SECURITY & DEFENCE AGENDA



The private security phenomenon: policy implications and issues



Moderated by

Giles Merritt, Director, Security & Defence Agenda and Maj Gen (ret) Kees Homan RNLMC, Senior Researcher, Netherlands Institute of International Relations (Clingendael)

> SDA Monthly Roundtable 7 December 2006, Brussels Rapporteur: John Chapman

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PROGRAMME OF THE DAY

The private security phenomenon: policy implications and issues

HOW SHOULD EU POLICYMAKERS SEE THE ROLE OF 'PRIVATE ARMIES'?

Session I 12:00-13:30

The crucial role of private security companies in Iraq looks increasingly like a pointer to the future. Private contractors are offering not only new reserves of skilled manpower but also sophisticated services ranging from intelligence-gathering and infrastructure protection to the provision in Iraq of command-and-control that links reconstruction and counter-insurgency operations. With many of these specialist security companies originating in Europe, how should EU policymakers see their roles developing? As Europe's defence and security identity takes shape, what should be the interrelationship between EU member states' often hard-pressed military and the growing numbers of private sector security operators?

KEYNOTE ADDRESS: ROBERT COOPER, DIRECTOR GENERAL FOR EXTERNAL AND POLITICO-MILITARY AFFAIRS, COUNCIL OF THE EUROPEAN UNION

Moderator: Giles Merritt, Director, Security & Defence Agenda Panellists:

- Michael Cottier, Deputy Head of the Section for Human Rights and Humanitarian Law, and Coordinator of the Swiss Initiative, Swiss Ministry of Foreign Affairs
- § John Mattiussi, Desk Officer, Security Policy, European Commission DG RELEX
- § Stuart Page, Managing Director, Page Protective Services Ltd.

SDA Members' Lunch 13:30-14:30

ARE THE NGOs AND PRIVATE SECURITY COMPANIES ALLIES OR FOES?

Session II 14:30-16:00

At first sight, NGOs involved in humanitarian relief or development work are far removed from private security companies. Yet they often pursue the same goals of protecting non-combatants and institution-building. How are private security specialists likely to fit into future EU-led relief and peacekeeping operations, and is there a need for a more clearly defined relationship both with EU battle groups and with the NGOs that administer the Union's world-leading aid effort?

KEYNOTE ADDRESS: ANDY BEARPARK, PRESIDENT, BRITISH ASSOCIATION OF PRIVATE SECURITY COMPANIES (BAPSC)

Moderator: Maj. Gen. Kees Homan, Senior Research Fellow, Netherlands Institute of International Relations (Clingendael)

Panellists:

- § Doug Brooks, Founder and President, International Peace Operations Association
- § James Cockayne, Associate, International Peace Academy
- § Sir Tom Duggin, Director of New Business Strategies, Global Strategies Group
- § Katherine Haver, Research Associate, Center on International Cooperation, New York University

Executive summary

Legislation and the private security sector – no silver bullet!

At the end of an enlightening debate on the private security phenomenon, there was clear agreement that further regulation of the sector was required. With a scope that was seen to include security sector reform (SSR), disarmament, demobilisation & reintegration (DDR), the administration of voter registration programmes, static guarding of critical infrastructure, monitoring activities, police training, assistance in prison services, peace negotiating, protection of senior figures, protection of humanitarian aid workers and airport security – at Baghdad airport – that was no surprise.

No agreement was forthcoming, however, on the type of regulation that was required. Options under discussion included EU-wide or global legislation, national regulations that centred on the main protagonists – the US, UK and South African companies – and self-regulation. The EU, with the Council's Director General, DG for External and Politico-Military Affairs, Robert Cooper, leading the way, favoured a set of international standards but actions from the Commission were seen to be several years away.

Issues of concern included the law enforcement mechanism to be employed in the case of abuse of authority by PSC staff, the interface between the military and civilian bodies, the interface between NGOs and PSCs and the availability of information about companies working in the private security sector.

There was no doubt that the private sector was growing, due apparently to the increased terrorist threat and the lack of resources – human and financial – in the armed forces of the western world. Uncertainty did arise as to the exact size of the sector, although it was agreed that it was a multi-billion dollar business.

BAPSC Director General Andy Bearpark insisted that PSCs were in the business for the long-term and he announced his intention to create a European-wide association, that would interface closely with the European institutions and NGOs. That association would undoubtedly need to be involved in a multi-stakeholder dialogue to develop, as stated by the Swiss Ministry of Foreign Affairs' Michael Cottier, "multiple and complementary layers of control applying coherent and compatible standards seen to be required with regard to this global and complex industry." Bearpark was looking into the long-term future but in terms of legislation, he could see no silver bullet.

DEBATE HIGHLIGHTS

RECOMMENDATIONS FOR THE FUTURE

- Further regulation of the private security sector is clearly needed with a mixture of international, national and self-regulation the ideal choice.
- NGOs need more information about smaller PSCs in order to make calculated decisions when contracting companies, although at times governments restrict such information.
- Coordination between PSCs, on the one hand, and NGOs and government agencies, on the other, should be increased to ensure a speedier and more optimal result.
- European regulation would increase the momentum towards a minimum international standard.
- Legislation is needed to encourage more PSCs to become involved in previous state-run operation, thus effectively helping governments cope with increasing demand.

