

Minutes, ICoC Working Group #3 Meeting: 5 July 2011 via teleconference

Attending

- Melike Yetkin, US Department of State (USA)
- James Cockayne, Center on Global Counterterrorism Cooperation (USA)
- Glynne Evans, Olive Group (UK)
- Martin Michelet, Federal Department of Foreign Affairs (Switzerland) (CH)
- Ian Proud, UK Foreign Commonwealth Office (UK)
- Will Imbrie, DynCorp International (USA)
- Doug Brooks, ISOA (USA)
- Phil Rudder, WSI International (USA)
- Anne-Marie Buzatu, DCAF (CH)
- Thomas Haueter, DCAF (CH)

BEGIN 11:00 DC / 16:00 UK / 17:00 GENEVA

Introduction by Chairs

- Update from the TSC: there was a large measure of agreement that the Working Groups will have additional 5 weeks (until August 21), but an interim report will be written for the TSC by this Friday. A draft of this interim report will be shared by tomorrow morning.
- Cross-cutting from other Working Groups: 1) special audit 2) funding 3) question of how a company is asked not to participate in the process. Number 2 and 3 probably will lie within this WG, number 1 will be treated by WG #2

Note – these are not consensus statements, but rather comments raised

Legal entity: what form might a legal entity take – three main questions:

1. Objectives of the legal entity?

- The Code does not say that the ICoC should be a legal entity, however this decision should be taken by the TSC
- Non-profit organization seems to be the best model, since association already exists (for lobbying purposes), corporation
- Idea behind the initiative is clearly pointing to a legal structure

2. Where should it be located ?

- Location needs to be where easy travelling is possible large airline companies have hubs (e.g. London, Washington, Switzerland etc.)
- Cost to run it have to be considered: in terms of salaries; attractive for persons to work for

- Are there any companies in the ICoC that are not in a country in the MD process?
- Host government should understand and be supportive of the process
- A possible host government should provide some support to the establishment: offering room or office; maybe with another already existing entity?
- The TSC should make clear if one of the governments (UK, US, CH) wants or does not want to host? This would make the work of the WG much easier.
- Even if the organization is completely independent, it is helpful that the government is supportive. However for governments it is essential to know what is the governmental role in running it.
- Switzerland is ready and happy to share their information about what legal possibilities there are for establishing an organization in Switzerland

3. *Are there legal restrictions?*

- Confidentiality is an important issue: in US litigation, discovery requirements may require the organization to open up certain communications
- Data protection act in UK is very strong and could obstruct maintaining information about personnel job performance

Chairs closing remarks:

- Proposal that we take a step back and made a list of attributes to different countries rather than asking what a legal entity of the ICoC would need
- The TSC will be asked if the TSC governments are interested in hosting. That may already narrow down the list, and then a list of question to be asked and researched can be established. This list of sub categories will look very similar to the questions on the agenda for this call.
- DCAF will reach out to similar initiatives and organizations to identify lessons learnt and DCAF will be setting up some expert meetings
- The interim report to the TSC will be circulated by tomorrow morning
- Switzerland will circulate a paper about the different legal entities possibilities in Switzerland
- Next WG call will be on July 11

END 12:30 DC / 17:30 UK / 18:30 GENEVA