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**Statement submitted by Christian Aid, Global
Witness and Tearfund on behalf of Bond Anti-
Corruption Group****

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Christian Aid, Global Witness and Tearfund present this statement on behalf of Bond.

BOND UNCAC Statement

This paper was prepared by the Bond¹ Anti-Corruption Group. The Anti-Corruption Group² is made up of likeminded British NGOs who, through their work, witness the devastating effects of corruption on developing countries every day.

Summary

The Arab Spring that swept North Africa and the Middle East is not only a protest and uprising against unaccountable leadership and corruption. It also showed the world the *cross-border* nature of corruption – it is still far too easy for unaccountable leaders to hide their stolen wealth overseas, and still far too many institutions in foreign jurisdictions that remain complicit in corruption.

As the Conference of States Parties meet again in Marrakech, Morocco, we call on signatories to the most important global instrument in the fight against corruption to reflect on the lessons of the Arab Spring, and to further strengthen the force of UNCAC.

In the discussions regarding the following points, more specifically, we respectfully call on the state parties to:

Asset Recovery and money laundering

- *Continue to strengthen asset recovery procedures, but also to review serious failures in the enforcement of anti-money laundering laws, and financial secrecy, which allow stolen assets to be hidden overseas in the first place. The CoSP 4 should look again at all of the commitments on anti-money laundering under the convention and take steps to speed their implementation.*

Prevention, civil society and parliamentary engagement

- *Continue to strengthen corruption prevention measures and to actively engage members of the public in the implementation of UNCAC. We urge states parties to commit to a public announcement communicating their anti-corruption commitments to their citizens and to outline ways that the public can be involved in tackling corruption.*
- *Reaffirm the role of Parliaments and legislatures as central agents in tackling corruption and to commit to a schedule for reporting plans and progress on national UNCAC implementation to these bodies.*

Review of implementation of UNCAC and bribery

- *Continue work on criminalising bribery, but also to curb it abroad by actively prosecuting perpetrators at home. We further urge state parties to provide adequate power and resources for investigation and prosecution, and to keep bribery on the agenda in the next CoSP in Panama.*

Finally, we call on the fourth Conference of State Parties to concur that broad civil society participation is an essential component of the UNCAC review process, and to see that Article 13 is fully enforced in practice. We therefore urge the state parties to mandate the secretariat of the convention to publish UNCAC Review 'country focal points' on the UNODC website.

1 Bond is the UK membership body for non-governmental organisations (NGOs) working in international development. Established in 1993, Bond now has 370 members (www.bond.org.uk).

2 The Bond Anti-Corruption Group, comprising CAFOD, Christian Aid, Global Witness, The Corner House, Tiri, Tearfund and Transparency International UK, is part of the Bond Governance Group, representing 63 UK-based NGOs.

INTRODUCTION AND CONTEXT

Since the previous conference of state parties to UNCAC (CoSP 3) in Doha in 2009, the world has witnessed the uprisings and protests of the Arab Spring across North Africa and the Middle East. These events have graphically illustrated the devastating and destabilising impacts that corruption can have on nations as unaccountable leaderships develop, and maintain their grip on power, through theft of state assets and patronage. But the Arab Spring also illustrated the complicity of institutions in foreign jurisdictions in the corruption that has robbed people of their rights and basic services, and undermined the stability of a whole region.

At the CoSP 4 there will no doubt be much reflection on the role that corruption played in the events of the Arab Spring. The Bond coalition sees this as an opportunity not only to reflect on the problems in those countries where protests have taken place, and the lessons which can be learned from them, but also in other jurisdictions where governments failed to regulate their companies and banks to ensure that they did not contribute to, or facilitate corruption overseas.

Governments in financial centres, and those that are home to multinational companies, should look again at their UNCAC commitments and at what they can do to tackle corruption overseas through better regulation, greater transparency and cooperation with the citizens of other states. **These should include robust actions against companies that pay bribes overseas, commitments to greater transparency in revenue streams and, in particular, steps to improve the enforcement of money laundering laws and procedures.** Most of these are covered by UNCAC.

