

ICC Global Anti-corruption and Corporate Responsibility Commission Meeting

Executive Summary

26 May 2023

Hybrid - Virtual/in-person at ICC Secretariat

1. Welcome and Introductory Remarks

- **Viviane Schiavi**, Global Policy Lead – Anti-corruption and Corporate Responsibility and **Gonzalo Guzman**, Commission Chair, Chief Counsel, Ethics & Compliance at Unilever in the UK, welcomed 90 participants from over 30 countries to the meeting as well as the participating commission Vice-Chairs:
 - **Helena Prata**, Commission Vice-Chair, Partner, Angola Legal Circle law firm, Angola, participating in person.
 - **Karen Griffin**, Commission Vice-Chair, Chief Risk Officer at Mastercard in the US.
 - **Hema Lehocky**, Commission Vice-Chair, Chief Ethics and Compliance Officer with AFRY, from Sweden.
 - **Daniel Rodriguez**, Commission Vice-Chair, Partner with CMS law firm, Colombia.

Regrets were received from **Louise Vytopil**, Commission Vice-Chair, Senior Manager with KPMG in the Netherlands.

2. Update from ICC Global Policy Director Andrew Wilson

ICC Global Policy Director Andrew Wilson provided a briefing on the ICC Global Policy Department work program in the context of ICC's institutional strategy.

Mr. Wilson noted that top priorities remain producing distinctive content, making effective use of ICC's global network and expanding active membership from companies across the world .

- Mr. Wilson provided members with an overview of ICC strategic objectives, founded on **five strategic pillars**:
 - Enabling global trade, in various settings including in the context of the WTO;
 - Accelerating sustainability, with a particular focus on climate change;
 - Enabling an interoperable, resilient, and accessible digital economy;
 - Strengthening multilateralism;
 - Strengthening the rule of law and advancing integrity.
- Mr. Wilson further provided members with an overview of four current projects led by other ICC Policy Commissions that may be of interest to members of the Global Anti-Corruption and Corporate Responsibility Commission:
 - **The development of the Sustainable Trade and Finance framework** (ICC Banking and Energy and Environment Commissions). to define or grade the sustainability of individual trade and trade finance transactions. The process to develop this guidance was developed through a broad range of banks and companies. The beta version of this ICC framework was launched at COP 27 at the end of 2022, and work has begun to pilot related guidance under the framework in a number of sectors in the coming months. The framework includes considerations around human rights and the social dimensions of sustainability.

If anyone would like to find out more about that or has an interest in engaging on this work stream, please reach out to viviane.schiavi@iccwbo.org.

 - **A new work stream to address Modern Slavery** (ICC Customs Commission) This work aims to take into account a growing number of national laws and approaches that are looking at how customs can act as a key player in tackling modern slavery. This work stream is providing members with the opportunity to share experiences, concerns, best practices, and to evaluate how ICC can best engage with customs authorities, governments and the World Customs Organization to ensure that customs action on modern slavery is appropriate.
 - **ICC presence at COP 28** - At the UN Climate Summit in Dubai from 30 November - 12 December 2023, ICC is hosting the major business pavilion in the Blue Zone with two weeks of programming on a range of issues. ICC's approach to COP is to bring as much of ICC's work across our commissions to those discussions. If any commission members are interested collaborating with ICC's presence at COP 28, ICC is very keen to take those discussions forward with you, **please reach out to viviane.schiavi@iccwbo.org.**
 - Revision of ICC's Marketing and Advertising self-regulatory Code (Marketing Commission) initiated earlier this year. This is a self-regulatory framework that is widely used to set standards for responsible marketing and advertising conduct, that many national laws are actually based on. There is a particular focus already within the revision process on social dimensions of marketing as well as on environmental aspects.
- Mr. Wilson closed his comments by underlining ICC's reliance on the expertise and input of its members. As ICC aims to provide the most effective services possible to its members,

members are encouraged to communicate to ICC on how it is doing and where it should put emphasis.

- Mr. Guzman thanked Mr. Wilson for his excellent and thorough presentation. He emphasized the continued importance of the linkage between the work of the Commission with business and human rights issues, including the issues of modern slavery being addressed by the Customs Commission.
- Mr. Guzman noted that in addition to the UN COP 28, another important upcoming global summit for businesses to engage closely with will be the UN CoSP on UN CAC – the UN Convention against Corruption - to be held in Atlanta from 11 – 15 December 2023.

