



POLICY PAPER

Regulation of the Private Security Sector in Africa

Sabelo Gumedze



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Introduction

With the trend of privatising security becoming increasingly international in nature, the topic of privatisation of security is gaining prominence on the international agenda. Many states, especially from the First World, are outsourcing security/military functions to private security companies (PSCs) and private military companies (PMCs). These companies recruit their employees from a number of states around the world and then undertake activities in various states. This is common in the Third World, and there has been a sharp increase in private military/security companies (PMSCs) that are involved in various activities in Africa - particularly in conflict and post-conflict states - but that are registered outside Africa and contracted by First World states. There has also been an increase in the recruitment of Africans by PMSCs. The employees of these companies work in different parts of the world and are contracted to provide security and military (as well as military-related) expertise and services.

One of the main concerns that have been raised by this phenomenon is that PMSCs are arguably a reincarnation of traditional mercenaries involved in combat operations in contravention with international law, especially international treaties dealing with mercenarism. These include the 1977 OAU/AU Convention for the Elimination of Mercenarism (the 1977 Convention, or Mercenary Convention), the 1977 Additional Protocol 1 to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts in Africa, and the 1989 United Nations International Convention Against the Recruitment, Use, Financing and Training of Mercenaries.

This concern has not been taken lightly by the United Nations (UN). As early as 1987, the UN appointed a special rapporteur on the use of mercenaries, Mr Enrique Bernales Ballesteros from Peru, who served in this position until 2004 at which time he was succeeded by Ms Shaista Shameem from Fiji. In 2005 the UN Working Group on the use of mercenaries as a means of violating human rights and

impeding the exercise of the rights of peoples to self-determination was established, pursuant to the Commission on Human Rights Resolution 2005/2.

In terms of paragraph 12 of Resolution 2005/2, the Commission on Human Rights requested the Working Group to monitor and study the effects of the activities of private companies who offer military assistance and consultancy and security services on the international market on the enjoyment of human rights - particularly the right of peoples to self-determination. In addition, the Working Group was requested to draft basic principles that would encourage respect for human rights on the part of such companies in their activities. The Working Group is composed of the following members: Mr Alexander Nikitin (Russian Federation) as chairperson-rapporteur, Ms Najat Al-Hajjaji (Libyan Arab Jamahiriya), Ms Amada Benavides (Colombia), Mr José Luis Gomez del Prado (Spain) and Ms Shaista Shameem (Fiji). Worthy of note is that there is representation from an African Union Member State in the Working Group, namely Libyan Arab Jamahiriya.

Although the international community is investigating the privatisation of security phenomenon, Africa has not been fully engaged in this discourse for various reasons, the main one being the lack of cutting-edge research on the involvement of PMSCs in Africa, especially in conflict and post-conflict situations. Research institutions working in the field of human security and conducting research with the aim of influencing policy-making processes can best address this shortcoming. PMSCs involved in Africa are generally unregulated, which poses a security threat to Africa's peace and security. The African Union (AU) has also not as yet taken a formal decision to address the challenges posed by the private security industry on the continent. These are some of the reasons why the Institute for Security Studies (ISS) undertook a two-year research project on the regulation of the private security sector in Africa in order to inform policy-making processes within the AU, as this is the continental body whose objective includes the promotion of peace, security and stability in Africa in terms of

article (3)(f) of its Constitutive Act. The research project commenced in July 2006 and ended in July 2008. This policy paper has been informed by the findings flowing from this research project.

The ISS project was made possible by the generous support of the International Development Research Centre (IDRC) and United Nations University (UNU). The IDRC is a Crown corporation that was created by the Parliament of Canada in 1970 to help developing countries to use science and technology to find practical long-term solutions to the social, economic and environmental problems they face. The IDRC's support is directed towards creating a local research community whose work will build healthier, more equitable and more prosperous societies. The UNU was established in 1969, following a proposal by the then Secretary-General of the UN, U Thant, who recommended that a new type of university be established to promote international scholarly co-operation, undertake problem-oriented, multidisciplinary research on urgent global concerns, and strengthen research and training capacities in developing countries.

The aim of this policy paper is to summarise the work of the research project, present the challenges posed by PMSCs, identify the research findings and provide recommendations to the African Union Commission regarding the privatisation of security in Africa. The paper also presents a recommended pro forma protocol on the regulation of the private security sector in Africa. It is envisaged that the paper would be of use at the AU level in the discussions around the privatisation of security phenomenon and the development of policies aimed at effectively regulating PMSCs in Africa.

First, the paper outlines the project's overall objectives and then introduces case studies. Second, it discusses the research methodology. Third, the paper considers the challenges posed by the unending privatisation of security phenomenon. Fourth, it then highlights the most significant research findings. Fifth, the paper provides some recommendations which could be considered in addressing the challenges posed by PMSCs. Lastly it ends with a conclusion.

Objectives

The aim of the ISS project on the regulation of private security sector in Africa is to support the development of an effective regulatory regime for the growing private security sector in Africa. The focus is mainly on the revision of the 1977 OAU/AU Convention for the Elimination of Mercenarism in Africa and the development of pro forma regulatory frameworks for the private security sector in Africa at national and regional levels. The specific objectives of the project are as follows:

- To enhance understanding of the role of private security services in selected African countries with a history of substantial private security engagement
- To inform the international debate on the role of women and children in the private security and mercenary environment with specific reference to the abuses perpetrated against women and children by uncontrolled private security and mercenary organisations
- To gain an understanding of the role of key First World countries in outsourcing of non-core military functions as a supply factor and of the increased role of the private sector in UN peacekeeping operations as well as its impact on Africa, particularly with regard to the logistic design and concept of the African Standby Force
- To conduct case studies on the role of the private sector in state security in three countries, namely South Africa, the Democratic Republic of Congo (DRC) and Uganda, with the aim of documenting the extent to which these societies rely on non-indigenous forces/consultants/companies for the provision of essential security services, and in the case of South Africa, to explore the role it plays in supplying private security personnel
- To positively influence policy processes towards revision of the

1977 OAU/UN Convention for the Elimination of Mercenarism in Africa

- To inform the disarmament, demobilisation and reintegration (DDR) processes in Africa to prevent poorly executed DDR that leads to aggravation of problems associated with mercenarism and proliferation of private security companies on the continent
- To develop pro forma legislation on the regulation of the private security sector in Africa

These objectives have been addressed in more detail in the project's publications, and are listed in the references at the end of this paper.

