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Corporate Mercenaries

The threat of private military
and security companies



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Note on terminology

Corporate mercenaries are known by a variety of terms — private military companies, private security companies, military contractors or simply mercenaries. We have chosen to use the term private military and security companies (PMSCs) in this report, primarily in order to express the essential continuity between the military and security services provided by the companies in question. The same formulation is increasingly being used by the United Nations¹ and by UK government officials, and is fast becoming the standard terminology.

Preface

War is one of the chief causes of poverty. War can completely undermine a country's development prospects, destroying schools and hospitals and putting agricultural land out of use for years to come. Fully 80% of the world's 20 poorest countries have suffered a major war in the past 15 years, and the human legacy continues long after. Nine of the 10 countries with the world's highest child mortality rates have suffered from conflict in recent years.²

Yet not everyone is made poorer by war. Many companies thrive off conflict, whether through supplying military hardware to armed forces or running mercenary armies on behalf of combatant states. Others fuel conflict through their operations in war zones, such as oil companies in volatile countries like Colombia and Iraq, or through their continued trade in goods such as blood diamonds. Others profit from financing the war effort.

This report forms part of War on Want's campaign to confront those companies which profit from war. The aim of the campaign is to expose the many different ways in which the corporate sector is involved in conflict, and to suggest public action to call such companies to account. The campaign

complements War on Want's longstanding support for our partners in conflict zones: some of the world's bravest men and women, on the front line in the struggle for human rights.

The following pages examine the rapid expansion of private military and security companies (PMSCs), particularly as a result of the occupation of Iraq. As well as providing information on the activities of these companies, the report urges all readers to call on the UK government to introduce legislation as a matter of urgency in order to bring PMSCs under democratic control. More than four years have passed since the government produced its Green Paper highlighting the challenge posed by PMSCs, and yet there has been no move to regulate their operations. Mercenaries must not be allowed to threaten peace and security around the world in the name of corporate profit.



Louise Richards
Chief Executive, War on Want

Executive summary

Private Military and Security Companies (PMSCs) sell security and military services at home and overseas. Over the last 10 years these companies have moved from the periphery of international politics into the corporate boardroom, becoming a normal part of the military sector.

The PMSC industry comprises hundreds of companies operating in more than 50 countries worldwide, and working for governments, international institutions and corporations. They provide combat support, including training and intelligence provision, operational support, strategic planning and consultancy, technical assistance, post-conflict reconstruction and a wide range of security provision.

PMSCs have grown exponentially in recent years due to the occupation of Iraq. Iraqi contracts boosted the annual revenue of British PMSCs alone from £320 million in 2003 to more than £1.8 billion in 2004. One recent reports estimates that there are 48,000 mercenaries in Iraq. Income for the industry reached \$100 billion in 2004.

Behind the rise of PMSCs lie changes in political, economic and social structures over the last 30 years, and the public perception of wars that accompanied these changes. PMSCs enable governments to cover their tracks and evade accountability; they are usually not accountable to government or the public and so allow governments to get round legal obstacles. PMSCs have become so much a part of war efforts

that it is believed that some major Western countries, like the UK and US, would now struggle to wage war without PMSC partners.

In a conflict environment like Iraq, the distinction between combat and combat support breaks down. There is often no perceptible difference between regular soldiers and their private support workers involved in protecting convoys or materials. The potential for human rights abuses in such situations is an ever-present threat, and it is nearly impossible to hold PMSC employees to account for their actions.

In the UK, there is no legislation regulating PMSCs or their activities. The UK Government demonstrated that it was acutely aware of many of the problems posed by PMSCs when it published its Green Paper in 2002, which expressed a general preference towards some type of licensing scheme established along the same lines as exist for exports of arms. But the Green Paper was produced before the war in Iraq. Since that time the PMSC industry has boomed, while associated abuses have likewise proliferated. Regulation is now long overdue.

War on Want believes that the UK government must move towards legislation to control the PMSC sector as an urgent priority. Legislation must outlaw PMSC involvement in all forms of direct combat and combat support, understood in their widest possible senses. Self-regulation by the industry is not an option.

I. The rise and rise of the PMSC

In March 2004, four American guards were attacked and killed in the Iraqi town of Fallujah. Their charred bodies were beaten and dragged through the streets in front of television cameras, and two of the corpses were hung from a bridge over the river Euphrates.

The following month, eight commandos engaged in an intense firefight with Iraqi militia during an attack on the US government headquarters in Najaf, calling in their own helicopter support to supply more ammunition and take away the wounded until reinforcements arrived.

In April 2005, six American soldiers were killed when their Mi-8 helicopter was shot down by a rocket-propelled grenade north of Baghdad.

In November of that year, a trophy video was published on the internet showing soldiers randomly shooting civilian cars from out of the back of their vehicle on the road to Baghdad airport.

What makes the above instances special is that none of the soldiers were military personnel. All were mercenaries and all were working for private companies, seemingly operating beyond the reach of the law.

Private military and security companies (PMSCs) now constitute the second largest occupying force in Iraq behind the US military. Although no one knows exactly how many of these mercenaries are active in Iraq, most estimates have settled on a minimum figure of 20,000.³ The US Government Accountability Office, however, in its June 2006 report to Congress, cited a newer calculation from the Private Security Company Association of Iraq (whose membership includes many of the PMSCs featured in this report) that there are actually more than 48,000 PMSC employees working for 181 different companies in the country.⁴

By May 2006 at least 428 PMSC employees had been killed in Iraq.⁵ Others have been implicated in the scandal at Abu Ghraib prison. In Washington DC one Democratic senator has referred to these armies as a large paramilitary force, asserting that their mission is to make the war more palatable to the public.⁶

British PMSC Aegis Defence Services, run by Lieutenant-Colonel Tim Spicer, coordinates all PMSCs working in Iraq today. Another PMSC previously run by Spicer, Sandline International, attracted unwanted attention for contravening a

UN arms embargo by delivering weapons to the government in Sierra Leone in the 1998 Arms to Africa scandal. Spicer claimed both the knowledge and approval of the UK government.⁷

This report examines who these corporations are, what they do, how they rose so quickly to prominence, and most importantly, how democratic societies should deal with this new element of warfare.

I.1 From ignoble beginnings...

The concept of the mercenary is as old as that of the state. Today, however, mercenaries are not just individual soldiers of fortune. They are corporations, providing a range of services above and beyond what the traditional mercenary could offer.

In the 20th century mercenaries were regularly involved in conflicts, especially across Africa, propping up illegitimate regimes, denying self-determination to indigenous peoples and actively participating in human rights abuses. Amongst the most famous was Mike Hoare, who attempted a coup in the Congo in the early 1960s and a later one in the Seychelles. More recently, Simon Mann was imprisoned in Zimbabwe in September 2004 for attempting to buy weapons to lead a military coup in Equatorial Guinea. Sir Mark Thatcher pleaded guilty to negligence for helping to finance a helicopter to be used in the attempt, receiving a four-year suspended sentence and a £265,000 fine under South Africa's anti-mercenary legislation.⁸

The use of mercenaries increased following the end of the Cold War, as did their involvement in human rights abuses.⁹ But recent years have seen a new evolution in privatised warfare in the shape of PMSCs selling their services at home and overseas.