3. Commission Advocacy

Mr. Guzman saluted the wide advocacy and engagement being done by the Commission leadership, the ICC Secretariat and members, to bolster the commission work in capacity building for business integrity. Mr. Guzman invited updates on engagement and advocacy initiatives:

- Ms. Schiavi shared her advocacy at the:
 - ICC France national committee conference on Capacity Building and Advocacy for Business Integrity;
 - Union Internationale des Avocats – American Bar Association conference in Madrid on ICC Tools to support Business Uptake of the SDGs and UNGPs;
 - UN Annual Forum on Business and Human Rights November 2022 in Geneva;
 - ICC Dispute Resolution Services “Africa Business Talks” conference in February 2023 on “Integrity and Corporate Responsibility to grow Business”.
- Mr. Guzman noted:
 - His personal involvement with ICC Mexico in the development and deployment of its two robust University integrity programs, adding that education and training in the field of anti-corruption, ethics and integrity remain a high priority;
 - His addressing the Society of Ethics and Compliance Summit in Europe in April, which was extremely well attended.
 - That a number of Commission Experts including Brazilian members Salvador Dahan, Reynaldo Goto and Jose Bauzon Nieto were engaging and speaking at the OECD Global Anti-corruption and Integrity Forum taking place the same week as the commission meeting.
- Helena Prata shared information on her engagement and outreach, including:
 - Advocacy on transparency and integrity to her law firm clients;
 - Engagement at the 2023 OECD Global Anti-corruption and Integrity Forum;
 - A Presentation at the ICC Dispute Resolution Services “Africa Business Talks” conference in February 2023 on “integrity and Corporate Responsibility to grow business”.
- Karen Griffin shared information on:
 - Her work on bolstering ties between the USCIB (the US national committee of ICC) and the ICC Global Commission on Anti-corruption and Corporate Responsibility.

- Engagement at the World Economic Forum Council of Good Governance.
- Hema Lehocky conveyed her different engagement activities including her work as Board Member of Transparency International Sweden.
- Daniel Rodriguez referred to his work to fortify the ICC Colombia National Committee and his engagement at varied global conferences, including at the International Compliance Conference in June 2023 in Brazil.

Mr. Guzman encouraged members to continue to engage in advocacy for ICC while keeping Ms. Schiavi aware of these initiatives, so as to continue to amplify ICC's impact around the world.

2. Working Group to Refresh the ICC Anti-corruption Rules and ICC Anti-Corruption Clause

- **Ms. Prata and Mr. Rodriguez**, Co-Chairs of the ICC Working Group to revise the ICC Anti-corruption Rules and the ICC Anti-corruption Clause, provided an overview on progress of the Working Group. The same Working Group is focusing on a refresh of both flagship ICC integrity tools as they are interconnected. The Working Group comprises approximately about 50 members from 25 countries.
- The first meeting of the Working Group took place on 23 March 2023. The robust discussions held during the meeting have been used as a foundation for the leadership's work in developing a first revised draft of the ICC Anti-corruption Rules to be circulated for consultation. The process ahead for this ICC Working Group has been divided into two phases:
 - Phase One will be devoted to the refreshing [ICC Rules on Combating Corruption](#)
 - Phase Two will be devoted to refreshing the [ICC Anti-corruption Clause](#)
- The Working Group Co-Chairs have begun to prepare a draft revision of the ICC Anti-corruption Rules that will be circulated for comment in the weeks after the commission meeting.
- The Co-Chairs emphasized that new members are always welcome to join the task force, through their national committee.
- During a discussion of revision of these ICC Rules, a number of views were conveyed, including:
 - Jean-Pierre Méan, Counsel, Eigenmann Associés, Chair of the former Working Group to prepare the most recent, 2011 edition of these ICC Rules, underlined that
 - 1) Anti-corruption refers not just to the FCPA, not just the UK Bribery Act, it involves many countries around the world including approximately 40 countries that have adhered to the OECD Anti-Bribery Convention. It's vital that this international flavor be retained in the upcoming revision; and
 - 2) the importance of ICC, as the voice of global business, in conveying the message that businesses are actively working against corruption, while simultaneously harmonizing the view on this issue among companies.
 - Mr. Guzman agreed and added that what is considered "anti-corruption" continues to evolve and that the principles need to reflect certain developments.

