First session of the open-ended intergovernmental working group mandated 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.

23 – 27 May 2011
Geneva
Palais des Nations, Room XX
Some cases

- Iraq: Abu Graibh
- Iraq: Nizor Square
- Afghanistan: PMSC casualties
- Ecuador: Serious damages to population as consequences of herbicides fumigation in the framework of the Plan Colombia
- Colombia: Rape to girls by USA contractors in Melgar military base
- Peruvian Contractors
Abu Ghraib
In Memoriam: Nisour Square Massacre
September 16, 2007
Blackwater Burka
Sculpture seems to illustrate how fear of instant death keeps Iraqis in submission

Evidence Mounts Against Blackwater in Nisour Square Shootings
According to DOD, from June 2009 to November 2010, 319 private security contractor personnel working for DOD have been killed in action in Afghanistan, compared to 626 U.S. troops killed in action over the same period.

Adjusting for the difference in the number of PSC personnel, a PSC employee working for DOD in Afghanistan is 2.75 times more likely to be killed in action than uniformed personnel.
Ecuador: efecto de las fumigaciones
A Kid's Eye View of Aerial Spraying in Colombia, Ecuador

Plan Colombia

DrugSTRAT http://laniel.free.fr
A Kid's Eye View of Aerial Spraying in Colombia, Ecuador

DrugSTRAT http://laniel.free.fr
A Kid's Eye View of Aerial Spraying in Colombia, Ecuador

DrugSTRAT  http://laniel.free.fr
A Kid's Eye View of Aerial Spraying in Colombia, Ecuador

DrugSTRAT http://laniel.free.fr
A Kid's Eye View of Aerial Spraying in Colombia, Ecuador

ESCUA RIO UPAKO
MI PROFESORA SE LLAMA MARCIA GONZALE
MI NOMBRE: WILMER CASTILLO SEGUNDO AGRADO
NUEVE AÑOS DE EDAD
VIVO EN LA COMUNIDAD PUERTO SAN FRANCIS
ORILLAS DEL RIO CONOJO A 7500 DE
DISTANCIA DE LA FRONTERA CON COLOMBIA
MI HERMANITO MURO DE UN MES
PPLAN
COLOMBIA

DrugSTRAT [http://laniel.free.fr]
Base Aerea Melgar, Colombia

Peruvian contractors
Montreux Document
Part One

- **Article 5** Contracting States obligation to enact any legislation necessary to provide effective penal sanctions for persons committing,

- **Article 6** States also have an obligation to investigate and, as required by international law, or otherwise as appropriate, prosecute, extradite or surrender persons

- **Article 7** The latter are responsible for violations of international humanitarian law, human rights law, or other rules of international law committed by PMSCs or their personnel where such violations are attributable to the Contracting State, consistent with customary international law

- **Article 8** Contracting States have an obligation to provide reparations for violations of international humanitarian law and human rights law caused by wrongful conduct of the personnel of PMSCs when such conduct is attributable to the Contracting States in accordance with the customary international law of State responsibility.
Article 11, Territorial States have an obligation to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, grave breaches of the Geneva Conventions and, Additional Protocol I, and have an obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches and bring such persons, regardless of their nationality, before their own courts.

Article 12, Territorial States also have an obligation to investigate and, as required by international law, or otherwise as appropriate, prosecute, extradite or surrender persons suspected of having committed other crimes under international law, such as torture or hostage taking.
Article 16, Home States have an obligation to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, grave breaches of the Geneva Conventions and Additional Protocol I and have an obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches and bring such persons, regardless of their nationality, before their own courts.

Article 17 Home States also have an obligation to investigate and, as required by international law, or otherwise as appropriate, prosecute, extradite or surrender persons suspected of having committed other crimes under international law, such as torture or hostage taking, in accordance with their obligations under international law.
Principles:

Grievance Procedures

66. Signatory Companies will establish grievance procedures to address claims alleging failure by the Company to respect the principles contained in this Code brought by Personnel or by third parties.
**Code of Conduct**

- **Principle 69** Signatory Companies will ensure that they have sufficient financial capacity in place at all times to meet reasonably anticipated commercial liabilities for damages to any person in respect of personal injury, death or damage to property.
PART IV. State Responsibility to impose criminal, civil and/or administrative sanctions on offenders and provide remedies to victims

Article 19, Criminal, civil and/or administrative offences in the sphere of private military and security services

Article 20, Liability of legal persons and entities
Draft Convention on PMSC

- **Article 21**, Establishment of jurisdiction
- **Article 22**, Jurisdiction over other crimes
- **Article 23**, Obligations related to prosecution
- **Article 24**, Extradition
Draft Convention on PMSC

- **Article 25**, Mutual legal assistance
- **Article 26**, Transfer of criminal proceedings
- **Article 27**, Notification of outcome of proceedings
- **Article 28**, International Fund for the rehabilitation of victims
PART V. International Oversight and Monitoring

- Article 29, Committee on the Regulation, Oversight and Monitoring of PMSCs
- Article 30, International Register of PMSCs
- Article 31, Reports by State parties
- Article 32, Consideration of reports
- Article 33, Inquiry Procedure
Draft Convention on PMSC

- **Article 34**, Complaints against Parties
- **Article 35**, Conciliation Commission
- **Article 36**, Report of the Conciliation Commission
- **Article 37**, Individual and Group Petitions
- **Article 38**, Relationship of the Committee with other bodies
- **Article 39**, Report of the Committee
Why and international legal binding instrument?

- The transnational operations of PMC and PSC and the difficulty to establish proper jurisdiction (National legislations in not sufficient)

- The non binding instruments elaborated are not enough for victims reparations

- Government’s agreements that confer immunity to contractors