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Progress report on the second session of the open-ended intergovernmental working group to elaborate the content of an international regulatory framework, without prejudging the nature thereof, to protect human rights and ensure accountability for violations and abuses relating to the activities of private military and security companies*

Chair-Rapporteur: Mxolisi Sizo **Nkosi** (South Africa)

* The annex is reproduced as received, in the language of submission only.

I. Introduction

1. In its resolution 45/16, the Human Rights Council decided to renew for a period of three years the open-ended intergovernmental working group with a mandate to continue elaborating the content of an international regulatory framework, without prejudging the nature thereof, in efforts to protect human rights and ensure accountability for violations and abuses relating to the activities of private military and security companies. In the resolution, the Council stated that the mandate of the working group should be informed by a discussion document on elements for an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, as prepared by the Chair-Rapporteur, with further inputs from Member and observer States and other stakeholders, and by factoring in the work done under the previous mandate.

2. The second session of the working group, held from 26 to 29 April 2021[1] was opened by the Director of the Thematic Engagement, Special Procedures and Right to Development Division of the Office of the United Nations High Commissioner for Human Rights (OHCHR). She noted the renewed opportunity for the group to explore measures to prevent human rights abuses relating to the activities of private military and security companies more effectively, as well as ensuring access to justice and remedies for the victims of such abuses and the accountability of perpetrators. She further noted the broader context of the evolution of standards for business enterprises towards fostering greater respect for human rights, notably through the development of regulatory measures requiring companies to carry out human rights due diligence. She stressed the need to build and expand on the discussion document[2] and identify gaps, and encouraged all stakeholders to participate constructively in the deliberations.

II. Organization of the session

A. Election of the Chair-Rapporteur

3. At its 1st meeting, the working group elected the Permanent Representative of South Africa to the United Nations Office at Geneva, Mxolisi Sizo Nkosi, as its Chair-Rapporteur. The working group then adopted the provisional agenda (A/HRC/WG.17/2/1), timetable and programme of work.

B. Attendance

4. The list of participants is contained in the annex to the present report.

C. Introductory remarks of the Chair-Rapporteur

5. The Chair-Rapporteur stressed that while long-standing treaties under international humanitarian law addressed military actions and actions taken by States through military and security forces, the absence of an international regulatory framework for private military and security companies, combined with limited domestic regulation offered a “breeding ground” for abuses committed by such companies. He further stated that the working group had been entrusted with the task of developing a regulatory framework that could pave the way for increased monitoring and accountability of the private military and security industry. The future instrument needed to address the circumstances under which private military and

[1] The session took place within the context of measures to combat the spread of the coronavirus disease (COVID-19) pandemic. Participation in the session took place mostly virtually, through Zoom, while a few participants attended in person. Participation through pre-recorded video statements was also possible. Additional information about the modalities of the session and statements made during the session shared with the secretariat are available at www.ohchr.org/EN/HRBodies/HRC/IGWG_PMSCs/Pages/Session2.aspx.

[2] See A/HRC/36/36.

security companies could be held responsible for human rights violations and the channels through which victims could seek redress and remedy. The goal was to close the normative gaps so that private military and security companies could effectively be held accountable for their human rights violations.

6. The Chair-Rapporteur explained that the programme of work had been developed so that experts could brief the working group on the latest developments and participants could discuss the elements contained in the discussion document. He further highlighted the need to start discussions on the way forward, including on the structure of a regulatory framework, and invited interested parties to take part in constructive exchanges and make concrete suggestions, including between sessions. Finally, he encouraged the participants to consult the historic overview of the present and former mandates of the working group, together with the outcomes of all previous sessions, available on the web page of the present session.

D. Plenary discussion

7. The representative of the European Union stressed the importance of the inclusivity of the process and reiterated strong concerns over the lack of progress made by the working group, with only one session held during the previous three-year mandate and with no new discussion documents or reference documents being produced or updated. The current mandate did not make any presumptions about the ultimate legal nature of the potential future framework and, in line with Human Rights Council resolution 15/26, there was still a difference of views on the nature of a potential new international regulatory framework. The European Union would carefully assess the content and added value of any possible proposal for a non-binding international regulatory framework to regulate the activities of private military and security companies. Such companies did not operate in a regulatory vacuum and an international legal framework already existed. The representative of the European Union pointed to the important role of the Montreux Document on pertinent international legal obligations and good practices for States related to the operations of private military and security companies during armed conflict and welcomed the participation of the Co-Chairs of the Montreux Document Forum, representatives of the International Code of Conduct Association, relevant experts and representatives of civil society organizations and business communities throughout the session. Requesting the working group to deliver shortly on its mandate, he indicated that the European Union would continue to engage in the proceedings with a view to, inter alia, informing itself of all possible options for its engagement, according to the substance and progress achieved.

8. The representative of the Bolivarian Republic of Venezuela noted with great concern that, in spite of the existing international initiatives, the domestic and self-regulations of the activities of private military and security companies were insufficient to tackle the impunity of such companies regarding abuses they had committed, often resulting in atrocities such as torture, targeted killings, secret detention, trafficking of weapons or the activities of mercenaries. The Bolivarian Republic of Venezuela reaffirmed its firm support for the working group.

9. The representative of Brazil expressed the view that the work of the working group should be guided by the strict mandate given by the Human Rights Council in the sense that it applied in general to the activities of security companies outside the context of conflict zones and humanitarian settings. The working group should remain independent from the deliberations and recommendations made by other intergovernmental working groups and special procedures mandated by the Council. He noted that the Guiding Principles on Business and Human Rights and the Montreux Document were useful sources of inspiration. He highlighted the need to clearly define the functions that could not be delegated to non-State actors and the safeguards indicating that the rules under the future instrument could not be implemented “selectively”; the need for alternative solutions in order to allow accountability; the need to further clarify the concepts of the “home State” and “State of nationality”, including in relation to an alternative broader concept of the State of origin; and how to separate and define the nature of a company in comparison to the kind of services provided by a company in the context of an armed conflict. The representative of Brazil indicated its openness to considering suggestions for new elements in the regulatory

framework and recommended that the process of elaborating a revised discussion document should be transparent, including by properly attributing suggestions.

