

Supporting Implementation and Networking among Practitioners

A Montreux Document Forum Regional Meeting

San José, Costa Rica
2018



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Introduction

During the 2017 Plenary Meeting of the Montreux Document Forum, participants stressed the importance of contextualising the Montreux Document to address challenges specific to national regulators in different regions and to continue working on the implementation of good practices, including through engagement with regional organisations and States participating in the initiative. In particular, the Latin America and Caribbean (LAC) region was highlighted as relevant due to the size of the industry and the high numbers of private military and security company (PMSC) employees. On a sub-regional level, it was suggested that Central America would be particularly relevant for Montreux Document outreach and implementation because in that region, PMSCs provide security for extractive industries, protect critical infrastructure and businesses, deliver training and operational support to police, as well as collaborate in urban security partnerships with police and other public institutions.

Montreux Document participants further discussed their concern that the Montreux Document is particularly underrepresented in a number of regions. Only four States across the Latin America and the Caribbean region are participants. As a member of the Group of Friends of the Chair and an important contributor to the development of the MDF, Costa Rica proposed to host the first MDF regional meeting with national implementation in LAC at the centre of attention. The Meeting was also intended to introduce and provide a space for discussion on the Montreux Document and the MDF.

On 27–28 February 2018, the Ministry of Foreign Affairs and Worship of Costa Rica; with the support of the Co-Chairs of the Montreux Document Forum (MDF), namely the Swiss Federal Department of Foreign Affairs (FDFA) and the International Committee of the Red Cross (ICRC) – and with the technical support of the Geneva Centre for the Democratic Control of Armed Forces (DCAF), organised the first MDF Regional Meeting in the Latin America and the Caribbean (LAC) region. The meeting aimed to discuss national and regional experiences with private military and security companies (PMSCs) and to identify concrete ways in which the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict (hereafter referred to as the Montreux Document) can help to advance implementation of PMSC oversight and regulations.

With over 100 participants, the event brought together 21 Latin American and Caribbean States¹ and 10 Montreux Document participating States² from other regions. The conference was also attended by high-level representatives of the Central American Integration System (SICA), the Caribbean Community (CARICOM), the United Nations (UN), the European Union (EU), civil society, industry, and academic experts. Building on the 2011 Regional Roundtable on the Montreux Document in Chile, the meeting was considered to be the largest event on PMSC regulation in the LAC region and the first MDF Regional Meeting with national implementation at the centre of attention. The meeting was well-attended by national practitioners in charge of regulation of PMSCs, notably heads of national regulatory bodies for private security and representatives of the Police, Ministries of Interior, Foreign Affairs, and Defence. The Regional Meeting gave participants the opportunity to discuss concrete implementation challenges and how the Montreux Document could support them in more effectively regulating PMSCs.

During the meeting, participants recognised the issue of PMSC regulation as requiring more oversight based on international human rights law (IHRL) and international humanitarian law (IHL). Despite the differences in context and industry characteristics across States in the LAC region, the PMSC sector has grown significantly in most LAC States since the 1990s. With at least 16,174 private security companies in operation and more than 2,450,000 legally registered employees, PMSCs in the LAC region play an increasingly important role within the security sector overall.³ For example, the number of private security companies in Costa Rica more than doubled from 422 in 2005 to 983 in 2014. Similarly, the private security industry in Chile grew by 46% between 2010 and 2015.⁴ Within the last 5 years there has also been an increase in the number of private security firms in operation in Caribbean countries, offering a host of diverse services. Many businesses and home-owners have used the services of these private entities to ensure their own safety and

security. To illustrate, registered private security companies' personnel outnumber police officers in nearly every state in Latin America and the Caribbean.⁵ Participants discussed that this sustained growth is notably associated with the following reasons: public insecurity and the perception of insecurity among the middle class, increased crime such as drug trafficking and organised crime, inadequate state management of public security (such as underfunded police departments), rapid urbanisation, and economic growth of extractive industries and other large transnational businesses. Interest in private security is driven by both real and perceived risk of crime.⁶ In turn, participants of the Regional Meeting discussed that there seems to be a general perception or expectation that an increased presence of private security will lead to a corresponding increase of general security. However, despite the exponential growth of PMSCs in Latin America, this does not seem to be the case.⁷ Participants expressed that regardless of the presence of private security, crime rates nevertheless seem to rise, and violence seems to worsen.⁸ The growth of the industry has not been a panacea for peace and stability in the region taking into account how the scale of violence has increased over the last 15 years.⁹

The majority of the services provided by PMSCs in Latin America and the Caribbean are armed security services, contracted by both private and public clients. PMSCs in the region rarely provide services of a military nature. The main clients include extractive industries, banks and other businesses, governmental agencies, public and private infrastructure, companies, and private individuals. Regional statistics also suggest that PMSC personnel in the LAC region are heavily armed, in comparison to other regions of the world. With approximately 650,000 weapons registered, the LAC region has the highest ratio of firearms to PMSC personnel outside of conflict-affected regions.¹⁰ Since PMSC services touch on many different areas of the security sector, they affect the enjoyment of human rights, security, development, and the rule of law.¹¹ There is a wealth of scholarship that shows that enterprises can and do infringe human rights.¹²

Through national laws over PMSCs, States can require these businesses to respect human rights. Although international human rights law is binding on States, domestic legal systems which give effect to IHRL, provide the principal legal protection of human rights guaranteed under international law. PMSCs are bound by IHRL when their actions are attributable to states (for example they are contracted to carry out inherently governmental functions).¹³

Participants of the Regional Meeting discussed that most of the countries in the region have adopted specific laws and regulatory frameworks governing PMSC activities. However, a holistic, governance-driven approach that addresses the roles and responsibilities of governments, parliaments, regulators, civil society and the industry is needed to ensure that PMSCs operate in a transparent, accountable manner.

The Regional Meeting was an opportunity for active discussion on challenges and good practices, specifically related to:

- strengthening specific and adequate national legal frameworks;
- addressing informality in the PMSC markets;
- certification/licensing/registration challenges;
- facilitating a whole-of-government approach to implementation of regulation and oversight mechanisms;
- building institutional capacities for regulation and oversight;
- clearly defining and implementing training requirements for PMSCs and their personnel.

The Regional Meeting also showcased the practical implementation tools developed in the Montreux Document Forum. The Legislative and Contract Guidance Tools were welcomed by participants as practical blueprints supporting the drafting of modern legislation, monitoring and oversight mechanisms, and contract and procurement processes to improve regulation of this rapidly expanding industry.

Structure of the report

This report seeks to present a narrative of the challenges and State regulatory approaches around PMSCs. The report also includes a summary and analysis of the debates, questions, conclusions and recommendations shared during the presentations and discussions held over the two days of the Regional Meeting. The content of the report is based on the panel presentations and interventions made during the discussion sessions as well as desk-based research and academic sources intended to supplement and contextualize conference discussions. In accordance with Chatham House rules under which the meeting took place, the report does not attribute interventions to individual participants.

The report is structured around the following sections:

- I. Characteristics of PMSCs in the LAC Region: The section offers an overview of Session 1 held during the Conference. The presentations and discussions during this Session gave an overview of the PMSC industry in the LAC region as well as the related challenges and some examples of State efforts to overcome them.
- II. Overview of the Montreux Document and the Forum: This section provides an overview of the presentations and discussions held during Session 2. The presentations during this Session focused on the rationale for the development of the Montreux Document, the inter-governmental consultations and drafting process, and finally the adoption of the Document as well as its current status. Panellists identified the legal sources of the Montreux Document and its scope of application, introduced the rules and good practices of the Document, and clarified the terminology and other key concepts which were subsequently used throughout the Regional Meeting. The presentations also gave an overview of the Montreux Document Forum.
- III. Regional Challenges Related to PMSCs Regulation: Building on the information shared by States and International/Regional Organisations, the report outlines the specific regulatory challenges that were identified during the Regional Meeting in Sessions 3-7. The following challenges were covered: strengthening national legislative frameworks; regulating PMSCs in public security and extractive industries; strengthening the oversight of services provided by PMSCs; strengthening the regulation and management of small arms and light weapons and use of force by PMSC personnel, and; the role of States as clients of PMSCs.
- IV. The Added Value of Montreux Document Good Practices and the Montreux Document Forum for national regulators: This final section gives an overview of the discussions and debates held during the Closing Roundtable Discussion, chaired by Costa Rica, Switzerland, the ICRC and DCAF. This section of the report highlights the added value of the Montreux Document and its good practices for the region. It identifies concretely how the Montreux Document can be used as a practical tool to assist States in implementing regulation of PMSCs at a national level. The section also gives context to Costa Rica's experience as a LAC State within the MDF and within its Group of Friends.
- V. Supporting States in Regulatory Efforts – Opportunities for Ways Forward: The report then concludes with reflections for follow-up and further outreach based on opportunities identified by the authors of this report. Although the Regional Conference did not adopt formal conclusions, a number of participants proposed concrete ways forward on how States can address and overcome challenges. This section provides a discussion point for future activities and initiatives in the region to support effective regulation of PMSCs.
- VI. The report is complemented by three Annexes: 1) an overview of other international initiatives relevant to PMSC regulation, 2) a chart on private security small arms in 17 LAC countries, and 3) a chart on private security companies and private security personnel in LAC.