Tim Spicer, chief executive of PMSC Sandline International, escorted into court to answer criminal charges in Papua New Guinea. Torsten Blackwood/AFP/Getty Images

The growth of the corporate army¹⁶

- In Saudi Arabia, US-based PMSCs play a key role in protecting the monarchy from unrest. Until recently BDM, parent of Vinnell, provided logistics, intelligence and maintenance services to the Saudi air force. Vinnell itself trains the Saudi national guard, while Booz Allen Hamilton runs the military staff college. SAIC supports the navy and air defences, and O Gara protects the Saudi royal family and trains local security forces.
- In Afghanistan, 150 employees of DynCorp are guarding President Karzai and other leading figures in the Afghan government.
- In Russia, tens of thousands of demobilised soldiers from the former Soviet armed forces have joined PMSCs. One example is the Moscow-based Alpha Firm, formed out of

the elite Soviet special forces unit and now a subsidiary of British PMSC ArmorGroup. Contract soldiers have been found alongside regular forces in Chechnya and have defended facilities in Azerbaijan, Armenia and Kazakhstan.

- In East Timor, Australian forces leading the UN Transitional Administration peacekeeping force in 1999 depended on logistics outsourced to PMSCs, while the UN employed private intelligence and security firms to assist.
- Israeli PMSC Silver Shadow has worked in the Republic of the Congo, Angola and Colombia, where they assisted Defence Systems Limited in providing security for BP.
- In Liberia, Intercon Security personnel guard the US embassy, and have been involved in combat with rebel forces during sieges.

Today, the PMSC industry comprises hundreds of companies operating in more than 50 countries worldwide and working for governments, international institutions and corporations. They provide a wider array of services than traditional mercenaries, and employ better public relations machines. They are involved in direct combat, operational support, the provision of security, intelligence gathering, training, technical assistance and post-conflict reconstruction.

PMSCs also encompass a wide variety of legal structures: private companies, companies listed on the stock market, and subsidiaries of much larger entities. Over the last 10 years these companies have moved from the periphery of international politics into the corporate boardroom, and are now seeking to become a respectable part of the military sector.

1.2 ...to multi-billion dollar industry

PMSCs came to prominence during the period of Yugoslavia's collapse, when Western governments were unwilling to intervene directly in the conflict but retained an interest in its outcome. In the former Soviet Union, the war in Chechnya has seen a plethora of PMSCs emerge. The real breakthrough for Western governments has been Iraq, however, which is the first conflict fought using PMSCs on a major scale.

Iraqi contracts boosted the annual revenue of British PMSCs alone from £320 million in 2003 to more than £1.8 billion in 2004, according to David Claridge, director of London-based PMSC Janusian.¹⁰ Aegis's turnover increased from £554,000 in 2003 to £62 million in 2005, three quarters of which was due to its work in Iraq.¹¹ According to one US official, Each private firm amounts to an individual battalion. Now they are all coming together to build the largest security organization in the world.¹²

ArmorGroup estimated that the international market for protective security services alone was worth around US\$900 million in 2003 (US\$300 million in Iraq), rising to an estimated US\$1.7 billion by August 2004 (US\$900 million in Iraq).¹³ Industry officials have estimated that the figure will continue to rise as US and UK forces withdraw.¹⁴ Other experts have suggested that combined revenues for all PMSCs across the world, broadly defined, could already be close to US\$100 billion.¹⁵

1.3 Direct and indirect combat services

PMSCs have a history of direct engagement in combat operations.¹⁸ In 1995, now-defunct Executive Outcomes employed a battalion-sized force of infantry, supported by combat helicopters and light artillery, in order to regain control

of the diamond-rich Kono district of Sierra Leone and defeat Revolutionary United Front rebels who were approaching the capital.¹⁹ Sandline, also now disbanded, later played a similar role in the conflict.²⁰

Few firms openly advertise their role as providers of combat services. However, Northbridge Services Group's founder Andrew Williams boasted that he could put a brigade on the ground fully equipped and with full logistical support anywhere in the world within three weeks,²¹ while Gary Jackson, president of Blackwater, aims to have the largest, most professional private army in the world ready for active duties in any country.²² MPRI claims to have more than 12,000 former soldiers and other professionals on call, and though it ostensibly eschews a combat role, one US State Department official noted: The only difference between [Executive Outcomes and MPRI] is that MPRI hasn't pulled the trigger — yet.²⁴

In modern warfare, involvement in direct combat does not have to mean troops on the ground; combat refers to a broad spectrum of activities. As one analyst put it, Rather than being simply security guards in the domestic conception, such firms stake out the control of zones and fend off military tasks, sometimes using military-style force.²⁵

DynCorp is contracted by the US State Department to provide pilots, trainers and maintenance workers for work such as drug crop eradication in Colombia. But in February 2002, DynCorp's duties included flying into a combat zone to rescue the crew of a downed police helicopter.²⁶ Colombian co-pilot Captain Luis Fernando Aristizabal reported that five helicopters, three of them piloted by DynCorp employees, shot at rebel positions. It is thought that DynCorp teams have engaged in about 15 rescues between 1996 and 2001, half of them hot extractions from combat areas where employees have been at risk.²⁷ In these circumstances they were clearly involved in combat duties.

Examples of the blurring of the line between the combat and non-combat duties of PMSCs are to be found wherever they operate. For example, International Charter Inc (ICI) and Pacific Architects and Engineers (PAE) provided military aviation support to the Economic Community of West African States peacekeeping force in Liberia.²⁸ Defence Systems Limited (DSL) provided transport, maintenance, communications and engineering services for the United Nations Protection Force (UNPROFOR) in Bosnia, which involved DSL employees driving

armoured personnel carriers and delivering supplies to bases under artillery fire.²⁹

Examples from Iraq are legion. In April 2004 eight Blackwater commandos defended the US headquarters in Najaf against an attack by hundreds of Iraqi militia using a variety of methods, including flying helicopters to ferry in fresh ammunition.³⁰ Later that same day three other PMSCs — Hart Group, Control Risks and Triple Canopy—were also involved in pitched battles in Iraq.³¹

These incidents demonstrate that in a conflict zone such as Iraq, with the war fought in the heart of cities with unclear distinctions between combatant and non-combatant, it is impossible to distinguish defensive and offensive roles. PMSC personnel in Iraq are involved in exchanges of fire with insurgents on a daily basis.³² Security provision necessarily involves military engagement.

In Colombia, the US military assistance package Plan Colombia is heavily dependent on PMSCs. When the operation turned from being a war on drugs to an anti-insurgency operation, the role of PMSCs in the country changed as well. One commentator has described the attempt by PMSCs to describe their work as defensive as not analytically honest... No one in the military is defined as to whether they're offensive or defensive.... If a convoy bristling with machine guns came rumbling through the streets of Norfolk, local residents would likely view it as offensive—regardless of the troops' stated intentions.³³

1.4 Defending corporate interests

PMSCs have provided critical force for developing country governments in return for a share of the profits derived from the use of that force. Such was the case for former PMSC Executive Outcomes, which had a close relationship with the Branch-Heritage Group. After Executive Outcomes secured the resource-rich areas of Angola on behalf of the government, a Branch-Heritage subsidiary gained concessions over those same resources.³⁴ In Sierra Leone, another Branch-Heritage subsidiary gained a concession in the Kono diamond fields following action by Executive Outcomes to secure them for the government.³⁵

In the post-Executive Outcomes world, PMSCs claim that their long-term profits are dependent on their public image, and such cowboy operations have been put behind them. Yet protecting

The major players

While PMSCs vary enormously in size and scope of operations, a few US and UK-based corporations have come to particular international attention.

Blackwater (USA)

www.blackwaterusa.com

Blackwater was founded by multi-millionaire Erik Prince⁴¹ in North Carolina in 1997. Gary Jackson, its president and a former US navy SEAL, has declared that he would like to have the largest, most professional private army in the world,⁴² and other Blackwater officials have spoken of a brigade-sized armed force ready to be deployed in stability missions.⁴³ In Iraq, the company guards officials and installations and trains Iraq's new army and police forces. It provided security guards and helicopters for Coalition Provisional Authority (CPA) head Paul Bremer and the then US Ambassador to Iraq John Negroponte, under a contract worth US\$21 million.⁴⁴ Since June 2004 the Bush administration has paid Blackwater over US\$320 million to provide diplomatic security overseas.⁴⁵ Blackwater has also won contracts to combat opium cultivation in Afghanistan and to support a maritime commando force in Azerbaijan.⁴⁶

DynCorp International LLC (USA)

www.dyn-intl.com.