- Reynaldo Goto, Chief Compliance Officer, BRF, agreed and suggested that the revision might reflect the growing importance of ESG.
 - Vladimir Hrle, Counsel, Hrle Attorneys, emphasized the importance of raising awareness prior, during, and immediately after the launch of the upcoming new edition of these ICC Rules.
- **ACTION: ICC circulated on 27 July 2023 a revised draft of the ICC Anti-corruption Rules, prepared by the Working Group Co-Chairs, with the guidance of the Commission Chair, for comment by 18 September 2023. A second draft will be prepared and circulated in view of comments shared on the first draft.**

4. Responsible Business Conduct in the Context of Conflict Contexts and other Sensitive Jurisdictions

- Ms. Schiavi opened a discussion of work underway to develop a first beta draft of a proposed ICC Guidance on Responsible Action in Conflict and other Sensitive Contexts.
- The war in Ukraine, including the associated escalation of sanctions on Russia, has exposed the lack of a reliable framework with which business can rely on to make/justify decisions to remain, disengage or re-engage in “sensitive” jurisdictions, in a way that incorporates key business and human rights considerations. The aim would be to make this guidance applicable in different contexts.
- To inform this draft beta guidance, specialist partners have supported the ICC Secretariat in carrying out a wide range of stakeholder interviews. This comprised extensive anonymized and off-the-record exchanges with companies from a diverse geographical and sectoral base, reinforced by exchanges with NGOs and experts on the ground in a range of sensitive contexts.
- Points covered in the scoping for this beta guidance include:
 - Need for guidance on Business Continuity Plans based on broader human rights due diligence impact analysis;
 - Staying in difficult contexts can in some cases provide leverage to influence change;
 - Importance and challenges in engaging value chain on collaborative approaches.
- Members and National Committees had been invited to submit comments, including concrete language suggestions ON a draft beta guidance circulated to ICC national committees and members by 31 May 2023.
- A number of comments already received have urged the release of this guidance sooner rather than later, to enable business with immediate decision-making in sensitive contexts.
- Upon Mr. Guzman opening the floor for discussion, comments included the following:
 - Lara Kopp Senior Legal Counsel, ESG Legal & Corporate Law, Zurich Insurance Group, highlighted that this guidance is needed and emphasized the importance of ICC’s work in this domain. She underscored potential issues concerning recommending full transparency in all cases, advising reflection on potential situations in which full disclosure may create security concerns.

- Hema Lehocky, Chief Ethics and Compliance Officer, Afry, Commission Vice-Chair, conveyed very strong support for the issuance of an ICC guidance in this area, to help companies navigate these incredibly difficult and complex situations.
 - Olena Perepelynska, Partner, Head of Arbitration, Integrites law firm, and Iaroslav Gregirchak Chair of Competition Commission, ICC Ukraine conveyed the importance of issuing guidance that covers both in-country conflict and international conflict and questioned a premise for justifying companies staying in difficult jurisdictions.
- **ACTION: Once comments and views were fully considered, the draft would be adjusted to take these into account and will be circulated for a final round of comments to members and national committees in the Fall 2023.**

6. Update on deployment of ICC 2022 Whistleblowing Guidelines

Mr. Guzman invited Commission Vice-Chair **Hema Lehocky** to share perspectives on key considerations with regard to the implementation and socialization the ICC Whistleblowing Guidelines that were launched in 2022. Mr. Guzman recapped that Hema Lehocky is Co-Chair of the ICC Working Group, along with Co-Chair Manuel Castelo Branco, that developed and issued the ICC Whistleblowing Guidelines.