Session I Highlights

- The EU wants to create a European framework, with a set of unified standards for the regulation of PSCs, although such a measure is not imminent.
- Europe currently lacks any regulation for the export of services, such as military expertise, as opposed to the existing code of conduct for the export of military goods.
- While the PSC industry suffers from a negative image because of the Iraq War, the sector is a broad one as services now cover a large range of activities, including diplomacy and humanitarian operations, with only 5 % of activities being of a military nature.
- The Swiss Initiative strives to clarify the PSCs' and states' existing obligations under international law and study regulatory measures to reduce adverse humanitarian effects of PSCs operations, all of which will be addressed at the 30th ICRC Conference in November 2007.
- About 15 20% of the operational budgets of crisis management actors are spent on security services.

Session 2 Highlights

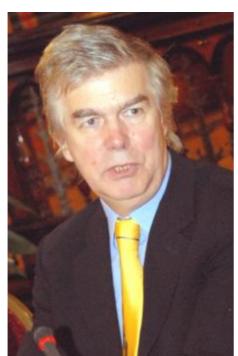
- A European Association of Private Security Companies, to interface with the different European players, is being created, with a possible inauguration in the Spring of 2007.
- About \$100 billion is spent annually in the PSC sector, with \$20 \$30 billion spent "on the ground".
- PSCs offer capabilities that cannot be ignored, and often perform duties governments are not willing, or able, to perform.
- A recent CIC/HPG study showed that the threat to aid workers has increased, resulting in a
 more professional approach to security among NGOs and a greater need for cooperation within
 the NGO community, as well as with PSCs.
- "Soft-power" operations, such as humanitarian missions, are increasingly relying on PSCs, which is creating concern among the humanitarian community, although a dialogue has begun between the two sides to solve any differences.

Session 1: How should EU policymakers see the role of 'private armies'?

The SDA found itself in somewhat "unknown territory" at the latest roundtable as it turned the spotlight on to private security companies (PSCs¹). Noting that this was an example of where civil and military codes met, SDA Director Giles Merritt looked forward to hearing how EU policymakers saw their roles developing. To start the conference, he gave the floor to the first keynote speaker Robert Cooper, Director General, Council of the EU, Directorate General for External and Politico-Military Affairs.

KEYNOTE ADDRESS - ROBERT COOPER

Director General for External and Politico-Military Affairs, Council of the European Union



Robert Cooper, Council of the European Union

¹ Introducing the second session, Maj. Gen. Kees Homan, Senior Researcher, Netherlands Institute of International Relations (Clingendael), differentiated between Private Military Companies (PMCs) and PSCs. The former provide combat power, while the latter are a source of logistics, intelligence, medical services, etc. The majority of the discussion at the conference centred on PSCs.

Speaking in a personal capacity, Cooper emphasised the dramatic increase in the PSC sector following the Iraq conflict. Making a demarcation between non-military and military activity, he argued that the majority of the latter was related to logistics and training. There were "marginal organisations" that got involved in combat, but Cooper chose to ignore these. Importantly, he wanted to stress that the PSC sector could include the services that were included together with military equipment.

If the EU goes down the road of legislation, the first thing to do will be to define those areas that should be regulated.

Robert Cooper

The issue on the table was whether or not the EU should get involved in the regulation of PSCs. Cooper saw a philosophical reason that the EU should have "control over the means of violence" - and a practical one. The latter was that EU Member States already had rules governing the export of military goods, and it was therefore surprising that there were no rules for the export of services. One benefit could be that a licensing system would help industry to differentiate between "respectable and non-respectable organisations." Emphasising the random legislation of PSCs across the 25 EU Member States, Cooper called for the creation of a European framework and a set of unified standards.

Q&A – Robert Cooper

BACKGROUND: THE "UK'S GREEN PAPER" AND RELATED CONCERNS

William Imbrie, Deputy Chief of Mission, US Embassy in Belgium, added some background concerning the British Government's Green Paper,² issued in February 2002- 'Private

The Green Paper outlined six options for regulation: a ban on military activities abroad; a ban on recruitment for military activity abroad; a licensing regime for military services; registration and notification; a general licence for PMCs; and self-regulation via a voluntary code of conduct. The Green Paper was drafted in response to a request made by the Foreign Affairs Committee of the House of Commons in its 1999 report on the 'arms to Africa' affair, which involved the delivery of weapons to Sierra Leone by Sandline

Military Companies: Options for Regulation'. Following the issue of the Green Paper, Imbrie explained that the UK and the US had got together to discuss the use of PSCs in the UN's peacekeeping missions. Following discussions, the UN Secretary-General Kofi Annan had decided that the UN was not ready for such activities.

Imbrie added that the scope of the activities undertaken by PSCs went beyond the areas outlined in the keynote speech. He explained that since the early 80s, the US military had tried to outsource all activities that were not of a military nature. Areas covered by Imbrie included: peacekeeping missions, security guards as used at NATO and the Commission, and armed guards to protect staff engaged in dangerous missions across the world.

Zeroing in on a cause for concern, Imbrie said that one of the issues discussed during the time of the UK's Green Paper was how to treat "incidents" where private contractors were involved. That issue was becoming more important as the number of contractors in Iraq was growing and, according to Imbrie, almost all of them had side-arms.

