

**IGWG on Private Military and Security Companies
(12 – 16 December 2016)**

Statement by India

Thank you Madam Chair for giving us the floor.

My delegation would like to join others in congratulating you on your election as Chairperson and Rapporteur of this important Working Group.

Madam Chair,

My delegation believes that “private military’ and ‘private security’ are two distinct concepts denote two different connotations. In both the cases, State is the sole legitimate authority to provide security to the people and their property. However, nowadays, threat perceptions are increasing and individuals along with other private entities are seeking dedicated security cover. State, at times, is unable to provide the security sought by the corporate sector all the time. The need for security today, is more than what the State can normally provide. Besides, by outsourcing certain non-core functions to private security agencies, the State agencies can focus on core areas, thereby, increasing efficiency. Private security is now a fast growing industry, due to variety of reasons.

Madam Chair,

We all know the consequences on life, liberty and property of people, if such a growing sector is left without regulation and accountability. The need for regulating the private security has to be seen in this context. As a step towards this end, India enacted the Private Security Agencies (Regulation) Act, 2005 providing guidelines for the regulation of this growing industry such as licensing norms and training requirements for the guards. All private security agencies have to be licensed under this Act. License for firearms is issued to individual security personnel and not to private security agencies. The rationale for issuing licenses to individuals is to hold them accountable in the event of any mis-happening. It is hoped that promotion on the one hand and ensuring accountability on the other will lead to an efficient and effective private security sector. In this context, my delegation believes that this sector needs to be made accountable to the State. However, national legislation have limitations to address the activities of PMSCs whose activities are transnational in character.

At international level, existing law and jurisprudence remind us that there are gaps in international law particularly in establishing proper mechanisms for accountability and effective remedies for the victims. The Montreux documents identified more pressing challenges with regard to the operation of such actors

and companies in conflict areas relate to the legal and regulatory framework including the accountability of companies and their employees over their activities. It provides States with good practices that can be used as appropriate to promote compliance with International Humanitarian Law and Human Rights Law. However, the point of departure of the Montreux Document is that regulations are needed to ensure that principles of International Human Rights and Humanitarian Law are applied by PMSCs in their activities, which may extend beyond normal protection and security task. Similarly, the International Code of Conduct attests the need for standards in the industry. However, the Code of Conduct does not address the issue of accountability for human rights violations committed by PMSCs.

Madam Chair,

Previous Working Group discussions had demonstrated that a number of issues would require further clarification and better understanding, gaps in international law relating to accountability, redress and compensation for the victims. We share with the common goal identified in our deliberations, i.e. the goal of protecting human rights in the context of PMSC activities, and ensuring accountability for abuses wherever occurred. We look forward to working with you constructively in realising the mandate.

Thank you.