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

**1st session, 20 to 24 May 2019**

**Geneva, Palais des Nations, Room XX**

**UN Working Group on Mercenaries on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination**

**Intervention – Sorcha MacLeod**

**Introduction**

The UN Working Group on Mercenaries welcomes the 1st Session of the Open-ended intergovernmental working group (OEIGWG) to elaborate the content of an international regulatory framework, without prejudging the nature thereof, relating to the activities of private military and security companies. The Working Group thanks the Chair for the opportunity to intervene.

The Working Group on Mercenaries holds a mandate under the Human Rights Council’s Special Procedures. Under Human Rights Council resolution 33/4 paragraph 19, it has a specific mandate to consider human rights issues relating to private military and security companies (PMSC) as well as mercenaries and mercenary-related activities.

The Working Group on Mercenaries supports a binding regulatory mechanism complementary to the existing regulatory framework, specifically the Montreux Document and International Code of Conduct for Private Security Providers, the contents of which will be of much use to the OEIGWG on PMSCs in its task.

**Content of a regulatory mechanism**

The Working Group on Mercenaries asks States to take note of the following for inclusion in any future regulatory mechanism:

* It should be noted that definitions of Private Military and Security Company (PMSC), Private Military Company (PMC,) and Private Security Company (PSC) have been challenging for stakeholders to agree historically. The Working Group on Mercenaries therefore urges that any regulatory mechanism developed via this process refer instead to ‘services’ or ‘activities’ as more effective options for capturing human rights or international humanitarian law violations. See, for example, Switzerland’s Federal Act on Private Security Services Abroad Article 4, which applies to the provision of ‘private security services’ rather than specifically defined business enterprises.
* It is necessary to broaden the scope of any regulatory mechanism beyond ‘complex environments’ or ‘complex situations’ in order to capture the varied situations where private security is used and in which human rights are vulnerable as a consequence.
* Any regulatory mechanism adopted by the OEIGWG must include provisions on the following:
  1. Effective vetting of private military and security companies and their personnel - mutual cooperation and mutual legal assistance are crucial for this;
  2. Adequate and effective training, including specific training on human rights and international humanitarian law where applicable;
  3. Transparent and effective accountability mechanisms at the State level which ensure access to justice and remedies for the victims of PMSC-related human rights or international humanitarian law violations - addressing jurisdictional issues and mutual legal assistance is also crucial here.

The Working Group on Mercenaries stands ready to assist the OEIGWG with its activities.