A note on terminology

As there is no universally accepted definition of private military and security companies, there is significant variation in the language used to refer to PMSCs. Certain activities (such as participating in combat) are traditionally understood to be military in nature, and others (such as guarding residences) are typically related to security. For the purposes of this study, PMSCs are defined as followed, as found in the Montreux Document:

*PMSCs are private business entities that provide military and/or security services, irrespective of how they describe themselves. Military and security services include, in particular, armed guarding and protection of persons and objects, such as convoys, buildings and other places; maintenance and operation of weapons systems; prisoner detention; and advice to or training of local forces and security personnel.*¹⁴

This definition encompasses all companies that provide either military or security services and focuses on the types of services that should be regulated, rather than on categorising the companies. An inclusive approach takes into account the specific services provided, regardless of how the company is labelled or how it functions and operates.¹⁵

I. Characteristics of PMSCs in the LAC Region

Session 1 of the Regional Meeting introduced the security and human rights concerns surrounding the PMSC industry in a regional context, including the implications of the industry's size, characteristics and dynamics. The presentations and discussions during this Session gave an overview of the PMSC industry in the LAC region beginning with a presentation by DCAF, which drew on an important regional baseline study undertaken jointly with the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC). Participants also heard perspectives from a Montreux Document participant (Director of Regulation and Control of Private security Services of Ecuador), from a regional organisation (Assistant Director of Strategic Services of the Caribbean Community Implementing Agency for Crime and Security (CARICOM IMPACS)), as well as from an expert member of the United Nations Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination. These presentations sought to give a snapshot of the industry in the region. To complement these discussions, this section of the report draws on additional research, seeking to give readers a robust perspective on the industry's size, the services offered, as well as main clients.

In presenting the baseline study, the DCAF representative shared that the formal private security industry is valued at \$244 billion worldwide, \$30 billion of which accounts for Latin America. While the annual worldwide growth rate is around 7 percent, in Latin America it is 9 percent.¹⁶ PMSC figures vary from country to country in LAC not only because of States' enormous size difference (in territory and population), but also because of the differing nature of national contexts. As an example, the number of private security personnel in Colombia in 2016 totalled approximately 244,757.¹⁷ Brazil has the largest number of PMSCs with about 2,581 companies and the largest number of PMSC personnel with an estimated 583,100 employees.¹⁸ In comparison, smaller States, such as Saint Kitts and Nevis (10 firms registered in 2011), Grenada (8 companies registered in 2015), and Saint Vincent and the Grenadines (9 companies in 2011), have much lower numbers of PMSCs.¹⁹ Many PMSC personnel in the LAC region are also heavily armed, in comparison to other regions of the world. Small arms across a sample of 17 LAC region countries exceeded 660,000 in 2015.²⁰

Key Regional Statistics	
Number of PMSCs in operation	16, 174
Number of legally registered employees	2, 450, 000
Small arms ²¹	660, 000
Annual value of the industry	USD \$ 30 billion
Montreux Document participants	4 (Chile, Costa Rica, Ecuador, Uruguay)

Official records for the PMSC industry do not accurately portray the scope and breadth of the industry; research has suggested that there may be up to 2 million private security personnel operating illegally and/or informally.²² Participants discussed that the existence of such a large informal private security sector makes it difficult to determine the true size of the industry. Companies or PMSC personnel can have expired permits or problems with their licenses, while still carrying out activities. The significant number of entities that operate without authorisation, registration, or license increases the risks of human rights abuses and lack of accountability.²³ Discussions during the Regional Meeting illustrated that there can be real consequences for the respect of human rights when States delegate responsibilities to private companies. This is therefore a strong argument for States to develop effective national laws, policies, and monitoring and oversight methods; better regulation is needed because not regulating PMSCs would be at odds with States' human rights obligations and may lead to negative effects on the enjoyment of human rights.

DCAF presented that in terms of activities, PMSCs in the LAC region provide a wide range of services and count on extractive industries, banks and other businesses, governmental agencies, public and private infrastructure companies, and private individuals as their main clients. The region is endowed with some of the world's largest, oil, gas and mineral resources deposits and the increase in foreign investment through multinational companies has further contributed to the boost for demand of PMSC services. Indeed, complementary research shows that international businesses often turns to private security to fill the security gap and ensure their ability to operate.²⁴

Furthermore, DCAF presented that multinational companies have also their own staffed private security personnel. In particular, extractive industries' operations often extend over large areas with complex installations and heavy machinery that require enhanced security. This creates situations in which companies may protect their sites and personnel using a combination of public-, private-, and in-house security. These subdivisions of companies do not generally qualify as PMSCs under national law because their security role is secondary to the company's primary function and they do not contract their services to other companies or governments. That said, these actors may nevertheless fall under national private security laws regarding training, background checks, carrying and using weapons.

The presentation discussed how PMSCs also offer a range of security services for government institutions. In fact, the State remains one of the largest clients, yet the distinction between what constitutes public security duties and what services PMSCs personnel can provide is not always clear. A blurring of this distinction could lead to human rights abuses and unclear lines of accountability.²⁵

With respect to the national regulatory frameworks in the region, the presentations by the representative of Ecuador and the representative of CARICOM IMPACS offered examples of ways that governments and regional organisations have chosen to address these issues. In his presentation, the representative of Ecuador discussed the national legal framework and described that in his country, PMSCs must be registered in a special ledger of the Commercial Registry as legally established entities of the Joint Command of the Armed Forces and the General Headquarters of the National Police. To be included in the list, these guards must have undergone certification training through the Ministry of Interior where they have also received theoretical training, including fire-arms training. After finishing the training series (120 hours), all guards receive accreditation by the Ministry of Interior.

The representative of CARICOM IMPACS presented that the Agency was established in 2006 as the main centre of the Region's multilateral Crime and Security management architecture, specifically designed to administer a collective response to the Crime and Security priorities of Member States. In 2013, CARICOM IMPACS developed a "Regional Crime and Security Strategy" which identifies and prioritises the common current and future security risks and threats in the region. It articulates an integrated and cohesive security framework to confront these challenges and provides an integrated regional response to the increasing complexities and interlinked risks and threats of transnational crime and security issues that impact CARICOM. The strategy explicitly mentions the issue of the private security industry: "[...] in the absence of effective legal or regulatory structures to ensure proper vetting, the activities of private security companies raise issues of legality, legitimacy and accountability in the sphere of security policy. The integration of the private security industry into any security plan is therefore critical in achieving a safe and secure environment for CARICOM, and has an important role to play in reducing crime in the Community."²⁶ The Strategy also establishes strategic goals related to better regulation of the private security industry, namely the development of model legislation a CARICOM Code of Conduct and Ethics for the private security sector as a benchmark for regional harmonisation of the Industry.²⁷



Ambassador Gustavo Campos Fallas,
Ministry of Foreign Affairs, Costa Rica

II. Overview of the Montreux Document and the Montreux Document Forum

With the introduction to the regional context in mind, Session 2 of the Regional Meeting sought to give an overview of the Montreux Document and to outline the scope, definitions, main rules and good practices of the Document. Switzerland and the ICRC, as the Co-Chairs of the Montreux Document Forum, delivered the first presentations on the content and development of the initiative, followed by presentations from representatives of the European Union and Costa Rica who shared their reflections as Montreux Document participants.

The Montreux Document

As presented by the Chief Legal Officer of the ICRC, the Montreux Document²⁸ reaffirms the existing obligations of States under international law, in particular IHL and human rights law, relating to the activities of PMSCs, in particular in situations of armed conflict. It also lists good practices designed to help States take national measures to implement these obligations. As the result of a joint initiative launched by Switzerland and the ICRC in 2006, the Montreux Document clarifies the misconception that PMSCs operate in a legal vacuum by recalling and compiling applicable international obligations of States, PMSCs, and international organizations. It is a practical and realistic contribution which aims to promote respect for IHL and human rights law and provides a blueprint for states to effectively regulate PMSCs. Finalised in 2008, the Montreux Document seeks to provide guidance on the basis of existing international law; it is not a legally binding instrument in and of itself. Regardless of their support for the Montreux Document, States are already subject to the international legal obligations contained therein.²⁹ The Montreux Document is non prescriptive and does not take a stand on the legitimacy of PMSCs. It does not endorse nor condemn their use and it does not prescribe which services PMSCs can and cannot provide.

The Montreux Document highlights the responsibilities of three types of States:

- Contracting States (countries that hire PMSCs);
- Territorial States (countries on whose territory PMSCs operate), and;
- Home States (countries in which PMSCs are based).

Part 1 of the Document recalls the pertinent legal obligations of States regarding PMSCs. These obligations are primarily drawn from existing international humanitarian law and human rights law treaties and customary international law.

Part 2 contains a description of good practices which aims to provide guidance and assistance to States in regulating PMSCs. The good practices include determining which services may or may not be contracted out to PMSCs, requiring appropriate training, establishing terms for granting licenses, and adopting measures to improve supervision, transparency and accountability of PMSCs. They are addressed primarily to States but may also be instructive to other relevant actors, such as International Organisations, civil society organisations (CSOs), companies that contract PMSCs, as well as the PMSC personnel and PMSCs themselves. Part 2 of the Montreux Document offers a possible blueprint for regulation.

The ICRC's Chief Legal Officer also stated that although the Document was developed focusing primarily on the operations of PMSCs in situations of armed conflict, parts of the Document are also relevant for situations other than armed conflict. For instance, the Montreux Document recalls certain obligations stemming from human rights law, which apply at all times. Moreover, most of its good practices are relevant and should ideally be put in place during peacetime.

Today the Montreux Document is supported by 54 States and 3 International Organisations.³⁰ The representative of the ICRC underlined that expressing support for the Montreux Document is a simple process and does not entail financial contributions. States and International Organisations can join the Montreux Document by sending an official letter or diplomatic note to the Swiss Federal Department of Foreign Affairs.³¹ Furthermore, supporting the Montreux Document does not trigger obligations such as reporting or being subject to a compliance mechanism and States do not commit themselves to new legal obligations. They declare their political support for the Montreux Document's main thrust: that States have international legal obligations regarding the conduct of PMSCs, and that these obligations must be complied with.