Ms. Lehocky shared insights that included the following points :

- While whistleblowing systems have long comprised a cornerstone for anti-corruption programs, there is growing recognition that these compliance programs cannot work in isolation, they are part of a broader context.
- Currently with new legislation coming into place in several countries on sustainability due diligence, reporting and respect for human rights, whistleblowing systems are becoming key components in these frameworks as well.
- What is pivotal is to enable whistleblowing in a confidential manner, free from fear of retaliation, and addressing the whistleblower report in an appropriate way, as well as responding. Indeed, an important aspect of preserving non-retaliation is following up and demonstrating that non-retaliation is respected.
- In the area of human rights, whistleblowing management systems can support the human right grievance mechanisms that companies have to offer.
- Another correlation is that in regions where non-retaliation is not protected by law, widespread implementation of whistleblowing programs is as a result impeded.

Mr. Guzman warmly thanked Ms. Lehocky for her expert insights, and added from his perspective as a practitioner in ethics, integrity and anti-corruption:

- Private sector whistleblowing systems can also be used as models to foster greater integrity in the Public Sector.
- Whistleblowing systems indeed help support the furtherance of ESG aims overall.
- It's important after the whistleblower report to monitor the well-being of the whistleblower.
- As to whistleblower protection, it also remains important to protect witnesses, those participating in investigations and also those who investigate, who can also be retaliated

against in different contexts. Persons in these roles, who are detecting and responding to issues, can be ostracized from and isolated within companies.

7. Presentation on Update of the OECD MNE Guidelines

- **Allan Jorgensen**, Head of the OECD Centre for Responsible Business Conduct, presented the ongoing targeted update of the OECD Guidelines for Multinational Enterprises and Implementation.
- At the time of the meeting, the updated had not yet been adopted; they would be submitted for adoption by the OECD Council on 8 June. As a result, Mr. Jorgensen was in a position to address the broad approach of the text, rather than comment on specific provisions.
- These OECD Guidelines were last revised in 2011. No fundamental reconfiguring has been conducted; the main evolutions have been in the chapters on the environment, science and technology.
- Mr. Jorgensen noted that the guidelines cover the range of issues normally associated with ESG and underscored the importance of cross reading the different chapters.
- One key concept in the in the guidelines is that they are impact focused, i.e., focused on the inherent risks to people, to the environment and the inherent impact of corruption. This concept of risk-based due diligence takes into account the wider business relationships that may lie 5-6 years away, either upstream or downstream in the supply chain, and requires a holistic assessment based on the likelihood and the severity of the potential impacts across the different topics of the guidelines.
- Mr. Jorgensen moreover highlighted the following changes in the context of anti-bribery:
 - Stronger focus on interlinkages between this area and other areas covered by the guidelines;
 - Clarification of the concept of business relationships in the bribery chapter;
 - Widening the focus to include not only bribery, but also other forms of corruption;
 - Focus across the anti-bribery chapter and the general policy chapter on illicit influence on political processes;
 - A new recommendation to disclose misconduct related to bribery;
 - Firmer stand on refraining from reprisals against individuals or groups;
 - Stronger emphasis on the need for collective action and meaningful engagement, and the need for an infrastructure of certification schemes and sustainability initiatives in the self-regulatory space.
- Mr. Jorgensen underscored:
 - The shift to a more holistic approach to the supply chain, looking beyond the first tier to where the actual risks are taking place, with stronger focus on severity and likelihood perspectives, rather than a risk-to-business perspective.
 - Greater focus on alignment between self-regulatory initiatives and the OECD MNE Guidelines

- Mr. Jorgensen underlined that as the OECD MNE Guidelines comprise international soft law, and is voluntary, it is basically up to companies how and when they take it into account, in their approaches.
- Benedict Wiedenhofer, BIAC, acknowledged that a number of concerns from businesses have been addressed in the final draft, and highlighted the importance of a balanced implementation considering business realities.
- Mr. Guzman and Ms. Schiavi conveyed ICC's appreciation to Mr. Jorgensen for his valuable presentation.
- **ACTION:** See here the updated [OECD Guidelines for Multinational Enterprises](#) as adopted by the OECD Council on 8 June.

5. Presentation by ICC Brazil members on key developments in anti-corruption in Brazil

Mr. Guzman noted that many ICC national committees, such as ICC Brazil, are very active both in developing integrity capacity building tools for companies and in advocacy with regard to their respective governments. Mr. Guzman introduced this session on the wide work ICC Brazil is doing on integrity by inviting the session moderator, Commission Vice-Chair Karen Griffin, Chief Risk Officer, Mastercard, to open the panel.

