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Promotion et protection de tous les droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement

Rapport du Groupe de travail sur l'utilisation de mercenaires comme moyen de violer les droits de l'homme et d'empêcher l'exercice des droits des peuples à disposer d'eux-mêmes

Présidente-Rapporteuse: M^{me} Shaista Shameem

Additif

Consultation régionale pour l'Afrique sur les activités des sociétés militaires et de sécurité privées: réglementation et surveillance (3 et 4 mars 2010)*

* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit, qui est joint en annexe au résumé, est distribué en anglais seulement.

Résumé

En application de la résolution 62/145 de l'Assemblée générale et de la résolution 7/21 du Conseil des droits de l'homme, le Groupe de travail a tenu une consultation régionale pour le Groupe des États d'Afrique à Addis-Abeba (Éthiopie), les 3 et 4 mars 2010.

Cette consultation avait pour but de dresser un tableau régional des pratiques actuelles concernant le recours à des mercenaires et à des sociétés militaires et de sécurité privées enregistrées, qui opéraient ou recrutaient du personnel en Afrique. Elle a aussi donné l'occasion de débattre de la question fondamentale du rôle de l'État en tant que détenteur du monopole du recours à la force, ainsi que de partager des informations sur les mesures prises par les États de la région pour légiférer et plus généralement encadrer et surveiller les activités de ces sociétés sur le marché international.

La consultation a par ailleurs permis au Groupe de travail d'informer les participants des progrès accomplis dans l'élaboration d'un projet de convention sur la régulation, le contrôle et la surveillance des sociétés militaires et de sécurité privées et de solliciter auprès des participants des avis et des observations sur la teneur et la portée d'une telle convention.

Les représentants des pays ci-après ont participé à la consultation : Algérie, Angola, Burkina Faso, Cameroun, Djibouti, Égypte, Éthiopie, Guinée équatoriale, Ouganda, Madagascar, Malawi, Maurice, Maroc, Mozambique, Niger, Ouganda, République centrafricaine, République démocratique du Congo, Sierra Leone, Soudan, Zambie et Zimbabwe. Y était aussi représentée la Commission de l'Union africaine.

Le Groupe de travail était représenté par la Présidente-Rapporteuse, M^{me} Shaista Shameem, ainsi que par des membres, à savoir M^{me} Amada Benavides de Pérez, M. José Luis Gómez del Prado et M. Alexander Nikitin.

Annexe

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

Regional consultation for Africa on the activities of mercenaries and private military and security companies: regulation and monitoring (3–4 March 2010)

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I. Background

1. In paragraph 15 of its resolution 62/145, the General Assembly requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene regional governmental consultations on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies (PMSCs) on the enjoyment of human rights.
2. In line with the above-mentioned resolution and Human Rights Council resolution 7/21, 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-determination¹ held its regional consultation for Africa in Addis Ababa, Ethiopia, on 3 and 4 March 2010.
3. The Working Group had held three previous regional consultations, the first in Panama City for the Latin American and Caribbean Region on 17 and 18 December 2007, the second in Moscow for the Eastern European Group and Central Asian Region on 17 and 18 October 2008 and the third in Bangkok for Asia and the Pacific on 26 and 27 October 2009.²
4. The African consultation was attended by representatives of Algeria, Angola, Burkina Faso, Cameroon, Central African Republic, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Madagascar, Malawi, Mauritius, Morocco, Mozambique, Niger, Sierra Leone, the Sudan, Uganda, Zambia and Zimbabwe and by representatives from the African Union Commission.
5. The Working Group was represented by its Chairperson-Rapporteur, Shaista Shameem and its members Amada Benavides de Pérez, José Luis Gómez del Prado and Alexander Nikitin.
6. The Working Group expresses its sincere appreciation to the authorities of Ethiopia for hosting this consultation. It is also extremely grateful to the OHCHR-East Africa Regional Office in Addis Ababa for its invaluable assistance throughout the meeting.