The Montreux Document Forum

In 2013, Switzerland and the ICRC, with the support of DCAF, organized the Montreux+5 Conference to gather all participants to the initiative as well as other stakeholders like States, International Organisations, and expert civil society organizations to take stock of the progress achieved in implementation in the five years since the finalization of the Montreux Document.³² In his presentation, the Legal Officer of the Directorate of International Law of Switzerland shared that this evaluation emphasized two particularly significant observations. First, Montreux Document participants discussed that the initiative would benefit from a centre of gravity to support States in implementation of the Montreux Document. Second, participants discussed that despite the fact that participation in the Montreux Document tripled in five years, there was nonetheless modest buy-in from States and International Organisations outside the 'Western Europe and Others' Regional Group. In response to these challenges, participants agreed in December 2013 to establish a platform for coordination and cooperation: the Montreux Document Forum. By providing a venue for informal consultation among Montreux Document participants, the MDF seeks to support national implementation of the Montreux Document, as well as to encourage more States and International Organisations to actively support it. The MDF further aims to strengthen dialogue on lessons learned and good practices and challenges related to the regulation of PMSCs.

The MDF is co-chaired by Switzerland and the ICRC, who are supported by the Group of Friends of the Chair in the performance of their tasks. The MDF meets in an annual Plenary Meeting. Montreux Document participants have also established two working groups within the MDF: the Working Group on the International Code of Conduct Association (ICoCA) currently chaired by the United States of America and the Working Group on the use of private military and security companies in maritime security currently chaired by Portugal. These Working Groups are open to Montreux Document participants on a voluntary basis.³³ The MDF is further supported by the technical Secretariat: the Geneva Centre for the Democratic Control of Armed Forces (DCAF).³⁴ DCAF has been involved in the development, promotion, and implementation of the Montreux Document since 2006.

Regional and international perspectives on the Montreux Document and the MDF

The Ambassador of the European Union (EU) to Costa Rica discussed the perspective of an international organisation in the Montreux Document. The Ambassador discussed that the EU has supported the Montreux Document since its inception in 2008 and that the Montreux Document represents a practical tool for States and international organisations to regulate PMSCs on the ground. The Ambassador shared that the European Parliament has recently called for even closer regulation of PMSCs on the basis of the Montreux Document's good practices and obligations.³⁵

Finally, the Legal Director a.i. in the Ministry of Foreign Affairs of Costa Rica delivered a presentation focusing on the relevance of the Montreux Document for Latin America and the Caribbean. She discussed that the majority of States in the region do not suffer armed conflicts, but many countries face similar phenomena in terms of addressing the use of force, law enforcement and maintaining public order. The Legal Director expressed that the Montreux Document is relevant for all States in all situations since it is a roadmap for States to exchange good practices, measures, and mechanisms on the basis of the fact that PMSCs are actors not limited to a single area of jurisdiction. The Legal Director expressed that during the process of joining the initiative, the Montreux

Document was recognized by Costa Rica as consistent with its commitment to implementing existing international human rights law and international humanitarian law in national law. The Montreux Document was viewed by Costa Rica as a fundamental and complementary piece in the path of States' compliance with IHL and IHRL.

III. Regional Challenges Related to PMSC Regulation

This section aims to discuss the key challenges across the Latin American and the Caribbean region that were raised in the Regional Meeting. The challenges listed are not intended to be portrayed as exhaustive or limiting; but seek to illustrate the dialogues and debates during Sessions 3-7 of the Regional Meeting. The authors of this report have also relied on background research to supplement or illustrate further examples in order to provide a more complete picture of the region.

Lessons learnt in strengthening national legislative frameworks for private security

During Session 3, participants of the Regional Meeting heard presentations from the perspective of the Ministry of Foreign Affairs of Chile and the Ministry of Public Security of Costa Rica on the experiences in implementing legal frameworks in the oversight of PMSCs. DCAF also presented its Legislative Guidance Tool for States to Regulate PMSCs.³⁶ The Guidance Tool is intended to support States in their efforts to craft effective and modern legislation on PMSCs. This practical handbook provides concrete guidance for parliamentarians, legislators, as well as law and policy makers, to develop or update national legislation related to PMSCs, in line with international legal obligations and taking into account good practices.

During the subsequent discussion, a number of representatives of national regulatory authorities raised the challenge related to the collision and confusion around multiple laws that seek to regulate the private security industry. Participants discussed that laws concerning private security personnel and companies may overlap and are not always synergised. For example, one participant raised one country in which PMSCs may collect CCTV information but it is impossible to transmit this information to the State unless there is a criminal investigation because this is deemed as a private contract between the company and its client(s). In Federal systems, the coordination of laws is even more difficult; for instance research shows that Argentina has a National Weapons Registry but PMSCs are regulated by 24 separate local jurisdictions.³⁷ This also leads to excessive/inefficient regulation in some countries where the system creates heavy bureaucracy, wasting public resources.³⁸ Additional research has shown that some countries either have no rules or regulations in place that apply to private security or have outdated legislation. This creates gaps in normative frameworks leaving aspects open to interpretation, creating risks for human rights enjoyment.³⁹

Participants also discussed that ineffective oversight of PMSCs across the region is due to the lack of coordination between existing national regulatory structures, as well as low institutional knowledge, understanding of the industry,⁴⁰ and inadequate human and financial capacities and resources of national bodies.

A number of participants shared their experiences with different and overlapping national institutions and actors involved in the oversight of PMSCs. Participants discussed that a lack of coordination results in inefficiencies and duplication of efforts in certifying, vetting, monitoring, and holding PMSCs accountable. Participants also stated that the legislative branches often lack in-depth knowledge regarding the regulation of PMSCs and rely on the experiences of technical regulatory authorities to advocate updates to the legislative framework. Furthermore, participants discussed questions regarding the imbalance between policies on PMSCs and implementation of these efforts in practice. Participants of the Regional Meeting discussed that implementing the general framework, legislation, or policy often demands greater resources than the national authority has been vested with. The capacities of the institutions that work on practical implementation are not sufficiently equipped to address the regulatory challenges. Regulatory authority staff

may not be properly trained and as a result, may not be able to carry out their duties of licensing and monitoring effectively. The absence of sufficient institutional capacities contributes to a flourishing of grey, unregulated markets while providing a permissive environment for corruption and human rights abuses.

Finally, participants shared that where PMSC regulatory agencies exist, there is often a lack of transparency and coordination, which not only leads to bottlenecks and inefficiencies, but also higher costs in licensing. This challenge extends also to coordination of information and data and information systems. Following additional research, the authors of this report found that records of misconduct and incidents involving firearms use are difficult to find. Without such indicators it is nearly impossible to evaluate objectively the effectiveness of government regulation.⁴¹

Regulating PMSCs in Public Security and Extractive Industries

During Session 4 of the Regional meeting, participants heard a presentation from the Director of the Democratic Security Directorate of the Central American Integration System (SICA) regarding the challenges in public security partnerships with PMSCs. During his presentation, the Director introduced the General Secretariat as the regional operational body of SICA: the institutional framework of regional integration in Central America. The Director discussed that the SICA Secretariat has created a draft model law on regulating PMSCs for Member States. This proposal is one good practice in the region for the modernisation and updating of current regulations on PMSCs and is a significant step forward in supporting States in implementation of good governance of PMSCs. Furthermore the Director stressed that more training has been given to SICA's member States' police and armed forces to optimise the systems of registration and control of small arms and light weapons (SALW) and on the subject of arms trafficking control. This systematic training should be expanded to private security personnel as well, if they are permitted to carry SALW in the course of their duties. The representative of CARICOM IMPACS' presentation in the preceding Session also touched on the issue of cooperation with public security. The representative shared that in a number of Caribbean States, private security often serves as an extension to the police force. The Cricket World Cup in 2007 which took place across 8 countries in the Caribbean was proof that the police force and private security companies in the Caribbean can cohesively work together to provide a safe and secure environment. The representative shared that these services that effectively outsource some peripheral security tasks to private security have the benefit of allowing the public police to focus their attention on other core activities. Such areas include communications, routine traffic control, jail and custody supervision, prisoner escort, alarm monitoring, and property storage. However, the representative shared that in the absence of standards and guidance, PMSCs can also decrease the perception of security.

Participants also heard two presentations on the topic of the interaction between extractive companies and private security: A presentation from the Director of the National Regulatory Entity for Security Services, Firearms, Ammunitions and Explosives for Civilian Use of Peru (SUCAMEC) and a presentation from the Executive Director of Socios Peru: the Center for Civic Collaboration. Participants examined how the growing use of PMSCs by the extractive industry in LAC can have a negative effect on human rights. Across the region, oil, mining, and gas industries operating in complex environments face increased reliance on PMSCs to provide security from theft and other crimes. The sector is known for its ample financial resources and its complex and increasing security needs. Extractives companies often face dilemmas in seeking to manage relationships with public security forces and private security providers responsible for protecting their operations. Through initiatives such as the Voluntary Principles on Security and Human Rights, States have the opportunity to coordinate with extractive companies to ensure that human-rights compliant security practices are followed by PMSCs.