Cooper added Imbrie was reflecting the more "thorough" use of PSCs by the US. In addition, he stated that Kofi Annan had had no choice but to say the UN was not ready, but that staff below him had always sought to work with companies that had a "good housekeeping seal."

REASONS FOR GROWTH AND THE LONG-TERM VIFW

Sir Tom Duggin, Director of New Business Strategies, Global Strategies Group, was the first speaker to use the word "mercenaries." Arguing that the vast majority of people in the industry were not of that ilk, Duggin preferred to describe the security companies as "business enablers3." Explaining the dramatic increase in PSCs, he gave two main reasons:

 The inability of governments to provide the necessary security services, due to budget restraints and a lack of military capacity

International in contravention of a UK arms embargo.

(http://www.basicint.org/index.htm)

 The growing terrorist threat that had increased the need for security in many places

Stephanie Blair of the Cranfield University Center for Security Sector Management wanted to know if the EU had estimated the demand for such work and if the companies providing such services were involved over the long haul. British Association of Private Security Companies (BAPSC) Director General Andy Bearpark gave a firm affirmative answer to that question. Arguing that the industry had changed completely in the last five years, he said that only 5% of the activity was now of a military nature. Most companies were said to be involved in Security Sector Reform (SSR)⁴ and that one of the roles of BAPSC was to rid the industry of "cowboys". It was looking ahead to the next 20, 30 and even 40 years.

THE EU'S USE OF PSCS

Maj Gen (ret) Kees Homan RNLMC, Senior Researcher. Netherlands Institute International Relations (Clingendael), wanted to know the reasoning (was it ad-hoc or philosophical?) behind the use of PSCs to protect the officers of the EU police mission Bosnia-Herzegovina (EUPM). Cooper commented that the objective was to protect EU staff via a respectable organisation. However, such decisions were always made on an ad-hoc basis, following the usual official tendering process. The International Peace Academy's James Cockayne called for the Union not only to set high standards as a client of PSCs, but also to attempt to drive up standards by requiring humanitarian partners to deal with PSCs in a certain (regulated) way⁵. With SSR being a major area of focus in the future, Cooper reasoned that it would be inevitable that the EU would continue to use PSCs in the future.

TOWARDS REGULATION – EU OR GLOBAL?

Merritt could see the case for bringing together the varying legislations in the EU Member States, but as the US was the largest employer of PSCs, he asked if it was best for the EU to go it alone or with the US. Adding a

³ Sir Tom Duggin explained that his company enabled others to perform the military job.

⁴ Security Sector Reform is a concept to reform or rebuild a state's security sector that emerged first in the 1990's in Eastern Europe. (Wikipedia)

⁵ Cockayne noted that an increasing amount of humanitarian aid was being spent on PSCs in order to protect the implementation of humanitarian projects.

further option, Merritt asked about the Swiss/Red Cross initiative in the same area. Cooper did not want to rule out any of the options, adding that the Member States would be responsible for any eventual legislation. From a personal viewpoint, Cooper said he preferred the US licensing system, whereby both organisations and operations were covered by its legislation.

Doug Brooks, Founder and President, International Peace Operations Association, welcomed the idea of the US and the EU working together on legislation as this was "a global industry." Swedish CIVCOM Representative to the EU, Jonas Hult, agreed with Brooks and suggested that the EU takes the lead. However, he was not sure if the EU had sufficient leverage to succeed. Cooper felt that the EU should use its "good name" and endeavour to develop an international standard, together with the US.



Jonas Hult, Swedish Permanent Representation to the EU

PSCs – THE SCOPE OF OPERATIONS

Aegis' Dominick Donald added to the discussion about the scope of PSCs by commenting on the work done by the *Global Strategies Group* in a voter registration programme in Afghanistan, work normally undertaken by multilateral organisations, and by *Control Risks*, an organisation that had been involved in an attempt to restructure the Palestinian decision-making process. This had

involved an element of diplomatic work in facilitating a dialogue between the various Palestinian security forces. Donald also explained that his own organisation was performing a certain amount of civil affairs work in Iraq - described as low cost & high impact projects - aimed at changing the situation on the ground.

Cooper could only agree that the private security sector was an extremely broad one and that regulation would be complicated. Focusing on the trickiest area, he said that the direct or indirect use of force was one that needed particular attention. Noting that it went further than people carrying side-arms, Cooper stated that the training of armed forces might also be an area where regulation was required. Giving some recent examples, he mentioned that DynCorp had provided monitors to the US military in the Balkans and also provided police training in Afghanistan. Another area was the emergence of the private diplomatic sector, where Cooper stated that private organisations had been responsible for negotiating peace to the Aceh civil war.

Concluding, Cooper said that in the event that the EU did decide to investigate regulation of the sector, then the first task would be to decide which areas would be regulated. Thanking the keynote speaker, Merritt seized the moment to say that the recent row revolving around DynCorp's activities in Afghanistan and the Balkans showed that it was evident that clearer rules were needed in the private security sector.

Session 1 Panel

PAGE PROTECTIVE SERVICES LTD.

Page Protective Services Ltd. Managing Director Stuart Page described his company's work in providing security services for the EU (DG RELEX) in Haiti, in Jerusalem, in support of SSR and humanitarian aid programmes, and in "close protection" of senior figures, e.g. the Head of Delegation in Saudi Arabia. Page identified the lack of support from the Commission, although he did not blame its people, in that there was often a lack of negotiations as to the right to carry side-arms. In addition, his staff were not protected by the Geneva Convention, which could lead to obvious difficulties.