10. The representative of Argentina pointed out that it was necessary to protect human rights by ensuring accountability and responsibility for violations and abuses related to the activities of private military and security companies, as impunity jeopardized peace and guarantees of non-repetition of human rights violations were needed. The actions of state security forces within and outside the territory of the State in question must be carried out with absolute respect for international law, international human rights law and the international law on asylum seekers and refugees. The same respect must be shown by any security company contracted to supplement or complement the functions of the security forces. The representative of Argentina agreed with many delegations that the Montreux Document was an appropriate starting point for discussions.

11. While recognizing that private military and security companies were not a replacement for combat forces, the representative of the United States of America noted that they played a critical support role in conflict situations, indicating that greater reliance on contract personnel required vigorous oversight and accountability mechanisms. He pointed to the existence of several non-binding frameworks promoting compliance with existing rules, such as the International Code of Conduct and the Montreux Document, which set out well-established rules of international law and described good practices for States to promote compliance with international law during armed conflict. Thus, in his view, a new international legally binding instrument was not necessary to ensure the protection of human rights and access to justice for victims.

12. The representative of Cuba expressed his full support for the working group process. Recognizing that there were divergent opinions on the nature of the future instrument, Cuba saw a need to have a binding instrument and its representative stated that other measures binding in nature could complement and coexist with this convention.

13. The representative of Switzerland, as Co-Chair of the Montreux Document Forum, pointed to the complementarity between the work of the Forum and the working group, given their shared goal of strengthening international humanitarian and human rights law in the context of the activities of private military and security companies. Recalling that the mandate of the working group had to do with a regulatory framework without prejudging its nature, the representative of Switzerland stressed that complementarity with the Montreux Document must be taken into account when addressing the challenges at stake.

14. While noting that the State was the sole legitimate authority for providing security to people and property and recognizing the attempts to establish some mechanisms for holding private military and security companies accountable and ensuring effective remedies for victims, the representative of India stated that existing initiatives, such as the Montreux Document and the International Code of Conduct, were not sufficient to address the gaps in regulating the activities of such companies and that regulation was crucial to ensuring accountability and addressing new challenges effectively.

15. The representative of China expressed support for a regulatory framework to prevent violations of international law and address the issue of remedy for victims. Regulation of private military and security companies should build upon and complement international initiatives, such as the Montreux Document and the International Code of Conduct. China indicated recent legislation it had adopted to regulate private military and security companies, with the State Council having developed measures requiring codes of conduct and supervision by State organs.

16. While recognizing the importance of having regulations in the context of both peace and armed conflict, the representative of Mexico expressed reservations about the need to develop a special legal framework to regulate the activities of private military and security companies, because it could lead to an unnecessary multiplicity of international instruments, in addition to diluting both State and individual responsibilities for unlawful acts, particularly in the context of armed conflict. Existing documents such as the International Code of Conduct, the Montreux Document and the Guiding Principles on Business and Human Rights were not binding precisely because of legal and practical difficulties.

17. Noting that the discussion document had remained unchanged since the last session, the representative of Egypt stressed the need to reflect and take on board all the observations and concerns expressed at the session in 2019, especially the differences in national legislation governing the establishment of private military and security companies. Egypt was one of several countries that allowed the establishment of private security companies for specific purposes to guard people and private property, but not private military companies. The representative emphasized that Egypt had not taken part in or negotiated on some voluntary initiatives, such as the Montreux Document, and hence it was not entirely supportive of, nor in agreement with, the definitions used in those documents. The representative of Egypt reiterated the need for clear definitions of the terms used in the discussion document such as "private security companies", "private military companies", "conflict situations" and the different categories of countries, such as "host", "territorial" etc. The representative also pointed out that there was a need to differentiate between the services provided by private military and security companies and the context in which they operated and reiterated the need to respect the mandate of the working group, which should not extend beyond the scope of the mandate given it by the Human Rights Council, since other organizations, specifically the International Committee of the Red Cross (ICRC), were responsible for ensuring the humanitarian protection of and assistance to victims during armed conflicts, according to the Geneva Conventions.

18. Reaffirming the need for accountability, the representative of South Africa stated that private military and security companies operated in a legal vacuum, permitting impunity and rendering populations in territorial States where such companies operated increasingly vulnerable. Pointing to the negative impacts that private military and security companies had, especially in developing countries, the representative of South Africa stated that urgent attention was needed in view of the transnational nature of such violations and pointed to the negative effects of private military and security companies, including the destabilization of countries and other long-term negative impacts.

19. The representative of Iraq expressed support for the work of the working group and recalled that his country, which was party to the Montreux Document, had issued legislation in 2017 regulating the work of private security companies. Further, the Ministry of the Interior had established a Directorate of Private Security Company Affairs with the objective of granting permits and monitoring the work of such companies. The representative of Iraq reaffirmed the need to ensure that the rights of individuals were not negatively affected by the activities of private military and security companies through the existence of a mechanism to monitor their work in a manner that ensured accountability for violations and reparations. The representative also stressed the importance of respecting State sovereignty and of reaching a clear and consensus-based definition of private military and security companies.

20. The representative of the Islamic Republic of Iran emphasized the need to address the issue of private military and security companies within an international legal instrument based on respect for national law, including criminal law, human rights law and applicable international humanitarian law. While initiatives such as the Montreux Document and the International Code of Conduct could provide useful inputs for the deliberations of the working group, they could not be regarded as inclusive of all the necessary elements required for a legally binding and multilaterally negotiated instrument. She recalled that the Geneva Conventions obliged States to hold war criminals accountable for their crimes, even when they acted as private security contractors, and that granting reprieve or pardon in such cases violated State obligations under international law and specifically undermined humanitarian law and human rights. An international legal framework should fill the existing accountability gaps in international law to ensure the responsibility of States for the misconduct and crimes committed by members of private military and security companies and that victims had access to an effective remedy, redress and compensation.

21. The representative of Pakistan considered that private military and security companies should not be treated as ordinary business entities, since their services had far-reaching implications for global peace and human rights, and advocated for a separate global regulatory framework. The notion of self-regulation by private military and security companies had failed to stand the test of time, with current trends and developments calling into question the adequacy and effectiveness of the Montreux Document and the International

Code of Conduct. Pakistan advocated for bringing the discussion on a new regulatory framework under wider United Nations scrutiny through a well-elaborated process, while recognizing that certain aspects of such a process might go beyond the mandate of Human Rights Council resolution 15/26.