- Ms. Griffin asked the participating Experts from Brazil to introduce themselves:
 - **José Alexandre Buaiz Neto, Partner, Pinheiro Neto Advogados**
 - **Reynaldo Goto, Chief Compliance Officer, BRF**
 - **Salvador Dahan, Global Expert - Integrity, Compliance and Corporate Responsibility**
- Reynaldo Goto gave a background on how the ICC Brazil mirror Integrity and Corporate responsibility Commission. Brazil Commission was set up.
 - The Operation Car Wash anti-corruption probe that begun in Brazil in March 2014 uncovered a scheme in the Brazilian federal government, particularly in State Owned Enterprises.
 - This had a direct impact on the Brazilian economy as well as on the country's international trade, the reputation of the country and on that of a number of international companies.
 - With its driving purpose to promote integrity and to foster trade, ICC Brazil provided during this juncture a very valuable trusted space for a number of Brazilian companies to discuss and identify together how to improve integrity governance in the country.
 - In Brazil, the ICC Brazil mirror Commission has as one of its main missions to bolster the credibility of the country's companies abroad and to strengthen the culture of integrity in businesses of all sizes.
 - ICC Brazil facilitates exchanges between companies, the United National Global Compact, the Brazilian government and with other partners from civil society.
- José Alexandre Buaiz shared background on the governmental context within which these discussions were and are taking place.

- Since the return in March 2023 to elected office of President Luiz Inácio Lula da Silva, Brazil is in a transition period, with business is in the process of ascertaining the path forward with the new government on common integrity aims.
- Salvador Dahan, Global Expert - Integrity, Compliance and Corporate Responsibility–
 - Underscored the importance of preserving integrity in State Owned Entities (SOEs) and of putting in safeguards to protect SOEs from being caught in political interference.
 - Provided further information on the ICC Brazil mirror commission that brings together 145 Members representing a diverse group of expertise and industries. In addition to quarterly meetings, the commission organizes a yearly Annual Integrity Conference on risk, compliance and community in in Brazil.
 - Further, the mirror commission runs 3 main work streams:
 - The first work stream to develop and run governance Business Integrity observatory to monitor the developments of regulatory frameworks and to develop a formal ICC Brazil position on these topics.
 - The second work stream to develop a position paper on business and human rights in order to contribute to the Brazilian government's National Action Plan in this area.
 - 2 involves a supply chain certification program for SMEs. The aim is to allocate resources to build SMEs capacity in their own compliance programs and integrity initiatives, while helping meet integrity and other expectations from bigger companies that engage these smaller companies. The project is now in the final phase of building the modules for the initial certification process. The expectation is to officially launch the program in the second half of 2023.
- Reynaldo Goto, Co-Chair of the former Indonesia B20 integrity and Compliance Task force, noted that as Brazil takes over the G20 Presidency in 2024, it is important to strongly convey the need for a reconstitution of a B20 Integrity and Compliance Task Force. Under the India G20/B20 Presidency, integrity issues were addressed under a cross-cutting ESG group. It is important to retain a specific focus on integrity under B20 Brazil, which is expected to be headed by CNI – The Brazilian National Confederation of Industry. It was suggested that this be conveyed by Business to Constanza Negri, Coordinator at CNI.
- Paula Costim of ICC Brazil informed members of the very successful ICC Brazil-UN Global Compact Brazil Integrity event that ICC was pleased to host at its Global Headquarters in Paris on 23 May, as an official Side-event to the OECD Global Anti-corruption and Integrity Forum. This ICC-UN Global Compact event attracted close to 80 participants including Exerts from the UN, the French government, Transparency International, the Basel Institute of Governance and a range of international and Brazilian companies. It was emblematic of the essence of collective action between government, the private sector and civil society that ICC is able to facilitate, on the shared aim of integrity.

My. Guzman congratulated all on the excellent panel discussion and saluted the work on integrity coming out of ICC Brazil, noting that it was inspiring for all.

8. Any other business

- Ms. Schiavi and Mr. Guzman thanked members who participated in the meeting and underscored that a key working item for 2023 will be the refresh of the ICC Rules for Combating Corruption.
- The date and place of the next commission meeting will be announced shortly.

* * *