The Montreux Document &
the International Code of Conduct

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Regulatory Responsibility of States

- Primary responsibility for regulation, oversight and accountability is with States.

- States may, most notably:
  - Introduce national laws / regulations / policies
  - Strengthen / extend their civil & criminal jurisdiction
  - Regulate governmental & private contracting
  - Establish licensing regimes & procedures
  - Restrict or prohibit operation in & from their territory

- International efforts support and complement, but do not replace, the responsibility of States.
### Main International Initiatives (Overview)

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### The Montreux Document

**Origin:** Based on their traditional humanitarian commitment, Switzerland & ICRC co-launch the “Swiss Initiative” in 2006.

**Aim:** Promoting respect for humanitarian and human rights law.

**Process:** 4 informal workshops + 4 governmental meetings bringing together wide range of experience & expertise.

**Result:** “Montreux Document on pertinent international obligations & good practices for States related to operations of private military and security companies during armed conflict”.

**Nature:** Impartial, non-binding understanding accepted by 17 States, incl. US, UK, Iraq, Afghanistan (today: 42 States + EU).

**Conclusion:** PMSC do not operate in a legal vacuum.
The Montreux Document

Part I: Legal Obligations (re-statement)
- All States (respect HRL, ensure IHL-respect, universal jurisdiction)
- Contracting States (can outsource functions, not responsibility)
- Territorial States (duties derived from territorial sovereignty)
- Home States (duties derived from territorial sovereignty)
- PMSCs (national law) and their personnel (IHL, ICL)

Part II: Good Practices
- **Purpose**: To promote lawful & responsible conduct of PMSC
- **Provide**: Non-binding guidance and assistance to States
- **Encourage**:
  - Restriction of outsourcing & regulation of contracting
  - Establishment of authorization systems
  - Establishment of jurisdiction & accountability mechanisms

International Code of Conduct (ICoC)

2010: 58 PSC (today 464) signed a corporate commitment to:
- Conduct operations in compliance with IHL / HRL
- Good management practices
- Working towards an independent oversight mechanism

I. **Principles of Conduct**:
- General commitment to humane treatment, dignity and privacy
- Rules on the use of force
- Prohibition of torture, inhuman & degrading treatment, sexual exploitation, trafficking, slavery & forced labour, discrimination

II. **Principles of Management**:
- Selection, vetting and training of personnel (and subcontractors)
- Authorizations for possession and use of weapons & equipment
- Systematic incident reporting
- Grievance procedures & meeting liabilities
Working Towards Oversight: Temporary Steering Committee

- **Task:** To develop an Independent Governance and Oversight Mechanism (IGOM) for the ICoC.
- **Structure:** 9 members (3 States, 3 Civil Society, 3 Industry).
- **Process:** Regular meetings, support by working groups.

- **Draft IGOM Charter (Consultation January-March 2012):**
  - Multi-stakeholder Governance
  - Board – Plenary – Secretariat
  - Certification of compliance with ICoC-based standards
  - Performance assessment: ongoing monitoring (HQ / field)
  - Ensuring grievances are addressed
- **Revised Draft IGOM Charter expected for late 2012**

Keeping up to Date:

**Montreux Document**
- Website: [www.eda.admin.ch/psc](http://www.eda.admin.ch/psc)
  - List of supporting States
  - Key documents

**ICoC / IGOM**
- Web: [www.icoc-psp.org](http://www.icoc-psp.org)
  - List of signatory companies
  - Key documents
  - Timeline next steps