

TOWARDS THE USE OF THE PRIVATE MILITARY COMPANIES IN THE UNITED NATIONS PEACEKEEPING OPERATIONS



BY
Sebastian Deschamps

A THESIS PRESENTED IN PARTIAL COMPLETION OF THE REQUIREMENTS OF
The Certificate-of-Training in United Nations Peace Support Operations



Peace Operations Training Institute®

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COTIPSO Programme UNITAR POCI



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Submitted: _____ Date:

Signature of Student

Forwarded Recommending Approval: _____ Date:

Signature of Thesis Adviser

Approved: _____ Date:

Signature of Thesis Coordinator

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Glossary of Acronyms

ACRI	The African Crisis Response Initiative
CDD	Centre for Democracy and Development
DAC	Development Assistance Committee (OECD)
DSC	Defence Systems Colombia
DSL	Defence Systems Limited
DFAE	Département fédéral des affaires étrangères
DFID	Department for International Development
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
EU	European Union
EO	Executive Outcome
FMA	Foreign Military Assistance
FSU	Former Soviet Union
FCO	Foreign & Commonwealth Office
GSG	Gurkha Security Guards Limited
ICRC	International Committee of the Red Cross
IGOs	Inter-Governmental Organizations
IHL	International Humanitarian Law
ITAR	International Traffic in Arms Regulations
KLA	Kosovo Liberation Army
MPRI	Military Professional Resources Incorporated
MTS	Meteoric Tactical Solutions
NATO	North Atlantic Treaty Organization
MLSF	Military Like Security Firms
NCACC	National Conventional Arms Control Committee
NGOs	Non-Governmental Organizations
OUA	Organization of African Unity
PMCs	Private Military Companies
PSCs	Private Security Companies
SADC	Southern African Development Community
SAIC	Science Applications International Corporation
SALW	Small Arms and Light Weapons
SANDF	South African National Defence Force
UK	United Kingdom
UN	United Nations
US / A	United States/of America
WHO	World Health Organization

ZIMBABWE, Harare Airport, March 7th, 2004. A Boeing 727-100 (N4610) waits patiently on the tarmac of the military zone. Behind the veiled ports, no light leaks out. African nights are still advantageous for secrets. In a few moments all hell will break loose. In this quiet airport, the “Meteoric Tactical Solutions” (MTS) affair is going to blow up.

Who are these 69 British and South Africans men, waiting behind the curtains of the 727-100 en route to a very strange mission? Most are ex-members of the South African “Battalion 32”¹. Simon Mann², the chief of this small group, is supervising the loading of \$180 000 of weapon³, ordered in February from the state owned Zimbabwe Defence Industries (ZDI), when the Zimbabwean army intervenes capturing the employees of MTS on information provided by South African secret services. They are arrested and put into imprisonment in the Chikurubi high security prison.

As a result of their action, they risk extradition towards Equatorial Guinea (EG) where they will be accused of mercenary activity, trying to conduct a “coup d’état”, arms dealing and illegal immigration (Zimbabwe Only). If they are extradited, they will certainly be sentenced to death.

24 hours later in Malabo, EG, a second arrest is conducted by the Equatorial Guinea forces, during which 15 other persons⁴, including Nick Du Toit, are imprisoned at Black Beach.

What is the real purpose of this MTS operation? Is it, as is asserted by the governments of Equatorial Guinea and Zimbabwe an attempted coup against Mr Obiang the President of Equatorial Guinea? Or is it as Simon Mann (one of the MTS managers) states, a contract to protect a Diamond mine in the east of Congo?

*“They are contracted to provide a range of services to mining clients, including logistics, support services, asset and human security, and communications”*⁵.

Or, are they a team preparing to abduct Charles Taylor⁶, in partnership with the Private Military Company Northbridge Services Group to pocket the bounty of \$2 Millions⁷ promised by the US government for his capture. Justice will have to find out what was the true mission of this « band of, rogue, Brothers ».

This story is not a simple mercenary one, Equatorial Guinea accuses London⁸ Madrid⁹ and Washington¹⁰ of being involved in the plot. Under the pretext that the Boeing 727 belongs to an American society of Kansas, Dodson Aviation Inc.¹¹ But they claim to having sold this plane to another society; Logo Logistic Ltd recorded in a fiscal paradise, of which the CEO is no other than Simon Mann¹².

It would seem that the attempted coup is organized by one of the opponents of the regime of Equatorial Guinea, a Mr. Severo Moto, now exiled in Spain, and financed by a Lebanese business man called Elie Calil¹³ (Smelly¹⁴) who has made his fortune in Nigerian oil and who probably wants to invest in the

¹ This battalion is a well-known unit of the apartheid regime in South Africa

² Founder with Tony Buckingham of the now defunct South African Private Military Company Executive Outcome

³ Weapons list: 61 AK-47 rifles, 45,000 rounds of ammunition, 1,000 rounds of anti-tank ammunition and 160 grenades.

⁴ AFP, Sapa. "Armenians 'Had Nothing to Do' with Coup Plot." *Mail & Guardian*, August 26, 2004.

⁵ "South Africa-Zimbabwe: Pretoria Confirms Link between Plane and Coup Plot." In *IRIN*, 2004.

Sapa. "Equatorial Guinea Responsible for Plane." *Sunday Times*, March 10, 2004.

⁶ SAPA. "US Slaps Bounty on Charles Taylor." *Mail and Guardian*, November 11, on 2003.

Charles Taylor found asylum in Calabar the port city in southern Nigeria, 300 km from Malabo

⁷ *“We have everything in place ... we can execute this and bring Mr Taylor before the tribunal”*

Pasquale Dipofi, **Northbridge Services Group**

Firm Seeks Charles Taylor Bounty BBC, December 11, 2003 [cited August 24, 2004]. Available from <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/africa/3309203.stm>.

⁸ *“Equatorial Guinea files coup charges in Europe”* *Sunday Times*, Saturday, July 10 2004 & Barnett, Antony. "The Tale of an Ex-Sas Hero and His Chums Smelly and Scratcher." *Guardian*, July 18 2004.

⁹ Severo Moto Nsa lives in Spain where he found asylum. He is the most violent opponent of the actual president

¹⁰ The US Senate is currently inquiring about links between the Riggs Bank Scandal about secret account for Gen. Pinochet and Mr. Obiang. *US senat & “Bankers Testify on Suspect Accounts”* Timothy L. O’Brien *The New York Times*, July 16, 2004

¹¹ Dodson Aviation Inc is known for special activities, e.g. D.A. leased a Gulfstream (Registration Number N71 RD) to a Liberian firm for Charles Taylor own disposal

¹² Bridgland, Fred. "Plot Quickens in Thriller Trial." *Sunday Herald*, July 25, 2004.

¹³ Arrested in the French “ELF Affair” free after judgement in appeal

¹⁴ "Nailed by Mail." *Daily News*, August 26, 2004.

Correspondence taking back the codes names of Frederick Forsyth's novel "Dogs of War". Mister Forsyth is a major stockholder of Aegis Defense

recently discovered Equatorial Guinean Oil. This huge untapped reserve has propelled the EG to the number 5 rank in African oil producers.

There is apparently a third man, known only as Scratcher¹⁵, who is also one of the plotters. During the first months of this affair, different names arose for his identification. Some were plausible, such as Tim Spicer¹⁶, and some others were strange and even frightening considering their implications, such as Sir Mark Thatcher, the son of the British ex-prime minister Lady Margaret Thatcher¹⁷.

This MTS affair implicated the British Foreign & Commonwealth Office (FCO) and the Department for International Development (DFID)¹⁸, the Swiss Département Fédéral des Affaires Etrangères (DFAE) and the Switzerland embassy¹⁹ in Iraq, in the hiring of this PMC. It also involves the South African Republic, which is going to brief an army of diplomats to prevent the extradition to Equatorial Guinea, and to explain how MTS a South African's firm, was able to operate in Iraq without having registered its activities to the South African government, as required by the *Foreign Military Assistance Act*.

In the lead up to the American presidential election (2004), certain senators in the US Congress, as well as some officers in the Pentagon, question the techniques for regulation of the Private Military Companies (PMCs²⁰). The termination of the mandate of the Coalition Provisional Authority (CPA) in Iraq, also raised many financial scandals implicating Private Military Companies and contractors.

The PMCs are here ...to stay.

¹⁵ Idem

¹⁶ "Du continent noir à l'Irak, le grand retour des chiens de guerre" *le Figaro* July 21, 2004

Tim Spicer was an old friend of Simon Mann, they ran Sandline together, and they went to the same military school. Spicer, Lieutenant-Colonel Tim Obe. *An Unorthodox Soldier*: Trafalgar Square, 2000 - page 143§7

¹⁷ "Zim 70 Head for Trial." *Mail & Guardian*, July 21, 2004.

Sherwell, Philip. "Sir Mark Thatcher Threatened over 'Mercenary' Friend." *Telegraph*, July 25, 2004.

¹⁸ "The Department for International Development (DfID) signed a £250 000 deal last summer with the South-African based Meteoric Tactical Solutions (MTS) to provide 'close protection' for department staff, including bodyguards and drivers for its senior official in Iraq.", *Mail & Guardian*, June 06, 2004

¹⁹ "At the beginning of this year, the foreign ministry awarded a security contract worth SFr1.6 million (\$1.3 million) to the South African company, Meteoric Tactical Solutions (MTS)" *Swissinfo*, 27. May 2004.

²⁰ Representative Henry A. Waxman (CA-30) and the Halliburton Affair- <http://www.house.gov/waxman>

I. INTRODUCTION TO THE RISE OF PRIVATE USE OF FORCE IN THE XXI CENTURY



Is this “Meteoric Tactical Solutions” affair unique?

No, definitely not, this MTS affair is only the most recent incident. Previously there was the Executive Outcomes (EO) affair in Angola, and the Sandline affairs in Papua New Guinea and Sierra Leone. This last incident, “Arms to Africa”, has put the British Foreign & Commonwealth Office (FCO) in a difficult position, but there has also been MPRI in Croatia, Bosnia and Colombia and even more seriously the DynCorp affair in Kosovo²¹.

Six years after the official closing of Executive Outcomes²², the ghost of this company once again glides over the African continent.

But who are the main actors of this huge business, which even a low estimation²³ puts at \$ B100 per year?

They like to be called a Private Military Company, and accept the term mercenary only if it is used in its literal sense. Are these “Affreux” any different from the famous “Wild Geese” and “Dogs of war” of the 1960-70 which dragged Africa and Latin America into a blood bath?

In the first section of this paper, we will consider the development of PMCs. Firstly by reviewing the involvement of mercenaries and private companies in conflicts, so as to better understand the PMCs phenomenon, and then we shall try to define the difference between mercenaries and the PMCs as an emerging commercial sector of private security.

In the second section, we shall consider the PMCs operations in the conflicts that have also involved UN missions, limiting ourselves to the study of operations since the end of the cold war.

In the third section we will tackle the question of the utilization of PMCs by governmental and non – governmental organizations, and focus more particularly on the UN peacekeeping operations.

Faced with the complexity of this phenomenon, section four will allow us to study different means being considered by the UN, governments and NGOs to try to control or regulate the activities of mercenaries and PMCs.

Finally in section five of this paper, we will consider possibilities for the future relationship between PMCs and the international community, and recommend actions and a process to regulate efficiently the activities of PMCs. This will take into account the different laws and international treaties in force or in the course of ratification, and the diplomatic, defense and sovereignty concerns of nation states as well as the rights of free enterprise for the PMCs.

Private Military Companies, A new phenomenon?

Since the fall of the Berlin Wall and later of Communism, there has been a true explosion of the private security market. This tremendous growth is partly due to the withdrawal of economic and military aid by the superpowers from sensitive regions around the world.

The different states which previously benefited from this aid now find themselves abandoned and faced with a critical security situation requiring them to use PMCs to support their armed forces. These contracts are generally financed by the extraction of natural resources, creating additional threats to the population.

The PMCs are not a new phenomenon. They are as ancient as war. Forever there have been warriors or soldiers prepared to work for foreign powers for reward or glory. Only the terminology changes being called Heroes, Privateers, Mercenaries, Condottieries, free companies, or more recently contractors and more specifically “Private Military Companies”.

²¹ Barnett, Antony, and Salomon Hughes. "British Firm Accused in UN 'Sex Scandal!'" *The Observer*, July 29, on 2001.

²² Executive Outcomes is the first PMC to operate at an international level after the Cold War.

²³ According to ICIJ, since 1994, the U.S. Defense Department has entered into 3,061 contracts valued at more than \$300 billion with 12 of the 24 U.S.-based PMCs

A. PMC around the ages

1. Ancient Heroes and the formation of mercenary bands

Ever since men have waged wars, there have always been warriors willing to sell their services. During the earliest campaigns, undertaken by Darius, Hannibal and Alexander the Great, empires were born and fell under the blows of mercenaries' swords. The Numidians and Nubians fought for the Egyptian pharaohs then Hannibal in his struggle against Roman Empire. The Punic Wars made a great use of those soldiers of fortunes too. Achilles and Ulysses made their legend by renting their swords to Agamemnon against the City State of Troy. Ancient and medieval history is full of stories of freelancers who we remember as romantic heroes.

Every region was acknowledged for a particular expertise in the business of war. As a result, formed armies were a true international force, marching to battle under the same flag, and quickly disbanded after the victory. The notion of citizenship did not exist, any more than the concept of a nation state. The only means of existence for a warrior was to be a mercenary. The warrior represented a caste in which it was possible to achieve honours, wealth, power and for slaves to obtain emancipation.

Freedom is one of the greatest human quests, which is why, in those times, mercenaries were considered as heroes. Songs and epic's stories were written to their glory encouraging the youth to new battles and conquests.

Even in these early days, an attempt was made to regulate mercenaries under the Treaty of Apamea, (188 BC). This treaty was agreed after the war against the Seleucid dynasty, where Rome asserted its authority after the victory of Magnesia in Anatolia. It was designed to prevent the Roman soldiers from providing their services to the Seleucid. The Romans were so afraid of the power of mercenaries companies that, in order to protect their empire, they forbid their citizens to rent out their military services.

Scots, Irish and Bretons were used by the French against the English. The French were also used by the English against the Scots and the Irish. In those times hiring an army was cheaper than maintaining one. As a result of this policy, companies to hire were a constant danger to the princes and the kings. When those companies were unemployed, they used their skills to help themselves, devastating the crops, and killing any peasants that resisted.

Moving to 1831, the French King Louis Philippe who, facing by the Hungarian immigration which posed many problems, decided to create an army of foreign volunteers called the French Foreign Legion. Who were sent abroad to fight in wars were the crown didn't want to be heavily involved. The French Foreign Legion is by definition and origin a mercenary force, and it is still actually used by the French government as a "spearhead" and peacekeeping force.

The development of mercenary activities took on a new dimension with the arrival of the Swiss Guards. When the Confederation of Swiss Canton stood together against Prussia, following the victory of Sempach (1386), Näfels (1388) and the defeat of the Emperor of Habsbourg (1446), the Swiss Guards became a truly commercial enterprise. Entire Cantons put their men at the service of European kings and princes, to be peasants in Switzerland during the summer, and soldiers abroad in winter. The small confederation of Cantons became the only authority to allow the conscription of Swiss mercenaries, and it generated great wealth for the young democracy.

The Swiss were quickly perceived as the best soldiers of Europe. The technical equipment (such as the Pique) and tactical innovation of the Swiss Guards created a legend which was synonymous with courage and furious energy. They were named the "unsettled walls" and were composed only of infantry and light artillery. They became an essential part of the offensive and defensive strategy of the European kings.

The Swiss Guards have been maintained ever since and today guard the Vatican City under a contract initiated in 1506 by Pope Jules II. Since 1859, the Swiss Guard is the only mercenary force allowed by the Helvetia government, although this does not prevent the Swiss government from using PMCs to protect its employees in Iraq.

2. Condottieri or the development of a private military brand

Forerunner to the nation state, the city states were born on the sunny coasts of Italy. The Italian traders of Genoa and Venice did not want to lose their profits in warlike activities and therefore designed a system of protection which ended up by driving them to their losses.

Already, at this time, Machiavelli warned against the utilization of mercenaries or private companies.

“...the arms with which a prince defends his state are either his own, or they are mercenaries (hired soldiers), auxiliaries, or mixed. Mercenaries and auxiliaries are useless and dangerous; and if one holds his state based on these arms, he will stand neither firm nor safe; for they are disunited, ambitious and without discipline, unfaithful, valiant before friends, cowardly before enemies; they have neither the fear of God nor fidelity to men, and destruction is deferred only so long as the attack is; for in peace one is robbed by them, and in war by the enemy”²⁴

But of the eleven most prominent Condottieries, three were beheaded, four strangled, two poisoned, one murdered and the last executed - all by their princely employers.

Normally these war chiefs were contracted by a city to assure their protection and to conduct its wars or defence. Numerous Condottieries were hired across Europe. The most famous of them was “Sir”²⁵ John de Hawkwood, a British soldier, who having fought in the wars of Edward III, arrived in Italy in 1392 as the head of a company named by the Italians as the “White Company”, because of the splendour of their jerkins and the brilliance of their polished arms which reflected the sun and presented a white aura.

“Sir” John was contracted by different Italian cities. He fought for Pisa against Florence, and then for Gregory XI in the service of Milan. And finally at the end of his glorious career, as Captain of the city of Florence, against which he fought previously. On his death, in 1394, the City of Florence gave him a rich funeral, and today it is still possible to admire “Sir” Hawkwood’s statue built in the Florence Cathedral to honour of his memory and services.

But if Condottieries manage Princes’ business, those Princes may find themselves very quickly disarmed, as occurred during the invasion of French troops during the battle of Novara in April 1500. The French and their Swiss Guards found themselves opposed by defenders of the city who were also mostly constituted of Swiss Guards. According to their law and rules of engagement, they were prevented them from fighting each other. As a result, the defensive guards withdrew without fighting, leaving the city as well as the Duke Ludovio Sforza to the French²⁶. This defeat announced the entire reshaping of the political forces in Italia.

Another figure of those troubled centuries is Count Eusebius Wenzel von Wallenstein (1583 – 1634) whose astonishingly rapid acquisition of enormous wealth and influence resulted from his ability to grasp every possible advantage from a political system dependent on mercenary armies. But if his ambition was unbounded, his quality of strategist and commander in the field were mediocre.

Ferdinand II finally ordered his imprisonment to avoid any betrayal. In fact Count Wallenstein started peace negotiations with Protestant princes, against the will of the Emperor, in order to implement his own agenda. Facing the risk to lose his crown, the Emperor put the Count in jail, where he died abandoned by all. The Emperor took back the arms and led one of the worst European wars against the Protestants.

3. India’s Companies, the rise and at least the fall, of Private Military Companies

Although there were three large trading companies in India, the French, the Dutch and the British, we shall only look in detail at the English East India Company. Actually, the French was not a private company, and the Dutch could be considered as semi-private and are of interest, but the subject is so vast that we shall limit ourselves only to the British one.

²⁴ Machiavelli, Nicolo. *The Prince*, 1505. Chapter XII

²⁵ Nobody knows when and who knighted him. He is suspected to have knighted himself.

²⁶ Oechsli, Wilhelm. *History of Switzerland, 1499-1914*. Eden Cedar Paul ed. Cambridge, England: The University Press, 1922.- P27

It could be the beginning of a Dickens tale, a short story of Christmas of a very special sort. In December 31, 1600, a group of traders met in London and under the Royal charter²⁷ of her Majesty Queen *Elizabeth I* to establish the first company of India under the name of “The Governor and Company of Merchants of London Trading into the East India ” with a capital of £ 72.000. Its charter is due for review after a period of 15 years, but under the reign of *James I* in 1609, the Company of India acquired an unlimited approval to trade. Its only obligation was not to incur losses over 3 successive years.

When these traders met that evening, they could not imagine that this business meeting was going to definitely change the face of the world, and be an enterprise that would stretch over more than five generations. Without any form of regulation, the company of India will become so powerful that it will end up acquiring the full attributes of a state; territories in its name, a diplomatic corps, a flag and more specially an army, with the right to conduct wars of it's own.

To counter an armed uprising against the Dutch East India Company²⁸ the company maintained posts in Madras, Bombay and Calcutta. These posts were very quickly transformed into small forts then into strongholds to consolidate the presence, not of the British crown, but the commercial company of India. To face up local conflicts and to protect its commercial interests, the British company recruited an army of more than 150.000 men and established training camps for its recruits at Newport, on the Isle of White, at Warley in Essex and at Chatham in Kent.

By 1708, the company had reached its zenith, and after numerous aberrations and partitions, created “The United Company of Merchants Trading to the East Indies” by combining the “Old” and the “New” companies. This was the beginning of an epoch of enlargement with benefits for some but also dangers for international security.

Numerous costly wars were conducted between the Mogul Empire and the company of India. In addition the company of India also had to react to the anger of the Moguls after the capture in 1693 of one of its ships by English pirates²⁹. In reply the Moguls took hostage about fifty English and seized the assets of the company, declaring that all western companies would be considered responsible for pirates’ attacks. In spite of many requests to the British government to regulate the problem of the piracy, the company of India was forced itself to accompany and to protect the vessels of the Moguls with its own armed ships.

Very soon this huge undertaking meant that the economies of the British Crown and the Company of India found themselves to be very interdependent.

“To say the Company was in a state of distress was neither more nor less to say the country was in a state of distress”

Edmund Burke

But the company of India did not have the vision, the will or sufficient means to properly manage such a huge and rapidly expanding enterprise. By 1760, faced with large administrative and military costs, the Company found it more and more difficult to cover its losses. It attained all the difficulties of an Empire. Having crossed a certain threshold, where the acquired resources were insufficient to both make a profit and to maintain the Imperial machine, decline set in. And even with the help of the prosperous Chinese tea market, the company was unable to prevent its losses, its huge debts and to meet the growing requests for interest on behalf of its stockholders and the British Crown.

After consideration and, in a desperate attempt to protect itself and to avoid the bankruptcy of its commercial empire, the Company initiated some actions and lobbying to the British parliament against

²⁷ In England, a royal charter was considered a prerequisite for undertaking international commercial ventures, for several reasons. First, without royal authorization, association members were liable to being punished for unlawful assembly. Second, it was generally believed that “foreign trade was prohibited to the King's subjects except in so far as it was ‘opened’ by Act of Parliament or licensed by the King.” Third, such associations needed a formal legal status in order to be able to sue, enforce contracts, and hold property. Fourth, “since English legal theory at that time maintained that the Crown had authority over its subjects abroad,” the associations needed legal jurisdiction over their employees in foreign lands.” Finally, a royal charter indicated to foreign governments that “the company operated under the aegis of the English Crown and that injuries to the members would be resented by the Crown and might provoke retaliation”

Thomson, Janice E. *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*. Princeton: Princeton University Press, 1994.

Lawson, Philip. *The East India Company a History*. London: Longman, 1993.”

²⁸ Holden, Furber. *Rival Empires of Trade in the Orient, 1600-1800*. Minneapolis: University of Minnesota Press, 1976.

²⁹ In addition of luxury goods more than £100.000 in gold and silver coins – Sherry, Frank. *Raiders and Rebels: The Golden Age of Piracy*: Harpercollins, 1987., p29-91

the tea tax. The result of these attempts lead to the decline of the British Empire which started at “The Boston Tea Party³⁰” (1773) first step to the American Revolution.

When the struggle transformed into an independence war, the British crown, to avoid an unpopular conscription, sent groups of Hessians mercenaries (Germans) to the new world to fight the American rebels. These Hessians turned out to be hard adversaries in the struggle against the American freedom fighters. The response by the American was to use French mercenaries, who were very happy to be able to attack the British. The most famous of them, La Fayette, recruited in Paris at the age of 20, became a Major in the new army of independence. The return to France of those French “freedom fighters³¹” some years later initiated the fall of the French royalty.

The British crown could not support the East India Company’s complete domination of India; as a result it abandoned the open market in 1793, reduced its monopoly in India in 1813 and put an end to the exclusive Chinese market in 1833. The company of India continued as the administrative and military representative of the British crown in India for another 25 years, but this extraordinary commercial adventure ended during the Indian mutiny of 1857³².

This commercial empire which stretched over the world contributed to the birth of the nation state and in the definition of several new concepts, like neutrality, as well as the ratification of several treaties³³ aiming at regulating the activities of commercial companies and the utilization of violence as a means to conduct their agendas.

Facing the power of these new non-state actors, the States undertake to put an end to those activities and declare the use of force as a monopoly of the state. This is the beginning of the creation of huge armies, maintained and paid by the States. The Napoleonic wars will probably be the last wars using mercenaries.

4. Filibusters and the breach in international security

We can identify two other forms of private military companies that operated on the world’s oceans. These are the pirate groups, which acted like mercenaries. Being completely independent they formed brotherhoods, and even a form of statehood!

The isle of Madagascar becomes a den without faith or laws. Pirates of many nationalities meet there and develop much more than just a brotherhood of destiny, but a true nation based on a socialist vision. While in Europe, the Irish, the Scots, English, French and the Spanish fight battles among themselves without mercy, in the Indian Ocean in general and more particularly in Madagascar, they lived in a fraternal understanding.

When in 1699³⁴ the English Navy decided to finally deal with these pirates and their rebel ideas, only a few of them accepted the English power and became farmer. But a majority of them converted themselves into Corsairs and filibusters, and put their assets in the private service of the Queen. Most of them acquired great wealth and some were knighted, such as Sir Walter Raleigh by Her Majesty Elizabeth I (1585).

These filibusters, corsairs and other privateers conducted wars on the order of the European kings, under a Letter of marquee or reprisal, which authorised them to capture of a defined number of freighters

³⁰ The British East India Company had controlled all tea trading between India and the British colonies. As a result of the tea tax, the colonies refused to buy the British tea. Instead, they smuggled tea in from Holland. This left the British East India Company with warehouses full of unsold tea, and the company was in danger of going out of business. On the evening of December 16, 1773, a group of men calling themselves the "Sons of Liberty" went to the Boston Harbor. The men were dressed as Mohawk Indians. They boarded three British ships, the Beaver, the Eleanor and the Dartmouth, and dumped forty-five tons of tea into the Boston Harbor.

³¹ The struggle between those mercenaries and the French crown started with the payment of their pension. Their knowledge of civil war and the republican’s idea put in danger the kingdom and finally help the French revolution.

³² The projectile for the new Enfield rifle was part of a self-contained paper cartridge that contained both ball and powder charge. It required only the end to be bitten off and the cartridge then rammed down the muzzle of the weapon. To facilitate this process the cartridge was heavily greased - with animal fat. Sepoys heard and quickly passed on the rumour that the grease was a mixture of cow (sacred to Hindus) and pig (abhorrent to Moslems) fat. Biting such a cartridge would break the caste of the Hindu sepoys and defile the Moslems. The British realised their mistake and tried to have the sepoys make up their own grease from beeswax or vegetable oils, but in the atmosphere of distrust that prevailed in 1857 the damage had been done

³³ The “*Déclaration de Paris*” (1856) bans the use of privateers and protects the private goods in time of war. It became part of International law with the ratification in march 1858 by 52 states on the 56 invited to accede to this treaty

³⁴ Following a truce signed with France in 1698 (The Treaty of Ryswick)

or vessels. They own their ships and keep the prizes. The Americans excelled³⁵ in this field attacking the commercial ships and more particularly the whaling industry, diverting battleships from the European operational theatre, in order to protect the whalers of the Pacific Ocean and the commercial ships which are crossing in the Indian Ocean.

These filibusters are the second form of mercenaries, operating in a manner very similar to today's definition of the private military company.

All these historical periods are rich in the use of private armies/navy³⁶ or more simply of mercenaries. The past is showing us the danger of using private forces without any form of regulation. During centuries, kings or princes used them and finally, all of them came to a form of regulation in order to protect their kingdom or Empire.

5. Middle East, the history start anew

The Middle East is a land of fantasies, Arabian tales, luxury and treasures of the Caliphate. Throughout the ages, this land has attracted war profiteers, mercenaries, colonial armies and idealists.