Case studies and methodology

The ISS project was divided into two parts, which were carried out consecutively. In the first year the main focus was on the private security sector in Africa. In the second year the spotlight fell on mercenarism in Africa - mercenarism being regarded as the darker side of the activities of PMSCs. This division was deliberate, to dispel the common misconception that the private security industry represents another form of mercenarism. By separating the two, the project highlighted the incorrectness of the assumption that the private security sector is made up of mercenaries and that all PMSCs are akin to mercenaries. The distinction is important because of the related and recurring general view that by advocating for the effective regulation of PMSCs, one is advocating for the legitimisation of mercenaries. This is unfortunate, because this view prevents one from understanding of roles that PMSCs play, which are generally diverse in nature. While mercenaries are generally private contractors, not all private contractors are mercenaries.

As part of the project, three African countries, South Africa, the DRC and Uganda, were studied to determine the extent of their private

security industries and how these countries have responded to the industry in terms of regulations. The case studies were biased towards understanding the private security industry as represented by PSCs as opposed to PMCs, which are more involved in the provision of military expertise. The research methodology included the development of a questionnaire, which guided the research in each country. Both field and desk research were used to gather the information on which the country reports were based. Information on the regulatory frameworks in the countries were also collected, and analysed in the reports.

The country case studies thus provided a comparison of the scope and role of the private security industry in each of the countries. The governmental regulatory approaches in addressing the private security sector in these countries are largely informed by the security threats faced in the countries, coupled with the social, economic and political dynamics of the countries concerned. The reports are also important for other African countries, allowing them to draw lessons from the countries being studied, particularly when it comes to regulation and control of the private security industry. Africa not only has to deal with internal private security actors, but is also facing challenges as a result of the proliferation of external private security actors who are involved in the continent's security sector reform (SSR) programmes, particularly in post-conflict states.

The decision to use a multidisciplinary approach in the study of private security was important because it allowed for an appreciation of the phenomenon as a whole. This type of approach was also essential in view of the different perspectives on how to best address the need for regulating the private security industry in Africa.

Challenges resulting from privatised security

In the past decade, the world has witnessed a rapid growth of the private security industry. PMSCs have diversified their activities to include military advice and training, arms procurement, intelligence

gathering, logistical and medical support and - in a few instances - combat and operational support. As a result of this, many African states have been engaging the services of internationally-operating PMSCs such as the American firms MPRI (Military and Professional Resources International), DynCorp and PAE (Pacific Architects and Engineers), while more 'traditional' security companies such as Saracen and Gray Security are active in countries such as Kenya, Uganda and South Africa.

A notable example of private actors engaging in combat and operational support (an area that is normally reserved for state armies) are the past activities of Executive Outcomes (now defunct) in Angola and Sierra Leone. The UN peacekeeping missions in Sierra Leone, Liberia, Côte d'Ivoire and the DRC have also outsourced their supply and logistical needs to PSCs. To cut down on expenses, the UN Mission in Ethiopia and Eritrea contracted a commercial de-mining team to replace the Slovak military de-mining group active in the region. In the case of Sierra Leone, Executive Outcomes and later Sandline International (now also defunct) reportedly provided operational and combat support to the Sierra Leonean and British armed forces, although the exact extent of their support remains shrouded in secrecy.

Understandably, the presence of these private actors in Africa raises questions about the accountability and democratic oversight of the private security sector, the extent to which governments, the UN and relief agencies are outsourcing key 'state' functions, and the influence that these companies gain in the process. Recently the US - currently the largest aid donor to Sudan - pledged support to the AU peace mission there in the form of private contracts awarded to DynCorp and Pacific Architects and Engineers.

Mercenarism, the darker side of the private military sector, continues to pose a threat to stability in Africa, as was illustrated by recent events. For example, there is proof that mercenaries were involved in two attempted coup plots on the continent – one against the island

state of *São Tomé and Príncipe* and another against the Central African state of Equatorial Guinea. It is widely suspected that access to oil income by commercial companies colluding with political interests was one of the main reasons for the coup attempts.

When the OAU adopted the Convention for the Elimination of Mercenarism in Africa in Libreville, Gabon, on 3 July 1977, it was in fact a response to traditional mercenarism as opposed to the use of private military/security companies. At the time, mercenarism was regarded as being partly responsible for propping up illegitimate colonial regimes and threatening the aspirations of independence of the African peoples. Hence the following definition was formulated in the convention:

The crime of mercenarism is committed by the individual, group or association, representatives of a State and the State itself with the aim of opposing by armed violence a process of self-determination or the territorial integrity of another state ...

Couched as it is in terms of inter-state conflict and liberation struggles, the 1977 Convention is outdated in the current era of intra-state warfare, 'legitimate' private security companies (more often than not contracted by governments or multinationals) and resource-driven conflicts. Its deficiencies are compounded by the fact that only 28 of the 53 Member States of the AU have ratified the convention. Accordingly, the more 'legitimate' activities of the private security sector are carried out in an environment with little or no regulation.

South Africa has further concerns about mercenarism and the private security sector, which may also be related to the lack of social reintegration of former combatants. The activities of Executive Outcomes in Angola and Sierra Leone and - more recently - the attempted coup in Equatorial Guinea have served to highlight the involvement of many South Africans, particularly members of the former South African Defence Force (SADF), in the private security sector. Their activities are not limited to Africa. There was (and still

is) a considerable number of South African private security sector workers in Iraq. As a result, questions arose about the legality of their activities, especially in view of South Africa's anti-mercenary legislation, the Foreign Military Assistance Act of 1998 (FMAA). At the root of these concerns was a lack of clarity on the part of the government as to what constitutes mercenary activity, and what legitimate private security work. The FMAA has also been criticised for being too general in its definition of what constitutes 'foreign military assistance', and despite its sweeping scope (including extra-territorial application and progressive language) has not met with particular success. Few convictions, for instance, resulted from the Act, and only small fines were paid by South Africans who were found to be recruiting 'mercenaries' in Côte d'Ivoire.

It should also be noted that retrenchment exercises within the successor to the SADF, the South African National Defence Force (SANDF), have resulted in a host of (mostly) white officers with substantial combat experience leaving the force with little prospect of employment other than in the private security sector. In other words the private security industry offers great opportunities for the former military personnel, especially in conflict-infested countries in Africa and beyond.

In the absence of a working social reintegration scheme, former South African soldiers continue to serve as a recruitment pool for local and international companies, but now within a context that criminalises their future employment opportunities. A new Act, which will replace the Foreign Military Assistance Act, namely The Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act, 2006 (Act 27 of 2006), has been assented to by the President of South Africa. However, it will only become operational after a presidential proclamation in the *Government Gazette* is issued.

Poorly executed disarmament, demobilisation and reintegration (DDR) processes in Africa could exacerbate the supply-side problem of private security companies and mercenarism. Two studies on

demobilisation and its aftermath (ISS monographs 59 and 61) clearly defined the problems of demobilisation in sub-Saharan Africa and found, among other things, that one of the general problems encountered by African demobilisation efforts is 'the propensity of demobilised soldiers to join private armies' (ISS monograph 59:26). The large-scale DDR processes that lie ahead in post-conflict countries such as Burundi, the DRC and Sudan could aggravate this problem.

