

REGULATION – AN ARMORGROUP PERSPECTIVE

(Private Security Companies)

1. Introduction

This paper is presented by ArmorGroup, a global provider of defensive protective security services and security training, as a statement of its position on the regulation of Private Security Companies (“PSCs”) and Private Military Companies (“PMCs”) that are based in the United Kingdom and operate in areas of diminished law and order and civil strife around the world.

This arena provides business opportunities for companies providing the services of specialists who have experience in government service and, in particular, in operations in regions with diminished law and order, a high risk of terrorism or of former conflict.

Private Security Companies have been active in their present form for about thirty years. In terms of ownership and operation they are little different to the commercial security sector operating within the United Kingdom. Individual sector players may be privately or publicly owned, provide services under contract and comply with local laws

Private Security Companies (PSCs) offer protective services in a defined area (e.g. an installation, an embassy or a refinery) or for defined persons (e.g. reconstruction engineers). Although they may be armed they have nothing in common with Private Military Companies or Mercenaries who engage in, or support, offensive combat operations that may seize ground and try to change the prevailing balance of power in a foreign country.

To an uneducated observer these companies may look alike inasmuch as they employ former servicemen, operate in hazardous regions, sometimes need to carry weapons and exist to make a profit. In fact Private Security Companies are much more similar to domestic security companies such as those seen protecting people and assets in the UK. They rigorously observe the law of the countries in which they operate, they have, or should have, a strong ethics code, and, unlike Private Military Companies or Mercenaries, they have no interest in interfering in politics or changing the government of any country.

This paper is solely concerned with the desirability of extending to Private Security Companies that are based in Britain but operate abroad, a comparable regulatory framework to that which domestic security companies are already subjected.

2. Background to the market

The market operated in relative obscurity from 1970 until the late nineties when the actions of unorthodox companies drew attention to the complex issues raised when companies engage in combat assignments. Public and governmental concern for the appearance of companies with a combat capability gave rise to the publication of a Government Green Paper in February 2002, entitled '*Private Military Companies – Options for Regulation*' and to an enquiry into the matter by the House of Commons Foreign Affairs Committee. However, that long running exercise produced no regulation.

3. Iraq – 2003

Coalition demand for security services in Iraq post-conflict produced unprecedented growth in the private security market. Established British firms teamed up with strategic partners to provide protective security for companies engaged in reconstruction, while newer firms entered the market to support the US Department of Defense. This rapid growth was largely a result of the commercial sector filling the security vacuum that could not be filled by the Coalition Provisional Authority as it sought to provide adequate protection to the reconstruction programme; and of the continued out-sourcing of core activity to contractors providing support services to the military.

Such growth put the sector under the spotlight. Initially it was 'boom time' as security providers deployed increasing number of security officers to support US contractors who themselves were becoming the subject of media scrutiny in the United States.

Media comment on the impressive work done by civilian contractors in Iraq, whose confidence to remain on the job was under-pinned by private security, was almost completely eclipsed by unhelpful emphasis on the men, money and guns of the private security market. The reputation of the sector was not helped by the award of significant contracts in Iraq to insubstantial or new security companies, whose only way of fulfilling these contracts, given their lack of infrastructure, was to offer exceptionally high salaries to competitors' employees. This led to a wage spiral contrary to the public interest and to a degree of instability within the business contrary to market interest.

Press coverage of the market continued to rouse public concern, fuelled by those who oppose the industry on principle. Most of these remarks ignored the significant benefits that private security firms bring and that UK-based companies have not been charged with a single incident relating to abuse of human rights, breach of international law or any other "ethical error".

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4. Ethics

Definition of the ethical and regulatory issues that beset the market is difficult. To some extent there are perceived problems and to some extent real ones. This has much to do with the differing cultures predominant in the two countries that are hosts to the majority of the security companies under scrutiny. In the United States, the sound of gunfire is still somewhat synonymous with the sound of freedom, while in the United Kingdom the Government has shown a keen interest in legislating activity associated with firearms. Then again, the United States' *laissez faire* approach is cherished by the average citizen; while in Europe there is a view that nothing can be, or will be achieved, without regulation. Any inclination by the industry in the United Kingdom to point to nearly thirty years of problem-free service is to miss the point. The public has a right to know what the industry does and the companies involved have an obligation to inform. The public and Government have a need to concentrate on important issues of the day and the security industry has a duty to avoid causing unnecessary problems or embarrassment.

Whether or not the issues are real, or simply perceived, security companies must address expressed public concern with a clearly defined code of practice backed by regulation and supported by legislation to deal with unruly elements.

5. Definition

There are, broadly, two kinds of Private Security Companies:-

Security Companies	Guard companies with public ownership that provide uniformed, yet unarmed, guards in the western and developing worlds for commercial and governmental security.
Private Security Companies	Companies such as ArmorGroup, in private ownership, which provides uniformed and armed guards in hostile regions to commercial and governmental clients and to the standards they demand. ArmorGroup has an ethical policy expressly forbidding participation in offensive action, or in any operation likely to change the prevailing balance of power, or in direct support of foreign policy.

And equally subject to regulation should be:-

Private Military Companies	Corporations that serve the governments almost exclusively with all manner of service and almost as an extension of foreign policy when called upon to do so.
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6. The issue

Security Companies that are UK based and operate within the UK are now the subject of regulation, under the Private Security Industry Act, by the newly established Security Industry Authority.

The UK hosts more PSCs than any other country. They operate globally, employ large numbers of armed guards, and have clients which may not be government and which may not subscribe to 'acceptable' codes of practice. This grouping in particular needs greater transparency and understanding, which can only be achieved by better regulation.

