

Open-ended intergovernmental working group mandated to elaborate the content of an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies (Human Rights Council Resolution 36/11) – Canada’s response on the discussion document.

The Government of Canada presents its compliments to the Chairperson-Rapporteur and Secretariat of the open-ended intergovernmental working group (OEIGWG) tasked with the mandate to elaborate the content of an international regulatory framework, without prejudging the nature thereof, relating to the activities of private military and security companies (PMSCs).

We appreciate the invitation for States to provide written contributions on the discussion document on elements for an international regulatory framework on the regulation, monitoring and oversight of the activities of PMSCs, issued by the Chair Rapporteur at the 1st session of the working group in May.

As a strong advocate of the rules-based international order, Canada strongly supports efforts to ensure that territorial, contracting and home States involved with the services of PMSCs understand, respect and act in a manner that is consistent with international human rights and international humanitarian law (IHL), where applicable. We welcome efforts to ensure justice and accountability for violations and abuses by PMSC personnel, including accessible satisfactory remedial measures for victims and survivors of such acts.

Canada’s position is that PMSCs do not operate in a legal vacuum and several elements of the discussion document are already expounded in existing documents such as the *Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict* (Montreux Document) and the *International Code of Conduct for Private Security Service Providers* (Code of Conduct).

The Montreux Document, currently endorsed by 56 States including the European Union (EU), Organization for Security and Co-operation in Europe (OSCE) and North Atlantic Treaty Organization (NATO), recalls the existing legal obligations of States with respect to the PMSCs that they employ and provides guidance on good practices for the practical implementation of States’ existing legal obligations. The Code of Conduct sets out obligations, best practices and management principles in order for PMSCs to demonstrate their respect for human rights and compliance with IHL in the provision of security services.

In addition, the *International Code of Conduct Association for Private Security Service Providers* (ICoCA), a multi-stakeholder initiative, has made significant progress in raising private security industry standards globally through its three core functions of certification, monitoring PMSC activities and addressing complaints related to the conduct of PMSCs, and is also developing guidance tools: examples include its *Guidance on Company Grievance Mechanisms*, and the recently released *Protection against Sexual Abuse and Exploitation* (PSEA) guidelines which Canada helped to launch.

Canada believes that, these frameworks taken together, effectively address matters of oversight and the monitoring of PMSCs activities. We recognize that regulatory gaps remain in the existing frameworks especially relating to accountability for IHL and human rights violations by PMSCs and satisfactory remedial measures. In this regard, we strongly encourage States to join the Montreux Document Forum and support ICoCA’s efforts in addressing or further refining issues not already reflected in the Montreux Document or International Code of Conduct.

Canada believes that our common goal to prevent abuses, and provide remedies where abuses occur should unify us in the direction of further strengthening the existing frameworks rather than establishing new mechanisms which risk creating new legal obligations or diluting existing laws.

Moreover, in line with the voluntary approach of our responsible business conduct (RBC) strategy, Canada has stated since the beginning of this process that it does not support the creation of a legally binding international instrument on the use of PMSCs and has objected to discussions on the development of such an instrument.

We note that the work of the OEIGWG is currently focused on expounding a regulatory framework rather than a legally binding instrument. Given the support for the Montreux Document, the subsequent development of the International Code of Conduct and the operationalization of the ICOCA, Canada believes that States and the OEIGWG should focus on enhancing support for, and on the implementation of, the instruments that already exist. Using the OEIGWG process to uncover and address States' questions and/or concerns about these instruments and how they can more effectively support States to prevent, address and remedy violations and abuses would be an effective outcome that meets the mandate set out by the Human Rights Council.