There is every indication that the private security sector will continue to expand globally. A general trend toward downsizing of militaries in the North, notably in Great Britain and the United States of America, will expand the market for outsourcing. Governments reluctant to provide peacekeeping personnel to conflicts in the South are more amenable to funding outsourced military support activities like the type seen in recent African peace missions. It is necessary, then, to establish clearer guidelines for the private security sector, which both protect legitimate players in the industry and eliminate the illegitimate ones, including mercenaries – particularly since there is every indication that many support and other functions required by the proposed African Standby Force will be provided by private contractors.

Research findings

A preliminary noteworthy point is that the debate around the regulation of the private security sector in Africa has not featured prominently in Africa compared to other world regions such as Europe and America. This is mainly because very few researches have been conducted in Africa by African researchers. In fact, the ISS is the only African non-governmental organisation that has undertaken a comprehensive study on the regulation of the private security sector in Africa with a focus on private security and military companies and the issue of mercenarism in Africa. The ISS project on the private security sector has captured current information available about the phenomenon in the three African countries and reflects the most current debate around the phenomenon.

In Africa, not much attention has been paid to the privatisation of security phenomenon. This is equally true for the AU and various regional economic communities. The ISS engagement with the phenomenon has unfortunately not received much input from the AU, its member states or the regional economic communities. There is still a need to conduct further studies on the privatisation of security, which should inform the regulation of the private security sector not only at the regional level, but also at subregional levels.

Through the project the ISS has been able to reflect the current views on the subject of the private security industry in the form of PSCs and PMCs operating in Africa. The ISS does not in any way reject the involvement of the private security sector, but advocates for its effective regulation and control for the sake of peace, security and stability in Africa. The project looked at the growth of the private security sector phenomenon in Africa and considered the need to address this unprecedented growth of the industry on the continent during times of both peace and war and presented different approaches that are Africa-specific. The project also considered domestic level perspectives of the private security sector phenomenon over and above the external dimension of their activities.

In an endeavour to better understand the activities of the private security sector in the three African countries, the project considered the following issues:

- Security threats
- The extent of PSCs and PMCs
- Reasons for the development of the private security industry
- Services provided by PSCs and PMCs
- The effect of the privatisation of security on human rights, with special reference to vulnerable groups such as women and children
- Advantages and disadvantages of the private security industry
- Existing policy frameworks (if any) of various security establishments regarding outsourcing and public private partnerships and the implications thereof

- The extent to which mercenary activities are still taking place in the countries researched or to which its nationals are perpetrating such acts elsewhere in the world
- The regulatory framework for PSCs and PMCs operating in these states
- The regulatory framework for PSCs and PMCs with employees operating outside their home countries
- The use of firearms and uniforms by PSCs and PMCs
- Governance, professionalism and training of PSCs and PMCs employees
- Exporting of security and military assistance
- Gaps, inconsistencies and areas for improvement with regard to the private security sector

The three African states present interesting perspectives in as far as the private security industry is concerned, particularly in terms of its growth, impact and regulatory frameworks. The contexts within which the private security industry operates in these countries differ, as each is informed by social, economic, political and security dynamics peculiar to a particular state. While the findings of the case studies are not conclusive because of a number of factors, they nevertheless provide an overview of the private security industry in these countries, thus enhancing an understanding of the role played by private security actors play in each of these states.

It was established that the private security in South Africa, the DRC and Uganda is much more common and pervasive than previously thought and had significant social, economic and political implications for societies in each country. The industry is growing at a tremendous rate, which makes it increasingly difficult for the African governments to regulate them effectively. The precise impact of the private security sector varies from country to country, depending on the particular circumstances in each one, but on the whole all private security actors are influential and sometimes controversial actors in the field of security. Private security is enmeshed in intricate 'hybrid' structures which work alongside public security forces. This confirms the position that the private security industry is here to stay and therefore it is

important for African governments to have effective frameworks for its regulation.

The focus of the case studies was on the internal rather than the external dimension of the private security industry. Hence the research findings were country-specific and not necessarily confined to specific thematic areas. The project identified that more research was still needed, for instance in understanding the role of the private security industry in African conflicts, peacekeeping missions and humanitarian assistance. Worthy of note is the increase of PMSCs willing to undertake security sector reform in post-conflict states, engage in peacekeeping operations on behalf of intergovernmental organisations and offer humanitarian assistance on behalf of international organisations.

The study was unable to document information on the traditional type of mercenaries in these countries, for various reasons. One reason was the specific focus of the research, namely effective regulation of the growing private security sector framework through national, subregional and regional legislation and protocols. The countries researched are relatively stable, and the study did not extend to zones that are experiencing sporadic armed conflicts in which mercenary units or outfits may be involved. Furthermore, the era which was characterised the use of the traditional type of mercenaries is long gone and has been replaced by a proliferation of PMSCs. However, this does not mean that PSCs and PMCs are not involved in mercenary activities at all - PMSCs who are arguably involved in such activities do so in secret since mercenarism remains prohibited under international and national law.

While the study captured information on the involvement of the notorious and now defunct Executive Outcomes in mercenary activities, it also discussed how South Africa responded to the involvement of South Africans in mercenary activities. It also looked at military assistance they provided beyond South Africa's borders, notably in Iraq and Afghanistan. The study, however, did not extend to the actual operation of South African citizens in Iraq and Afghanistan.

South Africa has the largest private security industry of the three countries researched, and the industry is reasonably well regulated compared to that of the other two. Uganda also has to a large extent regulated its private security industry. Owing to the post-conflict situation in the DRC, there is minimal regulation of the private security industry. Regulatory measures that do exist are implemented and adhered to rather arbitrarily. Control also takes place on an informal and ad hoc basis, is not transparent and is based on personal relationships. It should be noted that the DRC case study only extended as far as Kinshasa and Lubumbashi, as the country is too vast and conditions too varied. While the use of firearms by security service providers is allowed in Uganda - and to a large extent in South Africa - it is strictly prohibited in the DRC. South Africa has witnessed a high rate of cash-in-transit heists, while this is not necessarily the case with the DRC and Uganda, due possibly to the high rate of organised crime in South Africa. This possibly explains the reason why the use of firearms is to some extent allowed in South Africa.