During the Regional Meeting participants raised the concern that extractive operations often take place in remote locations where the effective power of the national regulatory authority to hold PMSCs accountable is weak. In one LAC country, complementary additional research suggests that PMSCs protecting extractive industries were reported to have restricted citizens' freedom of movement, as well as to have engaged in use of force by weapons against individuals.⁴² Furthermore, extractive industries may also turn to private security to protect assets and personnel from labour strikes or other demonstrations. It was noted by a number of participants that PMSC personnel

duties and responsibilities with regard to conflict management and dealing with incidents of public disorder, protests, and strikes should not conflict with the mandate of public security forces.

Challenges	Examples of Good Practice
Lack of oversight on use of force by security personnel	A Use of Force Manual for security personnel and a Code of Conduct applicable to private security companies is being developed
Arming security personnel to extractive companies	The possibility of adopting “disarmament policies” with respect to personnel in extractive industries is evaluated
Lack of registry of companies that committed “excesses in the use of force and firearms”	The possibility of implementing a registry is evaluated
Training is given by the same security companies	State training centres established to provide impartial training
Reduced number of audits for companies that provide services in extractive industries (rural areas)	Intensifying audits through regulatory authorities requesting further support

Strengthening the oversight of services provided by PMSCs

Session 5 of the Regional Meeting focused on strengthening accountability mechanisms and sanctions. Participants first heard a presentation from the Regional Director of UNI-Global Union⁴³ Americas. The representative of UNI-Global Union highlighted that appropriate and dignified labour relations and continuous monitoring are preconditions for the proper functioning of the private security sector. Among the good practices mentioned were applicable codes of conduct, compulsory industry standards, due diligence, improved health conditions for workers, uniforms adapted to the weather, and psychological assistance to workers who repel assaults.

During the discussion, several participants agreed with the importance of the protection of labour rights’ in order to avoid precarious working conditions for private security personnel. These participants shared that across the region, PMSC personnel rights are often disrespected, especially regarding freedom of association and unionizing. Furthermore, working conditions are often sub-standard. It is not uncommon for security agents to work hours that far exceed the legal maximum and to be vulnerable to mistreatment, and unfair working practices. High turnover, inadequate training, poor wages, insufficient social and medical coverage, and inadequate equipment were underlined by participants as urgent problems. The Regional Director of UNI-Global Union discussed that when salaries are low and working conditions are inadequate, individuals are likely to lack qualifications and motivation, increasing the risk of poor performance.

As civil society performs an important monitoring function on private security violations, presentations were also made by representatives of two civil society organisations: Fundación Arias for Peace of Costa Rica⁴⁴ and the Teaching Institute for Sustainable Development in Guatemala (IEPADES). The representatives discussed issues related to vetting; security guards’ criminal backgrounds are often not vetted thoroughly when it comes to licensing. In the case of one State in the LAC region, the representative shared that approximately 70% of applicants for private security licenses have a criminal record for violent crimes. Other participants pointed out that many security agents only have basic formal education. Therefore, it is necessary to strengthen the recruitment processes and education of private security personnel. The panellists also discussed the issue of corruption in the private security industry. Supplementary research corroborates their presentations: in a number of LAC States, the PMSC industry has strong linkages to the public sector where the ownership and management of companies by senior public officials or active or retired public security personnel may make regulations very difficult to implement in practice.⁴⁵

A common challenge identified by numerous participants during the ensuing discussion pertained

to the powers conferred to national regulatory authorities with regards to sanctions. Participants noted that the financial sanctions determined by national regulatory authorities are often relatively low. Insufficient precision, with respect to financial sanctions in national private security legislation, may even mean that the full power of the national regulatory authority is weakened by the courts. Participants also recognised that sanctions must be strict enough and must be rigorously implemented to have a real impact and avoid unauthorised activities by PMSCs.

Finally, the Executive Director of the International Code of Conduct Association presented on the multi-stakeholder oversight mechanism whose purpose is to promote, govern and oversee implementation of the International Code of Conduct and to promote the responsible provision of security services and respect for human rights and national and international law in accordance with the Code. The Code includes a wide range of standards and principles for the responsible provision of private security services which can be broadly summarized in two categories: first, principles regarding the conduct of Member Company personnel based on international human rights and humanitarian law standards including rules on the use of force, sexual violence, human trafficking and child labour; and second, principles regarding the management and governance of Member Companies including the selection, vetting and proper training of personnel.

Regulation and management of small arms and light weapons and use of force by PMSC personnel

Session 6 offered an important discussion on the issue of weapon and use of force: two implications of the private security industry with particular risks for human rights. In his presentation, the Senior Public Security Programme Adviser of the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC) discussed the challenges of curbing the illicit trade, uncontrolled proliferation and misuse of SALW by PMSCs and their personnel. Drawing on the study published jointly with DCAF,⁴⁶ the representative shared that all countries in LAC, except the Bahamas and Bolivia, allow PMSC personnel to possess and use SALW. These States also have regulatory frameworks addressing this.⁴⁷ Although statistics on firearms used by PMSCs in the region are scarce due to the informality of the sector, there are an estimated 660,000 SALW in the possession of PMSCs in 17 Latin American countries.⁴⁸ The large number of SALW and their availability for private security personnel was expressed as a cause of great concern for many countries.⁴⁹

A number of participants agreed that international arms control standards are minimum requirements and States should take measures to implement regulations appropriate to their context but beyond the minimum standards. In his presentation the Director of Private Security Services of the Superintendency of Surveillance and Private Security in the Ministry of Public Security of Costa Rica shared on the national legal framework, specifically the Law of Weapons and Explosives N° 7530. This Law calls for Sanctions for illegal possession and carrying of weapons: For the officer: 1 to 3 months of work of public utility, in case the weapon is not registered; 6 months to 3 years in case of carrying arms, without the respective permission. For the company: the operation license is cancelled.

The UNLIREC representative discussed that there are also other existing instruments that have been adopted by certain States in the region on issues of arms control such as the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA),⁵⁰ the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition of the Convention against Transnational Organized Crime,⁵¹ the Inter-American Convention against the Illicit Manufacturing and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (CIFTA),⁵² and the Arms Trade Treaty (ATT).⁵³ In addition, weapons control measures applicable to PMSCs are directly linked to

the Sustainable Development Goal (SDG) Target 16.4, which calls on governments to “significantly reduce illicit financial and arms flows”⁵⁴ by 2030.

Despite the existing provisions on permitted and prohibited activities for these companies in a number of national laws, research shows that there are nevertheless regulatory gaps related to the acquisition of SALW and trafficking by company personnel. There are no regulations concerning SALW acquired in the illegal market, or trafficking in them, nor are there any infractions aimed at punishing the acquisition and/or carrying of weapons of illegal origin.⁵⁵ As reaffirmed in the presentation by the representative of CARICOM, legislation should contain provisions on the registration and storage of SALW used by PMSC employees as well as a requirement for the minimal use of force in accordance with international best practice.

Participants of the Regional Meeting discussed that although the adoption of legal texts that comply with international laws, norms and standards is an important step, it is also essential to ensure their effective practical implementation in order to limit the potential risks of abuse and insecurity for the population. Oversight must be strengthened, and, above all, its effectiveness in practice must be increased so that SALW held by PMSCs can be properly monitored.

Controls relating to weapons could include limitations on the types of SALW that private contractors may use; a requirement that companies duly register all SALW with the relevant governmental authority; provisions relating to the import of SALW; and the need for a mandatory SALW authorization card. Employees carrying a weapon should be adequately trained in their use, know the respective operational rules.⁵⁶ In addition, the development of an exact procedure for the seizure of weapons when the SALW licenses expire was suggested by one participant.

Examples of SALW control measures applicable to PMSCs:

- Records of transfers, circulation and possession of weapons in private security
- Mechanisms for communication and exchange of information between different agencies
- Risk assessments for PMSC personnel as potential final users of arms transfers
- Weapons and ammunition marking policies to facilitate tracking mechanisms
- Determine the final destination of obsolete and deteriorating weapons, as well as that of weapons after the cessation of PMSC operations
- Establish physical security requirements and management of arsenals / weapons rooms
- Report incidents, thefts and losses to keep records and apply sanctions

Legal frameworks on the use of force

Participants also heard a presentation from the International Committee of the Red Cross who discussed the need for clear guidance and regulations on the use of force by private security personnel. The use of force is traditionally understood as a State prerogative and it is normally exercised by law enforcement officers who may use force only when required and allowed by the State’s national law and its international legal obligations. However, by nature of their activities, private security personnel may get into situations in which they need to use of force, even if they are not permitted to carry any weapons at all, or are permitted to carry less lethal weapons. It is exclusively the right of States to determine whether private security providers are permitted by law to use force.⁵⁷ In general, unless regulated differently in a State’s domestic law, the legal basis for the use of force by private security providers is the same as for any other citizen, meaning that

the use of force by PMSC personnel must be guided by the right to self-defence and defence of the lives of others against death or serious injury. On this basis, private security providers can only use defensive force.

Another common regional challenge that was discussed is related to issue of training on the use of force and SALW. Adequate training is essential to ensure that PMSC personnel do not violate national laws giving effect to human rights. However, participants discussed that training is unfortunately often left to the discretion of the companies themselves, it does not constitute a priority, and remains unsystematic. During the discussion, participants reaffirmed that PMSCs' use of force training should be undertaken by legally authorised instructors and designated training centres.

