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Privateers in Australia's Conflict and Disaster Zones

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James Brown, ACMC Consultant



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EXECUTIVE SUMMARY

In the conflict and disaster zones where Australia's military, representatives and aid workers have deployed in the past two decades, private security companies (PSCs) have been a feature of the operating environment, used by other governments, militaries, non-government organisations and multinational companies. Now, PSCs have become an integral part of Australian Government operations overseas. They are employed to secure diplomats in high threat environments, assess security at Australian facilities, and to protect government officials during overseas visits. In Australia's region too, PSCs are becoming more common, particularly in Papua New Guinea and on commercial shipping in the Indian Ocean.

This paper tracks the development of the private security industry and its relevance to Australia. It illustrates how and where PSCs operate and considers the lessons learned from a decade of employing PSCs—particularly those operating in war zones. It tracks the various international efforts underway to regulate and improve the private security industry, as well as the current and future issues Australians should be aware of when interacting with PSCs.

RECOMMENDATIONS

The paper concludes with guidelines to inform interaction between civil-military agencies and PSCs and recommends the following:

- Civil-military actors and PSCs should share information, within necessary limits, for routine operations, to avoid friendly-fire incidents and to coordinate responses in crisis situations. Situational awareness of where and how PSCs operate is critical at both a strategic and tactical level.
- The Australian intelligence community should develop their intelligence regarding worldwide private security operators, particularly those who might operate in Australia's neighbourhood. This includes assessing insider threat risks where PSCs perform mission critical tasks. Additionally, a capacity to debrief private security contractors operating in conflict zones where the Australian Government is not present would be useful.
- Develop a central liaison point between the Australian Government and the private security industry to bring Australia into alignment with best practice among our allies and facilitate better coordination with the industry ahead of conflicts or crises. At the operational level the Australian Defence Force (ADF) should factor private security liaison into their mission planning. At the strategic level, the government should liaise with the US and UK governments on issues associated with using PSCs.
- Given the Australian mining and energy sectors' use of PSCs, there is a role for government to assist the private sector to become more informed managers of private security—including through more mature due diligence.
- The government can influence PSCs significantly as a major provider of personnel to the industry, and as a major client within the industry. This might include promoting improved standards for PSC operations.
- Civil-military actors operating in close proximity to PSCs, including those PSCs not employed by Australians, need to be aware of reporting and investigation procedures in the event of an incident involving private security contractors.
- Government departments and agencies need to understand and demark their obligations to PSCs in conflict zones to avoid being unprepared, or fostering excess expectations of government crisis support.
- Pre-deployment training for the military should include preparation for engagement with PSCs. Similarly, opening military training in the laws of armed conflict and rules for the use of force to PSCs would help foster confidence in contractors' ability to comply with rules, regulations and ethics.
- Civil-military actors must be responsible for the actions of private contractors when employing PSCs. The risks of using PSCs should be constantly evaluated.

INTRODUCTION

The private security industry has become an established component in the conflict and disaster zones where the Australian Government operates and looks set to be an enduring feature of the security landscape.

Although behind the United States, United Kingdom and South Africa, Australia is now a substantial contributor to the global private security industry. Australian companies provide security services across the globe, from Asia to Africa, to governments and private clients alike. Many Australians, mostly former ADF personnel, work as contractors for PSCs—leveraging their military skills to protect infrastructure and individuals. Australians are key players in the private security industry, relied upon for their expertise, combat experience and interoperability with US and UK militaries and private security operators.

The Australian Government has been forging a greater leadership role in the private security arena. Australia has been among the most forthright supporters of nascent initiatives designed to regulate the established private security industry. Australian diplomats, academic specialists and international legal experts have actively driven initiatives like the Montreux Document, the International Code of Conduct for Private Security Providers, and the development of international standards for the private security industry. In August 2013, Australia became a foundation member and key government supporter of the Association of the International Code of Conduct for Private Security Providers, contributing seed funding to this non-government organisation (NGO), which aims to provide a forum to oversee PSC operations.