DynCorp is owned by Veritas Capital, a private equity investment firm, and employs 25,000 employees.⁴⁷ It won a US\$50 million contract to send 1,000 ex-police officers and security guards to Iraq to train the new police force there. Its revenue was just under US\$2 billion in 2006, and it provides a broad range of military services including building camps, protecting borders and protecting Afghan president Hamid Karzai, in which role the company has acquired a reputation

for aggressive behaviour.⁴⁸ DynCorp employees in Bosnia were implicated in prostitution rings trading girls as young as 12, while others were accused of filming the rape of two women. A number of employees were fired, but no prosecutions followed.⁴⁹

Military Professional Resources Inc. (USA)

www.mpri.com.

Founded in 1987 by retired US military officers, MPRI has 3,000 employees and reputedly more high-ranking military officers per square metre than the Pentagon. It is part of mega-corporation L-3 Communications, whose government services companies (of which MPRI is one) brought in revenues of US\$2 billion in 2005. MPRI provided tactical training to the Kosovo Liberation Army in the weeks before the NATO bombing campaign,⁵⁰ while its collaboration with the Colombian military has been widely questioned.⁵¹ A range of programmes continue in Africa, former Soviet states, Asia and the Middle East.⁵²

Vinnell Corporation (USA)

www.vinnell.com

Vinnell is a ground-breaking PMSC that was directly involved in US military and intelligence operations in South-East Asia from 1965 to 1975. At the height of the Vietnam War it had more than 5,000 employees in Vietnam, and later trained Saudi forces to protect oil fields.⁵³ It was described by a Pentagon official as 'our own little mercenary army in Vietnam... We used them to do things we either didn't have the manpower to do ourselves, or because of legal problems.'⁵⁴ Now a subsidiary of Northrop Grumman, Vinnell has been awarded a US\$48 million contract to train the nucleus of a new Iraqi army,⁵⁵ while Northrop itself has been involved in counter-narcotics missions in Colombia.⁵⁶

Aegis Defence Services (UK)

www.aegisworld.com

Aegis is the UK's biggest PMSC success story. The firm's 2003 turnover of £554,000 rose to £62 million in 2005, three quarters of which came from work in Iraq.⁵⁷ It became one of the world's largest private armies with the awarding of a US\$293 million contract by the CPA in Iraq in May 2004, at a time when the company was two years old and had no experience in that country.⁵⁸ Aegis now coordinates the operations of all PMSCs working in Iraq, including handling security at prisons and oil fields.⁵⁹ The company is run by Lieutenant-Colonel Tim Spicer, former chief executive of Sandline International of the 1998 Arms to Africa scandal.

ArmorGroup (UK)

www.armorgroup.com

Probably the largest UK-based PMSC, ArmorGroup has provided protective services to the extractive industries since its original incarnation as Defence Systems Limited (DSL) in 1981. ArmorGroup registered as a public limited company in 2004 and is the only British PMSC currently listed on the London Stock Exchange. Its turnover has increased from US\$71 million in 2001⁶⁰ to US\$233.2 million in 2005.⁶¹ The British Foreign Office and Department for International Development (DFID) awarded ArmorGroup armed security contracts⁶² in Kabul (March 2005), Baghdad (June 2005) and Basra (June 2005), as well as control of the Iraqi police mentoring programme in Basra.⁶³ ArmorGroup recently fostered the creation of the British Association of Private Security Companies (BAPSC), the UK's trade association and lobbying arm for PMSCs.

Northbridge Services Group Ltd (UK)

www.northbridgeservices.com

When the USA was deliberating over whether to intervene in

Liberia in 2003, Northbridge said it could deploy between 500 and 2,000 armed men to the country in three weeks to halt the fighting and offered to arrest Liberian president Charles Taylor for a fee of US\$4 million.⁶⁴ In 2003, the British government publicly chastised the company after reports that it was hiring British, French and South African mercenaries on behalf of the Côte d'Ivoire government; Northbridge expressed surprise given foreign secretary Jack Straw's previous support for the use of such forces.⁶⁵

Control Risks Group (UK)

www.crg.com

Control Risks works around the world primarily with the energy sector, but also with the pharmaceuticals, telecommunications, maritime and telecommunications sectors. It provides security information, assessments and training, as well as site security. The company's turnover increased from £47 million in 2003 to £80 million in 2004.⁶⁶ Control Risks has been employed in Iraq by the US Office of Reconstruction and Humanitarian Assistance (ORHA), the CPA, US Department of Defense, USAID and several UN bodies to provide security and to distribute the new Iraqi and Afghani currency.⁶⁷ The British Foreign Office has used Control Risks to provide armed guards for staff in Baghdad and Basra.⁶⁸

Erinys International Ltd (UK/ South Africa)

www.erinysinternational.com

Erinys was formed in 2003 when the Coalition Provisional Authority awarded it security contracts worth US\$100 million to defend oil sites and pipelines in Iraq. Led by a former political adviser to Angolan rebel leader Jonas Savimbi,⁶⁹ Erinys protects oil interests in Nigeria and has contracts from major corporations including AMEC, BHP Billiton, Anvil Mining, Siemens and the BBC.

extractive industry infrastructure remains a key element in PMSC operations. De Beers, Texaco, Chevron-Schlumberger, British Gas, Amoco, Exxon, Mobil, Ranger Oil, BP, American Airlines and Shell have all contracted DSL (now part of ArmorGroup).³⁶ In Angola, US oil giant Chevron was part of a consortium that contracted AirScan to work with the Angolan army to ensure their continued control over key oil fields, thereby guaranteeing Chevron's own continued presence.³⁷ UN Special Rapporteur Enrique Ballesteros reported to the UN Commission on Human Rights in March 2002 that mercenaries were inexorably linked to the illegal diamond trade in Africa.³⁸

In 1998, Belgian PMSC International Defense and Security (IDAS) sold Angolan diamond concessions obtained through a partnership with the Angolan State Mining Company to America Mineral Fields. The two companies already had a close relationship, and shortly thereafter IDAS became a wholly owned subsidiary of America Mineral Fields.³⁹ Meanwhile in Nigeria in 2003, PMSC Northbridge set off on an operation to free dozens of British and US oil workers taken hostage by striking co-workers. Ultimately peaceful negotiations prevailed before the force arrived.⁴⁰

1.5 What do PMSCs actually do?

"As non-linear battlefields and asymmetrical methods of warfare come to characterize more contemporary armed conflicts, the distinction between combatant and non-combatant has become increasingly blurred."

JK Wither, 'European Security and Private Military Companies', PJP Consortium of Defense Academies and Security Studies Institutes, June 2005

PMSCs provide a wide variety of services previously carried out by national military forces:

- direct combat
- intelligence services
- training
- security in conflict zones
- consulting and planning
- maintenance and technical assistance
- operational and logistical support
- post-conflict reconstruction

In a conflict zone such as Iraq the distinction between combat and combat support breaks down. There is often no

perceptible difference between regular soldiers and the private contractors protecting convoys or materials. Even providing security for an oil company, aid agency or media outlet in such an environment necessitates being armed and ready to shoot, often under uncertain circumstances where combatants and civilians are difficult to separate. PMSCs such as Control Risks Group which have traditionally maintained that they do not employ armed guards have been cited as doing precisely that — an indication of the increased militarisation which Iraq has introduced.⁷⁰

Moreover, other activities traditionally termed combat support, such as intelligence provision and military training, contain within them significant scope for human rights violations in modern warfare. As such it is impossible, when considering the impact of PMSCs, to draw neat lines between combat and non-combat operations.

