

Commission on Corporate Responsibility and Anti-corruption Virtual Meeting

Wednesday 14 October 2020

Meeting Summary

1. Welcome Remarks and Objectives for the Meeting

- *Viviane Schiavi, Deputy Director, Peace and Prosperity, ICC*
- *Denis Simonneau, Chair, ICC Commission on Corporate Responsibility and Anti-corruption*
- *François Vincke, Vice-Chair, Commission on Corporate Responsibility and Anti-corruption*

Viviane Schiavi, Denis Simonneau, and François Vincke welcomed over 130 registered participants from over 30 countries to the second virtual meeting of the ICC Commission on Corporate Responsibility and Anti-corruption and identified the key objectives for the meeting:

- Present key achievements of the Commission since the last meeting;
- Highlight strategic objectives for ICC;
- Update on key developments relating to business integrity, anti-corruption, supply chain responsibility, and business and human rights;
- Agree on key advocacy priorities and actions for the Commission for 2021.
- Denis Simonneau underscored ICC's strong leadership in the COVID-19 response efforts in the past months and the pivotal roles ICC and the Commission have wielded in contributing to global strategies for a resilient and sustainable rebuild, grounded in integrity and supply chain responsibility. He noted that the impact of the crisis on the rights and livelihoods of people had risen to the top of the agenda for policy makers and businesses alike.
- François Vincke welcomed the aligned synergies on inclusiveness and equality pursued by the Commission and the Peace and Prosperity Hub.
- Denis Simonneau invited leaders from ICC (Maria Fernanda Garza, Andrew Wilson, Daphne Yong-D'Hervé) to take the floor.

2. Address by ICC First Vice Chair and High-level Champion for Integrity

- *Maria Fernanda Garza, ICC First Vice Chair ICC, CEO Orestia*

Summary

- Viviane Schiavi passed the floor to Maria Fernanda Garza, ICC First Vice Chair ICC and CEO Orestia, noting that ICC Chair Ajay Banga had invited Ms. Garza to serve as ICC High-level/Executive Board Champion on the ICC Integrity and Anti-corruption agenda.
- Maria Fernanda Garza noted that the systematic fight against corruption began relatively recently and that much work remained to be done in many parts of the world. Corruption thrives in times of crisis, especially when institutions are weak. The COVID-19 crisis can provide a window to help restore trust in business and governments. ICC can effectively use its links and partners to foster this constructive role of business.
- Next year the UN General Assembly will organize a special summit on combating corruption (see *infra*). This event should foster creativity and innovation. The world of today is not the same as the

2008 crisis. It is important to seek to use new technologies to move forward the fight against corruption and to mobilize the business community, including SMEs, in global efforts to tackle the effect of corruption on lives and livelihoods throughout the world.

Action

- Create a new project on Tech for Integrity, to leverage the use of technology to contribute to business integrity.

3. External engagement and development of policy work program in post-COVID era

- *Andrew Wilson, Permanent Observer to the United Nations and Head of Global Policy and External Engagement, ICC*

Summary

- Andrew Wilson stressed the importance of the anti-corruption agenda as a part of the imperative to build back better after the COVID-19 pandemic. ICC can bring great value to forging solutions by and for business in global processes, particularly with regard to the UN. There has been major interest shown in ICC work from international organizations and Institutions, with even higher engagement in recent activities. COVID-19 has pushed ICC activities to direct research, resources, and efforts to new areas.
- Three main features of ICC work related to the pandemic involve: (i) the ability to bring genuine insights and expertise from the private sector; (ii) giving policy-makers real time insight into local business communities during the crisis; and (iii) the deployment of practical solutions for local business and leveraging capacity.

4. ICC Hub on Peace and Prosperity

- *Daphne Yong-D'Hervé, Director, Peace and Prosperity Hub, ICC*

Summary

- Daphne Yong-D'Hervé made a presentation on the new ICC Peace and Prosperity Hub that the Commission is now a part of. The overarching themes of this Hub are: (i) reducing inequalities for an inclusive and economic growth; (ii) promoting long term thinking in business, (iii) supporting post-COVID recovery and (iv) the role of business in society.
- The collaboration between ICC and external partners has intensified since the onset of COVID-19. The Hub leverages expertise and resources from the ICC Knowledge Solutions Department, the ICC UN Team, and the Network composed by NCs, Chambers of Commerce, IGOs, NGOs, and companies.
- Main projects developed include (i) "Recover Better Together" COVID-19 Private Sector facility that helps SMEs and entrepreneurs to build forward from the impacts of COVID-19 crisis to be more sustainable and resilient; (ii) Private Sector for Refugees (PS4R) partnership; and (iii) Provision of solar powered energy to refugee camp in Cox's Bazar in Bangladesh.
- Denis Simonneau noted that ICC should be visible and actively engaged at the [Paris Peace Forum](#).
- François Vincke remarked that ICC's tools could be further operationalized to address due diligence and business in society priorities.

