

## **Written Evidence submitted by Dr Mary Young and Dr Michael Woodiwiss, University of the West of England (CSS0003)**

### **Executive Summary/Structure of Evidence:**

- The evidence will first discuss the disconnection existing between policy makers and academics in the context of threat analysis and organised crime control policy making (para 1).
- The lack of communication between policy makers and academics has allowed for a flawed understanding of the concept of organised crime (para 2);
- This flawed understanding results in definitional problems and confusing political and legal responses from the UK government (para 3) in terms of combating organised crime purported to present a security threat to the UK. It is imperative that definitions are solidified before allocating funds to CSSF-relevant programmes.
- In response to the confused identity of organised crime in the UK, we suggest the adoption of a literal definition until a process has been completed that allows for a scientific and objective conceptualisation of the phenomenon (para 4). As a cross-government fund, the CSSF's understanding of organised crime must be consistent with the definitions used by the key HMG Policy Frameworks, including the Organised Crime Strategy and the Defence Engagement Strategy.
- Organised crime activity is encouraged by the UK's secrecy jurisdictions which play a major role in the creation of criminogenic environments (para 5). If the CSSF is to encourage stability and limit the legitimisation of ill-gotten gains, the Government has to recognise that its Overseas Territories and Crown Dependencies are conduits for organised crime because they are able to offer a range of financial secrecy products to the criminal account holder.
- The U.K. can learn to avoid some of the disastrous consequences that have resulted from U.S. aid funding being misused in Latin America, by paying heed to the devastating outcomes generated by U.S. initiatives similar to the CSSF (para 6).
- Current arrangements for management of CSSF funding do not appear adequate to prevent the misdirection of funds into the wrong hands. Coupled with a lack of transparency and accountability in the current funding process, we foresee opportunities for corrupt actors to misuse aid funding (paras 7 and 8).
- Recommendations (para 9).

### **Profile of Dr Mary Alice Young, Senior Lecturer, Bristol Law School, University of the West of England:**

As a Senior Lecturer at Bristol Law School (University of the West of England), I am one of the few experts on the criminal misuse of offshore financial centres. My research focuses on organised financial crime in Britain's Overseas Territories. Having established a media presence, I am regularly invited to lecture and give talks on the subject of organised financial crime for a range of audiences, including for the Abu Dhabi police force, the Financial Services Authority and the Tax Justice Network. I have been invited to speak by Dods Parliamentary Communications and to collaborate with RUSI's Centre for Financial Crime & Security Studies.

### **Profile of Dr Michael Woodiwiss, Senior Lecturer, Department of History,**

### **University of the West of England:**

As a Senior Lecturer in History (University of the West of England), I am committed to researching organised crime, corporate crime, corruption and the attempts to control these types of criminal activity. As a leading global authority on the conceptualisation of organised crime, I have written three monographs on the topic. My work is widely cited by criminologists, lawyers, historians and others working in the area of organised crime research. I am published in the British Journal of Criminology, Global Crime and The International Criminal Justice Review.

Young and Woodiwiss are collaborating on research which assesses the use of U.S. Government aid money specifically designated for TOC control security strategies – ergo, the Caribbean Basin Security Initiative (CBSI) implemented in Jamaica. They have developed links with colleagues based at Colombian and Mexican Universities to broaden their analysis to cover Plan Colombia and the Merida Initiative (controversial security cooperation agreements between the U.S. and the aforementioned countries, with similar objectives to the CSSF).

### **Presentation of Evidence:**

#### **1. Collaboration with academic experts to address issues surrounding the conceptualisation of organised crime as a security threat.**

Although the Government has made efforts to bridge the gap between academics and officials, (for example the setting-up of the Organised Crime Virtual Research Hub in 2012) a disconnect continues to exist in discussions about organised crime and the security threat it is purported to pose, between those in government who promote or administer efforts against it and many academics who research the area and generally find ‘threat analysis’ unhelpful and misleading. This disconnection exists within UK policy making because the term ‘organised crime’, is often incorrectly overused to represent the notion of a security threat. Organised crime is a heavily politicised term, defined by the influences and biases of whoever is using it at the time.<sup>1</sup> The CSSF’s spending decisions to combat the security threat identified as organised crime rest on undefined and opaque terminology and for this reason we advocate greater collaboration with academic experts to arrive at an understanding of organised crime which will enable effective policy making.

