



**Draft International Convention on the Regulation, Oversight and Monitoring
Of Private Military and Security Companies**

13 July 2009

Final draft for distribution

The States Parties to the present Convention,

Reaffirming the Purposes and Principles enshrined in the Charter of the United Nations, the *erga omnes* obligations related to the protection of human rights and the strict adherence to the principles of the sovereign equality of all States, the territorial integrity and political independence of every State, the right of self-determination of peoples, the prohibition of the threat or the use of force in international relations, the prohibition of propaganda for war and the prohibition of interference into affairs which are essentially within the domestic jurisdiction of any State,

Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention on the Rights of Persons with Disabilities,

Bearing in mind the universal principle of non discrimination contained in all international human rights instruments and the basic labor rights recognized in the ILO conventions,

Guided by the principles enunciated in the relevant resolutions of the United Nations General Assembly, in particular Resolution 2625 (XXV) of 24 October 1970 approving the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and Resolution 3314 (XXIX) of 14 December 1974 which defines Aggression as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations,

Recalling the International Law Commission's Articles on State Responsibility¹,

Recalling the United Nations Code of Conduct for Law Enforcement Officials of 17 December 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana in 1990,

Reaffirming the relevant rules of international humanitarian law, notably the Hague Regulations on Land Warfare of 1907, the Four Geneva Conventions of 12 August 1949 and the two Additional Protocols of 1977,

Recalling the Nuremberg indictment and Judgment, the ILC Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal (Nuremberg Principles of 1950), including the principle of personal liability for crimes, and the inadmissibility of the defense of State immunity or of superior orders,

Conscious of the international commitment to prevent impunity for war crimes and crimes against humanity, and affirming in this connection the principles contained in the Statute of Rome of the International Criminal Court

Bearing in mind other relevant international conventions, including the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict

¹ The International Law Commission , Articles on State Responsibility, reprinted in The International Law Commission's articles on State Responsibility: Introduction, Text and Commentaries, at 61 (James Crawford ed., Cambridge Univ. Press 2002) (2001); The ILC Articles (and other State responsibility documents) are available online at www.stateresponsibility.com

of 14 May 1954, and its two Protocols, and the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, and other relevant principles concerning the protection of cultural property enshrined, inter alia, in the Hague Conventions of 1899 and 1907 and in the Washington Pact of 15 April 1935,

Concerned about the great dangers involved in the delegation or outsourcing of inherently governmental functions,

Reaffirming the current International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 4 December 1989,

Considering that responsibility for violations of human rights may be imputable not only to States but also to inter-governmental organizations and non-State actors, and that mechanism must be devised to ensure the accountability of States, inter-governmental organizations and non-State actors,

Bearing in mind the lack of a universal judicial mechanism to adjudicate on human rights violations, including those committed by non-state actors such as corporations, private companies and other entities, as well as by their employees and representatives, or to deal with activities designed to undermine any state's capacity to retain its monopoly on the use of force,

Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

Reaffirming the corporate responsibility to respect all human rights, and the necessity to establish a regime of accountability,

Aware of the United Nations Global Compact initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption.

Determined to take all necessary measures to combat impunity by establishing jurisdiction and devising mechanisms to investigate reports of criminal activities

and apprehend those individuals and entities involved in criminal activities, including senior officials of private military and security companies, with a view to their prosecution and punishment,

Emphasizing the responsibility to protect all persons, whether civilians or military personnel, from abuses of their human rights by the actions or omissions of non-State actors including private military and security companies,

Considering that the victims of violations of human rights committed by the personnel of private military and security companies, including killings, disappearances, torture, arbitrary detention, forced displacement, trafficking in persons, confiscation or destruction of private property, right to privacy, have the right to an effective remedy,

Further considering the necessity of ensuring the protection of human rights by all persons affected by the activities of private military and security companies, including civilians and the employees of these companies,

Noting the recruitment of the former military and police officers by private military and security companies to work in a range of activities in places of armed conflict, and further to provide a range of other services in conflict zones and in business activities such as mining,

Acknowledging the duty of all States to prevent human rights violations through legislative and other measures, the duty to investigate reports of violations and, where appropriate, prosecute and punish offenders as well as to provide adequate remedies to the victims,

Further acknowledging the duty of all States to prevent violations of human rights or other abuses committed by or involving transnational corporations and other business enterprises,

Being of the opinion that such protection cannot be effective unless appropriate national and international legislation is adopted and implementation mechanisms are developed so as to ensure enforcement,

Recalling the United Nations Non-Binding Guidelines on the Use of Military or Armed Escorts for Humanitarian Convoys of 14 September 2001,

Bearing in mind the Montreux Document of 17 September 2008,

Welcoming the adoption of codes of conduct, but considering that self-regulation of private military companies, private security companies, and hybrid companies providing both military and security services is not sufficient to ensure the observance of international humanitarian law and human rights law by the personnel of these companies,

Recognizing, however, that important gaps remain in the national and international legal regimes applicable to private military and security companies,

Considering the urgency of regulating the relationship between Member States and private military and security companies as well as the necessity to lay down minimum standards for the activities of such companies,

Have agreed as follows:

PART I. General Provisions

Article 1

Purpose

1. The purpose of the present Convention is to reaffirm and strengthen the principle of State responsibility for the use of force and to identify those functions which are, under international law, inherently governmental and cannot be outsourced as well as to promote cooperation between States regarding licensing and regulation of the activities of private military and security companies in order

to more effectively address any challenges to the full implementation of Human Rights obligations including the right to self-determination, to ensure monitoring of the activities of private military and security companies and devise mechanisms to monitor abuses and violations of international humanitarian and human rights law.

