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**Human Rights Council**

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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

 Role of mercenaries, mercenary-related actors and private military and security companies in the trafficking and proliferation of arms

 Report 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[[1]](#footnote-1)\*

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|  *Summary* |
|  In the present report, 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 examines the increasing role of mercenaries, mercenary-related actors and private military and security companies in the trafficking and proliferation of arms and the consequential human rights and humanitarian impacts. The Working Group also examines measures that the international community can take to effectively address mercenary-related activities and how it can establish and strengthen regulations governing the operations of private military and security companies in this context. The activities and influence of these actors go beyond the spheres of the provision of weapons, military and security services and training and can fuel the demand for weapons in the regions in which they are deployed. |
|  The present report was drafted primarily by the Working Group members Michelle Small, Jovana Jezdimirovic Ranito and Sorcha MacLeod. The Working Group thanks those individuals and organizations who contributed to and assisted with the writing of the present report. |
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 I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 51/13, in which the Council renewed the mandate 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, which had been established pursuant to Commission on Human Rights resolution 2005/2. The report covers the activities of the Working Group since its previous report to the Council.[[2]](#footnote-2)

2. The thematic section contains an analysis of the role of mercenaries, mercenary‑related actors and private military and security companies in the trafficking and proliferation of arms in situations of armed conflict. In addition to extensive desk research, the findings and analysis contained in the present report are derived from multi-stakeholder expert consultations, as well as submissions received in response to the Working Group’s call for inputs.[[3]](#footnote-3)

 II. Selected activities of the Working Group

 A. Annual sessions

3. The Working Group held its forty-ninth, fiftieth and fifty-first sessions from 31 July to 4 August 2023, 13 to 17 November 2023 and 15 to 19 April 2024, respectively. During the sessions, the Working Group held bilateral meetings with representatives of Member States, international and non-governmental organizations, United Nations officials and other relevant interlocutors. In November 2023, Carlos Salazar Couto was appointed as the new Chair-Rapporteur of the Working Group. On 1 May 2024, Michelle Small (South Africa), was appointed as a new member, replacing Chris Kwaja (Nigeria), whose six-year term had ended. On 1 August 2024, Joana De Deus Pereira (Portugal) was appointed, replacing Sorcha MacLeod (United Kingdom of Great Britain and Northern Ireland), whose six-year term had ended.

 B. Communications and statements

4. During the reporting period, the Working Group issued several communications jointly with other special procedure mandate holders. Letters were sent to five Governments and 55 private entities regarding allegations of the involvement of mercenaries, mercenary-related actors or private military and security companies in human rights abuses and violations of international humanitarian law.[[4]](#footnote-4)

 C. Selected activities

5. On 19 September 2023, Mr. Kwaja presented the report of the Working Group on the recruitment, including predatory recruitment, of mercenaries and mercenary-related actors to the Human Rights Council.[[5]](#footnote-5)

6. On 31 October 2023, Ms. MacLeod presented the report of the Working Group entitled “Regulatory environment for mercenaries, mercenary-related actors and private military and security companies: a call to action”[[6]](#footnote-6) to the General Assembly.

7. In December 2023, the Working Group convened two online multi-stakeholder expert consultations to inform its 2024 reports to the General Assembly and the Human Rights Council.

8. The Working Group participated in the fifth meeting 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, which was held in Geneva from 14 to 19 April 2024, as well as in its intersessional consultations.

 D. Country visits

9. The Working Group places great importance on undertaking country visits and has sent numerous requests for country visits and reminders to follow up on previous letters. The Working Group received four letters of acceptance, from the Governments of Bulgaria, Cyprus, Maldives and Poland. The Working Group extends its thanks to all the Governments that have responded favourably to its requests for country visits and remains engaged in the planning of its forthcoming country visits.

10. During the reporting period, the Working Group conducted an official visit to Côte d’Ivoire, from 4 to 13 March 2024, following up on the visit it conducted in 2014.[[7]](#footnote-7)

 III. Role of mercenaries, mercenary-related actors and private military and security companies in the trafficking and proliferation of arms in situations of armed conflict

11. In recent years, the Working Group has noted several alarming trends in relation to the use and proliferation of small arms connected to mercenaries, mercenary-related actors and private military and security companies that have a negative impact on civilian populations through violations of international humanitarian law, including the indiscriminate targeting of civilians, and numerous human rights violations, including arbitrary killings, torture, enforced disappearances and sexual and gender-based violence. Trends include the escalating entry of small arms into and the circulation of such arms in conflict situations, often in violation of arms embargoes,[[8]](#footnote-8) poor weapons management[[9]](#footnote-9) and an increase in the use of additive technology to manufacture small arms.[[10]](#footnote-10) In the light of those trends, the Working Group decided to focus on the connections between mercenaries, mercenary-related actors and private military and security companies and the proliferation and trafficking of small arms.

 Definitions

12. Arms transfers can be divided into three categories: (a) legal or regulated transfers; (b) illicit grey-market transfers; and (c) illegal black-market transfers. Legal or regulated transfers refer to the transfer of legally manufactured arms among exporting, importing and transferring States. Such transfers are legally authorized by national and international laws and regulations. Illicit grey-market transfers involve arms that may be unregistered or unlicensed, or are when part of the transfer may not be authorized (by either the exporting or the importing State). Illegal black-market transfers refer to the illegal brokering of arms to a variety of actors, including mercenaries and mercenary-related actors.[[11]](#footnote-11) The practices in the three categories of arms transfers are, however, not always clear cut.

13. In the present report, “proliferation” refers to the circulation of arms, which is legal and authorized, but may take on illegal dimensions at different points, while “trafficking” refers to the illegal sale, transfer and use of arms.[[12]](#footnote-12) Mercenaries and mercenary-related actors are connected to both the proliferation and the trafficking of arms. While most private military and security companies are structured business organizations that avoid the reputational risk and transaction costs associated with exchanges on illegal markets, some do engage in trafficking. States also play a central role in the proliferation and control of arms.

14. The mostly legal inter-State trade in major conventional weapons is well documented, tracked and traced; however, data on the trafficking of portable, concealable and lethal small arms and light weapons, which is the focus of the present report, are inconsistent, missing, distorted or absent.[[13]](#footnote-13)

 IV. Background

15. The past two decades have witnessed a marked increase in war and conflict around the world. The latest data from the Uppsala Data Conflict Program reveal that the total number of international and non-international armed conflicts is at its highest since 1946.This has resulted in 2023, along with 2021 and 2022, seeing the highest number of battle‑related deaths since the end of the Cold War.[[14]](#footnote-14) There has also been a discernible shift in the dynamics of warfare, characterized by: (a) a diversification and proliferation of actors engaged in conflicts, inclusive of mercenaries, mercenary-related actors and private military and security companies; (b) a proliferation of the availability and type of arms, ammunition and weaponry used by mercenaries, mercenary-related actors and private military and security companies, States and non-State actors; and (c) an increasing nexus between mercenaries, mercenary-related actors, private military and security companies, arms proliferation and grey and black markets, networks and financing.