In South Africa, the DDR process acted as a catalyst for the formation of the private security industry. During the DDR process a large number of South Africans had to leave the South African military in order to give way to new recruits that were to reflect the South African diverse groups. Recent statistics (2008) state that there are about 4 898 registered security businesses in South Africa, employing a total of 307 343 active registered security officers. In the DRC the rapid growth of international and multilateral organisations and companies which are managing post-conflict transition and reconstruction programmes, have resulted in the development of a private security industry of some 45 registered companies. In Uganda, the liberalisation of the economy in 1998 led to private property being acquired by individuals and private organisations. These acquisitions in turn led to a high rate of crime, thus informing the need for the provision of security to private properties and individuals. There are currently 58 registered private security companies in Uganda, most of which are also operating in other African countries. The number of employees registered with the Uganda Private Security Organisations Association stands at 17 000.

The main advantage of the private security industry in all three countries is that it provides a basis for direct investment, with South Africa taking the lead. The industry also provides employment to many Africans, especially from underprivileged societies, as the industry does not necessarily require a high level of education, especially for ordinary security guards. Citizens feel more secure as a result of the presence of the private security sector. The main disadvantage is that the emergence of the private security industry has resulted in what could be referred to as an 'apartheid' security society in which only a privileged minority group benefit from the provision of private security, while the underprivileged remain unprotected as they cannot afford to pay for private security services. Another disadvantage is that as private security companies largely employ former military and police forces - especially in managerial positions - this can result in shortages in state security forces while the PMSCs could also become a force unto themselves if not effectively regulated.

In Uganda the private security industry is regulated in terms of the Police Act of 1949 and the Control of Private Security Organisations Regulation of 1997. The DRC has no private security legislation apart from a regulation on the conditions for the exploitation of guarding companies, that is, Arrêté ministériel 98/008 of 1998, which has very little impact in terms of either regulation or effectiveness. In the DRC, public and private partnerships between the police and the private security companies have been formalised through a 2003 agreement (Ordre Ops 1560 of 2003 and Directive 1538 of 2003) in the DRC. In South Africa the private security industry is mainly regulated by the Private Security Industry Regulation Act of 2001 and the regulations made in terms of this Act. The state also contracts private security companies to protect its establishments, including some of the South African Police Service. The South African legal framework is the most effective of the three countries with regard to regulation of the private security industry.

No documented mercenary activities have taken place in Uganda and the DRC, except for PMCs which represent the new form of mercenary units. The best-known cases of mercenary activity by South Africans

outside the South African borders are that of Executive Outcomes in Sierra Leone and Côte d'Ivoire. More recently there has been an alleged coup attempt to overthrow the government of Equatorial Guinea that involved a number of former 32 Battalion soldiers from South Africa as well as high-profile British citizens such as Sir Mark Thatcher and Simon Mann. This has resulted in the restrictive approach by the South African government towards the exportation of security-related expertise.

In South Africa, attempts to regulate the private security industry have culminated in the Prohibition of Mercenary Activities and Prohibition of Certain Activities in Areas of Armed Conflict Act, 2006 (Act 27 of 2006). This Act was introduced as a result of the ineffectiveness of the now repealed Foreign Military Assistance Act of 1998. The South African Parliament and the National Council of Provinces passed the Act in 2006 and it was assented to by the President of the Republic of South Africa on 12 November 2007. Once gazetted, the new Act will shape the future engagements of private security actors outside the South African borders.

The Act seeks to put in place a regulatory framework in relation to, inter alia, the provision of assistance or services of a military or military-related nature in a country of armed conflict and the enlistment of South African citizens or permanent residents in other armed forces. It is in fact aimed at discouraging these activities. The proposed regulation is in line with the South African Constitution, the supreme law of South Africa. Section 198(b) of the Constitution provides that 'the resolve to live in peace and harmony precludes any South African citizen from participating in armed conflict, nationally or internationally, except as provided for in the Constitution or national legislation'. The Act therefore provides for legislative measures aimed at curtailing unauthorised and opaque private security sector business operations and the recruitment by the industry of South African citizens and permanent residents outside South Africa.

In South Africa mercenarism was prohibited outright by the Foreign Military Assistance Act of 1998 and the Prohibition of Mercenary

Activities and Prohibition of Certain Activities in Areas of Armed Conflict Act of 2006. However, the definition of a 'mercenary' provided for in these instruments differs from the one in the 1977 Convention. The reason is that the challenges regarding mercenarism that South Africa faces now are not the same as those that were faced by the rest of Africa at the time that the 1977 Mercenary Convention was adopted. These include the recruitment of South African citizens to fight in Afghanistan and Iraq in the wake of the 9/11 events. The South Africa legislation casts a wide but and unclear net in terms of the individuals it seeks to regulate, extending it to include individuals that provide necessary services such as humanitarian assistance. Definitions within the Act, such as what constitutes a mercenary, are subject to major challenges which does not necessarily take into account the definitions provided for under international law. Yet other aspects are not clearly defined, for example, it does not specify what constitutes humanitarian assistance. A further concern is that the Act does not make provision for civilian oversight or even parliamentary oversight, giving the executive a wide range of powers that are not provided for in the constitution. Lastly, the punitive nature of the Act provides no incentive for compliance and an arguably dubious institution, the National Conventional Arms Control Committee (NCACC), will regulate compliance.

Uganda only ratified the 1977 Convention and does not have any specific legislation on mercenaries. The same holds for the DRC. Both these countries therefore prohibit mercenarism, but have no frameworks in place to implement the 1977 Convention. The DRC lacks effective oversight and control mechanisms over the private security industry for obvious reasons. The country still has a very weak governance system in place and is slowly recovering from protracted conflicts which rendered governmental systems ineffective. In Uganda there is no national law against the export of military expertise as in the case of South Africa. As a result Ugandans are contracted to work in countries like Iraq without any proper guidelines. There is also no training manual for private security companies as prescribed by the Ugandan regulations, that is, the Control of Private Security

Organizations Regulations, 1997. At present they rely on the South African training manual, tailored to the Ugandan situation.

Screening of security personnel, improvement of the training curriculum and tighter provisions on firearms are some key aspects that would require more attention in South Africa. The growth of the private security industry in South Africa has created a need for increased monitoring capacity to execute the core regulatory mandate of the Private Security Regulatory Authority. There is also a need to review the regulatory legislative framework, based on lessons learned from implementation to date. Other aspects that require attention is a closer co-operation of the private security industry with state law enforcement agencies, engagement with the industry to encourage self-regulation, as well as further research into and development of international 'best practices' to suit local condition.

The privatisation of security has not been adequately addressed in Africa. It remains an industry that is typically neglected in SSR assessments and programmes. As a result, there is a considerable lack of documentation for practitioners to draw on when designing and implementing SSR programmes. In the three countries studied in the project, the size and role the private security industry played in their respective national security systems were extremely significant. The increasing demand for private security services reflects serious shortcomings in the public security services of these particular African countries.