The Australian Government is also a major employer of PSCs, contracting for a broad range of security, assessment and training services. PSCs train Australian government staff and officials in survival and security procedures and prepare them for service in high threat areas. Over 200 private security contractors, the majority of whom are armed, provide security for Australia's diplomats and embassies in Iraq and Afghanistan. PSCs provide risk assessments and advice on securing Australia's diplomatic operations in other countries and sometimes provide support to ADF operations in conflict zones. Through Australia's foreign aid program, the government indirectly supports PSCs employed by development providers and humanitarian organisations.

In Iraq, Afghanistan, Timor-Leste and the Solomon Islands, ADF and Australian Federal Police (AFP) personnel have operated directly and indirectly with PSCs. This has largely been because of the widespread employment of PSCs by Australia's chief ally, the United States, particularly in Afghanistan and Iraq. On a number of occasions, ADF personnel have been called on to respond to situations in which PSCs were threatened. More recently, a booming counter-piracy business in the Indian Ocean means Australian naval vessels are encountering PSCs more frequently at sea.

Australian companies operating internationally also rely on the private security industry, particularly those in the resources and energy sector. Australian companies employ PSCs to advise them on their operations offshore, to protect their key executives, and to respond to crises—whether natural or man-made. As more Australians travel internationally, including to weak or conflict-ridden states,

PSCs are being engaged more frequently to advise on kidnapping risks, or to secure the release of Australians who have been kidnapped.

After a decade of modern PSC operations, governments across the globe have learned much about the prospects and pitfalls of engaging with the private security industry. A mature debate is shaping the way that governments determine which PSCs are legitimate and accountable, and which are not. Through hard-earned experience, particularly in the United States, better procedures have been developed to coordinate the actions of government and PSCs—particularly on the battlefield. There are still many issues in the private industry yet to be resolved, including the vexing issue of a jurisdictional regime that allows criminality by private security contractors to be detected and punished.

However, in Australia there has been little public discussion of the private security industry and the Australian Government's engagement with it. What public discussion there has been largely consists of transitory media coverage of security contracts at Australia's embassies, or analysis of the several occasions in which Australian PSCs have been involved in lethal incidents. Expertise on the industry, and the issues associated with it, has been husbanded within the government departments and agencies interacting most frequently with PSCs: DFAT, the former agency AusAID,¹ the Australian Federal Police and Defence. There is little whole-of-government policy on PSCs, and there appears to be little written policy or doctrine within large departments like Defence. Knowledge has traditionally been shared on the basis of personal links and networks, and there have been few occasions for comprehensive consideration of the strategic and wider diplomatic issues associated with the use of private security. Despite this, coordination between the industry and government has thus far been pragmatic and effective.

This paper intends to capture lessons learned in the last decade on government engagement with PSCs. It aims to share some of the body of knowledge developed within the Australian Government and to provide a central reference point for personnel across all government agencies and departments who might need to engage with PSCs in future conflict and disaster zones. It is focused on providing practical insights into how the private security industry works, what issues might lie ahead, and how Australian government staff and officials might proceed when engaging with PSCs.

Chapter One places the private security industry in a historical context and outlines how PSCs have evolved in the past two decades. It also reconsiders the 1997 Sandline affair, the most significant incident involving private security personnel that the Australian Government has dealt with and one that still shapes Australian opinions on the industry even today.

Chapter Two provides an overview of PSC operations and assesses how they are structured, the role of individual contractors, and the range of organisations and individuals who contract for private security services.

Chapter Three examines recent Australian government interaction with PSCs, particularly the engagement of PSCs to secure embassies in Kabul and Baghdad.

Chapter Four details the Australian private security industry specifically, examining how the private security market in Australia is structured and where Australians have operated internationally. It profiles a major Australian PSC that has held major contracts for security with the Australian Government.