Some PMSCs have been bold in seeking to redefine their roles. Blackwater's vice-chair Cofer Black told a conference in March 2006 that Blackwater was ready to move towards providing private armies, up to battalion size, for use in low-intensity conflicts. He suggested Sudan as a country which might benefit from such a presence.⁷¹

Intelligence gathering is another area where PMSCs are taking a larger role in what was formerly the purview of government agencies. PMSCs increasingly provide a range of services, from interrogation to strategic intelligence, in a field that is a key aspect of waging war.

In Iraq, the UK's Department for International Development (DFID) employs Control Risks to provide intelligence advice.⁷² Aegis's contract in Iraq includes, amongst other activities, coordinating intelligence sharing between PMSCs, as well as the provision of security teams for the US Project Management Office.⁷³ Previously, Defence Systems Colombia (DSC), a subsidiary of DSL (now ArmorGroup), was implicated in providing detailed intelligence to the notorious XVIth Brigade of the Colombian army, identifying groups opposed to BP's presence in the region of Casanare. This intelligence has been linked to executions and disappearances.⁷⁴

PMSCs are hired by governments, international organisations and multinationals alike. AirScan has provided aerial surveillance for US oil giant Chevron's interests in Colombia and Angola.⁷⁵ While working on a contract which Occidental Petroleum

transferred to the Colombian air force, AirScan also provided intelligence which has been directly linked to the bombing of the village of Santa Domingo in December 1998, in which 18 people — seven of them children — were killed. According to evidence seen by the *Los Angeles Times*, company employees even suggested targets to the Colombian helicopter crew that dropped the bomb.⁷⁶

Recognising the problems associated with such operations, Assistant Secretary of the US Army Patrick Henry issued a memorandum in December 2000 restricting the use of PMSCs in intelligence work. In the memorandum, Henry noted that tactical intelligence gathering was integral to the application of combat power and argued that PMSC involvement posed unacceptable risks to national security. Despite this, PMSC intelligence work continues.⁷⁷

PMSCs have also extended their reach into training foreign military, police and special forces across the world. US PMSCs alone undertook training in over 42 countries during the 1990s.⁷⁸ DynCorp has trained 32,000 Iraqi recruits in Jordan, and given technical training to the Colombian army. Erinys Iraq (an affiliate of Erinys International), MPRI and ArmorGroup also provide training in Iraq. Levdan, an Israeli PMSC, trained the Congo-Brazzaville army,⁸⁰ while Vinnell has trained the Saudi palace guard.⁸¹ Arms manufacturer Lockheed Martin has provided training support in Colombia for heavy transport planes and helicopters,⁸² while DSLs Defence Systems Colombia trained the Colombian national police in counter-insurgency techniques.⁸³

USAID and DFID increasingly rely on PMSCs to provide training in support of security sector reform programmes aimed at strengthening political control over the military and security establishments of weak states. While this may be a laudable objective, critics ask whether using PMSCs is the best way to

spread awareness of democracy, transparency and accountability.

The Croatian government hired MPRI in September 1994 to train and equip its armed forces. The Croatian army went on to break the UN ceasefire and commit numerous human rights violations. A senior UN analyst quoted at the time believed that the influence of the MPRI advisers had been decisive in turning the Croatian forces into a professional fighting force.⁸⁴

During the offensive on Krajina, extrajudicial executions, disappearances and the systematic destruction of houses were carried out by members of the Croatian armed forces against the civilian population.⁸⁵ The International Criminal Tribunal for Yugoslavia stated that in a widespread and systematic manner, Croatian troops committed murder and other inhumane acts upon and against Croatian Serbs.⁸⁶ A number of Croatian soldiers were reported to have later joined the rebel Kosovo Liberation Army, including its commander, General Ceku.⁸⁷

International criminal organisations, including Colombian death squads, are also reported to have paid for assistance in counter-intelligence and advanced warfare from PMSCs such as Spearhead, which was staffed by former Israeli army officers. The Colombian Medellin cartel is suspected of having hired British and Israeli PMSCs to train them to assassinate civilians — a skill they have since practised on politicians, judges and journalists.⁸⁹

While there may be broad agreement on the undesirability of PMSCs playing a combat role, the definition of combat is far from clear cut. With the introduction of new technologies, operating a weapon in the field is only one small aspect of what combat entails. Recognition of this complexity has important implications for any attempts to regulate the activities of PMSCs, as later chapters will reiterate.

2. The privatisation of war

PMSCs have grown to become a central component of US and UK military activity. They are now multi-million dollar enterprises, and the market is still growing. This chapter will examine the causes of that growth, focusing in particular on the desire of governments to maintain their global reach while evading accountability from a general public increasingly unwilling to pay the costs of war.

2.1 Plausible deniability and war by proxy

Private military corporations become a way to distance themselves and create what we used to call 'plausible deniability'... It's disastrous for democracy."

Daniel Nelson, former professor of civil-military relations at the US Defense Department's Marshall European Center for Security Studies

During the Cold War, the USA and USSR waged wars in the developing world using proxy states. Today, PMSCs can fulfil a similar function for states wishing to intervene vicariously in foreign conflicts, while also obscuring governmental responsibility in breaches of international laws and standards. PMSCs provide expanded capacity for states to become involved in

politically sensitive conflicts without the repercussions associated with committing their own troops.⁹¹

The use of PMSCs also enables governments to cover their tracks and evade accountability. Evidence which may otherwise be made available to the public under freedom of information legislation is impossible to obtain from private contractors.⁹² When campaign group Corporate Watch asked a US government official why the United States had awarded a contract to DynCorp to support the rebel Sudanese People's Liberation Movement in their negotiations, he replied: The answer is simple. We are not allowed to fund a political party or agenda under United States law, so by using private contractors, we can get around those provisions. Think of this as somewhere between a covert program run by the CIA and an overt program run by the United States Agency for International Development. It is a way to avoid oversight by Congress.⁹³

PMSCs also allow governments to circumvent legal obstacles. In 1991, for example, a UN arms embargo prohibited the sale of weapons to, or training of, any warring party in the former Yugoslavia. But a Croatian contract with MPRI effectively allowed the USA to circumvent the embargo. MPRI training



In Colombia, US government contractors operating a fumigation plane.
Efrain Patino/AP/Empics

went on to have a decisive influence at a critical stage in the war (see previous chapter), and the US government could evade responsibility for the human rights abuses which followed.⁹⁴

In 2001, the US government initiated the highly controversial Plan Colombia, a US\$1.3 billion military assistance package ostensibly aimed at combating Colombia's role in the cocaine trade, but which allowed the Colombian government to regain territory from left-wing guerrilla armies. Because the US Congress placed limits on the number of US personnel allowed to operate in Colombia, the US government was forced to contract several PMSCs to work with Colombia's security forces. These firms could employ foreign staff, effectively allowing the numbers working for the USA to increase, with the added benefit that the US government was not responsible for their behaviour. Colombia's PMSC-supported civil war has left hundreds of thousands of people displaced, and thousands dead in political violence every year.

While MPRI assisted the Colombian army and police, DynCorp helped eradicate illicit crops, providing pilots, technicians and logistical support. Coca eradication formed one of the most controversial elements of Plan Colombia because it was only questionably effective in achieving its stated goals, though it often damaged legal crops and seriously impacted farmers' health.