The story of General Sir Charles George³⁷ Gordon is one of the most interesting chapters of this eventful history. Before leaving for the Congo on order of the King of Belgians to counter the French De Brazza, General "Chinese" Gordon withdraws to accept an appointment of the British prime minister.

In effect the crown must confront a rebellion in Sudan led by a man who proclaimed himself to be Al Mahdi³⁸. Mohammed Ahmed-Ibn-el-Sayed-Abdullah will lead to victory his troops of fanatic warriors against the Egyptian army, armed and supervised by British officers, and finally impose the siege of Khartoum (March 18, 1884).

The British Prime Minister, William Gladstone, refusing the involvement of the English army in this war, preferred using the services of the ex-governor of Sudan and serviceman in retirement, to put an end to slavery in these regions. After a year of siege, dying Khartoum was finally taken, and the General Gordon fell in the last onslaught, two days before the arrival of reinforcements.

The loss of Khartoum caused such an outrage to the British public, who had followed the outcome of this African adventure with passion, that it became impossible to avoid a conflict. Finally in 1898 the uprising of Al Mahdi would be finally crushed by Lord Horatio Herbert Kitchener leading a British expeditionary force.

Another legend who came to this region and contributed to its development was Sir T.E. Lawrence³⁹. Fascinated by oriental culture, in the tumult of First World War, he undertakes to put himself in the service of the Egyptian army to fight the Turks. His beliefs lead him to unify the tribes of nomad warriors, to train them for modern war and to lead them to victory in battle. With the support of King Faisal of the Hussein tribe, he recovered the fortified city of Akaba from Turkish occupation and contributed without knowing it to the reshaping of the Middle East. His epic actions forced the British crown, which was not so sure of about the creation of an Arab state, to keep its word, given to Faisal.

As before, individuals show the way for the establishment and the rise of new military firms.

Years later, in January 1975, the contractor Vinnell plays a major role in the ME region by acquiring a program for the formation of the National Guards of the King of Saudi Arabia to the value of \$ M77. This "heaven-sent" contract, which is arranged with the help of the CIA who are indebted to Vinnell from the Vietnam War, will save the company from bankruptcy, allowing it to be restructured as a PMC and to develop a foothold in an area outside of the USA. Besides the National Guards, Vinnell also undertakes a contract to supervise the formation of the Saudi Royal Air Forces, for a further contract going up to \$ M819.

³⁵ The colonial support to piracy became a parallel economy, involving many public men and endangering the Great Britain. It was the best way to get luxury goods at low prices. (1536 "First act of Piracy" – 1699 "Second act of Piracy"). In 1701 the colonial support to piracy ended

³⁶ Count Albrecht Eusebius Wenzel von Wallenstein, Duke of Friedland (September 24, 1583 – February 25, 1634)

³⁷ Known as "Chinese Gordon" for his involvement as a mercenary in the second "Opium War" (1856-1860)

³⁸ Al Mahdi, the guided one, is a religious and military leader who is in charge to lead humanity to its fate. For example Bin Laden is seen by some of his followers as the prophesied 'awaited enlightened one'

³⁹ Lawrence, Thomas Edward. *Seven Pillars of Wisdom: A Triumph*. Private, 1926.

As we have seen from this quick historic review, the PMCs issue is not just a recent phenomenon. The fragile equilibrium imposed during the superpower confrontation did not encourage the development of private security sector. Monitoring and regulation of such firms were then strictly controlled by governments and their intelligence services. But the development of private security companies cannot be only linked to the fall of communism, although this did result in an influx of qualified personnel to be available for a growing market. It is also the result of a complex international situation which has developed at the “end of history⁴⁰” which is a combination of world economic growth, the imperative of defense and national or ethnic considerations.

The nation state had tried to minimize this phenomenon, notably by the creation of citizen army. But the weakening of the nation state and its defense has liberated forces which are difficult to control, and we are now witnessing the resurgence of non state use of force to conduct private agendas, and in its wake the rise of PMCs.

B. Different brands, different uses!

There is not just one type of PMC but several, each occupying very specific niches. They compete⁴¹ for several million dollar worth of contracts. All PMCs are not involved in active combat operations. Some are specialized in the logistics, construction⁴² or other services⁴³. Many of them operate within the law but some PMCs do not hesitate to cross accepted legal boundaries in their contracts.

Although the involvement of PMCs in active combat operations is “*marginal*” it does occur. Some act openly under the eyes of the world (e.g.: EO in Angola), while others try to avoid publicity. As demonstrated by the recent activities of CACI Inc. and TITAN⁴⁴ in the prison of Abu Ghraib⁴⁵, some are definitely undercover military operations. But in all cases the PMCs operate with complete impunity.

1. Definitions

To better understand the phenomenon of PMCs we must define what we mean by mercenaries and Private Military Companies.

It is extremely difficult to come up with an agreed definition of mercenary activities. What appears to some as mercenary activities is perceived by others as the acts of freedom fighters. For example, from the point of view of the Afghan resistance, the Muslim combatants intervening in Afghanistan against the Soviets were international brigades, similar to those that fought against Franco in Spain. But the Soviets classified these foreign fighters as mercenaries. The same arguments arise today in Chechnya or in Iraq.

For the purposes of this paper we shall consider the following definitions:

- **Mercenaries:** We shall take into account the three universally recognized definitions that describe mercenaries and their actions.

OAU Convention for the Elimination of Mercenaries in Africa

The crime of mercenarism is committed by the individual, group or association, representatives of state and the State itself which, with the aim of opposing by armed violence a process of self-determination, practices any of the following acts:

- (a) organizes, finances, supplies, equips, trains, promotes, supports or employs in any way military forces consisting of or including persons who are not nationals of the country where they are going to act, for personal gain, through the payment of a salary or any other kind of material recompense;*
- (b) enlists, enrolls or tries to enrol in the said forces;*
- (c) allows the activities mentioned in paragraph*

⁴⁰ Fukuyama, Francis. *The End of History and the Last Man*. New York: Free Press, 1992.

With the fall of the communist ideology Mr. Fukuyama explain the end of conflict

⁴¹ Aegis vs. DynCorp (CSC)

⁴² Halliburton and its subsidiary KBR affairs. This scandal is too complicated to be study here. What is important is the fact that without any sort of regulations the firms over billed oil, food,...

⁴³ Laundering work for the peacekeeper

⁴⁴ Merle, Renae, and Ellen McCarthy. "6 Employees from CACI International, Titan Referred for Prosecution." *The Washington Post*, August 26, 2004, A18.

⁴⁵ Fleming, Sue. "Abu Ghraib Contractors Defend Iraq Work." In Reuters, 2004.

Hendren, John. "Report on Iraq Abuse Will Widen the Blame." Los Angeles Times 2004.

Pincus, Walter. "Prison Investigator's Army Experience Questioned." *The Washington Post*, May 26, 2004, A18.

MG, George R. Fay. "Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade." edited by United States Central Command, 2004.

(a) to be carried out in any territory under its jurisdiction or in any place under its control or affords facilities for transit, transport or other operations of the abovementioned forces.

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

Part III : Methods and means of warfare – Combatant and prisoner-of-war status #Section II – Combatant and prisoner-of-war status

Article 47 – Mercenaries

1. *A mercenary shall not have the right to be a combatant or a prisoner of war.*
2. *A mercenary is any person who:*
 - (a) is specially recruited locally or abroad in order to fight in an armed conflict;*
 - (b) does, in fact, take a direct part in the hostilities;*
 - (c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;*
 - (d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;*
 - (e) is not a member of the armed forces of a Party to the conflict; and*
 - (f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.*

International Convention against the Recruitment, Use, Financing and Training of Mercenaries

1. *A mercenary is any person who:*
 - (a) Is specially recruited locally or abroad in order to fight in an armed conflict;*
 - (b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party;*
 - (c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;*
 - (d) Is not a member of the armed forces of a party to the conflict; and*
 - (e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.*
2. *A mercenary is also any person who, in any other situation:*
 - (a) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:*
 - (i) Overthrowing a Government or otherwise undermining the constitutional order of a State;*
 - or*
 - (ii) Undermining the territorial integrity of a State;*
 - (b) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise or payment of material compensation;*
 - (c) Is neither a national nor a resident of the State against which such an act is directed;*
 - (d) Has not been sent by a State on official duty; and*
 - (e) Is not a member of the armed forces of the State on whose territory the act is undertaken.*

• Private Military Company:

PMC are another non-state actor who breaks the state monopoly on the use of force. While states are accountable for their actions to other states in the United Nations system in terms of international law, and accountable to their own citizens (at least in democratically governed countries) in terms of domestic law and values, violent non-state actors appear to be subject to no laws or international regulations.

Currently there is no definition of the PMCs that is accepted by the international community, but we shall consider a PMC to be:

Any organization answering to these principles:

- a) They provide military solution to their clients, logistic, weapons, training, information, manpower etc.
- b) PMCs are private companies without any formal link with the state in which they are recorded. If there is a participation of the state it must detain less than 29% of the stocks;
- c) It should be an institution created to conduct business as a firm that is commercially registered under the law of the country where it is established;
- d) It should have a Board of Directors with executives who must be legally identified, and may have shareholders.

- e) It **MUST** respect the Geneva convention and International Humanitarian Laws;
- f) It **MUST** not employ, pay or train or facilitate the recruitment of mercenaries.

And we recommend that these organizations be:

- a) Regulated under International Laws.
- b) Able to produce a detailed account of their activities on the national soil or abroad.
- c) Able to provide a full access to their financial books.
- d) Able to comply with an international monitoring of their contracts and activities.

Once these definitions are accepted, the question which then arises concerns the legitimacy and legality of these Private Military Companies.

Are they lawful and legitimate?

We are entitled to think they are. Otherwise how can one explain the “Sandline’ affair” in Papua New Guinea! In this case, its Chairman Tim Spicer, after his misfortune at the hands of General Singirok, came back in London to initiate international legal procedures in Australia and the UK to block the assets of PNG⁴⁶. The contract is then acknowledged to be genuine and the new government of PNG is compelled to pay the difference owed to Sandline. In April 1999, Michael Grunberg and Richard Slow are invited to Singapore by the representatives of the PNG for an amicable settlement. The government of PNG then paid the \$M18 in arrears on an unfulfilled contract worth of \$M36.

If the international Community still has some reluctance to acknowledge the legitimacy of PMCs, the courts do not, as demonstrated in a recent trial involving Aegis Defense Limited, of which Tim Spicer (again!!!) is the CEO, and DynCorp concerning the attribution of a contract by the US Department of Defense (DoD) in Iraq.

If we agree to their legitimacy at a national level, it is still however extremely dangerous to grant them international acknowledgement without first creating an agreed system to monitor and to regulate their activities.

2. “The combat art” Concept

If the PMCs activities are wholly “lawful” and known we should not however ignore the fact that there are also undercover operations. The “Tip of Spear⁴⁷” concept allows making a first draft of PMCs activities. Obviously it misses a whole sector which stays in the shade.

In the past PMCs did not hesitate to sell their services and experiences to criminals and to groups of dubious legitimacy. They have been involved in selling technological, logistical and military expertise to narcotic barons⁴⁸ (in Mexico and Colombia) and mafias or to “freelance” operations, such as the attempted assassination of Pablo Escobar by Tomkins⁴⁹ in 1989.

Currently another phenomenon has begun to appear, the internationalization of Bounty Hunters. These people operate in complete contradiction of the most basic human laws; undertaking abduction, sequestration, or torture activities that have links with mercenaries’ activities⁵⁰ or PMCs⁵¹. To better understand the PMCs market, it is necessary to take into account this phenomenon and to classify the different activities of PMC.

⁴⁶ “Last Friday, Sandline sought to compel the Banque Bruxelles Lambert (BLL) to hand over \$US6 million in agricultural subsidies donated to Papua New Guinea by the European Commission. The money was deposited in the Brussels bank last year in the name of the central bank of PNG under an EC scheme to compensate developing countries for declining agricultural commodity prices”. Symonds, Peter. “Papua New Guinea in Legal Battle with Mercenary Outfit.” In *World Socialist Web Site*, 1999. And Png Pays up to Mercenaries BBC, May 1, 1999 [cited August 24 2004]. Available from <http://news.bbc.co.uk/1/hi/world/asia-pacific/333234.stm>

⁴⁷ Singer, Peter Warren. *Corporate Warriors: The Rise of the Privatized Military Industry*: Cornell University Press, 2003. page 93

⁴⁸ Goodwin, Christopher. “Mexican Drug Barons.” *Sunday Times*, August 24, 1997.

⁴⁹ Smith, Lewis. “Briton Plotted to Kill Drug Lord.” *The Times*, October 04, 2004, 21.

David Brian Tomkins was hired by two Colombian drug’s cartel to kill the Baron of the Medellin Cartel, Pablo Escobar. The attempt failed in June 1989, the Colombian judge asked for the 12 mercenaries and Tomkins, but this last one flees to others wars. Finally arrested when he tried to go to Iraq last year, he took 33 months in a US federal Prison

⁵⁰ Avery, Sarah, and Bill Krueger. “Faces of ‘Jack’ Idema: Black Ops Ace, Nut Case.” *The News & Observer*, July 18, 2004.

⁵¹ Northbridge and the Charles Taylor’s bounty

A classification of the different activities will allow efficient monitoring and develop effective controls with a view to restraining activities that are harmful or dangerous to international security. For a better understanding of this classification and its importance in a struggle, we will consider a graphical concept named “Combat Art”.

The sword master fighting with two blades shows the different parts and their importance. This art of fighting is used to classify the activities of the PMCs, the legal and the covert one. With this accurate classification it should be possible to implement some useful tools to monitor and regulate the Private Military Companies.

“The combat art” Concept

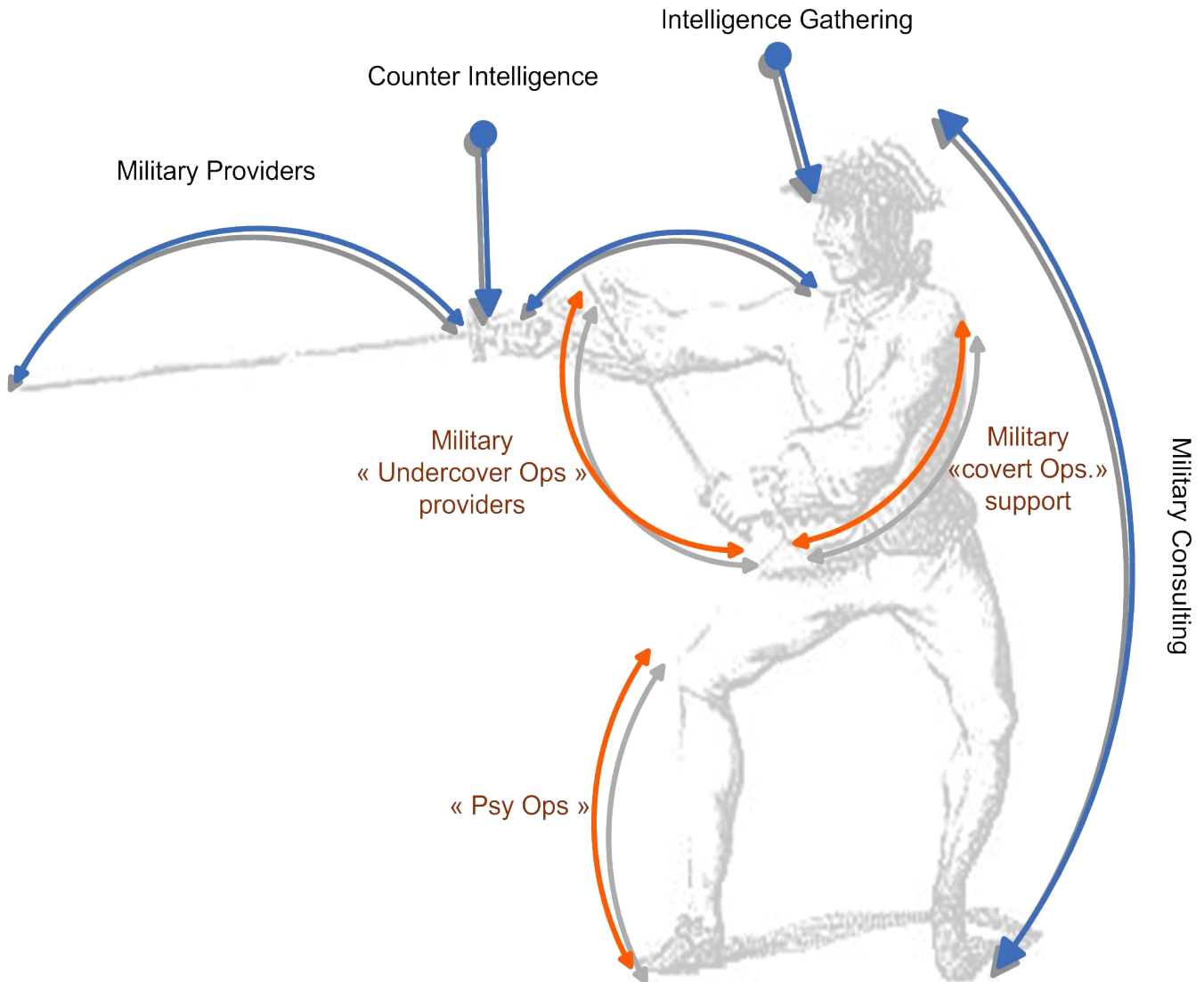


Illustration 1

Definitions:

Military Providers

A military provider is a PMC who provides his client with operational military capabilities (combat unit ready to fight, tactical pilots, etc.) and whose employees take an active part in the hostilities.

We may consider those activities as a force multiplier for the client who buys those services. History shows that a small well equipped and trained unit may change the course of the conflict (For example EO in Sierra Leone, Sandline in PNG) by changing the strategy on the field

Those PMCs could be considered as very problematical for international security and there is a priority need for monitoring and regulating them.

Military “Undercover Ops” providers

When a PMC provide a government with forbidden weapons or use its own special forces under the uniform of the army by which they are contracted to conduct black operations.

Military Consulting

Most of these PMCs are not involved in combat activities; most of them are in the operational theatre to provide logistical and tactical advices, concerning the needs for an operational force. They provide their customers with a detailed plan for arms transfer, about how to acquire them, for the organization of their army, and the constitution of Special Forces, etc

Military “Covert Ops” support

Any PMC engaged in a business in attempt to provide a government or a non-state actors with logistics, weapon or any means to build them (building, raw material, nuclear/biological/chemical,...) against an international interdiction (UN embargo...)

By definition, undercover operations are difficult or impossible to monitor. We shall consider these and the instruments which surround them in Chapter V.

3. The free market break the state monopoly of the use of force

The creation of a PMC is rather simple to achieve, all that is required is a list of former servicemen and a telephone. There is no need for costly accommodation or training facilities. Yet contracts are negotiated on a several million dollars basis.

If the establishment of a PMC is very easy, the sector is extremely complex to study. The closing down of a PMC does not always imply the end of its operations, as shown by the example of Executive Outcomes (EO). When in 1998, EO decided itself to put an end to its operational activities; we then experienced what we could call the “quicksilver” effect. Not enough pressure on behalf of a national or international institution on this sector allows the bowl of Mercury to magnify and expand; too much pressure and the bowl explodes, creating a multitude of independent and autonomous balls (Sandline, Lifeguard, MTS, etc). When EO closed in reaction of the implementation of the South Africa's Foreign Military Act, the managers went to Sandline, and the private soldiers opened agencies in Sierra Leone, Angola, etc. (An example of this construction is presented in Annex G)

A danger facing most occidental armies is the increasing resignation rate of trained soldiers who then join the ranks of PMCs who can pay wages ten times more than the national rate⁵². The current trend to outsourcing by Governments also encourages PMCs that are faced with an explosion of requests for

Intelligence Gathering & Counter Intelligence

This is a very specific niche. We find here high technologies firms who provide satellite photos, air survey or recon ops, electronically survey...

E.g.: AirScan works for the CIA to provide intelligence in the war against drugs. In Peru they provide the government with wrong information which leads to the destruction of a civilian airplane transporting an American priest.

Psy Ops

The Psy Ops are usually conducted against a population to force them to avoid or report any contact with one party in conflict.

In this sort of struggle the weak populations are always the victims. Usually the children and the women.

E.g.: the rape as a weapon of war, used to force a village to flee

Military Support

This category is quite similar to the military providers. The difference is that the military support is not involved in direct combat, but the PMCs do participate in the conflict by providing logistical support like MEDVAC facilities, troop transport and air transport. As a military provider such PMCs must be monitored closely.

⁵² The reality is quite different

“When you retire from service, the french state don't anymore care about you. Some of my fellows registered to go to Iraq. Most of the PMCs there, are a joke, you have to pay the travel, you must bring or find your “tools” and the wages are not what you were expecting...” private discussion with the CEO of a French security firm.

security, to recruit soldiers from developing countries, such as Chileans⁵³, Fijians, etc whom it pay less for identical skills.

The problem linked to servicemen’s resignations in the national army’s affects not only national security and policy. This shortage also has a direct influence on the ability of powerful nations to respond to decisions for military action endorsed by the Security Council.

To better understand the effect of PMCs in the chain of the organized violence; whether it is legitimate or illicit, we should to consider this depiction of the relative relationship of various actors in international conflict (illustration 2).

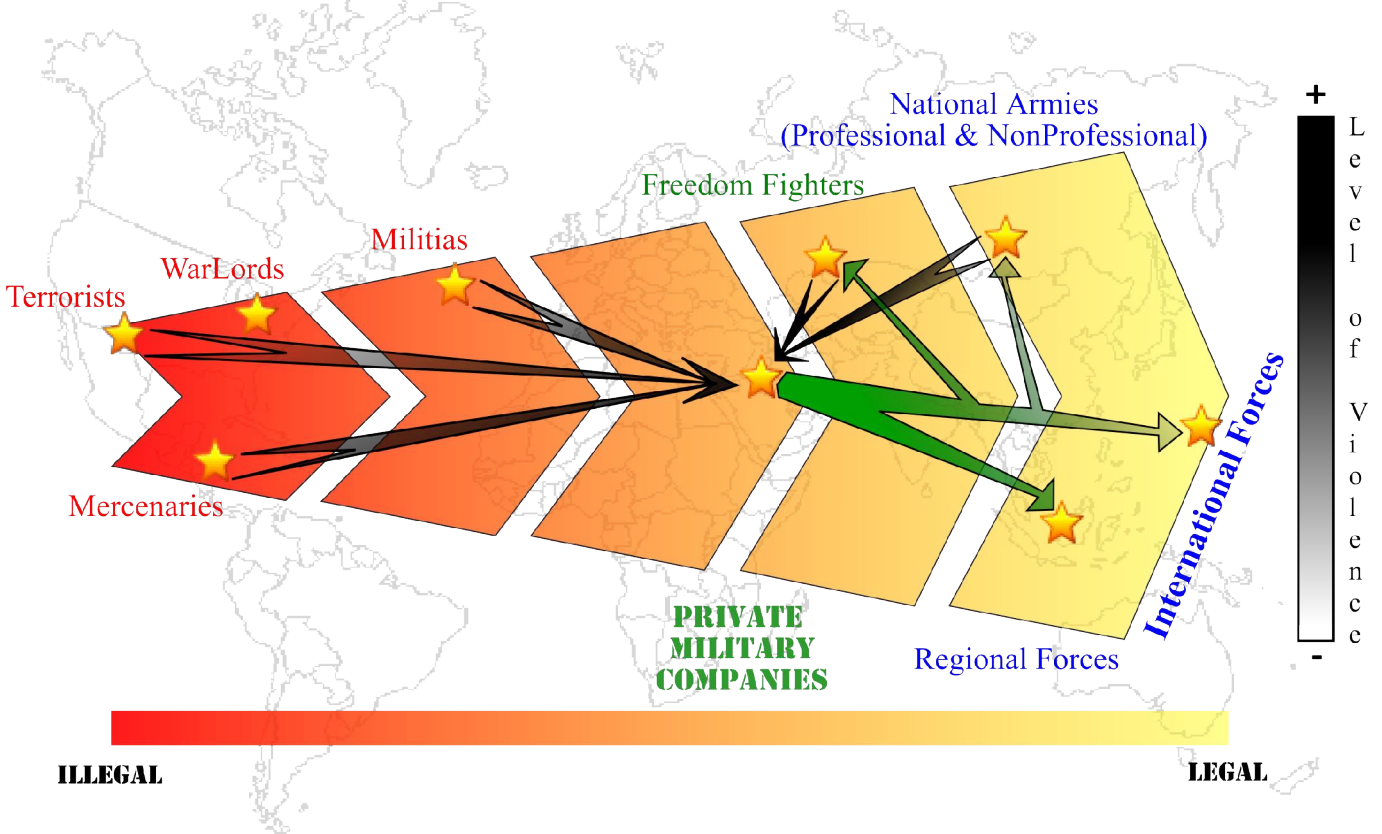


Illustration 2

As we can see, if servicemen leave after their training to PMCs for a better pay, the International forces may collapse due to a lack of trained and operational forces.

a) The Current Market

Private Military Companies are not only military organizations. These are also commercial companies that are based on profit. They are recorded in the trade register, have a Board of Directors and must provide a financial return to their stockholders. Accordingly it is therefore possible to use the traditional tools for the study of a commercial sector.

It is interesting to note that if these business firms are not fully subjected to proper regulation, they will evolve irrationally, sometimes meeting national regulations but more often, in the absence of international monitoring, they will conduct their activities with almost complete impunity.

The normal theatre of operation for PMCs is in countries weakened by conflicts, where national legislation is difficult or impossible to impose. Where there is no effective judicial organ to confront the rogue PMCs, then it is reasonable to consider an international structure of regulation.

Therefore we must consider the economic problem posed by those PMCs in the countries where they operate. The rising costs associated with provision of the private security sector are clearly visible in Iraq. Most of the reconstruction firms operating in Iraq must provide two armed guards for employees. But beyond the cost of security there is also the rising expense of insurance. Soon the commercial companies

⁵³ Soldiers from the elite unit operating under the Pinochet government

operating in countries in conflict will not be able to afford the costs associated with the security firms and assurances to cover the gaps in their security. This will further isolate weak countries plunging them even faster down the spiral of violence, driving armies of young unemployed in the rank of rebels, “resistance” or even worst; terrorism.

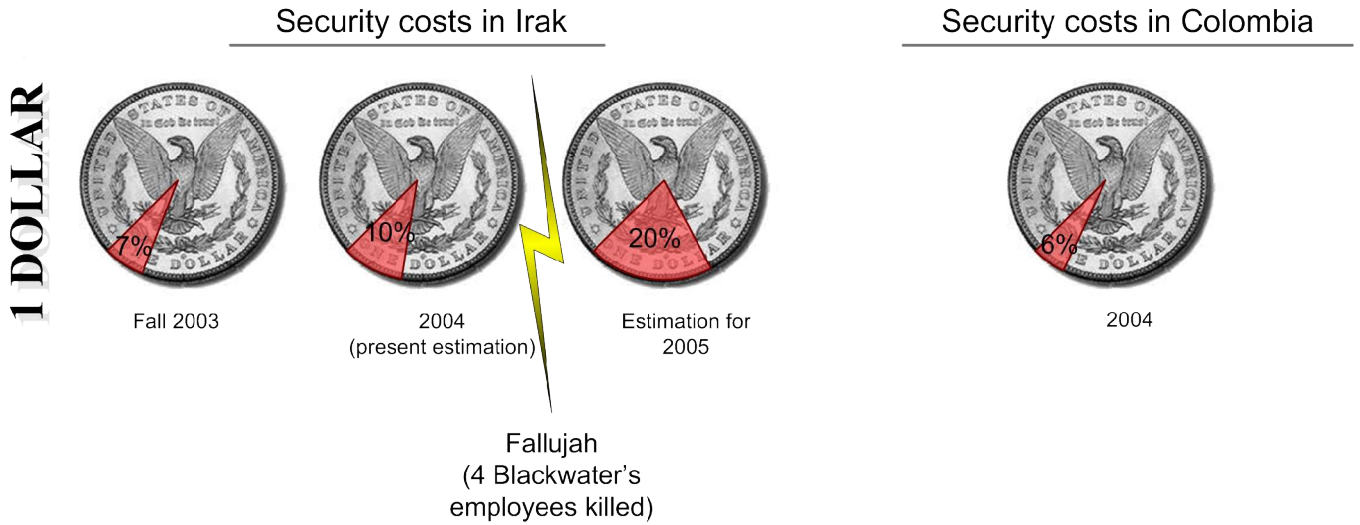


Illustration 3

Such situation has started to appear in Iraq, where some contractors have ceased their activities. For example Contract International Inc., which won one of the twelve major reconstruction contract (\$M 325), cited skyrocketing security costs in reaching a decision with the U.S. government to terminate work in Iraq.