II. Summary of the meeting

7. The consultation was opened by Karim Ghezraoui, Chief, Groups in Focus Section, Special Procedures Branch, Office of the United Nations High Commissioner for Human Rights (OHCHR) who, on behalf of OHCHR, welcomed all participants and expressed his sincere appreciation to the Government of Ethiopia for hosting the meeting. He stated that the question of the human rights impact related to the activities of mercenaries had been of increasing concern to the international community and particularly to Africa in its fight for the right to self-determination. Commending the work done by the Working Group since its creation, he explained that its mandate had evolved with time to cover the use of private

¹ The Working Group on the use of mercenaries was established by resolution 2005/12 of the Commission on Human Rights. The Working Group is composed of five independent experts serving in their personal capacities. Since March 2009, Ms. Shaista Shameem (Fiji) is the Chairperson-Rapporteur. The other members are Amada Benavides de Pérez (Colombia), José Luis Gómez del Prado (Spain), Alexander Nikitin (Russian Federation), and Najat al-Hajjaji (Libyan Arab Jamahiriya).

² A/HRC/7/7/Add.5 of 5 March 2008, A/HRC/10/14/Add.3 of 26 February 2009 and A/HRC/15/25/Add.4 of 1 April 2010.

military and security companies (PMSCs) and their impact on human rights. He emphasized that at the core of the issue was the question of accountability for violations and remedies for victims. Finally, he took the opportunity to mention that OHCHR was pleased to have recently signed a Memorandum of Understanding with the African Union (AU) that confirmed long-standing cooperation to promote and protect human rights in Africa and set up mechanisms for technical assistance, training, capacity-building and mutual cooperation in the field of human rights.

8. In her opening remarks, Ms. Shaista Shameem, Chairperson-Rapporteur of the Working Group, said that she was appreciative that so many African countries had responded positively to the Working Group's invitation to this important consultation. She gave a brief overview of the mandate of the Working Group and reminded the participants that the mandate succeeded that of the Special Rapporteur on the use of mercenaries which had been created in 1987 in a context in which the right of peoples to self-determination in Africa was often threatened by mercenary activities. Emphasizing that Africa had been both at the receiving end of, and a fertile ground for, mercenary activities, she recalled that in 1989 the General Assembly had adopted the International Convention against the Recruitment, Use, Financing and Training of Mercenaries (A/RES/44/34), ratified by 32 countries, including 9 African States.

9. Ms. Shameem went on to point out that Africa was becoming both an important market and a supplier of personnel for the security industry. She said that this new situation remained largely unregulated and had impacted negatively on the enjoyment of human rights of many people in all regions. She stated that in order to address the legal gaps regarding the jurisdiction applicable to PMSCs, the Working Group recommended that a new international legal instrument in the form of a new convention on PMSCs be drafted and adopted by the United Nations. She reminded participants that the Working Group had sent all Member States a "Note on elements for a possible draft convention on Private Military and Security Companies" in early January 2010, outlining the main guiding principles of such a convention and encouraged all States to provide their comments.

10. Finally, Ms. Shameem said that the Working Group would benefit from hearing the views and national experiences with regard to the challenges posed by the use of mercenaries and encouraged discussion on good practices and lessons learned on monitoring and regulation from participants' experiences in their countries, in order to review the recent activities of mercenaries and PMSCs.

A. Challenges posed by the use of mercenaries and its impact on human rights, in particular the right to self-determination

11. The representative of Madagascar gave a comprehensive presentation on the situation in his country both with respect to mercenaries and PMSCs. He stated that the Government of Madagascar had ratified the Organization of African Unity (OAU) Convention for the Elimination of Mercenarism in Africa but that it had yet to be incorporated into national legislation. He added that the fundamental laws of the country identified foreign intervention as a crime. He informed participants that approximately 80 PMSCs (or so-called "associations") were currently operating in Madagascar but that only 10 were legally registered as PMSCs. He said that these companies were recruited to provide security for important commercial firms. He expressed concerns at the burgeoning number of these companies and at the fact that they prosper from, but may also contribute to, insecurity, in order to justify their role. He stressed the need for international cooperation to ensure security in the Indian Ocean region and the importance of sharing good practices on existing regulations regarding PMSCs.

12. During the discussion that followed, participants shared their experiences with regard to mercenary activities and also emphasized the increasing activity of PMSCs in Africa. A representative stressed the importance of ratifying the Organization of African Unity Convention for the Elimination of Mercenarism in Africa (the OAU Convention) and wondered what the reasons were for some countries not ratifying this Convention. Another underlined the “moral duty” incumbent on all African States to ratify the OAU Convention. The representative from Equatorial Guinea recalled that his country had been the victim of an attempted coup by mercenaries in 2004 which had led the country to strengthen its national legislation. He also underlined the importance of strengthening the legislation at the subregional level and of promoting regional cooperation.