There is, therefore, an urgent need to address the issue of privatisation of security, given its increasingly central role in the configuration of the security sphere and its impact on state capacity to control instruments of violence. The present lack of regulatory frameworks to curb unaccountable action by private security actors, coupled with state weakness in monitoring and enforcing regulations, have created a need to find and investigate other options for regulation. There is an empirical lack of knowledge about the private security industry and how it operates and this gap needs to be closed by the

undertaking more research of the type that was carried out by the project under discussion.

Recommendations

In the light of the shortcomings in present frameworks and the challenges that need to be addressed, the project on the regulation of the private security sector in Africa by the ISS made the following recommendations.

Revision of the 1977 Mercenary Convention

If there is any place on our planet where private provision of armed force and security/military expertise needs to be carefully regulated, that place is Africa. The only legal instrument currently available in Africa that aims to do this - at least at continental level - is the 1977 OAU/AU Convention. However, the convention is inadequate in the present circumstances and research findings point to the fact that a revision is long overdue.

A regulatory framework for PMSCs

Based on the findings from the three country case studies and the ongoing debates about the need for the regulation of private security in Africa, which the ISS initiated and in which it is still involved, it became apparent that there was a need for the development of a regulatory framework at the continental/regional level, that is, at AU level. Provided that terms such as 'private security companies', 'private military companies' and 'mercenaries' are specifically defined, such a framework would ensure that private security is not in any way linked to mercenary activities. It would then be possible to translate the framework into domestic legislations, bearing in mind the particular contexts of the different African states.

Formulating an effective protocol

The rationale behind the recommendation that pro forma legislation

be developed at AU level is that this will ensure that every African state is involved in the process of negotiating the contents of such a regulatory framework. Hence the project developed a protocol on the regulation of the private security sector in Africa, which could act as a guideline for formulating effective legislation to regulate the private security sector in Africa. The protocol also proposes that a peace and security council be set up as the main AU organ responsible for the regulation of the private security sector industry in Africa.

Objectives of the protocol

The objectives of the protocol should be as follows:

- Promoting peace, security and stability through the effective regulation of the private security industry in Africa
- Ensuring respect for human rights by the private security industry operating in Africa and its users
- Ensuring the transparent use of the private security industry by member states in Africa and elsewhere
- Preventing the involvement of the private security industry in mercenary activities in Africa
- Ensuring that the private security industry respects international law in general and international humanitarian law and international human rights law in particular

Guiding principles

In terms of the protocol, state parties should undertake to abide by the following principles:

- Respect for democratic principles and institutions, popular participation, the rule of law and good governance
- Respect for international law, international humanitarian law and international human rights law in accordance with the relevant international instruments
- Condemnation of governments which come into power through unconstitutional means

- Condemnation of governments which make use of mercenaries in order to stay in power or to exterminate political opponents and dissidents
- Condemnation of the use of the PMSCs in combat operations in Africa and elsewhere

National legislation

Once the protocol is in force, African states would be able to apply it at the domestic level to their respective jurisdictions, which would ensure that there is a harmonised effect or instrument. This would in turn ensure that regulation of private security on the entire continent is effective. However, what is important is that before such a framework is developed, African states have a thorough understanding of the phenomenon of privatisation of security, comprising a process of collaborating, researching, consulting, debating and reaching a consensus on how the privatisation of security challenges could be addressed in Africa. After all, the private security industry is here to stay and a thorough understanding of the phenomenon would promote an effective means of regulating it.

Involvement of PMSCs in conflict areas

There is still a particular need to better understand the involvement of the private security sector in African conflicts and post-conflict situations, in peacekeeping missions, and in humanitarian assistance operations in order to better inform the development and application of appropriate norms and standards, including the revision of the 1977 Mercenary Convention. To this end, more detailed and groundbreaking research and robust debates are still required in order to address the challenges of the privatisation of security in a more holistic and informed manner.

The role of the Economic, Social and Cultural Council of the AU, non-state actors and civil society

In order to ensure a people-centred approach to addressing the

challenges posed by the PMSCs in Africa, there is a need to involve the Economic, Social and Cultural Council (ECOSOCC) in the process. ECOSOCC is an organ of the AU established in terms of article 5(h) of the Constitutive Act of the AU. In terms of the provisions of article 22 of the Constitutive Act, ECOSOCC would advise the AU on matters relating to the privatisation of security. ECOSOCC is composed of different social and professional groups from the AU member states, and are non-state actors and civil society organisations from a wide range of sectors, including labour, business and professional groups, service providers and policy think-tanks, and the African Diaspora. Such involvement should take place before a protocol on the regulation of the private security sector is finalised.

The Pan-African Parliament

Over and above the involvement of the ECOSOCC, the process of developing a regulatory framework should also involve the Pan-African Parliament (PAP), which was established in terms of article 7(1) of the Constitutive Act of the AU, so as to ensure full participation of African peoples in the development and economic integration of the continent. The objectives of the PAP include the promotion of the principles of human rights and the promotion of peace, security and stability in Africa and as such the issues surrounding PMSCs with regard to human rights, peace, security and stability fit within its mandate. The PAP is vested with legislative powers, which are to be exercised after its first term of existence. As it at present has only advisory and consultative powers, it is critical that the PAP participates in this discourse in order to exercise its advisory and consultative powers effectively and also that it is conversant with all aspects of PMSCs in Africa when it acquires legislative powers in the future. Therefore the PAP should be given the opportunity to examine, discuss or express an opinion on matters relating to PMSCs and also make such recommendations as it may deem fit.

African Union Commission portfolios

The development of the regulatory framework for PMSCs should also

involve the relevant portfolios of the African Union Commission, such as the Peace and Security Portfolio (which is responsible for conflict prevention, management and resolution and combating terrorism) and the Political Affairs Portfolio (which is responsible for human rights, democracy, good governance, electoral institutions, civil society organisations, humanitarian affairs, refugees returnees and internally displaced persons). The Office of the Legal Counsel, which handles all legal aspects relating to the activities of the AU, should also be included in the consultation and development process.

The African Commission on Human and Peoples' Rights

As the matters related to PMSCs affect human and peoples' rights, both directly and indirectly, there is a very great need to involve the African Commission on Human and Peoples' Rights (the African Commission) in matters relating to the private security industry. The African Commission was established in terms of article 30 of the African Charter on Human and Peoples' Rights as a quasi-judicial institution with the mandate of promoting and protecting human and peoples' rights in Africa.

The African Commission's work includes the following:

- Collecting documents
- Undertaking studies and researches on African problems in the field of human and peoples' rights; organising seminars, symposia and conferences
- Disseminating information
- Encouraging national and local institutions concerned with human and peoples' rights
- Making recommendations to governments
- Formulating and laying down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation

- Co-operating with other African and international institutions concerned with the promotion and protection of human and peoples' rights in Africa, and
- Conducting promotional activities through education and publicity in designated countries

Based on the above, the African Commission could provide valuable inputs on the formulation of a regulatory framework for PMSCs in Africa.

