Government’s Response to IDC Report Hints at the Direction of Future Anti-Corruption Policy

JANUARY 31, 2017

On 16 January 2017, the UK Government published its response to the International Development Committee’s (“IDC”) report “Tackling Corruption Overseas”. The original IDC report appraised the UK Government’s efforts in tackling bribery and corruption, and made several recommendations for improvements in this area. Although the Government “welcomes” the IDC’s review of its anti-corruption efforts, the response itself goes on either to disagree or only partially agree with several of the recommendations made.

Areas of Agreement

Most of the IDC recommendations with which the Government agrees are relatively unsurprising. They include the development of a cross-governmental anti-corruption strategy, continued commitment to anti-corruption measures as the UK exits the EU, better use of anti-corruption research, improved engagement with foreign parliaments, working with governments in priority countries (for example Nigeria, Pakistan and India) to encourage greater protection for whistleblowers, and developing a better system for monitoring progress in terms of anti-corruption strategy.

The Government also agreed with the IDC’s suggestion of a thorough assessment of money already laundered through the UK. However, it pointed to the National Risk Assessment of Money Laundering and Terrorist Financing (“NRA”) published in October 2015 as evidence that it had already conducted such an assessment and stated that it will keep the NRA under review. The Government also committed to ensuring that the UK’s Overseas Territories and Crown Dependencies (“OTCDs”) met Financial Action Task Force Standards on Money Laundering and do not act as havens for funds resulting from corruption or other criminal activity.

Additionally, the Government agreed to engage with suggestions on commodity trading made by Publish What You Pay[1]—namely that it introduce mandatory additional reporting requirements for any oil, gas and mining companies engaged in commodities trading. The IDC report praised the UK’s strong contribution so far in the extractive industries, and hailed Chapter 10 of the EU Accounting Directive 2013/34/EU as a breakthrough in transparency.[2]

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Areas of Disagreement and "Partial Agreement"

Some of the recommendations with which the Government disagreed or only "partially agreed" with are notable. For example, the IDC report recommended that the Government uses its full weight to lobby OTCDs to create public beneficial ownership registers. This follows the establishment of a fully public beneficial ownership register in the UK (see previous WilmerHale W.I.R.E. UK blog post). However, the Government expressly disagreed with this recommendation and stated that the commitment given by OTCDs to establish central (but not public) beneficial ownership registers or similarly effective systems, and to provide UK law enforcement authorities with rapid access to this information, was sufficient to put them well ahead of many other international financial centres.

The Government also expressly disagreed with public, country-by-country reporting by UK-based multinationals of profits and payments to governments. The IDC report considered that publishing these figures would enable citizens and journalists to check whether multinationals are paying their fair share of tax. In disagreeing with this recommendation, the Government pointed to its leadership in international efforts for greater tax transparency. This included initiating the Base Erosion and Profit Shifting Action Plan, which has been adopted by the OECD and G20 countries and which has led to a template for multinationals to report annually on a country-by-country basis. The Government states that such reporting has assisted tax authorities in assessing where risks lie and where their efforts to counter tax avoidance should be focused. Although it disagreed with this recommendation, the Government's response states that it remains firmly committed to a model of public country-by-country reporting, provided it can be agreed on a multilateral basis. The Government's stance on country-by-country reporting for multinationals, while perhaps disappointing for the IDC, is not surprising. The United Kingdom's country statement at the Anti-Corruption Summit in 2016 stated in clear terms that the UK "*supports the development of a global commitment for public country-by-country reporting on tax information for large multinational enterprises*". In other words, the Government believes that a country-by-country reporting requirement can only be successful on a multilateral basis. Whether or not this is likely to be achieved—particularly in light of the UK's plan to exit the European Union—is debatable. However, it is notable that the Government has not softened its position on the benefits of such reporting in the event that international agreement on the issue can be reached.

Other areas of disagreement were in relation to the report's recommendation that the position of Anti-Corruption Champion be made a cabinet-level position and with concerns raised that the OECD might not be the best forum for discussions and decisions on international tax matters.

The Government only partially agreed on the timescale of future anti-corruption country strategies. The report asked for minimum timescales of ten years for future anti-corruption strategies. However, while the Government agreed to develop rolling strategies with a 10 timescale, it argued that "*shorter term detailed programme and influencing agendas*" are also needed, to ensure that its anti-corruption strategies are adaptable.

Next Steps

Exactly how the report moves forward from here depends on what is agreed in subsequent IDC meetings. It is understood that the members of the IDC are closely monitoring the passage of the Criminal Finances Bill 2016-17 through Parliament and that there is unlikely to be any substantial follow-up before the provisions of that Bill are more settled (see this previous WilmerHale W.I.R.E. UK blog post for a discussion of the controversial POCA measures proposed in the Criminal Finances Bill).

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[1] A group of civil society organizations that advocates for financial transparency in the extractive industry.

[2] Chapter 10 of the EU Accounting Directive requires certain entities in EU Member States involved in the extractive industry to report payments made to governments in other countries.

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