To further complicate democratic oversight, PMSCs often subcontract the work they are hired to do, as DynCorp did when it subcontracted the aerial fumigation programme in Colombia to Eagle Aviation Services and Technology Inc (EAST). EAST was the company used by Oliver North in the 1980s to run guns secretly and illegally to Nicaraguan rebels to topple the Sandinista government, in what later became part of the Iran-Contra Affair.⁹⁵ Despite this past, a DynCorp spokesperson told the *Washington Post* in 2001: 'We feel strongly that EAST is a reputable company... We feel that they act responsibly.'⁹⁶

2.2 'Vietnam syndrome'

"It may be tempting to pay others to take risks for us. It may be particularly tempting to pay people from foreign countries such as El Salvador, Colombia or Chile, so that we don't experience the human cost of casualties or deaths ourselves. But it's not morally acceptable."

Geoff Thale, 'Transferring Cost of War to Latin America is Morally, Politically Wrong', Miami Herald, 29 January 2005

Since the Second World War, Western public opinion has shown an increasing unwillingness to accept the costs of conflict, especially the death and personal loss which war entails. This public resistance to the cost of military operations is often referred to as 'Vietnam syndrome', or its updated variant 'Mogadishu syndrome'. Yet Western governments have shown an undiminished appetite for military interventions to further their national interests around the world.

To overcome this tension, Western governments are increasingly turning to PMSCs to take on conflicts that are too costly — in terms of resources or public opinion — to undertake themselves, with the advantage that lines of accountability become increasingly blurred. Aegis chief executive Tim Spicer has acknowledged the usefulness of PMSCs in this regard: 'The impact of casualties is much more significant if they're sovereign forces as opposed to contractors.'⁹⁷

Unlike the widely publicised casualty figures for US and UK soldiers in Iraq, the death toll for mercenaries is difficult to discover. As noted in the previous chapter, at least 428 PMSC employees are believed to have lost their lives in Iraq in the period up to May 2006.⁹⁸ As calls for US and UK withdrawal from Iraq grow ever more insistent, the option of bringing the troops home and handing over an increasing number of their duties to PMSCs will also grow in appeal.

A similar unwillingness to commit soldiers to UN forces led UN Secretary General Kofi Annan to consider using PMSCs in Rwandan refugee camps in 1997.⁹⁹ PMSCs have already been contracted to support other UN operations, as for example ArmorGroup in Mozambique, Angola and the Democratic Republic of Congo. Developing country governments themselves are also increasingly delegating the task of securing life and property to PMSCs.¹⁰⁰

2.3 Overcoming military overstretch

“Most national armies, including those of Britain and the US, are undermanned and overcommitted. A wide range of national interests overseas demand attention and protection that uniformed soldiers are not available to provide.”

Max Hastings, ‘We must fight our instinctive distaste for mercenaries’, The Guardian, 2 August 2006

Governments have tended gradually over recent years to outsource more of their responsibilities to the private sector, and the military is also beginning to succumb to market forces. PMSCs are flourishing in this environment and profiting from the privatisation of war. The companies claim they can do the state’s work more effectively, more quickly and more cheaply than the state’s own forces.

As so often with privatisation projects, the cost effectiveness of PMSCs is largely unproven.¹⁰¹ What is certain, however, is that given financial constraints on military budgets and downsizing of

armed forces following the end of the Cold War, privatisation allows states to extend their reach beyond the limits justified by their military apparatus. It is believed that the UK and USA would now struggle to wage war without PMSCs operating as their paramilitary partners.

This increased use of PMSCs has in turn been made possible by the dramatic rise in military personnel and expertise available to the private sector through state downsizing. After the collapse of the Soviet Union, nearly 70% of KGB forces entered the industry.¹⁰² PMSCs also provide a source of employment for retired officers and soldiers; MPRI has on call more than 12,000 former US military officers, including several four-star generals.¹⁰³ Some firms (MPRI among them) recruit only from their home military; others such as ArmorGroup are truly multinational in their employee base.

PMSCs are also responsible for drawing soldiers away from regular forces. PMSC employees can typically earn US\$500 to US\$1,500 per day, compared with an infantry soldier’s wages of as little as US\$70 per day.¹⁰⁴ Salaries of well over US\$100,000 have reportedly been offered to special operations personnel if they change career,¹⁰⁵ with assignments paying US\$1,000 a day. The high salaries on offer in Iraq have reportedly caused record numbers of elite soldiers from the UK and US to retire early from their regular forces.¹⁰⁶ In August 2006, the British army was compelled to increase pay for Special Air Service (SAS) and other special forces personnel by 50% to stem the rate of defections to PMSCs.¹⁰⁷

Privatisation of UK armed forces

Since the mid-1980s, the British government has steadily outsourced military service functions, embracing a market-oriented approach to the military sector.¹⁰⁸ More recently still, the Private Finance Initiative (PFI) has required private tenders for contracts covering the construction, maintenance and servicing of military facilities — contracts which typically last between 10 and 40 years. To date the Ministry of Defence (MoD) has signed 55 private finance deals, bringing private sector investment through PFI to the MoD to over £4.57 billion.¹⁰⁹ PFI contracts do not have to be approved by parliament, which means less transparency and accountability to the public over what can amount to enormous contracts. Even before the invasion and occupation of Iraq, British

services company Serco estimated that the UK market for defence services would exceed £15 billion by 2009.¹¹⁰

Training is a central component of this outsourcing. Domestically, up to 80% of all army training involves PMSCs in some way.¹¹¹ By the end of 2007, the MoD aims to have signed new training contracts with the private sector worth £21 billion over a period of 25 years.¹¹² DFID, the Home Office and the MoD also provide training aimed at foreign military and police services.¹¹³ For example, ArmorGroup trains Iraqi police under the government’s Global Conflict Prevention Pool programme.¹¹⁴ Private support operations have increasingly moved towards the front line, from non-military support and management to military logistics and training.¹¹⁵

3. The threat of PMSCs

The increased involvement of PMSCs in conflict zones raises numerous concerns, ranging from inherent problems of transparency and accountability to the distaste with which many people regard corporations that profit from war. In addition, many PMSCs have already been embroiled in numerous scandals of human rights abuse and illegality, some of which are outlined below. Increased use of corporate mercenaries may mean that these instances represent only the tip of the iceberg.

3.1 Accountability and immunity

PMSC employees may be liable for their actions under international humanitarian or human rights law.¹¹⁶ Bringing a case against them, however, especially in a state where laws may be weak and ineffective, is a remote possibility. And the difficulties are often compounded in conflict situations. In its 2006 Annual Report, Amnesty International USA concluded that US military and intelligence outsourcing in Iraq and Afghanistan had helped create virtually rules-free zones sanctioned with the American flag and firepower.¹¹⁷

In Iraq, all non-Iraqi military personnel and PMSC employees are immune from prosecution under CPA Order 17 for acts performed within the terms of their contracts. CPA chief Paul Bremer issued the order the day before handing power over to the Iraqi government in June 2004, and it gives unprecedented powers to foreign nationals operating in a sovereign country. While Iraqis are frustrated with the order after several atrocities carried out by foreigners have gone unpunished, it still remains the governing principle. Of the tens of thousands of PMSC employees who have been active in Iraq, not a single one has been charged with a crime.

Prosecution in the home country in which a company is headquartered is also problematic. The application of US law outside US territory is extremely difficult in practice, and the likelihood of prosecution very low. A class-action lawsuit was filed under the Alien Tort Claims Act in June 2004 in federal court against CACI and Titan over the Abu Ghraib abuses (see below), as well as against three individuals working for the companies. The scope of the act is, however, limited.¹¹⁸

Other than a possible non-renewal of a contract, there are no real checks on PMSC activity. Contracts often allow a wide range of unspecified duties to be carried out, with few standards, safeguards or monitoring mechanisms, and sometimes spanning more than one country.¹¹⁹ Oversight is further

complicated by the extent of subcontracting between PMSCs and the fact that many PMSC staff are actually freelance consultants.¹²⁰ Where oversight is impossible, self-regulation is ignored. In an academic study of 60 contracts in Iraq, not a single one contained provisions requiring contractors to abide by human rights or corruption norms.¹²¹

Some PMSCs claim to operate a chain of command with military procedures that conform to the laws of war.¹²² However, PMSCs have no parallel to the legal structures of national armies, which include a court martial system. In the Abu Ghraib case, the US military has prosecuted several of the regular soldiers involved, but PMSC employees have escaped.

