



Third Meeting of Governmental and Other Experts on Private Military and Security Companies, 14-16 April 2008, Montreux, Switzerland

Chair's Summary

The third meeting of governmental and other experts in the framework of the Swiss Initiative on Private Military and Security Companies (PMSCs) took place in Montreux from 14 to 16 April 2008. Switzerland had launched the Initiative in cooperation with the International Committee of the Red Cross (ICRC) in late 2005 to promote respect for international humanitarian law and human rights law by PMSCs operating in armed conflict (see www.eda.admin.ch).

The two first meetings of the Initiative of governmental and other experts took place in January and November 2006. From October to December 2007, Switzerland and the ICRC convened, in cooperation with the International Peace Institute (IPI) and the Geneva Center for the Democratic Control of Armed Forces (DCAF) four informal expert consultations. These consultations served to draw on the expertise of academics and professionals from non-governmental organizations and institutes, the industry, and governments, and collect recommendations to improve the Initiative's draft text on pertinent international legal obligations of States, PMSCs and their personnel and of good state practices. On that basis, the Initiative's draft was revised and submitted to the third meeting of governmental and other experts in Montreux.

Experts from 18 States participated at that third expert meeting, namely from Afghanistan, Angola, Australia, Austria, Canada, China, France, Germany, Iraq, Poland, Russia, Sierra Leone, South Africa, Sweden, Switzerland, United Kingdom, Ukraine and the United States of America. Non-governmental experts, including representatives of human rights organizations and industry representatives, participated in the first part of the meeting.

The participants of the April 2008 meeting agreed that States as well as PMSCs and their personnel do not operate in a legal vacuum, but are subject to clear international legal obligations. To promote compliance with humanitarian law and international human rights law by PMSCs, the participants aim to reaffirm existing international legal obligations of States with regard to PMSCs. In addition, non-binding good state practices shall be elaborated and recommended to assist governments in considering concrete measures in order to assist States in fulfilling their obligations. The introduction or adaptation of suitable regulation and licensing regimes may contribute to strengthening the control over and accountability of such companies and as a result contribute to the protection of civilian populations.

The objective of this third intergovernmental meeting was to conduct an in-depth discussion of the draft texts on pertinent legal obligations as well as on good practices with a view to determining where general agreement on these texts existed and where they needed to be adapted.

In this regard, the debate concentrated on the pertinent legal obligations. While participants agreed with the general outline and content of these obligations it was felt that some of the obligations should be described more specifically and precisely in order to reflect current international law accurately. This related for instance to the extent to which States have an obligation under human rights law to take appropriate measures to prevent, investigate and provide effective remedies for harm caused by the conduct of PMSCs and their personnel. The draft text on good practices was considered to be broadly acceptable. Apart a number of

comments on specific points, participants were of the view that the text needed to be brought more in line with the pertinent legal obligations.

The third meeting of governmental and other experts made significant progress in elaborating and fine-tuning a draft text reaffirming existing legal obligations of States as well as PMSCs and their personnel and recommending good state practices in their regard. Participants agreed that an agreement on the document could be reached at the next meeting if the required adaptations of the texts were made. On that basis, the draft text will be revised and submitted for written consultation by Switzerland and the ICRC to participating governments. Based on the comments of participants both on the content and the structure of the texts the initiators will present to governments one final draft text for consideration at the next meeting. The aim of the consultation process is to find broadest possible agreement on both the pertinent legal obligations as well as on good practices. Switzerland and the ICRC intend to convene another meeting in the second half of the year at the end of which a document would be endorsed by a High Level Meeting of Legal Advisers of participating governments. The document shall contain a reaffirmation of existing legal obligations and a recommendation of good State practices, focusing on States that contract such companies, States on whose territory they operate, and States where they are based.