Chapter Five analyses PSC presence in Australia's near region, examining activities past, present and future in Papua New Guinea, the South-West Pacific and South-East Asia.

Chapter Six illustrates the burgeoning maritime private security sector developing particularly in response to the problem of piracy in the Indian Ocean. It outlines challenges and opportunities for Australia's navy and maritime agencies in responding to the increase in private security teams onboard commercial shipping.

Chapter Seven highlights an emerging issue of specific relevance to Australians: the development of China's private security industry. The chapter charts the internationalisation of Chinese PSCs and makes judgement about the consequences of this process.

Chapter Eight examines the various institutions and actors active in shaping and regulating the global private security industry, and updates the initiatives and developing standards to govern PSCs.

Chapter Nine outlines civil-military guidelines that can shape interactions between civil-military actors and PSCs and makes specific recommendations about Australian government engagement with the industry.

AUSTRALIAN GOVERNMENT PRIVATE SECURITY STAKEHOLDERS

The Department of Foreign Affairs and Trade has the most frequent interaction with PSCs through diplomatic efforts on international PSC regulation, engagement with the United Nations, employment of PSCs to secure embassies in Kabul and Baghdad (as well as for hostile threat training and other ad hoc security tasks), and in responding to consular crises in which private contractors are involved or directly working on. Since 2010 DFAT has maintained a standing security panel including 24 companies. However, this panel includes IT, investigations, construction and technical services—armed security providers are not specified, though the list includes some. DFAT funds humanitarian and development projects that might involve engagement with private security services. Aid and foreign affairs officials interact with PSCs in the field, and may be involved in overseeing contractors. Austrade employs PSCs to conduct security assessments for overseas premises and events.

The Australian Intelligence Community may seek to maintain situational awareness of the activities of PSCs in areas in which Australia has an interest or where Australians are represented in the industry.

The Australian Federal Police has employed private security to protect personnel in Kabul. The AFP could be involved in the event of a hostage crisis involving Australian contractors and could have responsibility for investigating an incident involving an Australian PSC or contractor.

The Attorney-General's Department has responsibility for several aspects of legislation relevant to the private security industry and is responsible for participation in international humanitarian and international legal forums.

The Department of Defence and Australian Defence Force have contracts with PSCs for some services, and military and civilian personnel interact with the private security industry in conflict and disaster zones. The ADF is the major source of labour and training for the private security industry, particularly from the Special Forces. The ADF may be responsible for overseeing PSCs in operational areas it controls or is working in. The Department of Defence might choose to regulate the export of private security services through the Defence Export Control Office.

The Office of Transport Security in the Department of Transport and Infrastructure has responsibility for policy concerning piracy and armed counter-piracy services, specifically armed guards on commercial shipping.

The Australian Taxation Office regulates aspects of the financial activities of individual Australian private security contractors operating offshore.

The Australian Securities and Investment Commission registers Australian PSCs and has responsibility for ensuring compliance with Australian corporate law.

