

# DISCUSSION DOCUMENT: ELEMENTS FOR AN INTERNATIONAL REGULATORY FRAMEWORK ON THE REGULATION, MONITORING AND OVERSIGHT OF THE ACTIVITIES OF PRIVATE MILITARY AND SECURITY COMPANIES

## **1. *Definitions and Interpretations***

- i. PMSCs
- ii. PSCs
- iii. PMCs
- iv. Complex Environments

## **2. *Objectives of the regulatory framework***

- i. Ensuring respect for human rights by the private military and security industry operating in complex situations;
- ii. Ensuring the transparent use of the private security military and industry
- iii. Ensure that the rights of individuals are not negatively impacted upon by the activities carried out by such private military and security companies

## **3. *Principles***

- i. Effectiveness, in that they must have a genuine, significant and positive impact on performance, rather than just offering process without substantive change and, to that end, must be based on third party rather than self-regulation;

- ii. inclusiveness, in that they must impact on the performance of all companies, and not just those companies who are already achieving appropriate standards, although perhaps not in a fully measurable and independently verifiable manner;
- iii. transparency through robust, independent processes which addresses broader concerns about the integrity of voluntary or self-regulatory systems; and
- iv. affordability, in that regulation must be proportionate to operational need, and companies should only have to demonstrate conformity with one accepted and recognized standard

#### **4. Contracting States**

- i. Determine which military/security services the state may not contract for
- ii. Establish a PSC and PMC procurement process that incorporates an assessment of a company's capacity to perform services in conformance with the law, including robust criteria for the selection of the company
- iii. Incorporate requirements into government contracts to ensure respect for national law, human rights law, and applicable international humanitarian law, including providing relevant guidance
- iv. Monitor and ensure accountability, including through addressing issues of jurisdiction and immunities, for companies operating under a government contract

#### **5. Territorial states**

- i. Ensure that the private security industry within their jurisdiction is effectively controlled and regulated

- ii. Determine which services may not be carried out by PMCs and PSCs in their territory
- iii. Establish a process to grant authorization for the performance of military and security services with robust criteria for licensing
- iv. Monitor PMCs and PSCs that operate on the states territory

**6. Home states**

- i. Determine which military/security services may not be exported
- ii. Establish a process to grant authorization for the export of military and security services with robust criteria for licensing
- iii. Regulate the conduct of PMSCs and personnel
- iv. Monitor and ensure accountability

**7. States of nationality**

- i. Determine which military/security services may not be performed abroad by nationals of the state;
- ii. Establish a process to grant authorization for the nationals to perform military and security services abroad, including criteria for licensing;
- iii. Regulate the conduct of PMSC personnel;
- iv. Monitor and ensure accountability; and
- v. Ensure access to remedy for victims where violations have occurred.
- vi. The recruitment of its citizens and permanent residents to work for PMSCs without a transparent and fair authorisation process from a designated regulatory authority.

**8. *Private Military and security Companies***

- i. Establish and implement compliance mechanism to ensure compliance with national and international law, selection, vetting, and training of personnel performing military/security services;
- ii. Establish grievance mechanism
- iii. Supervise and hold accountable PMSC personnel that engage in misconduct.