



**European Union**

**UNITED NATIONS**

**5<sup>th</sup> 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**

**Concluding remarks by the European Union**

**Geneva, 16 December 2016**

**- CHECK AGAINST DELIVERY -**

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**EU Concluding remarks**

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The European Union would like to thank the Chairperson-Rapporteur and the Secretariat for the work in preparation of this session and during the session.

The EU has actively and constructively engaged in the discussion of this Intergovernmental Working Group over the past five years. As the 5th session ends, we believe that it is time to take stock. We would like first to recall that the Open-ended intergovernmental working group is mandated "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".

This session confirms the findings of past session, notably that this industry is complex, and evolving. The presentations also confirm that many steps have already been taken to prevent abuses, and provide remedy when abuses occur. A range of obligations for States already exists, as well as several processes to set new standards, to elaborate concrete guidance for specific sectors, and to ensure oversight and accountability. This is illustrated by progress made in the Montreux Document Forum – the EU is pleased to be a member of the Group of Friends of the co-Chair (Switzerland, ICRC); the operationalisation of the Geneva-based International Code of Conduct Association as an oversight mechanism, as well as the new standards elaborated by ISO. These are interconnected as the Montreux Document Forum includes a Working Group to provide advice to ICoCA. The ICoCA certification procedures refer inter alia to the standards developed by ISO.

The European Union is also pleased that this session allowed, for the first time, to fully grasp the relevance across sectors, including in the case of Private Security Companies, of the UN Guiding Principles on Business and Human Rights, and their implementation. The High Commissioner's report "Improving accountability and access to remedy for victims of business-related human rights abuse" and the Accountability and Remedy Project developed by OHCHR are particularly useful for further progress on access to remedy. They were recognized in the Council Conclusions on

Business and Human Rights adopted on 20 June 2016:  
[http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-fac-business-human-rights-](http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-fac-business-human-rights-conclusions)

[conclusions](http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-fac-business-human-rights-conclusions). We were pleased to see the adoption by consensus of resolution 32/10 presented by the core group (Argentina, Ghana, Norway, Russian Federation) as a follow-up to the High Commissioner's report (A/HRC/32/19 and Add.1).

The discussion confirmed the specificities of regulating sea-based private security activities and the need to look into progress made in other fora. We would benefit from presentations by International Maritime Organisation (IMO) which has the leading role on this issue

During the session, the European Union heard well the suggestion made by the Chairperson-Rapporteur to close the process if there is no indication of progress. The EU is not a sponsor of this process, and, in the past, its voice has seemingly not been always well heard when it provided advice on the possible way forward. It is our understanding that this session of the Intergovernmental Working Group is not meant to develop recommendations for next steps, but we take note of the Chairperson-Rapporteur's suggestion.

Observers of this process have witnessed missed opportunities to build consensus, and some question its ability to deliver progress. We have engaged in this session with the hope that we can find agreement on effective and efficient ways forward. The EU reiterated the concrete proposals it made at the end of the 4th session, including: "Consideration of the range of options to be explored to further develop an international regulatory framework, including international standards setting, development of guidelines, possibly actions plans or model laws, contract templates based on the Montreux Document, good practices and mutual legal assistance programmes".

While there has not been much progress in this Intergovernmental Working Group, we are pleased to see that some concrete tools have being developed in other fora since the 4th session with a view to improve the regulation and oversight of Private Security Companies. We value the efforts by the Geneva Centre for the Democratic Control of Armed (DCAF) to develop a " Legislative Guidance Tool for States to Regulate Private Military and Security Companies" as well as a "Contract Guidance Tool" which will be useful for clients, not only States and international organisations, but also potentially for others such as humanitarian NGOs hiring or considering a private security company (PSC) to ensure the security of their operations.

As the 5th session ends, we would like to reiterate our clear position. The European Union believes that private security companies need to respect international humanitarian law and international human rights law. We should not lose sight of our shared objective to prevent abuses, and provide remedy when abuses occur. The industry needs a predictable environment to operate in respect of international human rights law and international humanitarian law. Human rights defenders and victims need reliable avenues for access to remedy, be it through judicial or non-judicial mechanisms.