#### **2. Rectify the definitional challenges of organised crime.**

Organised crime is a concept that carries a variety of vague meanings and is open to definitional challenges at the national, regional and international levels of norm making. For example, the definition contained in the United Nations Convention Against Transnational Organised Crime,<sup>2</sup> is wide open to interpretation; this translates into the inconsistent application of laws at the domestic level. Until definitional problems are addressed, the use of the CSSF to combat organised crime posing as a security threat is essentially aimless and the UK taxpayer’s money risks falling into the hands of self-serving NGOs and corrupt or terrorised officials in fragile and conflict affected states.

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<sup>1</sup> As acknowledged by Beare and Naylor in their written evidence to the Law Commission of Canada in 1999 (<https://www.ncjrs.gov/nathanson/organized.html>), organised crime is a concept which is able to mutate into whatever the politician wants it to be.

<sup>2</sup> Article 2, United Nations Convention against Transnational Organized Crime and the Protocols Thereto, New York, 2004 UN Convention Against Transnational Organized Crime (A/RES/55/25) 15 November 2000.

**3. Confusion over what organised crime is, will lead to a confused response.**

The Government has a confused response to organised crime, best illustrated by paragraph 3.14 of the National Security Strategy and Strategic Defence and Security Review 2015 (the Review).<sup>3</sup> Paragraph 3.14 asserts that organised crime costs the UK at least £24 billion every year. The range of illicit activities includes, ‘cyber crime, child sexual exploitation and abuse, illegal firearms, organised immigration crime, drug trafficking, economic crime including fraud, money laundering and bribery and corruption’. However, tax evasion, environmental crime, wildlife trafficking, people trafficking, human smuggling and slavery are absent from the list. We recognise that the inventory of organised crimes in the Review is not finite. However, the explicit exclusion of some of the most identifiable organised crimes, highlights a distinct lack of awareness concerning the scope of the definition of organised crime and concomitantly when this becomes a security threat. Moreover, some of the terms used, appear to bundle up concepts that from both a legal and a political perspective are different. For example, the concept of ‘organised immigration crime’ fails to distinguish between illegal immigration, human smuggling and human trafficking. It is all the more imperative that the government distinguishes between such concepts,<sup>4</sup> as there are different legal and political consequences for each. Unfortunately, the term ‘organised immigration crime’ is used as a catch all phrase, which reinforces the fundamental misunderstandings of the conceptualisation of organised crime contained within UK government policy; this points to the broader confusion by UK policy makers as to what constitutes an organised crime.

**4. Work towards a consistent definition of organised crime.**

We recommend that the Committee adopts a wider, literal definition of organised crime until a scientific and objective conceptualisation of the phenomenon can be identified. This would address the inadequacy of the ‘threat analysis’ concept adopted by the National Security Reviews. Instead of definitions which are distorted through the lens of national security discourse, we advocate that organised crime should initially be defined as systematic criminal activity for power or profit. Organised crime best describes illegal business activity that is conducted in environments where the state is corrupt or irrelevant. These environments can include conflict areas where opportunities for illegal and violent activity proliferate. They also include stable areas hosting financial institutions which are protected by secrecy laws and practices, these primarily encompassing the British Overseas Territories and Crown Dependencies.

**5. The UK’s secrecy jurisdictions enable financial crime activities.**

Paragraph 3.15 of the Review acknowledges that a ‘substantial’ proportion of the UK’s foreign exchange turnover of a reported \$2.7 trillion is criminally laundered money and that the UK banking sector is vulnerable to laundering the proceeds from ‘crime conducted around the world’.<sup>5</sup> The renowned journalist Roberto Saviano, asserts that the City of London’s financial services industry

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<sup>3</sup> HM Government, ‘National Security Strategy and Strategic Defence and Security Review 2015: A Secure and Prosperous United Kingdom’, Cm 9161, November 2015, para 3.14.

