



Address by Ambassador Jürg Lindenmann
Euro-Atlantic Partnership Council (EAPC) Ambassadorial Meeting

NATO, Brussels, 12 June 2012

Excellencies,

Ladies and Gentlemen,

I would like to thank NATO for convening this meeting. This is an excellent opportunity to take stock of current regulation attempts and to discuss further steps regarding private military and security companies (or “PMSCs”). I will focus on the Montreux Document and on what further actions EAPC States and NATO could wish to consider on a policy and on a normative level.

Privatisation of security is a topic high on the international agenda. Since the end of the Cold War, demand for PMSCs has increased to such an extent that there is now a lively PMSC industry offering an ever wider range of services. ISAF in Afghanistan is but one example. In terms of scale and scope of services involved, PMSCs today are a very important phenomenon.

A few years back, some critics emerged affirming that PMSCs operate in a legal vacuum. Switzerland, with its humanitarian tradition and as Depository of the Geneva Conventions and their Additional Protocols, wanted to demonstrate that this thesis was false: There are rules out there applicable to PMSC operations, rules deriving from international humanitarian law, international human rights law, State responsibility and other sources. Therefore, we launched, together with the ICRC, an international process that included territorial States, contracting States and home States of PMSCs.

In September 2008, this process led to an understanding, the so-called Montreux Document, initially supported by 17 States. Since then, 23 other States have associated themselves with the Montreux Document, bringing the total support to 40 today. Norway just joined on 8 June 2012. In its first part, the Montreux Document is a public reaffirmation of applicable international law for States related to operations of PMSCs during armed conflict. However, the document is also instructive for post-conflict and for other comparable situations. The Montreux Document is what we believe to be a fair reflection of applicable international law as it exists today. In its soft and recommendatory second part, the Montreux Document provides good practices which aim to assist States to implement their existing legal obligations. For example, there are good practices on the selection and contracting of PMSCs.

What further steps could be considered? Four policy and normative actions could potentially be taken at a national and multinational level:

First, at the national policy level, we would invite all EAPC nations – which have not yet done so – to consider supporting the Montreux Document. As States that politically support the Montreux Document do not commit themselves to new legal obligations, no ratification process is needed: all it requires is a diplomatic note to my ministry.

Second, at the national normative level, strengthening the legislative framework for PMSCs is often needed. That is why Switzerland, for example, is currently working on a national law to regulate its own PMSC industry. We believe that there might be room for improvement also at the national level for other EAPC nations. The Montreux

Document and the International Code of Conduct (ICoC) are for the time being the best instruments at our disposal to assist in this undertaking.

Third, at the multinational policy level, the Montreux Document can also be supported by international organizations. NATO could take a leading role in this regard and support the Montreux Document.

Fourth, at the multinational normative level, the NATO Allied Command Operations (ACO) recently released a new directive concerning the contracting with private security companies. The ACO directive makes references to existing internationally recognized resources and thus indirectly to the Montreux Document and the ICoC. We welcome this first regulation of the issue on a multinational operational level. This corresponds precisely to what we intended to achieve with the initiative. We encourage your efforts to further review NATO contracting policies and directives to incorporate as appropriate references from the Montreux Document and the ICoC.

To conclude, it goes without saying that we would appreciate a concrete follow-up of this meeting in any form you deem appropriate. And of course, we stand ready to attempt to answer any question you may have.

Thank you.