Stuart Page, Page Protective Services Ltd.

Page also pointed his finger at Iraq, as he argued that the presence of any members of a PSC that had Iraq experience were looked upon unfavourably by governments, e.g. as in Haiti. Such governments were nervous as their history made them suspicious of any potential military or political coups. That made him reflect that the industry would have an "unfortunate image" until it could shake off the after-effects of the Iraq War.

THE COMMISSION

DG RELEX's Security Policy Desk Officer John Mattiussi focused on the "most difficult area" – the boundaries between civil and military activities. Despite the "Iraq bonanza", he argued that PSCs were an integral part of the security environment across the globe. This environment included the necessity for good governance, the rule of law and SSR. PSCs

were – in Mattiussi's mind, "part of the permanent architecture".

PSCs are an essential part of the security picture ... they fill the gaps

John Mattiussi

Looking forward to the (yet to be released) OECD Guidelines on Security Sector Reform, Mattiussi said there was a comprehensive section on best practices in the private security sector. The EU's interest, as a client of the PSCs, was to provide security for its staff in areas where the local government could not give guarantees. That was a significant cost, as Mattiussi estimated that 15-20% of the operational budgets of crisis management actors (such as the UN, the EU, the World Bank, the Red Cross) was spent on security services.



John Mattiussi, European Commission

However, Mattiussi was more concerned about professional standards, as any organisations involved in security had to be fully accountable. He gave the Commission's backing to international statutory regulation and international standards for the global PSC industry. Companies could easily move their base around the world and Mattiussi argued unregulated PSCs could sometimes be the problem rather than the solution. He reasoned that self-regulation and individual initiatives from Member States were both useful but were not the complete answer.

On the subject of export controls, Mattiussi said that even the smallest conventional weapons were subject to a code of conduct that defined the criteria (human rights, regional stability, political situation, etc.) that had to be judged before export licences were granted. He therefore saw a gap in the regulations as services (including military expertise) were not regulated despite being part of the foreign policy picture. In conclusion, Mattiussi argued that legislation was overdue and he looked to Europe to lead the way.

THE SWISS MINISTRY OF FOREIGN AFFAIRS

The Swiss Ministry of Foreign Affairs' Deputy Head of the Section for Human Rights and Humanitarian Law, Michael Cottier, described the *Swiss Initiative*⁶ undertaken by his ministry in cooperation with the International Committee of the Red Cross (ICRC). This initiative arose out of the increased use of PSCs and issues such as appropriate control over and accountability of such companies.



Michael Cottier, Swiss Ministry of Foreign Affairs

Cottier emphasised the need to ensure control and accountability of PSCs, given that their use involved the potential use of force and the possibilities of casualties. The aim of

⁶ www.eda.admin.ch/psc

the initiative was, therefore, to contribute to the dialogue as to how to promote respect for international humanitarian and human rights law by PSCs operating in conflict areas.

Practically the initiative strives to:

- Reaffirm and clarify the existing obligations of states, companies and their staff under international law (in particular international humanitarian and human rights laws)
- Study and develop regulatory models and other measures as appropriate at the national, regional and international levels
- Develop best practices, including the potential for national regulation

Cottier emphasised that it was not the aim to legitimise PSCs but rather to reduce the potential for adverse (humanitarian) consequences, especially in regard to violations of international humanitarian and human rights law. Providing details on the work-to-date, he added that two meetings had been held in 2006 with representatives of all the stakeholders. At the second meeting, the focus had been on international law and on good practices:

- International law: participants agreed that states had to respect their obligations under international law when hiring such companies and that they might incur responsibility for violations of international humanitarian and human rights law committed by companies (or by their employees), if the conduct was attributable to those states according to international law
- Good practices: further elaboration was needed on this topic but the discussion ranged around three categories of states:
 - States that contract PSCs (with options such as requiring by contract appropriate vetting and training)
 - States that are home to companies exporting military and security services (with regulatory options such as introducing company and/or contract licensing)
 - States on whose territory PSCs are present (with options such as introducing

company, contract and/or individual operatives licensing as well as control of weapons)

The aim of the Swiss Initiative is to reduce the risk of potential negative humanitarian consequences of PSCs operating in conflict and post-conflict areas

Michael Cottier

Cottier added that it was envisaged to discuss the issue at the 30th ICRC Conference, scheduled for November 2007. He emphasised that the Swiss Initiative focused on states, notwithstanding that standards and options developed might also be of interest to other clients of such companies or international organisations. It was apparent that multiple, complementary layers of control and consistent standards were required for this global and complex industry.

The first session debate

WHY IS LEGISLATION REQUIRED?

Giles Merritt opened the debate by suggesting that, with the blurring of the lines between the military and civil sectors, there may be a need for even more growth in the private security sector. He therefore argued that legislation was needed to encourage more PSCs to get involved in what was previously the realm of state-run operations. Sir Tom Duggin agreed with Merritt that there would be a growth in the private sector, as governments were unable to cope with the demand. Duggin wanted to make the point that it was not just in Iraq and Afghanistan where assistance was needed. Other requirements listed included: training in many countries, assistance in prison services, police services and humanitarian demining. Duggin added that his organisation welcomed legislation and the Global Strategies Group had joined the BAPSC with that thought in mind. As for why legislation was required, he argued that it was not to separate the good from the bad, but rather to introduction ensure the "good of governance."

