

8 May 2018

Dear members of the Consultative Group,

On behalf of the Coordination Committee of Special procedures, I have the pleasure of writing to you in connection to the selection of mandate holders, in particular the selection of several of our future colleagues at the upcoming session of the Human Rights Council in June. Let me first thank you for the very fruitful meeting we had this week. As you have just started your mandate, I would like to assure you of the full support of the Coordination Committee in your task ahead.

The high quality of mandate holders is crucial to ensure the effectiveness and credibility of the system of special procedures. Taking the opportunity laid down in Human Rights Council resolution 5/1, paragraph 51, which says that “the Consultative the Working Group on the issue of human rights and transnational corporations and other business enterprises Group should take into account, as appropriate, the views of stakeholders, including the current or outgoing mandate-holders, in determining the necessary expertise, experience, skills, and other relevant requirements for each mandate”, I invited the outgoing mandate holders to provide information on the skills they consider essential for the new mandate holders to discharge the mandate.

I am therefore pleased to share with you the contribution received from 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 (annex I), (annex II) and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (Annex III).

I trust that you will find these suggestions useful and I would be happy to continue discussing this matter further with you should you find it necessary. As indicated earlier, special procedures mandate holders have decided that these contributions should be made publicly available as a way to enhance transparency. This letter will therefore be posted on the public website of special procedures. I wish you success in your deliberations.

Sincerely yours,



Catalina Devandas Aguilar

Chairperson of the Coordination Committee of the Special Procedures

cc: H.E. Mr. Vojislav Šuc
President of the Human Rights Council

Annex I

CONTRIBUTION FROM THE WORKING GROUP ON THE USE OF MERCENARIES AS A MEANS OF VIOLATING HUMAN RIGHTS AND IMPEDING THE EXERCISE OF THE RIGHTS OF PEOPLES TO SELF-DETERMINATION

We recall Human Rights Council Resolution 5/1 on the institution-building of the United Nations Human Rights Council which provides that “the consultative group should take into account, as appropriate, the views of stakeholders, including the current or outgoing mandate-holders, in determining the necessary expertise, experience, skills, and other relevant requirements for each mandate.” In this regard, as the current members of 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, we would like to share with the Consultative Group what we consider as essential requirements for the new mandate holders.

We consider the following attributes, not necessarily in order of importance, to be essential for ALL NEW MEMBERS of the Working Group on the use of mercenaries:

- Independence and impartiality;
- A commitment to: 1) compliance by private military and security contractors with applicable international human rights and humanitarian law obligations, and 2) the elimination of mercenarism;
- General knowledge of the UN Charter, international human rights law and international humanitarian law;
- A record of knowledge, experience, and expertise in the issues addressed by the Working Group, particularly as concerns the applicant's region of origin;
- A common language;
- Willingness and ability to devote considerable time to work on the Working Group's agenda, including flexibility for travel and meetings.

We consider the following attributes, not necessarily in order of importance, to be essential for AT LEAST ONE OR MORE NEW MEMBERS of the Working Group on the use of mercenaries:

- Legal background;
- Knowledge of the UN, international organizations and civil society organizations;
- A record of writing ability/scholarship;
- Ability to obtain research assistance;
- Field experience in human rights/humanitarian work;
- Human rights advocacy experience.

We also wish to see the Working Group maintain gender balance.

Annex II

CONTRIBUTION FROM THE WORKING GROUP ON THE ISSUE OF HUMAN RIGHTS AND TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES

Based on the experience during the tenure of its mandate, the Working Group considers that the following skills and expertise are necessary and relevant requirements for a new member of the Working Group:

- Knowledge and expertise in international human rights law and standards, and in particular the Guiding Principles on Business and Human Rights, including from the region the member is representing.

- Knowledge and experience of business operations and engagement with business at an operational level, including experience of working at the community level, for example dealing with grievance mechanisms.

- Knowledge and experience of civil society organisations and community-based groups, particularly those working in the area of business and human rights.

- Experience in the development and implementation of public policies in related areas.

- Willingness and availability to devote a substantial amount of time to fulfilling the mandate, including undertaking field visits, attending the annual Forum on Business and Human Rights and three sessions of the Working Group per year and participating in other activities of the mandate as required.

- Diplomatic and negotiation skills as well as ability to reach consensus, are desirable.

For the election of two new members at the 38th session of the Human Rights Council, the Working Group would also like to highlight the following two important considerations:

- Given the current gender composition of the Working Group (four men and one woman), it would be critical that at least one of the two experts to be appointed is a woman.

- Given the importance of engaging with indigenous peoples on issues related to business respect for human rights, and since one of the outgoing members was the only member with an indigenous background, ideally one of the two new members would also be a member of an indigenous community.

Annex III

CONTRIBUTION FROM THE SPECIAL RAPPORTEUR ON THE ISSUE OF HUMAN RIGHTS OBLIGATIONS RELATING TO THE ENJOYMENT OF A SAFE, CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT

In the view of the current Special Rapporteur, the mandate-holder should have demonstrated expertise, experience and skills in the following areas:

1. International human rights law. Although this may seem obvious, it is still important to emphasize that the mandate-holder should be a human rights expert, and not someone whose only experience is in environmental matters. The mandate is located within the field of human rights law, and the mandate-holder is tasked with addressing how international human rights law applies to environmental issues; it is therefore crucial that the mandate-holder have expertise and experience in human rights law.

2. Environmental protection. Of equal importance is expertise and experience in environmental matters. Knowledge of international environmental law and policy is certainly relevant, but expertise and experience in environmental issues at the national and local levels may be even more valuable, since it is often at these levels that the mandate-holder is asked to give advice, identify good practices, and call attention to problems.

3. Knowledge of recent developments. Over the past six years, the relationship of human rights and the environment has developed very rapidly, at the United Nations as well as at regional and national levels. The new mandate-holder should already be familiar with these developments, including the work of the mandate, so that they may build on them going forward.

4. Skills in working with a range of stakeholders. There is a great deal of interest in this area from a very wide variety of stakeholders, including governments, international organizations, regional bodies, civil society organizations, academics, local communities and indigenous peoples. Although it may not be realistic to expect the new mandate-holder to have experience in working with all of these stakeholders, the mandate-holder should have a demonstrated ability to work with people and institutions that bring different perspectives to these issues.

5. Knowledge of the United Nations. Of the listed criteria, this is the only one that I would say is not necessary at the outset. Someone who meets the other criteria can (and must!) learn what they need to know about how the UN system works. Nevertheless, it would certainly be helpful if the mandate-holder has some knowledge of the UN human rights, environment and development agencies. Of course, expertise and experience in working with the agencies would be even more valuable.

Finally, it is very important that the selection of the new mandate-holder takes into account geographic and gender equity. Selection of mandate-holders should always reflect the diversity of the global population and the importance of gender balance. Moreover, many of the most pressing issues concerning human rights and the environment, and many of the most innovative practices, are arising in the Global South, and it would be highly desirable for the new mandate-holder to be from the Global South as well.