16. Recent transformations in armed conflict contribute significantly not only to the demand for and supply of arms around the world, but also to violations of humanitarian law and human rights that have contributed to human suffering and insecurity. Civilians bear the brunt of armed conflict and arms proliferation directly and indirectly. In 2022, 94 per cent of casualties in populated areas of armed conflict were civilians: this is termed the “civilianization of armed conflict”.[[15]](#footnote-15) The Secretary-General described the state of the protection of civilians in 2023 as “resoundingly grim”.[[16]](#footnote-16)

17. Despite this trend in armed conflict-induced human suffering, global military spending on arms continues to surge. In 2024, total global military expenditure amounted to $2.44 trillion, representing a 6.8 per cent increase from 2022 spending.[[17]](#footnote-17) An increase in the number of countries and companies manufacturing arms, in particular small arms, has contributed in part to the illicit trade in and transfer of arms. The trade in illicit arms is estimated to amount to $7 billion annually.[[18]](#footnote-18) Importantly, the 2030 Agenda for Sustainable Development (in target 16.4 of the Sustainable Development Goals) explicitly reflects the importance of reducing illicit arms flows and of arms control to promote peace, security and sustainable development, while placing disarmament and arms control firmly within the scope of development policies.[[19]](#footnote-19) The nexus between arms and mercenaries, mercenary‑related actors and private military and security companies thus places the regulation of these entities within the scope of the 2030 Agenda.

18. A prominent aspect of increased military expenditure and the evolving conflict landscape has been the sustained, if not escalating, recruitment, training, financing and use of mercenaries, mercenary-related actors and private military and security companies to deliver military and security services, with their scope of operations ranging from recruitment, logistical assistance, training, counsel and arms procurement to on-the-ground combat.

19. The Working Group has repeatedly warned that the involvement of mercenaries, mercenary-related actors and private military and security companies in situations of armed conflict prolongs armed conflicts, undermines peace processes, destabilizes regions and, most concerningly, exacerbates the perpetration of human rights abuses and violations of international humanitarian law, including war crimes and crimes against humanity.[[20]](#footnote-20)

 V. Regulatory framework

20. States have a central role and responsibility in upholding existing international regulations that govern arms transfers, in enforcing arms embargoes and sanctions, in ensuring that arms are not transferred to unauthorized actors or diverted to mercenaries, mercenary-related actors or any other non-State actors or to situations where gross human rights abuses or violations of international humanitarian law are occurring and in preventing the development and production of disproportionate and indiscriminate weaponry.

 A. Arms control obligations of States

21. Under Article 26 of the Charter of the United Nations, the Security Council is to formulate plans, to be submitted to the States Members of the United Nations, for the establishment of a system for the regulation of armaments “in order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world’s human and economic resources”. As such, several international and regional regulatory instruments exist to control, regulate and manage arms, ammunition and weapons production, sale, export and transfer. These place the responsibility and obligation of arms control firmly on States. Among these instruments are legal instruments (such as the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, the Arms Trade Treaty, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, the Convention on Cluster Munitions, and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime), transparency and confidence-building mechanisms (the Register of Conventional Arms and the United Nations Report on Military Expenditures) and weapon-specific regulations (the Political Declaration on Strengthening the Protection of Civilians from Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas and the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects).

22. Much has been written on these instruments in the context of arms proliferation but, overall, they lack sufficient detail on preventing the illicit transfer of arms to unauthorized or illegal users, inclusive of mercenaries, mercenary-related actors and private military and security companies. A key challenge to the realization of arms control agreements is the differing levels of participation, compliance and enforcement by States: State agency is essential. In some cases, political turmoil leads States to step back from their obligations. Although useful in outlining desired practices, regulatory instruments lack systems of compliance and verification beyond self-reporting.

23. In this regard, under Article 41 of the Charter of the United Nations, the Security Council has an important role to play. The Council has the authority to call upon States Members of the United Nations to apply measures such as sanctions and arms embargos to address arms proliferation and trafficking in situations of armed conflict to States that commit systematic violations of human rights and international humanitarian law and to business and commercial enterprises that engage in illicit practices in terms of arms transfers and trans‑shipment.[[21]](#footnote-21) These measures are monitored by sanctions committees, often assisted by panels of experts that help monitor and track implementation of sanctions and embargo regimes. States, however, have the power to disable the monitoring of sanctions implementation, for instance by dismantling the panel of experts on a sanctions regime.[[22]](#footnote-22) Panels of experts have also been denied access to investigate violations in jurisdictions concerned.

24. The limitations of the arms control architecture directly affect the proliferation and trafficking of arms by mercenaries, mercenary-related actors and private military and security companies. One of the main shortcomings of applying existing regulatory frameworks to mercenaries and mercenary-related actors is that they do not address the exponential rise of civilian-owned weapons in the past two decades.[[23]](#footnote-23) Besides the increased possession of arms by civilians, the arms trade network has changed and the active participation of non-State actors such as mercenaries, mercenary-related actors and private military and security companies in armed conflicts across the globe has increased. While the role that transnational organized criminal networks play in the proliferation and trafficking of arms is recognized in the Firearms Protocol, the role of mercenaries and mercenary-related actors in grey- and black-market arms transactions to States and non-State actors is not explicitly recognized and the linkages of such actors to transnational organized criminal arms networks are not acknowledged. This represents a significant gap in both the Firearms Protocol and the Organized Crime Convention.

 B. Mercenaries and mercenary-related actors

25. No specific body at the international level is tasked with monitoring, overseeing or guiding the implementation of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. Currently, only 37 States are party to the Convention. Furthermore, as specified in the preamble, the Convention only covers the recruitment, use, financing and training of mercenaries for activities that violate principles of international law, such as those of sovereign equality, political independence, the territorial integrity of States and the self-determination of peoples. The Convention contains no explicit references to arms, arms transfers, arms proliferation, trafficking in arms, or arming. Within the Convention, no connection is made between the activities of mercenaries and the weapons they use. This lack of explicit reference to States in terms of supplying and equipping mercenaries by means of arms and weapon transfers represents a significant regulatory gap.

 C. Private military and security companies

26. The regulation of weapons and arms, specifically firearms, is firmly related to the roles, responsibilities and activities of private military and security companies.

27. 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 articulates how international law applies to the activities of private military and security companies during armed conflict and sets out good regulatory practices.[[24]](#footnote-24) It contains reference to the challenges posed by the use of firearms by private military and security companies and sets out in detail so-called good practices for contracting, home and territorial States regarding control of firearms and ammunition, including use of force, training and record-keeping.[[25]](#footnote-25) In addition to the specific good practices related to the use of arms, in the introduction to part II of the Montreux Document, States are encouraged to fully implement the relevant provisions of the international instruments to which they are party, including firearms conventions.

