



The Working Group on the use of private military and security companies in maritime security (Maritime Working Group)

Plan of Action of the Maritime Working Group for 2018-2019

(To be presented for approval by the Montreux Document Forum at the plenary in June 2018)

I. Situating the Montreux Document to Support Regulation of Maritime PMSCs

The Montreux Document Forum (MDF) Working Group on the use of private military and security companies in maritime security (Maritime Working Group) is an intergovernmental platform to discuss the relevance of the Montreux Document (MD) to maritime security, its interaction with relevant international organizations and initiatives on maritime security and ways to assist States in implementing the rules and practices of the MD.

The MD reaffirms existing international obligations of States relating to the activities of private military and security companies (PMSCs), providing guidance on legal and practical issues on the basis of existing international law. The Maritime Working Group aims at exploring the potential of the MD, by fostering a flexible dialogue on how to bring its pragmatic guidance into the maritime security scene and by elevating this dialogue with the best available expertise. Established within the MDF, the Maritime Working Group follows the same informal approach to its plan of action, promoting consultations and cooperation through non-legally binding decisions and making every effort to operate on consensus.

The Maritime Working Group does not seek to condone nor condemn the use of PMSCs in maritime security, which is generally a prerogative of flag States and dependent on national laws where applicable, consistent with international law. Instead, it intends to provide an opportunity to bring together States, international organizations and companies in the search for practices for States on how to regulate the maritime security industry and for an accountable protection of maritime trade.

Carrying out its activities, the Maritime Working Group takes into consideration the roles of the Working Group on the International Code of Conduct Association and the International Code of Conduct Association (ICoCA). It also takes into account other initiatives and frameworks on the use of private military and security companies in maritime security, and engages with relevant public and private stakeholders in order to actively cooperate and to prevent overlapping or contradicting efforts.

In 2018 and 2019, the Maritime Working Group will seek the basis for a maritime-focused interpretation of the MD, contributing to clarifying the roles and obligations of important actors in

maritime security and providing insight on how States and international organizations can deal with challenges when it comes to PMSCs in the maritime security framework.

Achieving the abovementioned goals will establish the Maritime Working Group as a recognizable platform on maritime security and lay the foundations for a maritime-focused interpretation of the MD.

II. Four objectives for 2018-2019 (see Annex I)

A common roadmap for priorities and main outputs in 2018-2019 was discussed by the Maritime Working Group at its first exchange in January 2018. Such priorities envision both the launching of the Maritime Working Group on the international maritime security scene and its first approaches to a maritime perspective and interpretation of the MD.

This plan of action is intended as an informal guideline/calendar for sustaining and implementing those objectives for 2018-2019 in the most transparent and cooperative fashion – by making goals, tasks and timelines understandable and appropriated by all relevant stakeholders.

1. Defining the activities of the Maritime Working Group

The Maritime Working Group will bring the MD into the maritime security scene by carrying out the plan of action referred to the MDF plenary. This plan outlines the main goals, tasks and working methods for the Maritime Working Group, establishing basic guidelines for its interaction with relevant international organizations, bodies and initiatives on maritime security and for the outreach to States and international organizations.

Communications and interaction with specialized international bodies will also contribute to the activity the Maritime Working Group, as will the MDF website (which now includes a section dedicated to maritime security) and taking part in MDF plenary meetings (where the Maritime Working Group is to report on its activities on an annual basis).

2. Producing a reference document for a maritime-focused interpretation of the Monteux Document

The reference document will be an engaging guide that aims at providing guidance on the interpretation of the MD from a maritime perspective. It will not be a standard-setting document, but will be a useful element for identifying and understanding the roles of the different States involved, within the terminology in the MD – *i.e.* contracting States, home States and territorial States. The reference document will also serve as a convenient tool in outreach efforts.

Discussions on the reference document will start at the second exchange of the Maritime Working Group on 6 June 2018. The document itself will be the subject of consultation, discussion and feedback

by MD Participants and other stakeholders, including during a third exchange of the Maritime Working Group in late 2018. A finalized version will be presented for adoption at the fourth exchange of the Maritime Working Group, in 2019.

The reference document will be subject to continual updating by MD participating States and international organizations (MDPs), taking into consideration relevant feedback from stakeholders (*e.g.* experts, industry, States, international organizations, non-governmental organizations, *etc.*) brought to the attention of the Maritime Working Group.

3. Launching an open-ended exercise on a compilation of practices and relevant information

To gather information on regulatory practices and maritime security standards (including the ISO 28007), a research of existing databases and resource compilations will be made, as well as informal consultations with MDPs and other relevant stakeholders.

In 2018-2019, the Maritime Working Group's open-ended exercise will focus on compiling practices in applicable national legislative and oversight frameworks of MDPs regarding the operations of PMSCs in the maritime context. In the context of international obligations reaffirmed by the MD and applicable to maritime security, the compilation of regulatory practices will serve as a resource guide for States to draw on when drafting and implementing regulations on PMSCs in this context (including maritime security approaches and systems of oversight). This will not imply endorsement by MDPs of a particular practice.

In the long-run, the open-ended exercise will aim at creating, sharing and updating information resources focused on raising an effective understanding of different issues relating to maritime security, especially those that are most relevant to the MD – *e.g.* networking, coordinating and updating knowledge/information and best practices regarding maritime security from the point of view of the MD.

4. Promoting the MD and the MDF in the context of maritime security (see Annex II)

The core principle in the outreach plan for 2018-2019 is for the Maritime Working Group to disseminate and raise awareness about the MD and the MDF in the context of maritime security.