Timeline – significant events in the private security industry

1997	UK-based company Sandline International contracts with the Papua New Guinea Government for a private military force, equipped with helicopter gunships and signals intelligence aircraft, to train the PNG Defence Force and assist in defeating rebels on Bougainville.
2000	UN establishes Voluntary Principles on Human Rights and Security.
2002	UK Government publishes paper on regulating private military companies.
2003	Iraq conflict commences. Australian officials use private security for escort protection.
2004	20,000 private armed security personnel estimated to be working in Iraq Two Australians working for PSCs in Iraq killed, two reportedly kidnapped.
2005	United Nations Human Rights Committee establishes a working group to examine the use of mercenaries as a means of violating human rights and impeding the peoples' rights to exercise self-determination.
2006	US <i>Quadrennial Defense Review</i> endorses the use of private security contractors in the 'total force'. Estimated that 181 PSCs in Iraq employ more than 48,000 contractors. Australian embassy in Baghdad begins transition to private security based protection.
2007	PSC Blackwater is involved in an incident at Nisoor Square in Baghdad while working for the US State Department. Seventeen civilians are shot and killed.
2008	Montreux Document signed; work begins on the International Code of Conduct for private security providers.
2009	DFAT criticised for not interacting with PSCs during the recovery effort for kidnapped Australian Nigel Brennan.
2010	US Commission on Wartime Contracting commences hearings into the use of private security contractors in Iraq and Afghanistan. Draft Convention on Mercenaries is submitted to the UN Human Rights Council International Code of Conduct is signed in Switzerland. More US-employed private security contractors are killed in Afghanistan in the first six months of 2010 than US military.
2011	UK Government endorses the Security in Complex Environments Group as liaison point between government and the private security industry. US Commission on Wartime Contracting report is issued. Australian Foreign Minister is protected by private security on overseas trips.
2012	PSC1 published as the first American national standard for use by PSCs. UK Government and US Department of Defense mandate adherence to this standard for all of their private security contracts.
2013	International Code of Conduct Association formed to oversee standards within the private security industry. Australia signs on as a foundation member.

1 – THE PRIVATE SECURITY INDUSTRY IN CONTEXT

Background

Modern non-government military companies emerged most prominently during the 1990s and have evolved considerably in the two decades since. The growth in PSCs has been underpinned by three factors. Firstly, for several reasons militaries were often unable to meet the large demand for security in high threat environments. Much of this demand stemmed from the logistics needs supporting US-led expeditionary military operations in Iraq and Afghanistan. These operations in turn required huge reconstruction investments by civilian firms, leading to more private businesses operating in conflict and disaster zones. The length of recent conflicts has also been a factor in driving the use of PSCs—with one analyst concluding that ‘the protracted nature of current deployments coupled with the assumption there are safe, or “benign”, areas behind the line of conflict have created additional operational rationales to harness private sector capacity’.² At the same time that military demands have created a market for PSCs, private non-security business has been globalising—investing and operating in more remote parts of the globe in areas that require some form of security. As one author notes, ‘virtually all private companies, from the media to telecommunications to extractive industries, [now] require security to do their jobs, and this is usually provided by PSCs’.³ Secondly, wider movements to privatise government services in countries like the United States, United Kingdom and Australia have paved the way for some transfer of security services from the military to the private sector. The 1997 US Quadrennial Defense Review, for example, recommended that the US military outsource or privatise many functions, and similar initiatives prompted privatisation of formerly defence functions in the United Kingdom and Australia. Finally, PSCs have provided governments facing increasingly casualty-averse publics with a discrete means to bolster security in conflict and disaster zones. The use of PSCs minimises the footprint of a government’s deployed military forces, and private security contractors have a lower signature once in country than a nation’s own military. Contractor casualties are also largely unreported—as an Australian PSC founder concluded, ‘when one of us are killed, well, we are contractors, it is not as bad’.⁴

The type of PSC that emerged in Africa during the 1990s, referred to then as private military companies (PMCs), hired ex-military personnel to take an active part in combat operations. The most prominent example of this type of firm was Executive Outcomes, largely consisting of former South African defence force personnel. Executive Outcomes was hired by the Sierra Leone Government to defeat rebel operations against mining sites and restore the government’s ability to generate revenue from mining operations—a task they successfully performed through conducting privately planned and executed combined arms combat operations. The Papua New Guinea Government contracted two other private military companies—Defence Systems Limited and Sandline International—to plan, equip and execute combat operations against the Bougainville Revolutionary Army in the late 1990s. But these types of operations were rare and took place in remote countries already wracked by conflict.⁵ More commonly, firms known as private military security companies (PMSCs) undertook military and paramilitary tasks that stopped short of active combat operations for major national governments, such as the United States. In the former Yugoslavia, PMSCs devised military tactical

and operational plans on behalf of the US military, recruited and operated international police forces and military observer groups, and undertook other functions to support peacekeeping deployments. During the 1990s, more than 96 PMSCs were founded globally.⁶