National armed forces in democratic countries are accountable through both the political and the legal processes. In the UK, the Secretary of State for Defence is accountable to parliament on all defence matters, while the MoD accepts that it is liable for all wrongs committed by British soldiers overseas.¹²³ The same channels of accountability do not apply to PMSCs and their employees, who are subject to the terms of their contract.

3.2 Human rights abuses and violations of the law

Ascertaining the full scope of human rights abuses committed by PMSCs is nigh impossible, given the voluntary nature of reporting in situations where evidence is hard to verify.¹²⁴

However, the evidence that is available is adequate to demonstrate the scale of the threat posed by PMSCs lack of accountability. The extreme difficulty involved in monitoring such activity poses far-reaching questions for any legislation to control PMSC activity in conflict situations.

In 2003 the media was flooded with accounts of the abuse and torture of prisoners held in Abu Ghraib prison in Iraq. As well as US military police and CIA officers, employees of two PMSCs were implicated in the scandal: Titan and California Analysis Center Incorporated (CACI).¹²⁵ Steve Stefanowicz of CACI allegedly directed the use of dogs at Abu Ghraib, ordered that a prisoner not receive his prescription pain killers, made a male prisoner wear women's underwear, failed to report the abuses and lied to investigators. Daniel Johnson, another CACI employee, allegedly directed military personnel to conduct torture during interrogation of a prisoner, according to descriptions in the Fay Report, the US army's investigation into

the incidents. Three Titan employees were accused of abuses in the army's Fay and Taguba reports, including raping a male juvenile detainee, making false statements about interrogations and failing to report detainee abuse.¹²⁶ None of CACI's or Titan's employees have been prosecuted. CACI held its own investigation which concluded that the company had done nothing wrong.¹²⁷

Abu Ghraib is only one example of how freedom from accountability has led PMSC employees to disregard human rights. In November 2005 a trophy video appeared on the website of a former Aegis employee showing PMSC mercenaries randomly shooting automatic weapons at civilian cars on the road to the Baghdad airport. The video shows cars being hit by bullets fired from the PMSC vehicle and then skidding off the road, one crashing into another car.¹²⁸ In June 2006, Aegis announced the results of its own investigation into the incident, in which it confirmed that the video was indeed of its employees operating in Iraq but complained that the images were taken out of context.¹²⁹

Blackwater mercenaries have also been reported for allegedly shooting at a taxi in Baghdad during 2005, killing the passenger and injuring the driver. Former employees of Custer Battles have accused their colleagues of firing on innocent civilians and crushing a civilian with a truck. These aren't insurgents that were brutalizing, one of the employees, Bill Craun, told NBC. It was local civilians on their way to work. It's wrong.¹³⁰ Yet despite the hundreds of reported incidents of PMSC employees firing indiscriminately at civilians, no private military contractor has been prosecuted throughout the war in Iraq.¹³¹

Beyond Iraq, PMSCs could be used to facilitate torture. Amnesty International points to a BP contract with DSC in 1998 which revealed plans for the company to provide BP with a state-of-the-art investigation-intelligence and psychological warfare 18 day seminar which would use Israeli officers to train oil company staff in interrogation, intelligence collection, targeting and running informants in the field, preparation of intelligence files, and investigating private individuals. Although



An armed PMSC employee on a Baghdad highway in 2004.

the seminar was cancelled for budgetary reasons, it was alleged that DSC may have led, directly or indirectly, to human rights abuses through its reliance on paid informants, with intelligence being passed to the army.¹³²

Further evidence emerged to show that DSC purchased military equipment in 1997 for the Colombian army's XIVth Brigade, reportedly involved in numerous human rights violations. The purchase, mediated by Israeli PMSC Silver Shadow, took place at a time when the XIVth Brigade was under investigation for complicity in the massacre of 15 unarmed civilians in Segovia in April 1996.¹³³

In 2001, several DynCorp employees in Bosnia were accused of running a prostitution ring which used under-age girls, as well as purchasing illegal weapons and forging passports. The firm's site supervisor was accused of videotaping himself raping two young women. Although the employees were dismissed, they did not face criminal prosecution.¹³⁴ Kathryn Bolkovac, the employee who blew the whistle on the activities, was also dismissed.¹³⁵

Another former DynCorp employee and whistleblower Ben Johnston told *Insight Magazine* that 'my main problem was [their sexual misbehaviour] with the kids, but I wasn't too happy with them ripping off the government, either. DynCorp is just as immoral and elite as possible, and any rule they can break they do.'¹³⁶

These case studies do no more than scratch the surface of PMSCs' violations of human rights and international humanitarian law. There are also accusations of PMSC involvement in torture at the Guantánamo naval base in Cuba.¹³⁷ Aviation Development Corporation employees mistakenly directed the shooting down of a private passenger plane in Peru while working on aerial surveillance operations targeting drug traffickers,¹³⁸ and AirScan was implicated in 1998 in coordinating the bombing of a village in Colombia in which 18 civilians were killed.¹³⁹

3.3 Weapons trade

The end of the Cold War has also seen an erosion of political control over the means of war, and large stocks of arms have fallen onto the open market. Machine guns, helicopters, tanks and even fighter jets have become available. In Africa, a T-55 tank costs US\$40,000, while an AK-47 rifle can be purchased for the price of a chicken in Uganda.¹⁴⁰ In this context, PMSCs

have easily obtained the armaments they need. In Sierra Leone, Executive Outcomes mercenaries possessed attack and transport helicopters fitted with fully automatic cannons and grenade launchers.¹⁴¹

More worrying still, PMSCs have themselves channelled weapons into conflict situations. LifeGuard Systems, which protected diamond fields in Sierra Leone, was strongly believed to have shipped arms during the civil war there, including RPG-7 rockets, AK-47 ammunition, mines and mortar bombs to the rebel forces. Allegations arose in 2003 that DynCorp Aerospace had been awarded a US contract in 2000 to stockpile weapons in Bahrain, Oman and Qatar in preparation for an invasion of Iraq. The weapons supposedly included illegal antipersonnel mines.¹⁴² AirScan stands accused of smuggling arms into southern Sudan as part of a covert US operation to support the Sudan People's Liberation Army (SPLA) in its conflict with the Sudanese government. During this war, PMSCs have provided training to both sides of the conflict.¹⁴³

A further link between PMSC operations and the weapons trade was made explicit by the UK government in its 2002 Green Paper, *Private Military Companies: Options for Regulation* (treated more fully in the next chapter). Commenting on the likely impact of a ban on PMSC activity abroad, the government noted that arms exports and PMSC services often go hand in hand: 'Since exports of defence equipment are frequently dependent on the supplier being able to provide a service package, a large volume of defence export sales would be lost in addition to the value of the services themselves.'¹⁴⁴

3.4 Destabilisation

Western governments and multinational corporations do not represent the only market for PMSCs. Weak governments and rebel groups, especially in Africa, have relied on their expertise and force in numerous conflicts, and PMSCs are credited with shifting the balance of wars in Angola, Croatia and Sierra Leone. Yet even where the interventions may seem to have been humanitarian in their aims, troubling aspects remain.

Two major problems arise from PMSCs' augmenting the military capability of one side or other in a conflict.¹⁴⁵ Firstly, the availability of mercenary assistance means that the use of force continues to be prioritised as a decisive means of bringing war to an end, as opposed to developing less bloody forms of conflict resolution. Secondly, and as a consequence, victories

may be temporary. This ultimately means that weak states either come to rely on PMSCs in the long term or that the situation degenerates into conflict again as soon as the PMSCs end their contract.