13. The representative of Sierra Leone recalled the mercenary activities that had occurred in the past in Sierra Leone and in neighbouring countries. He emphasized the problem of child combatants, who often found it very difficult to reintegrate into society. He said that recruitment of mercenaries by warring factions posed medium- to long-term consequences, in particular with regard to the issue of reintegration into society. He stressed the efforts made by Sierra Leone to reform its security sector, including through decentralization, towards a community-based approach to security and the setting up of border-control mechanisms. He pointed out that these national efforts have to be accompanied by increased cooperation both at the regional level by security agencies and at the community level, in particular in border areas. He also emphasized the importance of effective implementation of the regional defence pact at the level of the AU and at the subregional level among the Mano River Union countries (Liberia, Sierra Leone and Guinea).

14. Several participants stressed the need to develop coordination mechanisms at the regional level and to counteract movement of funds between nations to finance mercenary activities. The adoption of national legislation for the elimination of mercenary activities should also be viewed as a measure to protect neighbouring countries.

15. With regard to the legal framework, the Working Group reiterated its call to African governments to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which, despite its shortcomings, including the absence of an international mechanism to monitor implementation, continues to be a very useful instrument to combat mercenary activities. Participants were however reminded of the importance of drafting and adopting national legislation and regulations to ensure the applicability of the Convention. The Working Group invited participants to present the practical steps taken by Government to implement the Convention and to share with them recent laws adopted by countries on this issue.

16. Finally, the Working Group explained the rationale behind their ideas for the creation of a new binding international instrument to regulate the activities of PMSCs. They explained that the definition of mercenary was not applicable to a PMSC and its personnel. They highlighted the legal gap in addressing the activities of PMSCs and the need to promote new standards to regulate the industry. They also pointed out that in some cases the line between the legal activities of PMSCs and the illegal activities of mercenaries could be blurred. They illustrated this assertion through the example of Equatorial Guinea, where employees of PMSCs decided to join the coup while on leave from their company providing protection to a Western embassy in Iraq.

B. Regional and national legislation to prohibit the activities of mercenaries

17. This agenda item was introduced by Mr. Nikitin, a member of the Working Group, who emphasized the importance of regional cooperation in prohibiting mercenary activities. He drew attention to the role of the AU and referred to the Commonwealth of Independent States (CIS), which had adopted model laws on several issues, including one against mercenarism, which was adopted in 2005. He said that these model laws were particularly useful to States wishing to adopt such laws at the national level.

18. The representative of the African Union Commission gave a presentation on “the OAU Convention for the Elimination of Mercenarism in Africa and Options for the Regulation of PMSCs and Services”. He said that the discussion on mercenarism and PMSCs was characterized by a negative connotation of the word “mercenary” following the involvement of mercenaries against liberation movements and in the destabilization of new democratically elected governments in Africa. He provided several examples of the involvement of mercenaries in post-colonial Africa. He stated that this negative background had informed African countries to adopt the OAU Convention, ratified by 30 member States to date. This Convention invites States to transcribe their international obligations into national laws. He went on to point out the leading role played by the AU in the international discussions that had culminated in the adoption of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. He acknowledged that the OAU Convention faced criticisms, in that it did not address the issue of PMSCs. He recalled that at the time when the Convention was adopted, PMSCs were not such an important industry as at present, but emphasized the possibility of a revision of the Convention to address the issue. He explained that the process had started in 2004 with the creation of the African Union Commission on International Law, responsible for reviewing all OAU and AU laws. He said that although the Commission would have to review all conventions it should not ignore the revision of the OAU Convention. He added that the revision of the OAU treaties is a State-driven initiative and therefore it is up to the States to call for revision of this Convention. He informed the audience that the Commission would hold its first meeting in May 2010.

19. Regarding the activities of PMSCs, the AU representative stated that the AU had no objection to the activities of legally constituted private security companies as long as their activities were not of a mercenary nature as defined in the OAU Convention. He went on to say that some States had also regulated PMSCs at the national level. He added however that the AU recognized the need to establish an international framework to regulate the activities of these private security companies. He noted that the increasing use of PMSCs is not peculiar to Africa but is in fact an international phenomenon and hence any options for the regulation of PMSCs should not only target Africa or the continent’s less robust States but be applicable internationally. In view of this legal vacuum, he stressed the readiness of the AU to play its part in the process that it is hoped will lead to a satisfactory international framework for the regulation of the activities of PMSCs.

