



## **SHOULD THE ACTIVITIES OF PRIVATE MILITARY COMPANIES BE TRANSPARENT?**

Over the past few years, the activities of private security companies has come under the scrutiny of both the press and the international community. Some have sought to re-define the term 'mercenary', which has traditionally been applied to the sharp end of the business, to revise the now rather dated and narrow dictionary definition. Some commentators have argued that the business of private security lies too far in the shadows and is so shrouded in secrecy that there must be more than first meets the eye. Most have sought to 'expose' the operation of these companies resulting in sometimes wild speculation as to their operational intentions and business practices. They suggest that more transparency would remove many of the suspicions and conjecture about their motives and modus operandi.

### The Companies

Before attempting to address the question of transparency, the first step must be to define the nature of the business in question.

In essence, there are many different forms of security companies and security services providers. Some provide traditional services, others have spawned out of the 1990s phenomenon of contracting-out (outsourcing), whereas a further group have evolved to fill the gap left by first world nations no longer willing to actively intervene in the resolution of third world local conflict. It is this latter grouping that has gripped the attention of the press and created debate within the international community. Who are they and how are they different from other security companies?

The traditional security services provider could be termed 'the Group 4' concept. They provide security and protection services ranging from bank and jewellery shop guards through to airport baggage screening and cash-in-transit protection. Their personnel are often unarmed although, in certain countries, such as the USA, or in certain higher risk circumstances, armed guards are deemed necessary. An extended form of this security capability has developed for use in hostile environments, such as the provision of teams to protect substantial oil and gas installations in lesser developed parts of the world. Notable providers of this type of service include Defence Systems Ltd (DSL) and Lifeguard Security.

The second form of services provider is the specialist company which provides an outsourced service to its clients who no longer maintain the in-house expertise or who may need to supplement limited resources in a particular field. This can range from the provision of consultancy advice through logistical support for field operations (such as &E) to filling other gaps in strategic and tactical capabilities.

## Private Military Companies

This paper focuses on a third group: organisations that provide ‘front-line’ assistance in areas of conflict and which have become known as ‘Private Military Companies’, or PMCs. Even this set of security services providers can be further broken down into two principal components: *active* and *passive* operators. As one US State Department official put it: “there are those (companies) who have not pulled the trigger – yet”. In other words, some of the companies in this third group draw the line at working alongside client personnel in the field and only provide training and related services. Examples include MPRI and Vinnell, both based in the USA. These are the passive PMCs. The second group, the active PMCs (APMCs), will deploy in a combat role alongside their client’s armed forces, notably Executive Outcomes of South Africa and Sandline International.

## The PMC Model

One of the principal characteristics that differentiates the characteristics of PMCs from the ad-hoc groupings of private soldiers of the 1960s and 1970s is that they have a permanent structure built along corporate lines. They are defined, incorporated entities intended to continue in perpetuity, not simply a band of individuals who have been recruited to carry out a single contractual obligation. The intention of durability and sustained corporate growth has changed the debate surrounding the use and acceptability of such organisations. It is also a principal rationale for reconsidering the definition and applicability of the term ‘mercenary’.

Although there will always be the ad-hoc groups, such as the Bosnian Serbs deployed in the former Zaire in 1996, they are harder to control and regulate and also less likely to apply internationally acceptable standards of operation of their own. The growth of the active PMCs – the APMCs – has overtaken the embryonic regulatory framework<sup>1</sup>, both at the national and international levels. Surprisingly perhaps, it is not just the industry watchers and the international community which believe that this situation must be addressed, but also the companies themselves<sup>2</sup>.

In the absence of an international regulatory structure APMCs have, for the most part, developed their own set of operating principles and self-regulation processes. This is another characteristic which sets them apart from their transient ad-hoc counterparts. The most important of the factors which differentiates APMCs from their distant cousins is that they state in their operating principles that they will only work for legitimate clients who must be internationally accepted. As Tony Blair might say, “the good guys”.

## Making a Difference

APMCs have made a telling influence in a number of conflicts. Some of these instances have received widespread press reporting: Angola (Executive Outcomes: 1993 to 1996), Sierra Leone (Executive Outcomes: 1995 and 1996, Sandline International: 1998). Even in Papua New Guinea (Sandline International: 1997), where the intended deployment was aborted at the last minute, renewed international attention stimulated the conditions for a peaceful end to nine years of unpleasant hostilities.

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<sup>1</sup> A number of countries, such as RSA, are in the process of implementing statutory regulation of PMCs

<sup>2</sup> Private Military Companies – Independent or Regulated, Sandline International, July 1998

These APMCs do not necessarily always take an active participation in resolving a conflict. Sandline International's assistance to west African regional peacekeeping forces (ECOMOG) deployed in Sierra Leone in 1998 was in a supportive role. The company has also provided low profile but valuable assistance to other clients in an advisory capacity. Undoubtedly, other APMCs have provided this form of less direct assistance to meet client requirements.

The extent of the APMCs' involvement in the conflicts referred to above has been heavily dissected by the press. However, there have been almost as many different versions of reported events as stories published or broadcast. The speculation about the motivations of an APMC to accept an assignment, their long-term goals in a particular country, inter-relationships with mining companies and other commercial entities, and the method of payment, to name a few issues, has been simply staggering.

Few researchers and writers on the subject, even those who have delved into the subject in-depth, are ready to believe that these companies adopt typical commercial principles: intending to carry out their contracted obligations to the best of their abilities, receive their due compensation and move on to the next assignment. It can't really be as simple as that, they say – there must be more to it?

### Satisfying the Curious

PMCs are no different from other commercial entities. They are driven by the same business motivators, such as profit, growth, corporate sustainability, shareholder value and achievement. The corporate model of a PMC would not look any different to that of another company of similar size discussed in a classroom at Harvard Business School.

