer 2008, SOCA intelligence prompted the seizure of over 600 kilos of cocaine when a light aircraft was detained at Sierra Leone's main international airport. Sierra Leone Police made the seizure following close collaborative work between a Sierra Leone intelligence unit and SOCA. The crew of the light aircraft, together with members of a Colombian organised crime group who had based their drug trafficking operations in Sierra Leone, were detained attempting to flee over the border to Guinea. Fifteen people were charged in December 2008 and are now serving prison sentences. At the request of the local authorities, a team of SOCA officers was deployed to Freetown to help the Sierra

Leone Police with the collection of forensic evidence, its investigation and its presentation in court. In addition, SOCA's Forensic Science Group assisted with the examination of technical equipment, fingerprints and drug samples in the UK.

230. Subparagraph 1 (d) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

This is done under the overall arrangements for implementing measures in Subparas a-c

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation and related analyses, reports or typologies related to means and methods used to commit offences established in accordance with the Convention

SOCA leads a project to uncover the acquisition and use of fraudulently-obtained genuine (FOG) British passports by members of organised crime groups. FOG passports are genuine passports issued by the relevant UK authority after receipt of a fraudulent application; a British criminal could therefore possess a number of genuine passports, each in a different identity. Applications have sometimes been made after payments to corrupt officials, with criminals paying between £5,000 and £15,000 per document. To date the project has largely focused on British criminals living in the Netherlands who are trafficking drugs and firearms into the UK and Ireland. As a result, a Joint Investigation Team (JIT) agreement was signed with Dutch authorities in December 2009, which was extended for a further 12 months from December 2010. This JIT has identified a large number of FOG passport offences, in many cases prosecuting these through the issue and execution of European Arrest Warrants. A number of fugitives have also been arrested, including several who had managed to evade capture for over a decade. Analytical work undertaken during the project has led to the identification of criminal facilitators (for example, hire companies knowingly supplying services to criminals using false identities); the identification of members of key criminal groups previously known only by nickname; and the placement of criminal assets and plans for criminal activity in other parts of the world. Although the initial focus has been on Britain, Ireland and the Netherlands, the project has shown that similar results are achievable in other jurisdictions.

231. Subparagraph 1 (e) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

This is done under the overall arrangements for implementing measures in subparas a-d above

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

SOCA has in excess of 130 SOCA Liaison Officers (SLOs) posted in around 40 countries. Their main role is to lead and support SOCA projects and operations overseas. This support includes intelligence, research and development, and brokering relationships with key partners. The SLO network is supported by large teams of personnel in the UK, who coordinate activity on SOCA operations.

Corruption-related examples:

SOCA activity in Afghanistan has an ongoing focus on supporting and contributing to the wider government strategy in the region; mentoring of the Corruption Investigation Unit (CIU) and the Counter-Narcotics Police of Afghanistan (CNPA); assisting in the creation and development of the Afghan Major Crime Task Force (MCTF) which provides an enhanced ability to investigate kidnap, corruption and serious crime; and working closely with law enforcement and military entities to develop intelligence on counter narcotics.

Non-corruption related examples:

SLOs in Barbados and St Lucia played a key role in developing and evaluating intelligence which led to action in April 2008 against property linked to the major regional drug trafficker Antonio Gellizeau. He was suspected of having been involved in importing bulk quantities of cocaine from Venezuela to the Grenadines and then selling it to the numerous air courier networks targeting the UK, European and US markets. The St Vincent & Grenadine and Bermudian authorities carried out a coordinated strike against the yachts 'Jo Tobin' and 'Orion' in Bequia Island as well as several properties on St Vincent linked to Gellizeau. An estimated USD1.76 million in cash was found in a well constructed deep concealment on the yacht 'Jo Tobin'. The yacht's crew were subsequently charged with money laundering

offences. This ground-breaking operation was the first of its kind in the region. It involved the use of multiple police, Coast Guard and military assets supporting the St Vincent Financial Intelligence Unit (FIU) investigators, as well as the use of the Regional Security System Maritime Patrol Aircraft. Both SOCA and the regional UK Security Advisory Team were integrally involved in mentoring the planning and execution of the operation, as well as the lengthy investigation by the St Vincent FIU. This resulted in Antonio Gellizeau being arrested on 19 December 2008 and charged with the illegal importation and concealment of the cash seized.