One measure of the efficiency and effectiveness of the Maritime Working Group's activity can be its capacity to engage flag States and States located in high risk areas where the presence of private armed security is more common (or is likely to become common in the near future) which are not Participating States in the MD.

Based on the outreach know-how of the MDF – including the Mapping Study conducted by the Geneva Centre for the Democratic Control of Armed Forces (DCAF), events such as the Regional Conferences in Senegal, Ethiopia and Costa Rica, and bilateral outreach efforts undertaken by the Co-Chairs and the Secretariat of the MDF –, the Maritime Working Group will prioritize the outreach to

States located in high risk areas of illicit maritime activities in the African continent (mainly States in or close to the Gulf of Aden or the Gulf of Guinea).

Besides approaching specific States, the Maritime Working Group could channel its outreach efforts by taking advantage of meetings and events of major regional fora or bodies, namely those of the G7 Group of Friends of the Gulf of Guinea (G7++ FoGG), the African Union (AU), the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), the Indian Ocean Commission (IOC), the Indian Ocean Rim Association (IORA), the Association of Southeast Asian Nations (ASEAN), the Gulf of Guinea Commission (GGC) or the Contact Group on Piracy off the Coast of Somalia (CGPCS).

Simultaneously, the Maritime Working Group may keep in touch with global fora and initiatives contributing to the efforts of clarifying and considering the role of military and security companies in maritime security.

MDPs are encouraged to be at the forefront of this outreach activity in major regional fora or bodies and in ongoing events relating to maritime security they may attend or organize. A promotional/explanatory document on the Maritime Working Group, the MD and the MDF will be made available for all MDPs to use and distribute in meetings or events as a support document and/or outreach.

III. Working methods

In line with the 'working practices' of the MDF, the Maritime Working Group provides a forum for discussion among MDPs, has a Chair, and is supported by the MDF Secretariat. Meetings of the Maritime Working Group are open to all MDPs on a voluntary basis. Procedural matters such as the agenda, frequency, date and place of the meetings, as well as invitations to observers and expert stakeholders to attend such meetings, are decided by the Maritime Working Group, upon suggestion by the Chair.

Secretariat functions are carried out by the DCAF, which assists the Maritime Working Group in the performance of its functions as Secretariat of the MDF, including by coordinating the organization of the meetings.

The activities and conclusions of the Maritime Working Group are annually reported to the plenary of the MDF.

ANNEX I
Tentative agenda for 2018-2019

May be subject to changes and updates

| | | |
|-------------|------------------|---|
| 2018 | January | 1 st Exchange of the Maritime WG (January 30, Geneva) |
| | February | Regional Meeting in Costa Rica |
| | March | |
| | April | |
| | May | <ul style="list-style-type: none"> ▪ Maritime WG section made available in the MDF website; ▪ Draft Promotional/explanatory document for outreach made available; ▪ Draft Plan of action for consultation and feedback. |
| | June | MDF plenary (June 6-7, Geneva) <ul style="list-style-type: none"> ▪ 2nd Exchange of the Maritime Working Group (6 June): <ul style="list-style-type: none"> – Opening of reflections and discussion on a Reference Document; – Adoption of the Plan of Action by the WG. ▪ Chair’s report (2017); ▪ Approval of the Plan of Action by the MDF plenary. |
| | July | |
| | August | Compilation on practices: pre-existent information resources research complete |
| | September | |
| | October | Compilation on practices: voluntary survey circulated |
| | November | 3 rd Exchange of the Maritime WG (TBC) <ul style="list-style-type: none"> ▪ Presentation of the first draft of the Reference Document and opening of consultations and feedback; ▪ Review of outreach activities; ▪ Compilation on practices: presenting the online information resources and discussion on a possible voluntary survey. |
| | December | |
| 2019 | January | Compilation on practices: voluntary survey closes (January 31) |
| | February | |
| | March | |
| | April | 4 th Exchange of the Maritime WG (TBC): <ul style="list-style-type: none"> ▪ Reference Document (final draft presentation and adoption); ▪ Compilation on practices (draft presentation); ▪ Review of outreach activities. |
| | May | |
| | June | |
| | July | |
| | August | |
| | September | |
| | October | |
| | November | |
| | December | 5 th Exchange of the Maritime WG (TBC) <ul style="list-style-type: none"> ▪ Compilation on practices (final draft presentation); ▪ Review of outreach activities. |

ANNEX II

Tasks and timeline for the outreach activities in 2018-2019

| Activity | Responsible entity/entities | Description and expected outputs/outcomes | Locations and Timeline |
|---|--|---|---|
| Diffusing online the activities and core documents of the WG | DCAF | Keeping a public record of the WG's activities and achievements, along with core documents. | Online (WG area in the MDF website), continuous |
| Hosting and attending events on maritime security | Portugal and Participant States and IO | <ul style="list-style-type: none"> – Assessing outreach opportunities (internally and internationally); – Engaging the industry and its needs; – Raising awareness about the MD and the advantages for its participants. | Portugal, second half of 2018 Worldwide, 2018 and 2019 |
| Circulating information on the MD and the WG | Portugal, DCAF and Participant States and IO | – Promotional/explanatory documents (<i>e.g.</i> leaflets, digital contents such as presentations) may be prepared and distributed to the MD participants. | Worldwide, 2018 and 2019 |
| Engaging possible participants and the industry in international events and fora | Portugal and DCAF | <ul style="list-style-type: none"> – Assessing outreach opportunities and particularly relevant situations for the WG to discuss and analyze; – Engaging the industry and its needs. | Worldwide, 2018 and 2019 |