

Discussion document : Elements for an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies (extracted from the report on the sixth session, A/HRC/36/36, pp 4-5)

1. Definitions and interpretations

- (a) Private military and security companies;
- (b) Private security companies;
- (c) Private military companies;
- (d) Complex environments.

2. Objectives of the regulatory framework

- (a) To ensure respect for human rights by the private military and security industry operating in complex situations;
- (b) To ensure the transparent use of the private military and security industry;
- (c) To ensure that the activities carried out by such private military and security companies do not have a negative impact on the rights of individuals.

3. Principles

- (a) Effectiveness, namely that the regulatory framework must have a genuine, significant and positive impact on performance, rather than just offering process without substantive change and, to that end, it must be based on third party rather than self-regulation;
- (b) Inclusiveness, namely that the regulatory framework must have an impact on the performance of all companies and not just those companies that are already achieving appropriate standards, although perhaps not in a fully measurable and independently verifiable manner;
- (c) Transparency through robust, independent processes that address broader concerns about the integrity of voluntary or self-regulatory systems;
- (d) Affordability, namely that regulation must be proportionate to operational needs and companies should only have to demonstrate conformity with one accepted and recognized standard.

4. Contracting States

- (a) To determine which military/security services States cannot contract out;
- (b) To establish a procurement process for private military companies and private security companies that incorporates an assessment of a company's capacity to perform services in accordance with the law, including robust selection criteria;

- (c) To incorporate requirements into government contracts to ensure respect for national laws, human rights law and applicable international humanitarian law, including providing relevant guidance;
- (d) To monitor and ensure accountability, including by addressing issues of jurisdiction and immunities, for companies operating under a government contract.

5. Territorial States

- (a) To ensure that the private security industry within their jurisdiction is effectively controlled and regulated;
- (b) To determine which services cannot be carried out by private military companies and private security companies in their territory;
- (c) To establish a process to authorize the provision of private military and security services, with robust criteria for licensing;
- (d) To monitor private military companies and private security companies that operate on a State's territory.

6. Home States

- (a) To determine which military/security services cannot be exported;
- (b) To establish a process to authorize the export of military and security services, with robust criteria for licensing;
- (c) To regulate the conduct of private military and security companies and personnel;
- (d) To monitor and ensure accountability.

7. States of nationality

- (a) To determine which military/security services cannot be performed abroad by nationals of the State;
- (b) To establish a process to authorize nationals to perform military and security services abroad, including criteria for licensing;
- (c) To regulate the conduct of private military and security companies personnel;
- (d) To monitor and ensure accountability;
- (e) To ensure access to remedies for victims of violations;
- (f) To prevent citizens and permanent residents from working for private military and security companies that have not undergone a transparent and fair authorization process administered by a designated regulatory authority.

8. Private military and security companies

- (a) To establish and implement compliance mechanisms to ensure that the selection, vetting and training of personnel performing military or security services are in conformity with national and international law;
- (b) To establish grievance mechanisms;
- (c) To supervise and hold accountable the personnel of private military and security companies who engage in misconduct.