If applicable, please identify/describe the liaison officer positions within your law enforcement authorities

See response above

232. Subparagraph 1 (f) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

This is done under the overall arrangements for implementing measures in subparas a-e above

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Non-corruption related example:

In 2008/09, a strand of SOCA activity aimed to reduce the estimated £340 million lost every year by victims in the UK to criminal frauds originating in West Africa. To this end a strong partnership was formed with the Nigerian Economic and Financial Crimes Commission (EFCC). The EFCC were thus an active member of the international working group and partners with the UK in a project to target the communication infrastructure criminals use to make and maintain contact with victims. A subsequent successful programme to intercept fraudulent mail in Lagos resulted in Nigerian criminals being displaced to other West African countries, where SOCA and local law enforcement pursued them. SOCA's main contribution was to provide intelligence and tools to help the authorities identify and prosecute offenders.

233. Paragraph 2 of article 48

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

Has your country entered into bilateral or multilateral agreements or arrangements on direct cooperation with law enforcement agencies of other States Parties? (Check one answer)

(Y) Yes

Please cite and attach the applicable bilateral or multilateral agreement(s) or arrangement(s) or other measure(s)

Please cite the text(s)

We do not have a comprehensive list of relevant agreements. However, it may be useful to note that the UK is a member of Europol; Europol as from 1st January 2010 became an EU body and is mandated through the following EU Council Decision;

https://www.europol.europa.eu/sites/default/files/council_decision.pdf

Europol supports the law enforcement activities of the member states mainly against:

- Illicit drug trafficking;
- Illicit immigration networks;
- Terrorism;
- Forgery of money (counterfeiting of the euro) and other means of payment;
- Trafficking in human beings (including child pornography);
- Illicit vehicle trafficking;
- Money laundering.

In addition, other main priorities for Europol include combating crimes against persons, financial crime and cybercrime. Europol comes into action when an organised criminal structure is involved or a case of terrorism or serious crime has occurred which affects two or more Member States.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

If applicable and available, please provide information on law enforcement cooperation provided or received making use of bilateral or multilateral agreements or arrangements, including international or regional organizations

See responses to subparagraphs 1 (a) and (b)

Does your country consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention? (Check one answer)

(P) Yes, in part

If applicable and available, please provide information on law enforcement cooperation provided or received using this Convention as the legal basis

The UK is also able to cooperate with overseas law enforcement without the UNCAC.

234. Paragraph 3 of article 48

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

The UK approach is to prosecute the offence, in this case corruption - which is an offence, rather than the means by which it is committed i.e. including through use of modern technology. Therefore law enforcement co-operation in combating corruption, including that committed using technology will follow the measures and examples mentioned above.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

See previous responses

235. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

236. Article 49

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable bilateral or multilateral agreement(s) or arrangement(s) or other measure(s)

Please cite the text(s)

Council Framework Decision of 13 June 2002 on Joint Investigation Teams (2002/465/JHA) is a Governmental agreement signed up to by EU Member States which JITs are based on.

The UK makes use of JITs which are geared towards assisting MS law enforcement authorities tasked with instigating complex investigations into organised crime groups, by virtue of which cross jurisdictional serious criminality can be tackled by different LE agencies working in single teams. Both Europol and Eurojust have an important part to play in JIT operations; indeed the latter hold responsibility for the provision of detailed legal advice of an international nature on any given aspect of a JIT-related activity. Both Eurojust and the European Commission have responsibility for the provision of funding to those Member States who actively participate in a JIT. JITs negate the need for an International Letters of Request (ILOR) between Member States.

Please attach the text(s)

Council Framework Decision of 13 June 2002 on Joint Investigation Teams (2002/465/JHA)
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0465:EN:HTML>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

Non-corruption related example of JIT:

In May 2010, an 'international day of action' involving 750 officers, coordinated through a Joint Investigation Team (JIT) between UK, Spain, Ireland and Belgium, targeted a organised crime network suspected of trafficking both large quantities of drugs and firearms to gangs across the UK and Europe, and of laundering hundreds of millions of pounds in criminal proceeds. Dawn raids across Europe resulted in 35 arrests. In the UK, around 230 SOCA officers searched business and residential addresses and 10 people were arrested. The man believed to be the head of the network was arrested in Spain.

If available, please provide information on all joint investigations and joint investigative bodies

See previous response

237. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

238. Paragraph 1 of article 50

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Covert surveillance and covert human intelligence sources are regulated by Part II of the Regulation of Investigatory Powers Act 2000 ("RIPA") in England, Wales and Northern Ireland - and by the Regulation of Investigatory Powers (Scotland) Act 2000 in Scotland.

Property interference is regulated by Part III of the Police Act 1997 (for law enforcement agencies) and section 5 of the Intelligence Services Act 1994 (for intelligence agencies) throughout the United Kingdom.