28. It is set out in part II of the Montreux Document that, as a matter of good practice when selecting private military and security companies, contracting States are expected to take into account particular criteria, including ensuring that such companies’ personnel receive training on a variety of context-specific training, including on rules on the use of force and firearms. Contracting States should also take into account whether a private military and security company has developed and implemented policies relating to international humanitarian law and human rights law, especially on the use of force and firearms. Similar good practices are envisioned for territorial States in relation to firearms training and the implementation of firearms policies. In addition, contracting States should require, in consultation with territorial States, respect for relevant regulations and rules of conduct by private military and security companies and their personnel, including rules on the use of force and firearms, such as: (a) using force and firearms only when necessary in self-defence or defence of third persons; and (b) immediate reporting to and cooperation with competent authorities, including the appropriate contracting official, in the case of use of force and firearms.

29. Further good practices for territorial States are set out in paragraphs 43–45 of the Montreux Document, on rules on the provision of services by private military and security companies and their personnel. Territorial States are expected to have in place several specific regulatory provisions restricting the use of force and firearms to situations of self‑defence or defence of third persons. There should also be reporting to and cooperation with competent authorities in the case of use of force and firearms. Furthermore, as a matter of good practice, territorial States are expected to have in place a regulatory framework that: (a) limits the types and quantity of weapons and ammunition that a private military and security company may import, possess or acquire; (b) requires the registration of weapons, including their serial number and calibre, and ammunition, with a competent authority; (c) requires the personnel of private military and security companies to obtain an authorization to carry weapons that is shown upon demand; (d) limits the number of employees allowed to carry weapons in a specific context or area; (e) requires the storage of weapons and ammunition in a secure and safe facility when personnel are off duty; (f) requires that private military and security company personnel carry authorized weapons only while on duty; and (g) controls the further possession and use of weapons and ammunition after an assignment is completed, including return to point of origin or other proper disposition of weapons and ammunition.

30. Additional provisions of the Montreux Document address the lawful acquisition of weapons. As a matter of good practice, contracting States should take into account whether a private military and security company acquires its weapons lawfully, whether it uses weapons that are not prohibited by international law and whether it has complied with contractual provisions concerning the return and/or disposition of weapons and ammunition. Territorial States should not authorize (license) a private military and security companies if its weapons are acquired unlawfully or if the use of its weapons is prohibited by international law. Home States should also take into account the lawful acquisition of weapons and have in place appropriate rules on the accountability, export and return of weapons and ammunition by private military and security companies.

 D. International Code of Conduct for Private Security Service Providers

31. The International Code of Conduct for Private Security Service Providers provides specific guidance for private military and security companies.[[26]](#footnote-26) Member companies of the multi-stakeholder International Code of Conduct for Private Security Service Providers’ Association are required to obtain its certification, which indicates that their procedures and practices are in compliance with the Code.[[27]](#footnote-27) To achieve certification, member companies are audited by third-party certification bodies to specific management standards addressing corporate governance and human rights, such as International Organization for Standardization standard 18788:2015 or ASIS standard PSC.1-2022, and are then required to fulfil some additional requirements set by the Association. Under the Code of Conduct, certified companies are required to have policies and procedures in place, including on the use of force, human rights risk and impact assessments, vetting, training, weapons management, incident reporting, health and safety, and grievances. Paragraphs 56 to 58 of the Code of Conduct set out the requirements concerning weapons management, while paragraphs 60 to 62 concern the management of ammunition.

32. The International Code of Conduct for Private Security Service Providers’ Association has recognized that its member companies face challenges in implementing those provisions of the Code of Conduct, in particular in terms of weapons mismanagement and limitations to the current regulatory environment, and has been taking steps to address them.[[28]](#footnote-28) In 2022, the Association, together with the Small Arms Survey, developed key indicators that it uses in its certification process to assess member companies. The indicators relate to: (a) the management of weapons; (b) the management of ammunition; and (c) weapons training.[[29]](#footnote-29)

33. The best practices set out in the Montreux Document and the Code of Conduct for private military and security companies to follow with regard to weapons cover only firearms: the broader of category “weapons” is not defined, leaving room for interpretation. Provisions cover using, carrying, acquiring, operating and maintaining, but not supplying or equipping. The role of private military and security companies as importers or exporters of arms and ammunition is not explicitly addressed: the focus is placed on such companies as recipients, not suppliers, of weapons. Instead, the provisions and responsibilities are for the contracting States, territorial States and home States. This does not reflect the practices of some private military and security companies.

 VI. Context and dynamics

34. The relationship between armed conflict, arms proliferation, arms trafficking and mercenarism is multifaceted, complex and self-reinforcing. Armed conflict creates a demand for weapons, arms and fighters, one subset of which are mercenaries and mercenary-related actors, while also feeding into the demand for private military and security companies. Mercenaries, mercenary-related actors and private military and security companies benefit from ongoing conflicts as their presence sustains the demand for arms and the duration and intensity of conflicts, which makes resolution more protracted and challenging and entails higher civilian costs.[[30]](#footnote-30) Where arms cannot be legally acquired, mercenaries, mercenary-related actors and private military and security companies can play a role in the supply of arms.[[31]](#footnote-31)

35. Mercenaries, mercenary-related actors and private military and security companies are connected to the legal and illegal arms trade in four main ways. The first is through the direct State supply of arms, for example, by “State sponsorship”, “State contracting” and/or “State re-routing”; the second is through the seizure or illegal sale of State stockpiles and armouries, known as “diversion”; the third is through illegal, criminal and opaque brokering networks, shell companies and intermediaries; and the fourth is by means of illicit channels from and between mercenaries, mercenary-related actors and private military and security companies themselves and/or combatants. Here, illicit financing, which is addressed by the Working Group in its 2024 report to the General Assembly, plays a key role.[[32]](#footnote-32)

 A. Arms proliferation to mercenaries, mercenary-related actors and private military and security companies: State supply, State sponsorship, State contracting and State re-routing

36. States remain the main suppliers and licensers of arms. Some States play a central role in the proliferation of arms to non-State actors such as militias, rebels, gangs and insurgents.[[33]](#footnote-33) Some States may also be involved in supplying arms directly to mercenaries, mercenary‑related actors and private military and security companies to engage in interference on their behalf in other territories (“State sponsorship”)[[34]](#footnote-34) or to wage military operations on the State’s behalf within its territory towards a specific end or goal (“State contracting”).[[35]](#footnote-35) This was also noted in the expert consultations organized by the Working Group.

37. Many countries require end-user certificates as part of arms transfer agreements. These certificates specify the intended recipient and purpose of the arms.[[36]](#footnote-36) Some States do not consistently apply, observe or uphold the end-user certificate process. In so doing, they facilitate the illicit proliferation of arms to mercenaries, mercenary-related actors and private military and security companies operating in or from their territory.[[37]](#footnote-37)

38. Related to the end-user certification process is the issue of record-keeping and the marking of arms and ammunition. In the context of the life cycle of arms, limited marking and record-keeping practices, especially in conflict zones and for older weapons, markings are often absent or have worn off.[[38]](#footnote-38) This prevents weapons tracing. The lack of digital, centralized and real-time record-keeping mechanisms in many countries not only serves as an impediment to accountability, transparency and monitoring, but also creates opportunities for potential diversion.[[39]](#footnote-39) By connecting arms proliferation to development, the Sustainable Development Goals highlight how cross-cutting issues can be addressed holistically.