<sup>4</sup> As acknowledged by R. Väyrynen in a 2003 Working Paper for the United Nations University (<https://www.wider.unu.edu/publication/illegal-immigration-human-trafficking-and-organized-crime>), ‘it is important to make a careful distinction between illegal immigration, human smuggling, and human trafficking which are nested, but yet different concepts’.

<sup>5</sup> The Review, *op. cit.*, para 3.15.

facilitates a system that makes the UK the most corrupt nation in the world.<sup>6</sup> We believe that the UK Government needs to respond to such charges if it is to retain its international credibility as a nation opposed to organised crime. However, the Review fails to highlight the pivotal role of the UK's financial secrecy jurisdictions in creating criminogenic environments, which in turn encourages organised crime – considered a security threat to the UK. This facilitation of organised crime jars with a statement in the CSSF Thematic Information Paper on Security and Justice,<sup>7</sup> in which the Organised Crime Strategy recognises that organised crime in other jurisdictions represents a direct security threat to the UK.

## **6. Learn from the mistakes of other initiatives designed to combat organised crime defined as a security threat.**

In scrutinising and evaluating the expenditure of the CSSF and the effectiveness of it as a security agreement between the UK and fragile and conflict affected states, the UK should learn from the lessons of the U.S. in order to avoid making the mistakes outlined below. The U.S. Congress, via the Plan Colombia and Mérida (PCM) Initiatives has been responsible for deciding how to spend American tax dollars in Colombia and Mexico in the 'war against the drug cartels' (designated by the U.S. as representing both organised crime networks and security threats). The PCM initiatives share many similarities with the CSSF, as the main objectives of all, involve the disruption of organised criminal groups, defined as security threats; and engagement with the security and justice systems in fragile and conflict affected settings. While the PCM initiatives have sought to institutionalise 'reforms to sustain the rule of law and support for human rights',<sup>8</sup> in Mexico and Colombia, the reality has been far from this ideal. The PCM initiatives' negative consequences for human rights and inadequate, often counter-productive, responses to organised criminality are well documented.<sup>9</sup> In 2008, Amnesty International urged 'the US Congress to maintain human rights safeguards in the Merida initiative – legislation to fund a security cooperation package between the US, Mexico and Central America', and recognised that 'security cannot be achieved without human rights'.<sup>10</sup> Despite these concerns, since 2014 more than US\$380 million has been sent from the U.S. to assist Mexican security forces in combating organised crime; funding which supports documented brutal human rights abuses. In 2015, the Center for International Policy argued that Congress should halt all Mérida Initiative funding and focus on, 'what U.S. aid to Mexican security forces is actually supporting: namely, human rights abuses'.<sup>11</sup>

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<sup>6</sup> Speaking at the Hay Festival in May 2016

(<https://www.theguardian.com/books/2016/may/29/roberto-saviano-london-is-heart-of-global-financial-corruption>), Saviano stated that, '[n]inety per cent of the owners of capital in London have their headquarters offshore' and that, 'Jersey and the Caymans are the access gates to criminal capital in Europe and the UK is the country that allows it'.

<sup>7</sup> CSSF: Thematic Information Paper (TIP) Security & Justice, Official 180914, p. 1.

(<http://sclr.stabilisationunit.gov.uk/images/supub/downloads/cssf-tips-security-and-justice.pdf>)

<sup>8</sup> See: <http://www.state.gov/j/inl/merida/>.

<sup>9</sup> As acknowledged by Laura Carlsen in 2015 (<http://www.cipamericas.org/archives/14307>), 'The justice system has gotten worse...under attempts at reform that have been heavily funded by the U.S. government.'

<sup>10</sup> On 4 June 2008, Amnesty International, reported that the '[Merida Initiative can only deliver security with human rights](#)'.

