



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

Working Group on the International Code of Conduct Association Meeting of 20 April 2018

Chair's Summary

1. Introduction

The eighth exchange of the Working Group on the International Code of Conduct Association (ICoCA Working Group) was held under the Chairmanship of the United States of America (USA) in Geneva on 20 April 2018. The meeting was attended by Montreux Document (MD) participants, Mr. Jamie Williamson, the Executive Director of the ICoCA, the Co-Chairs of the MDF (Switzerland and the International Committee of the Red Cross (ICRC)), and the Geneva Centre for the Democratic Control of Armed Forces (DCAF) which acts as the Secretariat for the Montreux Document Forum (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 statement by the Chair (US) of the ICoCA Working Group

In their opening remarks, Mr. Christopher Mayer and Mr. Ian McKay, representing the United States as the Chair of the Working Group recalled the agenda. The meeting served as an opportunity to engage with the Executive Director of the International Code of Conduct Association regarding the Association's work to produce a strategic plan for the ICoCA. The Chair welcomed Montreux Document participants to provide views to the ICoCA regarding a number of aspects of the Association's future operations. These responses can be submitted either via the elaborated questionnaire by 15 May 2018 (see attached) to allow for the ICoCA to discuss these responses during the Board meeting at the end of May. Additionally, MD participants may provide verbal feedback during the next meeting of the Working Group, which will reconvene on 6 June to allow states to provide feedback informed as appropriate by consultation with capitals.

3. Presentation from Representative of ICoCA on a strategic plan for the ICoCA

The presentation was delivered by Jamie Williamson, who provided background on the rationale of the strategic planning process. During the ICoCA Board meeting of January 2018, the Board agreed to launch a strategic planning process for the Association which would cumulate with a business plan to be presented to the ICoCA membership during the 2018 ICoCA General Assembly in October. From March until May 2018, the ICoCA is conducting an information gathering stage to solicit feedbacks from Montreux Document participants, as well as civil society and industry Members of the ICoCA to provide information on how the Association can develop and demonstrate value to stakeholders.

Subsequently, the ICoCA Executive Director presented updates with respect to the main functions of the ICoCA, namely certification. The ICoCA has launched its Transitional Membership Process. From 15 April 2018, new companies and current Member companies will have two years to obtain ICoCA Certification. Currently certification is driven through four recognized certification bodies and two accreditation bodies. The Executive Director mentioned that the Association has acknowledged this is a particular challenge to ensuring access to certification.

The Executive Director also gave an update as to the ICoCA's outreach initiatives and investment in situational awareness of PSCs in complex environments. Events at which ICoCA participated during the first quarter of 2018 included the [Regional Meeting of the Montreux Document Forum, in San Jose, Costa Rica](#), the Quarterly Meeting of the MENA Region Humanitarian & Security Forum, in Amman, Jordan, and the 2018 Annual Plenary Meeting of the Voluntary Principles on Security and Human Right, in Washington D.C., United States. The Executive Director then summarily discussed how the Association is building an understanding of the private security industry in complex environments and regional differences. For example, in the Middle East and North Africa region there is a lack of information on humanitarian actors using PSCs for safety and security of staff. In Asia, there are States with traditionally more insulated PSC industries which are rapidly internationalizing and regulation is becoming a priority for governments. In the Latin America and Caribbean (LAC) region which has a robust extractive industry using PSCs, there is a need to gather more information on the specific entry points for the ICoCA. Moreover, the Executive Director presented on how the ICoCA is exploring thematic approaches to regulation. For example, how can the ICoC support prevention of human rights violations related to sexual violence? The maritime industry is also an important part of the ICoCA's work given that a significant proportion of Member companies provide maritime security. Finally, the ICoCA is also engaging with other multilateral platforms such as the UN Working Group on mercenaries to exchange expertise.

