Minutes, ICoC Working Group #1 Meeting: 21 July 2011 via teleconference

Attending

- Mark DeWitt, Triple Canopy (facilitator)
- Ian Ralby, ADS (SCEG)
- Glynne Evans (SCEG)
- Peter Snell (Corporaction Yantarni)
- Frank Amoyaw (Land Mark Security), joining later
- John Morrison (Institute for Human Rights and Business)
- Andy Orsmond (Human Rights First), leaving earlier
- Margaret Belof (UK Foreign Commonwealth Office)
- Chris Mayer (U.S. Department of Defense)
- Scott Mooneyham (U.S. Department of State)
- Jason Pielemeier (U.S. Department of State)
- Anne-Marie Buzatu (DCAF)
- Thomas Haueter (DCAF)

BEGIN 09:00 DC / 14:00 UK / 15:00 GENEVA

The minutes are grouped according to the read-ahead email that was sent out by the facilitator – the main discussion points were added correspondingly.

I.   Questions & Guidance from TSC Meeting

1. The TSC would like to have more discussion and information in relation to the ASIS/ANSI process
   a. TSC requested a timeline of events/dates in regards to the standards development process, as well as a description of the process
   b. TSC requested more discussion and information in regards to the nature and qualifications of independent auditors, both in regards to ANSI/ISO auditors, as well as detail regarding the nature and qualifications of persons who would be qualified (e.g., accredited by the IGOM) to conduct human rights-based assessments
   c. TSC requested more information about what is included in the ISO Standard Implementation Guidance
   d. TSC requested more discussion and information regarding the role of physical location(s) in audits/certification
   - It will be reached out to Mark Siegel if he can participate in a briefing of the ANSI process for the WGs as well as the TSC
   - It was mentioned that there are two different kinds of field audits: one under national standards (such as ANSI) and one under monitoring aspects (such as HRIA)

2. TSC would like WG1 to design a process that addresses the certification and compliance requirements of the ICoC
   a. TSC does not want WG1 to become too focused on the national standards portion
   b. The TSC asked whether, in light of national standards, we might be looking at two certifications instead of one

- It was discussed whether the IGOM must have a principal way to decide if a national standard is fulfilled. What is this principal method of the IGOM to consider the national standards and how it does fit into the ICoC?
- It was mentioned that this question could be addressed by the Charter document of the IGOM and that the WG is here to figure out which national standards are around and how they fit in the ICoC, if these national standards go into enough detail and weather they live up to the ICoC
- There was consensus that the WG will make recommendations to the TSC on how the Charter document should address this issue and add pending questions.

3. TSC would like WG1 to try to harmonize the ICoC certification process as discussed in Item 2 above with the development of national standards
   a. TSC wants a complementary approach between the two with minimal overlap

4. TSC would like WG1 to focus more on the role of Monitoring (defined in ICoC) in certification and overall compliance with the ICoC
   a. TSC would like WG1 to examine how monitoring would occur, especially in the field, and in what ways it would be performed by the SigCo or via third parties
   b. TSC would like WG1 to consider how Monitoring facilitates better compliance to the ICoC
- There is an issue of what monitoring means: in the standards side and on the ICoC side. This definitional issue does also include that monitoring talks about a process of data gathering and it does not address who collects this date and how it is gathered. These questions need to be looked at.

5. TSC would like WG1 to consider cost
   a. TSC wants WG1 to identify major cost drivers/cost elements in recommendations or proposals
- The Working Group will identify the major cost drivers

II. ICoC Certification Structure Concept

- It was discussed how certification must bring a notion of minimum standards and best practices. However, the cost effect must be diligently considered in order to not be a barrier for business entry.
- In the code there are standards that are derived from the code and principles within the Code, it might make sense to divide the work according to this definition.
- It was mentioned that compliance with human rights principles is not certifiable but rather compliance to the Code on the standards side, not on the principal side.
- The principle side is rather a commitment to the ICoC process: that the company is willing to allow an independent party to take a look at their business and if there are negative impacts that there is a process for providing feedback and undertake actions to prevent it.

- In order to flesh out this principles pillar the WG will look at already existing Human Rights Impact Assessment tools. Nevertheless there needs to be an overall approach since human rights are affected in both pillars, not only the principles one.
- The Ruggie framework was mentioned as an example that was built in a manner that it fit into business procedures and that is process centered, which would correlate with the standards pillar of the ICoC.
- A concern was raised that this second pillar needs to entail some sort of objective criteria in order to avoid litigations.
- Overall it was stated that one can only certify that a company is part of a process with policies and procedures. Certification needs to be process oriented.

III.   Proposed Restructuring of Sub-Groups

It was proposed and decided to regroup the Working Group in the following way:

Subgroup 1.a   looks at the "Code-derived standards" aspect of compliance (i.e., national standards, ISO certification, etc.). This would basically continue the work started by Chris Mayer's paper but limit it to the standards component and how that component would plug into the IGOM.

Subgroup 1.b   looks at the "Principles-based commitment" aspect of compliance (i.e., human rights impact assessment, human rights-based field assessments, etc.). This would include reviewing existing models and proposals for in-field mechanisms for human rights-based assessments and the nature of qualifications of the personnel that would perform such reviews.

Subgroup 1.c   determines appropriate terminology for various aspects of this process and looks at what compliance to the ICoC means (including how "Certification" is defined in the ICoC) and what a company agrees to do as part of their on-going commitment to the process.

- The need for close collaboration between the subgroups was mentioned as well as good coordination between the subgroups.

IV.   Next steps

- The next call will be in two weeks, on August 4th and around the 18th of August another call.
- Each subgroup will be open to any interested WG1 participants. Members should identify themselves which subgroups they wish to join.