20. The Working Group thanked the representative of the AU for his substantial presentation and referred to the permeable borders between some countries which facilitate the movement of mercenaries. The Working Group stressed the importance of taking measures at the subregional and regional level to avoid this migration of mercenaries.

21. The representative from Equatorial Guinea recalled that mercenary activities are a threat to the fundamental right of peoples to self-determination. He emphasized the role played by regional cooperation in stopping the coup attempt against his Government by mercenaries in 2004, based on the recognition of the sovereignty of Governments.

22. A discussion followed during which examples of possible amendments to the OAU Convention were shared by participants. The need to find ways to define legal and illegal activities and the importance of incorporating such a distinction in the Convention were highlighted, together with the need for an implementation mechanism to impose sanctions on States in violation of their international obligations.

C. Current practices related to private military and security companies registered, operating or recruiting in the region/national and regional legislation and/or other measures to regulate and monitor the activities of private military and security companies

23. Ms. Benavides de Pérez, a member of the Working Group, summarized the discussions of the previous day and briefed participants on the ongoing work of the Working Group regarding PMSCs. She informed participants of the missions undertaken by the Working Group to date, in countries where PMSCs are headquartered such as the United Kingdom of Great Britain and Northern Ireland and the United States of America, where companies are operating, such as Afghanistan and in countries providing personnel, such as Fiji, Chile and Peru. She explained the process that had led the Working Group to recommend the adoption of a new international legal instrument to regulate and monitor PMSCs. She referred to other existing approaches, including self-regulation and emphasized the importance of not having two opposing approaches, with the Western group supporting self-regulation and the developing world favouring the legal approach. Another group member also pointed out that the Working Group was not working towards the goal of banning all PMSCs, given that many organizations such as the United Nations and NGOs were also using them. He underlined the need to make a clear distinction between the legal and illegal activities of PMSCs.

24. The representative from the Democratic Republic of the Congo gave a brief historical account of the activities of foreign and national PMSCs in the country since 1990. He said that one of the foreign companies employed up to 6,000 people for activities such as the protection of persons and businesses or embassies or the transport of funds and precious goods. He informed participants of two legislative texts regulating the establishment and functioning of PMSCs, adding that PMSCs are not authorized. Commenting on the advantages and drawbacks of using these companies, he pointed out that PMSCs were doing business in a context of insecurity and there was consequently a fear that they could be tempted to prey on the chronic instability of countries.

25. The representative of Equatorial Guinea expressed strong support for the drafting of an international instrument on PMSCs, indicating that he would propose a meeting at ministerial level to support such a convention. He stated that the responsibility to protect the right to life was in the hands of States and should remain so. In this connection, he underlined the importance of protecting the sovereignty of the State against the economic interests of foreign powers. He stressed the need for a subregional legal mechanism in addition to an international convention to reflect the various concerns and experiences. He finally reminded participants of the crucial importance of prevention and the need for regulation and monitoring mechanisms to be effective in practice.

26. The representative from Malawi presented the case of the South African PMSC Executive Outcomes, mentioning the risks associated with its activities and the positive purposes it served. He stressed the need for effective national regulation and international regulation to ensure public transparency. He finally stated that arms-control initiatives, such as the current United Kingdom guidelines on arms control and the European Union Code of Conduct on the arms trade, provided a basis for regulation of the activities of PMSCs.

27. In his presentation, the representative of Mozambique stated that there had been no allegations of mercenary and/or PMSCs activities in the country and hence the Government had not developed specific legislation on such groups. He stated that there were currently 30 PMSCs registered in Mozambique providing protection services, surveillance and access control to buildings and sites. A specific decree (No. 9/2007) provided for the establishment and operation of PMSCs, including minimum requirements for hiring staff. The decree states the main principles for the use of force and protection of people and establishes mechanisms for registration, licensing and the inspection of PMSCs. Only Mozambican citizens can establish PMSCs, although the participation of foreign partners in business partnerships is allowed.

