

## Note on the “history” of the IGWG on PMSCs (2011-present)

### ❖ **Period 2011-2017**

**Mandate of the IGWG on PMSCs** (provided by resolution 15/26 (2010), then extended by resolution 22/33 (2013) and later 28/7 (2015)): to consider the possibility of elaborating an international regulatory framework, including, inter alia, the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies, including their accountability, taking into consideration the principles, main elements and draft text as proposed by the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.”

#### ▪ **2011-2012 (res. 15/26)**

At the conclusion of two sessions, in May 2011 and August 2012 respectively, the open-ended intergovernmental working group submitted a report with recommendations to the Human Rights Council at its 22nd session.

#### ➤ *Conclusions and Recommendations (A/HRC/22/41, 2012):*

*76. The intergovernmental working group noted the positive discussions which took place on the basis of an agreed work plan. It identified existing gaps and/or areas of concern in relation to the promotion and protection of human rights regarding the activities of the PMSC industry, which led to a consensus that there is a need for further discussion in the open-ended intergovernmental working group. It also identified a range of existing and potential options for addressing these areas of concern at the domestic and international levels.*

*77. In view of the initial constructive and substantive discussions held during the first two sessions of the open-ended inter-governmental working group, and in light of the complexities of the issues, it recommends to the Human Rights Council the following: (a) Continuation of the substantive discussions in the intergovernmental working group with the participation of experts and all relevant stakeholders for a further two year period; (b) Consideration of the human rights aspects of, inter alia, the following: (i) Accountability and the provision of appropriate remedies for the victims; (ii) To distinguish between the activities of private security companies and private military companies, as well as other possible activities relevant to this issue; (iii) Review of all measures, including existing National legislation for registering, licensing and contracting PMSCs. (c) Consideration of the possibility of an international regulatory framework, including the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of PMSCs, as well as other approaches and strategies, including international standards, and the way in which they might interact to protect human rights.*

#### ▪ **2014 ( res. 22/33)**

The third session of the intergovernmental working group was held from 21 to 25 July 2014 (please see the summary report).

➤ *Concluding remarks (A/HRC/WG.10/3/2)*

52. *In his concluding remarks, the Chair noted that discussions reaffirmed the shared goal of protecting human rights and ensuring accountability for violations and abuses relating to the activities of PMSCs. There was widespread agreement about gaps in the current regulatory framework, not least because only very few States have specific legislation on PMSCs. Efforts to ensure regulation through voluntary self-regulatory mechanisms were still being rolled out. The question remained whether and how they could ensure effective remedies for victims and accountability on the part of perpetrators, in particular regarding the most serious human rights abuses. He emphasized that the issue of PMSCs had many different facets. The specificities of regulating sea-based private security activities and specific challenges emerged from the discussions relating to PMSC activities that were transnational in nature or had to do with military and conflict contexts.*

53. *The delegations welcomed the constructive dialogue during the session and thanked the Chair for his organization and leadership.*

▪ **2015-2017 (res. 28/7)**

On 26 March 2015, the Human Rights Council decided, in its resolution 28/7, to extend the mandate of the open-ended intergovernmental working group for a further period of two and a half years in order for it to undertake and fulfil its mandate, as contained in resolution 22/33.

Following its fourth session, which was held from 27 April to 1 May 2015, the open-ended intergovernmental working group presented its recommendations to the Council at its thirtieth session (please see the report A/HRC/30/47).

➤ *Conclusions and recommendations (A/HRC/30/47)*

80. *The open-ended intergovernmental working group noted the multifaceted and diverse issues raised throughout its third and fourth sessions. These included: the distinction between the activities of private military companies and private security companies; measures for registering, licensing and contracting private military and security companies; ensuring accountability and provision of assistance and remedies for victims; possibility of an international regulatory framework; specificities of regulating sea-based private security activities; and the use of private security companies by the United Nations. The intergovernmental working group noted the initiatives undertaken by various stakeholders relating to those issues, while highlighting the challenges that remain.*

81. *The open-ended intergovernmental working group will continue its work on the above-mentioned issues and also recommends further consideration of related human rights issues.*

The fifth session of the intergovernmental working group was held from 12 to 16 December 2016 (please see the summary report).

➤ *Concluding remarks (A/HRC/WG.10/5/2)*

73. On 16 December 2016, the Chair-Rapporteur concluded that the discussions during the fifth session of the intergovernmental working group had been enriched, as in prior sessions, by the presentations delivered by experts. Throughout the fifth session, the working group had heard a rich tapestry of inputs and views. The Chair Rapporteur noted that at the centre of this endeavour was an effort to contribute to the mainstreaming of human rights.

