

Open-ended intergovernmental working group to elaborate the content of an international regulatory framework, without prejudging the nature thereof, relating to the activities of private military and security companies

Second session 26-29 May 2021

Opening Remarks by Peggy Hicks

Excellencies,
Distinguished representatives,
Ladies and gentlemen,

I welcome this opportunity to address this Working Group tasked with an important but challenging and complex objective.

I also welcome the flexibility you have demonstrated in organising and attending this session under the challenging circumstances created by the COVID pandemic.

I congratulate South Africa for having steered the process since its inception. This is only the second session of this Working Group, after a landmark decision of the Human Rights Council in 2017. After several years of debate, this decision affirmed the need for a framework to regulate the activities of PMSCs, and tasked this Group with the mandate to elaborate such framework at the international level, while leaving the decision about its nature of it for a later stage. This commitment was reaffirmed more recently, when the Human Rights Council extended the mandate of this Group for three more years.

The mandate you have been entrusted with provides an opportunity to explore measures to more effectively prevent human rights abuses relating to the activities of private military and security companies, as well as ensuring access to justice and remedies for victims of such abuses and accountability of the perpetrators.

The work done until now by this Group provides a solid basis on which to anchor your future work towards the elaboration of a draft regulatory framework. The discussions you have held since 2011 have contributed to a greater understanding of the range of complex issues associated with the activities of private military and security companies. Now, the time has come to build and expand on that work.

This afternoon, you will hear from a range of relevant experts invited to make presentations, who will further enrich the wealth of knowledge and expertise this Group has accumulated on a range of issues over the years.

While the discussion document offers a useful compass to inform and guide your work, there is a need to expand on that document and identify possible gaps. It is for each of you to contribute your views and perspectives with the shared goal to find common regulatory positions on the different aspects of the regulatory framework you have been tasked to develop.

The context in which PMSCs operate must be carefully considered; evidence suggests that PMSCs have played an increasingly important role, in particular in carrying out State security functions. Their activities are increasingly impacting individuals and communities not only in conflict and post-conflict zones around the globe but also in areas not currently afflicted by conflict.

While on the one hand, State and non-state actors resort to PMSC activities for legitimate goals of protecting public and private infrastructures, such activities, carried out oftentimes in high risk and complex environments, have resulted in instances of criminal conduct and abuse of human rights.

The activities of PMSCs and their personnel affect various parts of communities differently. Human rights abuses committed by PMSCs have devastating, differentiated, often disproportionate impact on women and girls' lives. Such effects oftentimes remain unacknowledged and unaddressed particularly when PMSCs provide services in situations of armed conflicts, post conflict and transitional settings. Women and girls also face heightened discrimination and barriers to seeking effective remedies in case of human rights violations at the hands of PMSCs. I invite this Group to keep in mind such differentiate impacts.

The prevention and redress of human rights abuses committed by PMSCs, and ensuring greater accountability and remedy for victims of such abuses should be at the core of any framework considered by this Group. Such framework should also take into account the experiences of those who stand to be most affected by these companies' activities. The wrongs caused to individuals by private military and security companies should be remedied and accounted for, irrespective of whether these companies operate at the national or at the transnational level. Mutual legal assistance and international cooperation to prevent human rights abuses and provide access to justice and effective remedies to victims such abuses are key in that respect. In relation to access to remedy, I would like to draw your attention to the Accountability and Remedy project mandated by the Human Rights Council. The Project's findings and recommendations provide useful guidance and could inform your discussion on increasing access to effective remedy for victims of corporate abuses and ensuring accountability for such abuses.

I note that discussions in this Group are taking place in the broader context of the evolution of standards for business enterprises towards fostering greater respect for human rights. Ongoing efforts are underway at the national, regional and international levels to adopt regulatory measures requiring companies to carry out human rights due diligence. At the international level, the ongoing work carried out by the intergovernmental process tasked to elaborate a legally binding instrument to regulate the activities of transnational corporations and other business enterprises is a point in case. This strong trend towards mandatory measures on human rights due diligence will have some implications for the activities of PMSCs, and it would be wise that this Group take into account these developments to strive for complementarity. But mindful that the risks of gross human rights abuses is heightened when PMSCs operate in conflict-affected areas, actions by States and due diligence by business need to be heightened accordingly. National actions plans on business and human rights, should give special consideration to the private security sector given the elevated risks of human rights impacts related to such sector.

Let me assure you that I appreciate the complexity of such process. This is the reason why I invite all Stakeholders to engage constructively and work collaboratively during the

forthcoming session and to set aside their political divergence on the nature of the regulatory framework to be elaborated. Time has come to focus on the ultimate shared goal and aspirations of putting an end to abuses caused by PMSCs.

Let me conclude by inviting invite all stakeholders to engage constructively and work collaboratively during the forthcoming session – with our shared goal in mind, to prevent abuses committed in the context of the activities of PMSCs and to promote effective corporate accountability and redress for victims of abuses.

I wish you a successful debate and look forward to hearing about the progress you will have achieved by the end of the week on the elaboration of a regulatory framework. OHCHR stands ready to support your work to the best of its ability.

I wish you every success in this endeavor.