28. The representative of Sierra Leone recalled the past experience of his country with PMSCs such as Executive Outcomes and Sandline and said that it had left a sense of mistrust among the population. Following the end of hostilities, some of the notorious ex-combatants from Sierra Leone and Liberia had provided a readymade market for recruitment in the subregion. He outlined the Security Sector Reform (SSR) process his country had been through, which included transformation strategies, a regulatory mechanism and monitoring/oversight. Sierra Leone had adopted a series of measures to regulate PMSCs, including specific regulations and licensing regimes and signed the Montreux document on Private Military and Security Companies.³ He noted that some important challenges remained, such as high youth unemployment, including that among ex-combatants, the increasing number of PMSCs, inadequate institutional capacity amongst traditional security and justice sector institutions, line ministries and other State actors, and the effective implementation of regional and international defence pacts and agreements. He finally emphasized the need for collaboration and sustained partnership with border countries, regional mechanisms and international partners to ensure surveillance and accurate sharing of information on the activities of PMSCs.

29. Several countries provided information on existing national regulations on PMSCs in their countries. Several representatives indicated that only companies providing security services were authorized and under strict control of the State. These companies were mostly national, although in some countries foreign participation was possible. One representative mentioned the ongoing recruitment of his country's nationals by foreign companies active in Iraq and Afghanistan. He added that countries where personnel are recruited should have the ability to regulate those companies that recruit on their territory, in particular through licensing and registration. He added that the national police should also have a role in background checks to prevent people who have been dismissed from security functions or have criminal records being hired by these companies. However, the representative also emphasized the limited capacity of the home State to do this background checking, raising the question of the State's responsibility vis-à-vis its nationals recruited by foreign companies and working abroad.

D. Role of the State as holder of the monopoly of the use of force

30. The Chairperson-Rapporteur of the Working Group indicated that it had noted a global trend toward the increased privatization of security. She stressed that in some conflict zones, PMSC contractors had exceeded the number of conventional forces and possessed sophisticated logistical support and weaponry. She raised the concern that the increasing outsourcing of military and security functions in post-conflict situations could jeopardize the State's control over the legitimate use of force. She invited participants to

³ A/63/467-S/2008/636 of 6 October 2008.

explain their understanding of the State's monopoly of the use of force and whether they agreed that certain functions were inherent to the State and should not be outsourced. Ms. Shameem raised the issue of police and military training and asked whether participants thought there should be a limit on the outsourcing of these training activities to PMSCs.

31. During the open discussion, States shared their ideas on which military and security functions their Governments would consider as inherent to the State and which could thus not be outsourced to private entities. In particular, several States stressed that PMSCs should not be involved in military activities. In the debate on police and military training, one representative indicated that States should be able to decide whether or not to use the services of PMSCs for their training activities.

32. Emphasizing the existing legal vacuum and stressing the need to ensure that the activities of PMSCs were systematically monitored, several representatives expressed their support for the Working Group's efforts in drafting a new convention.

E. Draft international convention on the regulation, oversight and monitoring of private military and security companies

33. Mr. Del Prado, a member of the Working Group, presented the "Elements for a possible draft convention on PMSCs", shared with all Member States for comments on 4 January 2010. He recalled that in accordance with Human Rights Council resolution 10/11 of 26 March 2009, the Working Group had consulted with IGOs, NGOs, academic institutions and experts during the course of 2009. He said that on the basis of all comments received by States and NGOs, the Working Group would report on the progress made in drawing up the draft convention to the fifteenth session of the Human Rights Council.

34. He referred to the impact of PMSCs on the enjoyment of human rights and to the States' responsibilities to respect, protect and fulfil human rights. He went on to discuss the existing gaps in international, and often national, legislations on PMSCs which also lead to accountability gaps. He pointed out that the Convention would help close the existing legal gap regarding PMSCs by reaffirming and strengthening the responsibilities of States regarding the activities of PMSCs as related to human rights protection, establishing an independent oversight body and providing an avenue of redress for victims.

35. Mr. Nikitin contributed to the presentation by highlighting the principles on which the draft convention is based, including the need for registration and licensing systems at both national and international levels. He stressed the importance for "countries of operation" of the ability to monitor the activities of PMSCs on their territory, the training of PMSC personnel and the acquisition of weapons.

36. The Working Group invited participants to brief their respective Governments and encourage them to submit their input on the Note on the elements for a possible convention. They stated that countries where PMSCs were headquartered were not in favour of a legally binding approach and therefore the support of all other countries was crucial.