22. The representative of the Russian Federation noted that the involvement of private military and security companies in armed conflicts and post-conflict reconstruction continued to grow, whereas fundamental problems concerning various aspects of their activities remained unresolved. She stressed the need to discuss controversial issues, such as the legitimacy of private military and security companies, the status of their personnel under international humanitarian law and whether they fell under the categories of combatants, mercenaries and civilians or a new category. There was also a need to define which services could be delegated by States to private military and security companies. Only after States came to a common understanding of those issues would they be able to discuss more detailed aspects, such as the licensing of private military and security companies, oversight and accountability mechanisms, and the rights and obligations of States using such companies. While the Montreux Document had clarified some issues, it did not take into account the views of a significant number of States, was not universal and was not legally binding. In response to the input given by experts and relevant stakeholders about the so-called phenomenon of "cybermercenaries", the representative of the Russian Federation emphasized that unlawful activities in the area of information and communications technology were being discussed in other international forums and fell beyond the mandate of the working group.

23. The representative of Libya noted that while the Montreux Document could serve as a solid basis for the working group's discussions, it was not sufficient to cover all the legal aspects. The representative reiterated the need for a legally binding instrument, which should include clear definitions, concepts and terms, as well as a separation between private security companies and private military companies. A future instrument should highlight the relevant principles of international human rights law and international humanitarian law, the responsibility of States that subcontracted such companies and those that registered them and granted them licences. Private military and security companies should operate only after full approval by legitimate Governments, respect their agreements, refrain from recruiting personnel who were not sufficiently trained and uphold their responsibility to register the sources of weapons they acquired. The lived reality in Libya pointed to the necessity of elaborating an international framework to regulate the activities of such companies, guaranteeing the right of States to oversee their own security and stability, addressing accountability for all human rights violations and banning any interference in the internal affairs of countries.

24. The representative of Cameroon noted that as a result of the insufficiencies of regular forces, many States were using private military and security companies for protection. Such companies often had better equipment than regular armies. The security and military sectors were part of the sovereignty of a State and should not be privatized. The representative concluded that it was time to adopt an international instrument to regulate the situation.

25. In summarizing the interventions made, the Chair-Rapporteur identified the need for an international regulatory framework that went beyond voluntary initiatives, such as the Montreux Document, in order to close the gaps of human rights violations and abuses by private military and security companies and ensure redress for victims.

III. Presentations by experts and relevant stakeholders

26. In conformity with its programme of work, the working group heard presentations by experts and relevant stakeholders, who had been invited in line with paragraph 4 of Human Rights Council resolution 45/16. They were also invited to participate throughout the session from the floor.

27. The founder and Executive Director of the African Centre for the Constructive Resolution of Disputes, Vasu Gounden, referred to the pertinent issues of private military and security companies in Africa and how the prevalence of such companies was increasing

in nature, scope and number. He warned that exponential population growth in Africa, coupled with rapid urbanization, had not been accompanied by a transformation of the economic system from agriculture to industrialization and services, and that this would be likely to cause widespread social and political conflict. Moreover, States which did not have full control over their sovereign territory would see a rise in radicalized insurgencies, criminal syndicates and armed opposition groups, as well as multinational companies exploiting natural resources. An additional challenge was the prevalence of weak national militaries which were often ill-equipped to deal with the increasing complexities of contemporary conflicts and new stakeholders. As a result, Governments were increasingly turning to private military and security companies, who were often better trained, more agile and operated outside international norms.

28. The Chair of the United Nations Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, Jelena Aparac, gave an overview of the long-standing efforts of the Working Group to regulate private military and security companies and in particular to develop and enforce measures designed to both prevent and ensure accountability for abuses of human rights and international humanitarian law committed by the personnel of such companies. For example, the Working Group had conducted a three-year global study of national legislation on private military and security companies and human rights abuses in 60 States.[3] Ms. Aparac referred to the Working Group's most recent reports on the relationship between private military and security companies and the extractive industries;[4] the gendered human rights impacts of private military and security companies;[5] the role of private military and security companies in immigration and border management;[6] and the evolving forms, trends and manifestations of mercenaries and mercenary-related activities.[7] She raised concerns around the issue of interoperability between private military and security companies and peacekeeping missions, particularly in regard to the lack of transparency about their relationships, and proposed a number of specific recommendations for inclusion in any future instrument. Moreover, any regulatory mechanism should try to capture non-State clients and the complex relationships between large international and national companies, provide for more public and transparent contractual relationships and ensure access to information for interested parties. It should also include explicit gender-sensitive and gender-transformative approaches, take into account the exacerbated vulnerabilities of specific groups, and include explicit provisions regarding the negative impact of the services of private military and security companies on the environment and on the rights of people to self-determination. The normative framework should identify the variety of State policy options, including licensing, authorization mechanisms, contracts and legislation on the certification and registration of private military and security companies. It should not only focus on State responsibility and corporate due diligence but also on corporate responsibility for human rights abuses and abuses under international humanitarian law. Finally, States should consider adopting mutual cooperation and mutual legal assistance (horizontal and vertical) for investigating the employees of private military and security companies and, where applicable, corporate entities.

29. Speaking as Co-Chair of the Montreux Document Forum, Jonathan Cuénoud provided a brief history on the adoption of the Document and its relation to the ever-growing use of private military and security companies. It had not established new regulations, but merely answered legal and humanitarian questions that had arisen from the increasing use of such companies in that context. It identified three main types of States: (a) States that contracted the services of private military and security companies (element 4 of the discussion document); (b) States in whose territory private military and security companies operated (element 5); and States under whose jurisdiction private military and security companies were incorporated or registered (element 6). Additionally, the Montreux Document provided guidance for all other States, including on the responsibilities of the States of nationality of

[3] A/HRC/36/47.
[4] A/HRC/42/42.
[5] A/74/244.
[6] A/HRC/45/9.
[7] A/75/259.

employees of private military and security companies. Those obligations stemmed from existing international humanitarian law and international human rights law standards. Regarding the scope and nature of private military and security companies, Mr. Cuénoud pointed out that they included myriad emerging functions, including providing logistics and support to armed forces; guarding objects or persons against various forms of crime or violence; providing security for businesses; training military and security forces; and maintaining and operating technologically advanced weapons systems. States should adopt and implement national legislation to regulate private military and security companies and where domestic laws were in place, they should be amended to better fit the evolution of the practices of such companies. With regard to implementation efforts, the Montreux Document Forum was a platform designed to discuss and exchange information on good practices and challenges relating to the regulation of private military and security companies. The Forum had assisted in the development of several tools, such as the legislative guidance tool and the contract guidance tool. Mr. Cuénoud provided three general comments on the instrument to be elaborated. First, any international regulatory framework must reflect and build upon existing international law standards. Second, if the scope of the future international regulatory framework was going to cover situations of international or non-international armed conflicts, as defined in international humanitarian law, reference to international humanitarian law should be made, where relevant, in addition to international human rights law. Third, particular focus should be given to regulating the conduct of private military and security companies without the need to strictly define and distinguish between private security companies, private military companies or private military and security companies.