Similarly, countries where corruption is a potential trigger for unrest should also look again at their UNCAC commitments and renew their efforts to comply with its articles. One crucial lesson from the uprisings of 2011, and the current UNCAC review process, is that making commitments and even passing laws is not the same as implementation. Countries should renew their commitment to meet their obligations in practice as well as on paper, and the UNCAC review process needs to reflect this.

As organisations concerned with the impacts of corruption on the citizens of countries in the developing, world we have made the following recommendations ahead of the next UNCAC meeting of state parties.

UNCAC CHAPTER V – ASSET RECOVERY AND ANTI-MONEY LAUNDERING (AML)

The Bond group endorses the position of the UNCAC Coalition on Asset recovery which deals with many of our concerns and sets out detailed recommendations for more effective asset recovery.

Asset recovery is likely to be high on the agenda at the CoSP with many state representatives keen to improve mechanisms for the return of their countries' stolen assets from overseas accounts. Bond supports any efforts by state parties to improve the mechanisms for the return of stolen assets, but state parties with major financial centres must go further and commit to a far more rigorous application of anti-money laundering laws and procedures to ensure that banks and other financial services do not accept corruptly obtained funds in the first place.

The secrecy that has made it so difficult to identify and return assets is the same secrecy that made it possible to hide the money in the first place. We would particularly draw state parties' attention to their obligations under Articles 14, 23 and 52 on money laundering and the prevention and detection of transfers of the proceeds of crime. The very fact that many states are legitimately calling for assets to be returned is evidence that these commitments are not being met. In particular state parties should consider further measures to hasten the cross-border exchange of information on money laundering.

We therefore recommend that state parties should not permit discussion of asset recovery at the CoSP without also discussing the failings in enforcement of the AML laws. States who are concerned to return stolen assets and those with concerns that corruptly or criminally obtained state funds are finding their ways into overseas financial centres, have a clear vested interest in calling on the regulators of those centres to properly enforce existing laws to curb the movement of corrupt money.

State parties with financial centres need to look again at their commitments under UNCAC in the light of the Arab spring and consider the failings of their current AML regimes. While most state parties have anti-money laundering laws in place, the problem is that they are not being effectively enforced. We recommend that all State parties commit at this CoSP to undertake a regulatory review of their banks' implementation of know-your-customer rules for high-risk politically exposed persons (PEPs) – ie the senior public officials who pose the greatest corruption risk. The UK's regulator, the Financial Services Authority, recently did this and found that three quarters of banks are failing to do enough in practice to identify their PEP customers and source of funds; five banks are now facing an enforcement process.

As well as encouraging state parties to broaden the discussion on asset recovery to include AML enforcement at the CoSP 4, we also urge state parties to push this agenda forward for discussion at the 5th Session. State parties should also consider the current system of secrecy in the financial sector which allows companies and individuals to hide their identities and evade detection and its impacts on corruption on tackling corruption.

UNCAC CHAPTER II - PREVENTION

Bond calls on the CoSP to take further action to prevent corruption. We re-affirm the UNCAC Coalition Article 13 statement and see the participation of society as essential to state efforts to prevent corruption. We support the work of the Open-ended Intergovernmental Working Group on the Prevention of Corruption and urge states to go further to ensure: the effective coordination of anti-corruption policies and the involvement of society in anti-corruption processes.

Civil society participation and Article 13

Corruption thrives in secrecy and permeates every level of society. Therefore progress to tackle and prevent corruption must involve public participation and transparency. Citizens are key agents in preventing corruption through watching and monitoring others, holding leaders to account in fulfilling anti-corruption commitments and changing a culture of indifference.