An African Union steering committee

The AU could also consider establishing an AU steering committee to deal with privatisation of security. Such a steering committee should include representatives of the above-mentioned organs of the AU and African Commission. The work of this committee would feed into the work of the UN Working Group on the use of mercenaries as a means of violating human rights and impeding the right to self-determination. This would in the long run ensure a coherent and complementary approach to addressing the challenges posed by PMSCs globally and regionally. Such a committee would also comply with the request made in paragraph 12 of the UN General Assembly Resolution 60/251 that the UN Working Group should ' seek opinions and contributions from Governments and intergovernmental and non-governmental organisations on questions relating to its mandate'. Based on this resolution, the AU can use the proposed steering committee to participate in discussions on the private security sector and also enrich its own work on how best to develop a regulatory framework at the AU level.

The Swiss Initiative

The proposed AU steering group would also represent the AU in the Swiss Initiative, which was launched by Switzerland in close co-operation with the International Committee of the Red Cross. The aim of the initiative is to promote respect for international humanitarian

law and human rights with regard to private military and security companies operating in conflict areas. These aims encapsulate the main objectives of the Swiss Initiative:

To contribute to an inter-governmental exchange on the challenges posed by the use of PMCs/PSCs

To re-affirm and clarify the existing obligations of states and other actors under international law, in particular under international humanitarian and human rights law

To study options for regulation and other appropriate measures at the national, and where possible, regional or international levels, and possibly elaborate good practices for states in order to assist them to meet their responsibilities under international law

Participating in the Swiss Initiative would ensure that the regulatory framework has both global and regional dimensions that are coherent and indeed complementary to international views on regulation.

Conclusion

Despite the enormous challenges that Africa faces as a result of the involvement of PMSCs in various fields, there is no doubt that the ISS project regarding private security will be of paramount importance to the responsible departments of the AU, and particularly those working on the revision of the 1977 OAU/AU Convention for the Elimination of Mercenarism in Africa. The ISS shall continue to engage in the debates on the private security industry and mercenarism with the AU, regional economic communities and individual African states. However, more research is needed to ensure a thorough understanding of the role that the private security industry plays in Africa.

It is essential that, before any regulatory framework is developed by the AU, extensive consultations take place with all the stakeholders in the field of security. Any unilateral formulation of a policy framework would be counterproductive. Of critical importance in this regard is the involvement of the private security industry in the process of

formulating such a framework. The same hold good for African public armies and security services, who are at present losing a considerable number of their personnel to the private security sector.

Through this study the ISS has initiated a 'grand debate on privatisation of security in Africa'. The importance of this study cannot be overemphasised, as it aims at achieving the overarching ISS mission of conceptualising, informing and enhancing the debate on human security in Africa in order to support policy formulation and decision making at every level so as to enhance human security for all in Africa. An effectively regulated private security industry in Africa would to a large extent ensure a better Africa – one that is more secure, more peaceful and more stable.

It is hoped that this document will serve to influence policy processes within the AU. The AU is the ultimate organisation responsible for human security in Africa and as such it is affected (both positively and negatively) by the involvement the private security industry in Africa. The ISS shall continue to support the AU in its efforts to free the continent not only from conflict but also to ensure that human rights are promoted and protected in so far as the involvement of the private security sector is concerned.

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All these are available at www.issafrica.org.

APPENDIX

Pro forma legislation

Protocol on the Regulation of the Private Security Sector in Africa

We, the Heads of State and Government of the Member States of the African Union:

Considering the provisions of the Constitutive Act of the African Union, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the African Charter on Human and Peoples' Rights, and the Convention for the Elimination of Mercenarism in Africa;

Noting that the African Union is in terms of the Constitutive Act of the African Union entrusted with the ultimate responsibility for promoting peace, security and stability in Africa and that African Charter on Human and Peoples' Rights and guaranteeing the right of all peoples to national and international peace and security, obligates Party States to undertake to adopt legislative or other measures to give effect to this right;

Noting further that the Peace and Security Council of the African Union was among others established to promote peace, security and stability in Africa, in order to guarantee the protection and preservation of life and property, the well-being of the African people and their environment and the creation of conditions conducive to sustainable development;

Recognising the emergence of the private security industry in the form of private military/security companies (PMSCs) in Africa from within and outside the continent and their impact on Africa's peace and security;

Mindful of their involvement in the quest for peace, security and stability in Africa, particularly in critical areas such as in peacekeeping

missions, humanitarian assistance operations and post-conflict reconstruction and development;

Concerned about the involvement of some PMSCs in Africa, particularly in mercenary activities on the African continent in contravention of the international standards such as the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, the Additional Protocol I to the Geneva Convention of August 1949, and the Convention for the Elimination of Mercenarism in Africa;

Concerned further about the unregulated and sometimes unlawful recruitment of Africans by PMSCs in Africa and abroad, to work in conflict zones or areas of armed conflicts and render a wide range of security or military and related services in exchange for material compensation and sometimes in contravention to international and national laws;

Cognisant of the negative role played by some PMSCs in bringing about unconstitutional changes of governments in contravention of the Constitutive Act of the African Union and Decisions AHG/Dec.141 (XXXV) and AHG/Dec.142 (XXXV) on unconstitutional changes of government, adopted by the 35th ordinary session of the assembly of heads of state and government of the OAU held in Algiers, Algeria, from 12 to 14 July 1999, and Declaration AHG/Decl.5 (XXXVI) on the Framework for an OAU Response to Unconstitutional Changes of Government, adopted by the 36th ordinary session of the assembly of heads of state and government of the OAU, held in Lomé, Togo, from 10 to 12 July 2000;

Recognising the efforts of the United Nations through the work of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination, established in July 2005 pursuant to Commission on Human Rights resolution 2005/2;

Determined to support the Working Group whose mandate includes monitoring and studying the effects of the activities of private

companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights, particularly the right of peoples to self-determination;

Firmly convinced that there is an urgent need to effectively regulate the private security industry on the African continent at the regional and national levels in an endeavour to ensure respect for human rights on the part of PMSCs and their employees, including their use within the continent and abroad;

Hereby agree as follows:

ARTICLE 1 ***DEFINITIONS AND INTERPRETATIONS***

In this Protocol, unless otherwise stated,

- (1) 'Protocol' means the present Protocol;
- (2) 'Constitutive Act' means the Constitutive Act of the African Union;
- (3) 'Union' means the African Union;
- (4) 'Commission' means the Assembly of the Heads of State and Government of the African Union;
- (5) 'RECs' means the regional economic communities recognised by the African Union;
- (6) 'Peace and Security Council' means the Peace and Security Council of the African Union established by the Protocol Relating to the Establishment of the Peace and Security Council of the African Union adopted on 9 July 2002 and entered into force on 26 December 2003;
- (7) 'Private security industry' means a legal industry comprised of private security companies (PSCs) and private military companies (PMCs), a combination of which is referred to as private military/security companies (PMSCs);
- (8) 'PMSC association' means any legally registered association of

PSCs and/or PMCs and recognised as such by international, regional or sub-regional organisations, such as the United Nations, African Union or regional economic community.