"We reached a point where our costs were getting to be prohibitive,"

Karim Camel-Toueg, president of Arlington, Va.-based Contract

The fact that one of the leader in this civil-military partnership pulls out is contract may free other contractors to do the same. Private Military Companies are not a “light” consideration in the peace-building. It’s a new actor to be considered seriously as its influence goes further than the security sphere as it's presence or non-presence may endanger the reconstruction process in a short and middle term.

Most PMCs maintain that they are only involved in training or consulting activities. But what is actually occurring? Their marketing information and annual report are one thing, but may we take this as the reality. The fact that most of them can be found at the New York Exchange doesn’t buy them virtue.

The following matrix is based on several articles or reports which mention use of weapons:

Definition



Illustration 4

War: PMCs involved in direct combat operations

Training: PMCs involved in the training of foreign forces

Guarding: PMCs involved in guarding facilities

Consulting: PMCs involved in providing tactical schemes

This matrix demonstrates that PMCs are not, as they claim only principally involved in activities linked to training or consulting. It therefore becomes important to establish as soon as possible appropriate techniques for the monitoring and regulation of this industry like other commercial sectors, in a manner which take into account their intrinsic peculiarities.

b) New Markets and “new” threats

New markets appear, and if procedures are not properly regulated the PMCs establish their own status, imposing their commercial views on issues which require a diplomatic and governmental approach and an international solution.

Maritime security

Faced with terrorist threat, maritime security was reinforced. Leaving the vacuum to various private organizations which care to assure training and put the owners of a shipping company to comply with the international norms. With 38% of maritime boundaries disputed against 17% for land boundaries the risk is important to witness the involvement of PMC in those struggles. If nobody can hear a tree falling in the forest, what about a fisherman boat attacked in the ocean? The reports of the Lloyds tend to confirm this trend. Maritime companies rig their vessels with armed guards and insurance companies recruit ex-military personnel to improve their understanding of the situations they have to deal with.

One of the greatest dangers is the act of piracy and kidnapping.

Piracy didn't end in the eighteenth century, nor is it just limited to the China Sea. Pirates were attacking Boat Peoples in the 1970s and 1980s and commercial activities in the 1990s. Currently piracy extends from Asia to Africa.

Some experts are studying whether there are links between terrorism and piracy. Such links are tenuous as Pirates are acting in their own interest, generally following their own agenda. They don't want much publicity or to initiate international responses which could endanger their activities. Being associated with terrorist's cells will only endanger their own enterprises.

Terrorism

While terrorism is not a new threat, its international configuration and mean of destruction are totally new. Before September 11, the worst terrorist's attack could leave ten's of bodies, now the toll must be considered by hundreds or thousand. We have to consider this threat in the global picture of mercenaries⁵⁴ and PMCs issue too.

It would seem that the terrorist acts of 9/11⁵⁵ have been conceived, in a great part, by an Islamic mercenary Khalid Sheik Mohammed who considers himself as a businessman in the field of terrorism.

*"KSM presents himself as an entrepreneur seeking venture capital and people,"*⁵⁶

Furthermore with the international war against terrorism, most states have isolated those organisations that provided military, logistical or financial support to the groups of "freedom fighters". These groups will turn very quickly indeed to unscrupulous PMCs to assure their development.

For example, in France there is an Islamic network of "Afghan" independent cells developing in the ghettos of big cities. These cells finance their development by organized crime, narcotics, credit card theft, etc.⁵⁷, and through this underground economy it is understood that an independent cell could provide itself with €30.000 monthly.

International Bounty Hunter

The market of PMCs grows by operating on the borderline of legality, and sometimes even overstepping them and wilfully violating national sovereignty, humanitarian and international laws, as demonstrated by the Idema affair in Afghanistan.

When an ex-member of the Special Forces becomes an international bounty hunter and ignores all humanitarian and international rights to pocket the bounty of \$25M promised for Ben Laden's capture, it is obvious that the motivation is financial; and that it should be covered by an anti-mercenary law and to be referred to an international court.

Jack Idema, a former Green Beret having with no combat experience, installs a private prison in a private residence in Kabul, kidnaps eight Afghans, and with impunity tortures them in order to extract information on Taliban or on Al Qaeda's activities. His actions, according to him, are motivated by a secret mission of the Pentagon although this is denied by the US Department of Defense.

Such actions, undertaken by conscienceless individuals, are likely to be a permanent feature in regions of weak or nonexistent security and indicate that firm action must be taken to seriously address the consequences.

⁵⁴ Ballesteros, Enrique Bernales. "The Right of Peoples to Self-Determination and Its Application to Peoples under Colonial or Alien Domination or Foreign Occupation {E/Cn.4/2002/20}." UNHCR, 2002.

⁵⁵ National Commission on Terrorist Attacks. "The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States." 516: W.W. Norton & Company, 2004.

⁵⁶ Eggen, Dan. "9/11 Report Says Plotter Saw Self as Superterrorist." *The Washington Post*, July 27, 2004, A01.

⁵⁷ Jacquard, Roland. *Au Nom D'Oussama Ben Laden: le livre de poche*, 2003.

II. INTERACTION BETWEEN PRIVATE MILITARY COMPANIES AND UNITED NATIONS PEACEKEEPING OPERATIONS

“Peace is not God’s gift to mankind, it is man’s gift to man.”

Nobel laureate Eli Wiesel



A. Congo

The Congo during its transfer to independence knew the frozen embrace of mercenaries. The “Affreux” such as the Frenchman Bob Denard, the Irish “Mad” Mike Hoare and others responsible for war crimes, lead bands of commandoes comprising former German and French soldiers, “romantics” in search of adventure and anti-communist/capitalist ideology.

When Katanga declares its secession, these bands of mercenaries’ commandos have a major impact, illegally attacking the UN peacekeeping troops, and forcing the Security Council to adopt the use of force by UN Security Council Resolution 161, and to renew its request for an immediate evacuation of all foreign belligerents.

Following several resolutions and repeated requests for foreign force expulsion, Belgium and French governments officially asked the mercenaries to leave, and although a few of them do leave the Congo, most remained fighting with the Katangese secessionists.

The impact of mercenaries in the Congo has continued until today where the private companies (military and extracting/mining) continue fighting to secure the regions natural resources. For example, EO has provided its services to the Kabila government in order to protect commercial assets and assure the safety of government officials.

Meanwhile the lack of trained troops, of effective logistics, and international support weaken the ability of MONUC to carry out its mandate. Although the EU Operation “Artemis” provides French troops under a UN resolution in Ituri to assist MONUC to stabilize the region, this action is not sufficient to disable the militia’s’ camps. The repeated calls to increase the number of “Blue Helmets” in this conflict are often unheard and the need for stronger action is imperative. The absence of effective international action may drive the private sector to lead a private “peacekeeping” operation, backed by mining firm in order to protect their investments or to develop new ones.

B. Croatia & Bosnia

During the Gulf War I (Desert Storm) the ratio of “Contractors” to servicemen was 1 is to 100, which increased during the Balkans war to a ratio of 1 is to 10. This trend has continued in Afghanistan and in Iraq (2003-2004).

The Balkans war in a way created precedence for future wars “of humanitarian intervention” or “preventive”⁵⁸ones.

1. Military Professional Resources Incorporated (MPRI). (Operation Oluja (*Storm*))

In the Yugoslavian civil war the new Croat government sought international help to train its young army which had great difficulty facing the Serbian and Bosnian militias. During battles against the Serbians of Krajina in 1991, the Croat republic lost more than 30 % of its territory. Then in 1993 against the new Bosnian army there were many attempts to try to develop the efficiency of the Croatian armed forces, and to acquire weapon in a region under embargo and which is known to be close to another region at risk, Albania, where a pipeline exists for weapons and narcotics..

March 24th, 1994, Gojko Susak then Croat Defense Minister, writes a letter requesting military assistance from the US government. His goal is to train the army of the new Croatian republic to NATO standards. But the US government is unable to intervene for two reasons, firstly due to the UN embargo but also because of the recent US tragedy in Somalia, the American public and congress would probably not have accepted a commitment of US armed forces in Europe. The solution from the Pentagon is then rather amazing, suggesting that the new Croatian republic should seek the support of a Private Military Company called MPRI.

“MPRI is a professional services company that consists of former military, law enforcement, diplomatic and private sector leaders who share a common commitment to uncompromising integrity, professionalism and the values that are at the very foundation of our nation.”

⁵⁸ Strange notion because a war is always precautionary by nature, from the point of view of one of the parties in conflict

General (Ret.) Carl E. Vuono former Chief of Staff of the U.S. Army is the President of this organisation and he will be deeply involved in this operation.

MPRI is then contracted by the Croatian embassy in Washington to assist the new army. The result of the contract will go beyond all expectations of the Croat government when in the space of 4 days they are able to recover more than 27 % of the lost territory.

Having dispatched five consultants to Croatia to undertake a study on the ground, MPRI introduces its "Democracy Transition and Assistance Program" (DTAP)

*Republic of Croatia Democracy Transition Assistance Program (DTAP): MPRI developed a multi-year program to provide leadership and management skills and a personnel management system to the Croatian Armed Forces. The US government approved program began with a survey of the Croatian military training and education, and personnel management programs and recommendations presented to the Minister of Defense. During the next four years, DTAP was the catalyst for the implementation of professional development courses focused on leadership, management and civil-military relations in a democratic environment. MPRI conducted a pilot program to evaluate the content and conduct of each course emphasizing the development of qualified Croatian instructors for follow-on presentations and assumption of responsibility for the total conduct of the programs. The training and education, and personnel management programs developed under this contract are now under execution and sustainment.*⁵⁹

This contract seemingly respects the embargo on the arms transfer⁶⁰ and of military training, but when the Croats launched operation "Oluja" (Storm) on August 04th, 1995, it appeared obvious that under the terms of DTAP MPRI did not only limit themselves to conducting courses on leadership, management and democracy. Under operation, "Flash" of May 1st, 1995 the Croatian Army had already regained territories in Slovenia.

*"The Croats did a good job of coordinating armor, artillery and infantry. That's not something you learn while being instructed about democratic values"*⁶¹

Roger Charles, a retired Marine lieutenant colonel and military researcher

*"The evidence of American instruction was unmistakable. You don't just stumble on what the Croats have achieved"*⁶²

American officer assigned to U.N. Forces

Although coincidences are amazing, it remains difficult to prove a tactical involvement on behalf of MPRI in the development of the plan to recapture the lost territory. Even if the frequent visits of US General (Ret). Vuono were indeed useful⁶³. We must remember that Croatia as the other countries of the ex-Yugoslavian republic were under an UN embargo⁶⁴.

However we are entitled to wonder if the democratic principles taught by MPRI to the Croatian forces covered operations in contradiction with the laws of war? Perhaps Ante Gotovina⁶⁵ now acknowledged as a war crimes criminal was absent during lessons on the Geneva Convention, or did MPRI forget to include this subject in its democratization program?

However faced with this success, and with its new acquired publicity, MPRI will sign three new contracts with the Croatian government.

Republic of Croatia Democracy Transition Long-Range Management Program (LRMP): MPRI assisted the Government of Croatia in the design, development, execution, functional integration, and sustainment of its strategic, long-range planning and management program. The focus of the effort was on the systems, programs and processes that drive national military strategy, defense planning and policy formulation. Incorporated in the LRMP was the development and management of a full spectrum command and control system, decentralized and visible decision-making systems and procedures, objective resource management systems, the formalization of force requirements, acquisition and logistics systems, and an appropriately sized military structure and component mix. Permeating the LRMP were professional

⁵⁹ http://www.mpri.com/site/int_europe.html

⁶⁰ Resolution 713 Paragraph 6 (1991)

⁶¹ Silverstein, Ken. "Privatizing War - How Affairs of State Are Outsourced to Corporations Beyond Public Control." *Nation Magazine*, August. 4, 1997, 9.

⁶² Gaul, Matt. "Regulating the New Privateers: Private Military Service Contracting and the Modern Marque and Reprisal Clause."

⁶³ Cohen, Roger. "U.S. Cooling Ties to Croatia after Winking at Its Buildup." *The New York Times*, October 28, 1995, 1.

– *In the five days before the offensive, at least 10 meetings were held between General Vuono and senior officers involved in the Krajina campaign.*

⁶⁴ UN Security Council Resolution 713 (September 25 1991)

⁶⁵ The International Criminal Court For The Former Yugoslavia - Case No: It-01-45-I

development programs reflecting a western orientation. LRMP products have included a Defense White Paper, structural and organizational changes at the Ministry of Defense and General Staff, functional area analyses, and the development of a functional area module concept that will assist ensuring the programs' long term institutionalization into the national defense structure.

Republic of Croatia Army Readiness Training System (CARTS) Program: Building on the foundation of LRMP and DTAP, MPRI devised and assisted the government of Croatia in the implementation of an Army wide system of readiness analysis, evaluation, and validation, improving Army capabilities, enhancing planning, and maximizing resource management.

Croatian-MPRI Program: Based on the success in previous programs, MPRI now has a program with the Government of Croatia that focuses on assisting and supporting the Minister of Defense and the Chief of General Staff in the areas of NATO/PfP requirements, policy and planning, Peace Support Operations (PSO), and simulations training for commanders and staffs. MPRI will assist the armed forces in the preparation of training systems to train soldiers, leaders, and units required to participate in Peace Support Operations and PfP exercises in order to support the Ministry of Defense and General Staff in their preparation and eventual membership in NATO. MPRI will also continue to improve the established leader and staff simulation center to assist in training commanders and staffs at battalion and brigade level to meet the demands of a dynamic and modern battlefield as well as PSO and PfP operations.⁶⁶

The Croatian adventure was a huge success for MPRI, a company which previously only operated on the domestic market, providing it with an opportunity to develop its activity outside of the USA. After the Croat contract there were further contracts signed with the Bosnia for more than \$ M400⁶⁷ then participation in "Plan Colombia", in Nigeria with ACRI, and the more worrying contract with Equatorial Guinea⁶⁸

Under these contracts there are hidden arms transfers in contradiction to the United Nations embargo implicating criminal and terrorist organizations, militias, politicians and governments. Even if the guilt of PMCs is unproven, it is indisputable that they represent an aggravating factor. Using PMC as a proxy for a government which does not wish to put itself directly into a conflict is extremely dangerous, both for its foreign and domestic policy.

"Arms flowed into Croatia despite an embargo, and this was not an issue. It was never raised. Not once. Now, we're starting to wonder: what have we unleashed in Croatia and where it is going"

State Department Official⁶⁹

C. Kosovo

In Kosovo, Sandline⁷⁰ and MPRI were initially contracted to train the rebels of the KLA but the UK immediately vetoed involvement by Sandline. MPRI⁷¹ with its Croato-Bosnian experience was able to respond quickly to undertake the training of a Kosovo army, and Kellogg Brown & Root (KBR)⁷² also constructed refugee camps and organized the arrival of NATO troops.

The Kosovo Liberation Army (KLA) / Ushtria Clirimtare E Kosoves (UCK) having been previously acknowledged as a terrorist and criminal organization were now accepted as an ally during the Kosovo war. Certain members of the Croat Army formed by MPRI during DTAP program gather to fight in the ranks of the Albanian army and especially KLA. Agim Ceku⁷³ is one of them, he is considered to be one of the brains behind Operations "Flash" and "Storm". He also followed the example of Ante Gotovina, and today Agim Ceku is one of the representatives for the civilian Kosovo Protection Force (TMK) which is a part of the UNMIK mission.

⁶⁶ http://www.mpri.com/site/int_europe.html

⁶⁷ The Bosnian government benefited the help of an alliance of Islamic Nations to pay the bill

⁶⁸ Yeoman, Barry. "Soldiers of Good Fortune." In *Mother Jones*, 2003.

National Security Enhancement Plan (NSEP) for Equatorial Guinea MPRI, [cited. Available from http://www.mpri.com/site/int_africa.html.

"Call the Ex-Marines." *Africa Confidential*, July 21 2000.

"The Fog and Dogs of War." *The Economist* (2004).

⁶⁹ Cohen, Roger. "U.S. Cooling Ties to Croatia after Winking at Its Buildup." *The New York Times*, October 28, 1995, 1.

⁷⁰ Spicer, Tim. "Kosovo: What Next?" 3: Sandline International, on 1999.

⁷¹ Madsen, Wayne. "Mercenaries in Kosovo: The U.S. Connection to the KLA - Includes Related Article Comparing United States Foreign Policy in Central America and Kosovo." *The Progressive*, August 1999, 29.

⁷² Subsidiary of Halliburton

⁷³ Fisk, Robert. "'It All Went Very Well,' Said the General. 'Another Effective Day'." *Independent*, May 15, 1995.

By training rogue elements the action of PMCs may fuel other conflicts with much more violence and efficacy.

D. Sierra Leone⁷⁴

Sierra Leone is a small country with abundant natural resources, given by the British crown to the ancestors of previous colonial slaves. This promising and rich country became a country in chaos marked by the barbarism and bloody frenzied battles that raged there.

«When God created the world, says a joke from here, it endowed Sierra Leone with such natural resources as the angels protested against this injustice. But God answered them: Do not get worried; look a bit at people whom I put in this country»⁷⁵

This struggle for the domination of natural resources in Sierra Leone encouraged many criminal activities, including arms dealing and the trafficking of diamonds to assure the financing and the support of rebel groups.

1. Ghurkha Security Guards⁷⁶ (G.S.G.) (1994)

During the Sierra Leone civil war, GSG is delegated by J&S Franklin Ltd⁷⁷ to assist the government of the General Valentine Strasser, by providing support and expertise in the establishment of the Royal Sierra Leone Armed Forces (RSLAF) and to protect the installations of Sierra rutile.

At the beginning of July 1994, GSG establishes its force, comprising 58 Ghurkhas supervised by three western officers, Colonel Robert Mackenzie, James Maynard and Andrews Myres. The job of GSG is to train Sierra Leone forces for jungle warfare but also to establish and then secure Camp Charlie in the middle of the rebel territory as a base for the reconquest of the country. The security of the area around the camp is undertaken with the help of two helicopters MI 8⁷⁸ piloted by Ukrainians mercenaries. As a result the territory is partly pacified, and combat operations are commenced against the rebels of the RUF.

The reasons for the tragedy that occurred on 25th February 1995 are still obscure. From the point of view of GSG and Sierra Leone forces, the operation was only a simple reconnaissance mission to prepare a rifle range for training, but from the RUF point of view it was a “search and destroy” mission aimed at its base camp⁷⁹. Whatever are the objectives of this mission the RUF rebels ambushed the RSLAF soldiers. History records that the rebels mutilated the major and displayed his remains in the different rebel camps in the region. According to the RUF they cut his hands to send them to President Strasser for identification, and as a warning against using mercenaries.

When the Sierra Leone' government insists that GSG launch attacks against the RUF, GSG refuses and loses its contract. This misfortune will mark the end of GSG in the Sierra Leone adventure but also in the field of armed intervention, limiting itself in the future to its original field of activity, mine clearance and protection. GSG quits Sierra Leone in April, 1995, at the same time hundreds of men from the South African firm Executive Outcome deploy and takes over the training of RSLAF.

2. Executive Outcomes (E.O.) (1995)

Publicity⁸⁰ acquired by Executive Outcomes, following its successes in Angola, allows it to be contracted by the government of Strasser to protect Sierra Leone from the RUF rebels', who by then control the natural resources of the country and are close to the capital Freetown, In April, 1995 the

⁷⁴ "Report of the Panel of Experts - Appointed Pursuant to Un Security Council Resolution 1306 (2000), Paragraph 19 in Relation to Sierra Leone." United Nations, 2000.

⁷⁵ Beuret, Michel. "La Sierra Leone, Premier Etat Néo-Colonial." *L'Hebdo*, March 25, 2004.

⁷⁶ Ghurkha Security Guards Limited was formed in late 1989

⁷⁷ Provide no lethal equipment- <http://www.franklin.co.uk/>

⁷⁸ Cooke, Gary W. Mi 8 Gary's Combat Aircraft Reference Guide, March 22, 2002 [cited. Available from <http://inetres.com/gp/military/ar/rotor/Mi-8.html>.]

⁷⁹ K Peters & P Richards, *Why We Fight: Voices Of Youth Combatants in Sierra Leone*, unpublished manuscript, Working Group on Technology and Agrarian Development, Wageningen Agricultural University, Netherlands, 1997. in *Gurkhas and the private security business in Africa*, Alex Vines

⁸⁰ EO would have been hired by Strasser, on the basis of an article published in Newsweek.

foreign embassies begin evacuating their nationals and faced with an emergency situation, EO acquires a contract of \$15M to push back and destroy the rebel advance.

The financial backing behind this contract is extremely complicated. Apparently the founder of the South Africa E.O., Tony Buckingham, is also the founder and director of the firm “Branch Heritage” which was sold to Diamond Works in 1996⁸¹. He acquired for his firm, concessions to extract diamond in Kono and “Branch Heritage”, the extraction firm founded and directed by Tony Buckingham, paid the bill for the intervention of E.O. Which is also a firm founded and directed by Buckingham. May we talk about an obvious conflict of interest there! This sort of arrangement became standard practice for E.O, and later for Sandline.

EO fulfils its mission in a record time. By destabilizing the RUF with new tactics of guerrilla operations, through the use of night vision goggles, and by blending air raids and light mechanized units, they changed the face of this war and forced the RUF to retreat. The Sierra Leone government withdraws mineral concessions from the rebels who, even with the support of Charles Taylor⁸² in Liberia, are weakened and search an honourable exit.

The RUF and the Strasser’s Government finally agree to meet around the negotiation table, signing a peace agreement, and initiating a process for democratic elections on February 27th 1996 and March 15th 1996. To ensure that the peace agreement is signed by the RUF, it includes a non negotiable clause that Executive Outcomes must leave Sierra Leone. EO predicts 100 days of survival for the new democratically elected government. This prediction will turn out to be unfortunately precise and just 95 days after the “withdrawal” of EO the democratically elected government of Mr. Kabbah is overturned. Meanwhile rather than a real withdrawal, members of EO remain in Sierra Leone in the guise of new PMCs (Lifeguard, Ibis Air, etc)

3. Sandline Intl. (1996)⁸³

Further to the reference of EO, Sandline international is contracted by the government of Ahmed Kabbah in exile in Conakry, Guinea. A new financial arrangement is developed to cover the hire of the PMC. A controversial financier, Mr. Rakesh Saxena⁸⁴ of Indian origin, exiled in Canada vouches for the government in exile in exchange of future mining concession. He provides an advance of \$10M for the buying of weapons and a MI 7 helicopter.

35 tons of weapons are purchased to supply the ECOMOG peacekeeping force based in Sierra Leone. But the beneficiaries of those weapons are not only ECOMOG, but also the Kamajors faction that EO is supporting to lead its operations against the RUF. This delivery of weapons appears to be in violation of the embargo endorsed by British government in support of the UN embargo⁸⁵. And it is on this point that will start the Sandline affair “Arms to Africa” putting the UK Secretary of Foreign Affairs, Robin Cook⁸⁶ and the FCO in a difficult situation as well as the notion of an ethical foreign policy defended by Robin Cook. Eventually the British Army and the UN will be needed to put an end to this bloodbath, with the UNASMIL Mission commenced in October 1999.

The apparent success of these PMCs results in further contracts and promotes the concept that PMCs can achieve peace, better, faster and cheaper than UN peacekeeping missions although a retrospective analysis will show that the PMCs actually poured more weapons into the region, weakened the economy and indirectly created a base for further conflict.

PMCs are usually operating before a UN resolution and deployment. They train and arms factions (such as the Kamajors) and protect commercial assets. They implement some strategic structures and provide technologies. When the “Blue Helmets” come they have to face new threats for which they are usually not prepared. (The forces are better equipped or trained than expected).

⁸¹ Diamond Works changed its name in “Energem Resources inc.” in June 22, 2004 - <http://www.diamondworks.com/>

⁸² "Report of the Panel of Experts - Appointed Pursuant to Un Security Council Resolution 1306 (2000), Paragraph 19 in Relation to Sierra Leone." United Nations, 2000.

⁸³ Spicer, Lieutenant-Colonel Tim Obe. *An Unorthodox Soldier*: Trafalgar Square, 2000.

⁸⁴ Ex-President of the Bangkok Bank of Commerce (BBC)

⁸⁵ Resolution 1132 (1997)

⁸⁶ He gained much publicity for declaring that he would run an ethical foreign policy but he has already had problems with arms sales to Indonesia.

Discussing the legal existence and involvement of the PMCs won't protect the UN missions. The PMCs exist, they are not a myth, they are operating on most of the current conflicts and they stand ready for the next. The time has come to consider them, and define how to handle them. Refusing this duty is condemning the peacekeeping operation, at middle or long term, to be privatized.

III. THE CURRENT USE OF PRIVATE MILITARY COMPANIES IN UNITED NATIONS OPERATIONS

*“Private companies...can do it faster, better, and much cheaper than
the United Nations.”*

Doug Brooks, CEO of The International Peace Operations Association (IPOA)



“Private companies...can do it faster, better, and much cheaper than the United Nations.”⁸⁷

This assertion might indeed true if all that UN mandates required, whether under Chapter VI or VII, were to establish a base and then carry out offensive actions against one of the parties in conflict. But Peacekeeping forces are not belligerent armed forces, structured to get actively involved in battles. They are an interposition force, with missions that are limited to regulate truces and cessation of hostilities and to assist the demobilization of armed faction. On this basis, the work carried out by PMCs cannot be compared to that of the UN. Respect for the fundamental concepts of the UN Charter, such as impartiality and respect for sovereignty, imposes certain restrictions on the UN troops. UN action aims to preserve a channel of diplomatic communication between the different parties in conflict with the long term aim of establishing a lasting solution. This objective can be attained only with the assurance of a mandate which will guarantee the neutrality of peacekeeping forces. All other approaches only aggravate the conflict and its spread to adjoining regions.

A. The United Nations

When the UN is directly targeted by one of the parties then it become difficult to maintain its neutrality⁸⁸, requiring the UN to establish new methods to respond to hostage taking and terrorist action. In extreme cases we could envisage the constitution of a Rapid Reaction Unit under contract to the UN, which would act outside of the peacekeeping mission. Such action could only occur after a special vote of the General Assembly and only for a very precise mission, and for an extremely short period of time. A swift resolution to respond specifically to serious incidents, like the one which cost the life of 22 UN workers including Mr. Sergio Vieira de Mello, the senior UN official in Iraq, would prevent impunity while keeping inviolate the principle of neutrality.

The United Nations has used PMCs since 1990s⁸⁹. Pacific Architects & Engineers (PAE), Defense Systems Limited (DSL), DynCorp and SkyLink are some of numerous companies used nowadays by the different bodies of the UN. The use of such companies will increase; step by step they are investing more elements of the UN missions. Yesterday they were building refugee’s camp and were providing monitors or civilian police officers, today they are involved in the security and the protection of UN personnel, and tomorrow they will probably lead peacekeeping operations.

