

**Statement delivered by South Africa**

**Fifth session of 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**

**12 December 2016**

 ***Check against delivery***

Chairperson,

My delegation aligns itself with the statement read by South Africa on behalf of the African Group.

The South African delegation wishes to congratulate you on your election as the Chairperson –Rapporteur. My delegation welcomes the convening of the 5th Session of 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.

The national and international regulatory frameworks outlined during the past four Sessions of the Working Group identified the clear normative and supervisory gaps and insufficiencies in the legal framework which has by and large been ineffective to ensure the minimal threshold of human rights and humanitarian law in the context of PMSCs’ activities. Traditionally centred on state responsibility, it is clear that international human rights law has failed to keep pace with the rapid development and deployment of these entities.

Because the military and security services provided by PMSCs are highly specific and dangerous, they cannot be considered as ordinary commercial commodities nor can they be allowed to operate through self-regulation of the market and the companies themselves.

A large number of allegations of human rights violations committed by these entities have taken place with impunity ranging from torture; trafficking of persons; and adverse health implications.

Private military and security companies are able to intervene in conflicts tilting the balance of power in their favour. They have the potential to undermine legitimate, constitutional democracies. Their lack of transparency and accountability has led to them operating above the law - manipulating Governments in the process.

Several private security companies continue to be contracted by foreign countries to operate in conflict or non-conflict areas. It is very probable that the global involvement of PMSCs will only but continue. Many inherent State functions are continuing to be outsourced to PMSCs, expanding their scope on the use of force and firearms often in contradiction to international human rights standards.

South Africa is of the view that in light of the discussions over the past four years, the time is opportune for the Working Group to elaborate an International Convention in this regard. The new instrument should ensure that penalties are imposed in this respect and the remedies should be commensurate with the scale of violations committed. The instrument required must have mechanisms for recourse in the cases of violations. Such mechanisms would include (a) a Committee on the Regulation, Oversight and Monitoring of PMSCs; (b) to set up an enquiry procedure and complaint procedure; and (c) to set up reporting mechanisms on compliance with new norms and standards in international human rights and humanitarian law by the PMSCs.

I thank you.