Stuart Page described a complex picture in the sector and raised the issue of how his staff would be protected. To what extent did the Geneva Convention apply and how would PSC

staff be dealt with if they acted in self-defence and there were casualties during an overseas operation? On a related tack, and in response to a question from Defence News' Brooks Tigner concerning the responsibility for any abuse of authority by PSC staff in, for example, operations in failed states, Michael Cottier argued that the lack of effective judicial and law enforcement mechanisms in many conflict areas, and how to address it, were precisely issues the Swiss Initiative was looking at.

PSCs and the use of "soft power"

Looking at the field of operations (state building, peacekeeping, disaster relief, etc.), Merritt suggested that the EU might be looking at taking a more strategic look at the role of PSCs in its oft-mentioned role as the bringer of "soft-power". John Mattiussi admitted that the EU (DG RELEX) was not doing enough in that area. He did argue, though, that the role of PSCs should be reviewed, and best practices recommended, as such companies were often seen as "the face of Europe". Anthony Val Flynn, Commission's ECHO section, reasoned that using PSCs in that way was tantamount to using them as crisis management tools. That would raise concerns about "values and principles" in the humanitarian community. However, he added that his discussions with BAPSC had been full and frank and Flynn thanked the Association for including the church of the humanitarian "broad community."



Anthony Val Flynn, European Commission

THE CUSTOMER MAKES THE DECISION

Control Risks Group Director Chris Sanderson strongly supported the calls for legislation and the introduction of minimum international standards, but added that clients (typically governments and international

organisations) chose service providers based on their records. This would normally be done on the basis of a mixture of cost and quality, and Sanderson added that the introduction of legislation would not absolve the client form the responsibility of choice. Doug Brooks supported that view, but he also noted that he had seen governments reluctant to get involved and exercise the necessary control.

IS EU-WIDE LEGISLATION REQUIRED?

After Tigner asked for clarification as to whether the Commission would be introducing regulation in the PSC sector, Mattiussi referred him to the Bolkenstein Directive that had foreseen a review in a fourvear timeframe. Mattiussi's conclusion was that legislation was not imminent. Merritt asked if EU-wide legislation was required at all, given that the vast majority of PSCs were operating out of the US, the UK and South Africa. Mattiussi argued that such legislation great could bring added-value. introduction common of minimum international standards would be beneficial and they would certainly be required as companies already existed in several Member States apart from the UK.

Session 2: Are the NGOs and private security companies allies or foes?

Introducing the second session and quoting the Brookings Institution's Peter W. Singer, Maj Gen (ret) Kees Homan RNLMC, Senior Netherlands Institute Researcher. International Relations (Clingendael), noted that approximately \$100 billion is spent on PSCs annually, so such companies were certainly a fact of life. He also noted that from a military perspective, we should distinguish between Private Military Companies and Private Security Companies. Private Military Companies provide combat arms (infantry, armour etc.) Private Security Companies provide combat support (engineers, intelligence etc.) and combat service support (logistics, signals, medical services etc.)



Kees Homan, Netherlands Institute of International Relations (Clingendael)

KEYNOTE ADDRESS - ANDY BEARPARK

BAPSC Director General Andy Bearpark had three main messages:

- 1. PSCs were definitely "here to stay"
- 2. the Commission should think about regulation without actually introducing any, as he preferred self-regulation

 all European PSCs should work together under the umbrella of a new association



Andy Bearpark, British Association of Private Security Companies (BAPSC)

Referring to the ongoing debate about the civilian-military interface, Bearpark argued that this had originated in the aftermath of the first Gulf War. At that time the PSCs and NGOs were hardly aware of each other, but this was changing and a dialogue was beginning. He identified two areas to be further explored:

- The protection of the humanitarian effort, as although the world was no more dangerous today than in the past, there did appear to be more risks for humanitarian aid workers
- The role of the PSCs themselves as actors within the "development space". This was said to include SSR and Disarmament, Demobilisation & Reintegration (DDR⁷), especially in the humanitarian sector. With doubts about the PSCs role existing, a debate was needed (preferably in

DDR actions are undertaken to facilitate the restoration of peace in a country/region which is normally attempting to end (or prevent the restart of) a civil war situation. It involves the effective cooperation of all involved parties and a political will again from all parties to take the proce-ss forward.

⁽http://ec.europa.eu/europeaid/projects/acp/thematic_ddr_en.htm).

Brussels) with all the development community stakeholders.

On the subject of regulation, Bearpark said there were legislative gaps to be filled as the world was changing rapidly. In addition, there needed to be a way of ensuring that any legislation could be globally enforced. There was no silver bullet, if an industry with the ability to use lethal force was to be controlled, that could only be done via a mixture of international, regional and national laws. To that list, Bearpark added self-regulation and he emphasised that it was important to get the matrix right.

To control an industry that has the ability to use lethal force, there must be a matrix of international, regional and national codes and standards.

Andy Bearpark

On the same subject, Bearpark argued that if British companies saw the need for self-regulation, then it would be apparent that organisations within other Member States would require a similar framework. He therefore announced his intention to create a European Association of Private Security Companies that would interface with NGOs, the European institutions etc. He was hoping that an inaugural conference would be held in Brussels in the Spring of 2007.