39. During the expert consultations, the Working Group learned that, in some regions, the transfer of arms and ammunitions to mercenary-related actors and private military and security companies has not followed established procedures of registration or end-user certification and, in some instances, States have enabled illicit proliferation through the fabrication of documentation. This was noted as a trend in particular in regions where States closely collaborated with mercenaries and mercenary-related actors and where private military and security companies were present and, in some cases, participating in armed conflicts.

40. Even with a clear international framework governing arms transfers, some States and regions still do not have robust national or regional regulation regarding arms transfers, subdelegating responsibility from States to mercenaries, mercenary-related actors and private military and security companies on how they acquire and manage weapons. The Working Group raised the issues of proliferation and weak weapons management in its 2022 report to the General Assembly on maritime security.[[40]](#footnote-40)

41. The “re-rerouting” of legal State-to-State sales to mercenaries, mercenary-related actors and private military and security companies is another concerning avenue of proliferation. Such transactions are not necessarily entirely illegal; they may involve illegal stages (e.g. the State-to-State transfer is legal, but the onwards rerouting or diversion of arms to non-State armed actors, mercenaries, mercenary-related actors or private military and security companies is illegal). In a submission made to the Working Group, it was noted that assets had been transferred from a State to a quasi-State entity; such assets included armoured vehicles such as main battle tanks and infantry fighting vehicles, several artillery models and multiple launch rocket systems and air defence systems (inclusive of passenger, cargo, fighter and attack aircraft).

42. The Working Group also learned that some States deliberately involve other States as enablers in arms transactions to supply mercenaries, mercenary-related actors and private military and security companies, initially with weapons and subsequently with ammunition.[[41]](#footnote-41) In some regions, private military and security companies are thus used for the transfer of arms and ammunition, sponsored by States. Furthermore, it has been reported that, in some cases, mercenary-related actors use State military infrastructure (such as airfields, bases and planes) to facilitate illegal arms transactions and mercenary activities.[[42]](#footnote-42) Such assistance is crucial to the transportation, transfer and proliferation of arms, vehicles and fighters.[[43]](#footnote-43) This leads to an enabling environment for mercenaries and private military and security companies to further engage in illicit activities regarding arms transfers and proliferation.[[44]](#footnote-44) The most vulnerable regions identified are also conflict-prone, are involved in prolonged armed conflicts and/or have vulnerable political situations. This has been noted in country visits undertaken by the Working Group, and in communications sent to States.[[45]](#footnote-45)

43. It has also been observed that the most common reason for the “leakage” of weapons is ineffective physical security, in particular where there is a collapse of State functions and weak governance.[[46]](#footnote-46) Stockpiles can disappear, sometimes stolen, or are redistributed. The existence of certain regional trends, including the specific nature of items leaked, with variation in the origin of leakage between private actors and States, was noted during the expert consultations.

44. Thus, varying regulatory efforts and capacities across countries and regions, whereby some countries work to curb illicit arms proliferation and have strict arms regulations and anti-corruption policies while others do not, is a central challenge to the control of the proliferation and trafficking of arms.

45. State-sponsored proliferation of and trafficking in arms to mercenaries, mercenary‑related actors and private military and security companies often occur in violation of arms sanctions and embargos imposed by the Security Council.[[47]](#footnote-47) Violations of sanctions in the sale and transfer of arms by some States have been blatant and extensive and have undermined international law and the authority of the United Nations and Security Council, while showing a total disregard for attempts to control the proliferation and trafficking of arms. In these situations, allied States are involved in facilitating the process of diversion.[[48]](#footnote-48)

46. In response to these evolving practices, the Security Council has increasingly included provisions in its resolutions relating to arms embargoes about the supply of arms and related material; technical advice, training and assistance related to military activities; financing; and armed mercenary personnel.[[49]](#footnote-49) Significantly, the Council, in its resolutions, broadens the scope of restrictions under embargoes to include human actors and emphasizes the responsibility of third parties not to intervene in conflicts through the provision of technical advice, training and assistance related to military activities or armed mercenary personnel. The Council does not define technical advice, training and assistance related to military activities or armed mercenary personnel, leaving the scope of the terms open to interpretation. The Working Group takes the view that the terms can be interpreted to cover a large area of activities.

47. Another important issue in the life cycle of arms proliferation is the role that business enterprises play.[[50]](#footnote-50) Defence and armament companies manufacture and produce a wide range of weapons, ammunition and other military-related equipment that are used in situations of armed conflict. They are thus a key component in the supply chain and ecosystem of arms; yet, enhanced human rights due diligence is often absent, resulting in arms being “too available for use in the commission of serious human rights violations”.[[51]](#footnote-51) In particular, the sector is: (a) failing to limit the type of weaponry it produces (in particular with regard to destructive and discriminate properties); and (b) supplying arms to States or non-State entities, such as mercenaries, mercenary-related actors and private military and security companies, that are involved in armed conflicts where there is a clear risk that the weapons supplied could be used to commit violations of international humanitarian law and/or result in gross human rights abuses.[[52]](#footnote-52) The Working Group is aware of a number of armament and defence companies supplying weapons to States, mercenaries, mercenary-related actors and private military and security companies engaging in armed conflict where the use of arms is disproportionate and indiscriminate and has resulted in mass civilian casualties and the mass destruction of civilian infrastructure including homes, schools, hospitals, roads and electricity and water facilities. In a joint press release on arms transfers issued on 20 June 2024, special procedure mandate holders including the Working Group reiterated that business enterprises, including financial institutions, had their own responsibilities under the Guiding Principles on Business and Human Rights to respect human rights and conduct human rights due diligence when conducting business activities linked to conflicts and, on this basis, to make the decision to remain, end a business relationship or exit a challenging context more generally.[[53]](#footnote-53) Enhanced human rights due diligence by the arms industry is paramount in general, and in particular in relation to mercenaries, mercenary-related actors and private military and security companies.

 B. Diversion: stockpiles and armouries

48. Another route by which non-State actors, mercenaries and mercenary-related actors may acquire arms is through the sale or seizure (“capture” or “looting”) of arms from the State on the battlefield, and/or the sale or seizure from State stockpiles and armouries.[[54]](#footnote-54) In countries where conflict is ongoing, this may include direct attacks on border security or army posts, barracks or convoys.[[55]](#footnote-55) In situations of ongoing regional conflict, regional stockpiles are a significant avenue of ongoing arms proliferation.[[56]](#footnote-56) It was noted during the expert consultations that arms may be from conservation or anti-poaching stockpiles or even peacekeeping operation stockpiles.[[57]](#footnote-57)

49. In some cases, corrupt State officials, ex-government forces or soldiers who have defected facilitate the sale and supply of arms and ammunition from State stockpiles and armouries.[[58]](#footnote-58) Such collaboration has been documented and has often been between government forces and armed groups within and even between States.[[59]](#footnote-59) This is compounded by porous borders and coastlines and the poor security, management and administration (record-keeping)of arms and ammunition stockpiles by some States.[[60]](#footnote-60) In submissions made to the Working Group, experts noted that some mercenaries and mercenary-related actors acquired their weapons through such means, in particular where conflicts were ongoing or had ceased and/or political regimes had fallen. The “intra-supply” from stockpiles from previous or neighbouring conflicts has also been documented.[[61]](#footnote-61) Such arms are not registered or recorded.