37. Several delegates noted the importance of national legislation but recognized the added value of an international framework to address this global problem. Others emphasized the need to address the responsibility of countries of origin of PMSCs contracted to operate abroad. Participants welcomed the work done by the Working Group on a possible draft convention.

III. Conclusions and observations of the Working Group

38. The Working Group thanks all countries which responded positively to the invitation of the Working Group to hold this important consultation. It noted the negative impact of mercenary activities in the past and the growing presence of PMSC activities on the African continent.

39. The Working Group notes that several representatives emphasized the importance of subregional and regional cooperation to combat mercenary activities and encourages African countries to ratify the OAU Convention on the elimination of mercenaries in Africa and the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

40. The Working Group notes that the African Union will engage in a process of revision of all existing OAU conventions and encourages the Commission and African States to discuss the possibility of regulating PMSCs at the regional level during this process.

41. The Working Group notes that States are particularly concerned about the activities of foreign PMSCs operating in countries in the absence of clear oversight and monitoring mechanisms.

42. The Working Group recognizes a consensus amongst participants regarding the existing legal gap at the international level vis-à-vis the activities of PMSCs and welcomes the high level of support for its ongoing efforts to draft an international instrument for the regulation of PMSCs.

43. The Working Group encourages States to review the functions which are inherent to the sovereignty of States and should remain within the purview of States and should not be outsourced to PMSCs.

44. The Working Group recalls States' responsibility to respect and protect human rights and to ensure that PMSCs are held accountable if and when they are responsible for crimes or human rights violations.

45. The Working Group believes that an effective system for the licensing and registering of private military and security companies and the training of its employees should be developed.

46. The Working Group will conclude its series of regional consultations with the Western European and Others Group consultation in Geneva on 14 April 2010.

47. The Working Group notes that this process of regional consultation may lead to a high-level round table of States under the auspices of the United Nations to discuss the fundamental question of the role of the State as holder of the monopoly of the use of force, with the objective of facilitating a critical understanding of the responsibilities of the various actors, including private military and security companies, in the current context, and their respective obligations for the protection and promotion of human rights and in reaching a common understanding as to which additional regulations and controls are needed at the international level as stated in Human Rights Council resolution A/HRC/RES/7/21.

Appendices

Appendix 1

List of participants

Algeria	Général Boussisse Amar Directeur des Affaires juridiques et du contentieux Ministère de la Défense Nationale Algiers
Angola	Dr. Candido de Brito Head of delegation, Adviser to the Deputy-Minister of Interior Mr. Antonio Ambrosio Chief of Department for Justice and Discipline, Ministry of Interior Dr. Coreano Da Costa Canda Expert, Ministry of Interior Telma Moreira da Silva Expert, Ministry of Justice Ms. Miriam Machado Ministry of Justice Mr. Joao Barradas Baltazar Third Secretary, Angola Embassy in Addis Ababa
Burkina Faso	Mr. Domba Ousseni Directeur de la promotion de la culture de la tolérance et du genre Ministère de la promotion des droits humains
Cameroon	Mr. Innocent-Bertin Bidima First Secretary Permanent Mission of Cameroon in Geneva
Central African Republic	Mr. Abakar Dieudonné Nyakanda Haut Commissaire aux Droits de l'Homme et à la Bonne Gouvernance Bangui
Democratic Republic of the Congo	Mr. André Katawa Gumedy Conseiller au ministère des droits humains Kinshasa
Djibouti	Mr. Djibril Osman Houffaneh Conseiller technique Ministère de la Justice et des Affaires Pénitentiaires

Egypt	Mr. Amr Essam Sadek 3rd Secretary – Human Rights Affairs Ministry of Foreign Affairs Cairo, Egypt
Equatorial Guinea	H.E. Dr. Ruben Maye Nsue Mangué Ambassador Embassy of Equatorial Guinea to Ethiopia
	Mr. German Ekua Sima Attaché at the Permanent Mission of Equatorial Guinea in Geneva
Ethiopia	Mr. Feleke Kebede First Counsellor, Ministry of Foreign Affairs
	Mr. Yidnekachew Meskel Attaché, Ministry of Foreign Affairs
Madagascar	Colonel Benjamin Razafindramanana Inspecteur permanent au sein du Cabinet du Ministre des Forces Armées
Malawi	Colonel Paul Valentino Phiri
Mauritius	Mr. Deelip Rambojun Chief Inspector of Police
Morocco	Mr. Hassane Boukili Adviser on human rights Permanent Mission of Morocco in Geneva
Mozambique	Mr. Helium Nhantumbo Legal Adviser Division for Legal and Consular Affairs Ministry for Foreign Affairs and Cooperation
Niger	Mr. Mounkaila Yacouba Commissaire Divisionnaire de Police
Sierra Leone	Lt. Col. Ronnie B. Harleston Military Adviser Mission of Sierra Leone to the United Nations
Sudan	Ms. Hassan Sid Ahmed Zehor Second Secretary Permanent Mission of Sudan in Geneva
Uganda	Mr. Oscar J. Edule Second Secretary Permanent Mission of Uganda in Geneva
Zambia	Mr. Christopher M. Sitwala Counsellor Permanent Mission of Zambia in Geneva

