Open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies

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Opening remarks by Ms. Peggy Hicks,
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Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,

It is a pleasure and an honour to welcome you all today at the opening of the fifth session of the intergovernmental working group on private military and security companies (PMSCs).

The issue of accountability for perpetrators of human rights violations and abuses is a priority for the Office of the High Commissioner for Human Rights (OHCHR). In this regard, we welcome the focus on accountability of private and military security companies, as reflected in the Human Rights Council resolution which established this intergovernmental working group.

Indeed it is crucial to ensure that victims’ rights are protected and the wrongs caused to them by PMSCs, whether operating at the national or transnational level, are not left with impunity. The recurring question for States is therefore how to ensure that effective remedies are made available for victims and accountability is ensured for perpetrators in relation to human rights abuses of PMSCs. Finding solutions to this question remains one of the central challenges also for your mandate, as stressed by the former Chairperson-Rapporteur during the last session of the intergovernmental working group.

Like all private companies, PMSCs have the responsibility to respect human rights. This may require the establishment of grievance procedures to deal with cases of alleged abuses, as well as the conduct of regular monitoring to ensure oversight, immediate cessation of abuses and accountability. In cases where human rights abuses have occurred, States have the obligation to investigate, prosecute and provide reparation to the victims. Other initiatives are also relevant in this regard, such as the UN Guiding Principles on Business and Human Rights, the Montreux Document and the International Code of Conduct for Private Security Providers, and I am sure that once again those initiatives will be discussed during this session.

I would also like to draw your attention to some activities carried out by various Special Procedures, the High Commissioner for Human Rights and to relevant developments in the context of another intergovernmental process established by the Human Rights Council since your previous session in May of last year.
First, in its annual reports to the Human Rights Council (A/HRC/30/34 and A/HRC/33/43), the UN Working Group on the use of mercenaries has continued its global study of national laws regarding PMSCs to assess their effectiveness in protecting human rights and promoting accountability for violations, identifying any good practices and regulatory gaps that may exist. These reports focused on the laws and regulations of countries in Central America and the Caribbean, South America, Western and Eastern Europe, the Asia and Pacific region and North America.

Second, in May 2016, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions submitted a report on the right to life and the use of force by private security providers in law enforcement contexts (A/HRC/32/39). The report included detailed recommendations to the United Nations, regional human rights mechanisms, States, private security providers, corporations contracting private security providers, civil society and academia. The first recommendation made by the Special Rapporteur was that the Human Rights Council continue to pay significant attention to the impact of private security providers on a broad range of human rights, including the right to life. He also recommended that the Council should continue to underline the important principle that the outsourcing of security provision must in no way lower standards of protection.

In June 2016, the High Commissioner presented a report to the Human Rights Council on improving accountability and access to remedy for victims of business-related human rights abuse (A/HRC/32/19). Based on a two-year inclusive consultative process, the report contains normative and practical guidance for States on how to enhance the effectiveness of domestic judicial systems in providing legal accountability and remedy in cases involving human rights abuse by business, including PMSCs. The guidance, which is supported by an addendum and a report containing illustrative examples of implementation, takes account of different legal systems and traditions, and also addresses the particular challenges posed by cross-border cases.

Finally, the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, established by the Human Rights Council in resolution 26/9, held its second session just six weeks ago. During this session of the working group, discussions have highlighted the social, economic and environmental impacts and the legal challenges related to transnational corporations and other business enterprises with respect to human rights, as well as the primary obligations of States, including extraterritorial obligations to protect against human rights abuses by third parties, including business enterprises. The report of the second session is scheduled to be presented at the 34th session of the Human Rights Council in March 2017.

Excellencies, Ladies and Gentlemen,

The provisional programme of work of the fifth session of the intergovernmental working group on PMSCs features presentations from and discussions with twelve distinguished expert panellists who will share their expertise and experience from various regions. Let me also welcome the fact that with six female and six male panellists there will be a perfect gender balance on the podium during this week.

I would also like to welcome the representatives of Member States, intergovernmental and non-governmental organizations, Special Procedures, the PMSCs industry and academia. I trust that the discussions during this session will continue to enhance the human rights perspective on the regulation, monitoring and oversight of the activities of PMSCs. I thank you all for your constructive engagement in this process and wish you a fruitful session.