50. The connection between armed conflict, arms proliferation and trafficking and mercenaries and mercenary-related actors is thus empirically well demonstrated and established. The Working Group, after its visits to the Central African Republic in 2016, Chad in 2018 and Côte d’Ivoire in 2024, observed that conflicts within the countries and in neighbouring countries had created a fertile ground for arms proliferation, the presence of mercenaries and stockpiles of weapons.[[62]](#footnote-62)

51. Floating armouries represent another offshore route of leakage, proliferation, trafficking and diversion to mercenaries, mercenary-related actors and private military and security companies, whereby the stowing of arms in international waters may evade regulations and record-keeping.[[63]](#footnote-63) The use of floating armouries was noted in previous work by the Working Group.[[64]](#footnote-64)

52. The safe and secure management of stockpiles, including the identification of surpluses and their destruction, is crucial to achieving Sustainable Development Goal 11, on making cities and human settlements inclusive, safe, resilient and sustainable. Thus, identifying and addressing arms diversion practices and actors, inclusive of mercenaries, mercenary-related actors and private military and security companies, is relevant as a cross‑cutting issue in the pursuit of international peace and security and sustainable development.

 C. Brokering: criminality and illegality

53. Arms brokering and transport agents represent a further illicit means by which non‑State actors, mercenaries and mercenary-related actors acquire arms. Arms brokering, transport agents and other intermediaries facilitate illegal arms transfers through opaque transnational criminal networks relying on disguising ownership(shell companies), movement through unregulated or free trade zones (trans-shipment, storage, redistribution) and utilizing illicit, crypto or parallel financing.[[65]](#footnote-65) During the expert consultations, the Working Group was informed about States that serve as a hub for the trans-shipment of arms through air and maritime ports; this has also been documented by panels of experts.[[66]](#footnote-66) The illicit financing of such transactions and transfers is of major concern.

54. Brokers facilitate the cross-border trafficking, State retransfer and unlawful redistribution of arms. Brokers may be individuals or companies who serve as the intermediary between buyer and seller; alternatively, brokers may facilitate an entire transaction on behalf of the purchaser, which, in certain cases, includes the transportation of arms.[[67]](#footnote-67) Research has shown that arms brokering and transportation activities (inclusive of front companies, customs, freight forwarders and transportation agents) have resulted in weapons being channelled to regions of conflict where serious violations of human rights are occurring and where mercenaries, mercenary-related actors and private military and security companies are operational.[[68]](#footnote-68) Brokers also play a key role in the provision of fraudulent documents, such as forged or altered import or export licences, waybills, registry permits, end-user certificates and similar documentation.[[69]](#footnote-69) In some cases, end-user certificates have been forged by brokers and others in various State jurisdictions and geographical areas.[[70]](#footnote-70)

 D. Illicit networks and proliferation

55. Entities associated with the illicit transfer of arms are thus also closely linked to other illicit ecosystems in the conduct of their business. According to submissions made to the Working Group, different illicit actors employ the same methods, networks and enablers, inclusive of mercenaries and mercenary-related actors, to conduct and finance their activities.[[71]](#footnote-71) One such method is the exploitation of already established transnational criminal networks, in particular in regions experiencing prolonged conflict and political instability, which serves to both hide and channel arms transfers for military and security operations and to finance military and security activities.

56. Some mercenaries, mercenary-related actors and private military and security companies are involved in arms trafficking to finance their operations. During the expert consultations, it was noted that arms trafficking and transfer was used as a form of self‑funding. Weapons were sold on the darknet utilizing e-platforms and alternative banking systems such as cryptocurrencies. Cryptocurrencies were also used to purchase arms and weapons on darknet markets. These are emergent practices that mercenaries and mercenary‑related actors are engaging in. In addition, the use of additive technology to manufacture arms (e.g. three-dimensional printed firearms, semi-automatic weapons and “ghost guns”) raises new concerns about the fundraising activities of mercenaries and mercenary-related actors and their ability to raise illicit funds through these sales.[[72]](#footnote-72) The online illicit trade in small arms and light weapons and firearms has been noted in certain conflicts.[[73]](#footnote-73)

57. Of concern also are recent developments whereby mercenaries, mercenary-related actors and private military and security companies increasingly have access to, and make use of, illegal craft and artisanal production, illicitly converted and imitated weapons and privately made firearms. The United Nations High Commissioner for Human Rights has noted that, while industrially manufactured firearms constitute the largest proportion of total holdings, artisanal and craft weapons and converted firearms exist in significant numbers.[[74]](#footnote-74)

58. A recent report by the United Nations Institute for Disarmament Research highlights the proliferation and trafficking of uncrewed aerial systems to non-State armed groups, inclusive of mercenaries, mercenary-related actors and private military and security companies.[[75]](#footnote-75) Uncrewed aerial systems are remotely piloted or semi-autonomous aerial vehicles that are used to engage in aerial attacks.[[76]](#footnote-76) It is estimated that mercenaries, mercenary-related actors and private military and security companies were involved in 9 per cent of recorded incidents involving uncrewed aerial systems between 2018 and 2023.[[77]](#footnote-77) The proliferation of new weapons technologies, specifically autonomous weapons technologies, among unauthorized users such as mercenaries, mercenary-related actors and private military and security companies, is thus an area of concern. It was noted in a submission made to the Working Group that industry transformations were giving rise to a new fighting domain and range of activities for mercenaries, mercenary-related actors and private military and security companies. Significant regulatory gaps were pointed out regarding new developments involving offensive cyberoperations and “cybermercenaries”.[[78]](#footnote-78)

59. In 2003, the Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination at the time stressed that the conceptualization of mercenaries and mercenary activities needed to be expanded to include mercenary involvement in a wide range of criminal activities.[[79]](#footnote-79) Specifically, the trafficking and smuggling of natural resources, commodities and arms to sustain mercenary recruitment, training, financing and use, was noted. This remains true today. In one case shared with the Working Group, former mercenaries were reported to have engaged in “high-intensity banditry”, using vehicles and weapons obtained during mercenary service to target convoys carrying drugs or gold. Often, such operations bring together ad hoc groups, which then disperse after an attack. They have proved capable of successfully raiding convoys protected by armed forces, underscoring both their tactical competency and their access to armaments.