2. In the implementation of the Convention States Parties shall take all necessary legislative, judicial and administrative measures pursuant to existing or emerging provisions of their domestic laws to ensure that there is no illegal or arbitrary use of force by non-state actors.

Article 2

Definitions

If not specified separately or implied differently, for the purposes of the present Convention:

(a) **A Private Military and/or Security Company (PMSC)** is a corporate entity which provides on a compensatory basis military and/or security services, including investigation services, by physical persons and/or legal entities.

(b) **Military services** refer to specialized services related to military actions including strategic planning, intelligence, investigation, land, sea or air reconnaissance, flight operations of any type, manned or unmanned, satellite surveillance, military training and logistics, and material and technical support to armed forces, and other related activities.

(c) **Security services** refer to armed guarding or protection of buildings, installations, property and people, police training, material and technical support to police forces, elaboration and implementation of informational security measures and other related activities;

(d) **License (authorization, permit)** is a special document authorizing specified activities under the strict observance of licensing terms and obligations, which is issued by a licensing body to a legal entity or a physical person;

(e) **Licensing regime** refers to measures related to the issuing of a license, redrafting documents, confirming license, suspension of license on grounds of violation of obligations and provisions of the license, cessation or resumption of license, withdrawal of license, control of licensing bodies over the observance of obligations and terms of license by licensees in their activities, introduction of

license registries as well as provision in an established way of information from license registries and other licensing information by interested persons.

(f) **License registry** refers to the data pool related to the issuing of license, redrafting documents, confirming license, suspension or resumption of license, and withdrawal of license; a license registry must operate pursuant to written minimum standards.

(g) **Human rights** refer, *inter alia*, to civil, cultural, economic, political and social rights as set out in the International Bill of Human Rights and other international human rights instruments, the rights confirmed under international humanitarian law, international refugee law, international migration law, international labour law and other related instruments adopted within the system of the United Nations.

(h) **Export of military and/or security services** refers to military and security services which a private military or security company provides outside the territory of the State in which it is registered.

(i) **Import of military and/or security services** refers to military and/or security services which a private military or security company registered in a foreign state provides,

(j) An “**Armed Conflict**” is any use of force by armed groups, whether internal or international, as defined in the Geneva Conventions of 1949 and the two Additional Protocols of 1977,

(k) “**Fundamental State functions**” are functions that a State cannot outsource or delegate to non-State actors. Among such functions, consistent with the principle of State monopoly on the use of force, are waging war and/or combat operations, taking prisoners, law-making, espionage, intelligence and police powers, especially the powers of arrest or detention, including the interrogation of detainees.

(l) “**Unlawful activities**” encompass military or security services by non-State actors that fall within the exclusive domain of fundamental functions of the State as well as activities lawfully delegated to non-State actors where those activities are carried out in violation of International Human Rights and Humanitarian Law standards.

(m) “**Use of force**” in this Convention refers to both the use of lethal as well as non-lethal weapons or techniques which may have lethal consequences,

(n) “**Contracting States**” are States that directly contract for the services of private military and security companies, including, as appropriate, where such a company

subcontracts with another private military and security company, or where a private military and security company operates through its subsidiary companies.

(o) “**Territorial States**” are States on whose territory private military and security companies operate.

(p) “**Home States**” are States of nationality of a private military and security companies, i.e. where a private military and security company is registered or incorporated; if the State where the private military and security company is incorporated is not the one where it has its principal place of management, then the State where the company has its principal place of management or Headquarters is the “Home State”.²

(q) “**Committee**” shall mean the Committee on the Regulation, oversight and Monitoring of Private Military and Security Companies, established pursuant to article 32 of this Convention,

(r) “**Complaint**” shall mean any complaint submitted by a Party to this Convention to the Committee pursuant to article 37 of this Convention,

(s) “**Petition**” shall mean a communication submitted by or on behalf of an individual or group to the “Committee” pursuant to article 40 of this Convention,

Article 3

Scope of Application

1. The present Convention has application with respect to States, inter-governmental organizations and non-State actors, including private military and security companies and their personnel.

2. The present Convention has no application with respect to those persons or entities covered by the International Convention against the Recruitment, Use, Financing and Training of Mercenaries or by the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

PART II. General Principles

Article 4

State responsibility for the use of force

² The definitions of Contracting, Territorial and Home State have been taken from the Montreux Document.