Whereas company A builds washing machines and company B runs outsourced corporate computing facilities, company C – the PMC, provides private military services. They subscribe to the same generic classroom model – the rules of business still apply.

The demand for transparency amongst PMCs appears to have arisen as a major issue for two principal reasons, one rational and one not:

- First, there is concern that PMCs may step outside their stated self-imposed operating principles and abuse their position of trust to the extent that 'the tail wags the dog'. In other words, it is no longer the client government which calls the shots but it becomes the PMC (this is the rational reason).
- Second, there is curiosity as to their ownership, control, corporate persona and the form of their remuneration (the irrational reason).

### Wagging the Dog

An important rule of business is that a supplier is only as good as its last contract. Most businesses build a reputation and then work hard to protect it. If a particular APMC performed badly or unethically: acted as a force inhibitor and not a force multiplier, exploited the trust placed in it by a client, changed sides, conducted illicit mining activities, carried out summary executions or sought to mount a coup then, bearing in mind that this form of behaviour would hardly go unreported, the company and its principals would find that their forward order book was looking decidedly thin.

The prospect of the tail wagging the dog can only, therefore, be a one-time opportunity. The chance will not recur and the company's prospects would disappear. There is no possibility of creating a serial rogue APMC, not if the company wants to stay in business. Any would-be transgressor would be quickly deleted from the shortlists of potential clients.

Idle curiosity is not in itself sufficient justification for a greater degree of transparency than would be expected from any other commercial entity. Why should a PMC acquiesce to demands made upon it simply 'because the public have a right to know'? Every company is entitled to a degree of privacy which is embedded in the national laws of the countries where it chooses to incorporate and base itself. Why should PMCs be required to present a higher level of disclosure than its peers simply to satisfy the curious?

Perhaps, conversely, some may argue that PMCs should be granted dispensation from even the legal minimum level of transparency and accountability because of the *very nature* of their business, which requires a higher than average degree of secrecy, primarily to protect lives.

However, and probably the key to this issue, is not so much the degree of corporate confidentiality PMCs would be entitled to under the law, but the degree of transparency they must suffer if they wish to become an accepted component of international peace enforcement. To achieve this aim they will undoubtedly have to grant a much more significant level of access to information on how they conduct business than would otherwise be the case.

### Mineral Payments

The question of payment of PMCs in the form of national assets such as mining concessions has taken up a large amount of print space over the past three or four years and deserves a particular mention. The contention is that governments, in desperation, trade huge, irreplaceable chunks of indigenous wealth which far outweigh the value of the military services being provided. The question to ask is: Should a state pay for military services in the form of mineral assets? The answer is as simple as the question: Yes, but only to a commensurate value for the services being delivered. If, for example, a gold mine has an independently established net present value of USD 30m, the PMC is providing services to the value of USD 40m and the state has inadequate cash reserves, or does not wish to deplete them, then why not pay the PMC by assigning the mine and making a top-up cash payment? There is nothing unethical about the deal and it is a fundamental application of the centuries old principle of barter trading a service for payment in a non-monetary form.

Most if not all PMCs focus on their core business and would not have any desire to run a gold mine or take payment by way of an oil offtake agreement. Payments for the examples quoted in this paper of Executive Outcomes and Sandline International in Angola, Papua New Guinea and Sierra Leone were all in monetary form. It may be that the nation state's treasury funds were originally generated by tax take or government shares in commercial oil or minerals operations in their countries, but this is one step removed as far as payment to the PMCs is concerned. Without international funding assistance, it will only be countries that are able to build up foreign currency reserves, usually from revenues derived from its indigenous asset base, that will be able to pay for external military assistance.

## Transparency is Essential

The UK government's report into the provision of arms to Sierra Leone stated: 'these companies are on the scene and look likely to stay on it'<sup>3</sup>. David Shearer, in his Adelphi Paper published by the International Institute for Strategic Studies on PMCs<sup>4</sup>, recommended that the international community 'engage' with these companies rather than shun them. PMCs themselves recognise this need as an essential ingredient for their future growth and must be willing to accept a reasonable, yet effective, future regulatory regime.

PMCs must be willing to open themselves up for inspection and make their businesses transparent beyond the requirements of company law, despite the arguments to the contrary set out above. This is an essential factor in establishing acceptability and credibility in the eyes of the world community. If these companies want to continue to conduct business without having to constantly and retrospectively fend off the suspicions of the press and the public this is part of the price they must be willing to pay.

The question of to whom PMCs make the information available still needs further debate. Do they need to maximise transparency in full public glare or should this transparency be restricted to those that need to know within the regulatory framework? The public critics of PMCs will inevitably argue for the former but may be pacified once they come to accept that any future regulatory structure has tidied up both the image of and participants in the sector. The ad-hoc players (see above) will always fall outside the regulatory framework because of their very transitory and intangible nature: the chances of securing any form of transparency from them are negligible.

## Conclusion

Regulation and transparency go hand-in-hand. There is a growing desire on the part of ethical PMCs to subject themselves to an acceptable degree of regulation, with the proviso that it does not hinder their corporate effectiveness, such as their ability to deploy into an area of conflict extremely rapidly. Transparency of their business dealings and their corporate structure must be an important component of any such framework – no company could be accredited for example unless the regulating body was satisfied about the character of the shareholders and the business' underlying commercial principles which, some may argue, are as important as their operating principles, albeit perhaps not on the field of conflict.

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<sup>3</sup> Report of the Sierra Leone Arms Investigation, July 1998, The Stationery Office, ISBN 0-10-552406-9

<sup>4</sup> Private Military Companies, International Institute for Strategic Studies, March 1998