- Marijke Wolfs, Secretary General of ICC Netherlands made reference to a Memo that was sent to ICC suggesting areas for further activity in integrity and anti-corruption.
- Denis Simonneau noted that ICC's Guidance on Integrity for a Resilient Response and Rebuild Post COVID-19, released in July 2020, provided a new and needed ICC integrity tool, taking action on the memo's suggestions. He added that the Commission's move from the ICC Inclusive and Green Growth Hub to the Peace and Prosperity Hub also took action on the Memo's suggestions, as this move afforded more of a focus on the integrity and anti-corruption issues of the Commission. Denis Simonneau added that the decision to address due diligence issues and explore an update of the ICC Whistleblowing Guidelines also constituted a response to these suggestions.

5. ICC response to the pandemic and ICC Integrity and Supply Chain Responsibility for a COVID-19 Response and Rebuild

- *Viviane Schiavi, Deputy Director, Peace and Prosperity, ICC*

Summary

- Viviane Schiavi noted from the onset that ICC Secretary General John Denton called for a whole-of-organization approach in response to the pandemic. ICC is now focusing on rebuild and recovery. Three fundamental fragilities have been revealed and exacerbated by the pandemic: economic exclusion, social inequality, and environmental degradation. As ICC has looked towards recovery, these are maintained as the key factors to address, as well as the special vulnerability of MSMEs.
- Ms. Schiavi then provided an update on ICC's [Guidance on Integrity for a Resilient Response and Rebuild Post-COVID-19](#).
- A number of companies and national committees had brought to the ICC Secretariat concerns about infringements of integrity and rule of law as a result of the COVID-19 crisis and asked ICC to consider taking action.
- As a result, under the oversight of the ICC Head of Global Policy and External Engagement and of the Commission leadership, ICC developed recommendations for this area based on a consultation with ICC network of national committees and members worldwide. ICC's Guidance was launched in July, issuing recommendations for both business and policy makers for: (i) the need for integrity and transparency in procurement during times of crisis; (ii) the need to maintain the use of due diligence to address risks of corruption and human rights impacts presented with supply chain disruptions; (iii) addressing corruption risk related to customs; and (iv) preserving the rule of law during crisis.
- It was noted that while supply chain due diligence is necessary, it can be challenging for SMEs to implement. Different approaches to build SMEs' capacity in this regard need to be pursued.

Action

- Commission members are invited to take on and implement the ICC Guidance recommendations.
- National committees are invited to convey the ICC Guidance recommendations to their national governments.
- Since meeting, ICC Mexico reported that the Ministry of Mexico in charge of combating corruption will include on their website this ICC Guidance as recommendations for the business sector.
- Commission members are welcome to share with us further recommendations and practical tools to be considered for further ICC recommendations in the area by contacting [Viviane Schiavi](#).
- ICC will scope appetite for ICC engagement on broader supply chain issues.

6. Update of ICC Whistleblowing Guidelines

- *Viviane Schiavi, Deputy Director, Peace and Prosperity, ICC*

Summary

- In the context of an exchange with meeting participants it was suggested that ICC update the 2010 ICC Guidelines on Whistleblowing. The [ICC Whistleblowing Guidelines](#) were developed to advise companies on how to set up internal alert systems for the detection of fraudulent behaviour in enterprises. One of its principles is that no employee suffers retaliation for reporting in good faith.
- The protection of whistleblowers contributes to an enabling environment for integrity and, as a result, for sustainable growth. It reduces tolerance of corruption and increases transparency in business transactions.
- New standards and guidance have been developed since 2008 on internal alert systems for reporting suspected misconduct, including the: [ISO 37001 2017 Anti-corruption Management System, section 8.9](#) and the [French Anti-corruption Agency Guidelines 2017 that covers Internal Whistleblowing System](#).

Action

- Since our meeting, national committees and members that support an update of the Whistleblowing Guidelines have been invited to reach out to [Viviane Schiavi](#).