1. Each State Party bears civil and criminal responsibility for the use of force under national and international law, whether the use of force occurs within its territory or outside its borders.
2. Each State party bears responsibility for the military and security activities of private entities registered or operating in their jurisdiction, whether or not these entities are contracted by the State.
3. Each State party must ensure that the non-State actors it has contracted are trained in and respect international humanitarian law and human rights norms.
4. No State Party can delegate or outsource fundamental State functions to non-State actors.
5. Each State Party shall take such legislative and other measures as may be necessary to establish:
 - a) Rules of use of force aimed at ensuring security of the person, society and the State;
 - b) Authorities and responsibilities of State bodies, organizations and officials which have the right to use coercive and combative measures and/or to carry out special operations in the framework and in the situations under domestic and international law;
 - c) Procedures for contracting non-State actors such as private military and security companies, other legal entities and individuals, as well as sub-contracting;
 - d) Licensing procedures for the export of military and security personnel and services;
 - e) Licensing procedures for the import of military and security personnel and services;
6. Each State Party, in accordance with its domestic law, shall take legislative and other measures required to introduce full or partial prohibition on the transfer of the right to use force and/or to carry out special operations by non-state actors such as private military companies, private security companies, other legal entities and individuals.

Article 5

Rule of law

1. States Parties shall ensure that private military and security companies, including their personnel, and all governmental and non-governmental employees, structures and bodies related in any way to their activities, should perform their respective functions under officially enacted laws which are uniformly and independently enforced and which are consistent with international humanitarian law and international human rights norms, standards and principles.
2. Each State Party shall take such legislative, administrative and other measures as may be necessary to ensure that private military and security companies and their personnel comply with the legislation of the States in which they provide military and/or security services.
3. The agreements on provision of military and/or security services entered into by private military and security companies as well as their employees shall be consistent with the legislation of the States or territories:
 - (a) where such entities are established and registered;
 - (b) where such entities carry out their activities and provide services;
 - (c) whose nationals are employed to work for such companies.

Article 6

State sovereignty

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of the sovereign equality and territorial integrity of States and the obligation of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State under international as well as domestic laws.

Article 7

Respect and observance of human rights

1. Each State Party shall take legislative, judicial, administrative and other measures as may be necessary to ensure that private military and security companies established and functioning in its territory as well as the personnel of these private military and security companies are held accountable for

complying with the guarantees of implementation of the international principles enunciated in this Convention and to ensure, respect for and protection of human rights.

2. In providing military and/or security services, private military and security companies, as well as their personnel, are obliged to take cognizance of and to observe the norms of international humanitarian law and human rights law as well as relevant domestic law.

Article 8

Prohibition of certain activities

States parties shall define and limit the scope of activities of private military and/or security companies and specifically prohibit functions which are intrinsically governmental, including waging war and /or combat operations, taking prisoners, espionage, intelligence and police powers, especially the powers of arrest or detention, including the interrogation of detainees.

Article 9

Prohibition of mercenary activities

Each State Party which has not yet done so shall consider ratifying the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

Article 10

Illegality of the use of force

Each State Party shall take such legislative, administrative and other measures as may be necessary to prohibit private military and security companies and their personnel from directly participating in armed conflicts, military actions or terrorist acts, whether international or non-international in character, in the territory of any State, in particular when aimed at:

- (a) The overthrow of a government (including regime change by force) or undermining the constitutional order, or legal, economic and financial bases of the State;
- (b) The coercive change of internationally acknowledged borders of the State;

- (c) The violation of sovereignty, or support of foreign occupation of a part or the whole territory of State;
- (d) Assaults on the life, or security of civilian persons,
- (e) Acts of terrorism,
- (f) The establishment of control over the natural resources of the State, including water, petroleum, uranium, and associated industries or facilities;
- (g) The coercive removal or displacement of people from areas of permanent or habitual residence.

Article 11

Prohibition on excessive use of firearms

1. Each State Party shall take legislative, judicial, administrative and other measures as may be necessary to prevent military and security companies and their personnel from employing weapons of mass destruction, including chemical or bacteriological (biological) weapons or other weapons likely to adversely affect the environment, including depleted uranium.
2. Each State Party shall take such legislative, judicial, administrative and other measures as may be necessary to ensure that private military and security companies and their personnel never under any circumstances:
 - a. use or threaten to use nuclear weapons, chemical weapons, bacteriological (biological) and toxin weapons;
 - b. engage in any military or other preparations to use nuclear weapons, chemical weapons, bacteriological (biological) and toxin weapons;
 - c. develop, test, produce, otherwise acquire, deploy, stockpile, maintain, retain, or transfer nuclear weapons, chemical weapons, bacteriological (biological) and toxin weapons;
 - d. develop, test, produce, otherwise acquire, deploy, stockpile, maintain, retain, or transfer nuclear weapons, chemical weapons, bacteriological (biological) and toxin weapons delivery vehicles;
 - f. develop, test, produce, otherwise acquire, stockpile, maintain, retain, or transfer nuclear weapon, chemical weapons, bacteriological (biological) and toxin weapons components or equipment;
 - g. participate in and fund research on nuclear weapons, chemical weapons, bacteriological (biological) and toxin weapons;

h. assist, encourage, induce or permit, in any way, directly or indirectly, anyone to engage in any activity, prohibited under this Article.