There is no bar on material obtained by the use of these techniques being used as evidence in court. Sensitive material may be protected from disclosure at the discretion of the trial judge considering the public interest under the Criminal Procedure and Investigations Act 1996.

Please attach the text(s)

Regulation of Investigatory Powers Act 2000

<http://www.legislation.gov.uk/ukpga/2000/23/contents>

Regulation of Investigatory Powers (Scotland) Act 2000

<http://www.legislation.gov.uk/asp/2000/11/contents>

Police Act 1997 <http://www.legislation.gov.uk/ukpga/1997/50/contents>

Intelligence Services Act 1994

<http://www.legislation.gov.uk/ukpga/1994/13/contents>

Criminal Procedure and Investigations Act 1996

<http://www.legislation.gov.uk/ukpga/1996/25/contents>

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including related court or other cases

The Overseas Anti-Corruption Unit (OACU) in the City of London Police have gathered both intelligence and evidential material within the UK

jurisdiction using static (observation posts) and mobile surveillance techniques on numerous occasions, some of which has been admitted in evidence in the UK and abroad. Both historic and proactive interception of communication data has also been used for both intelligence and evidential purposes, relating to both telephonic and data transactions. Some of the scenarios are sub-judice and the covert surveillance processes are often intelligence gathering exercises rather than evidential gathering and are protected by Public Interest Immunity (PII) guidelines.

SOCA examples of cases (all non-corruption related):

In 2010/11, seven men were jailed for their roles in bringing over half a billion pounds worth of cocaine into the UK hidden in metal pipes. They were caught after an 80 kg haul, with a street value of £15 million, was discovered at Dover. SOCA officers switched the drugs for flour and allowed the pipes to be transported to a warehouse in Manchester. Officers obtained evidence to show that there had been more than 30 previous deliveries to the warehouse identical to the one that had been intercepted. If each contained a similar amount of cocaine then the total amount could have had a street value of almost £500 million.

In February 2010, three members of a drug trafficking gang were jailed for a total of 65 years for their roles in a plot to supply 299 kilos of high purity cocaine. Undercover SOCA officers infiltrated the gang in March 2009 - posing as criminals who could arrange delivery of the cocaine - and after a number of meetings a 'handover' took place near to an industrial estate in Leicestershire, on 22/04/2009. A van containing the bales of cocaine was then stopped by armed officers on a motorway. Two men were arrested on the same day in London. Both men were sentenced on 12/02/2010 to 28 years' imprisonment for conspiracy to supply cocaine. A further gang member was arrested at Heathrow airport on 18 June 2009. He pleaded guilty to the same offence and was jailed for nine years. During the operation, the undercover officers were given £320,800 as part payment for the delivery service they were offering. This was seized under Proceeds of Crime Act 2002.

In August 2011, drug smugglers who attempted to import almost 80kg of heroin into the UK disguised as chilli powder were sentenced to a total of 40 years in prison. The heroin had been shipped in a single container to the UK from Asia in November 2010. Gulab Mohammed, 51, was found guilty of importation of a Class A drug. He was sentenced to 21 years in prison. His son, Khalid Mohammed, 29, pleaded guilty to importation of a Class A drug in April. He was sentenced to 19 years' imprisonment. The SOCA investigation showed that the Mohammeds had used a shipping agency to transport the heroin from Pakistan to the UK. On its arrival at Felixstowe on 03/11/2010, the container was scanned by UK Border Agency officers and found to contain 600 20kg sacks of red chilli powder. Twelve beige coloured packages were found in one of the sacks near the rear of the container, and when tested, the contents were found to be

heroin. Six further sacks in the final row of the container also contained quantities of the drug. SOCA officers substituted the heroin with a safe substance and then sent the consignment, driven by an undercover SOCA officer, to the delivery address in Birmingham. On his arrival he was met by the Mohammeds who asked him to take the container on to an industrial unit in Shropshire. After arriving at the unit, the container was subsequently unloaded and the father and son arrested by SOCA officers. The judge granted Travel Restriction Orders against both men which will come into effect on their release from prison.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available.

Figures on authorisation of each covert technique under regulation are published annually by independent Commissioners appointed to oversee public authority compliance with the relevant legislation.

The latest figures for UK law enforcement and intelligence agencies are for the 2010/11 financial year:

property interference	2,701
covert human intelligence sources	4,176
covert surveillance	14,178

The figure for covert human intelligence sources includes both the deployment of undercover officers from law enforcement or intelligence agencies and the management of members of the public providing information derived from a relationship with a covert purpose.