<i>Supplier</i>	<i>Country</i>	<i>Date of registration</i>
MPRI, Inc. http://www.mpri.com/	USA	13 December 2000
ATCO FRONTEC CORPORATION http://www.atcofrontec.com/	Canada	8 March 2004
O’GARA-HESS & EISENHARDT ARMORING C	UK	
CONTROL RISKS GROUP http://www.crg.com/html/index.php	UK	10 March 2000
BOOZ-ALLEN HAMILTON http://www.boozallen.com/	USA	13 December 2000
CUBIC APPLICATIONS, INC.	USA	
DEFENCE SYSTEMS LIMITED	UK	
COFRAS/CIDEV	France	
GRAY SECURITY SERVICES	UK	27 June 2000
GLOBAL RISK INTERNATIONAL http://www.globalrisk.uk.com/	UK	1 October 2004
PACIFIC ARCHITECTS & ENGINEERS INC	USA	
SPECIALIST GURKHA SERVICES UK LTD. http://www.sgsukltd.com/	UK	23 May 2000
TASK INT LTD. http://www.task-int.com/	UK	

⁸⁷ Brooks, Doug. "Write a Cheque End a War - Using Private Military Companies to End African Conflict." *Conflict Trends*, no. 6 (2000).

⁸⁸ Soussan, Michael. "To Do Its Job, the UN Needs to Take Sides." *The International Herald Tribune* (2004).

⁸⁹ O’Brien, Kevin. "PMCs, Myths and Mercenaries: The Debate on Private Militaries Companies." *Royal United Service Institute Journal* (2000).

Some of those PMCs listed here are only involved in risks evaluations, but not all of them. The current trend is to develop military capabilities.

1. Somalia (UNOSOM I, II)

During the operation "Restore Freedom" under the joint US/UN command, the Brown & Roots (BRS, now KBR) Company preceded the US Marines beach landing by 24 hours. They provided the troops with logistics, food and house care. KBR had outsourced those tasks to local underpaid women; such project could be useful to help the local economy. But in this case there was no regulating office to check the compliance of KBR with the international working conditions standards and the salaries.

We should consider one event which occurred with the Canadian⁹⁰ force. During the night of March 4th, 1993; one Somali civilian was killed and another one wounded by Canadian soldiers. The subsequent inquiries had shown there was a breakdown in the chain of command and in the Rules of Engagement (RoE). We should never forget that under those dramatic circumstances, strong action was taken by the Canadian Government, but what if the same events happen with a PMC?

If we focus on the PMCs operation in Iraq, and considering the lack of transparency in the Abuh Graib case, we may conclude that PMCs are accountable to no one and have the opportunity to conduct their operations in an uncontrolled way.

2. Kosovo (UNMIK)

Kosovo marks the enhancement of the utilization of PMCs in Peacekeeping operations, and in most cases with MPRI and DynCorp. This last PMC has created several problems, but the worst which has resulted in the poorest press and which requires an urgent action for an international regulation, is a sexual scandal.

In 2000, the DynCorp affair ⁹¹ burst implicating some observers and police elements of the UN peacekeeping mission in sexual slavery, teenage prostitution and sale of human beings. This affair came to light only because of the denunciations of DynCorp employees, Johnston and Kathryn Bolkovac. Until this day no lawful action has been taken against these criminals, in spite of ample evidence⁹², and it is only the "whistleblowers" that have been fired. There was no actions taken by the UN, and DynCorp was allowed to continue business with the United Nations.

More recently there was a fusillade at the exit of a Kosovo prison⁹³ implicating a Jordanian UN civil police monitor who fired against DynCorp's employees (contracted by the UN) which killed two of them and wounded 11 others.

Affairs linking PMCs to peacekeeping missions are more and more numerous. The SkyLink⁹⁴ example proves that it is necessary to monitor firms contracted by the UN. The United Nations Global Marketplace (UNGM) can't handle alone such a complex issue; specific tools have to be implemented to monitor the compliance of such companies with the international norms (Human Rights, International Laws...).

The risks of rumours and unfair concurrences will increase in the future, it is therefore urgent to set up a PMC's monitoring system on the basis of international regulation, not just national.

⁹⁰ Eggleton, Art. "Somalia Inquiry Report." edited by Department of National Defence; Minister of Public Works and Government Services, 1997.

⁹¹ Meara, Kelly Patricia O. "Dyncorp Disgrace." In *Insight*, 2002.

⁹² The videotape of a rape on a minor and the confession of the man on the video

⁹³ *Dyncorp* Dyncorp, April 17 2004 [cited. Available from <http://policemission.dyncorp.com/KosovoIncident.asp>.

⁹⁴ Gray, John. "Don't Shoot, We're the Good Guys!" *Canadian Business*, November 1999.

Spinner, Jackie. "Iraq Contract's Recipient Linked to Banned Firm; Aviation Firm Twice Suspended by U.N." *The Washington Post*, May 07, 2003, 02.

B. Governments

1. USA

When the UN asked for assistance with the Kosovo mission, the USA responded quickly by sending monitors. But they did not provide these monitors from their own military forces; they contracted with DynCorp to send unarmed monitor to Kosovo.

Governments in their outsourcing policy (health, education, jail security, etc) approve the utilization of PMCs as a mean to realize huge economies on their public budget. But this policy of outsourcing has expanded because actions allowed under contract may avoid the inquiries of the public or the Congress.

For example the “Irangate” trial could be only accomplished because the Congress had a large degree of latitude to lead debates and inquiries. As part of a private operation, secrets linked to a contract will prevent the development of an enquiry as we saw with the KBR trial for fraud.

Currently there is no access information or benchmark about the training of the Iraqi forces under contract with PMCs. Serious questions are rising about the quality of the training provided after the intervention of the Iraqi’s National Guard in Fallujah. In fact commercial secrets are far stronger than the famous governmental “Top Secret”.

The utilization of PMCs as the proxy of foreign policy is already well established, as seen in “Plan Colombia”, the development of ACRI in Nigeria and the “Global Peace Operations Initiative” policy⁹⁵, in Kosovo and Iraq. But we have to consider the results of this policy; MPRI was sent home, at the request of the Colombian government because they were ineffective and they didn’t respect the locals. Halliburton and its subsidiaries are under fire of the FBI and members of the US Congress for fraud, kickbacks, extortion, poor management, security lapses. CACI and TITAN are suspected of providing translators with no respect for basic human rights, and the list may continue. So while the use of private forces for training or security purpose could be a useful concept, obviously without any office which monitor their activities, this concept is difficult to manage.

Although the United States of America broadly has recourse to the utilization of PMCs as part of the outsourcing, the government preserves the right to prevent PMCs from contracting. Even if the intrusion of the State in the private sector is limited, PMCs understand that to ignore a decision of the US Department of Defense/State would be detrimental to their future contracts.

C. Non Governmental Organizations

If the use of PMCs by a governmental organization is worrying, what about when NGOs use the services of PMCs? During the last fifteen years NGOs have become an integral part of peace operations. The notion of interference which was developed by MSF in 1971, during the famine in Biafra, showed the path to a large number of NGOs. If this notion saves the life of a huge number of people, it also produces a new threat in the conduct of humanitarian operations. The notion of interference breaks the principal of neutrality and reduces impartiality. Now some NGOs are used as a tool by parties in conflict, exposing themselves to violent actions from armed bands, soldiers or rebels.

The use of armed forces to ensure the security of convoy, staff and refugee camps is an additional element to be considered in the conflict equation. Many NGOs currently use PMCs to assure their security⁹⁶. Again there is no regulation or control to this recruitment. The lack of information in this area, linked with the need to hire private armed forces to bring assistance to refugees, and to meet the obligation to protect their camps, from outside or inside, such as in the Goma camps after the Rwanda genocide, results in many discrepancies in the development of an identified and regulated private security sector, and thereby restricts the ability to eliminate mercenaries and suspicious PMCs.

Further more, when coordination of military and humanitarian activities is successful and brings better workability on the ground, it can increase the danger to NGOs who are then perceived to be taking an

⁹⁵ Graham, Bradley. "Bush Plans Aid to Build Foreign Peace Forces." *The Washington Post*, April 19, 2004, 01.

⁹⁶ Vaux, Tony, Chris Seiple, Greg Nakano, and Koenraad Van Brabant. "Humanitarian Action and Private Security Companies: Opening the Debate." London: International Alert, 2002.

active role in the conflict. Humanitarian operations that are poorly defended and rich in resources, food, and vehicles then become very attractive targets for militias or warlords.

Facing the lack of transparency in this domain we may, however, note the use by several NGO and embassies in Kinshasa, of the PMC Defence Systems Ltd (DSL), a subsidiary of Armor group, to ensure their security. And with the increasing violence and targeting of the humanitarians (in Iraq, Afghanistan, Sri Lanka, etc) the use of PMC 's by NGOs will obviously grow at an exponential rate.

We must not be blind to the current situation that PMCs are already working for the United Nations. The question about whether it is possible to work with such companies has already been addressed. The question now is how the United Nations will work with them? Which regulation system will monitor the effectiveness of those PMCs, and how this new association can be productive for international security.

IV. REGULATING THE OPEN MARKET OF THE ORGANISED VIOLENCE.

“The Government sees no difficulty of principle in private companies offering support to humanitarian or peacekeeping missions directly to the UN ...”

Response of the Secretary of State for Foreign and Commonwealth Affairs



One of the most legitimate fears of international organizations and states is the fact that to rent the services of PMCs will lead to a loss of sovereignty by delegating one of the fundamental functions of the state nation: the legitimate use of force by the state. We can observe however that since the fall of communism, non state groups, criminal organizations, militias and commercial consortiums have all used organized and illicit use of force⁹⁷, previously reserved to the nation states. So, such fear is misplaced, individuals with huge resources have even taken the right to use organised violence, at a scale never seen until now⁹⁸, to conduct their own private agenda.

The technological and moral barriers have changed and currently any group able to fund a contract is capable of benefiting from specific expertise's and the most recent military technologies. This sector operates under no international control and when national control exists its not very efficient. We are witnessing a return in the past, when India's companies were posing a serious threat to the international affairs and security.

A. The United Nations Security Council

Most of the Security Council's permanent members have developed laws that allow them to confront the issue of the mercenary's activities. However the phenomenon of PMCs does not seem to have been given the same priority on the governmental agenda. Yet it is this deregulated market that raises serious issues with nations domestic and foreign policies, as we have seen mercenaries and some PMCs are the centre spot of many illegal activities such as terrorism, warlord struggles or criminal associations.

We may note that none of the five permanent members which form the core of the Security Council have ratified or signed the convention against the Recruitment, Use, Financing and Training of Mercenaries.

1. China

China before the communist area had used foreign mercenaries, as we saw during the opium wars and notably against the Japanese aggression with the US "Flying Tigers" under the command of Claire Chennault and some Russians. They were contracted mostly by the manufacturers which wanted to sell fighter aircraft.

Since those times and with the transformation of China into a Communist republic, the use of mercenaries wasn't necessary. Records on the use of or the provision of mercenaries by the People's Republic of China are not available. The specificities of the communist policy don't allow such practices, which is probably why we don't find Chinese PMCs.

But the 16th Party Congress will be the white stone of a new path to the modernization of the People's Liberation Army⁹⁹. The nomination of professional military skilled people called the "Fourth Generation" should be a fantastic asset in the Chinese policy of transformation.

Based on the wisdom of Sun Tzu¹⁰⁰ and the study of the modern war, the PLA is moving to information strategy warfare, whereby the war may be won if you don't have to engage your troops if you can win through the mind. This revolution is based on the new technologies and the concept of cyber/strategic information war. And there is the point that to reach this level of technology we may expect that China will have to contract some passive Private Military Companies. Currently there are no laws against such use, which is in fact against no international laws. Currently CSC, which was the last owner of DynCorp (sold for \$M 850 to Veritas) is running a business in China through its subsidiary in Beijing.

⁹⁷ Colombia's military have been blamed for the murder of thousands of civilians. New claims link the British oil company to a security campaign supplying equipment to a notorious army unit and running a spy network of former troops with the help of DSL.

Gillard, Michael, and Melissa Jones. "BP's Secret Military Advisers." *The Guardian*, June 30, 1997.

Gillard, Michael, Ignacio Gomez, and Melissa Jones. "BP Hands 'Tarred in Pipeline Dirty War'." *The Guardian*, October 17, 1998.

⁹⁸ New York 09/11, Madrid train attack, Beslan School N°1...

⁹⁹ "The Chinese Armed Forces in the 21st Century." edited by Larry M. Wortzel, 1999.

Civil-Military Change in China: Elites, Institutes, and Ideas after the 16th Party Congress. Edited by Andrew Scobell and Larry Wortzel, 2004.

¹⁰⁰ Tzu, Sun. *The Art of War*. Oxford: The Clarendon Press, 1963.

2. France

France did not consider it useful to ratify or even to sign the resolutions of the Commission on Human Rights on use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination. However, recently, the French state has inserted a law¹⁰¹ (#115 – 04/03/2003) concerning the use of mercenaries into its legal system. Although this law does not take into account the notion of the private military company, the constitution of such firms is subjected to a check process by the state.

Every appointment requires a prior authentication to the prefecture which has followed request to the secret services. If the candidacy is not kept, the prefecture informs the PMC about it, which must refuse the candidacy, without nevertheless knowing the reason. If the vote of this law by the senate is a first step in the struggle to control the mercenary's activities, its application is not yet consistent. Article 436.2 condemns any structure which employs, recruits, pays or trains people considered to be mercenaries under the definition in article 436.1. So how can France then explain the existence of the firm Crofras or "SECOPEX"¹⁰² which accepts former servicemen in active training¹⁰³ or operations¹⁰⁴? Additionally while this law could be useful in the national jurisdiction, what happens if the PMC hires a national or a foreign mercenary?

The French judiciary has had some difficulty in handling with such cases, for example when *Bob Denard*¹⁰⁵ was convicted for his alleged "coup d'état(s)" in Comoros and was sentenced to 5 year's imprisonment (suspended) he was able to flee back to South Africa to finish the last preparations for his new coup d'état against the Comoros (1995).

3. Russian Federation

The Russian federation in its new Criminal Code, views the use of and service as mercenaries as criminal (Article 359 of the penal code – Paragraph 1 article 205)

(1) The recruitment, training, financing or other material support of mercenaries and the use of mercenaries in armed conflicts or hostilities:

Shall be punishable by deprivation of liberty for a period of from four to eight years;

(2) Participation by mercenaries in armed conflicts or hostilities:

Shall be punishable by deprivation of liberty for a period of up to five years.

Note

"Mercenary" shall mean a person acting for the purpose of obtaining material reward and otherwise than under a commission to perform official duties who is either not a citizen of a country participating in a conflict or hostilities or not permanently resident in its territory.

This law does not allow mercenary's activity, yet how can that explain the utilization of Private Military Companies and mercenaries in Chechnya, or the contracting by Sukhoi¹⁰⁶ in Ethiopia of a complete air force squadron with pilots. And what about those Cossacks who operate in Ossetia¹⁰⁷? How should one define them, as a PMC because they are subjected to internal rules, or as mercenaries or volunteers?

Numerous PMCs are operating on Russian soil, and maintain incestuous links with organized crime¹⁰⁸. Those PMCs are the refuge of former KGB and Spetsialnoye Nazranie (Spetznaz) agents whose units, for

¹⁰¹ "Projet De Loi Relatif À La Répression De L'activité De Mercenaire." L'Assemblée nationale, 2001-2002.

¹⁰² *SECOPEX is an MPRI like firm which consider itself as a French alternative* (We can't define what is this French touch; SECOPEX provides the same services than others PMCs). <http://www.secopex.com>

¹⁰³ Restructuring and training of specialised units http://www.secopex.com/secopex_formation_en.htm

¹⁰⁴ Projections and pre-positioning of personnel and equipment, convoy protection http://www.secopex.com/secopex_support_op_en.htm

¹⁰⁵ Gilbert Bourgeaud Alias Bob Denard – There is still no explanation of how this mercenary was able to flee away!!!

¹⁰⁶ Adams, Thomas K. "The New Mercenaries and the Privatization of Conflict." edited by Parameters, 103-16: US Army War College, 1999.

¹⁰⁷ Millot, Lorraine. "Ossétie Du Sud: La Géorgie Accuse Les « Cosaques »." *Libération*, August 20, 2004.

"Georgia Handed the Body of Young Man Tortured to Death, to South Ossetia." *Pravda*, August 21, on 2004.

¹⁰⁸ **Reporter:** *Is it true that guarding agencies are connected with criminals?*

Sergey Goncharov: *As all Russian society, not more, not less. Our economy is connected with criminals, and I cannot say that we are clean under such conditions. However, we do not step over the limits set by today-s politicians, officials and law-enforcers*

Tarasov, Iliia. "Alpha Russian special service unit is as strong as ever." *Pravda*, August 20, on 2004.

economic reasons, have been disbanded. The most famous of Russian PMCs is “Alpha” from the name of the elite group of the KGB, known for their refusal to follow orders during the Estonian independence in 1991 and the putsch against the Russian parliament in August 18, 1991.

4. United Kingdom

The United Kingdom is one of the first and most active government in the struggle against the non state use of force.

Following numerous European and imperial wars against the corsairs as well as mercenaries’ actions in the liberation wars in Latin America, the British crown took a firm position at an early stage against the involvement of its citizens in foreign conflicts. The “Foreign Enlistment Act” of 1819 and 1870 allows augmenting the apprehension of the new concept which has just appeared: Neutrality. This law forbids any person of British birth or from British territories to contract his services to a prince, a potentate or a liberation group (this to satisfy Spain which lost its empire in Latin America because of indigenous uprisings in which we find French and British mercenaries involved and putting the signed peace in danger)

But this treaty has been lost in history and it needs to be updated to face the new form of foreign “enlistment”.

a) Green Paper - HC 577 Private Military Companies: Options for Regulation 2001-02

As the Foreign Enlistment Act was seldom enforced and to recognise the exponential growth of the PMCs, the British government recently decided to implement a series of reviews about PMCs. At the request of the Foreign Affairs Committee of the House of Commons, the FCO produced a “green paper” following the Sandline affair in Sierra Leone¹⁰⁹. It opens the debate on the use of PMCs and the involvement of British nationals abroad as part of Private military operations. This document is divided into three parts, the development of the PMCs, their responsibilities and options for their regulation by the British Government.

The FCO paper introduces six options covering a range of measures intended to regulate the national and international market. We may classify these into three categories concerning the different levels of state involvement.

The first category will consider a total control of the state on the behaviour of its citizen. These options are:

- a) A ban on military activity abroad
- b) A ban on recruitment for military activity abroad

These two options are extremely costly and are complicated to establish for a very mediocre result. It would be easy enough to move the head office of the PMC to avoid this type of regulation. E.g.: *Sandline which is registered in the Bahamas*.

If this option was chosen it would be of value only at national level and could actually prevent nothing. In the MTS affair the British government had missed the involvement of some of its well-known citizens, so what about control of ordinary citizens. Furthermore, the government which would choose this option would find itself under the fire of the military-industrial lobby, which find in the military activity abroad most of its contracts.

The second category gives to the state the opportunity to have a view or even a control on the activities of the PMCs operating on its territory.

- c) A licensing regime for military services

By regulating the private security market it would then be possible to promote a contractual regime of license for military services. This regime would be established along the lines of existing arms control regulations. This option remains costly and requires a detailed and continuing monitoring of the contract.

¹⁰⁹ Recommendation of the Foreign Affairs Committee in its report on Sierra Leone (HC116-1)

The license regime also introduces delays in processing which will probably not be supported by the PMCs at this state the risk of relocation is still very strong. The licenses can be reactive and this option may not be able to respond to a situation which collapses. In addition, the license regime would require the PMC to reveal the confidentiality of a contract. The customer of a PMC does not wish to publicise his military needs, which could endanger its position, and PMCs for reasons of competition will not want to see publishing the terms of its contractual proposal.

d) Registration and notification

Contrary to the license regime, this option supports continual check of the PMC credibility and involves validating all contracts completely. The PMC has the responsibility to notify the office about its contract, which reacts only in the case of an unfavourable recommendation about it. This option gives to the state a real control on the PMC but avoids the risk of delocalisation.

e) A general licence for PMCs/PSC

This regulation option would create a structural regime for the licensing all PMCs. This option has the advantage for the government in that it can closely follow the private security market in its territory. A risk still exists as part of a structural modification. E.g.: Sandline agrees a modification of its customers, such as to accept rebel groups acknowledged by the international community.

The last category comprises only one option and means a total withdrawal of the state in the behaviour of the private security.

f) Self regulation: a voluntary code of conduct

This option is dangerous due to the fact that the state cannot regulate and so cannot control the adequacy of private initiatives and its foreign policy.

This Green Paper is interesting in the fact that it explores the different ways a state could deal with the PMCs issue.

b) Response of the Secretary of State for Foreign and Commonwealth Affairs

The response of the British government to the "Green Paper" and the recommendations outlined by FCO is on the whole favourable. Moreover the British government goes beyond this paper by affirming it does not oppose the use of PMCs as part of UN peacekeeping operations¹¹⁰. However since 2002 there has not been significant development of the UK policy. And even today the FCO must justify the contract crossed with MTS.¹¹¹

c) Green Paper's Comments

The Green Paper from the FCO has drawn several responses from different actors of this sector, but generally it appears that PMCs do not oppose to a system of regulation. Some, such as Sandline International, indicate strong support for such policy¹¹².

5. U.S.A.

The US administration is very supportive of the concept of PMCs¹¹³ and has developed a system for their regulation and use in defense contracts. However the situation in Iraq has demonstrated significant weaknesses in the system, and the Congress as well as the Pentagon is undertaking a review of the existing system.

¹¹⁰ "The Regulation of Private Military Companies: A Reaction to the Foreign Office Green Paper - Select Committee on Foreign Affairs Minutes of Evidence." 2002. – page 4

¹¹¹ Jun, Jan. "Iraq Calls on Britain to Regulate Mercenaries." In *Radio Free Europe/Radio Liberty*, 2004.

¹¹² "Private Military Companies - Independent or Regulated?" Sandline International, 1998.

¹¹³ Brookes, Julian. "The Pentagon's Private Corps." In *Mother Jones*, 2003.

a) International Traffic in Arms Regulations (ITAR)

ITAR is not specifically an authority covering the regulation of mercenary or PMCs activities, but it monitors the sale of weapons, military technology and training. Contractors are required to declare their contracts worth above \$M 50, and after a study of the contract, ITAR may grant or refuse a license for exportation. However once the license is granted there is no continuing monitoring system to review how the contract evolves.

For example the *National Security Enhancement Plan (NSEP) for Equatorial Guinea*: When MPRI applied to an ITAR license for a contract with Equatorial Guinea, the US Department of State refused to grant it. The request remained frozen until 2001-2002, but after lobbying by MPRI in the congress, the license was finally issued.

"I do know that U.S. companies go through an amazing barrage of requirements, audits, Congressional notifications, requirements and rules - and have government contracting officers looking over their every move in the field (as they should!)"

Doug Brooks, Chairman of IPOA¹¹⁴

This may be true, but the reality is a little bit different. When "Custer Battle" was indicted of financial fraud during its operation in Iraq, it was found guilty. But it wasn't condemned, because the fraud didn't involve American money. The contracts were paid with from Iraqi's fund. Those same funds are dedicated to the reconstruction of a country weakened by several wars, with an embargo which means it had to be used for protection for the people, but finally transformed into a means for control and bribes by Saddam Hussein.

b) Field Manual 100-21¹¹⁵ "Contractors on the Battlefield"

This Field Manual was developed by MPRI at the request of Pentagon, to regulate the work of contractors on the battlefield. It responds to the concern that while US armed forces are subjected to rules defined by the "Uniform Act", there should be rules also for civilians operating in a conflict zone. However the Field Manual does not cover the total activities of contractors, as evidenced by the absence of regulation in the field of intelligence gathering in the Abhu Graib affair.

An updating of this textbook¹¹⁶ appeared in 2003 to correct and to ameliorate the current contractual system between the US army and contractors. The fact that it was a PMC (MPRI) which wrote this textbook can be seen as an obvious conflict of interest¹¹⁷. Additionally, the Pentagon has still not established a trained and devoted service to oversee the PMCs issue

B. International Organisations

1. Non Governmental Organisations

Many Non Governmental Organisations highlight the PMC issue in the foreign policy and some come up with interesting and useful approaches.

International Alert¹¹⁸ is a British NGO involved in peace building and development, in countries devastated by conflicts. This NGO is very active on the field of private security and honestly tries to offer realistic solutions to regulate the PMCs. They participated in the initial Wilton Park¹¹⁹ conference on the

¹¹⁴ Personal conversation december 20, 2004

¹¹⁵ "FM 100-21, Contractors on the Battlefield." edited by Headquarters Department of the Army, 124, March 26, 2000.

¹¹⁶ "FM 3-100.21 (100-21) Contractors on the Battlefield." edited by Headquarters Department of the Army, January, 2003.

¹¹⁷ Werve, Jonathan. *Contractors Write the Rules - Army Policy Governing Use of Contractors Omits Intelligence Restrictions* The Center for Public Integrity, December 22, 2003 [cited August 07, 2004]. Available from <http://www.publicintegrity.org/wow/printer-friendly.aspx?aid=334>.

¹¹⁸ Vaux, Tony, Chris Seiple, Greg Nakano, and Koenraad Van Brabant. "Humanitarian Action and Private Security Companies: Opening the Debate." London: International Alert, 2002.

Damian, Lilly, Robin Luckham, and Michael Von Tangen Page. "A Goal Oriented Approach to Governance and Security Sector Reform." 22: International Alert, 2002.

Damian, Lilly. "The Privatization of Security and Peacebuilding: A Framework for Action." International Alert, 2000.

¹¹⁹ "The Privatization of Security: Framing a Conflict Prevention and Peacebuilding Policy Agenda." Paper presented at the Wilton Park Conference, November 19-21 1999 2001.

central topic of private security. Their proposal is for the constitution of an international office to be in charge of the private security sector

The ICRC is currently working on special guidelines for security issue and is one of the NGO which refuse to use PMCs. But they are aware of the increasing usefulness of the PMCs and are currently trying to establish a formal discussion with them.

2. Africa Union (previously the OAU)

In 1976, to put an end to mercenaries' activities, the Organization of African Unity endorsed the following resolution condemning the utilization, under certain terms, of foreign army or elements.

OAU Convention for the Elimination of Mercenaries in Africa

The crime of mercenarism is committed by the individual, group or association, representatives of state and the State itself which, with the aim of opposing by armed violence a process of self-determination, practices any of the following acts:

(a) organizes, finances, supplies, equips, trains, promotes, supports or employs in any way military forces consisting of or including persons who are not nationals of the country where they are going to act, for personal gain, through the payment of a salary or any other kind of material recompense;

(b) enlists, enrolls or tries to enrol in the said forces;

(c) allows the activities mentioned in paragraph

(d) to be carried out in any territory under its jurisdiction or in any place under its control or affords facilities for transit, transport or other operations of the abovementioned forces.

However it is necessary to recognize that this law has seldom been enforced as demonstrated by the use of EO by Angola and Sierra Leone, Mobutu's mercenaries, Sukhoi in Ethiopia and the latest MTS affair.

Hopefully this convention will be renewed by the African Union considering the same time a judicial procedure in the struggle against mercenaries.

C. Self-regulation by the Private Military Company

"There isn't any international legislation and there probably should be,"

Richard Fenning, the chief operating officer of Control Risks

1. International Peace Operation Association (IPOA)¹²⁰

This lobbying group represents numerous PMCs, which puts pressure on Governmental Organizations and NGOs for the legitimization of activities of the PMCs. The actual agenda of IPOA is to encourage the UN to employ PMCs in the stabilization mission in Congo¹²¹, under the pretext that a private mission would be quicker and more economic than a traditional peacekeeping mission.

"The modest support of the IPOA consortium will ensure that MONUC can fulfil its mandate and bring much needed peace to the region."¹²²

It is really tempting to use this solution, faced with the withdrawal of troop contributing nations from the complex problems facing this country, in the hope that the result would be positive, similar to that of Angola or Sierra Leone. The danger is that the UN is absolutely not prepared to manage this sort of situation and operation. IPOA assures total transparency, and proposes to operate more efficiently than any previous peacekeeping operations, and with "rules of engagement" well defined and validated by the PMCs with their clients. The question is though how will this promise be implemented on the ground?