With respect to oversight and capacity building, the ICoCA conducted field-based reviews (FBR) in Baghdad and Basra, Iraq in November 2017 and met with authorities, clients, security managers and companies to discuss the gaps in implementing the ICoC. Furthermore, ICoCA Guidance on Company Grievance Mechanisms will be available to Members and the public in May 2018. This Guidance will be in the form of a toolkit aimed at assisting Member companies in developing and operating fair and accessible company grievance mechanisms. Over the remainder of 2018, the ICoCA Secretariat will develop a Company Self-Assessment report and accompanying guidance on selection and vetting of personnel, a basic training package on the ICoCA and the Code of Conduct, and a Human Rights Impact Assessment (HRIA) tool.

In terms of thematic focus, the Association is also developing basic guidelines for the prevention of sexual exploitation and abuse. These guidelines will support Member companies in meeting their commitments under the Code of Conduct and in taking preventive measures and corrective action. The ICoCA is also focusing on selection and vetting of PSC personnel taking into consideration the issues of modern slavery and former child soldiers.

4. Summary of Interactive Discussion

The Chair of the Working Group first offered a few further thoughts prior to opening the discussion up to the floor. The Chair mentioned that it is important to show that the ICoCA has a return on investment, both from the perspective of governments and civil society who dedicate time, resources and efforts to ensure implementation of the ICoC, as well as for companies who invest significant resources to become ICoCA certified.

One MD participant expressed that they are fully in support of the ICoCA developing a strategic plan, a more nuanced understanding of the industry's operations in complex environments, as well as the tools regarding preventing sexual and gender-based violence. Regarding the Transitional Membership Process, the MD participant questioned how realistic it is to expect 80 companies to become certified in the next 2 years. What is the goal and how does the ICoCA envision reaching it? Secondly, the MD participant inquired about the limited number of accreditation and certification bodies given the broader market of PSCs. Has the ICoCA made a specific regional analysis to show the business case and the added value in order to amplify demand for accreditation and certification bodies? Another MD participant expressed that in the national procurement and contracting policies, ICoCA membership is not (and cannot) be required since in some environments there are no ICoCA Member companies. Faced with this 'catch-22 situation', what concrete things can States do? Furthermore, several MD participants added to these comments, thereby highlighting the need to increase capacity for accreditation and certification.

- ➔ The Chair noted that over half of the ICoCA member PSCs are already certified to one of the required standards by an accredited certification body, which is the biggest step towards obtaining ICoCA certification. Therefore a sizable number of companies should be able to be ICoCA certified by the deadline.
- ➔ The Executive Director responded that, as the system stands, it will be difficult to have 100% certification by April 2020. An increased capacity in terms of numbers and international coverage of certification bodies that are accredited by national accreditation bodies is likely to be required. The business case has to be made from various angles, in particular through clients (corporate as well as governments) requiring their private security companies to be certified to ICoCA standards and recognizing the importance of raising industry standards. Member companies should encourage their certification bodies to become accredited to be able to certify to the relevant PSC industry standards. States should encourage and press for the development of more accreditation and certification bodies.

One MD participant inquired on the issue of vetting and selection process of PSC personnel, in environments where a large labor pool is former child soldiers. What is the role of governments in situations when former child soldiers are subjected to exploitation by unethical labor practice of private security companies?

- ➔ The Executive Director noted that one of the priorities of the ICoCA relates to the selection and vetting of personnel by PSCs. Through the ICoCA's FBR and monitoring activities, the ICoCA has identified areas for further engagement, in particular on the recruitment of third country nationals, the outsourcing of recruitment to Third Parties and background checks. ICoCA will be working with PSCs to develop the appropriate tools and guidance to ensure ethical labor practice. With regards to the role of governments specifically, the Executive Director noted that as reflected in the Montreux Document, governments should develop and establish the necessary regulatory frameworks to prevent and punish unethical labor practice, and support ICoCA in enabling the responsible provision of private security services.