60. Mercenaries, mercenary-related actors and private military and security companies are connected to illicit ecosystems in other ways. As noted by the former Special Rapporteur on mercenaries, the mercenary component is usually present in illicit arms traffic operations. Mercenaries are hired as pilots, co-pilots or flight engineers for the transport of weapons, as arms salespersons in the field, as instructors in the use of the weapons and military material that have been sold, or as trainers of troops or paramilitary groups, which in many cases comprise raw recruits, persons with little training or knowledge or ad hoc combatants.[[80]](#footnote-80)

61. The Working Group received information that signalled the involvement of mercenaries and mercenary-related actors in the illicit transportation of weapons, material and personnel by sea as a means to circumvent arms embargoes. This includes the purchase and transfer from floating armouries at sea to unauthorized users.[[81]](#footnote-81) The Panel of Experts on Libya established pursuant to resolution 1973 (2011) detailed similar operations and the activities of “project opus”, an illicit operation involving individuals from multiple States who planned armed maritime interdictions, among other operations.[[82]](#footnote-82) The Panel of Experts concluded that several named individuals were acting in breach of the arms embargo outlined in paragraph 9 of Security Council resolution 1970 (2011) by supplying vessels that met the definition of “military equipment”. In addition, despite the resolution explicitly including a prohibition on the supply of armed mercenary personnel, this practice was evident.[[83]](#footnote-83)

62. As a result, the effectiveness of arms embargoes has been questioned by the Panel of Experts on Libya established pursuant to resolution 1973 (2011). It stated that the arms embargo would continue to be totally ineffective while Member States controlled the logistical flows and supply chains to the parties that each Member State was supporting. As no action had been taken against individuals and entities reported as violating the arms embargo, and which met the designation criteria in paragraph 11 (e) of Security Council resolution 2213 (2015), the deterrent effect of the sanctions regime was very low.[[84]](#footnote-84)

63. The Panel of Experts on Libya established pursuant to resolution 1973 (2011) also referred to a number of mercenaries, mercenary-related actors and private military and security companies, from several States and different geographical regions, that were involved in arms transfers.[[85]](#footnote-85) Private military and security companies may supply arms or military technologies to their clients (States and participants in the hostilities), in line with provisions contained in the contracts they sign.[[86]](#footnote-86) Many States have some form of regulation regarding the legal acquisition and possession of weapons by private military and security companies. Only a few States address the issue of illegal acquisition and possession of weapons and have provisions concerning penalties, however. Those States cover the subject of illegal acquisition and possession of weapons in their domestic legislation.[[87]](#footnote-87) It is hugely difficult to obtain information on suspicious transfers and illegal acquisitions. United Nations panels of experts play a significant role in this regard.

64. The use of private military and security companies further complicates the issue of arms proliferation, given the variety and the overlapping nature of the services that these actors perform, from the provision of military and security advisory services to full combat and operational support in military operations, military and security training; arms procurement; intelligence-gathering; security and crime prevention services; and logistical support.[[88]](#footnote-88)

 VII. Violations of international human rights law and international humanitarian law

65. Human rights are directly affected by the actions of various parties that utilize arms, ammunition and weapons in situations of armed conflict. It has been argued that the availability of arms is anessential precondition for the commission of war crimes, acts of terrorism and violations of human rights, including but not limited to extrajudicial killings, forced disappearances, torture, violence, slavery, rape, forced prostitution and the recruitment and use of child soldiers.[[89]](#footnote-89)

66. The International Committee of the Red Cross (ICRC) has noted that, as the world urbanizes, so does conflict. The increasing urbanization of armed conflict and the use of indiscriminate shelling and explosive weapons in towns and cities have particularly devastating impacts on civilians, causing death and injury, forced displacement and destruction of livelihoods and infrastructure.[[90]](#footnote-90) When explosive devices are used in populated areas, over 90 per cent of those killed are civilians.[[91]](#footnote-91) Various weapons such as artillery, mortar and bombs have fatal outcomes on civilian life and destroy infrastructure such as homes, schools, hospitals, transport networks, markets and food systems, pushing civilians into poverty, food and health insecurity, and suffering.[[92]](#footnote-92) Under the Geneva Conventions of 12 August 1949 it is prohibited to engage in the wilful killing of civilians or directly attack civilians, civilian objects and civilian infrastructure. The indiscriminate use of weapons and attacks therefore constitutes violations of international humanitarian law.

67. The Working Group is aware of instances in which mercenaries, mercenary-related actors and private military and security companies have used disproportionate force that has had an indiscriminate civilian impact.[[93]](#footnote-93) Panels of experts have also noted the indiscriminate use of explosive ordinances against health and civilian infrastructure by, in some cases, private military operatives.[[94]](#footnote-94) In this way, mercenaries, mercenary-related actors and private military and security companies are implicated in violations of international humanitarian law, human rights and the right to self-determination.

68. Thus, measures to ban or restrict certain weapons, as well as the actors who employ them, on humanitarian grounds have a clear role to play in reducing armed violence and related death rates, an objective undertarget 16.1 of theSustainable Development Goals. Arms control is particularly important in conflict zones, where the supply of arms and ammunitions can contribute to propagating and prolonging conflict, which in turn has devastating effects on local populations and development. Under the Geneva Conventions of 1949, States must refrain from transferring weapons if there is an expectation, based on facts or knowledge of past patterns, that the weapons would be used to violate the Conventions.[[95]](#footnote-95) If a transferring State knows that the State receiving the weapons systematically commits violations of international humanitarian law using certain weapons, the transferring State must deny further transfers of those weapons, even if those weapons could also be used lawfully.[[96]](#footnote-96) This has been addressed by the Human Rights Council, which has urged States to refrain from transferring arms when they assess, in accordance with applicable domestic laws, regulations and procedures, international obligations and other commitments, including exercising due diligence, that there is a clear risk that such arms might be used to commit or facilitate serious violations or abuses of international human rights law or serious violations of international humanitarian law.[[97]](#footnote-97)

69. In the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas, States committed to ensuring that their armed forces adopted and implemented policies and practices to help avoid civilian harm and observing international humanitarian law with regard to the use of explosive weapons. However, only 87 States are signatories to the Political Declaration. The Political Declaration does not extend to non-State actors such as mercenaries, mercenary-related actors and private military and security companies.

 VIII. Conclusions and recommendations

70. **Despite numerous regulations and monitoring mechanisms, the global trade in arms to situations of armed conflict and to non-State armed actors and unauthorized users such as mercenaries, mercenary-related actors and private military and security companies persists. Furthermore, the current regulatory endeavours lack comprehensiveness and widespread acceptance, monitoring and compliance, hindering the possibility of adequately managing the conduct of mercenaries, mercenary-related actors and private military and security companies. Many national instruments do not contemplate the export and import of military and security services (only the domestic regulation of firearms) or the actions of offshore armed mercenary personnel.**

71. **In his July 2023 policy brief, the Secretary-General pointed to the role that arms and non-State armed actors play in an era of heightened geostrategic competition and shifting conflict landscapes. He emphasized the need to develop and implement regional, subregional and national instruments and road maps to address challenges related to the diversion, proliferation and misuse of small arms and light weapons and ammunition.**[[98]](#footnote-98)