The figure for covert surveillance covers both 398 for 'intrusive' surveillance (on private property) and 13,780 for 'directed' surveillance (in public places).

A more detailed breakdown is not available.

If available, please provide information on recent cases in which controlled delivery or other special investigative techniques have been used and admitted in court

OACU actively assisted the deployment of a foreign national within the UK jurisdiction in a covert role whose actions have been evidenced and used in a series of trials relating to multiple offenders from both the UK and a number of other foreign jurisdictions. A number of these trials are still ongoing but some earlier hearings have resulted in guilty pleas and defendant cooperation. In support of the same case OACU deployed UK officers to obtain surveillance material relating to this investigation in a foreign jurisdiction under a RIPA authority for potential use in the UK.

239. Paragraph 2 of article 50

2. For the purpose of investigating the offences covered by this Convention, States parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

Please cite and attach the applicable bilateral or multilateral agreement(s) or arrangement(s) or other measure(s)

Please cite the text(s)

The UK implements this provision in practice. Please see examples below.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation

There are a number of international (and EU) mechanisms in place to facilitate the use of joint operations. Amongst others these include:

- Bilateral engagement through the SOCA Liaison Officer Network; Engagement through Europol (facilitating engagement through the UK Liaison Bureau (UKLB), through information sharing with Europol and Member States to identify opportunities for operational engagement and, through setting up coordination meetings, etc);
- Engagement through Interpol (information sharing (entity data on persons, objects and biometric data), circulating notices on persons and objects of interest (including wanted persons), and, through setting up coordination meetings);
- Engagement through Eurojust, e.g. to facilitate the exchange of International Letters of Request;
- Schengen: whilst the UK is partial signatory of the Schengen convention, the UK currently participates in some measures including Article 40 (cross-border surveillance) and Articles 39 and 46, which support the exchange and provision of information in relation to a person or object of interest;
- The European Arrest Warrant, administered through SOCA International;
- Engagement through the Comprehensive Operational Strategic Planning for Police (COSPOL) framework projects - the UK participates in all seven existing projects, which provide a platform for Member States to establish agreed objectives and plans to tackle specific areas of criminality. Europol is also key to the

effective running of COSPOL projects, allocating specialists to each project and providing analytical support through its Analysis Workfiles (AWFs);

- SOCA advocates the use of Joint Investigation Teams (JITs) as a mechanism for supporting international operational engagement.

SOCA is the designated competent authority and single point of contact in the UK for cross border surveillance. There are a number of methods for requesting surveillance from another country, namely: Article 40 of the Schengen Acquis; Europol; the SOCA Liaison Officer (SLO) network; and an International Letter of Request (ILOR).

The UK is a signatory to Article 40 of the Schengen Acquis which deals with cross border surveillance. Under Article 40, the UK co-operates with other European states to facilitate surveillance operations that cross national borders. The UK can make a request to any European country that is also a signatory to Article 40. The obligation to act is reciprocal. If material is required evidentially, it will still have to be requested via an International Letter of Request.

Also see separate reference to Controlled Deliveries under paragraph 4 below.

If available, please provide information on recent cases in which bilateral or multilateral agreements or arrangements have facilitated the use of special investigative techniques

OACU have also engaged in joint cross-border international investigations

where RIPA authorities have been obtained to gather material in the foreign jurisdiction with a view to potential use in the UK for intelligence or evidential purposes. The unit has also accommodated the activities of foreign nationals operating covertly in the UK jurisdiction to gain evidential and intelligence material for their home nation and offered support, security and practical advice and assistance. Normally these international arrangements are covered by a specific memorandum of understanding and existing supportive legislation or treaties and always advised in advance to prosecutors to ensure evidential gathering is lawful and admissible in the relevant jurisdiction.

OACU actively assisted the deployment of a foreign national within the UK jurisdiction in a covert role whose actions have been evidenced and used in a series of trials relating to multiple offenders from both the UK and a number of other foreign jurisdictions. A number of these trials are still ongoing but some earlier hearings have resulted in guilty pleas and defendant cooperation. In support of the same case OACU deployed UK officers to obtain surveillance material relating to this investigation in a foreign jurisdiction under a RIPA authority for potential use in the

UK.