3. Each State Party shall take legislative, judicial, administrative and other measures as may be necessary to prohibit private military and security companies and their personnel from using firearms, ammunition and equipment as well as methods of conducting fighting and special operations of such character as will cause excessive damage or unnecessary suffering or which are non-selective in their application, or otherwise violate international humanitarian law. In this context each State Party shall take due account of the United Nations Code of Conduct for Law Enforcement Officers of 17 December 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 7 September 1990.³

Article 12

Prohibition on Illicit Trafficking in Firearms, Their Parts and Components and Ammunition

1. Each State Party shall establish and maintain an effective system of licensing or other authorization, which prohibits private military and security companies and their personnel from trafficking in firearms, their parts, components or ammunition.

2. Each State Party shall take such measures as may be necessary to ensure that its licensing or authorization procedures are robust and secure and that the authenticity of licensing or authorization documents can be independently verified or validated.

3. In order to effectively detect, prevent and eliminate the theft, loss or diversion of, as well as the illicit manufacturing of and trafficking in, firearms, their parts and components and ammunition by private military and security companies and their personnel, each State Party shall take appropriate measures:

³ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990)).

- a) To require the security of firearms, their parts and components and ammunition at the time of manufacture, and during import, export and transit through its territory; and
- b) To increase the effectiveness of import, export and transit controls, including, where appropriate, border controls, and of police and customs trans-border duties and cooperation with neighbouring States; and
- c) To regulate the activities of private military and security companies inside the premises these companies have been contracted to protect and restrict them to operate with the limits of the premises in which companies have been contracted to provide security.

Article 13

Responsibility of State control

1. Each State Party shall:

(a) Establish a comprehensive domestic regime of regulation and oversight over the activities in its territory of private military and security companies and their personnel including all foreign personnel, in order to prohibit and investigate illegal activities as defined by this Convention;

(b) In order to ensure that administrative, regulative, law enforcement and other bodies, implementing the regime of regulation and oversight over the activities of private military and security companies and their personnel, are able to cooperate and exchange information at national and international levels, there should be established, at the domestic level, a body which shall act as a national center for collection, analysis and exchange of information concerning possible violations of national and international law so as to provide operative information about the activities of private military and security companies.

2. States Parties shall apply practical measures for exposing information on companies providing military and security services outside their territories and for establishing control over the provision of such services, as consistent with the safeguards aimed at ensuring the proper use of information without impeding their legal implementation in any way. Such measures may include the provision of information or reports on the use of trans-border military and security services by persons as well as legal entities, for example companies.

3. In the establishment of a domestic regime of regulation and oversight according to the provisions of this Article and in compliance with other Articles of this Convention, all States Parties agree to be guided by the respective initiatives of regional, interregional and multilateral organizations against private-sector use of force.

4. States Parties shall endeavour to develop and encourage global, regional, sub-regional and bilateral cooperation among judicial bodies and law enforcement agencies as well as financial regulation bodies in order to monitor and control any private-sector use of force.

5. States Parties shall investigate reports of violations of international humanitarian law and human rights norms by private military companies and private security companies and ensure the prosecution and punishment of offenders.

6. States Parties shall take appropriate action against companies that commit human rights violations or criminal incidents, *inter alia* by revoking their licenses and reporting to the Committee on the history of activities of these companies.

PART III. Legislative regulation, oversight and monitoring

Article 14

Special legislative regulation and obligations

States Parties shall take such measures within their domestic legislative systems as are necessary to legally acknowledge and affirm through appropriate enactment that the provision of military services, security services, and where relevant export/import of military and security services, are special activities which may not fall exclusively within the scope of domestic law and therefore may demand specific legal regulation.

Article 15

Registration and accountability

1. Each State Party shall take such legislative, judicial, administrative and other measures as may be necessary to establish:

- (i) Specific and obligatory procedures on governmental registration of private military and security companies;
 - (ii) Specific legal requirements for persons employed by private military and security companies concerning inter alia their training and experience;
 - (iii) Special procedures for annual reporting to the Committee on issues of accountability of domestic private military and security companies,
 - (iv) Special procedures for annual reporting to the Committee on accountability of foreign private military and security companies providing their services in the territory of the State Party,
 - (v) An oversight mechanism to monitor registration of private military and security companies offshore.
2. Each State Party shall establish and maintain a general State registry of private military and security companies operating in their jurisdiction.
 3. Each State Party shall identify governmental bodies responsible for the registry of private military and security companies and exercise oversight of their activities.

Article 16

Licensing

1. Each State Party shall take such legislative, judicial, administrative and other measures as may be necessary to ensure that private military and security companies and their personnel carry out their activities exclusively under the respective licenses and authorizations.
2. All licenses and authorizations issued to private military and security companies and their personnel shall be registered in the general Registry of the State and granted following a transparent and open procedure.

Article 17

Licensing import and export of military and security services

1. Each State Party shall take such legislative, judicial, administrative and other measures as may be required to ensure that private military and security companies and their personnel import and export their services only under the respective licenses and authorizations. The license and authorization for operations related to the export of military and security services shall be

issued by the respective body of the State Party in which territory the respective entity has its permanent residence under the relevant domestic law.

2. Each State Party which imports private military and security services shall publicize their scope and activities and keep the Committee informed about its licensing regime as well as provide regular and up-dated information on any changes and supplements to the import of these services.