The role of the client: inserting human rights requirements into contracting and procurement of PMSCs

During Session 7, participants also discussed the challenges related to how State clients of PMSCs can ensure human rights and international humanitarian law compliance by creating contracts which address these issues. The discussion also pertained to how private clients of PMSCs can implement ethical contracts that take into account human rights. The Executive Director of Costa Rica Association of Security Companies discussed that public contracts with PMSCs require the companies to do the following: maintain a permanent record of personnel, SALW, ammunition and equipment; notify management of any change in its personnel, offices, facilities, SALW, ammunition and other relevant equipment; to adequate storage of SALW, ammunition and the relevant equipment for security tasks; have registered all firearms with the Department of Control Arms and Explosives of the Directorate General of Armaments; and to authorize firearms only to personnel who hold valid permits. Contracts which contain requirements for company codes of ethics, contractor human resource policies, and mechanisms to analyse and redress human rights incidents were also among the good practices raised in the presentation by the Executive Director of the Colombia Mining and Energy Committee on Security and Human Rights (CME). This is essential given the importance of effective security arrangements for extractive companies operating in insecure environments and the key role that such a powerful client can play in requiring minimum standards from service providers.

At the same time, States play a central role as clients for private security services and can promote more effective regulation through the mechanisms of procurement and contracts. The responsibility for public procurement decisions in relation to contracting of PMSCs was stressed as a clear area of concern. Participants agreed that greater transparency is needed, particularly in complex environment contexts⁵⁸ when the rule of law is weakened or in situations of violence such as internal disturbances, tensions, and states of emergency.⁵⁹ Participants heard a presentation from the Deputy Head of Switzerland's private security regulatory authority. In her presentation, the representative discussed that Switzerland allows public procurement of private security services abroad only for the provision of two types of private security services, namely the protection of persons and the guarding and surveillance of goods and properties.⁶⁰ This regulation also sets minimal material requirements with regard to the company (such as training, reputation, solvency insurance), the training and arming of personnel and identification. According to law, each contract must contain the following points:

- Details regarding the requirements for the company and training
- Reporting duties regarding performance and after incidents
- Disclosing identity of personnel
- Consent from the employer prior to subcontracting protection task
- Penalties for non-compliance

- Membership in the International Code of Conduct Association (ICoCA) for companies hired in complex environments.

Additionally, a sample contract reflecting these requirements is available to help the Swiss representations abroad.

Example of a national response: Colombian Mining and Energy Committee on Security and Human Rights (CME)

The CME is a multi-stakeholder dialogue that brings together 10 companies, 7 government entities, 2 industry associations, 4 international embassies and 3 civil society organizations. Its purpose is to promote security and human rights best practices amongst businesses and state institutions. In her presentation, the representative of the CME discussed that there are complex operating environments for companies such as changing socio-political contexts, increasing collective action and security threats to staff and operations in Colombia. Meanwhile, the local community experiences risks to their human rights, such as labour code violations and environmental concerns. One of the roles of the CME is to support the planning and implementation of effective contracts between extractive companies and security in way that balances human rights, security, and different parties' interests. The CME supports companies by offering recommendations for the contractual management of guarding and private security services:

- Assessing in which cases extractive industries require armed and non-armed guarding;
- Ensuring that it is necessary that private contractors provide the security services rather than public security forces;
- Ensuring compliance with current labour regulations and provisions for the purchase and possession of weapons and ammunition;
- Systematically training employees so that they do not use force and SALW illegally;
- Informing the authorities of any violations of the human rights;
- Having transparent and effective mechanisms to process complaints and claims;
- Including in the contracts of guarding and private security provisions to ensure that sub-contractors comply with the same provisions provided for contractors in human rights;
- Including in the selection process an annex based on the ICoC so that proponents and contractors have clear obligations to respect human rights.



Ambassador Mirko Giulietti, Swiss Federal
Department of Foreign Affairs (FDFA)



Participants of the Montreux
Document Forum Regional Meeting

IV. Regulating PMSCs in Latin America and the Caribbean: the Added Value of Montreux Document and the Montreux Document Forum

Participants of the Regional Conference recognised that across the region, States experience challenges in regulating, monitoring and overseeing PMSCs, especially as these businesses are expanding in scope and services. In that context, the Montreux Document and its good practices could provide useful guidance for LAC States to set meaningful regulatory standards and to support effective oversight. During this roundtable discussion chaired by representatives of Costa Rica, Switzerland, the ICRC and DCAF, the importance of the Montreux Document was also underlined as an instrument that has spurred the development of a unique forum for the discussion and sharing of good practices among States. The MDF offers a community and space for those national counterparts tasked with various aspects linked to the implementation of the Montreux Document to network knowledge and overcome shared implementation challenges.

The added value of the Montreux Document for people negatively affected by PMSC operations

The chairs of this Session discussed how the Montreux Document was developed as a response to the perception that PMSCs operated in a legal vacuum in armed conflict situations. Inasmuch as PMSCs are armed and mandated to carry out activities that bring them close to actual combat, they potentially pose an additional risk to the local population and are themselves at risk of being attacked. PMSC personnel carry out a range of tasks where they are close to the heart of military operations in situations of armed conflict, including military occupation, maintenance of weapons systems, and convoy protection. This often puts them in direct contact with persons protected by international humanitarian law; the humanitarian need to address the phenomenon of PMSCs stems from this risk. Prior to the development of the Montreux Document, PMSCs were largely left without oversight by States and no specific international regulations were in place for them. International humanitarian law has always been applicable to PMSC personnel operating in the context of an armed conflict, but there was a clear need to spell out the obligations of States and companies, and to offer practical advice on how to regulate PMSCs. The humanitarian consequences of the unregulated use of PMSCs can be significant; the Montreux Document was designed to prevent violations of IHL and human rights law.

How can the Montreux Document be useful on a national level?

The interest and presence of national regulatory authorities during the Regional Meeting underscored the interest for practical implementation support in regulating private security. During this Session, the chairs underlined that the Montreux Document is a handbook compiling all the relevant international law that applies to PMSCs; it is also a practical blueprint for regulation of the industry, including how States can regulate the kinds of services that PMSCs should and should not provide; the requirements for licensing, registration and/or contracts; as well as the ways that States can monitor PMSCs' compliance with national law and how violations can be addressed. In the ensuing discussion, a number of national regulators expressed great interest in the

MDF and its implantation guidance tools as a source of practical support. These participants expressed that the Montreux Document and its Forum provide a space where international law is translated into practical guidance.

Representatives of Costa Rica highlighted again that the Montreux Document is relevant not only in situations of armed conflict when IHL applies. Human rights law applies at all times and does not cease to apply in armed conflict. The example of Costa Rica, a country without armed forces and without an armed conflict, illustrates the relevance of the Document especially since most of the good practices can and should be put into practice in times of peace and may be relevant outside armed conflict. Furthermore, the use of PMSCs in guarding extractive industries or in public-private policing partnerships are also examples of how the Montreux Document can be instructive to situations outside of armed conflict.

The representative of DCAF recalled that the Montreux Document calls on States to adopt all necessary legislative or other measures to implement their international legal obligations. DCAF shared that through the Montreux Document Forum, practical tools, including a Legislative Guidance Tool for States to Regulate PMSCs and the Contract Guidance Tool for private military and security services,⁶¹ are provided to guide parliamentarians, policy and lawmakers to develop or update national regulation related to PMSCs in line with internationally recognised good practice. These tools could be used as guidance by LAC States to include measures to prevent any violation by the State or abuse by PMSCs and their personnel, to punish violations and to provide remedies to victims. It was recommended during the conference that consideration should be given to the analysis of the types of repercussions and sanctions that may be applied to companies for their illegal practices. The Montreux Document recommends to States to provide for administrative measures over PMSC misconduct as well as criminal and non-criminal jurisdiction in national legislation over crimes committed by PMSCs and their personnel.⁶²

Good Practices on Roles and Responsibilities

The Montreux Document specifies that national laws should articulate which services can and cannot be performed by PMSCs. The Montreux Document's good practices could be used by practitioners to define which services may or not may not be contracted to PMSC personnel. For instance, LAC States should clearly distinguish between public police functions and private security officers' roles. A number of participants discussed that cooperation between public authorities and PMSCs to strengthen public safety may be hampered by an ineffective contractual relationship between a PMSC and its client. In the conference, one participant stated that "private security needs to be regulated to help public safety, not to replace it."

A majority of the LAC States have generated a significant body of legislation relating to the activities of PMSCs in domestic contexts. However, the applicability of this legislation to the activities of PMSCs based in one State but operating abroad is unclear. States can address this challenge in two ways: by amending domestic legislation to ensure its extraterritorial applicability or by separately adopting specific legislation relating to the foreign activities of PMSCs. In this way, Home States are in a position to hold PMSCs accountable, by asserting jurisdiction over their nationals and the companies based or headquartered on their territory.⁶³

Good Practices on Procedures, Systems and Processes

The Montreux Document encourages States to develop effective licensing, contracting and authorisation systems for PMSCs. In order to carry this out effectively, the Montreux Document recommends that States establish an appropriately independent government organ with adequate human and financial resources.⁶⁴ This good practice is particularly relevant to LAC because of the high levels of informality in the private security sector. More diligent licensing will not only increase revenues for the State but will also ensure companies are properly vetted. This will further create a more professional PMSC industry. States should implement these good practices through acquiring reliable information about the permits, past operations, and personnel of a PMSC before granting contracts. Furthermore, granting licenses or authorisations to PMSCs that have registered SALW should be conditional on the completion of approved use of force training by qualified staff.⁶⁵

Good Practices on Monitoring and Accountability

The existence of laws that specifically outline the monitoring and accountability of PMSCs is fundamental. In a number of contexts in LAC, the industry has potential to negatively affect the human rights of local populations and, in times of armed conflict, to violate IHL. States should define obligations and limitations for private security in their legal and regulatory frameworks in order to hold PMSCs accountable for their actions through the application of these laws and the oversight mechanisms they provide.