The modern private security industry largely took shape after expeditionary military operations began in Iraq in 2003. Due to the scale of US and allied military operations, as well as civilian reconstruction efforts, thousands of security personnel were required and militaries were unable to meet the demand. One estimate in 2004 concluded ‘between 30 and 60,000 private contractors were used to support US-led coalition operations in Iraq. At least 20,000 of these working in some sort of armed security capacity’.⁷ Another concluded that one in ten personnel attached to invading US forces in 2003 was a PSC employee. In short, the market for private security burgeoned. Some of these companies and their employees were involved in combat-related operations—chiefly through providing close personal protection, static security and convoy escort services. Others were involved in training Iraqi security forces. By March 2006, an estimated 181 PSCs in Iraq were employing over 48,000 contractors—comprising local Iraqi, third country national and expatriate personnel.⁸

Such was the scale of the use of PSCs in Iraq that a separate regime was established to oversee contractors, to deconflict their activities with US and other militaries, and to better police weapons licencing and incident reporting. Known as the Reconstruction Operations Centre, it was run by a contracted PSC.⁹ Ongoing expeditionary operations in Iraq sustained the private security boom—in 2007 more than 334 PSCs were known to be operating globally.¹⁰ Australians were among this number, with six Australian-run firms believed to be operating in Iraq by 2007. These firms employed more than 500 personnel, including 72 Australian citizens.¹¹ By 2009 the industry had passed its peak and armed contractor numbers in Iraq dropped—down to just over 10,000 by the end of the year.

A similar, though smaller, phenomenon accompanied combat operations in Afghanistan. Large private contractor forces accompanied US military forces and their allies, including significant numbers of privately contracted Afghan security personnel. Often these private security personnel were local Afghan militias hastily transformed into security providers. The US military command in Afghanistan saw that PSCs were critical to ‘secure installations and other infrastructure, conduct movement support for sustainment, train Afghan forces to proficiency, and transport key personnel’ through the area of operations.¹² The UK Ministry of Defence was also an enthusiastic employer of private contractors—up to 40 per cent of its total Operation HERRICK force consisted of contractors and civilians, at one stage accounting for more than 6,000 personnel.¹³ In the first half of 2010, more US-employed private security contractors were killed in Afghanistan than US military (235 contractors as opposed to 195 military).¹⁴ As of October 2013, the US Department of Defense employed more than 14,000 security contractors in Afghanistan and over 2,000 in Iraq.¹⁵

By far, the most enthusiastic employer of private security has been the US Government through the Department of Defense, USAID and the Department of State. The US Congressional Budget Office estimates that the US Government directly spent \$3–4 billion on private security services between 2003 and 2007.¹⁶ Over the past decade the US Government has regularly engaged private security to train local national security forces and US military personnel, and to provide static and mobile security at sites in high threat countries. The US State Department Worldwide Protective Services

contract engages PSCs to provide security for US diplomats and embassies in several countries. Most recently awarded in 2010, it costs US \$10 billion over five years and employs more than 2,000 private security personnel—approximately 600 in Baghdad alone. PSCs have also been engaged to provide static guarding services or tactical support to sensitive US government operations in conflict zones, including Central Intelligence Agency paramilitary activities and Joint Special Operations Command global anti-terrorism efforts. But the US Government has not been the only government contracting for the services of a burgeoning private security industry. Australia, the United Kingdom, Sweden, Norway, Japan, Canada, Finland, the European Union, the Netherlands, Denmark and Brazil all employ PSCs to underpin the safety of their personnel overseas—as do international organisations like the World Bank.