3. Private military and security companies and their personnel possessing licenses and authorizations on exporting military and/or security services issued by the competent bodies of the State Party can enter into agreements for providing such services in the territory of the other State Party with the State or another entity only after the license and authorization to import such services is issued to them by the competent bodies of the host State.

4. Each State Party shall take such legislative, judicial, administrative and other measures as may be necessary in order to:

(a) ensure that any State which is not party to the present Convention is informed about the issuance of licenses to private military and security companies and their personnel to export military and/or security services to this State,

(b) ensure that private military and security companies and their personnel, holding valid licenses and authorizations, issued by the competent bodies of the State Party to export military and/or security services to carry out single acts or, alternatively, regular activity in the territory of any State not party to the Convention, provide comprehensive information to the competent bodies of all concerned States about the nature and extent of such acts and activities.

Article 18

State obligations *vis-à-vis* the personnel of private military and security companies

1. Employees of private military and security companies employed under contract with these companies and their activities are subject to regulation under the legislation of the States Parties in whose territory the companies are registered under the relevant domestic law.

2. The provision of services in the export and/or import of military and security services, and the activities of personnel of private military and

security companies are regulated in accordance with the legislation of the State Party which issued the license and authorization for the provision of such services.

3. Persons employed by private military and security companies must be professionally trained, examined and vetted according to the applicable international standards for military and security services and for the use of specific equipment and firearms. Such training and vetting shall be conducted in accordance with the procedure defined by the legislation of the State Party in which territory the private military and/or security company is registered under the domestic law and under international standards on the use of force and firearms in the course of military or security activities.

4. The personnel of private military and security companies providing military and security services in the territory of a foreign country undertake to respect the sovereignty and laws of the receiving country, refrain from any actions inconsistent with the principle not to interfere with the domestic affairs of the receiving country, not to intervene in the political process or in the conflicts in its territory, as well as to take all necessary measures to avoid harm to the citizens and damage to the environmental and industrial infrastructure, and objects of historical and cultural importance.

5. The personnel of private military and security companies providing military and security services in the territory of a foreign state undertake to observe the norms of international humanitarian law, as provided by the Geneva Conventions of 12 August 1949 and in the Additional Protocols from 8 June 1977 and strictly adhere to the norms and standards set out in the core international human rights instruments.

Article 19

Regulation of use of force and firearms⁴

1. Each State Party shall take such legislative, judicial, administrative and other measures as may be necessary to establish rules on the use of force and firearms by the personnel of private military and security companies taking

⁴ See Appendix for private-sector Codes of Conduct and applicable United Nations Rules, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990)).

into account that employees may carry firearms in providing military and security services.

2. In providing military and security services, employees shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force or firearms only if other means remain ineffective or without any promise of achieving the intended result.

3. Whenever the use of force and firearms is unavoidable, private military and security companies personnel shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offense;

(b) Minimize damage and injury, and respect and preserve human life;

(c) Ensure the assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

(d) Ensure the relatives or close friends of the injured or affected person are notified at the earliest possible moment.

4. In providing military and security services, employees may use force or firearms only in the following circumstances:

(a) To defend him/herself or other employees of the company against what he/she believes to be an imminent threat of death or serious body injury, in respect of the exercise of the essential right of self-defense,

(b) To defend persons whom he/she is under a contract to protect against what he/she believes to be an imminent threat of death or serious body injury,

(c) To resist what he/she reasonably believes to be an attempt to abduct him/herself, other employees of the company or a person whom he/she is under contract to protect,

(d) To prevent or put a stop to the commission of a serious crime that would involve or involves a grave threat to life or of serious bodily injury.

5) In the circumstances provided under article 19 (4), the personnel of private military and security companies shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed.

6) In the case of private military and security companies and their personnel providing military and security services under the agreement as a part of armed forces or military units of the State Party, the use of force is regulated

by the norms of its military and other respective legislation and relevant international humanitarian law and international human rights law.

Article 20

Additional measures

1. In addition to the measures set out in Articles 14-19 of the present Convention each State Party, consistent with its legal system, shall take legislative, judicial, administrative and other effective measures to ensure the training of personnel and to promote human rights norms and principles relating to activities of private military and security companies and their personnel.
2. Each State Party shall ensure that arbitrary or abusive use of force and firearms by personnel of private military and security companies is punished as criminal offense under the law of the contracting State, territorial State or home State.
3. The States Parties shall, through international and regional organizations, exchange information on the activities of private military and security companies in their respective territory or area of deployment, with the view to coordinating approaches, elaborating general definitions, standards and methodology and generally broadening their knowledge and experience on the issue.
4. Each State Party shall undertake to implement policy for regulating the activities of these companies as well as to carry out regular assessment of their efficiency and effectiveness and their continuing relevance.

PART IV. State Responsibility to impose penal sanctions on offenders and provide remedies to victims

Article 21

Criminalization of offenses in the sphere of military and security services

1. Pursuant to Article 17 of this Convention, each State party shall take such legislative, judicial, administrative and other measures as are necessary to penalise the export and import of military and security services when this occurs without the required licenses and authorization.