During the Regional Meeting's discussion, it was noted that around 50% of companies in the region do not comply with the existing national laws. Participants expressed the need to think seriously about how to strengthen the oversight of these companies so they can function and can respond to the security needs.

Through the development of systematic, institutionalised administrative and monitoring mechanisms, guidance from the Montreux Document may assist States in some circumstances to ensure that the activities of PMSCs are consistent with national and international law.⁶⁶ Especially when licenses, contracts and authorisations contain clear terms and criteria pertaining to human rights, this may help States in some situations to ensure that a company operates within the national legal framework and without breaching contract terms.⁶⁷

In addition, monitoring on how PMSCs train and treat personnel and how companies acquire firearms and other equipment are key activities to support national oversight of PMSCs. In particular, the Montreux Document recommends that personnel should receive training on the use of force and firearms, on IHL and human rights law, on religious, gender and cultural issues, on how to handle complaints by the civilian population and on preventing bribery and corruption.⁶⁸ As pointed out by one Caribbean State, PMSCs that are not strictly regulated choose unskilled personnel without the proper preparation to perform its duties which bear certain risks of undermining the human rights of local populations.

Equally important, the legislative framework should include provisions for SALW licensing and technical equipment registration regimes. National laws should be clearly articulated with accompanying checks and balances. The Montreux Document's good practices underscore that States should require PMSCs to acquire weapons lawfully, as well as that appropriate rules should be in place for the use of force and firearms.⁶⁹

V. Supporting States in Regulatory Efforts: Opportunities for Ways Forward

The proposed ways forward are written from the perspective of implementing partner and Secretariat of the Montreux Document Forum, the Geneva Centre for the Democratic Control of Armed Forces. They do not represent consensual view of States nor do they necessarily reflect the views of the Co-Chairs of the MDF.

The Regional Meeting demonstrated that Latin American and Caribbean States have made significant progress on PMSC regulation. The examples of national responses highlighted in this report are evidence on the innovative and pragmatic approach with which LAC States have strived to meet complex challenges. However, the meeting also confirmed that a number of challenges are still plaguing States' effort to regulate the PMSC industry in the region. These include weak regulation, the unregulated availability of weapons, insufficient focus on employees' rights and significant concerns over the lack of emphasis on respect for human rights within the industry.

The MDF Regional Meeting provided a departure point for discussion among States, drawing attention to those challenges and the need to embrace regional and international good practices. The Meeting was positively evaluated as a space that pooled knowledge and provided a platform for the exchange of different perspectives on PMSC regulation and had an important confidence-building dimension.

Although the Regional Meeting did not adopt formal recommendations, the following suggestions for the way forward offer concrete steps that could be taken into account:

1. Continue raising awareness of the Montreux Document and its good practices in the region

Private military and security companies are certain to remain a prominent component of the security architecture in Latin America for the foreseeable future. As a result, governments in the region should take a strong interest in ensuring they are properly vetted, trained, supervised and held accountable for wrongdoing. The Montreux Document, a compilation of relevant international legal obligations and good practices, provides a useful framework for addressing many of the existing gaps in regulation and enforcement of the activities of PMSCs in Latin America. The Document should be disseminated more widely through bilateral engagement to ensure that knowledge and understanding increases. This engagement could be undertaken by the Co-Chairs of the MDF, namely Switzerland and the ICRC through their regional representations or the technical Secretariat, namely DCAF. However, outreach efforts can also be undertaken by Montreux Document participants themselves and regional organizations. Montreux Document participants could undertake bilateral outreach briefings to their neighbours to raise awareness.



From left to right: Earl Harris Caribbean Community Implementation Agency for Crime and Security; Patricia Arias, United Nations Working Group on the use of mercenaries; Ambassador Christian Guillermet-Fernandez, Ministry of Foreign Affairs and Worship of Costa Rica; Segundo Carrasco, Regulation and Control of Private Security Services, Ecuador; Jean-Michel Rousseau, Geneva Centre for Security Sector Governance



Dr. Knut Dörmann, International Committee of the Red Cross (ICRC)

2. Ensure targeted follow-up amongst technical regulatory authorities

The Regional Meeting has successfully gathered key stakeholders to reflect on the importance of PMSC regulation. In order to build on this momentum and advance the discussions at a regional level, capacity building could be organised to support national actors responsible for the contracting, management and oversight of PMSCs. For example, workshops could be effective to support the translation of international good practices into national implementation support and guidance targeted for the local context. In particular, workshops could focus on the following challenges:

- Strengthening implementation of regulation in practice;
- Licensing processes: Improving vetting of private security personnel for human rights violations or crimes such as a history of domestic violence;
- Focusing on employees' rights and ensuring fair wages and work conditions and adequate training;
- Amending regulations on private security companies' SALW;
- Ensuring accountability mechanisms are systematic.

3. Supporting the role of regional organisations in promoting the implementation of regulations on PMSCs

As mentioned in Section III of this report, representatives of the CARICOM Implementation Agency for Crime and Security (IMPACS)⁷⁰ and the General Secretariat of SICA⁷¹ were invited to the Regional Meeting to present how their organisations have approached the issue of PMSCs, what challenges they see for effective PMSC regulation in the region, and how their organisations could promote good practices and solutions. During the discussions, there was a clear recognition that in the absence of effective legal or regulatory frameworks, the activities of PMSCs raise issues of legality, legitimacy and accountability also for regional organisations. Given its practical nature and its quality as a blueprint for regulation, the speakers from SICA and CARICOM identified the Montreux Document as a useful tool to ensure respect of human rights by PMSCs in their respective regional communities.

CARICOM Implementation Agency for Crime and Security (IMPACS):

The representative identified that the Montreux Document could be better disseminated among CARICOM States as this will inform not only individual State efforts in regulation but also frame a coherent CARICOM position on standards and guidance for regulating PMSCs. CARICOM IMPACS has also recently been discussing to review the "Regional Crime and Security Strategy" taking into consideration the dynamic landscape in which crime and security co-exist. Integrating PMSCs into the security strategy may play an important role in addressing crime in the Community. In particular, the Strategy encourages the Member States to have a more cooperative approach between law enforcement and the private security industry in the region.

General Secretariat of the Central American Integration System (SICA)

The issue of PMSCs has not been discussed extensively within SICA and the representative expressed the need for further sensitization and awareness raising, particularly related to the Montreux Document itself. The representative welcomed further engagement with the Montreux Document Forum.

Organisation of American States

The OAS focuses on fostering the implementation of international norms of democracy, human rights, security, and development. The OAS was unable to attend the Regional Meeting; however, participants raised the necessity to involve the OAS in any future discussions on the Montreux Document in the region. Through complementary research into OAS discussions, there are some indications that the issue of PMSCs could be cross-cutting for the organisation. The IACHR instituted the first Special Rapporteur on Economic, Social, Cultural and Environmental Rights whose mandate touches on the issues of business, security and human rights. The issue of PMSCs was in fact also discussed in a special meeting on General Assembly resolution AG/RES. 2433 (XXXVIII-O/08), “Promotion of and Respect for International Humanitarian Law” in 2008. In 2018, Claudia Paz y Paz, the Secretary for Multidimensional Security participated and spoke in an event co-hosted by the Inter-American Dialogue in partnership with the Embassy of Switzerland in Washington, D.C. Secretary Paz y Paz discussed that citizen security is a public good yet the growing presence of PMSCs offering services in the realm of public safety is diverting from the State’s primary responsibility as the guarantor of security. This does not mean that PMSCs are automatically a negative phenomenon, devoid of norms and regulations since national legislation and policy frameworks exist across LAC. The problem is that governments are not implementing, enforcing or monitoring compliance with these policies in practice.⁷² The OAS’ involvement in the issue by examining the Montreux Document and its relevance for the regional organisation could be a significant forum for further discussion and consultation on how the initiative could be further implemented in Latin America and the Caribbean.

Annex 1: Situating Other International Initiatives in PMSC regulation

The International Code of Conduct

- The International Code of Conduct for Private Security Providers (ICoC) was developed as a result of a multi-stakeholder initiative led by Switzerland. The over-arching objective was to articulate human rights responsibilities of private security companies (PSCs), and to set out international principles and standards for the responsible provision of private security services, particularly when operating in complex environments. Over the course of an 18-month process, Switzerland brought together private security companies, States, CSOs and academics to elaborate a code of conduct for the private security industry. The ICoC sets out human rights principles and IHL standards and good industry practices directly applicable to private security service providers when operating in complex environments. To ensure implementation of and compliance with the ICoC, the ICoC Association (ICoCA) was formed in 2013 as an independent governance and oversight mechanism.⁷³ Gathering members from the private security industry, from Governments, and from civil society, the ICoCA is tasked to provide and support certification, monitoring and complaints resolution. Seven private security companies⁷⁴ from the region have joined the Association.