Q&A – Andy Bearpark

COOPERATIVE REQUIREMENTS

Looking at the security environment, Homan argued that humanitarian agencies (who above all wanted to remain neutral) would probably be less likely to cooperate with PSCs than development organisations, who tended to share common objectives, i.e. the creation of a Bearpark widened viable society. include discussion to three professions: humanitarian aid, development aid and state building, all with different objectives responsibilities. He added cooperation between the humanitarian agencies and PSCs had improved recently as the latter wanted to ensure that they could continue to provide the necessary aid.

THE PROPOSED EUROPEAN ASSOCIATION AND TYPES OF REGULATION

In answer to Tigner's question as to whether the BAPSC favoured self-regulation or regulation by the EU, Bearpark saw a need for both. Tigner also asked for clarification on the European association, did it have plans to develop a code of conduct? Whilst, Bearpark indicated his wish to work with the Swiss government (and their initiative) in order to develop an international code of conduct. It was necessary as many third-country nations were employed and companies would operate mainly outside of Europe. On the code of conduct itself, he insisted that the NGOs had an important role to play in its formulation.

Cubic Corporation's Michael W. David commented that his organisation had looked at the US's Status-of-forces agreements (SOFAs), the Uniform Code of Military Justice (UCMJ) and the laws of the countries where they are operating. He therefore asked if Bearpark would be looking at EU versions of the SOFAs and the UCMJ, as they were common among NATO members to create the new framework or he would prefer to base it on NATO's SOFA. He felt that NATO's agreement developed for Afghanistan would be preferable than the agreement developed for Iraq, as the former was more multinational.

Bearpark did not rule anything out at this stage. Instinctively, he felt the NATO model would be more useful given the crossover between the two organisations. In addition, he added that some American PSCs were funded completely by the US government. This

situation could never happen in the EU and might change the picture in terms of the relevance of the US models.

Session II Panel

International Peace Operations Association

Doug Brooks, Founder and President, International Peace Operations Association (IPOA), said his organisation had been founded to make private sector services more useful to peace and stability operations. IPOA's original code of conduct was largely written by NGOs and it was continually updated by standards committee that included extensive input from NGOs and humanitarian organisations. Brooks commented that members did include some traditional PSCs (that carried weapons or performed security as a main focus), but that two-thirds of the members consisted of firms specialising in logistics support, aviation, demining, medical services, etc.



Doug Brooks, International Peace Operations Association (IPOA)

Brooks identified an area that he called "Westernless peacekeeping", by which he meant regions where western countries did not want to put their armed forces on the ground as they had no strategic interest. In those areas, peacekeeping was often conducted by poorly-trained and/or underresourced troops. Examples given by Brooks

included the UN troops and Africa Union forces in Darfur. He also disagreed with Homan on the estimated total size of the PSC sector. Brooks argued that in 2005, the sector's worth was between \$20 billion and \$30 billion, of which 90-95% was related to non-military activity.⁸

Private sector companies in the Peace and Stability Industry are not decision-makers but it is useful to have them at the table in order to be aware of the situation and to be ready to implement the necessary actions.

Doug Brooks

Brooks repeated that clients had to be responsible for their choice of PSC, and advised any organisation against making a decision purely based on cost. He felt that his association was doing its part in making peacekeeping operations more successful.

INTERNATIONAL PEACE ACADEMY

James Cockayne, Associate, International Peace Academy, restrained himself to making seven points:

- 1. Many humanitarian actors already use the services of PSCs for activities including static guards, security of convoys, protection of third parties, security training and development work, sub-contracting of humanitarian efforts, etc.
- Humanitarian aid organisations apply weak control over PSCs, when they do use their services, due to the decentralisation of procurement and administration. Hiring is often ad-hoc, based on word-of-mouth vetting procedures.
- 3. PSCs see NGOs as a small portion of their future revenue stream, despite there being the likelihood of significant interaction between the

two parties as PSCs become more involved in humanitarian work (as described by Bearpark). One problem is that the presence of PSCs makes it more difficult for NGOs to differentiate themselves from combatants in conflict zones.

- 4. PSCs and NGOs are converging and in some cases competing for government service contracts, with people switching between sectors.
- 5. This brings challenges at the operational and strategic levels; operationally the weak controls mean that there is often an impact on the local populations, about which more research is needed; at the strategic level, there could be an increased privatisation of power that could lead to private groups being favoured over nascent local public institutions.
- 6. PSCs can offer services, analysis and delivery capacity that cannot be ignored when the goal is to bring peace and stability across the globe. PSCs and NGOs have to work together to meet such objectives, even if they have different working methods and roles.
- 7. The EU has an opportunity to set an example in its own dealings with PSCs and in relation to its donor practices as it is the largest governmental donor in the world. Cockayne wanted the EU to foster multi-stakeholder solutions. He added that the EU could help the African Union think through the role of private contractors in its attempts to prepare a stand-by force.

⁸ Homan confirmed that he had been quoting Peter W. Singer (The Brookings Institution) as to the size of the amounts spent on PSCs. (Quoted in Caroline Holmqvist, 'Private Security Companies, The Case for Regulation', SIPRI Policy Paper No. 9, Stockholm, January 2005, p. 7). Brooks argued that the difference lay in the way the amount was calculated: Singer was including funding of operations that took place in the US and other Western states – such as helicopter repairs in Arkansas – whereas Brooks' figure was only including money spent "on the ground".