Non-corruption related example:

In October 2010, Timothy Dale was sentenced to 18 years for masterminding an attempted 37kg cocaine deal, in a prosecution based on evidence passed to the UK by the Dutch authorities. In September 2007, Dale attempted to buy 37kg of cocaine for EUR 1million from a British gang located in Amsterdam. The gang was already being targeted by the Dutch National Crime Squad. Phone calls between Dale and Richard Wright in the Netherlands were intercepted by the Dutch NCS. When Wright arranged for a courier to transport the drugs concealed in the door panels of a car, police stopped the car as it approached the Belgian border. A search revealed 37kg of cocaine hidden. All four members of the gang along with the courier were arrested by the Dutch and have since received sentences totalling 26 years. Under Dutch law, Dale could not be prosecuted for his role in the conspiracy. SOCA contacted the Dutch authorities and agreed a prosecution in the UK. The overwhelming evidence against Dale, who by his own admission had been dealing in drugs for more than 20 years, resulted in his guilty pleas at Southwark Crown Court on 27/10/2010 and his subsequent 18 year sentence.

240. Paragraph 3 of article 50

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s) or policy(ies)

Please cite the text(s)

The UK implements this provision in practice - see example below.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of implementation, including instances when decisions to use special investigative techniques at the international level were made on a case-by-case basis

OACU actively assisted the deployment of a foreign national within the UK jurisdiction in a covert role whose actions have been evidenced and used in a series of trials relating to multiple offenders from both the UK and a

number of other foreign jurisdictions. A number of these trials are still ongoing but some earlier hearings have resulted in guilty pleas and defendant cooperation. In support of the same case OACU deployed UK officers to obtain surveillance material relating to this investigation in a foreign jurisdiction under a RIPA authority for potential use in the UK.

241. Paragraph 4 of article 50

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite and attach the applicable measure(s)

Please cite the text(s)

Controlled Deliveries

See previous references to legislation and measures for international cooperation above.

International referrals are notified to SOCA via the SOCA Liaison Officer network, from foreign law enforcement, or from Europol/Interpol. The referral will indicate that a commodity has arrived, or is destined to arrive, in the UK from overseas. International referrals are not subject to a defined threshold. The referral is adopted if it is viable for SOCA and if it meets the requirements of both UK and host country legislation. Operational activity undertaken outside the UK must comply with the legal requirements of the host country. Any controlled delivery activity that traverses UK borders will require formal engagement with and authorisation from the UK Border Agency.

SOCA has defined a Controlled Delivery as: 'An operational technique where illegal commodity, consignments containing illegal commodity or consignments where the illegal commodities have been substituted with inert material, are monitored under controlled circumstances with the intention of gaining intelligence and/or evidence against the suspects involved in the criminal activity'. 'Illegal commodity' is defined as: any substance, object, material that, the production of, possession of, use or supply of, is defined within UK law as illegal; or any substance, object or material that may not in itself be illegal but the circumstance of its arrival in the UK or intended future use constitutes a criminal offence.

Please attach the text(s)

If available, please attach the text(s) in any (other) official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

Please provide examples of cases and attach case law if available

In 2010/11, a German law enforcement agency identified a parcel containing two handguns with ammunition destined for an address in the southeast of England. Close collaboration with the German authorities, UKBA and the police forces of Hertfordshire, Lancashire and the Police Service of Northern Ireland led to the controlled delivery of this parcel and the arrest by SOCA of the intended recipient. The consignor has since been located and arrested by the authorities in Germany.

In June 2011, a drug gang who used a specially adapted hydraulic press to conceal 18.4kg of cocaine in an attempt to smuggle it into south west England were sentenced to 50 years' imprisonment. The concealment was discovered by German Customs Officers at Frankfurt Airport in December 2010 during a routine examination of two pallets which contained the component parts of the press. These had arrived from Bolivia, via Buenos Aires, destined for the UK. The consignment was forwarded to the UK, where the cocaine was removed by officers from SOCA before it was allowed to run its intended course. On 04/01/2011 the consignment was collected from Heathrow Airport and delivered to Mark Lang at an address in Torquay. SOCA kept the address under surveillance for almost two weeks. On 16/01/2011, Lang was joined at the premises by Jose Ricardo Gomez (a Mexican national who had arrived in the UK 2 days earlier) and Peter Ferguson, and together they opened the press. Gomez was required in the UK to open the concealment because of his specialist knowledge. At this point, all three were arrested by SOCA officers, working with Devon & Cornwall Police. Gomez pleaded guilty prior to trial and was sentenced to 17 years' imprisonment. Ferguson and Lang were sentenced to 18 and 15 years' imprisonment respectively.

If available, please provide related statistical data. Please provide per annum figures, as available

242. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)

(N) No

B. Other information

B. Other information

289. Other information

04/11/2011

United Kingdom of
Great Britain and
Northern Ireland

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Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of, or difficulties in, implementing the Convention other than those mentioned above.

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of or difficulties in implementing the Convention other than those mentioned above