<sup>11</sup> □ L. Carlsen, *op. cit.*

**7. Funds intended to combat organised crime and security threats perpetuate the problem, if they are misdirected to support political, criminal justice and policing structures that were already corrupt.**

Funds which are misdirected into the wrong hands exacerbate corruption problems. In Latin America, the continued interaction between traditional criminals and political and security actors in Colombia and Mexico threatens to make PCM policies even more disastrous: increasing rather than decreasing levels of violence and corruption. We are concerned that the CSSF will be counter-productive and open to the same kind of manipulation as PCM because there appears to be little accountability for the responsibility of managing the CSSF. Our concerns tally with those of the Joint Committee on the National Security Strategy (JCNSS), which examined the Review as the first inquiry of the 2015 Parliament. In particular, the JCNSS states that, '[w]e were surprised to learn ... that no single Minister has responsibility for the CSSF, which is instead overseen by a board staffed by officials, which is in turn accountable to a group of Ministers. That arrangement prompted the question how the performance of the CSSF is evaluated not only against the regional strategies established by the NSC to guide the use of its funds, but in terms of its strategic impact. It is also unclear how the development of a culture of integration across Whitehall is being assessed and by whom'.<sup>12</sup>

**8. There currently exists confusion, a lack of accountability and transparency, conceptual misunderstandings and uncertainty concerning the allocation of resources from the CSSF to combat organised crime and security threats.**

The inadequate management of the CSSF is pointedly highlighted by the presentation of Rt Hon Oliver Letwin's Oral Evidence to the Joint Committee on the National Security Strategy.<sup>13</sup> Mr Letwin chairs a sub-committee of the National Security Council set up to scrutinise the actions of colleagues responsible for fulfilling the commitments of the Strategic Defence and Security Review. We are particularly concerned with Mr Letwin's response to Q58: 'The point of the conflict, stability and security fund is to enable us to deploy resources from a wide range of Departments—including from the aid budget—to try to reduce conflict and increase stability and security. I am speaking here on the basis of guesswork rather than knowledge, because I have not gone into the innards of the £100 million that we are currently spending this year in Africa under the CSSF, but I'll bet you that some of it is on training'.<sup>14</sup> The lack of clarity concerning allocation of funds is especially worrying, given for example, the CSSF's 2015 call for proposals for projects in East Africa – a region blighted by the complex issues of fragile and conflict affected states. We identify that the lack of formal responsibility for the CSSF will foster the conditions for transparency and accountability problems relating to the monitoring, evaluation and scrutiny processes which would open up opportunities for corrupt political, law enforcement, criminal justice and business actors in East Africa, to misuse aid funding. The general misuse of UK aid-funding sent to corrupt countries is

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<sup>12</sup> [Joint Committee on the National Security Strategy, Inquiry into the National Security Strategy and the Strategic Defence and Security Review 2015](#). Paragraphs 85-88.

<sup>13</sup> [Joint Committee on the National Security Strategy. Oral evidence: National Security Strategy & Strategic Defence & Security Review, HC 153. Monday 23 May 2016](#).

<sup>14</sup> *Ibid.*

nothing new and we assume that the Committee wants to avoid negative media headlines generated by the CSSF – the type of which were levied at earlier Department for International Development (DFID) initiatives. For example, [‘Ten most corrupt countries in world have received £2.7 billion of UK aid since David Cameron took office’](#), (The Telegraph, 11 May 2016).

**9. With the lack of transparency and accountability in mind, we recommend the committee re-examine the processes for allocating funds to contractors to achieve the objectives of the CSSF and the NSC. We advocate the following recommendations to be considered by the Committee:**

- a) Identify a globally applicable framework or ‘blue print’ to assess the flow of money from the UK Government to combat organised crime in those conflict jurisdictions considered as posing a security threat to themselves as well as to other developed nations.
- b) Identify the causes and factors of the potential effective implementation of CSSF funded policies to combat organised crime/security threats as well as the scope and the impact of these outcomes on UK institutions.
- c) Create an international advisory board comprising of academic experts and officials. The creation of such a board will establish a network and cultivate long term relationships between law enforcement agencies and academics who want to see a more effective use of funding to understand and combat security threats at the local, regional and international levels.
- d) However, there are deep structural reasons behind all current conflicts and all organised crime issues relating to these conflicts and we would recommend that the Government, temporarily at least, freeze the CSSF while the issues outlined in this submission are addressed. In particular, we urge the Government urgently to set up a commission of inquiry into all the many and varied illegal activities that make up and define ‘organised crime’ and ‘transnational organised crime’. This country has never had such an inquiry. No government can hope to achieve a coherent and holistic organised crime control strategy without such an inquiry.

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