7. Business and Human Rights

- *Viviane Schiavi, Deputy Director, Peace and Prosperity, ICC*
- *Crispin Conroy, ICC Representative Director, Geneva*
- *Dante Pesce, Member, UN Working Group on Business and Human Rights*

Summary

- Viviane Schiavi underscored that the work of embedding the UNGPs into corporate practices has gradually picked up speed in recent years – with risk assessments, enhanced supply chain due-diligence, and human rights training now routinely implemented in many multinational enterprises.
- The real challenge ahead is to enable all businesses – regardless of size, sector or location – to embed respect for human rights in their operations. In particular, this will require an increased focus on delivering the tools, capacity building and ecosystems needed to allow small businesses to take meaningful action.
- ICC had convened a focus group of companies on the sidelines the [2019 UN Forum on Business and Human Rights](#) for a frank exchange on challenges and opportunities on implementation of the principles. Companies participating included L'Oréal, Standard Chartered Bank, Walmart, BP, Intel and Walmart.
- As part of its substantive recommendations, ICC submitted [recommendations](#) to the UN WG on the Intersection of the Anti-corruption Business and Human Rights Agendas, based on robust input from the network and national committees. Recommendations included advocacy for: (i) Integration of human rights in existing supply chain due diligence and third party risk management company processes; (ii) greater policy alignment within governments and intergovernmental organizations between the human rights and anti-corruption agendas on issues such as public procurement, whistleblower protection and conflict of interest legislation; and (iii) better enforcement of laws and policies that already exist on the interrelated anti-corruption and human rights agenda.
- ICC strongly will be strongly engaging on the [UNGPs+10 project](#). As part of its mandate to promote the UNGPs, the UN WG is undertaking this new project to take stock of achievements and

challenges to date, and to develop an ambitious roadmap for the next 10 years. Please refer to the [ICC submission](#) to the Business Compendium on the UNGPs+10 Stock take.

- Dante Pesce underlined the tendency within companies and governments towards a holistic approach to business and society and sustainable corporate governance issues. The tenth anniversary of the UNGPs will provide an opportunity to push a renewed effort on these themes, and to break down silos between agendas. The UNGPs have contributed to the concept of human rights due diligence now being at the center of the forthcoming [EC Due Diligence legislation](#).
- Crispin Conroy provided an update on fifth round of negotiations on the proposed UN “Binding treaty” on business and human rights will take place this week in Geneva. These discussions were based on a [second revised text](#) of a legal instrument prepared by the Chair-Rapporteur to the process, the Ambassador of Ecuador to the United Nations at Geneva. ICC remains wholly unconvinced that a treaty-based approach can be truly effective in dealing with the web of complex interrelationships between business and human rights. There are many areas of the latest draft of the proposed instrument that require greater clarification and discussion amongst government delegations. The issues raised by ICC during last year’s session – most notably, those that pertain to scope of any instrument, rights of victims/remediation, burden of proof, and jurisdiction – still raise serious concern. ICC’s [position](#) conveyed at the negotiations encouraged delegations to reflect on whether the process might benefit from a “pause” – so that consultations could take place intersessionally to review alternative approaches to speeding implementation of the UNGPs. Mr. Conroy noted that there will be greater integration between the ICC Knowledge Solutions Department and ICC’s Permanent Mission to the UN offices on input on the UN business and human rights agendas.

Action

- Establishment of a Business and Human Rights Working Group to gather specialist expertise and allow for peer exchange on dealing with human rights challenges, as well as intelligence sharing.
- Feed business insights into the UNGPs+10 process to shape a refreshed approach to implementation based on real-world experience and prepare a coordinated contribution from Commission members.
- Maintain strategic engagement with the UN ‘Binding Treaty’ process.

8. G20 and B20 initiatives for Anti-corruption Integrity and Compliance

- *Viviane Schiavi, Deputy Director, Peace and Prosperity, ICC*

Summary

- Viviane Schiavi presented ICC’s lead and engagement as Network Partner to the B20 Saudi Arabia Integrity and Compliance Task Force. In this area, as in many others, recommendations for public-private action were key. B20 Saudi Arabia finalized its three recommendations for the area:
 - Theme 1: Pursue a culture of High Integrity in the Public and Private Sectors. This recommendation included the call to strengthen laws protecting whistleblowers and engage with the private sector regarding best practices in whistleblower program management. ICC’s integrity and anti-corruption tools were pointed to as useful for improving integrity the public sector as well.
 - Theme 2: Leverage Emerging Technologies to Manage Risks Relating to Corruption and Fraud. This recommendation includes a call for the adoption of consistent digital identity standards and systems to enhance transparency in beneficial ownership and the development of digital public national registers to increase transparency around beneficial ownership information.