(9) 'Private security company' means a legally established national or multinational commercial enterprise or company whose objective is to make profit from the provision of security-related goods and services, such as, but not limited to, the following:

- a Protecting or safeguarding a person or property in any manner;
- b Giving advice on the protection or safeguarding of a person or property in any manner;
- c Providing a reactive or response service in connection with safeguarding of a person or property in any manner;
- d Providing a service aimed at ensuring order and safety on premises used for any legitimate purpose;
- e Manufacturing, importing, distributing or advertising monitoring devices;
- f Performing the functions of a private investigator;
- g Providing security training or instruction to a security provider;
- h Installing, servicing or repairing security equipment (alarm system, tracking device, etc);
- i Performing the functions of a locksmith;
- j Providing logistical support in an endeavour to augment security and related services;
- k Running prisons and detention centres on behalf of any person, including a government or organisation; and
- l Making a person or the services of a person available, whether directly or indirectly, for the provision of the aboveservices.

(10) 'Private military company' means a legally established national or multinational commercial enterprise or company whose objective is to offer military-related goods and services, including, but not limited to, the following:

- a Providing military or related support to any person, including a government or organisation;
- b Providing military or related advice or training to any person(s),

- including a government or organisation, or on behalf of a person(s), including a government or organisation;
- c Supplying and providing personnel, finance, logistic intelligence to any person, including a government or organisation, for a military or related purpose;
 - d Recruiting personnel for the purpose of providing military or related support;
 - e Providing medical or para-medical services in support of or within a military or related operation;
 - f Supplying or procuring equipment that is used in support of or within a military or related operation;
 - g Providing troops, specialists, fighter pilots and/or other skilled personnel with the aim of supporting a military or related operation;
 - h Providing land and/or air transport within the context of a military or related operation;
 - i Rendering any assistance within a military or related operation on behalf of any person(s), including a government or organisation;
 - j Providing a security or related service as mentioned under article 1(9) within the context of a military or related operation;
 - k Providing humanitarian assistance within a conflict or war zone;
 - l Providing military or related services in the fields of consulting and training of national or private police, national or private militaries and national or private paramilitary units;
 - m Providing any goods or services that result in the exercise of force in a systematic manner; and
 - n Conducting any business relating to a peace operation and involving the use of military or related services.

(11) 'State Party' means a Member State of the African Union which has ratified or acceded to this Protocol and has deposited its instruments of ratification or accession with the Chairperson of the Commission of the African Union.

ARTICLE 2

OBJECTIVES

The objectives of this Protocol are to

- 1 Promote peace, security and stability through the effective regulation of the private security industry in Africa;
- 2 Ensure respect for human rights by the private security industry operating in Africa and its users;
- 3 Ensure the transparent use of the private security industry by Member States both in Africa and beyond;
- 4 Prevent the involvement of the private security industry in mercenary activities in Africa;
- 5 Ensure that the private security industry respects international law in general and international humanitarian law and international human rights law in particular.

ARTICLE 3

PRINCIPLES

The State Parties to this Protocol undertake to abide by the following principles:

- 1 Respect for democratic principles and institutions, popular participation, the rule of law and good governance;
- 2 Respect for international law, international humanitarian law and international human rights law in accordance with the relevant international instruments;
- 3 Condemnation of Governments that come into power through unconstitutional means;
- 4 Condemnation of Governments that make use of mercenaries to stay in power or to eliminate political opponents and dissidents;
- 5 Condemnation of the use of PMSCs in combat operations in Africa and elsewhere.

ARTICLE 4
STATE OBLIGATIONS

1. The States Parties to this Protocol shall enact legislation giving effect to this Protocol, which shall, depending on their respective contexts, ensure that the private security industry within their jurisdiction is effectively controlled and regulated.
2. No State Party to this Protocol shall allow the recruitment of its citizens and permanent residents to work for PMSCs without a transparent and fair authorisation process from a designated regulatory authority.
3. Each State Party to this Protocol shall ensure that a regulatory authority is established for monitoring, controlling and regulating the private security industry within its jurisdiction.
4. The States Parties to this Protocol shall, through the regulatory authority, ensure that the private security industry within their jurisdiction respects the law and human rights in particular.
5. The States Parties to this Protocol shall ensure, through legislation, that the private security industry is prevented from involvement in mercenarism, terrorism, piracy and any proscribed crimes. In this regard both domestic and international instruments relating to mercenarism, terrorism, piracy and criminal offences and binding upon their respective jurisdictions shall guide States Parties in ensuring compliance with this Protocol.

ARTICLE 5
THE PEACE AND SECURITY COUNCIL OF THE
AFRICAN UNION

- 1 The Peace and Security Council of the African Union shall, in accordance with article 6 of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, be responsible for the regulation of the private security sector industry in Africa in the spirit of promoting peace, security and stability in the continent.
- 2 In ensuring the promotion of peace, security and stability in Africa, the Peace and Security Council of the African Union shall

develop proper and effective regulations on the involvement of the private security industry in areas such as peacekeeping operations, peace support operations, peace building, post-conflict reconstruction, and humanitarian action.

- 3 The Peace and Security Council of the African Union shall also act as a standing decision-making organ with regard to the private security industry in Africa and in this regard shall be supported by the Commission and an Advisory Board on Private Security to be established in terms of article 6 of this Protocol.