2. States parties shall take such measures as are necessary to investigate, prosecute and punish violations of the present Convention, and to ensure effective remedies to victims.

Article 22

Establishment of jurisdiction

1. Each State party shall take such measures as may be necessary to establish its jurisdiction through its domestic law over the offenses set out in this Article when:

- (a) The offense is committed in the territory of that State; or
- (b) The offense is committed by a national of that State.

2. A State party may also establish its jurisdiction over any of the offenses set out in this Article when:

- (a) The offense is committed against a national of that State; or
- (b) The offense is committed by a stateless person who has his or her habitual residence in the territory of that State; or
- (c) The offense is subject to universal jurisdiction.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State party shall notify the Secretary-General of the United Nations of the measures it has taken with respect to the establishment of jurisdiction under this article. Should any subsequent change take place, the State party concerned shall immediately notify the Secretary-General of the change.

4. Each State party shall likewise take such measures as may be necessary to establish its jurisdiction over the offenses set out in this Article in cases where the alleged offender is present in its territory and it does not extradite such person to any of the States parties which have established their jurisdiction in accordance with paragraphs 1 or 2 of this Article.

5. Each State party which establishes jurisdiction under subparagraphs 1(b) and paragraphs 2 or 4 of this Article shall make the offenses set out in this Article punishable by the same penalties which would apply when they are committed in its own territory.

6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State party in accordance with its national law.

7. The following offenses are to be penalised under this Convention:

- (a) War crimes as defined in article 8 of the Statute of the International Criminal Court,
 - (b) Crimes against humanity, as defined in article 7 of the Statute of the International Criminal Court,
 - (c) Genocide, as defined in article 6 of the Statute of the International Criminal Court,
 - (d) Violations of the provisions of the International Covenant on Civil and Political Rights, in particular violations of articles 6 (right to life) 7 (prohibition of torture), 9 (security of person, prohibition of disappearances, arbitrary detention, etc.), 12 (prohibition of forced expulsion and displacement),
 - (e) Violations of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,
 - (f) Violations of the International Convention for the Protection of All Persons from Enforced Disappearance,
 - (g) Grave breaches of the Geneva Conventions of 1949 and Additional Protocols of 1977,
 - (h) Reckless endangerment of civilian life, right to privacy and property by private military companies and private security companies,
 - (i) Damage to or destruction of cultural heritage,
 - (j) Serious harm to the environment,
 - (k) Other serious offenses under international human rights law
- (8) In relation to imposing penalties for offenses elaborated in this article, due consideration should be paid to offenses committed against vulnerable groups.

Article 23

Jurisdiction over other crimes

1. Each State party shall take such measures as may be necessary to establish its jurisdiction over other crimes committed by the personnel of private military and security companies in providing their services in the territory of another State party or State not party to this Convention.
2. Any specific jurisdiction or legal matters related to the investigations of crimes committed by the personnel of private military and security companies

in providing their services in the territory of another State party or State not party to the present Convention, or agreements of extradition, may be regulated by an additional international agreement concluded between these States.

Article 24

Extradition

1. To the extent that the crimes set out in article 22 are not mentioned specifically in any extradition treaty existing between States parties, they shall be deemed to be included as extraditable offenses in the treaty. States parties undertake to include such offenses as extraditable offenses in every extradition treaty to be subsequently concluded by them.
2. When a State party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State party with which it does not have an extradition treaty, the State party which requests extradition may, at its option, consider this Convention as a legal basis for extradition in respect of the offenses. Extradition procedures should take into account but shall not be limited by any conditions or restrictions stipulated in the law of any State party.
3. States parties which do not make extradition conditional on the existence of a treaty shall recognize the offenses listed in Article 22 as extraditable offenses between themselves, taking into account but not limited by the law of any of the State parties.
4. The provisions of all extradition treaties between States parties with regard to the offenses set out in article 22 shall be deemed to be modified as between States parties to the extent that they are incompatible or inconsistent with this Convention.
5. In the event of a conflict between the obligations of States parties under this Convention and other bi-lateral or multilateral conventions on extradition, this Convention shall prevail.

Article 25

Mutual legal assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offenses covered by this Convention and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the victims, witnesses, proceeds, instrumentalities or evidence of such offenses are located in the requested State Party.

2. States parties shall carry out their obligations under paragraph 1 of this Article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States parties shall afford one another assistance in accordance with their national law and international principles on friendly relations between States.

Article 26

Transfer of criminal proceedings

1. States parties may transfer to one another proceedings for the prosecution of offenses under this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice.

2. States parties may refer cases to the International Criminal Court.

Article 27

Notification of outcome of proceedings

The State Party where the alleged offender has been prosecuted under articles 22 and 24 shall, in accordance with its national law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to other States Parties and to the host State.

Article 28

Liability of legal persons and entities

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons and entities for participation in serious crimes involving an organized criminal group or

company or other entity and for the offenses established in accordance with article 22 of this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons, including groups, companies and entities may be criminal, civil or administrative, or a combination of these.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have actually committed the offenses.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including fines, economic sanctions, prohibitions of further employment, obligation to provide restitution and/or compensation to the victims.

