



WORKING GROUP ON THE USE OF PRIVATE MILITARY AND SECURITY COMPANIES IN MARITIME SECURITY

10th OF NOVEMBER 2020, ONLINE

CHAIR'S SUMMARY

1. INTRODUCTION

The 6th exchange of the Working Group on the use of private military and security companies in maritime security (Maritime Working Group) was attended by Montreux Document participants (Montreux Document participants), the co-Chairs of the Montreux Document Forum, Switzerland and the ICRC, and the Montreux Document Forum Secretariat, DCAF. The meeting was conducted in an online format, which facilitated the participation of several State representatives from capital. The meeting allowed for a presentation of and discussion on the fourth draft of the *Reference Document – Elements for a maritime interpretation of the Montreux Document* (Reference Document).

2. OPENING STATEMENT BY THE CHAIR OF THE MARITIME WORKING GROUP

The opening remarks were held by Mateus Kowalski, Director of the International Law Department, Department of Legal Affairs – Ministry of Foreign Affairs of Portugal, Chair of the Maritime Working Group. The Chair acknowledged that the Maritime Working Group had reached an important milestone, given that the Reference Document was being finalised and would be presented to the Plenary of the Montreux Document Forum (MDF Plenary), the 19th of November 2020.

3. PRESENTATION TO THE PLENARY AND ACTION ON THE REFERENCE DOCUMENT - ELEMENTS FOR A MARITIME INTERPRETATION OF THE MONTREUX DOCUMENT

Based on discussions of the last meeting of the Maritime Working Group, the deadline to submit comments to the third draft of the Reference Document had been extended until September 2020. The Chair received inputs from several Montreux Document participants, which were considered and included in the fourth draft of the Reference Document, keeping the balance and harmony between different views.

The Chair provided an update of the modifications introduced in the fourth draft of the Reference Document, which include the following:

- Clarification of the transposition of the concept of “Territorial State” from the Montreux Document to the maritime context. Indeed, the Chair illustrated that in the maritime context the concept of “Territorial State” can be equated indistinctively with “Flag State”, “Coastal State” or “Port State”, and vice versa.
- Increased reference to International Humanitarian Law and to International Human Rights Law. Moreover, references to the two International Covenants on Human Rights, on economic, social and cultural human rights (the ICESCR) and on civil and political human rights (the ICCPR), were included.
- Update of several sources of information.
- Minor corrections related to orthotypography.
- Enhancement of the textual consistency with regards to spelling and wording, including legal and other technical terms.

The Chair welcomed participants to provide further comments or inputs relating to the above-mentioned changes included in the fourth draft of the Reference Document.

4. DISCUSSION

Several participants warmly congratulated the Chair of the Maritime Working Group on the preparation of the Reference Document. There was great support from the participants regarding the modifications added to the fourth draft. In addition, some participants indicated that they would wish to provide additional suggestions for the consideration of the Chair.

5. CONCLUSIONS

The Maritime Working Group agreed to proceed as follows with regards to the fourth draft of the Reference Document:

- The Chair will reach out to the participants bilaterally in order to discuss the suggestions put forward during the Maritime Working Group meeting. In this regard, the Chair asked for the understanding and the flexibility of Montreux Document participants, since the Reference Document would be presented to the MDF Plenary within a short delay and it would not be possible to accommodate any suggestion that implied substantive modification of the text of the fourth draft of the Reference Document.

- The final document will be circulated to Montreux Document participants before the MDF Plenary.
- The Chair will present the final version Reference Document to the MDF Plenary.

Concerning the format of the Reference Document, the Chair of the Maritime Working Group suggested the best way forward would be to put the document forward as a Chair's Document. This will have the following implications: Firstly, the integrity of the final text will be preserved. Secondly, the Chair of the Maritime Working Group will be formally responsible for its content.

Notwithstanding the foregoing, the Chair emphasized that the Reference Document is a result of a widely participated process conducted in the context of the Maritime Working Group and includes inputs from extensive multistakeholder consultations with Montreux Document participants and experts from academia, civil society and international organizations.

With regards to the way forward, the Chair proposed that the Maritime Working Group focuses on outreach activities and assistance to interested parties in order to share the good practices identified in the Reference Document.

In case there are further questions or comments, please refer them to the Secretariat of the Montreux Document Forum (c.valdesarguelles@dcaf.ch).