30. The Executive Director of the International Code of Conduct Association, Jamie Williamson, provided an overview of the work and activities of the Association, which acts as the oversight and monitoring mechanism for the International Code of Conduct for Private Security Service Providers. The International Code of Conduct contained a range of international humanitarian law and human rights principles and obligations addressed directly to private security companies. The contents of the Code were related to other relevant international standards, including the Montreux Document, the Guiding Principles on Business and Human Rights and the Voluntary Principles on Security and Human Rights. One of the key aspects of the Code was its flexibility, including its capacity to be amended as the private security landscape evolved, for instance in relation to migration, corruption or modern technology. The work of the Association could be seen as part of a growing trend towards promoting regulatory frameworks in this area, including national and regional initiatives relating to mandatory human rights due diligence. Mr. Williamson stressed the need to maintain distinction between and clarity on the actors to which the instrument would apply, as the category of private military and security companies could apply to a broad range of actors and contexts. He also recommended identifying the clients that used private military and security companies, including Governments and private entities, as it was the clients who ultimately drove the market and they should bear the responsibility of knowing whether the companies they worked with complied with human rights standards. Mr. Williamson further stressed the need to address the existing accountability gap and impunity.

31. The Vice-Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Surya Deva, highlighted the importance of the Guiding Principles on Business and Human Rights for the purpose of drafting a regulatory framework for private military and security companies. The lack of regulation of such companies was increasingly fuelling the likelihood of further human rights violations. Developing a “smart mix” regulatory framework, including both soft and hard law, to facilitate an effective regulatory ecosystem was essential. Territorial regulatory measures alone were insufficient and States must cooperate with each other to facilitate better understanding of the issue. The achievement and protection of human rights must be at the forefront of a regulatory framework and key objectives should be to prevent human rights abuses by such companies and hold them accountable for abuses which could not be prevented. Additionally, the regulatory framework must be built upon existing legal instruments, such as the Montreux Document, the International Code of Conduct and the Guiding Principles on Business and Human Rights. A multi-stakeholder approach should be applied in considering the content of the regulatory framework. Mr. Deva also advocated for mandatory human rights due diligence for private military and security companies operating

in conflict zones and emphasized the need for effective remedial processes. He also pointed to the OHCHR accountability and remedy project, which could serve as a source for guidance on how best to incorporate remedy within the scope of the regulatory framework.

32. The floor was then opened for questions and answers on the basis of the expert presentations. The representative of the European Union recalled that States had the primary responsibility to regulate the activities of private actors and expressed support for the Montreux Document in that regard. He solicited Mr. Deva's opinion as to whether an international regulatory framework on private military and security companies could be of added value in this domain and compatible with other existing frameworks.

33. Mr. Deva stated that the evolution of standards had been an intrinsic part of the development of international human rights law and that the adoption of legally binding instruments had generally been slow. Attention also needed to be paid to the context in which standards were operating, which had serious regulatory gaps, including in relation to operations in regions with low levels of governance or areas of difficult implementation. Voluntary standards could not serve as the basis for mutual legal assistance, nor did they provide for remedy in many instances, particularly in the case of serious abuses requiring judicial remedies. In a context in which private military and security companies were operating with highly sophisticated technological tools, it would not be possible to render justice to victims without legally binding standards. A "smart mix" was required and soft law standards should coexist with hard law.

34. The representative of South Africa inquired into the human rights impacts of modern technology, such as weaponized drones, which were often operated by highly specialized private security contractors on behalf of a State. He also questioned the effectiveness of existing regulations in that context, for instance in the case of companies that were operating drones remotely and were not based in the countries of operation. Such situations could generate accountability gaps, for instance in relation to civilian casualties caused by apparent mistakes in drone operations.

35. In response, Mr. Williamson recalled that the raison d'être of both the Montreux Document and the International Code of Conduct was to address governance gaps in high-risk and conflict zones. Modern technology, including cybersecurity and unmanned vehicles, generated problems of attribution. However, such problems also arose in more traditional situations, for instance in the case of armed insurgencies. Mr. Williamson also noted that facial recognition and biometrics were areas that needed further attention, particularly as they were services that were increasingly being demanded from private actors. A Senior Legal Adviser to the International Commission of Jurists, Carlos Lopez, agreed that cybersecurity had become an area of increased activity by private military and security companies.

36. Mr. Cuénoud indicated that issues of cybertechnology had been recognized by Montreux Document participants, but that this was an area still being explored. He cited the possibility of the Montreux Document Forum establishing working groups on specific topics, recalling the example of the Maritime Working Group, which had produced guidance on how the Montreux Document applied to the maritime sector.

37. Ms. Aparac referred to previous reports of the Working Group on the use of mercenaries that had tackled issues related to modern technology, such as the use of biometrics in immigration and border management. The Working Group was currently considering the phenomenon of "cybermercenaries" and how that interacted with existing concepts and regulations.

38. The Chair-Rapporteur of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, Emilio Rafael Izquierdo Miño, referred to Human Rights Council resolution 26/9, which established the working group with a mandate to "develop an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other companies with regard to human rights". The working group had witnessed increasing participation of States and other relevant actors, intergovernmental organizations, national human rights institutions, civil society organizations and groups of employers and workers. The turning point had occurred during the fourth session when the "zero draft" of the legally binding instrument was presented. In 2019, a revised version of the instrument was

introduced, building on the proposals received during the fourth session, as well as during the intersessional consultations. The revised version was aimed at further aligning its provisions with existing instruments and frameworks, such as the Guiding Principles on Business and Human Rights, the International Labour Organization Tripartite Declaration concerning Multinational Enterprises and Social Policy and other relevant instruments, such as the OECD Guidelines for Multinational Enterprises. A second revised version of the legally binding instrument was circulated in August 2020. The Chair-Rapporteur was working on the preparation of a third revised version and called upon all stakeholders to participate at all levels of the process, particularly at the regional and national levels. It was possible to improve access to justice and effective reparation for victims through binding norms that complemented other international norms of a non-binding character, such as the Guiding Principles, among others. The ongoing and constructive cooperation between the working group and the Working Group on business and human rights was also noted.