- Theme 3: Enhance Integrity and Transparency in Public Procurement. Policy actions: promote transparency, integrity, and accountability across the entire public procurement lifecycle; establish ways to reward high standards of ethical business conduct in the context of public procurement, and ensure greater integrity amongst public procurement officials.
- Please refer to the [Factsheet](#) for the B20 Integrity and Compliance Task Force.
- On 8 December, B20 Saudi Arabia hosted a handover ceremony with the next G20 Presidency country, Italy. ICC is pleased to once again be chosen to be Network Partner for the B20 Italy Integrity and Compliance Task Force.

Action

- ICC sent a message on 1 December inviting those interested to consider applying for a position on one of the B20 Task Forces.

9. Integrity in the Public Sector - Addressing the demand side of corruption

- *Dominique Lamoureux, Chair, Cercle d'Éthique des Affaires, France*

Summary

- Dominique Lamoureux presented on how coordinated action could help foster greater integrity in the public sector. To date, more attention has been placed on the “supply side” of corruption, or attempts by the private sector to bribe the public sector, rather than the “demand side” from the private sector. There is a need to raise awareness that businesses can be the targets of attempts at solicitation and extortion from high levels government heads of state to customs officers.
- Passive corruption is too rarely prosecuted and stems from major governance challenges.
- Companies could consider developing a plan to help governments become more aware of the strategic importance of establishing public-private partnerships to forge solutions.
- ICC France organized a meeting with “l'Agence Française d'Anticorruption” in June 2020 to exchange on the issue.
- A mapping exercise could be helpful to set out the mechanisms of passive corruption. If this were done, it could be conveyed to organizations such as the OECD, which is [revising its 2009 recommendation](#), and to the B20 Integrity and Compliance Task Force.
- The aim is to assist companies in export markets, to avoid distortions of competition and to promote companies with effective integrity programmes.
- ICC France is actively engaged in this regard.

Action

- National committees and Commission members are welcome to share with [Viviane Schiavi](#) feedback on the proposal to take further action on the need for greater integrity in the public sector.

10. OECD Study "Corporate Anti-Corruption Compliance Drivers, Mechanisms, and Ideas for Change"

- *France Chain, Senior Anti-corruption Analyst, OECD*

Summary

- France Chain presented a new [OECD Study](#) "Corporate Anti-Corruption Compliance Drivers, Mechanisms, and Ideas for Change". The aim of this study is to show the main drivers of why a

company adopts anti-corruption measures and what types of anti-corruption measures they adopt. The study is also important for policy makers to see how to incentivize anti-corruption measures. 130 companies responded to the survey (15% SMEs) with a wide range of sectors from 28 countries.

- **Main drivers:** (i) Enforcement and reputational concerns (learning by other companies' experiences); (ii) Internal motivations – “doing business the right way” as a strategy/motivator; (iii) Customer and investor influence; and (iv) Legal changes (for example the French “[Loi Sapin II](#)”; the Colombian “[Ley Anti Soborno](#)”).
- **Challenges** for implementing anti-corruption programmes: (i) “It will never happen to us”, namely the perception in companies that compliance programs are not needed because they seem intangible; and (ii) lack of resources and pressure to make profits.
- **Way forward - key suggestions:**
 - Compliance needs: a seat at the management table - appropriate executive support; a compliance culture including clear companies standards and regular communications; need to rely on local personnel on the ground and in field operations that know the local risk and build a relationship based on trust. This is useful especially for SMEs.
 - Companies need: government commitment – enforcement from governments and a general strengthening of the Rule of Law; clear but flexible standards/requirements; and incentives.

11. ICC Engagement in UN Processes for Integrity and Anti-corruption

- *Raoul Renard, ICC Government Affairs Manager*

a. Special Session of the UN General Assembly Against Corruption ([UNGASS 2021](#)).