72. **Weapons continue to flow to some of the most brutal armed conflicts today, resulting in unacceptable harm to civilians. Unlike the trade in most other goods, arms transfers exact a deadly toll. Ensuring that arms are not diverted to mercenaries or unauthorized users is a critical challenge in arms control. The regulation of military and security services that often accompany weapons sales should be addressed as a matter of priority by States and international and regional lawmakers. There is a strong rationale that, as the international community moves to consider how to regulate the activities of the actors involved in the international arms trade, such as arms brokers or arms transportation agents, the activities of private military and security companies and mercenaries and mercenary-related actors should also become an area of attention and regulation. The recruitment, training, financing and use of mercenaries, mercenary-related actors and private military and security companies remains a systemic and growing problem that cuts across themes, regions, countries and conflicts, and demands urgent attention by States.**[[99]](#footnote-99)

73. **The recommendations made by the Working Group are therefore aimed at addressing the nexus between arms proliferation and trafficking and mercenaries, mercenary-related actors and private military and security companies, which has serious human rights and international humanitarian law implications:**

74. **The Working Group recommends that Member States:**

(a) **Desist from recruiting, sheltering, organizing, financing, assisting, equipping, training, promoting or supporting mercenarism and mercenary-related activities in any manner, in line with the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and criminalize mercenarism;**

 (b) **Universally prohibit mercenary and mercenary-related activity and regulate private military and security companies through domestic, regional and global accords;**

 (c) **Recognize the explicit nexus in arms control between mercenaries, mercenary-related actors and private military and security companies and transnational organized crime, in line with the United Nations Convention against Transnational Organized Crime;**

 (d) **Adopt legislation to effectively regulate the maritime activities of private military and security companies, especially in the context of the management, transfer and use of firearms and other weapons and floating armouries;**

 (e) **Strengthen tracking, monitoring and oversight to prevent the illicit transfer of arms to unauthorized or illegal users, including mercenaries, mercenary‑related actors and private military and security companies, committing international human rights and humanitarian abuses;**

 (f) **Vet those who receive arms, ensuring that they are properly trained and continuously monitoring how arms are actually used and by whom;**

 (g) **Prohibit certain weapons from being manufactured because of the irreparable harm that they have on civilian life when they are misused;**

 (h) **Investigate and prosecute violations committed by mercenaries, mercenary-related actors and private military and security companies, including crimes committed at home or abroad, ensuring effective access to justice and accountability, in line with Sustainable Development Goal 16, on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels;**

 (i) **Require the universal use, monitoring and oversight of end-user certificates to ensure that the movement of arms and weapons to unauthorized parties and non-State actors is restricted and prevented;**

 (j) **Strengthen reporting and monitoring mechanisms for accurate record‑keeping at the national and global levels (ensuring authenticity, reliability and accuracy);**

 (k) **Strengthen national mechanisms for the comprehensive implementation of, reporting on and follow-up to recommendations received from international and regional mechanisms, including United Nations human rights mechanisms and treaty obligations, and consider the possibility of strengthening voluntary commitments;**

 (l) **Train dedicated information technology and information security registry specialists to strengthen and embolden initiatives such as the Register of Conventional Arms that promote effective, accountable and transparent institutions, a key commitment under target 16.6. of the Sustainable Development Goals.**

75. **The Working Group recommends that 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** **further address human rights concerns in connection to arms proliferation and trafficking by including strong and effective language related to weapons control in the fourth draft of its instrument.**

76. **The Working Group recommends that the international community:**

 (a) **Reinvigorate discussions on the definitions of mercenarism, inclusive of new and evolving forms of mercenary and mercenary-related activities and the risks they pose to international human rights law and international humanitarian law, including ways to counter and address them comprehensively;**

 (b) **Urge all actors operating in the humanitarian field to develop disaggregated data on armed actors, including private military and security companies, mercenaries and mercenary-related actors;**

 (c) **Raise awareness about the role of arms, weapons and disarmament in reducing and eliminating violent conflicts, in line with target 4.7 of the Sustainable Development Goals, on ensuring that all learners acquire the knowledge and skills needed to promote sustainable development.**

77. **The Working Group recommends that the Security Council:**

 (a) **Building on the inclusion of armed mercenary personnel in arms embargoes and sanctions, assess the implementation of that provision and the challenges observed thus far and draw lessons to clarify and strengthen its application;**

 (b) **Better support panels of experts and ensure that they are equipped to carry out investigations.**

78. **The Working Group recommends that multi-stakeholder initiatives, such as the International Code of Conduct for Private Security Service Providers’ Association and the Montreux Document Forum, consider how to overcome current gaps in their founding texts that fail to explicitly capture private military and security companies as importers and/or exporters of arms and ammunitions, placing the focus on private military and security companies as recipients of weapons, rather than just suppliers and equippers.**

79. **The Working Group recommends that companies refrain from providing weapons to States where gross human rights violations are being committed, or are likely to be committed, putting the protection of civilians first by means of a robust human rights due diligence process, in line with the Guiding Principles on Business and Human Rights.**