The private security industry has significantly professionalised in the past decade. Unfortunately, this has often been driven by and in response to controversial incidents where private security contractors have been involved in negligent or criminal actions. Incidents like the notorious 2007 Nisoor Square shooting in Baghdad, in which armed contractors killed 17 Iraqi civilians, have driven governments to respond with procedural or legislative efforts to control PSCs and their employees. There has been extensive scrutiny of the use of contractors by the United States Government, particularly through the US Commission on Wartime Contracting. Now, US companies selling some private security services overseas are regulated in the same way as foreign sales of weapons, and extensive audit programs oversee the management of private security contracts.

The private security industry has reformed and matured due to self-regulation—to meet internal expectations of professional conduct and external demands to reduce the risks involved in private security contracts. There has been detailed reform of the industry within the United Kingdom, and close and coordinated engagement between government departments and the UK private security industry. Australia, though a contributor to both the industry and international regulation of it, has not examined its own use of PSCs in quite as much detail.

PSCs in an Australian context

Two ageing Mi-24 Hind helicopter gunships remain in a hangar at the Royal Australian Air Force's Tindal base, testament to the Australian Government's involvement with a crisis brought on by the private military company Sandline in Papua New Guinea in 1996–17.¹⁷ During this incident, the Papua New Guinea Government hired British-owned Sandline to assist in planning and executing military missions against rebels of the Bougainville Revolutionary Army. Sandline's founder, Tim Spicer, who went on to develop the modern PSC Aegis, undertook to provide armed helicopters, aerial electronic surveillance, detailed operational planning and armed soldiers to assist the Papua New Guinea Defence Force in tracking down and fighting rebel elements. Instead, a marginalised PNGDF leader initiated a coup, the firm's plans were thwarted and Spicer was imprisoned briefly in PNG.

Sean Dorney, an Australian correspondent previously based in Port Moresby, covered the Sandline incident for the ABC. At a workshop in support of this paper he detailed the course of the Sandline incident:

The Sandline Affair (Sean Dorney)¹⁸

Factional landowner disputes, anger at environmental destruction, suspicion of multinationals, ethnic hatred and secessionism were the incendiary elements that exploded into a guerrilla war on Bougainville in 1989. The war degenerated into a bloody ethnic conflict and it became a political quagmire. When he became Prime Minister for the second time in 1994, Sir Julius Chan was determined to solve the problem. After his own peace initiatives failed, he first turned to his defence force to secure a military victory. But when that, too, failed—and with elections looming—Sir Julius opted for the services of the private military company, Sandline.

The Defence Minister in Chan's government, Mathias Ijape, had tried to engage a PSC from Britain called Defence Systems Limited several years earlier—in 1991—when he was Minister for Police. Defence Systems Limited (DSL) was formed in Great Britain in 1981 by a team of ex-SAS (Special Air Service) officers and City of London financiers, with the objective, its own promotional material claimed, of 'providing credible solutions to the ever-changing and increasingly sophisticated and complex security threats facing governments, multinational corporations and individuals around the world'. Mr Ijape's idea was to get DSL to train an elite squad of PNG police to protect PNG's major mining, oil and gas projects. However, despite Ijape's vigorous efforts, DSL never quite clinched the deal. DSL almost pulled off a US\$10 million deal to train an anti-terrorist police squad but it did not work out and DSL closed down its Port Moresby office. One of DSL's major problems in wanting to train this elite paramilitary police squad was opposition from Australian police advisers working in PNG on the Australian-funded Police Development Project.

In 1994, Mathias Ijape was reappointed Defence Minister and wanted to get back in touch with the ex-SAS experts at DSL. He was referred to Tim Spicer, a British ex-colonel of the Scots' Guards who headed up Sandline. Tim Spicer explained in an interview with me: 'you find a gap, in which some governments, less well developed governments and military forces, require some expertise and support. The Sandline idea was to be able to provide that expertise and support whether it be consultancy, training, support for military operations or procurement of equipment.' In the briefs that Tim Spicer prepared for Sir Julius Chan, he stressed the point about governments not wanting to involve their own national forces in conflicts outside their own country in his criticism of Australia's unwillingness to help PNG end the conflict on Bougainville. Sandline's planned Operation OYSTER on Bougainville was to involve 60 Sandline personnel, 45 from the PNGDF's Special Forces Unit and various support elements, two Russian rocket-firing attack helicopters, two Russian helicopter transports and several fixed-wing aircraft, including one with sophisticated electronic warfare capability. Sandline would also train the PNGDF personnel involved in the operation.