¹²⁰ *International Peace Operations Association (IPOA)* [cited. Available from <http://www.ipoaonline.org/>.

¹²¹ Brooks, Doug. "Supporting the MONUC Mandate with Private Services in the Democratic Republic of Congo." *The International Peace Operations Association (IPOA)*, 2003.

¹²² idem

Besides, in case of a disaster which entity will be considered to be responsible for the mistakes made, the IPOA, the PMC or the UN? It is probable that the international press will focus on the UN, accusing it of having sold the Congo to mercenaries. The risk of scandal is high and it is dangerous to subscribe to this option without having set up a system of protections.

An additional important point which must urgently be addressed is to prepare the international community for this type of operation. The UN must face up numerous criticisms¹²³ concerning its lack of response to the crises which are arising in the Congo, Sudan, and the Ivory Coast. Although the Secretary General does not favour the utilization of PMCs¹²⁴ the gap in military resources to meet these crises and the pressure of lobby groups could however force the UN to reconsider this solution.

The IPOA proposal, apart from its lobbying work, is offering to develop a code of good behaviour to be adopted by all the PMCs members of their association.

ASSOCIATION MEMBERS

Armor Group
Main Street Supply
PAE
AirScan
ICI of Oregon
Demining Enterprises International (DEI) (Pty) Ltd
CIT Security Consultants (CITSC)
MPRI
J-3 Global Services
Triple Canopy
Black Water

AFFILIATED MEMBERS

O'Gara-Hess & Eisenhardt

This type of proposal must be approached cautiously, because while it does not abolish the necessity of the intervention of international armed forces under UN command, it involves an additional element into the already complex equation of a conflict.

2. Sandline (defunct since April 16, 2004)

Tim Spicer¹²⁵ of Sandline International has stated that he wishes to see the private military security industry regulated just as any other market with transparent rules and fair competition, both to develop legitimacy to the eyes of the international community, and to clean out of the market firms which do not "play by the rules". This wish for regulation is wholly honourable but raises numerous questions about the credibility of this PMC.

Although Sandline put an end to its activities on April 16th, 2004, it has been very active in lobbying groups and has developed an efficient strategy of communication with the help of official publicist, Sara Pearson. Moreover we find the same team is behind another PMC called Aegis Defense International. It also appears to have links with Executive Outcomes through Simon Mann and Buckingham that are very far from being transparent. It is also necessary to understand their connections with the natural resources extraction firms which played an important role in the financing of Sandline as well as in that of EO (Annex G – Methodology). While working with government ensures visibility, Tim Spicer has also announced that Sandline also reserves the right to train or help various liberation groups where there is less transparency!

Tim Spicer resigned, in 2000, from Sandline. Then he launched "Sandline Consultancy Ltd", and in the same year he created another PMCs called "Trident Maritime" and finally a third one Strategic Consulting International (SCI). None of those firms has yet filed legally due accounts with Britain's Companies House. Today Spicer is running Aegis Defense Systems, which has won a controversial contract in Iraq. Transparency and accountability are not normal in this business. That is why the need for independent and accurate data bases is urgent.

¹²³ Soussan, Michael. "To Do Its Job, the Un Needs to Take Sides." *The International Herald Tribune* (2004).

"Ugly Business at the UN." *Chicago Tribune*, September 3, 2004.

¹²⁴ "Transcript of Press Conference by Secretary-General Kofi Annan at United Nations Headquarters on 12 June 1997." 1997.

¹²⁵ Spicer, Lieutenant-Colonel Tim Obe. *An Unorthodox Soldier*: Trafalgar Square, 2000.

What makes Sandline and EO the PMCs of exception is their ability to use marketing and public relations linked to a mass media communications, such as their web site, video, and international newspapers, to establish, model and control the message which they want the public to hear.

3. Professional Services Council (P.S.C.)¹²⁶

The Professional Services Council is a lobbying group for industries that are working in the defence sector, producing studies to improve and project the image, contracts and fair trading of its members. PSC has produced an interesting work as part of the establishment of a behaviour code¹²⁷ for the contractors working with the department of defence.

D. Other Governments

1. Congo

Zaire, DRC, has a very involved history with the utilization of mercenaries and PMCs. When in 1997, Mobutu notices that the end is close; he calls for assistance from various states including France¹²⁸ its eternal ally, but also PMCs. Some of them, like EO, will study the practicability of the contract, but faced with administrative difficulty and with nature of the various groups involved in the conflict will not follow up.

A group of mercenaries assembled under the name of "White Company" (Belgian, French, and Serbian) are then employed to assist the Congolese armed forces. This recruitment is quite contrary to the anti-mercenary law of the OAU. Nevertheless, these mercenaries terrify the population¹²⁹ but turn out to be completely ineffectual.

In this affair we find well-known personages in the world of intelligence and undercover operations. One of them, Yugoslav Petrusic alias "Yugo Dominik"¹³⁰ "is a Serbian former French legionary, who became "famous" during the bloodbath of the Srebrenica protected zone. Dominik also maintained close links with the sulphurous Bob Denard¹³¹. Dominik again appeared in 1999 during his arrest in Belgrade¹³² for an assassination attempt on the person of Milosevic, then president of Yugoslavia. Serbia then accuses France of having supported this action which of course France denies

The utilization of mercenaries with their better financial support, military training and political links once again defeated¹³³ the rebels established control of Congo. Laurent D. Kabila then took the reins of power although it only lasted little time. Yesterday friends became today's enemies¹³⁴ and Kabila loses support of his ancient "brothers in arms" opening the door once again to confusion and bloodbath. Even today in the DRC, under the regime of Kabila's son, there are opportunities for mercenaries and PMCs hired to protect mineral extractions facilities and the government.

2. The Republic of South Africa

The South African Republic is another country where history is broadly linked to mercenary activities. It is also a country which utilized active PMCs in the conduct of combat operations. At the end of the Apartheid era numerous soldiers who are trained for special "operations" (assassinations, tortures, and guerrilla) are unemployed and have some difficulties in fitting back to civil life. EO will serve has a reservoir for these men.

¹²⁶ <http://www.pscouncil.org/>

¹²⁷ Chvotkin, Alan. "DFARS Case 2003-D087." Professional Services Council, 2004.

¹²⁸ Bonner, Raymond. "France Linked to Defense of Mobutu." May 2, 1997, 6.

¹²⁹ "Zairian Recounts Torture by Serb Mercenaries." In *CNN Interactive*, 1997.

Voice Of America. "Zairean Civilians Say They Were Tortured by Foreign Mercenaries Searching for Rebel Sympathizers in Kisangani." 1997.

¹³⁰ JR, James C. McKinley. "Serb Who Went to Defend Zaire Spread Death and Horror Instead." *The New York Times*, March 19, 1997, 1.

¹³¹ "France Denies Claim of Secret Service Plot to Kill Milosevic." *Irish Examiner*, 27 November, 1999.

¹³² Igric, Gordana. *Serbia Bids Au Revoir to France with String of Bizarre Charges* Institute for War & Peace Reporting, 1999 [cited August24 2004]. Available from http://www.iwpr.net/index.pl?archive/bcr/bcr_19991203_2_eng.txt.

¹³³ Tahri, Jihan El, and Peter Chappell. *L'Afrique En Morceaux - La Tragédie Des Grands Lacs*: Capa, Canal+, Plani Presse, 2000.

¹³⁴ idem.

The transition from Apartheid towards a multiracial democracy was an extremely complex phenomenon¹³⁵. The fact that elements considered to be potentially troublemakers¹³⁶ were involved in private operation outside the territory was rather beneficial to the establishment of a solid democratic foundation. This explains the lack of interest and therefore regulation during this epoch. But if troubles are not evident in the domestic policy they finally develop at another level in the foreign policy. Currently the South African Republic still have to struggle against its image of a mercenary stronghold.

In order to break with this poor image and in response to the growing accusations of destabilization on behalf of the bordering states, the South African government introduced in 1998, one of the most restrictive legislations in the world concerning the question of mercenaries. *The Regulation of Foreign Military Assistance Act*.

Definition: "mercenary activity" means direct participation as a combatant in armed conflict for private gain.

To regulate the rendering of foreign military assistance by South African juristic persons, citizens, persons permanently resident within the Republic and foreign citizens rendering such assistance from within the borders of the Republic; and to provide for matters connected therewith.

- Prohibition on mercenary activity
- Rendering of foreign military assistance prohibited
- Authorisation for rendering of foreign military assistance
- Register of authorisations and approvals
- Offences and penalties

However the Regulation of Foreign Military Assistance Act is criticized by members of the South African government which consider it to be flawed. For example, Erinys did not subject any request of agreement and nowadays it operates in Iraq. Furthermore this PMC uses two acknowledged mercenaries, culprits of crime against humanity in front of the South African Truth and Reconciliation Commission¹³⁷. This law has been used twice since 1998, and today Sir Mark Thatcher is the second individual indicted under The Regulation of Foreign Military Assistance Act for his involvement in the MTS affair.

E. A new hope in the international struggle against mercenary's activities

The International Convention finally entered into force on 20 October 2001¹³⁸ twelve years after the constitution of International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly in its resolution 44/34 of 4 December 1989.

By 2004, international policy has developed with the introduction of anti mercenary law into the justice system of the New Zealand¹³⁹ to be soon followed by Kenya and Gambia¹⁴⁰. Therefore the timing is very favourable for the establishment of an international regulation office on the mercenaries and PMCs issue.

Furthermore with numerous projects to reform the Security Council, the office of regulation on mercenary and PMCs activities could be a formidable asset to inform a revitalized Security Council. Such an office may serve as an alert spot to identify the risk of international security breaches.

To conclude on the lack of effective PMCs regulation, let us take a look at the Aegis Defense Services affair. How is it possible that Aegis, a PMC which is only 2 years old, which has never operated in Iraq,

¹³⁵ Ballesteros, Enrique Bernales. "The Right of Peoples to Self-Determination and Its Application to Peoples under Colonial or Alien Domination or Foreign Occupation {E/Cn.4/2001/19}." UNHCR, 2001.

¹³⁶ Ex-member of ANC or SAF Military Special Forces, those are well trained and able to organize and lead civil riot.

¹³⁷ Nevaer, Louis. "Hired Guns with War Crimes Past." *Pacific News Service*, May 4, 2004.

¹³⁸ Ballesteros, Enrique Bernales. "The Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination {E/Cn.4/2002/20}." edited by The Commission On Human Rights: United Nations, 2002.

The following States are parties to the International Convention: Azerbaijan, Barbados, Belarus, Cameroon, Croatia, Cyprus, Georgia, Italy, Libyan Arab Jamahiriya, Maldives, Mauritania, Qatar, Saudi Arabia (with reservations to article 17 (1)), Senegal, Seychelles, Suriname, Togo, Turkmenistan, Ukraine, Uruguay and Uzbekistan. A further nine States have signed the International Convention but have yet to ratify it: Angola, Congo, Democratic Republic of the Congo, Germany, Morocco, Nigeria, Poland, Romania and Yugoslavia.

¹³⁹ "Mercenary Activities (Prohibition) Bill." edited by Defence and Trade Committee the Foreign Affairs: House of Representatives, 2004.

¹⁴⁰ Fatty, Lamin. "Police Give Security Firms Friday Ultimatum." *The Independent*, September 6, 2004.

and which is managed by the very controversial¹⁴¹ Colonel Tim Spicer is able to acquire a \$293 Millions contract from the US DoD to coordinate the security of the different defense contractors in Iraq? Aegis does not appear on the list of the approved companies by the Pentagon. It does not provide a succinct outline of its structure and its Management Board consists of some surprising¹⁴² individuals.

So when we consider all the affairs linked to the PMCs activities, how may we approve their utilisation by the United Nations? Answers to this question will be offered in the next section.

¹⁴¹ Hughes, William. "Pity the Iraqis: Tim "Rambo" Spicer Is Coming!" In *Media Monitors Network*: MMN International Inc., 2004.

¹⁴² We find there Frederic Forsyth the writer of "The Dogs Of War"

V. IS THERE IS ANY FUTURE FOR PMCS IN UNITED NATIONS PEACEKEEPING OPERATIONS?

"There isn't any international legislation and there probably should be,"

Richard Fenning, the chief operating officer of Control Risks



The “universally” presented concept is that PMCs are more efficient than UN peacekeeping operations. To support this argument, the example of EO in Angola or in Sierra Leone is often introduced. But the mandate of EO was to push back or to destroy rebel opposition. In a way, they had to take the war to the enemy. EO was not involved in a peace process.

The mandate of the UN, whether it is authorized under Chapter VI or VII, is not to conduct war or to destroy an enemy. The UN peacekeeping forces are not a force lever sent to help a national army in its struggle. The resolutions of the UN are taken with the respect of national sovereignty, taking into account the need for the self determination of people and the protection of international peace and security. These three notions are difficult to put together in a coherent manner in peacekeeping operations.

This situation is not faced by PMCs. And this is why at first reading PMCs seem to be more efficient than a UN mission. But they can only be effective for a short period as they do not address the core of the situation. They only temporarily delay the resumption of combat, often with the risk of seeing a bloodier resumption, as during the truce each party has the necessary time to re-form its facilities and to reinforce its weaponry.

Therefore it is not possible, at present time, to leave the international peace in the hands of the private sector. Nevertheless the utilization of private forces to support peacekeeping missions can be envisaged as part of resolutions voted under the Chapter VII of the United Nations charter. This is what we are going to consider in the following chapter.

But before anything, the PMC is a passionate issue and we have to consider the facts. I propose to take a look to the most common ideas about the PMCs.

The PMCs are accountable for their acts?

Currently we may consider that the PMC are accountable to no one when they operate abroad. The PMC are usually accountable to their national judiciary system, but the critics often come from their abroad activities. No official body monitors their RoE and they usually operate in weak states which are unable to provide a basic judicial system. The national laws, when they exist, are ineffective abroad.

Others think that the PMC can auto regulate themselves under the quote that a “supplier is only as good as his last contract”. So how could we explain the DynCorp affair in Kosovo, the MPRI in Colombia? The lack of independent information is good for marketing and the PMCs usually write their own histories.

The danger that trained troops could challenge the weak states after the contractors leave.

Correct, that’s what happened in PNG and in others African Countries when the PMC tried to re-organize the National Army to a more efficient body and without any consideration of the current establishment. Many risks are hidden within in any sudden change to a military system. The top executives won’t accept the cut in their military budget and the loss of their privileges and if the army needs to be reduced there is always the question of what to do with the new unemployed. The greatest danger here is that the military system will overthrow the civil organisation and take the control of the country.

The protection against such risks lies in the contract, which is why an independent organisation must provide support to the country which requests it.

Contractors prefer to fuel conflict rather than to resolve it!

This is incorrect; there is no example of a PMC conducting its own agenda to take control of the conflict in order to harvest more contracts. They are private armies, they can be use as force lever or special unit in a struggle; their technological superiority may help them to make a strong difference in a low intensity conflict, but they can’t challenge a state, in fact as yet! A PMC will try to provide new services to secure its contracts and to assure their future. Those “upgrades” services may be useful in the case of low disciplined army, or to avoid the problem of “Soldbel”¹⁴³

¹⁴³ Soldiers of a national army acting like rebels.

The PMCs are cheaper than any other organisation.

Currently we are facing a lack of independent information, and we can't compare a complex peacekeeping/building operation with a single military operation. As we saw the goals are quite different. So without accurate information or statistics we should answer no!

One reproach, often made to the PMCs is about their disrespect of humanitarian and international laws.

While this is partly true, PMCs are not the only ones to be involved in war crimes. These crimes are not exclusively reserved to PMCs or mercenaries, as recently demonstrated in Iraq with the horror of Abu Ghraib prison, or sometimes even within UN peacekeeping forces we can find evidence of criminal activities¹⁴⁴. The latest is from the French operation "Licorne" in Ivory Coast with the involvement of 12 servicemen of the 43 BIMA in a hold-up¹⁴⁵ where the equivalent of € 100.000 was robbed from the BCEAO the 19 September 2004. Or worse still, there is the case of the "Brothel" Refugees camps in Congo¹⁴⁶

Why we need to seriously consider and urgently deal with the PMC issue? It is necessary for two principal reasons. The first one is the greater involvement of those companies in the international security. We are witnessing the growth of a new "Golem" and before it becomes uncontrollable by the international community, we must address this issue by regulating its growth. Alternatively, we may consider this phenomenon as fashionable and hope it will disappear by itself.

The second one is the crisis of the occidental troops contributing countries which are less and less involved in UN peacekeeping operations. The use of private forces may give to the Security Council, under specific circumstances, the ability to respond quickly to the different international crisis which it is facing.

A. An alternative to the constitution of a United Nations Rapid Reaction Capacity

Faced with the numerous delays and various legislative restrictions that confront proposals such as the Multinational Standby High Readiness Brigade "SHIRBRIG", the creation of a UN Rapid Reaction Force¹⁴⁷ or a UN Legion¹⁴⁸, PMCs can provide a viable alternative. On the condition of being used only under the authority of a UN mandate and overseen by a UN regulation service devoted to the PMCs issue.

As we have seen above, there is already an increasing involvement of PMCs contracted by troops contributing countries in the operations of the UN but without any system of regulation. To optimize this type of joint operation it is necessary to put in place a new concept of intervention.

B. The United Nations Office of Monitoring and Regulation (UNOMaR)

In view of the number of contracts which are negotiated and of the inexperience of some PMCs, it is important to reduce the associated risks by the constitution of a regulation and monitoring service. Furthermore by ridding the private sector of acknowledged and identified mercenaries we should avoid for the client, whether a Government, Governmental Organization or an NGO, the infamy that results when individuals acknowledged for war crimes or crimes against the humanity¹⁴⁹ are identified in a humanitarian mission.

As defined by the UN Special Rapporteur Enrique Bernales Ballesteros in his last report¹⁵⁰, a monitoring and regulating office should not anymore be a question but a reality.

¹⁴⁴ Stogel, Stewart. "U.N. Missions Painted as Booze-Soaked Orgies." *The Washington Times*, May 27, 2004.

¹⁴⁵ "Douze Militaires Français Arrêtés Pour Le Vol D'une Banque En Côte D'ivoire." *Le Monde*, Septembre 20, 2004.

¹⁴⁶ Holt, Kate. "Dr Congo's Shameful Sex Secret." In *BBC News*, 2004.

¹⁴⁷ "Towards a Rapid Reaction Capability for the United Nations." edited by Department of Foreign Affairs and International Trade, 1995.

¹⁴⁸ Conetta, Carl, and Charles Knight. "Vital Force - a Proposal for the Overhaul of the UN Peace Operations System and for the Creation of a UN Legion." 160. Cambridge, Massachusetts: Commonwealth Institute, 1995.

¹⁴⁹ Nevaer, Louis. "Hired Guns with War Crimes Past." *Pacific News Service*, May 4, 2004

¹⁵⁰ Ballesteros, Enrique Bernales. "The Right of Peoples to Self-Determination and Its Application to Peoples under Colonial or Alien Domination or Foreign Occupation {E/Cn.4/2004/15}." edited by Economic and Social Council, 21: Commission on Human Rights, 2003.

*The Special Rapporteur suggests that private companies offering military assistance, consultancy and security services on the international market should be regulated and placed under international supervision. They should be warned that the recruitment of mercenaries constitutes a violation of international law. Accordingly the legal instruments that allow effective legal prosecution of both the mercenary agent and of the company that hires and employs him must be refined. A particular concern must be for the crimes and offences committed by employees of such companies not to go unpunished, as is usually the case.*¹⁵¹

Its primary goal of the office will be to report in a quantitative and qualitative way on the activities of PMCs as well as those of the mercenaries in the most general sense¹⁵². It would also produce statistics and the information necessary for governments to take action on the mercenaries and PMCs issue. Examining this phenomenon through independent analysis, edited under the supervision of the only neutral and international structure, will allow regulation of the sector as well as an understanding of their activities at an international level.

In establishing this office we should take into account the most recent definition in the report of the Special Rapporteur, Mr. Enrique Bernales Ballesteros (Annex B – Definition)

i) Tasks

The office will have as main task:

- Research, collection and passage of information. These will be classified and available under agreed conditions of security clearance, for:

<i>Security clearance I</i>	<i>Security Clearance II</i>	<i>Security Clearance III</i>	<i>Security Clearance IV</i>
Public	Journalists Scholars	Private Military Companies PMCs Clients	Government International Organisation

- Publication of information and statistics on the sector of mercenary activities and private security

To better understand the PMCs and mercenary issue it is necessary to establish independent statistics. These will cover a whole range of topics associated with the PMCs activities.

E.g.: Did the involvement of PMCs in Sierra Leone (G.S.G., EO and Sandline) increase or decrease the numbers of child soldiers?

Various recording instruments will be initiated by UNOMaR such as:

- ✓ **UN “Geese” Weekly Report:**
A weekly information letter delivered to the executive organs to help them to understand the current situation
- ✓ **The yearly report:**
A report made by the UNOMaR to develop an overall picture of the sector.
- ✓ **The Stars System:**
A tool designed to provide an audit based on different items and which delivers different levels of transparency about a PMC in consideration of the confidential character of the information.
- ✓ **The Alert System:**
A tool which permits the flow of information between the different organs.
- ✓ **The Diamond Concept:**
This is a concept of intervention for the UN peacekeeping operations which allow the use of PMCs under the UN charter

¹⁵¹ "The Right of Peoples to Self-Determination and Its Application to Peoples under Colonial or Alien Domination or Foreign Occupation." UNHCR, 2003.

¹⁵² Cf. Annexe definition – the last report from Mr Enrique Bernales Ballesteros

ii) The PMC Ratification System

As in the medical sector, you can't allow anybody to practice! The security sector needs to be regulated. For this we need an International institution to implement a ratification system to register and regulate the PMC and in the case of breaches to take action against the offender.

PMCs audited by the UNOMaR will benefit from an acknowledgement that their contracts accord with internationally established norms (stars System – Level III). Today there is no standard to define contracts and PMCs are wholly free to fix their prices. The UNOMaR will expose the finances associated with the sector thereby protecting the customers of PMCs while preserving a fair competition.

iii) The Pre-contract System for the PMCs

By means of the UNOMaR weekly letter, the *UN "Geese" Weekly report* (Annex F) the office would be able to inform the executive structures about the requests for contract authentication. Therefore it is possible to get a quick opinion on the viability of the request. This weekly newsletter would be useful to launch the "*Diamond Concept*" for a quick response to crisis considered by the Security Council.

Of course the UNOMaR issues only an opinion and the PMC is wholly free to respect or not this opinion. Its decision is then notified in the "*Stars System*" (illustrations 10-11-12) which will then make it possible to gather important information for the installation and the development of preventive diplomacy structures.

iv) The Complaint System

The UNOMaR will have a system to collect customers' complaints, to conduct comparisons with well conducted contracts and to establish statistics on relative prices. It will be able to record the achievements of a PMC and to report on the effectiveness and credibility of each one. Besides complaints expressed by the customer, the UNOMaR will also have the ability to collect complaints from individual employees, managers or communities directly affected by the private security activities.

1. Organization

For better efficacy of this new office I recommend its integration into DPKO which is, in my opinion, appears to be the best organ to deal effectively with such regulation.

a) Integration into DPKO

Department of Peacekeeping Operations Organizational Chart

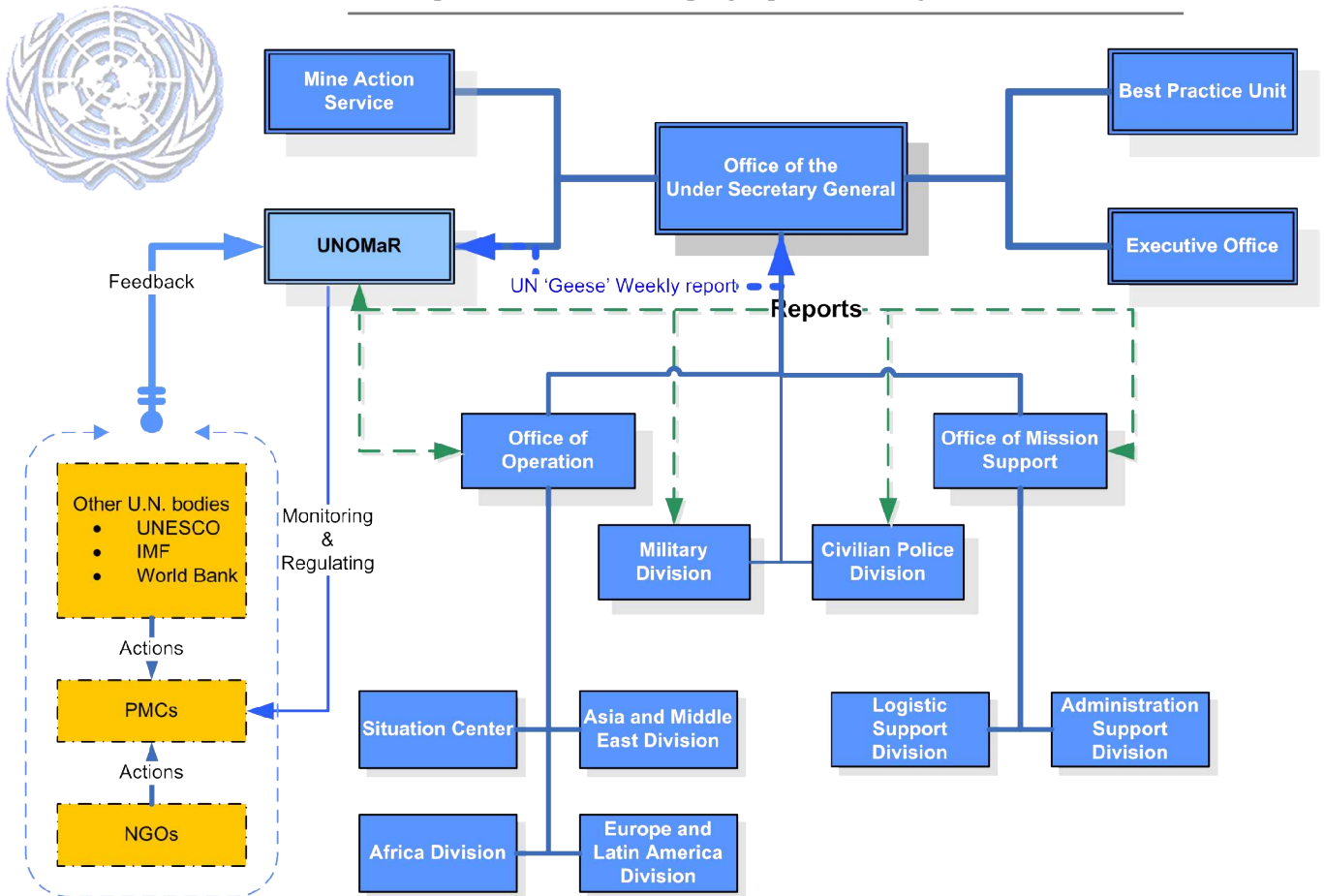


Illustration 5

b) The Office

The office should be attached to DPKO and act as interface with other bodies of the UN, NGOs and PMCs. When a breach of international security is discerned, the UNOMaR immediately consults the executive body. The UNOMaR can assist the process of preventive diplomacy by the content of its information. To improve the work of the UNOMaR, a system is necessary to share information with various concerned services. This is the “ALERT System” which allows supporting reactivity on the ground by announcing risks to:

- Office of Operations
- Office of Mission Support
- Military Division
- Civilian Police Division

To increase its effectiveness the UNOMaR will be a lightly staffed and mobile structure with its headquarters located in New York City UN headquarters. Its mobility, as well as the access to the instruments of the office would be assured by using secure laptop computers. Security is assured by a hardware keys for the access to data protected by cryptography software.