5. States Parties shall, in the interests of justice, lift any immunity applicable under other Conventions or Agreements.

Article 29

Funds for the rehabilitation of victims

1. States parties shall establish funds to rehabilitate the victims of offenses under this Convention;

2. The establishment of such funds shall be without prejudice to the obligation of private military and security companies to directly compensate victims of violations.

PART V. Obligations of Inter-governmental organizations and non-State actors

Article 30

Obligations of Inter-Governmental Organizations

1. Inter-governmental organizations that have ratified this Convention shall adopt internal rules and regulations to monitor compliance with the Convention and take such measures as are necessary to investigate reports of violations of this Convention by any member State or organization with a view of remedying such violations and/or referring appropriate cases to a competent tribunal.

2. If the United Nations employs private military and security companies in the implementation of Security Council Resolutions, peacekeeping or other missions under the UN Charter, it shall exercise due diligence in ensuring the strict adherence to human rights norms by the personnel of said companies and shall not invoke article 103 of the UN Charter in any manner that would hamper the implementation of the present Convention. The United Nations shall promptly investigate any reports of violations of human rights norms and impose appropriate disciplinary or penal sanctions.

Article 31

Obligations of Private Military and Security Companies

1. Within their respective spheres of activity and influence, Private Military and Security Company have the obligation to respect, ensure respect of and protect human rights recognized in international as well as national law.
2. Private military and security companies and their employees shall abide by the international standards for corporate responsibility to respect all internationally recognized human rights;⁵
3. Private military and security companies and their employees shall have the responsibility to use due diligence in ensuring that their activities do not contribute directly or indirectly to human rights abuses⁶ and to causing or exacerbating inter or intra-state warfare or conflict;
4. Private military and security companies and their employees shall abide by the national law of the countries of origin, transit and operation.
5. Private military and security companies and their employees shall not carry out activities defined under article 2 (k) as fundamental functions of the State.

PART VI. International Oversight and Monitoring

Article 32

International Committee

⁵ “Human Rights Translated, a business, reference guide”, page XII, Castan Center for Human Rights Law Monash University, International Business Leaders Forum, OHCHR, Global Compact Office. See also the optional Protocol to the CRC on the involvement of children in armed conflicts, article 4 states direct obligations to armed groups. See also HRC/RES/8/7 on the mandate of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.

⁶ E/CN.4/Sub.2/2003/38/Rev.2, Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights.

1. There shall be established a Committee on the Regulation, Oversight and Monitoring of Private Military and Security Companies (hereinafter referred to as the Committee). The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention⁷ elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairperson of the Committee;
(b) If a member dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, The States party who nominated the member shall appoint another expert possessing the qualifications and meeting the requirements

⁷ Similar to what was agreed for the Committee set up by the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, see article 72(b)

set out in the relevant provisions of this article, to serve for the remainder of the term, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 33

Reporting Obligations⁸

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:

(a) within two years after the entry into force of the Convention for the State Party concerned; and

(b) thereafter every four years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. A State party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided.

3. Each report shall be considered in public session in the presence of State Party representatives. The Committee shall make such observations and recommendations on the report and on the examination thereon, as it may consider appropriate. The Committee may request further information from States Parties relevant to the implementation of the present Convention.

4. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitted the relevant report, the provisions of paragraph 3 of this article shall apply.

5. The Secretary-General of the United Nations shall make available the reports to all States Parties.

⁸ Same as in the Convention on the Rights of Persons with Disabilities, see article 35

6. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the observations and recommendations relating to these reports.

7. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

Article 34

Interpretative Comments by the Committee

The Committee shall issue interpretative comments on the provisions of this Convention, as appropriate.

Article 35

Rules of procedure, elections, sessions

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The secretariat of the Committee shall be provided by the Secretary General of the United Nations.
4. The Committee shall hold two sessions per year and meetings shall normally take place at United Nations Headquarters or at the United Nations Offices in Geneva.

Article 36

Inquiry Procedure⁹

1. If the Committee receives reliable information which appears to it to contain well-founded indications that private military companies and/or private security companies are operating in violation of international humanitarian law and international human rights norms, the Committee shall invite the State where the offenses have been reported to have occurred and/or the State of registration of

⁹ Language adapted from article 20 of the Convention Against Torture.

said companies to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State(s) concerned as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2, the Committee shall seek the co-operation of the States concerned. In agreement with the State(s) concerned, such an inquiry may include a visit in loco.

4. After examining the findings of its member or members submitted in accordance with paragraph 2, the Committee shall transmit these findings to the State(s) concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State(s) concerned shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State(s) concerned, decide to include a summary account of the results of the proceedings in its annual report to the General Assembly made in accordance with article 42.

Article 37

Complaints against Parties

1. If a Party to this Convention considers that another Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the complaint to the Party concerned. Within three months, the receiving Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that Party.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving Party of the initial complaint, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other Party.

3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

4. The Committee shall hold closed meetings when examining complaints under this article.¹⁰

5. In any matter referred to it, the Committee may call upon the Parties concerned to supply any other relevant information.