ARTICLE 6

FOLLOW-UP MECHANISM

- 1 An advisory board on private security shall be established by the African Union.
- 2 The Board shall comprise 11 members elected by the executive council from among a list of experts of the highest integrity, impartiality and recognised competence in matters relating to peace and security in Africa in general and the privatisation of security in particular, proposed by the State Parties. In the election of the members of the board, the Executive Council shall ensure adequate gender representation and equitable geographical representation.
- 3 The members of the Board shall serve in their personal capacity.
- 4 Members of the Board shall be appointed for a period of two years, renewable once.
- 5 The functions of the Board shall be to
 - a Promote and encourage adoption and application of regulatory measures relating to private security on the continent;
 - b Collect and document information on the nature and scope of the use of the private security industry in Africa;
 - c Develop methodologies for analysing the nature and extent of privatised security in Africa, and disseminate information and sensitise the public on the negative effects of PMSCs in Africa;
 - d Advise governments on how to deal with the challenges posed by private security companies, including their potential involvement in mercenary activities both in Africa and beyond;

- e Collect information and analyse the conduct and behaviour of PMSCs operating in Africa and disseminate such information to the Peace and Security Council of the African Union for consideration;
 - f Develop and promote the adoption of regulatory frameworks relating to the private security industry in the form of legislation and policies for States Parties to this Protocol;
 - g Build partnerships with the Economic, Social and Cultural Council, Pan-African Parliament, African Commission on Human and Peoples' Rights, relevant portfolios of the African Union Commission, intergovernmental and non-governmental organisations, and PMSC associations to facilitate dialogue in ensuring an effective regulation of the private security industry in Africa;
 - h Submit reports to the Peace and Security Council of the African Union on a regular basis on the progress made by each State Party on compliance with the provisions of this Protocol;
 - i Advise the African Commission on matters relating to mercenarism in Africa, including the application of the 1977 OAU Convention for the Elimination of Mercenarism in Africa and its possible revision;
 - j Perform any other task relating to the regulation of the private security industry as may be assigned to it by the policy organs of the African Union.
- 6 The Board shall adopt its own rules of procedure.
- 7 States Parties shall, communicate to the Board, within a year after the coming into force of the instrument, on the progress made in the implementation of this Protocol. Thereafter each State Party, through relevant procedures, shall ensure that the national regulatory authorities report to the Board at least once a year before the ordinary sessions of the policy organs of the Union.

ARTICLE 7

SIGNATURE, RATIFICATION, ACCESSION AND ENTRY INTO FORCE

- 1 The present Protocol shall be open for signature, ratification or accession by the Member States of the African Union.
- 2 The Protocol shall enter into force thirty (30) days after the date

of the deposit of the fifteenth (15th) instrument of ratification or accession.

- 3 For each State Party ratifying or acceding to the Protocol after the date of the deposit of the fifteenth (15th) instrument of ratification, the Protocol shall enter into force thirty (30) days after the date of the deposit by that State of its instrument of ratification or accession.

ARTICLE 8

RESERVATIONS

- 1 Any State Party may, at the time of adoption, signature, ratification or accession, express a reservation to this Protocol provided that each reservation concerns one or more specific provisions and is not incompatible with the object and purposes of this Protocol.
- 2 Any State Party which has made any reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Chairperson of the Commission.

ARTICLE 9

AMENDMENT

- 1 This Protocol may be amended if any State Party makes a written request to the Chairperson of the Commission.
- 2 The Chairperson of the Commission shall circulate the proposed amendments to all State Parties. The proposed amendments shall not be considered by the States Parties until a period of six (6) months from the date of circulation of the amendment has elapsed.
- 3 The amendments shall enter into force when approved by a two-thirds majority of the Member States of the African Union.

ARTICLE 10

DENUNCIATION

- 1 Any State Party may denounce the present Protocol by sending notification to the Chairperson of the Commission. This

denunciation shall take effect six (6) months after the date of receipt of notification by the Chairperson of the Commission.

- 2 After denunciation, co-operation shall continue between States Parties and the State Party that has withdrawn all requests for assistance or extradition made before the effective date of withdrawal.

ARTICLE 11 **DEPOSITORY**

- 1 The Chairperson of the Commission shall be the depository of this Protocol and the amendments thereto.
- 2 The Chairperson of the Commission shall inform all States Parties of the signatures, ratifications, accessions, entry into force, requests for amendments submitted by States and approvals thereof and denunciations.
- 3 Upon entry into force of this Protocol, the Chairperson of the Commission shall register it with the Secretary-General of the United Nations in accordance with article 102 of the Charter of the United Nations.

ARTICLE 12 **AUTHENTIC TEXTS**

The original of this Protocol, of which the Arabic, English, French and Portuguese texts shall be equally authentic, shall be deposited with the Chairperson of the Commission.

IN WITNESS WHEREOF WE, the Heads of State and Government of the African Union, or our duly authorised representatives, have adopted this Protocol.

LIST OF MEMBER STATES OF THE AFRICAN UNION

1. The People's Democratic Republic of Algeria
2. The Republic of Angola
3. The Republic of Benin

4. The Republic of Botswana
5. The Republic of Burkina Faso
6. The Republic of Burundi
7. The Republic of Cameroon
8. The Republic of Cape Verde
9. The Central African Republic
10. The Republic of Chad
11. The Islamic Federal Republic of the Comoros
12. The Republic of the Congo
13. The Republic of Côte d'Ivoire
14. The Democratic Republic of Congo
15. The Republic of Djibouti
16. The Arab Republic of Egypt
17. The State of Eritrea
18. The Federal Democratic Republic of Ethiopia
19. The Republic of Equatorial Guinea
20. The Gabonese Republic
21. The Republic of The Gambia
22. The Republic of Ghana
23. The Republic of Guinea
24. The Republic of Guinea Bissau
25. The Republic of Kenya
26. The Kingdom of Lesotho
27. The Republic of Liberia
28. The Great Socialist People's Libyan Arab Jamahiriya
29. The Republic of Madagascar
30. The Republic of Malawi
31. The Republic of Mali
32. The Islamic Republic of Mauritania
33. The Republic of Mauritius
34. The Republic of Mozambique
35. The Republic of Namibia
36. The Republic of Niger
37. The Federal Republic of Nigeria
38. The Republic of Rwanda
39. The Sahrawi Arab Democratic Republic

40. The Republic of Sao Tome and Principe
41. The Republic of Senegal
42. The Republic of Seychelles
43. The Republic of Sierra Leone
44. The Republic of Somalia
45. The Republic of South Africa
46. The Republic of Sudan
47. The Kingdom of Swaziland
48. The United Republic of Tanzania
49. The Togolese Republic
50. The Republic of Tunisia
51. The Republic of Uganda
52. The Republic of Zambia
53. The Republic of Zimbabwe

List of acronyms and initialisms

AU	African Union
CENSAD	Community of Sahel-Saharan States
COMESA	Common Market for Eastern and Southern Africa
DDR	Disarmament, demobilisation and reintegration
DRC	Democratic Republic of Congo
EAC	East African Community
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of Western African States
FMAA	Foreign Military Assistance Act
IDRC	International Development Research Centre
IGAD	Intergovernmental Authority on Development
ISS	Institute for Security Studies
NCACC	National Conventional Arms Control Committee
PAP	Pan-African Parliament
PMCs	Private military companies
PMSCs	Private military/security companies
PSCs	Private security companies
RECs	Regional economic communities
SADC	Southern African Development Community
SADF	South African Defence Force
SSR	Security sector reform
UMA	Arab Maghreb Union (Union du Magreb Arabe)
UNU	United Nations University



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