The Voluntary Principles on Security and Human Rights

- The Voluntary Principles on Security and Human Rights (VPs) is a multi-stakeholder initiative established in 2000 in which governments, extractives companies and non-governmental organisations (NGOs) work together in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms. More specifically, the Voluntary Principles guide companies in conducting a comprehensive risk assessment in their engagement with public and private security providers to ensure human rights are respected in the protection of company facilities and premises.⁷⁵ The VPs may be considered particularly relevant for the Latin America and the Caribbean region given the scale of extractives operations in the region.⁷⁶

Initiatives within the United Nations

- The UN Guiding Principles on Business and Human Rights (UNGPs) were issued in 2011 to operationalise the “Protect, Respect and Remedy” Framework⁷⁷ which reminds States of their duty to protect against human rights abuses by business, the corporate responsibility to respect human rights and for both States and companies to provide greater access by victims to effective remedy, both judicial and non-judicial.
- In a separate process, the Human Rights Council established the mandate of the Working Group on the Use of Mercenaries in 2005 to study the adverse effects of mercenary activities, and also to monitor and study the activities of private military and security companies and its impact on human rights. As part of its work on

respect for human rights by PMSCs, the Working Group conducted a global study on national legislation on PMSCs⁷⁸ between 2012 and 2017.⁷⁹ The study covered 60 States from all regions, including Latin America and the Caribbean. In 2015, the report of the Working Group (A / HRC / 30/34) covered the national legislation of 8 countries of Central America and the Caribbean (Costa Rica, Cuba, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama) and 8 countries in South America (Argentina -Buenos Aires-, Bolivia, Brazil, Chile, Colombia, Ecuador, Peru and Uruguay). The results were presented annually to the Human Rights Council and the UN General Assembly proposed important guidance to Member States on good practices, challenges and regulatory gaps in the PMSC industry.

- In 2010 the United Nations Human Rights Council adopted resolution 15/26 to establish an open-ended intergovernmental working group with the mandate to consider the possibility of elaborating an international regulatory framework, including, inter alia, the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies, including their accountability. The Open-ended working group takes into consideration the principles, main elements and draft text as proposed by 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. At the sixth session of the Open-ended intergovernmental working group, recommended the Human Rights Council to establish a new intergovernmental working group for a period of three years to commence elaborating the content of an international regulatory framework.⁸⁰

Annex 2: PSCs and PSC personnel in LAC

PSCs and PSC personnel in LAC

Country	Number of PSCs	Number of PSC guards
Argentina	1,695	150,202
Bahamas	180	2,100
Barbados	33	1,455
Belize	67	1,180
Bolivia	265	20,000
Brazil	2,581	583,100
Chile	1,521	140,000
Colombia	870	244,757
Costa Rica	636	27,772
Dominica	10	182
Dominican Republic	254	35,000
Ecuador	521	95,000
El Salvador	330	22,602
Grenada	8	817
Guatemala	153	100,000
Guyana	76	5,398
Haiti	41	12,000
Honduras	865	44,167
Jamaica	222	18,604
Mexico	3,518	450,000
Nicaragua	160	18,000
Panama	183	18,000
Paraguay	229	12,000
Peru	780	77,219
St Kitts and Nevis	10	600
St Lucia	26	250
St. Vincent and the Grenadines	9	381
Trinidad and Tobago	331	50,000
Uruguay	300	20,000
Venezuela	300	300,000
Approximate Total	16,174	2,450,786

PSC Small Arms in 17 LAC countries

Country	Number PSCs Small arms	Number PSC guards	Number of weapons per guard
Belize	267	1,180	
Brazil	243,166	583,100	0.4
Chile	12,378	140,000	
Colombia	43,000	244,757	
Costa Rica	30,200	27,772	1
Dominican Re-public	14,534	35,000	0.4
Ecuador	26,749	95,000	
El Salvador	22,602	23,666	0.9
Grenada	21	817	
Guatemala	90,584	100,000	
Haiti	9,300	12,000	
Honduras	23,657	44,167	0.4
Mexico	43,444	450,000	
Nicaragua	11,625	1,800	0.6
Paraguay	1,500	12,000	
Peru	73,148	77,219	0.9
Uruguay	13,288	20,000	0.7

Endnotes

- 1 Argentina, Belize, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, Trinidad and Tobago, Uruguay, Venezuela
- 2 Canada, China, France, Germany, Japan, Netherlands, Qatar, Switzerland, United Kingdom, United States of America
- 3 UNLIREC and DCAF, *Armed Private Security in Latin America and the Caribbean: Oversight and accountability in an evolving context*, p. 12, (December 2017).
- 4 Ibid., p. 5.
- 5 Institute of International Relations (IIR), *Private Security Companies in the Caribbean*, Case studies of St. Lucia, Trinidad and Tobago, and Jamaica, p. 8 (June 2013). Available at: http://psm.du.edu/media/documents/reports_and_stats/ngo_reports/ploughshares_pscs_caribbean_2013.pdf.
- 6 Freedonia, *Global Security Services Market*, 12th Edition (January 2017). Available at: <https://www.freedoniagroup.com/brochure/34xx/3451smwe.pdf>.
- 7 A number of researchers have found that there is a widespread expectation that private security efforts could deter or displace crime. However, with respect to testing this assumption, there has not been sufficient research on the impact of private security on crime deterrence, especially in Latin America. Much of the analysis available focuses on data for specific locations such as a city, community or a particular infrastructure rather than a large-scale representative sample. Other studies have found that visible private security efforts, namely the presence of uniformed guards, in some cases as led to decreased crime, while in others has found to merely divert crime as criminals move to target unprotected areas. Other analyses have generally found insufficient evidence to suggest that private security deters crime. See Paul R. Zimmerman, *The deterrence of crime through private security efforts: Theory and evidence*, *International Review of Law and Economics*, vol. 37, (March 2014), 66-75; Barak Ariel et al., *Lowering the threshold of effective deterrence – Testing the effect of private security agents in public spaces on crime: A randomized controlled trial in a mass transit system*, *PLoS One*, vol. 12, (December 2017); Brian Meehan and Bruce L. Benson, *Does private security affect crime?: A test using state regulations as instruments*, *Journal of Applied Economics*, Vol. 48, (March 2017);

For Latin America, see Markus Michael Müller, *Private security and the State in Latin America: the Case of Mexico City*, *Brazilian Political Science Review*, vol. 4, (September 2010); Rémi Bacouillard et al., *Proliferación de armas y violencia armada en el sector de la seguridad privada en América Latina y el Caribe: Desafíos y oportunidades para la acción*, UNLIREC, (January 2014). Other studies focus on technical aspects of security such as CCTV, alarms and other surveillance systems; these studies have also shown mixed results: Kevin McCaney, *Do surveillance systems reduce crime?* cgn, (September 2011), <https://gcn.com/articles/2011/09/20/surveillance-cameras-effect-on-preventing-crimes.aspx>.
- 8 See also Robert Muggah and Katherine Aguirre Tobón, *Citizen Security in Latin America: Facts and Figures*, Igarapé Institute, Strategic Paper 33 (April 2018), <https://igarape.org.br/wp-content/uploads/2018/04/Citizen-Security-in-Latin-America-Facts-and-Figures.pdf>.
- 9 Muggah and Aguirre Tobón, *Citizen security in Latin America: Facts and Figures*, p. 23 (April 2018) state, “there has been a 12% increase in homicide rates (in Latin America) between 2000–2015;” <https://igarape.org.br/wp-content/uploads/2018/04/Citizen-Security-in-Latin-America-Facts-and-Figures.pdf>.
- 10 Nicolas Florquin, *A Booming Business. Private Security and Small Arms*, Chap. 4 in *Small Arms Survey 2011: States of Security* (2011), Key Findings: <http://www.smallarmssurvey.org/fileadmin/docs/A-Yearbook/2011/en/Small-Arms-Survey-2011-Prelims-Intro-EN.pdf>; UNLIREC and DCAF, *Armed Private Security in Latin America and the Caribbean*, p. 20 (2016).
- 11 See SHIFT, “How can Businesses Impact Human Rights?”; available at: <https://www.ungpreporting.org/resources/how-businesses-impact-human-rights/>.
- 12 Although international human rights law is binding on States, domestic legal systems which give effect to IHRL, provide the principal legal protection of human rights guaranteed under international law. It is through national laws over PMSCs that States can require these businesses to respect human rights. PMSCs are bound by IHRL when their actions are attributable to states (for example they are contracted to carry out inherently governmental functions). Furthermore, under the UN Guiding Principles on Business and Human Rights, it can be argued that business have the responsibility to respect human rights by avoiding causing/contributing to adverse human rights impacts and by seeking to prevent/mitigate human rights impacts linked to their activities (UNGP 13). “International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. The domestic legal system, therefore, provides the principal legal protection of human rights guaranteed under international law.” See the United Nations, the *Foundation of International Human Rights Law*, <http://www.un.org/en/sections/universal-declaration/foundation-international-human-rights-law/index.html>.
- 13 Ibid.
- 14 Montreux Document preface, paragraph 9.
- 15 DCAF, *Montreux Document*, Mapping study on outreach and implementation, p. 30 (2017). Available at: <http://www.mdforum.ch/pdf/mapping-study.pdf>.
- 16 UNODC, *State Regulation concerning Civilian Private Security Services and their Contribution to Crime Prevention and Community Safety*, Adam Blackwell, Wilson Center, Latin American Programme, *The Unregulated and Threatening Growth of Private Security in Latin America and the Caribbean* (June 2015). Available at: <https://www.wilsoncenter.org/sites/default/files/Private%20Security%20in%20Latin%20America.pdf>.