The profit motive behind all corporate adventures means that, at one level, PMSCs have an inherent interest in ongoing conflict and the social tensions that lie behind it. Moreover, many PMSCs are now part of large business empires involved in intelligence, surveillance and information systems, construction and energy production, and even production of weapons. These

business interests provide synergies which allow the company concerned to derive greater profits from controlling more aspects of an economic sector. Northrop Grumman and Raytheon are major arms contractors also selling PMSC services. Halliburton specialises in energy exploration and construction, but also provides logistical support to the US military. While conflicts such as the Iraq War have brought companies enormous profits, their gain has come at the expense of the victims of war.

4. Regaining control of PMSCs

The rapid expansion of PMSCs over recent years means that there is now an urgent need to bring their activities within the compass of both legal and democratic control. A binding international framework of rules under the auspices of the UN remains the long-term goal for many seeking to regain control over mercenary operations. However, it is generally recognised that this control is most likely to be achieved — and is most appropriate at this stage — at the national level within the home countries of the PMSCs concerned.

The absence of any UK legislation is a particular problem in this regard, given the growth and importance of UK-based PMSCs on the international stage. This chapter and the conclusions which follow therefore focus on the UK situation first and foremost.

4.1 UK legislation

In the UK, mercenary activity is regulated by the Foreign Enlistment Act 1870, which prohibits the recruitment of mercenaries and their participation in conflict. There is no legislation covering PMSCs. Following the Arms to Africa affair of 1998, the House of Commons Foreign Affairs Committee requested a government Green Paper outlining options for control and regulation of UK-based PMSCs.

The government duly published its Green Paper in February 2002.¹⁴⁶ The paper outlined six possible options for the regulation of PMSC activity:

- A ban on military activity abroad
- A ban on recruitment for military activity abroad
- A licensing regime for military services
- A registration and notification regime for military services
- A general licence for PMSCs
- Self-regulation: a voluntary code of conduct

The government noted that different options could be applied to different services provided by PMSCs. For instance, it would be possible to outlaw the most undesirable PMSC activities while allowing the continuation of certain operations via a registration scheme for the companies and a licensing regime for the individual contracts. While it declined to express a policy preference for any particular option, the government pointed out what it saw at that time as the pros and cons of each.

In its response to the Green Paper, the House of Commons Foreign Affairs Committee recommended that private companies be expressly prohibited from direct participation in armed combat operations, and that firearms should only be carried... by company employees for purposes of training or self-defence. The Committee also proposed that the government consider a complete ban on recruitment for such activities of United Kingdom citizens by overseas-based or offshore PMCs,¹⁴⁷ while remaining activities be subject to licence. The government replied to the Committee with a further rejoinder in October 2002.¹⁴⁸

Since 2002, however, the UK government has failed to introduce legislation to take forward any of the options presented in the Green Paper. While debate has continued within Whitehall over the past four years, the government has stalled progress towards effecting any genuine accountability or oversight over the PMSC sector.

There is broad agreement that PMSCs must not be allowed to take part in direct combat operations. Even industry spokespeople see PMSC involvement in direct combat as problematic.¹⁴⁹ Politicians and commentators also share a general agreement that self-regulation, open to numerous claims of ineffectiveness in far less daunting environments than war, would be totally unsuitable in a sector where life and death is so regularly at stake.¹⁵⁰

On the other hand, there is considerable resistance within the Labour government to outlawing the use of PMSCs. Reasons for this include both the strategic usefulness of PMSCs outlined in chapter 2 above, and the importance of the sector to UK economic interests. The government is at pains to stress the importance of the export revenue derived from the sector, making reference to the considerable value of PMSC services to the UK economy in the 2002 Green Paper.

The key question to any legislation's effectiveness is how widely the term combat will be defined. As this report has outlined, the privatisation of combat support services opens the path to private companies becoming involved in serious violations of international humanitarian law, while services far from the front line present the opportunity for extensive human rights abuses.¹⁵¹ To address these challenges, prohibition needs to apply to the privatisation of both combat and combat support in their widest senses, while there must be the strictest form of regulation for all other services provided by PMSCs (see next chapter).

The search for respectability

As the PMSC industry has become larger and more visible, it has desperately tried to escape its mercenary image, lest the scandals of the past impair its ability to make profits in the future. PMSCs equally know that they have to recast themselves in preparation for new roles once the economic bubble created by the Iraq war has burst. The largest PMSCs, including ArmorGroup, Blackwater and MPRI, have developed codes of conduct, covering human rights and international and humanitarian law, as well as forming trade associations to improve public relations and lobby for the industry.

The Washington-based International Peace Operations Association (IPOA) was created by and lobbies on behalf of PMSCs, or what it refers to as the peace and stability industry. It advocates a voluntary code of conduct to regulate PMSC work. As in other economic sectors, there are serious problems with the effectiveness of such codes of conduct, given that they are voluntary, internal and often come a poor second to more compelling corporate interests. As the examples in this report show, such codes do not prevent human rights violations or law infringement, nor do they deal with the more fundamental problems associated with PMSCs.

In February 2006, UK PMSCs formed their own trade organisation: the British Association of Private Security Companies (BAPSC). The creation of this trade association was seen as the first step towards developing an industry-wide code

of conduct which would serve as the mechanism for self-regulation in the UK context. In order to pre-empt what it recognises are legitimate public concerns at the ineffectiveness of such self-policing, the BAPSC has talked up the concept of aggressive self-regulation, including the possibility of an independent ombudsman to handle complaints.

At the same time, the largest and most visible British PMSCs are keen to distinguish themselves from cowboy companies which they hope to categorise as somehow different from themselves. ArmorGroup and other companies which formed the BAPSC thus approve of some form of regulation in order to rein in less respectable companies associated with the bad old days of mercenary adventures. The BAPSC has therefore adopted a more ambiguous position on regulation in the long term, advocating a multidimensional approach whereby companies found to be circumventing the voluntary code of conduct would be subject to sanction from the government, possibly through exclusion from public tender.¹⁵²

At the same time, much of the BAPSC's language echoes Aegis chief executive Tim Spicer's faith in market forces to police the sector. Spicer is on record saying that PMSCs are very unlikely to be involved in human rights violations. It is the quickest way to be out of business.¹⁵³ Yet even his former company Sandline International declared that its policy was only to work with internationally recognised governments or legitimate international bodies, and talked up its own strict, self-imposed code of conduct.¹⁵⁴

4.2 International regulation

International law includes three treaties dealing with mercenaries: the 1977 Organisation of African Unity Convention for the Elimination of Mercenarism in Africa; the 1977 Protocol I Additional to the Geneva Conventions; and the 1989 UN International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which came into force in 2001. All three instruments were negotiated before the explosion of PMSC activities in recent years.