James Cokayne, International Peace Academy

Many clients do not have access to relevant market information and performance indicators concerning PSCs.

James Cockayne

GLOBAL STRATEGIES GROUP

Sir Tom Duggin, Director of New Business Strategies, Global Strategies Group, welcomed the earlier decision to remove "private armies" from the discussion. He added that he disliked the term *Private Security Companies* as his organisation offered business facilitation. Commenting that security was only one of the risks assessed by his company, Duggin said that Global Strategies worked closely with NGOs and that this was necessary as the world was now a much more dangerous place.

After describing the scope of his company's work, Duggin commented on Global Strategies' role in the Afghan electoral registration process where 400 (unarmed) people had been employed over a six-month period. He described Global Strategies as the "eyes and ears" of organisations such as the UN, the US Agency for International Development (USAID) and the OSCE. However, sometimes there was a need for an armed response, and he gave the example of Global Strategies responsibility for security at Baghdad airport. Duggin explained that the

Iraqi government was not capable of controlling the airport, while the US military did not have the capacity or the desire to do the job.



Sir Tom Duggin, Global Strategies Group

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The vast majority of companies working in private security are not mercenaries, they are business enablers

Sir Tom Duggin

CENTER ON INTERNATIONAL COOPERATION, NEW YORK UNIVERSITY

Katherine Haver, Research Associate, Center on International Cooperation (CIC), New York University, covered the risks faced by NGOs in an ever-changing security environment and the variations in the approaches taken by those organisations.



Katherine Haver, New York University

Haver described the background to the 2004 study conducted by CIC and the Humanitarian Policy Group (HPG). This exercise aimed to provide hard facts about the threats to aid workers, as previously there had only been anecdotal evidence and ad-hoc information. Therefore, the study looked at violence (killings, kidnapping and attacks resulting in serious injury) against aid workers belonging to the UN, NGOs, Red Cross / Red Crescent and the ICRC. The aim had been to decide if the environment was becoming more dangerous for civilian aid operations.

The main conclusion of the study was that the situation was deteriorating but it was not as bad as many people had anticipated.

CIC / HPG study – main findings

- There has been a marked increase in violent acts against aid workers in absolute terms, with annual incidents nearly doubling from the 1997-2001 to the 2002-2005 period
- When the number of victims is compared to the expanding aid worker population, the situation is not deteriorating as badly as the first numbers indicated
- There have been fewer incidents involving UN and ICRC workers, while NGOs and national Red Cross workers have experienced increasing casualties
- National aid workers are at a greater risk of attack
- Somalia and Sudan are the most dangerous locations for aid workers
- The intensity of the conflict or the presence of US/UK/NATO troops do not increase the risk of violence against aid workers
- Politically-motivated attacks are increasing

Moving onto trends in the aid worker environment, Haver noted three main ones:

- 1. there is currently a more professional approach to security
- 2. incident reporting was appreciated but it was still lacking in depth and frequency
- the importance of cooperation was increasingly being recognised among NGOs but there was still a reluctance to share sensitive information

Haver ended on the subject of "acceptance", i.e. the attempts made to win the trust of the host community. Although this remained the preferred route, she said there had been a decline in "active acceptance" in that some NGOs were working with armed escorts and in some cases were working in a clandestine manner (in Chechnya for example). Haver argued that in the long-run this would cause problems for future acceptance strategies in that the trust of host communities would be eroded. The information vacuum concerning these practices, including the use of commercial security providers, could cause security problems for other aid establishments.

The second session debate

THE AVAILABILITY OF INFORMATION ABOUT PSCS

European Voice's Ilana Bet-El reacted to earlier comments that the clients were ultimately responsible for their choice of security service provider. She argued that it was too easy for organisations to take this position. For example, it was hard for clients to know whether an organisation was a powerful one or just one man at the end of a fax machine! Bet-El called for the availability of more relevant information so that NGOs could make good decisions.

Brooks agreed that PSCs had to take responsibility for their staff. He did insist, however, that clients could use a contract to determine "the amount of transparency required and the level of vetting to be performed." Brooks' association was working with the DoD to publish a standard 'boilerplate' contract that could be used by NGOs and other clients. His final piece of advice was for all NGOs (and other clients) to initially approach an association, as a way of learning about the industry.

Cockayne did not accept that the private security industry was as transparent as Brooks was implying. In his opinion, many clients did not have access to the necessary market information or performance indicators and the limited research on the subject showed that most NGOs relied on word-of-mouth recommendations and Internet searches to assess the reliability of PSCs. For some good reasons, there were no public databases that indicated an individual's criminal record or the performance history of a group (involved in private security). In addition, such groups could disband and re-brand if they had a bad reputation. Cockayne thought the issue of transparency of operation was extremely important and was not one to be dismissed lightly.

Duggin said that PSCs were commercial operations and that such companies relied for success on their performance and on their reputation. The industry was very competitive and he saw no problem in word-of-mouth recommendations. Duggin also suggested that clients should work with trade associations. In support of current practices, he said that PSCs had to provide guarantees about capabilities, about their financial and legal structures, and they always had to provide referees about

previous job performance. Duggin added that if NGOs chose PSCs without knowing anything about their history (i.e. without performing due diligence), it would be their own responsibility if things went wrong.