7. Situation

UK based businesses offering security services outside the UK are not presently subject to the regulation required of companies providing services within the UK, which are subject to UK jurisdiction. Due to this regulatory vacuum, the PSC sector has frequently resorted to voluntary codes to fill the void. This anomaly must be addressed to placate the concerns expressed by government and public.

8. Regulation

The process of 'regulation' can be complex. A study of the market and all its sectors will be necessary. The key concerns have to be identified, appropriate measures must be defined and a regulating body has to be identified, before the matter is presented to Parliament. *Nevertheless, ArmorGroup believes that a relatively minor adjustment to existing regulations may be sufficient to provide a suitable framework.*

The Private Security Industry Act ("PSIA") of 2002 set out to regulate private security operators in the United Kingdom and established the new Security Industry Authority ("SIA") to set regulating criteria and to implement regulation. This it is now doing with considerable success. ArmorGroup recommends that the scope of the Act is increased to include regulation for PSCs that are registered and based in the UK, but which operate outside the United Kingdom, in respect of all pertinent activity that they undertake within the United Kingdom.

Specifically, ArmorGroup recommends that the SIA is empowered to establish the necessary criteria for regulation which might include the following:

a. **Categorisation of companies according to services offered**

Three categories are foreseen:

- i. Companies providing a range of commercial security services, including armed guards. This would include embassy, bank and oilfield guards as well as offering consultancy and security management to clients up to and including the United Nations, Foreign & Commonwealth Office, Ministry of Defence and the US Departments of State and Defense, which, while increasing national capacity, do not replace military capability;

- ii. Companies providing a range of security services to the governments of the United Kingdom and United States under government contract, some of which may be considered logistic services as well as providing force enhancement, whether that is through armed escorts, armed guards, communications, training, unarmed surveillance *et al*; and
 - iii. Companies providing a range of security services to the governments of countries other than the United Kingdom and United States under government contract, some of which services may be considered logistic while others do replace military capability as force enhancement.
- b. **Fully transparent structures**
Each company to produce to the SIA the following confirmation on registration and, where appropriate, at renewal each subsequent year:
- i. Security vetting of company directors (as is required by the PSIA for other UK-based security companies);
 - ii. Annual Report & Accounts as submitted to Companies House (as is presently required);
 - iii. Proof of insurance (to include war risks) to a limit of liability for any one incident of, say, not less than £10,000,000;
 - iv. Proof of insurance (to include war risks) for employees operating outside the United Kingdom for defined benefits; and
 - v. Proof of global Employers Liability insurance.
- c. **Fully transparent operating practices**
Companies to produce to the SIA the following on registration and, where appropriate, at renewal each subsequent year or on revision of company policy:
- i. An Ethics Policy defining limit of exploitation on assignment (e.g. rejection of offensive action, or of certain weapon systems) and confirming compliance with international laws on human rights and co-operation with law enforcement bodies of the United Kingdom, host nation and international investigators (such as those appointed by the International Criminal Tribunal);
 - ii. A Code of Conduct for employees operating outside the United Kingdom to include rules of engagement if weapons are to be carried;

- iii. Certification under a Quality Management System to an appropriate standard such as ISO 9001:2000; and
- iv. Declaration to the SIA, in a given written format and prior to provision of service or product, of any intention to provide armed personnel or weapons of war to any territory outside the United Kingdom. This declaration would include details of contract, personnel and/or weapons to be supplied.

9. Government responsibilities

Government departments and agencies should have the following responsibilities:

- a. SIA to register qualifying companies within each category and maintain a database of present and past companies with all pertinent details as the UK Government's source of relevant data;
- b. SIA to circulate declarations submitted by companies for the provision of armed personnel or weapons to such government departments as require them; and shall do so immediately on receipt of each declaration;
- c. Criminal Records Bureau to provide a vetting service to companies registered with SIA and to turn around each request for vetting within five working days of receipt of application; and
- d. Department for Trade and Industry to recognize the status of registered companies and respect their right to provide personal protective equipment to their employees where such employees are engaged on a contract with the governments of the UK, US, or the United Nations, where the company retains control of this equipment and pledges to return it to the United Kingdom on completion of contract. Requests made of the Department to be turned around within five working days of receipt of application.

10. Summary

The British Government and public have a right to require transparency in the workings of companies operating in this market. The industry, in accepting the need for transparency, has a right to expect that the UK Government will facilitate the processes required to regulate the sector and subsequently to afford it the necessary assistance by way of a regulating body and efficient supporting departments.

The industry can be expected to support regulation and subsequently to co-operate with regulators. Any compromise in the level of regulation or in levels of support afforded by government departments involved in the market will compromise the Government's position as well as the market's appetite for a form of regulation that may stifle its freedom to compete and to successfully secure business in an open and global market.

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It will take time for a regulatory framework to be produced and the sooner this process starts the better it will be for the industry and for the Government. Indeed, the exclusion of UK based providers of armed security overseas from the regulatory framework already applied to those that do operate within the UK is an anomaly that needs to be addressed.

It seems, for example, extraordinary that the doorman of a nightclub catering for a particular clientele in a particular part of town may have to be vetted and licensed, while the same man can be equipped with a rifle, an armoured vehicle and be engaged to protect diamond concessions for a foreign regime in a clear breach of the public interest and perhaps even in contravention of human rights, needs no such regulation.

ArmorGroup is pursuing parallel policy in the United States of America.

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