39. Mr. Lopez indicated that while the activities of private military and security companies sometimes provided meaningful support for security and for safeguarding human rights, they had the potential to infringe human rights and humanitarian law, and in many instances the personnel of such companies had engaged in conduct in violation of international obligations and had committed human rights abuses. The number of countries and private actors hiring private military and security companies had grown in recent years and the areas where these companies operated had also expanded. The Swiss Federal Act on Private Security Services Provided Abroad and the French Law on the Duty of Vigilance were two examples of effective national regulatory initiatives. The need for an international instrument that provided a set of internationally agreed standards in this field was clearer than ever. Such an instrument, including provisions on accountability and remedial processes would enable States and companies to fully respect and protect human rights. A legally binding instrument would be most effective in this context. Mr. Lopez highlighted the importance of the Montreux Document, the International Code of Conduct and the draft convention prepared by the Working Group on the use of mercenaries as the basis for further discussions. The working group should not be entangled in endless discussions about definitions and should adopt a pragmatic approach, focusing on the type of operations private military and security companies carried out.

40. The Deputy Head of the Business and Security Division of the Geneva Centre for Security Sector Governance, Jean-Michel Rousseau, presented the lessons learned in supporting international and regional policy initiatives. He identified a number of recent trends, such as the renewed visibility of private military and security companies in armed conflicts, the growth in private cyber- and surveillance services and instances where companies not traditionally considered as private military and security companies, such as technology companies, were providing such services. However, these developments did not imply a fundamental shift in the nature of private military and security companies and should not be seen as heralding the need for a distinct model of their regulation. While the issue of private military and security companies in armed conflict was one that regularly made headlines, the immense majority of their activities took place in “everyday situations” where human rights law applied. In regard to domestic legislation, in the previous five years the Centre had supported more than 25 countries in strengthening their regulatory systems, taking into account good practices and international norms such as those found in the Montreux Document, the International Code of Conduct, and, increasingly, the Guiding Principles on Business and Human Rights. Despite these developments, there were persistent regulatory challenges, such as national legal and policy frameworks that were insufficient or not tailored to the specific regulatory needs regarding private military and security companies; insufficient human and financial resources; public procurement of private military and security companies that did not include human rights criteria; and administrative sanctions which were impracticable or not enough of a deterrent. The instrument to be developed by the working group should be fully complementary with the Montreux Document and the International Code of Conduct, as otherwise States that had already strengthened their national frameworks would be penalized. He warned against applying by analogy the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials to private military and security companies, given

their different mandates, and advocated for integrating a gender perspective into the regulation of private military and security companies.

IV. General discussion on the elements of an international regulatory framework

41. In line with resolution 45/16, the working group considered the elements of an international regulatory framework, as drawn from the discussion documents adopted at the sixth session of the former working group.[8] It also discussed additional elements to be considered, such as scope, access to justice, accountability and remedy.

42. At the beginning of each session, the Chair-Rapporteur delivered some remarks, reiterating the view that the discussion document, while offering a useful compass to inform and guide the group's work, contained only the bare elements of the legal obligations of States and of private military and security companies and their personnel when they were operating in armed conflicts. He stated that he was mindful of the need to expand on that document and identify the gaps it contained.

A. Objectives of the regulatory framework (element 2) and principles (element 3)

43. The Chair-Rapporteur noted that in its efforts to formalize the text of the objectives and principles, the working group should never lose sight of the victims of human rights violations and abuses carried out by private military and security companies. The main objective of the mandate of the working group was to find a way to ensure that those who committed such acts would be held accountable in a transparent manner and that the victims were able to find effective redress.

44. The representative of the United States reiterated the commitment of his country to the developing framework, which could universalize standards in the Montreux Document and the International Code of Conduct, promote respect for human rights and ensure accountability. The United States considered that the regulation should focus on complex situations such as conflicts, where the rule of law was compromised, while other situations fell normally within the realm of national law. The regulation should also be limited to transnational activities involving contracting States, home States and States of nationality.

45. The representative of Iraq stressed the importance of drawing a distinction between situations of conflict and non-conflict. He further referred to comments made the previous year regarding the notion of "complex situations", which was considered vague, and it was unclear as to whether the notion applied only to conflict situations or otherwise.

46. The representative of Pakistan considered that the regulatory framework should take a preventive approach vis-à-vis human rights violations and reaffirm the basic principles and purposes of the Charter of the United Nations, especially non-interference in the domestic affairs of States, non-use of force and respect for the territorial integrity and sovereignty of States. It should clearly exclude functions that were inherently the responsibility of States, such as participation in hostilities, powers of arrest and interrogation, prison administration, or intelligence and espionage, from the scope of services to be provided by private military and security companies. At the operational level, the framework should lay down robust oversight, procurement, deployment and reporting mechanisms, and also identify categories of weapons that should be barred from use by private military and security companies. The representative of Pakistan recommended that the framework provide clear guidance on issues related to jurisdiction and responsibility, while elaborating on accountability and remedial mechanisms for victims. A differentiated approach to armed conflicts and normal law-enforcement contexts was also recommended.

47. The representative of South Africa agreed that the regulatory framework should be victim-centred and that the industry should respect international human rights law,

[8] A/HRC/36/36, para. 10.

international humanitarian law and other applicable instruments. In his view, the scope of the framework should be extended to apply to subcontractors, should articulate clear objectives on accountability, redress and transparency, and adopt a gender perspective.

48. The representative of Brazil reiterated the need for a clear definition of functions that could not be delegated to private military and security companies, such as direct participation in armed conflicts, intelligence, detention, law enforcement or questioning of persons deprived of liberty. The rules contained in the regulatory framework should not be applied selectively.

49. The representative of China welcomed the compilation document prepared by the secretariat and recommended that the discussion document be updated in the light of the recent and present discussions. China agreed with other delegations that a new objective should be included to ensure that the activities of private military and security companies complied with international humanitarian law, international human rights law and relevant national laws. He underlined the importance of focusing on complex situations to ensure respect for human rights and international humanitarian law in such situations. He noted the different language of "complex situations" used in element 2 (a) of the discussion document, and "complex environments", used in element 1 (d). China considered that the terminology should be unified and that reference should be made to the notion of "complex environments" as contained in the International Code of Conduct.

