



Geneva Centre for the Democratic Control of Armed Forces (DCAF)
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To Whom It May Concern,

On behalf of the International Corporate Accountability Roundtable (“ICAR”), a coalition of human rights, environmental, development and labor organizations, we offer the following statement in conjunction with the Drafting Conference for the Oversight Mechanism of the International Code of Conduct for Private Security Service Providers (“ICoC”).

ICAR believes that the Articles of Association of the ICoC (“Articles”) offer considerable improvements from the prior Draft. However, ICAR is concerned that the Articles, as currently envisioned, do not clearly provide the Mechanism with sufficient independence or authority to establish effective leadership and oversight of the industry efforts to identify, prevent, mitigate and account for the human rights impacts of their activities.

First, ICAR believes that the Articles provision 10.2.1, which sets forth certification criteria, must permit the Mechanism to consider guidelines that, unlike national standards, are human rights-protective. The reference to “national and international standards” is too narrowly focused and excludes consideration of an emerging range of guidelines on the issues addressed by the ICoC and developed in collaboration between industry and civil society and with reference to the UN Guiding Principles, the Global Compact, and other human rights oriented frameworks.

Second, ICAR believes that, under provision 11.2.3, the Secretariat, and not the Board or the organization as a whole, must be empowered to authorize field missions. The Mechanism’s ability to undertake field investigations is critical to its integrity and credibility – and as our members’ collective experience in other initiatives tells us, leaving this crucial function to a Board or to the entire membership raises questions about the Mechanism’s ability to exercise effective and independent oversight. As the Articles recognize, the Secretariat ultimately must answer to the Board, and this provides a check against abuse of this authority.

Third, when code violations are discovered, the Mechanism must be empowered to shape appropriate remediation steps and take disciplinary action if the company fails to cooperate or

to remediate in a timely manner. Such a sanction must include suspension or termination of membership.

Finally, ICAR believes that legal avenues of redress must be clearly available and preserved for claimants. Under provision 12.2.2 of the Articles, the reference to grievance mechanisms should clearly include such avenues of legal accountability, rather than referring only to company-level grievance mechanisms. Member companies must meet their responsibility to respect human rights by cooperating with such complaints processes, both judicial and non-judicial, as appropriate.

ICAR recently launched a report entitled “Human Rights Due Diligence: The Role of States,” which concludes that governments could make far greater use of legal tools to ensure business respect human rights, including through expanding or creating regulatory requirements to this effect. We therefore believe that governments party to the ICoC should explore increased regulation at the domestic and international level over this industry alongside strengthening human rights protections contained in the Code and Articles as we have suggested above.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Amol Mehra". The signature is fluid and cursive, with the first name "Amol" being more prominent than the last name "Mehra".

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