As we shall see later in the agenda, a temporary office could be established in Iraq because today it has the largest concentration of PMCs in the world. Contractors there maintain the second largest group of armed forces, larger even than the British army with some 15.000-20.000 personnel operating on the field. They are operating under no international rules, and since the transition of power in June 2004 the Iraqi transitory government is unable to control this issue which is not a priority in their huge and complex agenda.

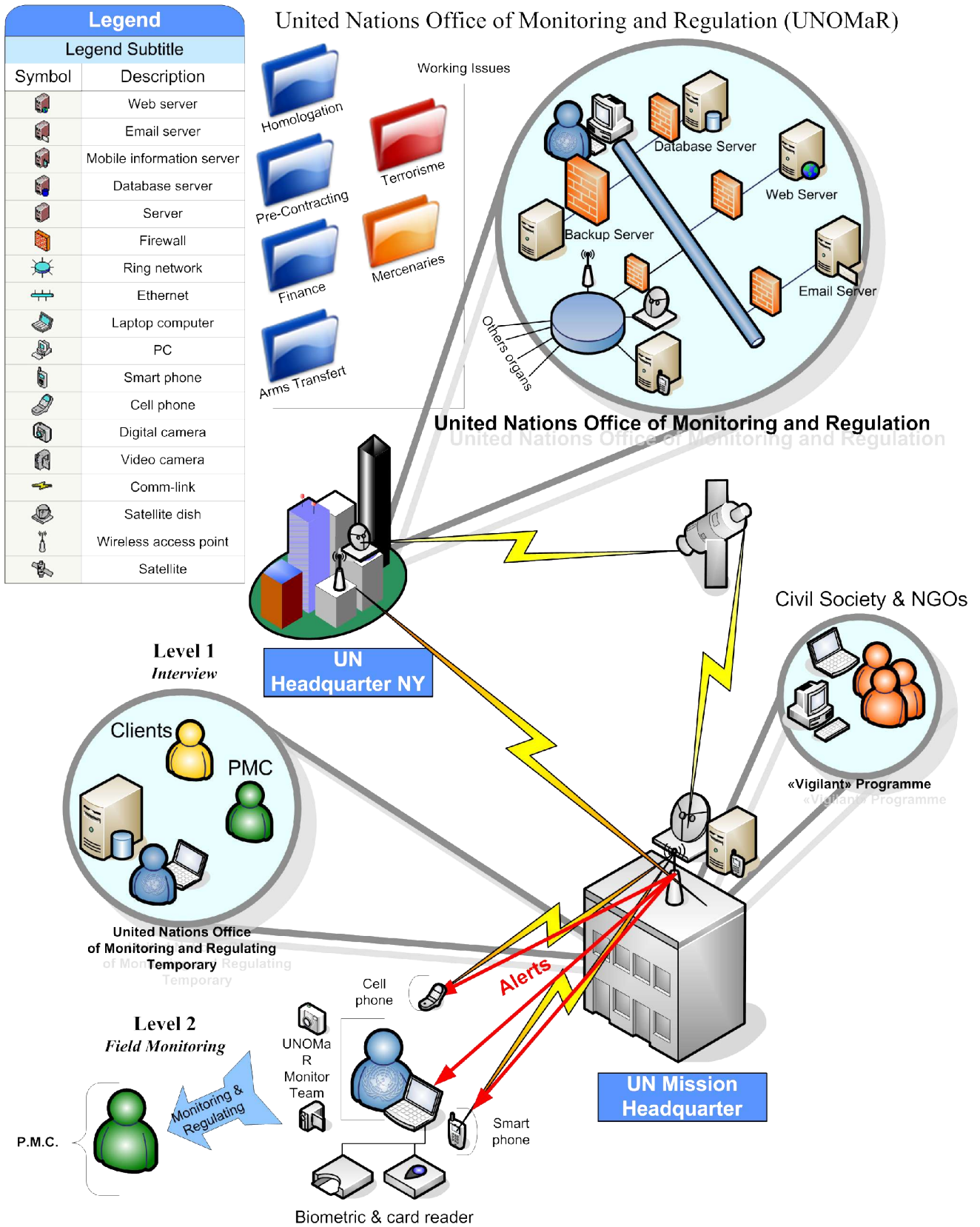


Illustration 6

Level 1 – Interview

The UN monitor would conduct interviews with the PMC’s manager or employee’s about their activities on the field

The UNOMaR will undertake interviews with the client of the PMC about the liability and the content of the contract. If there is a breach in the contract the UNOMaR will investigate this issue. The result of this investigation will be submitted to the client, the PMC and if necessary to the Security Council or the International Court of Justice for action to be taken.

Level 2 – Field Monitoring

The UNOMaR will have the ability to conduct monitoring in the field. Its recommendations will be submitted to the PMC for information and to the Security Council for consideration. Those reports will be classified and will only be distributed to individuals or organisms, who meet the adequate clearance. In no case would these reports be released to the public in order to protect life, data and avoid rumours.

For the establishment of this office it is primordial to take into account the security of data. In order to keep the PMCs confident in their collaboration with the UNOMaR and to protect sources participating in this work.

c) Structural Organization

➤ **Hardware**

For computers used in the field or at the office, we have to consider securing them with hardware keys, personal card or biometric identification.

For example the UN ID card could include a microchip which when inserted into a card reader permits access to the computer through a personal password. The card could be delivered with a fake password to prevent any unauthorised access attempt.

➤ **Software**

In the interests of economy and maximum security of the office, the emphasis will be on the use of Open Sources systems guaranteeing the adequacy of the required personal security needed.

○ **Operating System:**



FreeBSD

<http://www.freebsd.org/>

An Open Source project based on security similar to Linux but with an improved concept about security

QNX

<http://www.qnx.com/>

An Operating System used by IT sector like Helicopter Navigation System, Nuclear Weapon Watchdog, and many other sensitive products¹⁵³.

○ **Desktop applications:**



KDE

<http://www.kde.org/>

It is a graphic system, like Windows™, but it’s more stable and less resources consuming. The personalization possibilities are nearly infinite and it offers a great security. The low cost of this solution is perfectly adapted for the launch of a new entity

KDE Office

<http://www.koffice.org/>

The advantages of those open sources software packages are the price, of course, and the fact that they are less sensitive to the threats on Internet¹⁵⁴.

And because there is no proprietary license a skilled technician may develop and adapt a secure and functional system. But the most important of all, is the compatibility of those entire products with the Windows™ System and software.

¹⁵³ A list of many customers who use QNX is available at http://www.qnx.com/company/customer_stories/

¹⁵⁴ Script Kiddies, or any unskilled vandals who pollute the net.

o Database



MySQL system

<http://www.mysql.com/>



kannel SMS Gateway

<http://www.kannel.org/>

For implementing this solution the UNOMaR will need a full time IT technician who would be in charge of:

- the Intranet
- the Internet
- the security of the system
- the development and implementation of the system
- the development and improvement of the Database
- Cryptography

The use of open sources solution versus proprietary ones (Windows™) presents numerous advantages, such as the possibility to edit data and share it with any existing platforms (PC, Mac OS, UNIX,...). Furthermore the open source is a perfect way to initiate cheap projects in developing countries without the management of expensive licenses.

One of these projects would be to cover the globe with a warning programme called “VIGILANT”

The PMCs are operating around the globe without limits, and covering all their activities would required a huge amount of resources; financial and human. An effective solution is to provide the civil society with reporting tools.

The “VIGILANT” programme is an Operating System with an intuitive graphical desktop in native languages (more than 90), fully adaptable with different tools: to edit and manipulate data, to access resources on Internet and to communicate with the UNOMaR HQ. All this can be recorded on a CD-ROM. This CD-ROM may be inserted on every platform and boot on the “Vigilant” system allowing the owner of the CD to report directly to the UNOMaR about the PMCs activities in his region. The reporter will need to access to a computer. If this computer is connected to the Internet, the reporter will be able to directly send his report. If not, there is an option to save the report on the USB key, which is a part of the package.

The goals of such operation are to improve the visibility of the PMCs activities, and at the same time to involve the civil society in the United Nations Missions.

d) The *United Nations Office of Monitoring & Regulation* monitoring teams

To be able to monitor and regulate the activities of the PMCs it is necessary for UNOMaR to assemble a team of trained international monitors in the Theatre of Operation (ToE). In order to be efficient from the beginning of this operation I recommend a joint team comprised from different UN organs and NGOs. Each monitor of the team will be specialized in one topic.

This Task Force could be formed on this basis¹⁵⁵:

ICRC.....1 monitor, check the compliance with IHL & IL.

UNHCHR.....1 monitor, check the compliance with Human rights.

UNROCA.....1 monitor, check the compliance with arms dealing.

IOL.....1 monitor, check the compliance with labour standards.

IMF / World Bank.....1 monitor, check the compliance with financial standards.

UNOMaR.....2 monitor, check the compliance with the Rules of Engagement (RoE), the ethics standards and the accountability of the PMC.

The information and report will be merged under “the Star System” to be delivered to the different agencies.

¹⁵⁵ You will find more information of this work in the complementary document “Stars System”

2. Actions

To protect national interests and national sovereignty of countries member of the United Nations, the UNOMaR would not have executive functions. The Office will limit itself to research, and to the gathering and passage of information. An advisory function to the Security Council will also allow it to provide the executive authorities with necessary information for the adoption of a resolution. Under no circumstances would the UNOMaR be able to intercede for a PMC. This action would remain in the hands of the Security Council and/or the General Assembly.

The office will as only undertake the publication of opinions and advice such as:

- Reports Publication
- ALERT System
- UN “Geese” Weekly Report

3. A new partnership for the United Nations

The United Nation is facing a crisis with the occidental troops contributing countries, which are more and more reluctant to place their military and materials under a UN command. They prefer to lead their own coalition forces under a UN resolution (Haiti, DRC with the French mission in Ituri, Afghanistan...). They claim there is a risk to their servicemen in UN operations because of unclear or limited Rules of Engagement (RoE) or resolution. The “Body Bag” syndrome¹⁵⁶ has a direct repercussion on their national policy, and consequently on international security.

By augmenting the reliability of interventions and by reducing risks of human loss or enlistment on UN missions, we shall avoid the “Body Bag” syndrome and also encourage the re-involvement of powerful western nations that possess the necessary technology, political and financial support that these operations require.

A risk in the proposal is the temptation to replace all missions of peacekeeping partly or completely by PMCs, thereby, losing the interest of the international community on operations which precisely require their participation to find a diplomatic and peaceful resolution. Peacekeeping operations undertaken by international forces also link the interest of national communities with the destiny of their fellow beings. For example, when the government of Bangladesh sends peacekeeping forces to support peace in Africa, it involves not just the armed forces but also the people of Bangladesh who will follow with interest the operations of their nationals. Sending a private company, as suggested the Toffler’s¹⁵⁷ proposal to implement “Private Peace Companies” paid by the International Community to maintain peace in regions of recurrent conflicts, will detach the international community from the conflicts, and result in more devastating and forgotten conflict, devastating without solutions.

Such a proposal also poses the question about who will control those companies. The danger is to let extraction firms handle those “Private Peace Companies”, leading to the development of an international private security policy, where regions with economic potential will be protected, and the rest will be abandoned.

Such options would certainly eliminate the development of international cohesion. The risk of not involving the international community is to lose a means of pressure on governments to accept their responsibilities. At the same time, it relegates the important notion of nation states and international solidarity without introducing any effective alternative.

On the other hand, to use PMCs in a well structured process, monitored and regulated by the UN as the only international institution that has the means, the will and the authority to do so, should improve the resolution of conflicts, while maintaining the involvement and pressure of the international community. It may result in an even a greater involvement from the civil society with the use of private elements.

Definitely, it is not possible to alter the principle of neutrality which must still remain the pillar of any peace support action. PMCs have no expertise to conduct complex peace support operations. To be able

¹⁵⁶ Everts, Philip. "When the Going Gets Rough: Does the Public Support the Use of Military Force?" *World Affairs* (2000).

¹⁵⁷ Toffler, Alvin, and Heidi Toffler. *War and Anti-War: Survival at the Dawn of the Twenty-First Century*. New York: Little, Brown, 1993.

to control their spread, it is therefore necessary to develop a new notion of more efficient intervention guaranteeing a quick answer to stop the breaches in international security.

Keeping in mind such problematic, I propose the “*Diamond Concept*”.

Diamond (Hockey game)

A defensive alignment (similar to the box) often used by a team defending against a power play.

This concept should permit an intervention in less than 3 weeks, and in certain situations, the possibility of being able to deploy a force from the adoption of the mandate resolution as part of a pre-contract. The goal of this concept is to propose a rapidly deployment of an interceding armed force under a UN mandate to stabilize the crisis and provide time for the UN to form and deploy as soon as possible a traditional peacekeeping force.

The *Diamond Concept* could be initiated when the Security Council approves the dispatch of armed forces under mandate and votes for a resolution under the Chapter VII of the Charter of United Nations. This initial peace enforcement force can then provided under contract through the private security sector while remaining under strict control of the UN (illustration 5) guaranteeing the concept of neutrality. This concept also ensures the involvement of international force¹⁵⁸. The occidental countries will have the opportunity to send troops in a secured zone to maintain the peace and rebuild the structures; the “body bag” syndrome should be avoided.

Diamond Concept

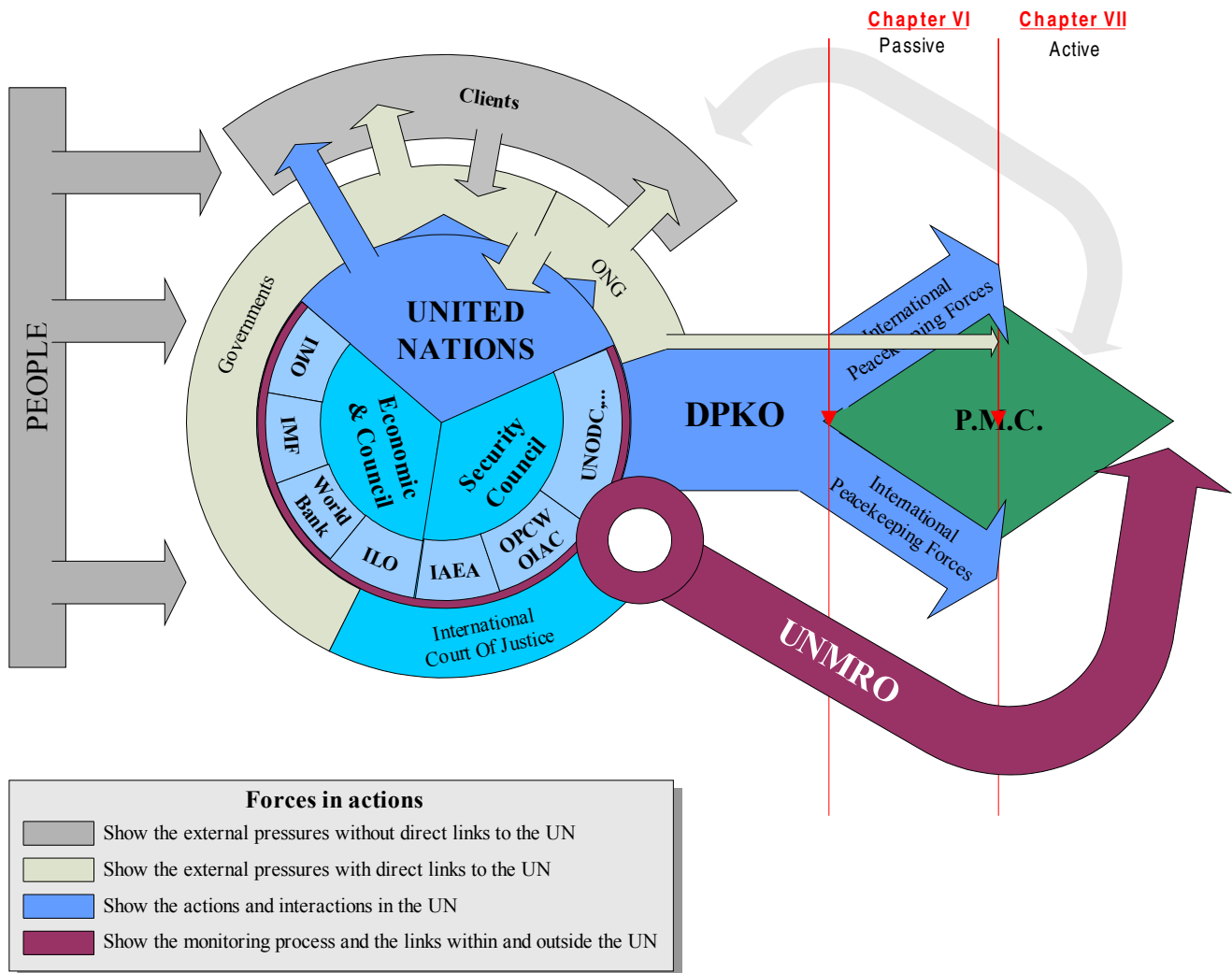


Illustration 7

¹⁵⁸ Interview with Mr Boutros Boutros Ghali - May 2003

Security Council:

International Atomic Energy Agency (IAEA):

<http://www.iaea.org/>

Organisation for the Prohibition of Chemical Weapons (OPCW/OIAC):

<http://www.opcw.org/>

For example, when Abdul Qadeer Khan¹⁵⁹ the father of the Pakistani atomic bomb creates up a "club" for distribution of information and equipments on nuclear energy with Iran, Libya and North Korea it is obvious that some contacts¹⁶⁰ of this network are in touch with the sector of private security.

By increasing the area of surveillance, through an office devoted to monitoring mercenary's activities and PMCs, it will also increase the effectiveness of AIEA and OIAC.

Economic & Social Council

The International Labour Organization (ILO):

<http://www.ilo.org/>

Is in charge to verify the standard with the Human Resources items. To make sure that PMC is a commercial entity as the others, it is absolutely necessary to impose standard labour laws that define the employees of those firms as well as the sector.

World Bank Group:

<http://www.worldbank.org/>

International Monetary Fund (IMF):

<http://www.imf.org/>

Those institutions are the "spear head" in the struggle against the money laundering and will also examine contracts agreed between PMCs, mining firms, clients and governments. It's also possible to consider that a government calling PMC monitored by UNOMaR to assure or reinforce its security can benefit from easiness of payment under certain terms.

E.g.: In the Sierra Leone case it is conceivable to imagine a contract signed by the SL government with a PMC could be monitored by UNOMaR (illustrations 11-12-13). The IMF or World Bank would intervene to provide a credit or to simplify financial arrangements for the management of a mining concession.

In this example, the IMF and World Bank would be capable of making an attractive proposal for the effective management of this mine. The income generated would then be distributed partly for the repayment of the debt and partially to support local development programs. It would be possible to restrict the negative impact of the financial arrangements and especially to be able to redistribute a part of the profits back to the population.

The International Maritime Organisation (IMO):

<http://www.imo.org/>

The sharing of information with this office would be useful for the new emerging market based on the fishing protection, maritime protection and anti piracy intervention

United Nations Office on Drugs and Crime (UNODC):

INTERPOL

<http://www.interpol.int/>

<http://www.unodc.org/unodc/>

The International Money Laundering Information Network (IMoLIN)

<http://www.imolin.org/imolin/>

Mercenary's activities and certain PMCs are linked to the organized crime and to terrorism¹⁶¹ it is therefore imperative to work in close with services in charge of those studies.

Countries in conflict such as Sierra Leone are particularly susceptible to activity by unscrupulous PMCs. The gap in regulations and oversight of their activities would allow setting up logistical and operational networks for terrorist and arms broker. As shows it, the registrations of *Star Air*, *Air Universal*, *Heavy-Lift Cargo* and *Air Leone*¹⁶² (ex *Ibis Air*) by the British Paddy McKay who maintain links with Al Qaeda's cells established in Sierra Leone.

"They are involved in al-Qaeda business or al-Qaeda issues and are flying our flag - what if they are used in terrorist activities?"

*Fodie Daboh, chief superintendent of the crime investigations department of the national police.*¹⁶³

UN Register of Conventional Arms (UNROCA):

<http://disarmament2.un.org/cab/register.html>

Any modification in this sector allows editing an alert, the workability of every office could be quite ameliorated.

The proposed **United Nations Office of Monitoring and Regulation (UNOMaR)** would establish close links with the various departments and agencies of the United Nations involved in peace support and conflict prevention. These links would be reinforced by the involvement of liaison officers from the various agencies who would have access to the resources of UNOMaR (database, Alert system, etc). To increase the passage of information the liaison officer will receive and issue alerts, ensuring better

¹⁵⁹ Astill, James. "Nuclear Inquiry Targets Father of Pakistani Bomb." *The Guardian*, January 27, 2004.

Sipress, Alan, and Ellen Nakashima. "Malaysia Arrests Nuclear Network Suspect." *The Washington Post*, May 29, 2004, A21.

Reynolds, Paul. "On the Trail of the Black Market Bombs." In *BBC News*: BBC, 2004.

¹⁶⁰ Linzer, Dafna, and Craig Timberg. "S. African's Arrest Seen as Key to Nuclear Black Market." *The Washington Post*, September 4, 2004, 26.

¹⁶¹ AFP. "S.Leone Pursuing False Airlines Amid Terror Fears." *Sunday Times*, August 27, 2004.

Gelfand, Lauren. "Mercenary Saga Moves to Sierra Leone." *Sunday Times*, August 26, 2004.

¹⁶² *Ibis Air Transport* AeroTransport Data Bank, August 29, 2004 [cited August 29, 2004]. Available from <http://www.aertransport.org/index.html?Airlines/a102453>.

¹⁶³ Idem

coordination between the different services. For example, when an agency such as the United Nations Office on Drugs and Crime (UNODC) receives information concerning the activities of an individual appearing in the UNOMaR database, this information is then converted into an Alert which is automatically advised to all the different services. If the individual is under contract with a PMC, UNOMaR would raise this as a concern with the PMC.

In addition to this task of monitoring and regulation of private companies, the UNOMaR could also be a tremendous assistance by delivering information to the different services having links with the illegal activities of certain PMCs or mercenaries (Arms dealing, money laundering, slavery, etc). Such reports should be helpful for the UN Security Council to take all the necessary measures under the Treaty of Roma and transfer the case to the International Court of Justice (ICJ).

4. Procedures

a) Database

As we saw before, PMCs and mercenaries are two close phenomena because they share the same sector. It's important to establish a hermetic borderline between these two activities. To achieve this it is necessary to develop specific instruments allowing analysis of these activities. A database (Annex D) seems to be the best tool to provide both the historic and a real-time data these will support these two objectives.

The PMCs

A database on PMCs will be established that is quickly adjustable to reflect the changes that occur in to these structures. The rapidity that these are born, "die" or are transformed, requires a continual survey of the industry. But more than the firms themselves, it is also important to trace the involvement of individuals in this complex sector.

The individuals

This database will be coded and reassured. This database would be only available for consultation by the individuals and organisms through having the appropriate approvals. These measurements of protection are critical to protect individual civil rights and to establish the trust of the PMCs in the regulation and monitoring service.

Data can be used only as part of the protection of international security. Under no circumstances can this data be used for a commercial transaction. Every PMC or individual can consult the data relating to their firm by a simple written request and by providing documents essentials in their identification. This data is put in distribution with governments according to certain terms of confidentiality. The database is available for consultation by computer and by NTIC (smartphone,...) so that monitors in the field have an immediate access to the essentials data to do their job. This reactivity, coupled with mobility, should allow efficient monitoring and a quick transfer of information.

b) ALERT system

The alert system allows monitors in the field to turn their particular attention to certain activities linked to PMCs. By being reactive in the local area, monitors can be more efficient and harvest information faster. Speed and efficiency are both necessary pillars for the monitoring of the private sector, because of its constant change. The liaison officers will receive those alerts, allowing them to augment the reaction speed and the information transfer.

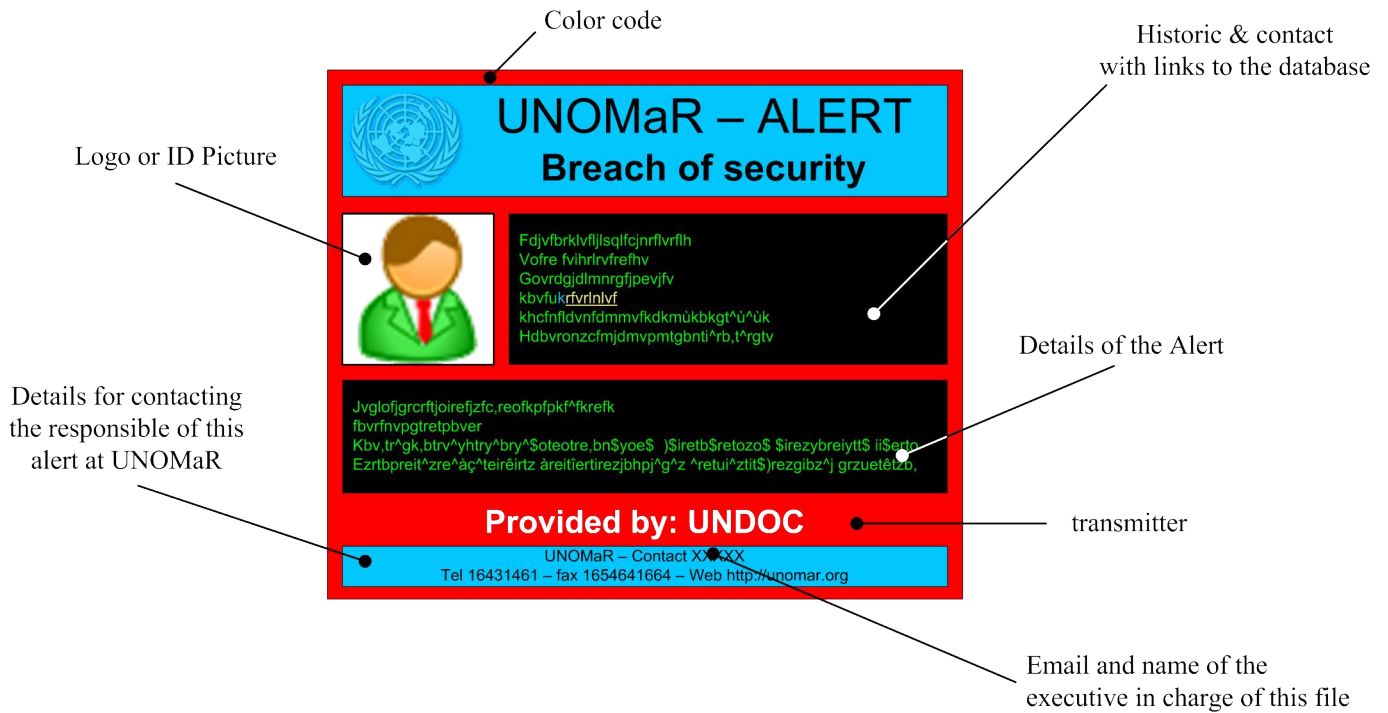


Illustration 8

Those alerts are classified according to four types:

Contract: This alert would be send each time a new contract is signed
Color code: **Green**

Involvement in combat: each time a combat action is proved
Color code: **Black**

Breach of security: Risk for the national or international security (e.g contract with terrorist)
Color code: **Red**

Death: This Alert is sent to announce a death or the cessation of activity of a PMC
Color code: **Yellow**

E.g.: In the case of something like the MTS affair an alert can be issued concerning links maintained by Simon Mann and Nick du Toit. This alert ensures a quick check on the validity of the associated firms: Meteoric Tactical Solutions and Logo Logistics. The case of Logo Logistics is interesting due to the fact that the internet site (<http://www.logo4log.com>) was still active after the arrest and was not closed until some days later. The backup version¹⁶⁴ does not allow recovering information concerning the firm. It is however possible to find information concerning this firm by the webmaster of the site¹⁶⁵

¹⁶⁴ <http://www.google.com/search?q=cache:THiOg3KIY5wJ:www.logo4log.com/+Logo+Logistics&hl=en&lr=&ie=UTF-8&strip=0>