Cockayne agreed about due diligence but he repeated his point that it was not always possible for clients to have access to the required information, as:

- many of the smaller PSCs either do not - or cannot - make information available, e.g. ones in joint ventures in Africa or those that have emerged from Eastern Europe; these companies were causing problems for the industry
- even if information is available, it is limited, e.g. there is no third-party monitoring of human rights compliance or humanitarian law standards, no studies of the impact on local conditions when PSCs perform their contracts, etc.

Taking an opposing view, Brooks had been struck by the willingness of companies to be transparent. He did state, though, that governments sometimes did not allow companies to make information available. If this was the case, then clients of PSCs could go elsewhere if they wanted greater historical transparency.

Bet-El insisted that the problem was not at the top end of the market (i.e. where the larger NGOs dealt with the type of PSCs represented at the conference) but at the smaller end of the scale. There, NGOs with annual budgets in the region of \$70-100,000 were looking for "affordable" security providers. They often had to deal with unregulated companies that did not have websites and did not want to provide information. Brooks saw an opportunity for such NGOs to work with local security companies, although he agreed that the same vetting issues existed.

THE PROVISION OF "SOFT SECURITY"

Donald introduced the subject of western governments (the US and UK in particular) and the provision of "soft security" in the face of the increasing numbers of counterinsurgency campaigns under the "war on terror" banner. He argued that this had traditionally been the realm of NGOs, but that governments had lost confidence in these

organisations as they had either "failed to turn up for the job or they did not wish to be coordinated". Donald therefore foresaw a vacuum – in the provision of "soft security" – that could be filled by PSCs, by non-profit companies or by engineering consultancies. He asked the panellists if they shared his views.

Bearpark agreed to an extent, as he highlighted the changing role of service delivery NGOs. Having initially been responsible, since the 1950s and 1960s, for delivering resources from the "rich West" to the "poor South", they were now questioning their own raison-d'être. He reasoned that there would be a much-needed debate, or rather a number of arguments, about this subject. Bearpark used NATO's campaign in Afghanistan as an indicator of a situation where only part of the plan was coming to

fruition due to a lack of coordination of all the participating bodies.

Stephanie Blair argued that the sector needed less players rather than more and that the entry of private companies was further complicating an already complex area. Brooks insisted that private sector firms in the Peace and Stability Industry were not actually involved in decision-making but that they needed to be "at the table", so that they were informed and ready to implement decisions in a timely fashion.

Homan drew the conference to a close, noting that while it appeared that some progress had been made in the areas of certification, transparency and respect of human rights, there still appeared to be a need for more adequate regulation, including self-regulation.



SDA Director Giles Merritt and Anthony Val Flynn, European Commission



Speakers and participants discussing during the SDA members' lunch



The second session panel



Participants at Bibliothèque Solvay



Networking during lunch



The first session panel before the break



Moderator Giles Merritt initiating the first session



Kees Homan, Netherlands Institute of International Relations (Clingendael) and Sir Tom Duggin, Global Strategies Group

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THE SECURITY & DEFENCE AGENDA (SDA) IS THE ONLY SPECIALIST BRUSSELS-BASED THINK-TANK WHERE EU INSTITUTIONS, NATO, NATIONAL GOVERNMENTS, INDUSTRY, SPECIALISED AND INTERNATIONAL MEDIA, THINK TANKS, ACADEMIA AND NGOS GATHER TO DISCUSS THE FUTURE OF EUROPEAN AND TRANSATLANTIC SECURITY AND DEFENCE POLICIES IN EUROPE AND WORLDWIDE.







Günter Verheugen and Karl von Wogau



Vecdi Gönül and Jaap de Hoop Scheffer

Building on the combined expertise and authority of those involved in our meetings, the SDA gives greater prominence to the complex questions of how EU and NATO policies can complement one another, and how transatlantic challenges such as terrorism and Weapons of Mass Destruction can be met.

By offering a high-level and neutral platform for debate, the SDA sets out to clarify policy positions, stimulate discussion and ensure a wider understanding of defence and security issues by the press and public opinion.

SDA ACTIVITIES:

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PROTECTING EUROPE – INTERNATIONAL CONFERENCE – SPRING 2006



Franco Frattini talks to Giuseppe Orsi and Denis Ranque at SDA's annual security conference



Atlantic Rendez Vous transatlantic satellite debate organised in conjunction with SDA's event

THE SECURITY & DEFENCE AGENDA WOULD LIKE TO THANK ITS PARTNERS AND MEMBERS FOR THEIR SUPPORT IN MAKING THE SDA A SUCCESS

























































































Mission of the Russian Federation to the EU

Mission of the US to NATO

Delegation of the Netherlands to NATO

Ministry of National Defence, Turkey

Centre for Studies in Security and Diplomacy University of Birmingham

A Security & Defence Agenda Report

Rapporteur: John Chapman Photos: Bénédicte Maindiaux

Cover Photo: Private military contractors protect, then top U.S. administrator in Iraq, Paul Bremer

as he greets Provincial Council Governor Abdul Kareem Barjas in Baghdad in May 2004. ©

AFP/Pool/Jim MacMillian

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