- 17 See Table 2: PSCs and PSC personnel in LAC in UNLIREC and DCAF, *Armed Private Security in Latin America and the Caribbean*, p.13 (2016).
- 18 Ibid.
- 19 Ibid.
- 20 Ibid., 20
- 21 It should be noted that a) data on PSC small arms holdings could not be accessed for nearly half of the countries of the LAC region and that b) the available sources were not from the same year. It should also be taken into account that the data in Table 3 is only a partial snapshot of PSC small arms holding and omits important data from Argentina, Venezuela and a number of Caribbean countries, so the actual figure of PSC small arms holdings may be higher. See UNLIREC and DCAF, *Armed Private Security in Latin America and the Caribbean*, p. 20.
- 22 DCAF, *Mapping study on Montreux Document Outreach and Implementation*, p. 14 (2017).
- 23 There are a number of resources that link the informality of the industry to illegal activities: Mimi Yagoub, *Is Guatemala's Booking Private Security Industry Benefitting Organized Crime?*, InSight Crime (July 2016); Parker Asmann, *El Salvador Struggles to Enforce Regulations on Private Security Firms*, InSight Crime (October 2017).
- 24 DCAF, *Mapping study on Montreux Document Outreach and Implementation*, p. 33 (2017).
- 25 See for example, Simon Chesterman and Angelina Fisher, *Private Security, Public Order: The Outsourcing of Public Services and its Limits*, Oxford University Press, New York (August 2009).
- 26 CARICOM, *Crime and Security Strategy 2013, Securing the region*, Article 1.38. Available at: https://www.caricomimpacs.org/Portals/o/Project%20Documents/CCSS_STRAT.pdf.
- 27 Ibid., 4.13 ix-x.
- 28 More information at: <http://www.mdforum.ch/pdf/The-Montreux-Documents-in-a-Nutshell.pdf>.
- 29 The extent to which States are bound by the legal obligations recalled in the Montreux Document depends, to some extent, on each State's obligations under international law treaties.
- 30 See all supporting States and organisations at: <http://www.mdforum.ch/en/participants>.
- 31 The Secretariat of the MDF has developed a template for supporting the Montreux Document. See www.mdforum.ch/getinvolved.
- 32 For more information see: DCAF, *Progress and Opportunities Five Years On: Challenges and Recommendations for Montreux Document Endorsing States*, (2013). Available at: <http://www.mdforum.ch/pdf/2013-12-Progress-and-Opportunities-Five-Years-On.pdf>.
- 33 See <http://www.mdforum.ch/en/the-forum>.
- 34 See www.dcaf.ch for more information.
- 35 See the Committee on Foreign Affairs, *Report on Private Security Companies* (2016/1138 (INI)), 10 May 2017.
- 36 See <http://www.mdforum.ch/en/implementation>.
- 37 UNLIREC and DCAF, *Armed Private Security in Latin America and the Caribbean*, p. 62 (2017).
- 38 Ibid., p. 63.
- 39 Ibid., p. 61.
- 40 Ibid.
- 41 Ibid., p. 62
- 42 United Nations, General Assembly, 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, Mission To Peru, A/HRC/7/7/Add.2 (February 2008).
- 43 UNI Global Union represents more than 20 million workers from over 900 trade unions ensuring justice and equality for working people. See more at: <http://www.uniglobalunion.org/about-us>.
- 44 See <https://arias.or.cr/>.
- 45 Ibid.
- 46 UNLIREC and DCAF, *Armed Private Security in Latin America and the Caribbean*, p. 30.
- 47 Ibid., p. 20.
- 48 Ibid.
- 49 See also *ibid.*, p. 30.
- 50 See <https://www.un.org/disarmament/convarms/salw/programme-of-action/>.
- 51 See <http://www.unodc.org/unodc/en/firearms-protocol/the-firearms-protocol.html>.
- 52 See http://www.oas.org/dsp/english/cpo_cifta_armas.asp.
- 53 See <https://www.un.org/disarmament/att/>.
- 54 SDG 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime. See more at <https://sustainabledevelopment.un.org/post2015/transformingourworld>.
- 55 UNHCR, *National Legislation Studies on PMSCs in Central and South America*. Available at: <https://www.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/NationalLegislationStudies.aspx>.
- 56 See https://www.icrc.org/eng/assets/files/other/irrc_863_cottier.pdf.
- 57 Where they exist, guidelines on the use of force by private security providers are often very rudimentary or they are made with reference to law enforcement. Due to the lack of specific rules, companies as well as regulatory bodies have a tendency to apply by analogy the rules on the use of force applicable to law enforcement officials. These include the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.
- 58 There is no universal definition of 'complex environment.' The ICRC in fact uses 'other situations of violence' to denote situations other than armed conflict. Under the International Code of Conduct for Private Security Providers, 'Complex environments' are defined as 'any areas experiencing or recovering from unrest or instability, whether due to natural disasters or armed conflicts, where the rule of law has been substantially undermined, and in which the capacity of the state authority to handle the situation is diminished, limited, or non-existent.' See www.icoca.ch.

- 59 See ICRC, Violence and the Use of Force (January 2015). <https://www.icrc.org/en/publication/0943-violence-and-use-force>.
- 60 Switzerland, Federal Act on Private Security provided Abroad, Art. 30.1, (September 2013) Available at: https://www.eda.admin.ch/dam/eda/en/documents/aussenpolitik/sicherheitspolitik/Bundesgesetz-ueber-die-im-Ausland-erbrachten-privaten-Sicherheitsdienstleistungen-BPS_EN.pdf.
- 61 See <http://www.mdforum.ch/pdf/contract-guidance-tool.pdf>.
- 62 Montreux Document Good Practice 19, 20, 22, 49-51, 71-72.
- 63 DCAF, Buckland B. S. and Burdzy A., Progress and Opportunities: Challenges and Recommendations for Montreux Document Participants, Second Edition, p. 24 (2015). Available at: <http://www.mdforum.ch/pdf/Progress-and-Opportunities-Challenges-and-Recommendations-for-Montreux-Document-Participants-2nd-edition.pdf>.
- 64 Montreux Document Good Practice 3, 27, 58 and 4, 29 and 59.
- 65 DCAF, The Montreux Document: Report of the Ethiopia Regional Conference on Private Military and Security Companies, p.19 (2016). Available at: <http://www.mdforum.ch/pdf/regional/2015-11-12-Report-Ethiopia-Regional-Conference-PMSCs.pdf>.
- 66 Montreux Document Good Practices 21, 23, 46-48, 52, 68, 69 and 73.
- 67 Ibid., p. 47.
- 68 Montreux Document Good Practices 10, 35, 63.
- 69 Montreux Document Good Practices 11, 18, 36, 43, 44, 64.
- 70 15 Full Members: Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, St Kitts and Nevis, St Vincent and the Grenadines, Suriname, Trinidad and Tobago. 5 Associate States: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Turks and Caicos Islands. Combined population: >15 million.
- 71 8 Member States: Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Panama; Regional Observers: Argentina, Brazil, Chile, Mexico; Extra-regional Observers: Germany, Italy, Spain, Taiwan.
- 72 Inter America Dialogue, The Explosive Growth of Private Security in Latin America (March 2018). <https://www.thedialogue.org/resources/the-explosive-growth-of-private-security-in-lat-in-america/>.
- 73 See www.icoca.ch for more information.
- 74 See ICoCA members at: https://www.icoca.ch/membership?private_security_companies%5Bcompanies%5D=companies&area_of_operation=all&headquarter_country=all&keywords=&op=Search&view_type=list&form_build_id=form-fc-N9eEoy9TG7-cwyxKLYoPYDM6S-XG9Wu9M2q69uT6E&form_id=_search_for_members_filter_form.
- 75 Voluntary Principles on Security and Human Rights Fact Sheet. Available at: <http://www.voluntaryprinciples.org/wp-content/uploads/2018/04/VPI-Fact-Sheet-April-2018-English.pdf>.
- 76 Between 2003 and 2012, investment in mining exploration increased tenfold, from US\$ 566 million to US\$ 5 billion. Five of the top 10 destinations for mining investments are located in Latin America (Chile, Mexico, Brazil Peru, Colombia). See more at UNDP, Regional Centre in Panama, Extractive Industries and Conflict Prevention in Latin America, available at: <https://www.undp.org/content/dam/undp/library/Democratic%20Governance/OGC/Rebecca%20A%20Extractive%20Industries%20and%20Conflict%20Prevention%20in%20LAC.pdf>.
- 77 UN, Protect, Respect and Remedy Framework and Guiding Principles (2008). Available at: <https://business-humanrights.org/en/un-secretary-generals-special-representative-on-business-human-rights/un-protect-respect-and-remedy-framework-and-guiding-principles>.
- 78 The global study evaluated the national laws according to the following main elements defined by the Working Group: (a) scope of the legislation (b) licenses, authorisation and registration (c) selection and training of personnel (d) permitted and prohibited activities (e) rules on the acquisition of weapons (f) use of force and firearms (g) responsibility for violations and remedies for victims.
- 79 See <http://www.lan.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/NationalLegislationStudies.aspx>.
- 80 UN Human Rights Council, Report of the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies on its sixth session A/HRC/36/36 V, 28 (a), (2017) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/232/48/PDF/G1723248.pdf?OpenElement>.



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Supporting Implementation and Networking among Practitioners

A Montreux Document Forum Regional Meeting

San José, Costa Rica

2018

On 27–28 February 2018, the Ministry of Foreign Affairs and Worship of Costa Rica organised the first MDF Regional Meeting in the Latin America and the Caribbean region, with the support of the Co-Chairs of the Montreux Document Forum (MDF) – the Swiss Federal Department of Foreign Affairs (FDFA) and the International Committee of the Red Cross (ICRC) – along with technical support from the Geneva Centre for Security Sector Governance (DCAF). Participants considered national and regional experiences of private military and security companies (PMSCs) and identified concrete ways through which the Montreux Document – which highlights pertinent international legal obligations and good practices for states related to operations of PMSCs during armed conflict – can help to strengthen implementation of PMSC oversight and regulations.

This report presents the challenges and state regulatory approaches for PMSCs in the region. It also includes a summary and analysis of the debates, questions, conclusions and recommendations shared during the meeting. The report is based on the panel presentations and interventions made during the discussion sessions, as well as desk-based research and academic sources intended to supplement and contextualize conference discussions.