50. Mr. Lopez considered that the regulatory framework should aim to ensure respect for human rights by private military and security companies in all contexts in which they operated, not just in "complex situations", as provided for in element 2 (a) of the discussion document. He welcomed the objective of ensuring the transparent use of private military and security companies, given that States might purposefully use them as a means of obscuring their involvement in a conflict in an attempt to avoid their obligations under international human rights and international humanitarian law. He recommended that objectives on improving accountability and enhancing access to an effective remedy and reparations be included in the framework. The "principles" section should make explicit reference to the need for a non-discriminatory and gendered approach to regulating private military and security companies. The Committee on the Elimination of Discrimination against Women had recalled in its general recommendation No. 30 (2013) that the Convention on the Elimination of All Forms of Discrimination against Women required States parties to regulate the activities of domestic non-State actors within their effective control and operating extraterritorially. The importance of the principle of inclusiveness and participation in the development of a regulatory framework were vital, as many key States did not participate in either the Montreux Document or the International Code of Conduct.

51. Mr. Williamson considered that priority should be given to contexts in which national authorities did not have the capacity to oversee the activities of private military and security companies. He stressed the importance of preventing human rights violations, which included building the capacities of private military and security companies and national authorities to ensure that they had oversight capacity in place. There should also be greater international cooperation to ensure that private military and security companies responsible for abuses were blacklisted in the industry. Support for States in developing national legislation to regulate private military and security companies, including by developing model legislation, was needed.

B. Obligations of contracting States (element 4); territorial States (element 5); home States (element 6) and States of nationality (element 7)

Contracting States

52. The representative of the United States stressed the usefulness of the International Code of Conduct Association for contracting States, particularly with regard to due diligence in their procurement policy and the requirement for training and policies that safeguarded against human rights abuses, including with regard to subcontractors. For the United States Department of State, only private security companies that were members of the International

Code of Conduct Association were eligible to bid on contracts to provide security for diplomatic posts that were considered “high threat”.

53. With regard to element 4 (d), the representative of South Africa recalled the importance of highlighting the nature of the services provided in particular cases (armed or non-armed conflict situations), to clearly reflect the responsibilities of contracting States. As contracting States bore full responsibility for the acts of contracting agents, he recommended that “effective transparency” be added to the requirements of monitoring and ensuring accountability in element 4 (d).

54. The representative of China recommended that the activities for which States were not allowed to contract private military and security companies under international law be clarified and compensation for victims added under element 4.

55. The representative of Cuba recommended that the functions that private military and security companies contracted by States could and could not perform be clarified in the framework. Additionally, the framework should focus on the services provided by private military and security companies. With regard to granting immunity from prosecution, contracting States should not allow any immunity for their contractors operating abroad and should include in their contracts with private military and security companies safeguards to make accountability possible.

56. Mr. Lopez made a series of recommendations, such as making a distinction between the obligations that apply in situations of armed conflict and those that apply in all circumstances and banning contracting States from using private military and security companies for participation in hostilities. The obligation of States to assess private military and security companies and subcontractors included consideration of past records of respect for international humanitarian law and human rights, and company policies for the selection and training of staff. The regulatory framework should reaffirm that States retained their obligations under international law even if they contracted private military and security companies. In fulfilling their obligation to ensure that the private military and security companies that they contracted respected human rights, States should ensure their personnel were trained in human rights and international humanitarian law, and perform due diligence and investigations where appropriate. Contracting States must provide access to an effective remedy and reparations for violations of international humanitarian law and international human rights law resulting from the conduct of private military and security companies, where attributable to the State. Finally, the same rules should extend to international organizations that contracted private military and security companies.

Territorial States

57. With regard to element 5, the representative of South Africa noted that there needed to be an agreement between the territorial or host country and the contracting State, but that in practice, some private military and security companies operated without consent. Due to the use of modern technology, including drones, consideration must be given to their effect or impact on third-party countries. He recommended that a new provision to monitor private military and security companies operating on and from a State territory be added as element 5 (e) and that a new 5 (f) be added on the monitoring of human rights violations and ensuring effective and transparent accountability for them, including through addressing issues of jurisdiction and immunity for companies operating under a government contract on and from a State territory. The representative of Pakistan suggested that “consent and permission of the territorial State” be clearly added and recommended that jurisdictional issues be clarified.

58. With regard to elements 5 and 6 on monitoring and oversight, Mr. Williamson indicated that such issues should not be limited to the prime contractor, but include any providers in a supply chain, which would include subcontractors. In addition, with regard to verification and monitoring, and taking into account complex environments that might include potential rule of law issues, he recommended recognition of independent external oversight mechanisms, such as the Association, to assist States in verification, monitoring and oversight as part of their due diligence in hiring, contracting and hosting private military and security companies.

59. Mr. Lopez recommended that the term "territorial State" should be understood as a State where a private military and security company carried out operations, regardless of whether the company was incorporated or not within that jurisdiction and the duration and type of operation. Secondly, States where a private military and security company operated should ensure its domestic courts were able to exercise jurisdiction over the personnel of such a company operating within its territory or under its jurisdiction. Thirdly, such States had the responsibility to establish a legal framework to ensure that the operations of such a company respected human rights and international humanitarian law and that accountability and sanctions were in place for those that committed abuses.

Home States

60. The representative of Switzerland urged States to adopt national legislation to regulate private military and security companies on their own territories and abroad. He mentioned the Swiss Federal Act on Private Security Services Provided Abroad as an effective regulation of the conduct of such companies outside its jurisdiction. In that context, it was important to enhance international cooperation when it came to monitoring such companies.

61. The representative of Brazil stressed that more clarity was needed with regard to home States and States of nationality. He recommended that "State of origin" and other concepts that were already established be used. It was crucial to understand which activities would be regulated under the framework and to separate and define the nature of services provided by both private military and security companies and States.

62. Mr. Lopez recommended that the term "home State" be defined as the State where a private military and security company was incorporated or had its main management location. Secondly, the regulatory framework should require home States to establish a system of authorization for the export of military services abroad, which would prohibit the export of services that the State itself could not contract out, or which would be prohibited in the home State of a private military and security company. Thirdly, the framework should provide for minimum standards for licensing of operations and the recruitment of local personnel. Finally, the home State should set up oversight and accountability measures, especially for services that were meant to be exported.