Enrique Ballesteros, UN Special Rapporteur on Mercenaries from 1987 to 2004, proposed broadening the definition of mercenary so as to incorporate PMSCs into the 1989 UN Convention, but found no consensus. Moreover, none of the five permanent members of the UN Security Council have ratified

the Convention. The UK government states that it has not done so because it does not believe that a prosecution based on the definitions in the Convention could achieve success,¹⁵⁵ and that there is no realistic prospect of developing a replacement.¹⁵⁶

In recognition of the large numbers of South Africans who have set up or served in PMSCs, the South African government has led the way in PMSC legislation. Around 2,000 South Africans are believed to be serving in PMSCs in Iraq, many trained under the Apartheid government.¹⁵⁷ The Regulation of Foreign Military Assistance (FMA) Bill was passed in 1998 in the wake of the controversy surrounding Executive Outcomes. It bans mercenary activity and regulates military assistance including advice, training, personnel, financial, logistical, intelligence or procurement

support.¹⁵⁸ However, loopholes and insignificant penalties have undermined the Bill's effectiveness.¹⁶⁰

As a result, a new law, with unprecedented reach, is currently before the South African parliament. It is intended to prevent South Africans from working for PMSCs in conflict zones altogether.¹⁶¹ The legislation will outlaw mercenary activity and allow the government to declare certain conflicts prohibited to South Africans. The penalty for infringement will be losing South African citizenship. The US lobby group IPOA has called the legislation a threat to the peace and stability industry worldwide.¹⁶²

In the USA, the Arms Export Control Act of 1968 has regulated both arms sales and, since the 1980s, the export of military services, including assistance in the use of equipment, technical data, advice and training. All PMSCs must register for a State Department licence.¹⁶³ In practice, enforceability, accountability, consistency and transparency are all lacking, as well as evaluation mechanisms. Only contracts in excess of US\$50 million require Congressional notification.¹⁶⁴ What is more, PMSCs can sell their services through the Pentagon's Foreign Military Sales (FMS) programme, which requires no licensing. While the US system may restrict the worst rogue companies, it does little to restrict companies working with full governmental knowledge and approval.

Few other EU countries are big players in the PMSC sector or have liberalised their militaries to the extent that the UK has done. France — the only other EU member state with a developed PMSC industry — adopted a law in February 2003 that bans direct participation in combat, but this deals with individual mercenary activity rather than PMSCs.¹⁶⁵

4.3 Buying influence

As noted above, one reason for the lack of regulatory legislation is governmental unwillingness to interfere in an industry that is profitable and useful to it. However, in order to remind officials and ministers of these and other considerations, PMSCs have also developed significant lobbying capacity to prevent unwanted government interference in the USA and UK alike.

In 2001, the 10 leading US private military firms spent more than US\$32 million on lobbying, and donated more than US\$12 million to political campaigns.¹⁶⁶ DynCorp gave more than

US\$500,000 between 1999 and 2002 (72% to Republicans).¹⁶⁷ CACI and Titan, the two PMSCs involved in the Abu Ghraib scandal, made political donations and employed lobbying firms to divert political pressure.¹⁶⁸ Titan spent US\$2.16 million from 1998 to 2004 on lobbying,¹⁶⁹ and fully 96% of its US\$1.8 billion turnover in 2003 came from US government contracts.¹⁷⁰ Blackwater founder Erik Prince and his family have given US\$275,550 to Republican campaigns since 1989, with nothing going to the Democrats.¹⁷¹ In 2001, two firms retained by DynCorp worked to block a bill that would have forced federal agencies to justify private contracts on cost-saving grounds.¹⁷² One was the lobbying firm Alexander Strategy Group (ASG).¹⁷³

The revolving door between government and PMSCs — the movement of former officials and military officers to and from the private sector, exerting political influence through their connections and inside knowledge — is also a key factor in explaining the sector's success. Blackwater's vice-chair Cofer



The revolving door: Sir Malcolm Rifkind MP, former defence and foreign secretary, is now non-executive chairman of ArmorGroup.

Black was coordinator for counterterrorism at the US State Department and director of the CIA's Counterterrorism Center, while Joseph Schmitz, COO of Blackwater's parent company, was the Pentagon's inspector general. Three members of CACI's board have formerly worked for US government security.¹⁷⁴ Titan's team includes two former senior air force officials and a Pentagon official.¹⁷⁵ Best of all, MPRI president Carl Vuono is a former chief of staff for the US army (1987-1993), while the five MPRI vice-presidents were senior personnel in the army or FBI. James Roche, secretary of the air force, is a former vice-president of Northrop.¹⁷⁶

From 1997 to 2004, the 20 largest US federal contractors hired 224 former high-ranking government officials to serve as lobbyists, board members or executives. The US non-profit organisation Project On Government Oversight (POGO) noted that: the revolving door has become such an accepted part of federal contracting in recent years that it is frequently difficult to determine where the government stops and the private sector begins.¹⁷⁷

In the UK, the British Association of Private Security Companies (BAPSC) now represents the largest PMSCs. As a result of current contracts in Iraq, meetings between government officials and PMSCs such as ArmorGroup and Control Risks have become frequent. While understandable under the circumstances, this type of relationship can blur the line between government departments and the PMSCs to which they outsource their functions.

The revolving door operates in the UK too. Former defence and foreign secretary Sir Malcolm Rifkind MP is non-executive chairman of ArmorGroup, while COO Stephen Kappes comes from the CIA.¹⁷⁸ Meanwhile, Aegis's non-executive directors include former defence minister Nicholas Soames MP as well as Lord Inge, former chief of defence staff, and Roger Wheeler, former chief of the general staff in the UK. The director general of the BAPSC itself, Andy Bearpark, was director of operations for the CPA in Iraq.¹⁸⁰

5. Conclusion and recommendations

PMSCs have grown so large and so fast that legislation to regulate them is now a critical necessity. It is already four years since the UK government published its Green Paper on PMSCs, and in that time the explosion of mercenary activity in Iraq has effectively rewritten the sector's role in contemporary conflict.

The UK remains in the unhappy position of having one of the most developed PMSC sectors in the world, and yet having no legal or democratic controls over it. War on Want will contribute more detailed recommendations on what form these controls should take once the government launches the public consultation which is a necessary precursor to legislation.

In the meantime, War on Want makes the following recommendations:

1. The UK government must move towards legislation to control the PMSC sector as an urgent priority. Self-regulation by the industry is not an option.
2. Legislation must outlaw PMSC involvement in all forms of direct combat and combat support, understood in their widest possible senses.

3. All other PMSC services must be made subject to individual licensing requirements and open to prior parliamentary and public scrutiny. In addition, there must also be an open register of PMSCs in order to provide an opportunity to filter out companies with poor records.
4. Strict controls should be placed on the revolving door to ensure that senior defence or security officials or ministers of state are not allowed to take up any lobbying role for a PMSC for five years after completing their government service.
5. Any government department which outsources a service to a PMSC must remain fully responsible for the conduct of that PMSC. Investigations against allegations of human rights abuse by PMSC employees must be accorded the same importance as investigations against members of the armed forces.

All readers of this report are urged to support these recommendations by sending personal letters to the same effect to: Rt Hon Margaret Beckett MP, Secretary of State for Foreign and Commonwealth Affairs, Foreign and Commonwealth Office, King Charles Street, London SW1A 2AH.



American PMSC Blackwater flies a helicopter over Baghdad.
Patrick Baz/AFP/Getty Images

Notes

- ¹ See, for example, the UN Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of people to self-determination, *The Right of Peoples to Self-Determination and its Application to Peoples under Colonial or Alien Domination or Foreign Occupation*, 3 March 2006.
- ² *International cooperation at a crossroads: Aid, trade and security in an unequal world*, UNDP Human Development Report, New York, 2005; chapter 5
- ³ See, for instance, S Armstrong, *The Enforcer*, *The Guardian*, 20 May 2006
- ⁴ *Rebuilding Iraq: Action Still Needed to Improve the Use of Private Security Providers*. Washington DC, US Government Accountability Office, June 2006; for more on the Private Security Company Association of Iraq, see www.pscai.org
- ⁵ J Scahill, *Blood is thicker than Blackwater*, *The Nation*, 8 May 2006
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- ¹⁰ Open Society Institute and UN Foundation, *Iraq in Transition: Post conflict challenges and opportunities*, 2005
- ¹¹ T Boles, *Dog of War Builds £62m Business*, *Sunday Times*, 5 February 2006
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Cover picture: A PMSC employee sits in the door of a helicopter as it patrols Baghdad in February 2005.

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