Zimbabwe

Mr. Devote Matsiwe
Delegate

Mr. Johannes Tomana
Attorney

African Union

Dr. Norman Mlambo
Security Sector Reform Focal Point
Peace and Security Department
African Union Commission

Mr. Bright Mando
Legal Officer
African Union Commission

Appendix 2

Programme

3 March 2010

09.00–10.00 Arrival of participants/coffee

Item I. Opening session

10.00–10.30 Welcoming remarks

Welcoming remarks by a representative from the Ministry of Foreign Affairs of Ethiopia

Introductory remarks by **Mr. Karim Ghezraoui**, Chief, Groups in Focus, Special Procedures Division, Office of the High Commissioner for Human Rights

Introductory remarks by Ms. Shaista Shameem, Chairperson-Rapporteur 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

Item II. Challenges posed by the use of mercenaries and its impact on human rights, in particular the right to self-determination

10.30–11.30 Presentation of concrete cases

- *Colonel Benjamin Razafindramanana, Standing Inspector in the Cabinet of the Minister of Armed Forces, Madagascar*

11.30–11.45 *Coffee break*

11.45–13.00 Discussion under Item II continues

13.00–15.00 *Lunch*

Item III. Regional and national legislation to prohibit the activities of mercenaries

15.00–15.30 The regional experience in Africa: OAU Convention for the Elimination of Mercenarism in Africa (1977)

Presentation by **Dr. Norman Mlambo**, Security Sector Reform Focal Point in the Peace and Security Department, African Union Commission

15.30–16.00 Open discussion on the way forward

16.00–16.30 Discussion of national experiences and existing legislation

16.30–16.45 *Coffee break*

16.45–18.00 Open discussion on steps taken at national level by Member States to introduce legislation and/or other measures to prohibit the activities of mercenaries

4 March 2010

Item IV. Current practices related to PMSCs registered, operating or recruiting in the region/national and regional legislation and/or other measures to regulate and monitor the activities of PMSCs

10.00–11.45

Introductory remarks by **Ms. Amada Benavides de Pérez**

Presentation of concrete cases

- *Mr. André Katawa Gumedy, Adviser at the Ministry for Human Rights, Democratic Republic of the Congo*
- *Colonel Paul Velentino Phiri, Malawi*
- *Mr. Helio Nhantumbo, Legal Adviser, Division for Legal and Consular Affairs, Ministry for Foreign Affairs and Cooperation of Mozambique*
- *Lt. Col. Ronnie B. Harleston, Military Adviser, Mission of Sierra Leone to the United Nations*

Open discussion

11.45–12.00

Coffee break

Item V.

The role of the State as holder of the monopoly of the use of force

12.00–12.15

Introductory remarks by **Ms. Shaista Shameem**, Chair of the Working Group on the use of mercenaries

12.15–13.00

Open discussion

Questions that will be addressed will include:

- *Which military and security functions a given Government considers being “inherently State functions” and thus cannot be outsourced to private entities?*
- *Have any laws and/or regulations been adopted in this regard?*

13.00–15.00

Lunch

Item VI.

Draft international convention on the regulation, oversight and monitoring of PMSCs

15.00–15.30

Presentation by **Mr. José Luis Gómez del Prado** on the progress achieved in the elaboration of the draft international convention on the regulation, oversight and monitoring of PMSCs

15.30–16.15

Open discussion

16.15–16.30

Coffee break

16.30–17.45

Discussion under Item VI continues

Item VII.

Concluding remarks

17.45–18.00

Concluding remarks by the Chair