States of nationality

63. The representative of South Africa explained how the issue of South African citizens operating in foreign countries without the consent of South Africa had been dealt with in national legislation. The legislation also regulated the provision of military services in a country of armed conflict and the recruitment of South African nationals into other armed forces and/or by other countries to perform private military and security services. It further regulated the provision of humanitarian assistance in countries of armed conflict and provided for extraterritorial jurisdiction with regard to certain offences and penalties. The legislation criminalized the actions of South Africans joining private military and security companies in areas where the Government itself had not given explicit permission.

64. Mr. Lopez recommended that the term "home State" be defined as the State of nationality of the employees and other staff of a private military and security company. It should be distinguished from the State of nationality of the company itself or the State of nationality of any potential victim of a human rights violation. Second, the regulatory framework should address specific rules for the States of nationality of the staff of private military and security companies with a view to better protecting the rights of their nationals. Third, States of employees' nationality should adopt laws and other measures to regulate the recruitment of their nationals into private military and security companies to serve abroad, including prohibiting their nationals from providing services abroad that were prohibited within the State of nationality. Finally, States of nationality should establish processes to grant authorization for their nationals to perform security services abroad in order to ensure that there was no recruitment to provide prohibited services.

C. Private military and security companies (element 8) and definitions and interpretations (element 1)

65. With respect to element 1, the representative of the United States referred to previous discussions as to whether the scope of the instrument should be limited to complex or conflict situations and also to the difficulties involved in the definition of "complex situations". He referred to the definition of "complex environments" in the International Code of Conduct, recommended that this definition be used and suggested that the scope of the instrument should be limited to such situations.

66. The representative of China supported the conceptual separation between private military companies on the one hand and private security companies, on the other, as a foundation for defining the content of the future regulatory framework. However, given the complexity and diversity of private military and security companies, such a separation might be difficult in practice. China supported a pragmatic approach to solve such issues, focusing on the nature of the services provided by private military and security companies.

67. The representative of Egypt reiterated the need to respect the mandate of the working group and narrow the scope of the discussion, and noted that conflict-related issues were handled by other bodies, such as the ICRC. She noted that Egypt had not participated in certain talks and was not in agreement with definitions that had not been agreed upon in a due manner.

68. With regard to element 8, the representative of the Islamic Republic of Iran believed that the main purpose of the regulatory framework should be to ensure the responsibility of States for the crimes and abuses committed by private military and security companies and put an end to impunity where they operated. She considered that the main question was whether States were allowed to delegate their sovereign power to such companies. That should not be an argument in favour of violating international human rights law and international humanitarian law in host countries, and those countries should establish mechanisms to monitor, oversee, investigate and prosecute perpetrators of breaches. The representative noted that establishing oversight mechanisms and grievance mechanisms was essential for prevention and ensuring non-recurrence. Pardons, amnesties and other forms of exoneration opened the door for future abuse and granting pardons for companies that had committed serious crimes violated State obligations under international law.

69. In the view of the representative of South Africa, the working group should not be bogged down with issues of definition and the separation between private security companies and private military companies, which could be elaborated in the instrument itself. Regarding definitions, he referred to the Montreux Document, which defined private military and security companies as "entities that provide military and/or security services, irrespective of how they describe themselves" and to the definition of the Working Group on the use on mercenaries, according to which a private military and security company was "a corporate entity which provides on a compensatory basis military and/or security services by physical persons and/or legal entities". He suggested a hybrid formula, by adding the last part of the Montreux Document definition to the Working Group's definition: "irrespective of how they describe themselves". With regard to the definition of "complex environments", he took note of the reference in the discussions on the definition included in the International Code of Conduct.

70. With regard to element 8, Mr. Williamson noted that compliance was increasingly seen by private military and security companies as a "tick box" exercise in relation to processes such as procurement, requests for proposals and contracts. He recommended independent oversight of both private military and security companies and their clients, as otherwise compliance would become a superficial exercise. Training requirements should be robust and adapted to the local environment. The content should go beyond technical issues and include international human rights law and international humanitarian law, and other issues covered by the International Code of Conduct. In relation to definitions, Mr. Williamson encouraged the working group to use the definition of security companies in the Code, as it had already been tested in practice. He further called attention to the overlap between military contractors and mercenaries.

71. The Chair of the Working Group on the use of mercenaries recalled the Group's strong position against the use of "complex environments", as it lacked a legal definition, while the concept of armed conflict and peace were clearly defined, as were the rules applying in those situations. The Working Group defined "military services" as "specialized services related to military actions including strategic planning, intelligence, investigation, land, sea or air reconnaissance, flight operations of any type, manned or unmanned, satellite surveillance, any kind of knowledge transfer with military applications, material and technical support to armed forces and other related activities". It understood "security services" as "armed guarding or protection of buildings, installations, property and people, any kind of knowledge transfer with security and policing applications, development and implementation of informational security measures and other related activities". Those definitions were broad and precise, and provided legal certainty in relation to the current and future activities of private military and security companies. Holding corporations responsible for the misconduct of their employees was not enough and any grave violation of human rights and international humanitarian law should be adjudicated by a court of law. That underlined the need for transparency and the vetting of personnel.

72. A member of the Working Group on the use of mercenaries, Sorcha MacLeod, welcomed the focus on the gender dimension and differentiated human rights impacts of private military and security companies, and called attention to the report of the Working Group on the issue and its recommendations to States to use tools, such as licensing or authorization, as a means of enforcing human rights standards.[9] That should include the mandatory collection of data disaggregated by gender and the adoption of relevant internal policies. States should also ensure that the personnel of private military and security companies who had committed acts of sexual and gender-based violence were investigated and brought to justice and that effective remedies were accessible to all victims.

73. The representative of the International Human Rights Council recommended that element 8 (b) be reworded as follows: "To establish a grievance mechanism from international civil judiciary bodies upon reporting serious violations, provided that that body has independent powers and is supervised by the United Nations." In relation to element 8 (c), he recommended the following wording: "To supervise and hold accountable the employees of private military and security companies who are involved in misconduct or gross violations of the code of ethics of international law, the Geneva Conventions and the Universal Declaration of Human Rights through the legal committee mentioned in clause (b) of article (8) without the need to obtain prior approval from the United Nations Council or the Secretary-General of Security, especially in mass killings that amount to war crimes, or overthrowing government systems."