¹⁶⁵ Marisa Tommasini <http://www.marisatommasini.net/websites4.html>

UNOMaR ALERT System

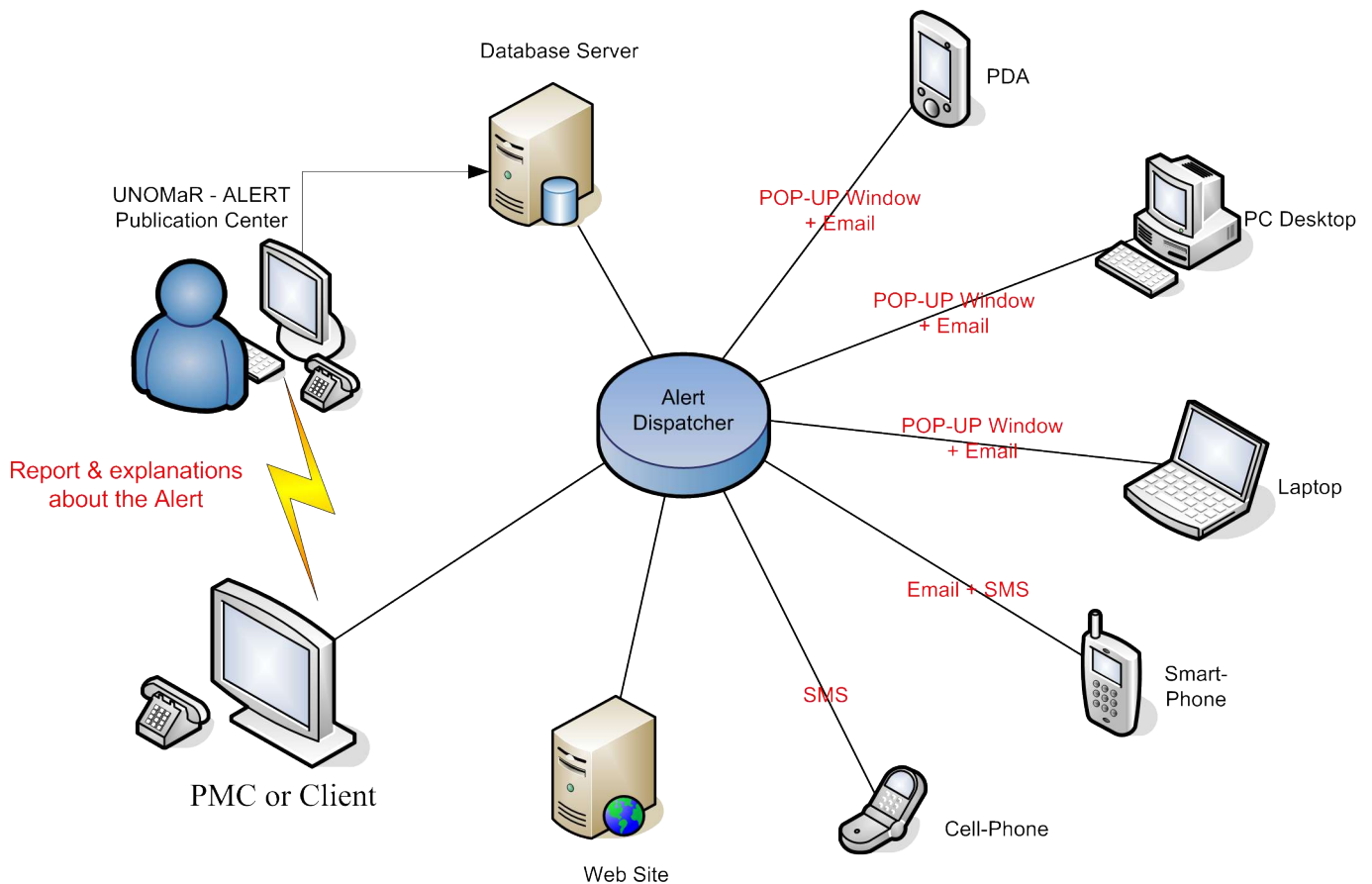


Illustration 9

The feedback from the different services will allow the UNOMaR to check and confirm the alerts and subsequently to arrange them in order of priority and value. In the case of a breach in the international security sector code by a PMC, the representative can be instantly called by the UNOMaR to acquire corroboration of the alert.

c) “Stars System”

Most PMCs are not opposed to regulation and after a study of the different points that PMCs consider not negotiable in the development of a regulation of their sector, the concept “Stars System” appeared to me as the most reliable.

If we consider requests made by PMC concerning the regulation of their activities, it is important for them to create a system that permits both confidentiality and transparency, so that the public, governments and the international institutions can be well informed and do not have to resort to rumours.

For example, if MTS had been able to deposit a pre-contract or a contract concerning its protection activity of a mining establishment in the East Congo, the UNOMaR would have been able to intervene during the trial.

By viewing documents relating to a contract and under conditions of secrecy linked to the content of this contract PMCs should be able to protect themselves against unjustifiable accusations and international justice can act more quickly.

The “Stars System” is meant to be an adjustable concept guaranteeing the security of information entrusted by PMCs as well as various collaborators who undertake monitoring.

This system was particularly developed to achieve two objectives:

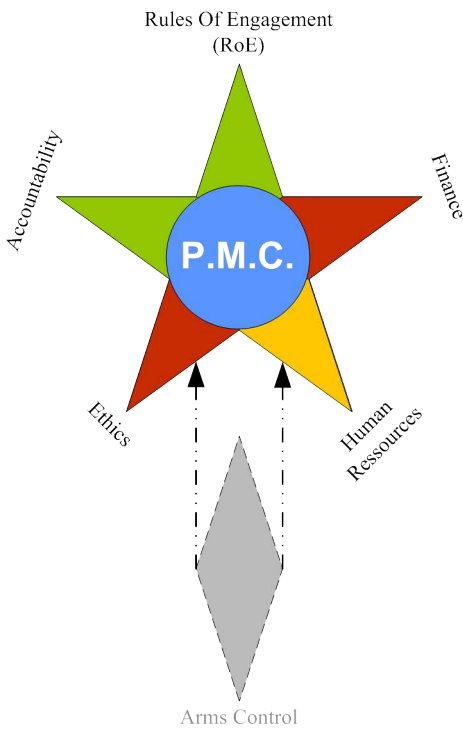
- To allow the PMCs to develop a transparent picture of their activities without compromising the relationship of trust with the customer and the confidentiality of their contracts.
- To allow the international community to regulate or to intervene during a breach in international security

The Stars System involves three levels of access. Each level provides more and more confidential information at the disposal of a panel of individuals subjected to a more and more strict clarification.

This concept is adjustable because it is possible to take on new activities without destroying the structure and coherence of the concept. By a graphical method it is then possible to check the likely PMCs that will bid for a new contract, provide a snapshot of the activity to the executive body and for the PMCs to be able review themselves the market competition in the private security industry. Throughout the year, the UNOMaR conducts audits on the PMCs and confirms the validity of classified items that establish the picture of the PMCs.

i) Level I

General Sample of designation
Level I



This level is available for public consultation and gives only succinct information on the value of PMC.

It can therefore be made available on the Web site¹⁶⁶ in a public zone without any danger.

This level allows identification of the capabilities of a PMC and allows it to be able to compared with others operating on the same sector.

Security Clearance: All – Level I

Classification: All

This level I is available: By request to the UNOMaR on the Web site without registration

The colour code is the same for the three levels to define the quality of PMC without disclosing confidential information. The attribution of a colour is defined by the number of items inspected in the audit led by the UNOMaR

Security is optimum since it is impossible to acquire information which does not exist.

The processing of “Stars System” is made in the office of the UNOMaR on a closed server.

	The PMC is conform with the standards
	The PMC reach only 75% of the standards
	The PMC reach less than 75% of the standards

Illustration 10

ii) Level II

This level is available for individual reaching the first clearance level and gives detailed information on the value of PMC.

¹⁶⁶ Go to Annexe – E for a presentation of the Web site

General Sample of designation
Level II

Security Clearance:
Registration needed –
Level II

Classification:

Journalists
Scholars
NGOs

This level II is available: On the Web site with a secure registration.

If required after a check on identity.

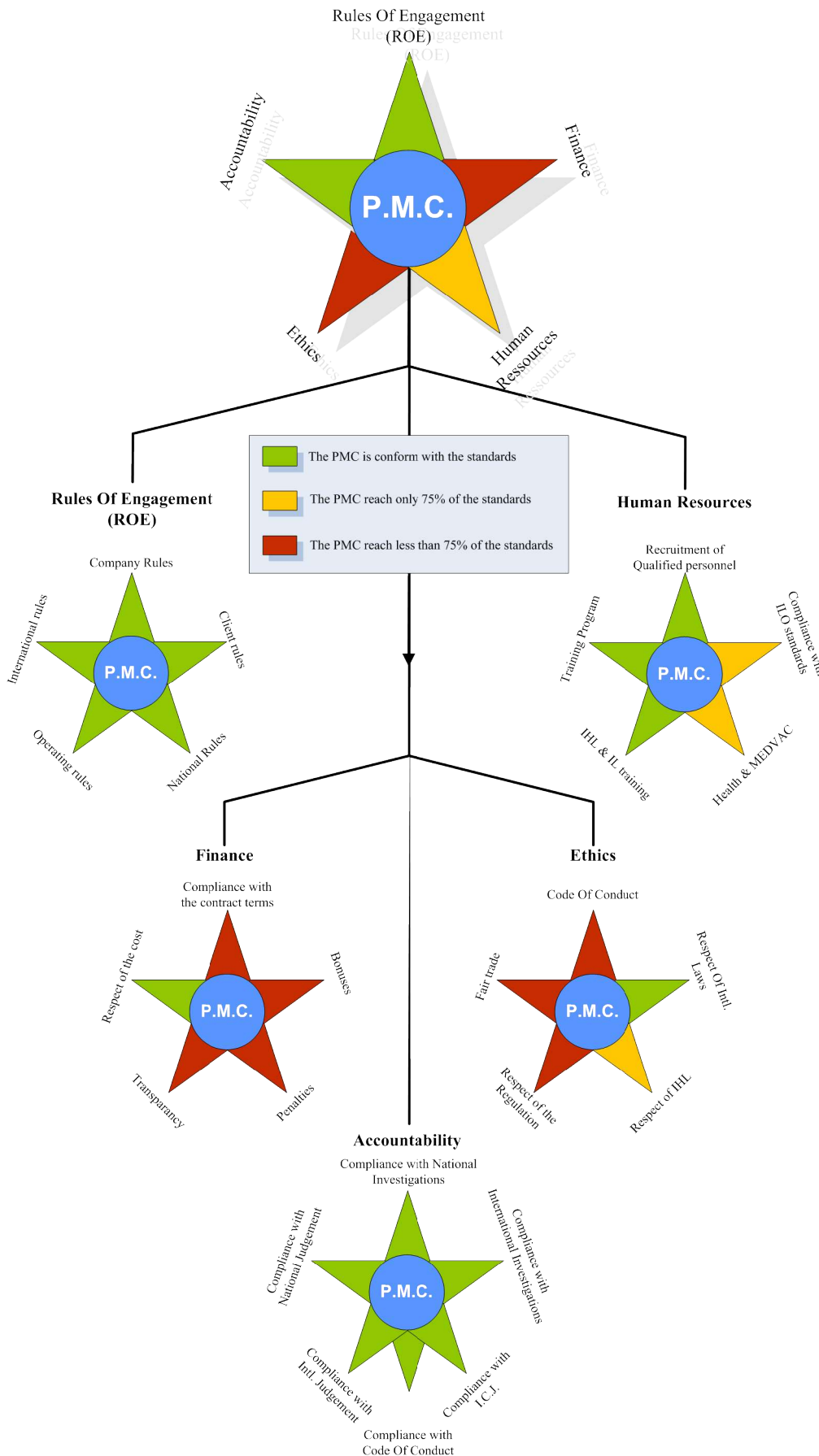


Illustration 11

iii) Level III

General Sample of designation
Level III

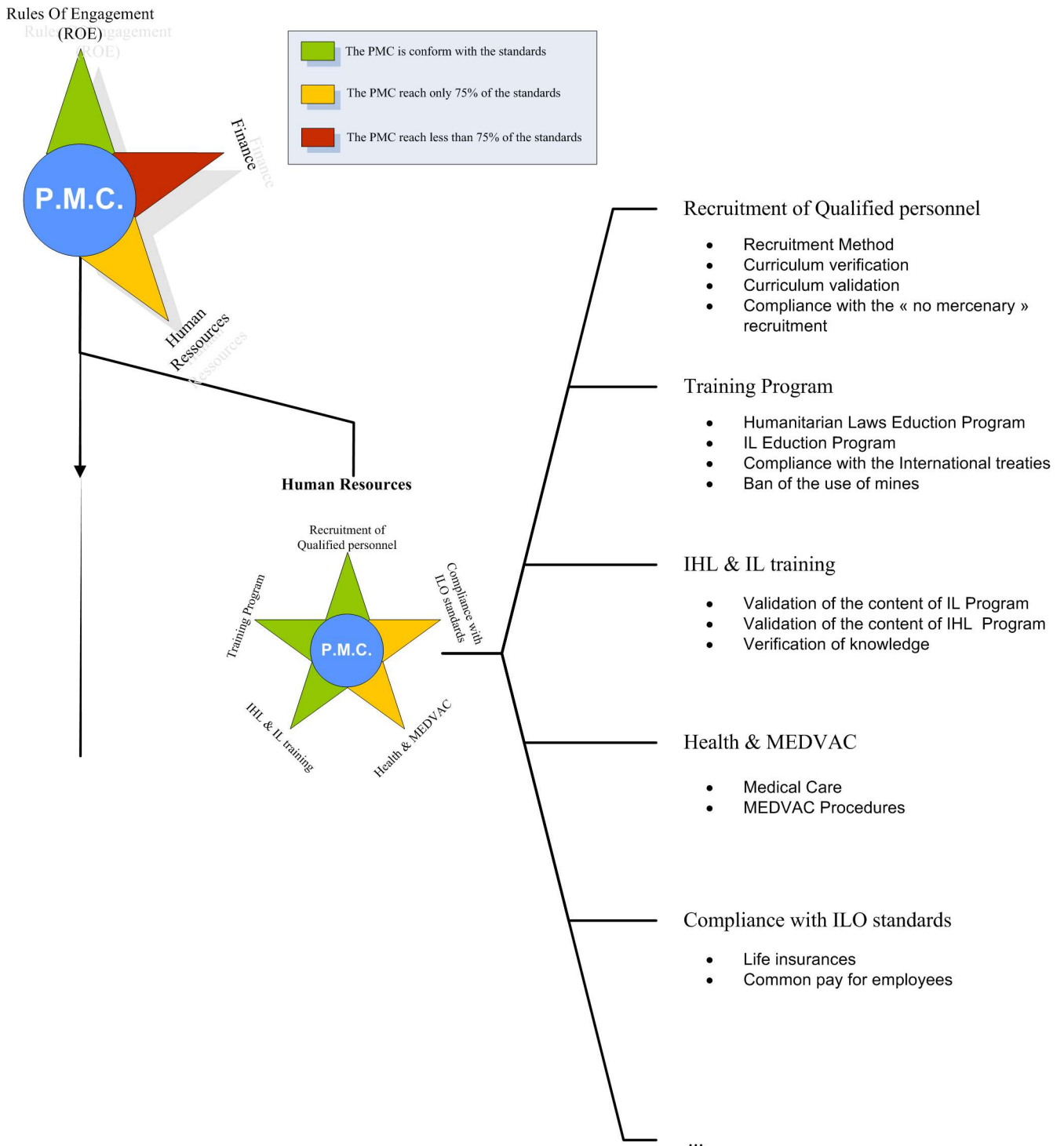


Illustration 12

Level III expands the flowchart of Level II to provide detailed information on the activities of the PMC as well as observations undertaken by the office.

The UNOMaR monitors fill in the different items during their inspection and the database process the data to provide an image of the PMC.

Security Clearance:.....Under draconian control – Level III & IV

Classification:Governments PMCs Governmental Organization

d) Report

The detailed report on PMCs is reissued every year. It describes the current situation on the activities of PMCs and the countries implicated in their utilization. Using the Level III "Star System" as its foundation it provides detailed information on activities including the names and actions of implicated individuals.

The confidential information of this report being classified, the report will be able to be distributed only to a limited number of individuals satisfying the required classification of level IV. The advantages for governments would be to avoid compromising themselves with companies involved in undercover or criminal activities. For the PMCs it provides the insurance to reassure its contracts of its international endorsement based on an international regulation service.

5. Budget

A new office also requires a new budget, and from the beginning it is necessary to consider this carefully. Expenses must be allocated to the core tasks of this project and not in licenses or additional posts. This is one of the reasons for which the Open Source system is the recommended instrument.

It's quite difficult to determine the budget of this office but we can base it on the figures put forward by FCO¹⁶⁷ for its establishment. [£700,000.00 or \$1,290,000.00]

It is necessary to take into account

- ✓ P1- NTIC Budget. As we saw it before, the utilization of an Open Source system will reduce the price of licenses while providing a flexible, reliable system that is quite adequate for the technical requirements of the office. The only important acquisitions will be the computers and allocation of mobile equipment. The amortization of this budget should be quick
- ✓ P2- Deployment Budget. This budget concern the overseas activities of the office members as well as liaison officers' activity. This budget is close linked to P3
- ✓ P3- Budget relating to the personnel (human resources). This budget concern the recruitment of the UNOMaR staff

In its first year of existence the office should be able to work with two people, the executive in charge of this project and an assistant with access to computer resources. Later, considering an increasing development supported by a policy of action on the PMCs issue, the office will be able to be divided by geographical region to cover the PMCs and mercenaries activities.

The budget can be funded by a volunteer contribution on behalf of Member States, more particularly signatories of resolution on mercenaries' activities. Another part of the budget will be provided from the auto financing brought by services provided by the UNOMaR in the private sector. Given the different services that would be provided by the office to the PMCs, they would be asked to pay a yearly subscription. This subscription will allow them to check the list of their employees and validate that they are not being indicted under war crimes and are not accused of mercenary's activities. They will benefit from independent statistics relating to the private security sector and by the use of the various tools like the "Stars System" they will be able to define their competitive position and to use it in their advertising brochures.

C. The United Nations regulations (draft)

A new resolution regulating the activity of the PMCs must be drafted and implemented. This resolution could become a supplement to the resolution of the commission of human rights on "the use of mercenaries as means to violate human rights and to prevent the right of people to self determination" or it could be an independent one. This resolution will have to take into account the following points:

¹⁶⁷ "HC 577 Private Military Companies: Options for Regulation 2001-02." edited by Foreign and Commonwealth Office, 48, 2001-2002.

1. A full compliance with all UN weapons treaties (mines, chemical, biological, nuclear, Laser's weapons...)

The PMC should agree to not include in their training program the use of landmines. During any program on how to clear a mining field, a UN Officer should be present.

They must agree not to provide to their client any type of weapons forbidden by UN law or International Laws and to comply with all resolutions issued by the UN.

When EO uses phosphorus bombs in Angola & Sierra Leone, could we consider that they fully comply with the restriction of the law of war?

In compiling this resolution we will have to consider all the work ever done by UN organs, such as UNROCA¹⁶⁸ (UN Register of Conventional Arms)¹⁶⁹ and the *Small Arms Project* (<http://www.smallarmssurvey.org/>)

For example; the "Sandline affair" and the arms transfer to the Kabbah government in exile didn't fully comply with British law based on the UN embargo. Or as we are discovering, during the embargo on Iraq and the "Oil for Food" program, some French individuals continued to sell weaponry.

2. A full compliance with the International Court's rules.

Mercenaries and PMCs are an international issue which is why we should consider pursuing any contravention under the International Justice Court (IJC). The international community cannot tolerate anymore the lack of action. We can't accept anymore the activities of mentally ill individuals, who endanger the hard work of peacekeeping/building.

"That's what I love about Afghanistan, if you tell someone you are going to kill them, they believe you,"

Jonathan "Jack" Idema¹⁷⁰

3. A full compliance with the Sea law

With the development of the new market based on the protection of the sea activities (i.e. Maritime security, fishing protection, anti Piracy, anti terrorism...) it is necessary to develop close links with the International Maritime Organisation (IMO), to ensure protection of the commercial activities of the population living by the sea. For example, unverified reports mention gun fire from Sandline helicopter against fishermen in PNG. Such actions cannot be allowed.

4. A full compliance with the interdiction to recruit mercenaries

The compliance with an interdiction to recruit mercenaries is the most fundamental task of this work of monitoring and regulation. The international community cannot accept or tolerate the fact that PMCs could be a proxy or a shield for mercenary's activity as defined in the Geneva Convention or by the UN Commission.

Every person known to be involved as a mercenary or to have been accused of war crimes or crimes against humanity will eventually be identified which will see them forbidden from working in private security. Any PMCs who want to check their list of names should be able to do it with the UNOMaR database.

D. Agenda

To set up this office so that it can be operational from its establishment; I suggest implementation of the following agenda.

¹⁶⁸ Wezeman, Siemon T. "The Future of the United Nations Register of Conventional Arms." edited by SIPRI Policy Paper: Stockholm International Peace Research Institute, 2003.

¹⁶⁹ With the resolutions A/RES/50/70B - A/52/298/1997 - A/54/258/1999

¹⁷⁰ Ehrlich, Richard S. "U.S. Mercenary Made His Mark with Viciousness." *The Washington Times* (2004).

1. Phase I

The recent events in Iraq represent the biggest gathering of PMCs. The creation of a temporary pilot office in Baghdad during the first year of transition will allow us to collect data for the establishment of a database on the PMCs and individuals (managers or employees) working in them.

For evident reasons of security and functioning this temporary office should be directly put under the supervision of the United Nations Assistance Mission for Iraq (UNAMI).

The second objective of this office will be the installation of represented processes in adequacy with the activities of PMCs to be able to install a consistent and dependable technique of regulation and alert. To achieve this, a program of cooperation with PMCs will be set up. The personnel dispatched in Iraq will have as mission to conduct consultations and discussions with the PMCs and to validate the future processes with them.

“Ultimately all key players have to be comfortable with the concept before it is going to happen.”

Doug Brook (CEO IPOA)¹⁷¹

This experience on the ground will allow the UNOMaR to undertake a “crash test” as well as a “fine tuning” on the instruments developed for the creation of the office and of its objectives of regulation.

We may expect to reach a third objective, which is to help the new Iraqi government to handle the PMC issue. With more than 400 PMCs representing more or less 15.000-20.000 personnel on the ground, the new Iraqi government will have to closely consider this unique phenomenon.

Following the creation of this pilot office, it will be possible after 12 months operation to develop a realistic assessment of the budget necessary for functioning. At the end of the pilot, we shall be therefore capable of establishing three budgets options:

- Minimum required for functioning
- Ideal required for functioning and developing
 - ✓ Increment of capabilities of the office in logistical and human terms.
 - ✓ Statistics on the utilization of PMCs

For example, did the utilization of PMC in a conflict like Sierra Leone has an impact on children’s utilization as soldiers?

- Maximum required for functioning and annex development
 - Establishment of permanent HQ in countries being subjected to the recurrent problem of mercenaries (DRC, Sierra Leone) and wishing help to handle this phenomenon.
 - Increment and strengthening of links between different organisms, nomination and maintains of liaison officers.

This budget will consider three means for finance. Firstly, funds provided by the United Nations which should represent less than 50% of the budget, secondly by revenue from the registration of PMCs and individuals and thirdly by payment for report publications and commercial services.

Personnel involved in this pilot:

- The executive of the project who will lead the monitoring mission and check the adequacy of the different processes. (Operating on the ground)
- An assistant who will assist the executive, conduct the consultation and the report writing. (Operating on the ground)
- A computer scientist, in charge of the installation of computer process, of the development of computer facilities and database. (For reasons of security: Operating at the NYQG)

¹⁷¹ Private conversation about the PMCs' willingness for more transparency.

2. Phase II

Following this pilot, and with the information collected by it, it will then be possible to organize an international conference on the PMCs issue (cf. Wilton Park). This international conference will allow the development of an international protocol on the regulation and monitoring of PMCs and agree action to be taken about the current situation on mercenaries' activities

- ✓ Official launching of the Web Site and the different online tools (curriculum check, "stars" System,...)
- ✓ Edition of the UN "Geese" weekly report
- ✓ Development of the "Vigilant" programme

3. Phase III

The experience of the pilot scheme will allow us to fully review the effectiveness of its function, avoiding the inherent developmental problems that arise in the creation of such office

- ✓ Official establishment of the permanent office
- ✓ Launching of the "ALERT System "

4. Phase IV

Following the agreed International protocol on the question of regulation and monitoring of PMCs it will then be possible to introduce a fully active UNOMaR.

- ✓ Final establishment and development of the office.
- ✓ Reports publications

VI. CONCLUSION



Currently the “MTS” affair is far from finalisation. Sir Mark Thatcher is under investigation by the South African Government for his financial implication in the alleged “coup d’état” following his arrest in his Cape Town' villa by the South African financial special unit “the Scorpions”. Equatorial Guinea also wants to extradite him for trial under an EG judicial court¹⁷². This story goes far beyond a “simple” plot. Some reports imply the former director of the British MI6 was aware of his nephew’s implication in the plot against the EG president Mr. Obiang. In addition Simon Mann will spend the next seven years (reduced to 4) in the Chikurubi high Security jail, as will Nick Du Toit for 34 years in the Black beach prison.

The British Foreign Secretary Jack Straw has had to admit that the Blair Government received warning, from a South African spook, about the involvement of British citizens in a coup against the EG. Sir Mark Thatcher is currently on bail. The net is closing in on Ely Calil and Greg Wales, businessmen and friends of Simon Mann. South African's justice is looking forward to hearing from the former British cabinet minister Mr. Peter Mandelson, a close friend of Mr. Tony Blair. Washington also has to explain the level of its knowledge or implication in this affair. Madrid needs to explain the presence of two of its war vessels near the EG sea at the time of the suspected coup.

The International community continue to focus on the names, but forget to consider the South African firm « Meteoric Tactical Solution ». Simon Mann was operating as an employee of this company. MTS submitted an application to the National Conventional Arms Control Committee (NCACC) for operating in Iraq. Currently it provides training and security but without a formal approval from the NCACC.

To believe that sending those old mercenaries out of business will stop mercenaries and private military activities is to be more than optimistic. As we saw in this paper mercenaries or PMCs are as old as humanity.

Iraq should have proved the benefits associated with using private armed forces and contractors to conduct a war. Obviously the results of this new policy are not really convincing¹⁷³. Corruption¹⁷⁴, the lack of Rules Of Engagement (RoE), poor accountability, and permanent insecurity are currently the only results we can witness in Iraq.

History is very informative about the way to “stop” these actions. The only means is to control this issue as every previous attempt to ban mercenary or private military activities has failed. Independent information, statistics and international regulation are the pillars of any initiative to regulate this sector and the United Nations is the only structure that is capable to handle it.

Considering the path for privatizing partially or in full the UN peacekeeping mission is dangerous without a proper office dedicated to the monitoring and regulating of the PMCs issue. Of course the danger still exists that such an office must be well controlled.

Finally, what is the answer to the question about whether the UN should use PMCs? In a perfect world it would be no, but in the current world environment it would be yes, but with many precautions. In light of the national failures to address this issue, the creation of an international office of regulation may be the only solution to this growing problem.

We should remember that the British crown took more than a century to take over, control and dismantle the India Company. Refusing the debate on PMCs is not an option. More PMCs are working for the UN and it is just a question of time to see them more fully involved in peacekeeping operations. Before facing this issue, the United Nations will have to edict strict and fair rules or it will be condemned to follow those of the private sector. There is still time to take control of the situation, and to use this potential asset for the good of the international community. If not, we take the risk of seeing corporations implementing their own concept of peacekeeping which will result in the protection of commercial assets for their own profits.

¹⁷² Schroeder, Fatima. "Thatcher Takes a Swipe at the Scorpions Unit." *Cape Time*, October 20 2004, 3.

