

**Temporary Steering Committee (TSC) for the International Code of Conduct (ICoC)**

# **Minutes**

**27 to 28 October 2011**

**Australian Embassy, 1601 Massachusetts Ave NW, Washington DC**

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**Present:**

David Dutton, Australian Department of Foreign Affairs and Trade (chair)

Chris Albin-Lackey, Human Rights Watch

Michael Clarke, G4S

Mark DeWitt, Triple Canopy

Joshua Dorosin, U.S. Department of State

Ian McKay, U.S. Department of State

Chris Meyer, U.S. Department of Defense

Jason Pielemeier, U.S. Department of State

Ian Proud, UK Foreign & Commonwealth Office

Meg Roggensack, Human Rights First

Sylvia White, Aegis

Anne-Marie Buzatu, DCAF

André du Plessis, DCAF

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## **Day One: Thursday, 27 October 2011**

Opening discussion on several issues, including potential dates for the next TSC meeting, anticipated release date of the draft charter and how comments on the draft charter might be handled and addressed.

The TSC then worked through sections of a draft of the charter that was circulated in advance of the meeting by a multi-stakeholder drafting committee (Joshua Dorosin, Sylvia White and Meg Roggensack). As wording was proposed and entered into the draft, the TSC discussed several issues as set-out below:

### **1. Draft Section of the Charter on “Performance Assessment”**

- On Performance Assessments generally: the respective roles of the Board and the Executive Director in authorizing monitoring in the field, whether it needs to be specified that there be a designated Chief of Performance

Assessment (CPA), and the respective roles of a CPA and the Executive Director and authorizing procedures

- On reporting: discussion on how public the reports prepared by the CPA should be
- On monitoring: discussion on emphasizing the importance of monitors consulting with the companies during the monitoring process, establishing who has the responsibility and discretion to authorize a monitoring mission, and the mechanics for authorizing specific budgets for any monitoring missions, on the point at which monitor reports should be shared with the concerned company, the director and the board, whether preliminary reports should be required, how preliminary recommendations of the auditor should be discussed by the board, how decisions of the board should be communicated to the company
- On corrective action plans: discussion on how the company shall develop and submit a corrective action plan to the Board, potentially with International Governance and Oversight Mechanism (IGOM) staff assistance.
- On specific compliance reviews: discussion on how these reviews are triggered – through information received in the course of monitoring, through specific complaints – and considering to what degree there should be notification to, or consultation with, law enforcement authorities, whether and how IGOM investigations should be adjourned or suspended while there are law enforcement investigations occurring, and whether the fact of investigations of individual companies should be made public or not, and if so at what stage of the investigation.
- On verification audits: discussion on what type of verification audit is needed for different types of corrective action and including opportunities for the IGOM to seek to address outstanding issues at this stage.
- On sanctions: discussion on how to sanction the failure of a company to prepare a corrective action plan or implement a remediation plan, discussion of the range of potential sanctions from expulsion through to suspension by the board, discussion on ensuring that companies are notified of any sanctions, providing them with an opportunity to make representations if any sanction is given and readmission criteria.

## **Day Two: Friday, 28 October 2011**

### **2. Draft Section of the Charter on “Third Party Complaint Procedures”**

There was discussion on how internal grievance procedures can be facilitated by the IGOM, including what role, if any, the IGOM could play and the role of voluntary mediation. There was discussion on the scope of what internal grievance mechanisms cover and to what degree the IGOM will assist in ensuring these are effective.

It was considered what information should be provided by the complainant regarding the complaint submitted, and consideration of third party complaint staffing requirements, if any, at the IGOM. There was also discussion on how detailed procedures should be established at this stage, and to what degree this should be left for the IGOM when established.

The role of the executive director in offering his good offices to help resolve disputes was considered, as was establishing how complaints received would feed-in to any performance assessment regime. Requirements on keeping records of complaints by the company were also discussed.

The role of mediation in resolving any complaint and seeing how it relates to other existing legal proceedings was discussed, as well as whether to require the board to consider the further elaboration of the complaint procedure a short period after establishment.

The meeting concluded with a discussion on responsibilities for the further drafting of the Code, how the funding aspect can best be represented in the draft charter, how to deal with the location and legal status of the IGOM and a procedure for finishing the drafting, releasing the draft charter, holding consultations on it, receiving comments, addressing comments, further drafting, final release and establishment of the IGOM, including the establishment of an interim secretariat facilitated by DCAF.

It was agreed that the TSC would meet regularly by WebEx and phone during November to make good progress on the draft and would aim to meet in person again in Geneva on Wednesday 30 November to Friday 2 December where Sylvia White would chair.

**End**