6. When any matter arising out of this article is being considered by the Committee, the Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 38

Conciliation Commission

1. (a) After the Committee has obtained and collated all the information it deems necessary, the Chairperson shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention;

(b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.

3. The Commission shall elect its own Chairperson and adopt its own rules of procedure.

¹⁰ Cf ICCPR, Article 41 (1)(d)

4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.
5. The secretariat provided in accordance with article 35, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.
6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.
8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 39

Report of the Conciliation Commission

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairperson of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairperson of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairperson of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided for in paragraph 2 of this article, the Chairperson of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 40

Individual and Group Petitions

1. A Party may at any time declare that it recognizes the competence of the Committee to receive and consider petitions from or on behalf of individuals or

groups of individuals within its jurisdiction claiming to be victims of a violation by that Party of any of the rights set forth in this Convention. No petition shall be received by the Committee if it concerns a Party which has not made such a declaration.

2. Any Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate an entity within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any entity established or indicated in accordance with paragraph 2 of this article shall be deposited by the Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect petitions pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6. (a) The Committee shall confidentially bring any petition referred to it to the attention of the Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous petitions;

(b) Within three months, the receiving Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that Party.

7. (a) The Committee shall consider petitions in the light of all information made available to it by the Party concerned and by the petitioner. The Committee shall not consider any petition unless it has ascertained that the same matter, submitted

by the same petitioner, has not been already examined or is not in the process of examination before another international instance of individual investigation or settlement. Moreover, the Committee shall ascertain that the petitioner has exhausted all available and effective domestic remedies. However, the rule of exhaustion of domestic remedies shall be waived where the application of the remedies is unreasonably prolonged;

(b) The Committee shall forward its suggestions and recommendations, if any, to the Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such petitions and, where appropriate, a summary of the explanations and statements of the Parties concerned and of its own conclusions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten Parties to this Convention are bound by declarations in accordance with paragraph I of this article.

10. States parties shall adopt enabling legislation so as to facilitate the implementation or enforcement of the Committee's conclusions and recommendations in the State party concerned.

Article 41

Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

(a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to

ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

(c) The Committee shall also consult, as appropriate, other inter-governmental organizations.

(d) The Committee may refer urgent matters and legal questions to the General Assembly, Security Council or other United Nations bodies, and to their respective specialized committees, as appropriate, and may request the General Assembly or Security Council to request, pursuant to article 96 of the UN Charter, advisory opinions from the International Court of Justice on any legal question.

Article 42

Report of the Committee

The Committee shall report annually, through the Secretary General, to the General Assembly of the United Nations on its activities and may make further suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

PART VI. Final provisions

Article 43

Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature [.....] at United Nations Headquarters in New York until [.....].
2. This Convention shall also be open for signature by intergovernmental organizations, provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.
3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. An inter-governmental organization may deposit its instrument of ratification, acceptance or approval if at least one of its Member States has done likewise. In that instrument of ratification,

acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any international organization of which at least one Member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, an international organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 44

Consent to be bound

1. The present Convention shall be subject to ratification or accession by signatory States and to formal confirmation by signatory inter-governmental organizations. It shall be open to accession by any State or inter-governmental organization which has not signed the Convention.

2. Private military and security companies and their professional associations as well as other non-State actors can communicate their support to this Convention.

Article 45

Inter-governmental organizations¹¹

1. "Inter-governmental organization" shall mean an organization being based on a formal instrument of agreement between the governments of nation states, including three or more nation states as parties to the agreement and possessing a permanent secretariat performing ongoing tasks. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the present Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

¹¹ Language inspired from the Convention on the Rights of Persons with Disabilities, article 44.

2. References to "States Parties" in the present Convention shall apply to such organizations within the limits of their competence.
3. Inter-governmental organizations, in matters within their competence, may exercise their right to vote in the Meeting of States Parties.

Article 46

Entry into force

1. This Convention shall enter into force on the [.....] day after the date of deposit to the UN Secretary General of the [.....] instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by an intergovernmental organization shall not be counted as additional to those deposited by member States of such organization.
2. For each State or intergovernmental organization ratifying, accepting, approving or acceding to this Convention after the deposit of the [.....] instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument.

Article 47

Amendment

1. After the expiry of three years from the entry into force of this Convention, a State Party may propose an amendment which shall be filed with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the Parties.
2. Regional international organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this

Convention. Such organizations shall not exercise their right to vote if their member States exercise their right to vote and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

Article 48

Denunciation

1. A State Party may denounce the present Convention at any time by written notification addressed to the Secretary-General of the United Nations. Such denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. An international organization shall cease to be a Party to this Convention when all of its member States have denounced it.

Article 49

Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.

2. Reservations may be withdrawn at any time.

Article 50

Conference of States Parties and other parties to the Convention

1. The States Parties and other parties to the Convention shall meet regularly in a Conference of States parties in order to consider any matter which regard to the implementation of the present Convention.

2. No later than six months after the entry into force of the present Convention the Conference of the States parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-general of the United Nations biennially or upon the decision of the Conference of States Parties.

Article 51

Depository

The Secretary-General of the United Nations shall be the depository to the present Convention.

Article 52

Languages

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

APPENDICES

Model Law