

Working Group on the International Code of Conduct Association (ICoCA Working Group)

Working Group on the International Code of Conduct Association Meeting of 28 January 2016

Chair's Summary

1. Introduction

A third exchange on the Working Group on the International Code of Conduct Association (ICoCA Working Group) was held under the Chairmanship of Sweden at the Permanent Mission of Sweden in Geneva on 28 January 2016. The meeting was attended by 17 Montreux Document participants, the Executive Director of the ICoCA, the Chairman of the Board of the ICoCA, and the Geneva Centre for the Democratic Control of Armed Forces (DCAF) who acts as the Secretariat for the MDF. This summary provides a brief account of key issues discussed during the meeting. Its content is the sole responsibility of the Chair and does not purport to reflect the consensual view of participants.

2. Opening remarks by the Chair of the ICoCA Working Group

In his opening remarks, Mr. Jonas Westerlund, Chair recalled the second meeting of the Working Group on 2 June 2015 whereby the Working Group had adopted the written proposal on the Working Group's interaction with the ICoCA (hereafter referred to as the guidelines). The Chair recalled that the Board of the ICoCA had also posed written questions to the Working Group prior to the meeting to which two delegations (United States and Switzerland) submitted responses. The Chair also recalled that the US had circulated supplementary questions during the June meeting. The Chair agreed to redistribute both responses and the supplementary questions to all Montreux Document participants.

3. Presentation by Mr. Orsmond on current activities in the ICoCA

Delegations heard a presentation by Mr. Andrew Orsmond, Executive Director of ICoCA, on updates regarding the ICoCA. The presentation was on the basis of two documents that were circulated to the Working Group in advance: the ICoCA 2014-2015 Annual Report and the Supplement to the Annual Report developed for the Working Group meeting.

The presentation highlighted that it was the first formal annual report of the ICoCA and focused on briefing the Working Group on updates to the membership of the Association as well as its Board of Directors, and the developments pertaining to certification, reporting, monitoring and performance assessment, and grievance mechanism procedures (Articles 11, 12 and 13 of the Articles of Association of the ICoCA respectively).

Mr. Orsmond expressed that membership in the ICoCA currently stands at 99 private security service providers, with 31 applications currently under review. There are also two new civil society applications and no new government pillar applications. Mr. Orsmond also presented updates on the development of certification procedures stating that at present the ICoCA has one formally recognized standard for certification of land-based PSCs (ANSI/ASIS PSC.1-2012 or PSC.1). A second standard for land-based

companies (ISO 18788), as well as one for maritime companies (ISO 28007), is currently under review by the ICoCA for recognition. Mr. Orsmond discussed also the challenges posed by the current certification system, particularly, for smaller and non-English-speaking companies, and noted the recent focus of the ICoCA Secretariat on exploring methods of making certification accessible for smaller companies. With respect to Article 12, Mr. Orsmond discussed that monitoring, reporting and performance assessment procedures are currently being drafted, including the identification of compliance indicators. Finally, Mr. Orsmond discussed that the development of procedures of the grievance mechanism was in the early stages of discussion.

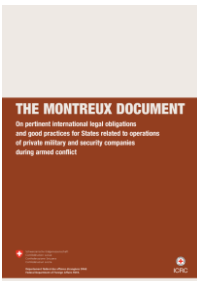
Following the presentation, participants were given the opportunity for questions. The discussion focused on the following issues:

- i. Membership:
 - It was expressed that non-state clients of PSCs such as extractive industries could have a more active voice in the process. Non-state clients are a key stakeholder in this issue and can be observers to the ICoCA.
- ii. Certification:
 - There were concerns with the cost of certification and the availability of certification bodies accredited to the existing PSC.1 standard, leading to an inaccessibility of certification for smaller companies. Delegations expressed the importance of ensuring that ICoCA membership becomes accessible to all companies;
 - With respect to oversight of the certification bodies themselves, it was discussed that there are challenges with ensuring effective oversight of national or international bodies to carry out certification, particularly with regard to the components of the ICoC.
- iii. Monitoring:
 - Delegations identified that there would be challenges with in-field monitoring and review of alleged PSC violations of the ICoC, especially in armed conflict or post-conflict environments.
- iv. Grievance mechanism:
 - There were questions regarding the practicalities of the grievance mechanism process and how the ICoCA will act as a facilitator. Given that the procedures are currently being developed, Mr. Orsmond expressed that this could be discussed again in the future.

Several delegations delivered updates on their national regulatory policies, where it became evident during the discussion that states may be open to delivering dedicated presentations on their national legislation during the next meeting. The Chair of the ICoCA Working Group expressed that he will coordinate bilaterally with interested delegations to arrange for dedicated panel presentations on national regulation during the next Working Group meeting.

4. DCAF Presentation of Paper – “The Montreux Document and the International Code of Conduct: Understanding the relationship between international initiatives to regulate the global private security industry”

DCAF delivered a presentation regarding its newly launched paper in the Public-Private Partnerships Series; an extract of this first paper was circulated in advance of the meeting. This paper offers a detailed comparison of the Montreux Document and the ICoCA. In particular, it identifies ways that different stakeholders – national authorities, international organisations and the industry itself can draw on these initiatives to encourage transparency and promote good practices at the national level. DCAF discussed that while states



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have the primary responsibility for security sector management and oversight, the complementarities and synergies of these initiatives can play an important role in regulating private security companies. DCAF discussed that the ICoC Association provides a significant avenue that states may use to meet their responsibility under international law to ensure respect for human rights and international humanitarian law by individuals and companies and to implement the rules and good practices recommended by the Montreux Document.

In the ensuing discussion, it was agreed that this DCAF paper would be circulated for wide distribution among the Working Group and Montreux Document participants as it gives a very clear overview of the relationship between the initiatives.

5. Any other issues

During the closing discussion, it was expressed that the Working Group would benefit from more regular flow of information from the ICoCA. It was discussed that this could take the format of a newsletter in between meetings. The Chair of the Working Group and the MDF Secretariat will consider this and follow-up with a proposal for more regular communication with the ICoCA in the next weeks.

On a related note, delegations discussed that it would be beneficial for members of the Working Group to not only receive but also ask questions to the Association as stipulated in the guidelines of the Working Group. The Chair of the Working Group proposed that delegations may submit possible questions to the Chair no later than end of February 2016 so that questions could be transmitted to the ICoCA ahead of its next Board of Directors Meeting 2-3 March 2016.

6. Next steps

The Chair of the Working Group expressed his willingness to hold more frequent meetings if participants so wished, and included the possibility of virtual exchange. The Working Group also discussed that the timing of the next meeting would be agreed on in a subsequent e-mail communication, potentially in May of 2016 or in conjunction with the next ICoCA Annual General Assembly in October of 2016.

Attachments:

1. Response of Switzerland to ICoCA questions
2. Response of United States to ICoCA questions
3. Supplementary questions proposed by United States during second Working Group meeting, 2 June 2015
4. DCAF paper "The Montreux Document and the International Code of Conduct: Understanding the relationship between international initiatives to regulate the global private security industry"