74. The Chair-Rapporteur noted that a range of substantive issues had been discussed, including access to justice and remedies for victims of violations and abuses linked to the activities of private military and security companies; the operation of those companies in maritime and other contexts; the initiatives taken at the national and international levels; other measures taken concerning the regulation and oversight of the activities of private military and security companies; existing regulatory frameworks; and problems, challenges, and suggestions from delegations to move forward. The Chair-Rapporteur stressed that finding appropriate solutions in this regard continued to be one of the key challenges for the intergovernmental working group.

75. The Chair-Rapporteur reiterated that the working group had already held five sessions; the sixth would be held from 22 to 26 May 2017, in order to prepare a report for submission to the Human Rights Council at its thirty-sixth session. The Chair Rapporteur raised the questions of how close the delegations were to converging on recommendations to be made to the Council, and whether it would ever be possible for delegations to find a common ground on this issue. She invited delegations to reflect upon these questions as the working group prepared for its sixth session.

The sixth session of the open-ended intergovernmental working group was held from 22 to 24 May 2017 (please see the report [A/HRC/36/36](#)).

➤ *Conclusions and recommendations (A/HRC/36/36)*

26. On 24 May 2017, the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies adopted the following conclusions and recommendations:

27. The open-ended intergovernmental working group: (a) Notes the recommendations of the first five sessions of the open-ended intergovernmental working group; (b) Recognizes the need to protect human rights and ensure accountability for violations and abuses relating to the activities of private military and private security companies; (c) Acknowledges the difference of views at this time on the nature of an international regulatory framework that would address these concerns; (d) Notes relevant national, regional and international standards and tools, including those prepared by various stakeholders.

28. The open-ended intergovernmental working group recommends that the Human Rights Council consider the establishment of a new intergovernmental working group for a period of three years mandated to: (a) Commence elaborating the content of an international regulatory framework, without prejudging the nature thereof, in efforts to protect human rights and ensure accountability for violations and abuses relating to the activities of private

*military and private security companies, informed by the discussion document on elements for an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, as prepared by the Chair-Rapporteur, and further inputs from Member States and other stakeholders; (b) Invite the contributions of Governments, relevant special procedure mandate holders and mechanisms of the Council, treaty bodies, regional groups, intergovernmental organizations, civil society, the industry and other stakeholders with relevant expertise, including the Co-Chairs of the Montreux Document Forum and the International Code of Conduct Association.*

29. *The open-ended intergovernmental working group also recommends that its conclusions and recommendations be incorporated in a resolution of the Human Rights Council.*

#### ❖ **Period 2017- present**

**Mandate of the IGWG on PMSCs** (provided by resolution [36/11](#) (2017), and extended through resolution [45/16](#) (2020): to elaborate the content of an international regulatory framework, without prejudging the nature thereof, to protect human rights and ensure accountability for violations and abuses relating to the activities of private military and security companies, to be informed by the discussion document on elements for an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, as prepared by the Chair-Rapporteur, and further inputs from Member States and other stakeholders.

The Human Rights Council also acknowledged the importance of providing the working group with the expertise and expert advice necessary to fulfil its mandate, and decided that the working group shall invite experts and all relevant stakeholders to participate in its work. The Council invited the contributions of Governments, relevant special procedure mandate holders and mechanisms of the Human Rights Council, the treaty bodies, regional groups, intergovernmental organizations, civil society, the industry and other stakeholders with relevant expertise, including the Co-Chairs of the Montreux Document Forum and the International Code of Conduct Association.

#### ▪ **2018-2020 (res. 36/11)**

The first session of the intergovernmental working group took place from 20 to 23 May 2019 at Palais des Nations, room XX (no session took place in 2018, and the session in 2020 could not take place due to Covid-19). Please see report at [A/HRC/42/36](#).

#### ➤ *The way forward (A/HRC/42/36)*

*82. The Chair-Rapporteur outlined the way forward by announcing that she would invite, in line with paragraph 4 of resolution 36/11 and within eight weeks after the online publication of the advance unedited version of the present summary report, written contributions from Governments, relevant special procedure mandate holders and mechanisms of the Human Rights Council, the treaty bodies, regional groups, intergovernmental organizations, civil society, the industry and other stakeholders with relevant expertise, including the Co-Chairs of the Montreux Document Forum and the International Code of Conduct Association.*

➤ *Concluding remarks*

*83. The Chair-Rapporteur concluded the meeting by expressing appreciation for the constructive spirit displayed by all participants as well as the collaborative manner in which discussions had taken place during the first session of the working group. This was in her view a reflection that multilateralism could work, despite the challenging times. She thanked civil society organizations for their participation, as well as the Working Group on the use of mercenaries, the Co-Chairs of the Montreux Document Forum, ICRC and the International Code of Conduct Association.*

On 6 October 2020, the Human Rights Council in its resolution [45/16](#) decided to renew the mandate of the open-ended intergovernmental working group for a period of three years, with the same mandate as in resolution [36/11](#).

The second session of the intergovernmental working group will take place from 26 to 30 April 2021.