One MD participant inquired on State membership in the ICoCA and whether there is a vision for expansion.

- ➔ The Executive Director agreed that the current membership of States in the ICoCA leaves important regions unrepresented. To address this, an outreach strategy has been developed to encourage a greater number of States to join the ICoCA and to align priority objectives of the Association with the human rights and security interests of States and to raise industry standards globally. Furthermore,

the ICoCA Secretariat is performing a great deal of bilateral outreach to raise awareness of the initiative among governments.

- ➔ As a commentary on this, another Montreux Document participant added the need to raise awareness of the ICoCA and MD via other fora where different States may be more active, such as through the UN Open ended intergovernmental working group on PMSCs as well as the UN Working Group on mercenaries. The new mandate of the OEIGWG mentions that the Co-Chairs of the MDF and the ICoCA Executive Director may be invited for consultation during future meetings. This could be a valuable opportunity for the ICoCA to perform further outreach.

Switzerland also commented that the ICOC and the MD are initiatives which share conceptually in the same thematic area of business, security and human rights. It is therefore important to maintain the link and ensure synergy of the ICOC with the “Protect, respect, and remedy” framework of the UN Guiding Principles on Business and Human Rights and National Action Plans on Business and Human Rights.

During the remainder of the discussion, a number of MD participants inquired as to the next steps for the ICoCA in terms of Latin America, Asia and Africa region outreach. One MD participant also inquired as to any planned outreach via regional organisations such as the Organisation of American States, the African Union, the Caribbean Community or others.

- ➔ The Executive Director gave an overview of plans for the Africa region, noting follow up activities linked to the FBRs in Nigeria and Kenya. Outreach missions and possible FBRs are being contemplated possibly to Ghana and Somalia. Outreach via regional organisations is currently a gap; however, the ICoCA is also faced with capacities of the Secretariat which hope to expand and take forward this outreach as well. He also shared a debrief of the recent symposium in China organised by International Committee of the Red Cross, China University of Political Science and Law (CUPL) and the Swiss Embassy, called the “International Symposium on Private Security Companies in the Globalized Context and Legal Regulations.” During very fruitful discussions with participation of the Chinese government, and private security companies, civil society organisations and academia both from China and abroad, it was discussed how international standards related to private security can be of use to regulate Chinese companies operating abroad. There was a strong interest and a good knowledge of the ICoCA and the Montreux Document. The ICoCA made two presentations during the meeting and engaged with Chinese companies on the ICOC.

Two MD participants expressed that the ICoCA as well as the MDF and its Working Groups ought to be made more accessible in terms of languages and translation: Spanish and French documents and translation would be useful to increase active participation.

6. Any Other Business

The Co-Chairs of the MDF once more confirmed that the fourth Plenary Meeting of the MDF will take place on 6-7 June 2018 in the World Trade Organization building in Geneva. Importantly, participation of focal points from capital is welcomed and encouraged as this enables concrete discussions around implementation of the good practices of the Montreux Document. In terms of structure, the plenary will adopt a similar 1.5 day format with the first session open to all States, international organisations, civil society and industry; the second session open to States and international organisations only; and the third session open to MD participants only.

Regarding thematic focus, the plenary will look *inter alia* at themes of mutual legal assistance and cross border cooperation in monitoring and oversight of PMSCs; the relationship with other processes held in

Geneva such as within the Human Rights Council; the relevance of the MD beyond armed conflict; and the issue of military services provided by PMSCs. The Co-Chairs also noted that the 2018 plenary will commemorate the ten year anniversary of the signing Montreux Document.

In closing, the Chair once again invited MD participants to submit their feedbacks to the questionnaire which will enable a thoughtful and consultative process for the ICoCA's development of the strategic plan.

States should submit the questionnaire to the Secretariat by 15 May 2018 (a.burdzy@dcaf.ch).

The next meeting of the Working Group will take place in the morning of 6 June 2018. More precise information will follow through the Secretariat.