¹⁷³ Chandrasekaran, Rajiv. "Demise of Iraqi Units Symbolic of U.S. Errors Rebuilding Hindered by Past Mistakes." *The Washington Post*, September 25, 2004, 01.

¹⁷⁴ Miller, T. Christian. "Military Suspends Firm Accused of Overbilling in Iraq." *LA Times*, October 09, 2004.

There are so many article about those affairs so we just have to consider the Halliburton, KBR and Custer Battle to make an opinion

The end of the Cold War brings new challenges and new threats which were not addressed by the fathers of the UN. The report of the United Nations High-Level Panel on global threats, challenges and change, may provide some answers but it failed to consider the issue of the PMCs. Currently these PMCs present a danger to the international security, but if this issue is correctly handled, they have the potential to be an incredible asset for the good of the international community.

VII. ANNEXES



A. PMCs Matrix legend

Executive Outcomes (Defunct)

- Angola
- Sierra Leone

Sandline (Defunct - April, 16 2004)

- Sierra Leone
- Papua New Guinea

AirScan

- Peru
- Colombia

Aegis Defence Limited

- Iraq

Global Risk

GSG

- Sierra Leone

PA&E

Blackwater

- Iraq

CSC (ex DynCorp)

- Iraq
- Middle East
- Kosovo
- Bosnia / Croatia

DSL

- Colombia
- Iraq

Lifeguard

M.P.R.I.

- Croatia
- Bosnia
- Kosovo
- Colombia

Meteoric Tactical Solution (M.T.S.)

- Iraq
- Equatorial Guinea / Zimbabwe / DRC

Sukhoi

- Ethiopia

B. Definitions

The Special Rapporteur has formulated a proposal for a new legal definition of a mercenary, with the following major elements:

(a) *Empirical evidence shows that because international law does not deal thoroughly enough with mercenary activity, such activities have expanded. In cases in which mercenaries have been brought to trial for crimes such as aggravated homicide, the fact that they were mercenaries was never taken into account, even as an aggravating circumstance;*

(b) *Mercenary activities seriously violate one or more legal rights. The motivation for a mercenary's activities always threatens fundamental rights such as the right to life, physical integrity or freedom of individuals. Such activities also threaten peace, political stability, the legal order and the rational exploitation of natural resources;*

(c) *Mercenary activity must be considered a crime in and of itself and be internationally prosecutable, both because it violates human rights and because it affects the self-determination of peoples. In this crime, the mercenary who participates directly in the commission of the crime must be considered a perpetrator with direct criminal responsibility. It must also be borne in mind that mercenary activity is a complex crime in which criminal responsibility falls upon those who recruited, employed, trained and financed the mercenary or mercenaries, and upon those who planned and ordered his criminal activity;*

(d) *Where mercenary activity is proved to have occurred because of a decision by a third Power which uses mercenaries to intervene in another State, that activity must be considered a covert crime. Hiring mercenaries in order to avoid acting directly cannot be considered a mitigating factor, as international law tolerates neither direct nor indirect intervention. States which use mercenaries to attack another State or to commit unlawful acts against persons must be punished;*

(e) *Mercenaries themselves use their professional know-how and sell it for the commission of a crime which involves a dual motivation: that of the purchaser, and that of the person who, for payment, sells himself;*

(f) *The term "mercenary" signifies, and applies to, persons with military training who offer paid professional services to take part in criminal activity. Mercenary activity has usually involved intervention in an armed conflict in a country other than the mercenary's own;*

(g) *The presence of mercenaries has been noted in such activities as arms and drug trafficking, illicit trafficking in general, terrorism, destabilization of legitimate governments, acts related to forcible control of valuable natural resources, selective assassination, abduction and other organized criminal activities. What is involved, therefore, is an activity that can take multiple forms, all of them criminal, where the highly skilled professionalism of the agent is what is prized and paid for;*

(h) *The new legal definition of a mercenary includes the use of mercenaries by private companies offering military assistance, consultancy and security services internationally, which generally employ them in countries experiencing internal armed conflict. Accordingly, there would need to be an international legal method of prohibiting these companies from hiring mercenaries and from engaging in any type of intervention that would mean their direct participation in military operations in the context of international or internal armed conflicts;*

(i) *The fact that it may be a government which hires mercenaries, or hires companies which in turn recruit mercenaries, for its own defence and political purposes within its country or to bolster positions in armed conflicts, does not change the nature of the act or its illegitimacy. The principle that should be adopted in elaborating the new legal definition of mercenary is that the State is not authorized to recruit and employ mercenaries. International law and the constitutional law of each State assign the tasks of security, public order and defence to the regular military and police forces, by virtue of the concept of sovereignty;*

(j) *The proposal for a new legal definition of a mercenary should also take into account the fact that the current norms of international and customary law referring to mercenaries and their activities condemn mercenary acts in the broad sense of paid military services that are not subject to the humanitarian norms applicable in armed conflicts – services which usually lead to the commission of war crimes and human rights violations;*

(k) *The provisions in force include a requirement that a mercenary be a "foreigner" in the affected country, along with other requirements for defining a person involved in such acts as a mercenary. This requirement of being a foreigner should be reviewed, so that the definition rests mainly on the nature and purpose of the unlawful act to which an agent is linked by means of a payment. To the question of whether a national who attacks his own country and commits crimes can be defined as a mercenary, the reply would need to be affirmative if that national is linked to another State or to an organization of another State which has paid him to intervene and commit crimes against the country of which he is a national. Such a paid criminal act would be a mercenary act because of its nature and purpose.*

The Special Rapporteur has proposed the following amendments to the first three articles of the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries:

"Article 1

For the purposes of the present Convention,

1. *A mercenary is any person who:*

(a) *Is specially recruited locally or abroad in order to participate in an armed conflict or in any of the crimes set forth in article 3 of this Convention;*

(b) *Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict or of the country in which the crime is committed. An exception is made for a national of the country affected by the crime, when the national is hired to commit the crime in his country of nationality and uses his status as national to conceal the fact that he is being used as a mercenary by the State or organization that hires him. Nationality obtained fraudulently is excluded;*

(c) *Is motivated to participate in an armed conflict by profit or the desire for private gain;*

(d) *Does not form part of the regular armed forces or police forces at whose side the person fights or of the State in whose territory the concerted act of violence is perpetrated. Similarly, has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.*

2. *A mercenary is also any person who, in any other situation:*

(a) *Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:*

(i) *Overthrowing a government or otherwise undermining the constitutional, legal, economic or financial order or the valuable natural resources of a State; or*

(ii) *Undermining the territorial integrity and basic territorial infrastructure of a State;*

(iii) *Committing an attack against the life, integrity or security of persons or committing terrorist acts;*

(iv) *Denying self-determination or maintaining racist regimes or foreign occupation;*

(b) *Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict or of the country in which the crime is committed. An exception is made for a national of the country affected by the crime, when the national is hired to commit the crime in his country of nationality and uses his status as national to conceal the fact that he is being used as a mercenary by the State or organization that hires him. Nationality obtained fraudulently is excluded;*

(c) *Is motivated to participate in an armed conflict by profit or the desire for private gain;*

(d) *Does not form part of the regular armed forces or police forces at whose side the person fights or of the State in whose territory the concerted act of violence is perpetrated. Similarly, has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.*

Article 2

Any person who recruits, uses, finances or trains mercenaries, as defined in article 1 of the present Convention, commits an offence for the purposes of the Convention.

Article 3

1. *A mercenary, as defined in article 1 of this Convention, who participates directly in hostilities or in a concerted act of violence, as the case may be, commits an international crime for the purposes of the Convention. A mercenary who participates in the following acts also commits an internationally prosecutable offence: destabilization of legitimate governments, terrorism, trafficking in persons, drugs and arms and any other illicit trafficking, sabotage, selective assassination, transnational organized crime, forcible control of valuable natural resources and unlawful possession of nuclear or bacteriological materials.*

2. *Nothing in this article limits the scope of application of article 4 of this Convention.*

3. *Where a person is convicted of an offence under article 1 of the Convention, any dominant motive of the perpetrator should be taken into account when sentencing the offender."*

C. PMCs Listing

Name	Abbrev	OriginCountry	Status
AirScan, Inc.	AirScan	United States	Active
Alerta	Alerta	Angola	Undetermined
Alpha 5	Alpha 5	Angola	Active
AMA Associates Limited	AMA	United Kingdom	Active
ArmorGroup	ArmorGroup	United States	Active
ATCO Frontec Corporation	ATCO Frontec	Canada	Active
Atlantic Intelligence	AI	France	Active
Aviation Development Corporation	ADC	United States	Defunct
Avient (Pvt) Ltd.	Avient	Zimbabwe	Undetermined
Beni Tal	Beni Tal	Israel	Active
Betac Corporation	Betac	United States	Defunct
Booz Allen Hamilton, Inc.	Booz Allen	United States	Active
Bridge Resources International	BR International	South Africa	Undetermined
Compagnie Internationale d'Assistance Spécialisée	CIAS	France	Undetermined
Control Risks Group, Ltd.	CRG	United Kingdom	Active
Corporate Trading International	CTI	South Africa	Undetermined
Cubic Corporation	Cubic	United States	Active
Defence Systems Limited	DSL	United Kingdom	Active
DynCorp, Inc.	DynCorp	United States	Active
Eagle Aviation Services & Technology, Inc.	EAST	United States	Active
Euro Risques International Consultants SA	Eric SA	France	Undetermined
Executive Outcome, Inc.	Executive Outcome	United States	Active
Executive Outcomes	EO	South Africa	Defunct
Falconer Systems	Falconer	South Africa	Undetermined
Global Contingency Projects Group	Global CPG	United Kingdom	Active
Global Development Four, Ltd.	GD4	United Kingdom	Active
Global Impact	Global Impact	Canada	Active
Global Marine Security Systems	GMSS	United Kingdom	Active
Global Risk Management (UK) Ltd.	Global Risk (UK)	United Kingdom	Active
Global Studies Group, Inc.	GSG	United States	Active
GlobalOptions, LLC	GlobalOptions	United States	Active
Globe Risk Holdings, Inc.	Globe Risk	Canada	Active
Gormly International	Gormly	United States	Active
Gurkha Security Guards, Ltd.	Gurkhas	United Kingdom	Active
Hart Group, Ltd.	Hart Group	United Kingdom	Active
International Charter Incorporated of Oregon	ICI	United States	Active
International Defence and Security Resources NV	IDAS	Belgium	Active
International Port Services Training Group, Ltd.	IPSTG	Australia	Undetermined
International Security Consultants	ISC	Israel	Undetermined
J & F Security, Ltd.	J & F	United Kingdom	Active
Kellogg Brown & Root, Inc.	KBR	United States	Active
Kulinda Security Ltd.	Kulinda	United Kingdom	Defunct
Levdan, Ltd.	Levdan	Israel	Undetermined
LifeGuard Management	LifeGuard	South Africa	Active
Logicon, Inc.	Logicon	United States	Active
Long Range Avionics Technologies, Ltd.	LR Avionics	Israel	Active
Longreach (Pty) Ltd.	Longreach	South Africa	Defunct
Mamboji Lda.	Mamboji	Angola	Active
Military Professional Resources Incorporated	MPRI	United States	Active
Meteoric Technical Services/Solutions	MTS	South Africa	Active
Nicholas Frederick and Duncan, Ltd.	NFD	South Africa	Active
Northbridge Services Group, Ltd.	NSG	United Kingdom	Active
Olive Security Limited	Olive Security	United Kingdom	Active
Omega Support, Ltd.	Omega	South Africa	Undetermined

TOWARDS THE USE OF THE PRIVATE MILITARY COMPANIES IN THE UNITED NATIONS PEACEKEEPING OPERATIONS

Pacific Architects & Engineers, Inc.	PAE	United States	Active
Panasec Corporate Dynamics	Panasec	South Africa	Undetermined
PHL Consultants	PHL Consultants	France	Defunct
Pistris, Inc.	Pistris	United States	Active
Rapport Research & Analysis, Ltd.	Rapport	United Kingdom	Active
Rubicon International Services, Ltd.	Rubicon	United Kingdom	Active
Russian Military Brotherhood	RMB	Russian Federation	Active
Sakina Security Services, Ltd.	Sakina	United Kingdom	Defunct
Saladin Security, Ltd.	Saladin	United Kingdom	Active
Sandline International	Sandline	United Kingdom	Active
Saracen International, Ltd.	Saracen	South Africa	Active
Saracen Uganda, Ltd.	Saracen Uganda	Uganda	Active
Satellite Protection Services	SPS	Netherlands	Defunct
Sayeret Group, Inc.	Sayeret Group	United States	Active
Secrets	Secrets	France	Active
Service and Security	S&S	France	Active
Silver Shadow Advanced Security Systems	Silver Shadow	Israel	Undetermined
Southern Cross Security	SCS	Sierra Leone	Active
Spearhead Ltd.	Spearhead	Israel	Undetermined
Special Ops Associates	SOA	United States	Active
Special Projects Services Ltd.	Special Projects	United Kingdom	Undetermined
Stability Control Agencies	Stabilco	South Africa	Defunct
Stanwest Establishment	Stanwest	Not Available	Active
Strategic Consulting Group	SCG	Israel	Defunct
Strategic Consulting International	SCI	United Kingdom	Active
TASK International, Ltd.	TASK International	United Kingdom	Active
Teleservices	Teleservices	Angola	Active
The Golan Group	Golan Group	Israel	Active
The Surveillance Group	Surveillance Group	United Kingdom	Active
THULE Global Security International	THULE	United Kingdom	Active
Trident Maritime	Trident	United Kingdom	Active
Trojan Securities International	Trojan Securities	United States	Active
U.S. Defense Systems	USDS	United States	Active
Vinnell Corporation	Vinnell	United States	Active
Wackenhut Corporation	Wackenhut	United States	Active
Watchguard International Ltd.	Watchguard	United Kingdom	Defunct

D. Database

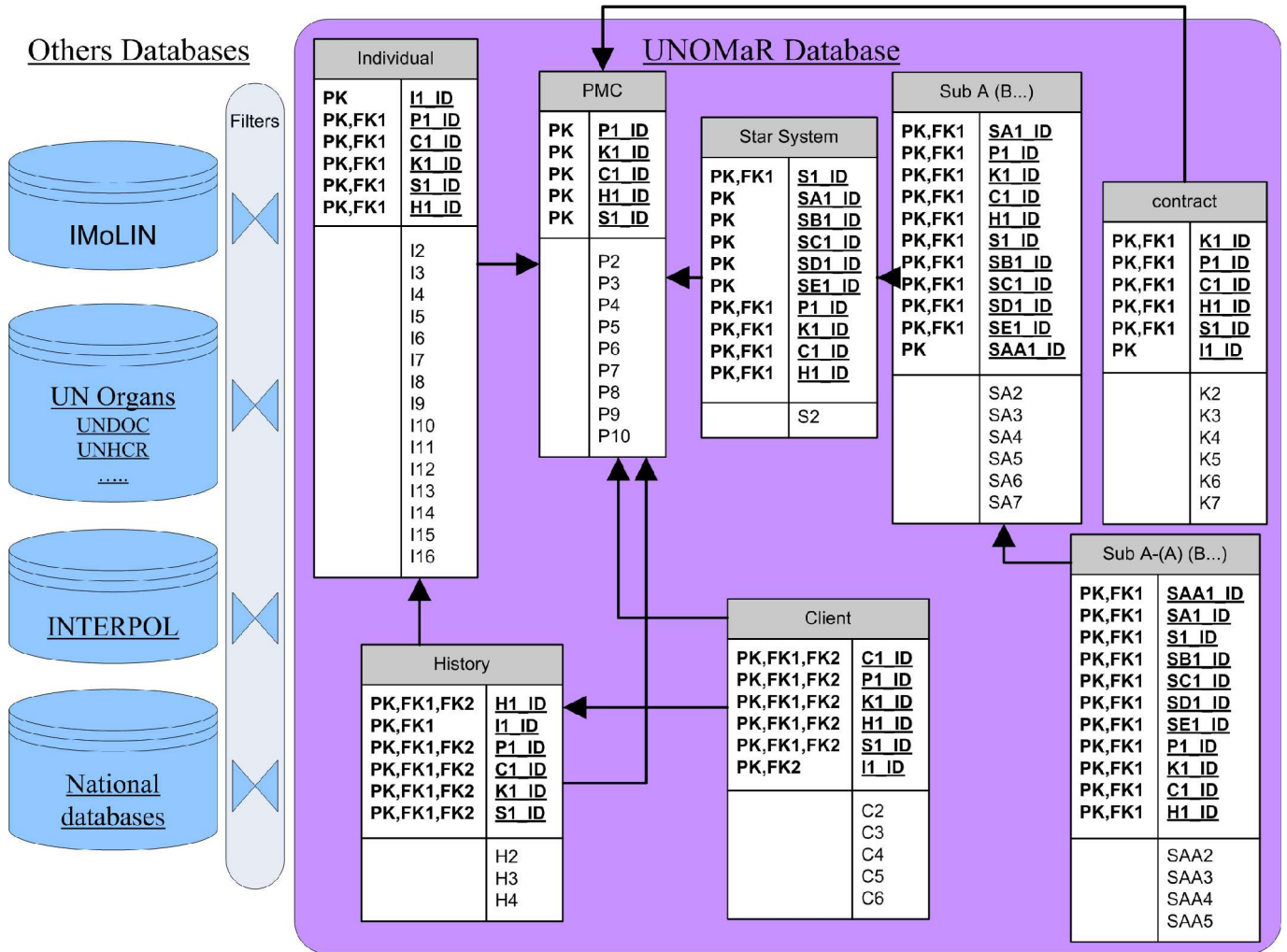


Illustration 13

Individual		Contract		PMC	
I1_ID	Internal reference number	K1_ID	Internal reference number	P1_ID	Internal reference number
I2	Last Name	K2	Value	P2	Name
I3	Middle Name	K3	Terms	P3	Address
I4	First Name	K4	Conclusion	P4	Phone
I5	Surname	K5	Comments	P5	Fax
I6	Mercenary Y/N	K6	National Validation	P6	E mail
I7	Known Address	K7	UNOMaR check	P7	Web Site
I8	Last Address			P8	Logo
I9	Phone			P9	Regulation Number
I10	Cell Phone			P10	“Stars System” reference
I11	Fax				
I12	E mail				
I13	ID Picture				
I14	Birth Date				
I15	Birth Country				
I16	Biography				
I17	Awards / History				
History		Clients		Star System	
H1_ID	Internal reference number	C1_ID	Internal reference number	S1_ID	Internal reference number
H2	Judicial	C2	Name	S2	Comments
H3	Awards	C3	Address		
H4	highlights	C4	Phone		
		C5	Fax		
		C6	E mail		
		C7	Web Site		
		Sub A-(A) (Recruitment of Qualified Personnel)			
		SAA1_ID	Internal reference number	SA1_ID	Internal reference number
		SAA2	Recruitment methods	SA2	Recruitment of qualified
		SAA3	Curriculum verification	SA3	Training Program
		SAA4	Curriculum Validation	SA4	IHL & IL training
		SAA5	“No Mercenary” act	SA5	Health & MEDVAC
				SA6	IOL standards
				SA7	Comments

E. Website

The UNOMaR web site is a resource accessible by all.

As we ever saw in chapter 5 of this paper some areas are protected

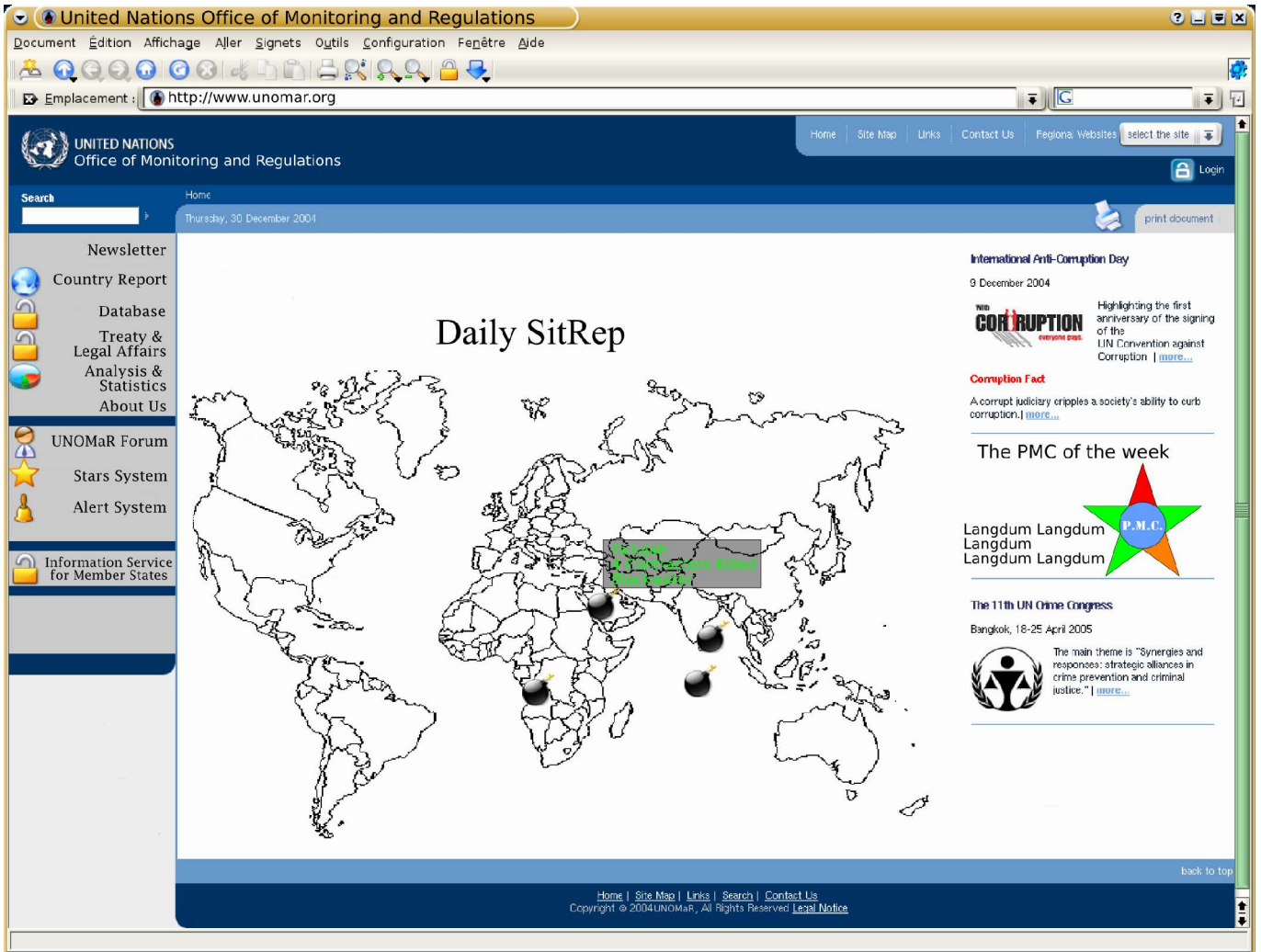


Illustration 14

F. UN "GEESE" Weekly Report (sample)

UN "GEESE" Weekly Report

ALERTS

HALLIBURTON & KBR:
\$1.9 Billion of Iraq's Money Goes to U.S. Contractors
Washington Post

Aegis Vx, Dyncorp:
\$293 Millions contract

PMCs



Northbridge
Plan to take Charles Taylor from Nigeria
Contract \$3M

<http://www.northbridgeservices.com/>



Erinys
2 mercenaries killed in Iraq
They were hired by Erinys

<http://www.erinysinternational.com/>



Dyncorp

EXPERIENCE. RESULTS.

Dyncorp engages in a trial against Aegis Defense

<http://www.csc.com/>

INDIVIDUAL



Profile: Simon Mann

- *Executive Outcomes
- *Meteoric Tactical Services
- *Logo Logistics


Situation: Zimbabwe, Chikurubi high security prison



Profile: Mark Thatcher
Arrested by *Scorpion* anti-fraud Unit in South Africa
August 25, 2004

ALERT

Jack Idema in Afghanistan. Accused of tortures and running a private jail



WEEKLY ACTIVITIES



UN "Geese"



UNITED NATIONS
N°1
August 10, 2004

U.N.M.R.O.

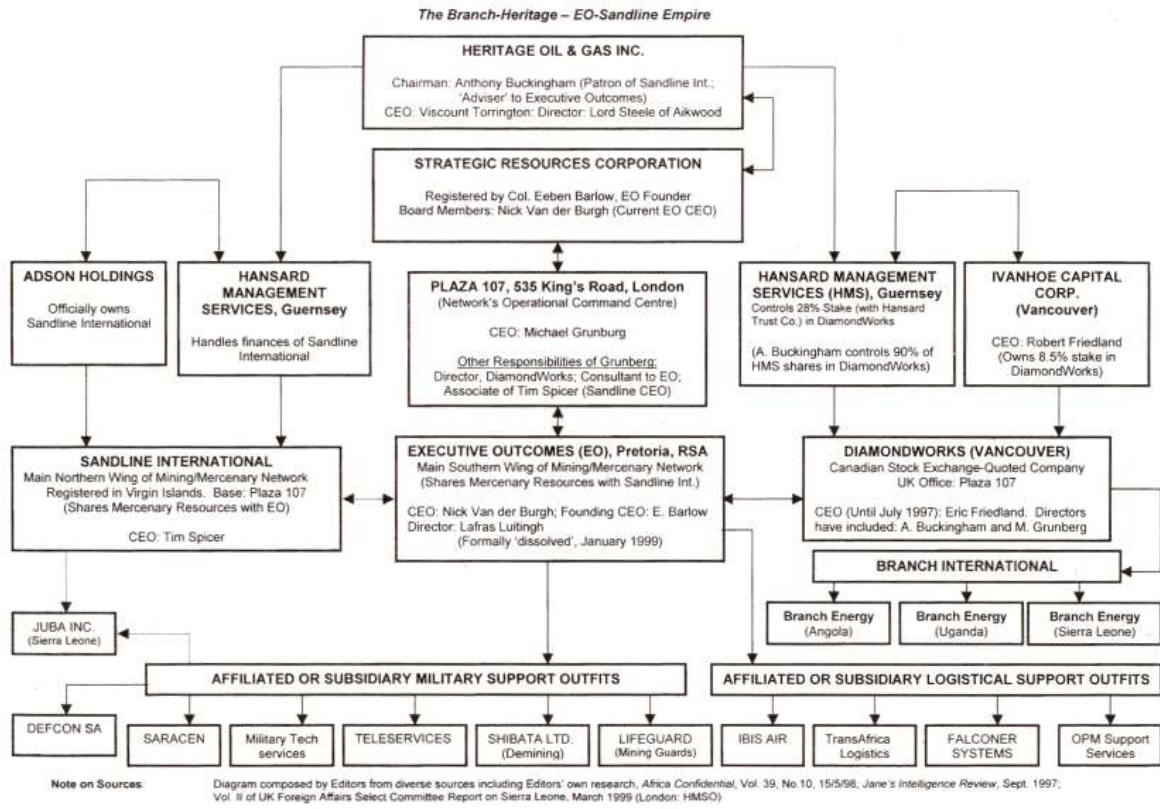
Contact - Address
<http://www.unmro.org>



G. Methodology

I wasn't able to verify all the "Branch Heritage" organigramme¹⁷⁵, but I think its important to show it even if it is contested by the CEOs of the Heritage firms. Such organigram show the complexity of such military and mining holdings. Access to criminal and commercial datas must be allowed to the office of regulation, if we want to be able to monitor such business construction.

Some companies are currently defunct (EO, Sandline) and others apparently are not, anymore, linked with "Heritage" (Ibis Air, which was apparantly involved with Al Quaida).



Anatomy of Interlocking Mining and Mercenary Network

Illustration 15

¹⁷⁵ Musah, Abdel-Fatau, and J. 'Kayode Fayemi. *Mercenaries: An African Security Dilemma*: PLUTO PRESS, 2000

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