



National statement, delivered by Mr. Junaid Suleman, Second Secretary, during 2nd session of Open-ended Inter-governmental Working Group (IGWG) to elaborate the content of an international regulatory framework, without prejudging the nature thereof, relating to the activities of private military and security companies

27 April 2021

Mr. Chair-Rapporteur,

Pakistan congratulates you on your re-election as the Chair-Rapporteur of the Working Group. We sincerely hope that under your able stewardship, the session would make good progress in achieving its mandate.

During the last decade, the number of private military and security companies (PMSCs) has increased exponentially. They have assumed important tasks, assigned by States, transnational corporations, NGOs and inter-governmental bodies, including the UN, and operate in a wide-range of complex environments.

Regrettably, due to political expediency, security-related state functions have been outsourced in many conflict situations to these companies under ambiguous rules of engagement and unclear hierarchy of command. Often well-equipped with modern weaponry, these companies have been found to engage directly and even remotely in hostilities through use of unmanned aerial vehicles.

It is evident that the use of PMSCs exacerbates the axes of conflict, escalates level of violence, and results in well-documented violations of basic human rights. More disturbingly, impunity for such violations persists, exposing right-holders to serious protection gaps. The recent pardon of contractors, convicted of civilian killing in Iraq, presents one such instance.

Mr. Chair-Rapporteur,

Pakistan is of the view that we should refrain from treating PMSCs as ordinary business entities, since the services provided by them bear far-reaching implications for global peace and human rights. Even as we refer to the UN Guiding Principles on Business and Human Rights during our discussions, the need for a separate global regulatory framework on PMSCs remains relevant.

The notion of self-regulation by PMSCs has also failed to stand the test of time. Driven by profit motives, these companies continue to sidestep fundamental human rights principles and responsibilities. These trends and developments call into serious question the adequacy and effectiveness of the so-called normative framework, provided by the Montreux Document and the Code of Conduct. We note that these products emerged out of non-UN processes and thus, lack legitimacy and ownership of majority of UN States.

We, therefore, underscore the need to bring the discussion on normative framework, including the evaluation of Montreux Document and the Code of Conduct, under wider UN scrutiny through a



well-elaborated process. We recognize that certain aspects of such a process might go beyond the mandate of HRC Resolution 45/26. However, we, as UN Member States, should not shy away from having such wider discussions at relevant forum of the United Nations.

We reiterate our full support for elaboration of an international regulatory framework in this domain through inclusive discussions at the UN platform.

Mr. Chair-Rapporteur,

Under the maxim “Prevention is better than cure”, Pakistan stresses embedding a preventive approach vis-à-vis human rights violations in the global regulatory framework of PMSCs.

In this regard, it is imperative that the global framework reaffirms the basic principles and purposes of the UN Charter, especially non-interference in domestic affairs of States, non-use of force, and respect for territorial integrity and sovereignty of States. It should also clearly exclude inherent state functions from scope of services to be provided by PMSCs, such as participation in hostilities/war-waging; powers of arrest and interrogation; prison administration; intelligence and espionage etc.

At the operational level, the framework should, inter alia, lay down robust oversight, procurement, deployment and reporting mechanisms, and also identify categories of weapons, which should be barred for usage by PMSCs.

In order to address human rights violations when committed by PMSCs, the framework should provide clear guidance on issues related to jurisdiction and fixation of responsibility, while elaborating accountability and remedial mechanisms for victims.

The regulatory framework must also contextualize the conduct of PMSCs in the situation they operate. PMSCs operating in situations of armed conflict, where IHL apply, must be distinguished from certain security companies, operating in normal law-enforcement context working under domestic national laws. A broad brush approach should, therefore, be avoided.

With this broad approach in mind, my delegation would make positive constructions towards the discussions, to be held over course of the next two days.

I thank you.