It is for this reason that those of us within the Bond group who work alongside and represent civil society organisations in developing countries advocate a greater need for society to be actively engaged in anti-corruption efforts. However, at present, many citizens are unaware of their State's anti-corruption commitments, including those under the UNCAC and therefore cannot hold their leaders to account for its implementation and are unable to play their part in implementing the Convention in their community.

The Bond anti-corruption group therefore call on state parties to commit to:

- Make a public announcement (preferably a Government Minister) informing citizens and elected representatives of their anti-corruption commitments – particularly UNCAC. This should outline ways that the public can be involved in tackling corruption and the mechanisms that the public can use to report suspected corruption in a safe manner.
- Mandate the Secretariat to the Convention (UNODC) to publish the name and contact details of each UNCAC Review country focal point on the UNODC website. This would allow citizens

to access information on the review process more easily and to potentially engage in the country review.

Parliamentary oversight and engagement

Furthermore, if corruption is to be prevented in the long term, then governance structures must be improved and strengthened. Parliaments, and other political institutions, stand at the apex of the accountability system and have a mandate to oversee anti-corruption policies and legislation. Elected representatives can help to ensure corruption is prevented through passing strong anti-corruption legislation, representing citizens, and ensuring the oversight of the executive branch. Yet elected representatives are often not engaged in efforts to implement UNCAC or the review process and thus remain unable to use their mandate to effectively ensure UNCAC is implemented within the state.

Consequently, Bond calls on the CoSP to re-affirm the role of Parliament and legislatures as central agents in tackling corruption and to commit to regularly report to these bodies on plans for and progress on, the state's implementation of UNCAC.

REVIEW OF THE IMPLEMENTATION OF UNCAC: Article 16 Bribery of Foreign Public Officials

As the first review of Chapter III is underway, and the Thematic report on Chapter III has been produced, we hope that the CoSP 4 and 5 will provide the opportunity to evaluate the successes and continued weaknesses in the fight against foreign bribery.

Bond welcomes the great strides forward which have been made by some states in regards to outlawing foreign bribery since the last conference of state parties. Several large and/or influential states have all outlawed foreign bribery and more are considering the same. These moves are warmly welcomed by the Bond group. However, some countries are still lagging behind when it comes to the enactment of robust legislation to tackle overseas bribery.

Furthermore, simply enacting legislation is not enough, state parties must provide the necessary resources for investigation and prosecution, and cases must be pursued vigorously by the appropriate agencies which should operate with complete independence. By CoSP 5 there should have been sufficient time to absorb the results of the current review and consider the effectiveness of these new laws which would warrant further discussion at the next CoSP.

The Bond group notes with particular concern the concerted attempts by business groups to water down leading anti-bribery legislation, in particular the US Foreign Corrupt Practices Act. At a time when global anti-bribery laws are beginning to catch up we urge those state parties with robust anti-bribery legislation to stand firm in their resolve to continue to prosecute overseas bribery and encourage other states to do likewise.

The Bond anti-corruption group calls on the CoSP to:

- To strive towards a global standard on anti-bribery and renew state parties' commitments to comply with Article 16 of the convention. For those that have not introduced adequate legislation to do so by CoSP 5, and for those that have, to lead by example and rigorously enforce their existing legislation ahead of CoSP 5.
- Put the issue of international bribery on the agenda for discussion at CoSP 5.

Review Mechanism

The Bond group contends that the implementation of UNCAC is dependent on an effective and transparent review process. We urge states in the forthcoming round of reviews to model best practice by inviting a peer country visit, ensuring civil society participation and publishing the full country report. Review teams should ensure that country reports emphasise the implementation of legislation, not solely the existence of compliant laws in statute. Review teams should also take note of all relevant materials, in particular alternative country reports produced by civil society.

TECHNICAL ASSISTANCE

Whilst the Bond group recognises that fact that requests for technical assistance by reviewing parties have not been forthcoming, it still welcomes offers of support and technical assistance and encourages state parties to take it up.