1. \* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information. [↑](#footnote-ref-1)
2. [A/HRC/54/29](http://undocs.org/en/A/HRC/54/29). [↑](#footnote-ref-2)
3. See <https://www.ohchr.org/en/calls-for-input/2024/call-inputs-thematic-report-arms-transfer-and-mercenarism>. [↑](#footnote-ref-3)
4. See https://[spcommreports.ohchr.org/TmSearch/Mandates?m=48](https://spcommreports.ohchr.org/TmSearch/Mandates?m=48). [↑](#footnote-ref-4)
5. [A/HRC/54/29](https://undocs.org/A/HRC/54/29). [↑](#footnote-ref-5)
6. [A/78/535](https://www.ohchr.org/en/documents/thematic-reports/a78535-report-working-group-use-mercenaries-means-violating-human-rights). [↑](#footnote-ref-6)
7. See [A/HRC/57/45/Add.1](http://undocs.org/en/A/HRC/57/45/Add.1). [↑](#footnote-ref-7)
8. [A/75/259](https://undocs.org/A/75/259), paras. 2 and 38. [↑](#footnote-ref-8)
9. See [A/77/268](https://undocs.org/A/77/268). [↑](#footnote-ref-9)
10. [A/79/305](http://undocs.org/en/A/79/305), para. 27. [↑](#footnote-ref-10)
11. United Nations Office on Drugs and Crime (UNODC), “‘The illicit market in firearms: authorized and unauthorized arms transfers”’, available at <https://www.unodc.org/e4j/en/firearms/module-4/key-issues/authorized-and-unauthorized-arms-transfers.html>*.*  [↑](#footnote-ref-11)
12. It is important to note that, in the literature, the terms “illicit” and “illegal” are often placed before the term “proliferation” thereby denoting the illicit, or illegal, circulation of arms, which is the same practice as trafficking in arms. [↑](#footnote-ref-12)
13. Small arms and light weapons are portable, lethal weapons that expel or launch or are designed to expel or launch, a shot, bullet, projectile or explosive. Small arms include individually held guns, revolvers, self-loading pistols, rifles, carbines, submachine guns, assault rifles and light machine guns. Light weapons include weapons handled by a two- or three-person crew, such as heavy machine guns, mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, anti-tank missile and rocket systems, anti-aircraft missile systems and mortars of a calibre less than 100 millimetres (International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons). [↑](#footnote-ref-13)
14. Siri Aas Rustad, “Conflict trends: a global overview, 1946–2023” (Peace Research Institute Oslo, 2024). [↑](#footnote-ref-14)
15. United Nations, “Noting civilians have suffered deadly effects of armed conflict for too long, Secretary-General tells Security Council we must ‘promise to protect them’”, press release, 23 May 2023; and Andreas Wenger and Simon J.A. Mason, “The civilianization of armed conflict: trends and implications”, *International Review of the Red Cross*, vol. 90, No. 872 (December 2008). [↑](#footnote-ref-15)
16. [S/2024/385](http://undocs.org/en/S/2024/385), para. 3. [↑](#footnote-ref-16)
17. Stockholm International Peace Research Institute, “Global military spending surges amid war, rising tensions and insecurity”, 22 April 2024. [↑](#footnote-ref-17)
18. C4ADS, “Illicit arms trade”, available at <https://c4ads.org/illicit-arms-trade/>. [↑](#footnote-ref-18)
19. See [A/73/303](http://undocs.org/en/A/73/303). [↑](#footnote-ref-19)
20. See, for example, [A/75/259](http://undocs.org/en/A/75/259); and <https://www.ohchr.org/en/statements/2022/03/statement-un-working-group-use-mercenaries-warns-about-dangers-growing-use?LangID=E&NewsID=28210>. [↑](#footnote-ref-20)
21. See, for example, [S/PV.9141](http://undocs.org/en/S/PV.9141). [↑](#footnote-ref-21)
22. The mandates of panels of experts have been delayed, been put on hold or expired in a number of instances (see, for example, [S/PV.9591](http://undocs.org/en/S/PV.9591); and Michelle Nichols and Jonathan Saul, “Flouting U.N. sanctions in Africa? No one is watching after Russia move”, Reuters, 30 September 2021). [↑](#footnote-ref-22)
23. See [A/HRC/53/49](http://undocs.org/en/A/HRC/53/49). [↑](#footnote-ref-23)
24. Sorcha MacLeod and Rebecca DeWinter-Schmitt, “Certifying private security companies: effectively ensuring the corporate responsibility to respect human rights?”, *Business and Human Rights Journal*, vol. 4, No. 1 (2019). [↑](#footnote-ref-24)
25. “Contracting States” are States that directly contract for the services of private military and security companies, including, as appropriate, where such a company subcontracts with another private military and security company. “Territorial States” are States on whose territory private military and security companies operate. “Home States” are the States of nationality of a private military and security company, i.e. where the company is registered or incorporated; if the State where the company is incorporated is not the one where it has its principal place of management, then the State where the company has its principal place of management is the home State. For further analysis of the Montreux Document by the Working Group, see [A/78/535](http://undocs.org/en/A/78/535), paras. 42–52. [↑](#footnote-ref-25)
26. For more on the International Code of Conduct, see [A/78/535](http://undocs.org/en/A/78/535), paras. 53–60. [↑](#footnote-ref-26)
27. See <https://icoca.ch/what-we-do/certification/>. [↑](#footnote-ref-27)
28. International Code of Conduct for Private Security Service Providers’ Association, “Guns and good governance: why weapons and ammunition management matters”, webinar, 22 February 2022, available at <https://icoca.ch/2022/02/22/guns-good-governance-why-weapons-ammunition-management-matters/>. [↑](#footnote-ref-28)
29. International Code of Conduct for Private Security Service Providers’ Association and Small Arms Survey, “Weapons training” (2022), available at <https://icoca.ch/wp-content/uploads/2022/03/Weapons-Training-Indicators.pdf>. [↑](#footnote-ref-29)
30. See Nicholas Lees and Ulrich Petersohn, “To escalate, or not to escalate? Private military and security companies and conflict severity”, *Studies in Conflict & Terrorism*, vol. 46, No. 12 (2021); Charlotte Penel and Ulrich Petersohn, “Commercial military actors and civilian victimization in Africa, Middle East, Latin America, and Asia, 1980–2011”, *Journal of Global Security Studies*, vol. 7, No. 1 (2022); and Ulrich Petersohn and others, “The Commercial Military Actor Database”, *Journal of Conflict Resolution*, vol. 66, Nos. 4 and 5 (2022). [↑](#footnote-ref-30)
31. See [S/2021/229](http://undocs.org/en/S/2021/229), [S/2021/229/Corr.1](http://undocs.org/en/S/2021/229/Corr.1), [S/2021/229/Corr.2](http://undocs.org/en/S/2021/229/Corr.2) and [S/2021/229/Corr.3](http://undocs.org/en/S/2021/229/Corr.3). [↑](#footnote-ref-31)
32. [A/79/305](http://undocs.org/en/A/79/305). [↑](#footnote-ref-32)
33. Paul Holtom,“Prohibiting arms transfers to non-State actors and the Arms TradeTreaty” (Geneva, United Nations Institute for Disarmament Research (UNIDIR), 2012). The use of ballistic missiles by non-State armed actors highlights the key role played by some States in the illegal proliferation of arms to non-State armed actors. [↑](#footnote-ref-33)
34. See [S/2021/229](http://undocs.org/en/S/2021/229), [S/2021/229/Corr.1](http://undocs.org/en/S/2021/229/Corr.1), [S/2021/229/Corr.2](http://undocs.org/en/S/2021/229/Corr.2), [S/2021/229/Corr.3](http://undocs.org/en/S/2021/229/Corr.3) and [A/HRC/42/42/Add.1](http://undocs.org/en/A/HRC/42/42/Add.1). [↑](#footnote-ref-34)
35. Submission of the South African Litigation Centre, available at [https://www.ohchr.org/sites/default/
files/2022-04/Southern-Africa-Litigation-Centre-CFI-WG-Mercenaries-HRC51.pdf](https://www.ohchr.org/sites/default/files/2022-04/Southern-Africa-Litigation-Centre-CFI-WG-Mercenaries-HRC51.pdf). [↑](#footnote-ref-35)
36. UNIDIR, *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion* (2015). [↑](#footnote-ref-36)
37. See [S/2021/229](http://undocs.org/en/S/2021/229), [S/2021/229/Corr.1](http://undocs.org/en/S/2021/229/Corr.1), [S/2021/229/Corr.2](http://undocs.org/en/S/2021/229/Corr.2) and [S/2021/229/Corr.3](http://undocs.org/en/S/2021/229/Corr.3); and Tom Wallace and Farley Mesko, *The Odessa Network: Mapping Facilitators of Russian and Ukrainian Arms Transfers* (C4ADS, 2013). [↑](#footnote-ref-37)
38. [S/2006/525](http://undocs.org/en/S/2006/525), paras. 23–30. [↑](#footnote-ref-38)
39. [A/HRC/53/49](http://undocs.org/en/A/HRC/53/49), para. 41. [↑](#footnote-ref-39)
40. [A/77/268](https://undocs.org/A/77/268), para. 6. [↑](#footnote-ref-40)
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