74. In relation to element 8, Mr. Lopez considered that the duties of private military and security companies should be understood as independent from the obligations incumbent upon States and should be complied with by such companies in all circumstances and wherever they operated. They should be required to respect and ensure respect by their personnel for international humanitarian law and international human rights law in all their operations, regardless of where they took place, including by adopting a policy on and carrying out human rights due diligence. Due diligence on private military and security companies should cover international humanitarian law when they were operating in situations of armed conflict, crisis or high instability. Their internal processes should comprise systems for the selection, vetting and training of personnel, which should be seen as a continuing process and not merely as a compliance procedure. Finally, they should participate in effective and legitimate mechanisms to provide remedy and reparations when the company had been involved in an infringement of human rights, or provide direct reparation to victims without prejudice to the right of persons to have access to an effective remedy, including a remedy of a judicial nature.

75. In relation to element 1, Mr. Lopez recommended a pragmatic approach focusing on the type of operations private military and security companies carried out. The scope of the proposed regulatory framework should not be limited to their operating in "complex environments". Alternatively, the definition of "complex environments" should expressly

[9] A/74/244.

state that it included, but was not limited to, international and non-international armed conflicts, and the framework should cover outsourcing of inherently complex State functions, such as immigration and border control and cybersurveillance.

76. In addition to reiterating that the regulatory framework should apply to all States and all companies regardless of where they operated, Mr. Lopez requested clarification from Mr. Williamson as to how the definition of "complex environments" applied in practice. Mr. Williamson responded that while the focus of the Association was on "complex environments", there was increased interest from private military and security companies in applying the standards of the International Code of Conduct in other contexts. Mr. Lopez further inquired about the possibility of a company recruiting staff in a country that was not normally considered to be in a complex situation, but who were subsequently sent to "complex environments". In that connection, Mr. Williamson explained that the Association provided oversight of all the activities of international security providers, including those outside their countries of origin, and the complex structures and situations of these companies were taken into consideration.

D. Additional elements to be considered

77. The representative of South Africa proposed that the elements mentioned by the Chair-Rapporteur in his introduction should be considered by the working group, as they represented a strong basis for future discussions. He suggested that language for the proposed new elements be developed and included in the discussion document. The representative of Brazil considered that the mandate of the working group did not apply to the general activities of security companies outside conflict zones and humanitarian settings. Noting the compilation of recommendations from previous sessions prepared by the secretariat and its absence of attribution, he recommended that the compilation should attribute the authorship of the recommendations to facilitate the intersessional activities of the working group.

78. Mr. Lopez reiterated that the scope of the framework should include obligations on all States and all private military and security companies, and that it should be broadened to ensure respect for human rights in all contexts. Furthermore, it should ensure that if States were complicit in abuses, victims had access to remedy from that State according to international standards. It should also affirm State obligations to provide effective penal sanctions for the staff of private military and security companies and the companies themselves under Additional Protocol I to the Geneva Conventions (where applicable) and international criminal law. Finally, judicial remedies should always be provided for serious human rights violations, while non-judicial remedies could be afforded in less serious cases if they were fully compatible and did not prejudice the right to an effective judicial remedy.

V. Way forward

79. The Chair-Rapporteur outlined the way forward by announcing that he would invite, in line with paragraph 4 of resolution 45/16 and within eight weeks of the online publication of the advance unedited version of the present summary report, written contributions from Governments, relevant special procedure mandate holders and mechanisms of the Human Rights Council, the treaty bodies, regional groups, intergovernmental organizations, civil society, the industry and other stakeholders with relevant expertise, including the Co-Chairs of the Montreux Document Forum and the International Code of Conduct Association.

80. The inputs and the recommendations made during and after the 2019 and current sessions and the work done under the previous mandate would enable the Chair-Rapporteur to update and expand on the discussion document with a view to preparing and circulating a zero draft of a regulatory framework, without prejudging the nature thereof. He would then convene informal intersessional consultations on the basis of the zero draft and circulate a revised zero draft before the third session.

81. A short discussion followed the presentation of the way forward and representatives of Brazil, Cuba, Pakistan, Panama, South Africa, Switzerland, the United States, the European Union, the Working Group on mercenaries and the International Human Rights

Council expressed support. The representative of the European Union recommended that experts continue to be invited, including from the International Maritime Organization and from academia. The representative of Panama suggested that the framework incorporate a gender approach and reflect differentiated impacts for different groups, covering also technology, artificial intelligence, weapons management and environmental issues. The representative of Brazil requested that the sources of any new elements be indicated in the new document. Responding to Brazil and the United States on the reason for calling the new document to be prepared a "zero draft" and not a "revised" discussion document, the Chair-Rapporteur clarified that this would give a new impetus to the process while ensuring that a zero draft would not prejudge the nature of the instrument.

VI. Adoption of the summary report and concluding remarks

82. On 29 April 2021, the working group adopted *ad referendum* the draft summary report on its second session and decided to entrust the Chair-Rapporteur with its finalization and submission to the Human Rights Council for consideration at its forty-eighth session.

Annex

List of participants

States Members of the United Nations

Algeria, Argentina, Azerbaijan, Botswana, Brazil, Cameroon, Canada, Chile, China, Costa Rica, Côte d'Ivoire, Cuba, Djibouti, Ecuador, Egypt, France, Germany, Greece, India, Indonesia, Iraq, Iran (Islamic Republic of), Israel, Italy, Japan, Libya, Mexico, Namibia, Nepal, Pakistan, Panama, Paraguay, Peru, Portugal, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Slovakia, South Africa, Switzerland, Syrian Arab Republic, Thailand, Togo, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela (Bolivarian Republic of).

Non-member States represented by an observer

State of Palestine.

International organizations

European Union

Non-governmental organizations in consultative status with the Economic and Social Council

Action Citoyenne pour l'Information et l'Education au Développement Durable; Fondation pour un Centre pour le Développement Socio-Eco-Nomique (CDSEN), Genève pour les droits de l'homme: formation internationale, International Youth and Student Movement for the United Nations; the International Commission of Jurists, International Human Rights Council, Sikh Human Rights Group.

Other stakeholders

African Centre for the Constructive Resolution of Disputes (ACCORD), the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, the Working Group on the issue of human rights and transnational corporations and other business enterprises, the International Code of Conduct Association (ICoCA); Geneva Centre for Security Sector Governance (DCAF), International Committee of the Red Cross (ICRC) and Switzerland as Co-chairs of the Montreux Document.