Summary

- Raoul Renard informed the Commission that the General Assembly of the United Nations adopted Resolution 73/1991 and decided to convene in the first half of 2021 a special session on challenges and measures to prevent and combat corruption and strengthen international cooperation. It was also decided that, at that special session, a concise and action-oriented political declaration be adopted, as had been agreed under the auspices of the Conference of the States Parties to the United Nations Convention against Corruption. On 31 August, the General Assembly adopted decision 74/568, in which it decided that the special session will be held from 2 to 4 June 2021.
- The special session of the 2021 UN General Assembly could help strengthen global anti-corruption efforts and coordination between organisations active in the field of anti-corruption.
- ICC has long been a key partner of the United Nations in the global fight against corruption. Key measures to adopt include raising awareness of bribery risks, promoting the adoption of anti-corruption and integrity compliance programmes and responsible engagement policies (covering for example lobbying, political financing, and post-public employment), including by small and medium companies and state-owned enterprises.

Action

- Establishment of an informal expert group to define key advocacy priorities and 2021 engagement strategy with a particular focus on UNGASS. Commission members who would like to contribute to this group should reach out to [Sierra Leder](#) by **15 January 2021**.
- ICC's First Vice-Chair and High-level Ambassador for Integrity Maria Fernanda Garza will

represent ICC at the UNGASS session to convey in person ICC's key recommendations.

b. UN FACTI Panel

Summary

- Raoul Renard provided an overview on the [UN Panel on International Financial Accountability, Transparency and Integrity](#) (FACTI).
- The initiative was launched by the President of the UN General Assembly and the President of the UN Economic and Social Council (ECOSOC). It has a one-year mandate to look into illicit financial flows, as well as issues such as corruption, tax issues, and money laundering.
- The panel is not an expert panel, but rather a high-level political panel. It has 15 representatives and is chaired by the former President of Lithuania and Prime Minister of Niger. It published an [Interim Report](#) during UN General Assembly Week in September, during which ICC was invited to provide a brief intervention.
- Recommendations put forward by the Panel will not necessarily be adopted by the UN, but the initiative might create pressures on key structures.
- The Interim Report contains some concerning statements and recommendations, including negative generalisations of private sector attitudes towards legal compliance and anti-corruption enforcement. It notes lack of inclusiveness in setting international rules results in implementation gaps. There were some helpful elements in the report, e.g. a call for improved peer review on the UN Convention on Anti-Corruption.
- It remains unclear as to whether the FACTI Panel's findings will have any real political impact. Nevertheless, it is important that ICC maintains a watching brief and engages strategically, while avoiding any risk of tacitly endorsing the process. The final report will be presented to the UN system on 25 February 2021.

Action

- ICC will maintain strategic engagement with the UN FACTI panel, as needed, in conjunction with other ICC Commissions and the ICC UN Office.

12. Proposal for an International Anticorruption Court to address Grand Corruption of government

- *Elaine Dezenski, Vice Chair, Integrity Initiatives International*

Summary

- Elaine Dezenski underscored that the main aim of Integrity Initiatives International (III) is to strengthen the enforcement of criminal laws against kleptocrats. The working program of III is founded on four principles: (i) supporting national anti-corruption measures, such as the High Anti-Corruption Court in Ukraine; (ii) Promoting understanding of the connection between corruption and human rights breaches; (iii) forging a network of young people dedicated to combatting corruption; and (iv) catalysing a campaign to establish the IACC.
- Ms. Dezenski noted that an IACC could function as a tribunal with jurisdiction over corrupt government leaders and those who conspire with them, including those who pay bribes or assist in laundering their illicit assets. It could operate on the principle of complementarity and impose fines that could be used to pay for its operations. The next steps in the Campaign to Establish the IACC is to develop a formal coalition of government leaders, prominent individuals, academics and civil society organizations from a variety of countries, and to engage under-30s in a campaign to

empower new accountability mechanisms and other enforcement mechanisms leading up to the United Nations General Assembly Special Session Against Corruption (UNGASS 2021) and beyond.

- III is looking for a strong role of business to help end impunity: multi-national corporations are major stakeholders in the fight against corruption. If the enforcement of criminal laws against corrupt leaders is strengthened, business is protected.

Action

- Commission members are encouraged to submit their initial reactions on the proposal for an IACC to [Viviane Schiavi](#). A consultation on the proposal will be carried out in early 2021.

13. Concluding remarks of Commission Chair

- *Denis Simonneau, Chair, ICC Commission on Corporate Responsibility and Anti-corruption*

Summary

- Denis Simonneau closed the meeting by underscoring agreements to work toward an update of the ICC Guidelines on Whistleblowing, on the scoping ICC engagement on broader supply chain due diligence issues, and on the UNGPs +10 project.
- Denis Simonneau also underscored the suggestion for an informal working group on new approaches to the corporate purpose, or shareholder capitalism.