When the PNG Government scrambled around to pay Sandline US\$18 million as the first half payment of its contract, about US\$5 million of that was stripped out of the already strained and over-committed annual PNGDF budget. There were multiple reasons for the failure of the Sandline adventure in PNG. One that was crucial was the resentment that arose when an outside group was paid a vast amount of money to do a job that the underfunded PNG Defence Force believed it had

never been given the proper capacity to do itself. PNGDF Chief Jerry Singirok was concerned that Tim Spicer had become Prime Minister Chan's top military adviser and that the PNGDF's Special Forces Unit was to be transferred to the police. Singirok also believed that Sir Julius Chan's son, Byron, had set up a PSC and planned for it to get contracts at the Bougainville copper mine once it was back in PNG's control.

In March 1997, the whole Sandline saga reached a climax when Major Walter Enuma and his men detained Sandline's personnel at the behest of Brigadier Singirok. Jerry Singirok went on air claiming the whole deal was corrupt, calling for an inquiry and demanding Chan resign. Days of chaos in the streets of Port Moresby followed, with jubilant crowds occasionally turning to looting. The private soldiers were sent home and after a two-day siege of Parliament supported in part by the military, Julius Chan stepped aside. He lost his seat in the subsequent election but has since won it back.

What are the chances of this happening again in the Pacific? The Sandline scenario is unlikely to be played out again. However, PSC involvement has grown significantly. It was shown again and again during the two Sandline inquiries in PNG that it is weak state institutions that open up the opportunities for the increasing involvement of PSCs. Politicians in the whole of the Pacific are always looking for quick fix solutions and that is understandable. So the business opportunities are there.

Having failed to appropriately comprehend what was happening with Sandline in PNG, the Australian Government was forced to intervene and interdict weapons and military equipment procured by Sandline and bound for use in PNG. The incident worsened relations between PNG and Australia, and Australia courts eventually became the jurisdiction for protracted legal disputes arising from the incident. At the time, the Sandline incident was a major priority for the Australian Government—consuming the attention of Australia's Prime Minister, Foreign Minister, diplomats and intelligence agencies. Most importantly for the purposes of this study, the Sandline incident remains pivotal in shaping the ways that most Australians think about the private use of force. It has created an enduring image of PSCs as being overtly involved in combat operations, covert in their dealings, and as a destabilising influence for government—particularly those governments in the developing world. When considering PSCs in the Australian context, it is important to note that this conception of PSCs may be the dominant one among civil-military actors.

Definitions are important when considering the private security industry and a detailed breakdown of existing definitions is included in the final chapter to this paper. The terminology used can be normative, and certain terms such as 'mercenary' can often elicit strong reactions from stakeholders. Disagreements over definitions have hampered many discussions about private security issues in the past. Similarly, numerous studies have attempted to classify PSCs into a taxonomy based on the service offered or the means of operating. For the purposes of this study though, the term 'private security company' will be used—but will exclude three types of companies. The first is logistical support companies, such as those who provide garrison support services to governments or the military—these types of companies generally do not employ military tactics or weaponry. The

second type of company this study is not concerned with is that which provides security support in a low-threat domestic context. This type of company is primarily concerned with guarding against criminals rather than violent actors and as a result is unlikely to employ military tactics or weaponry. Finally, this study is not concerned with private companies that provide technical support services to the military or government for the maintenance or operation of weapons systems; for example, a civilian avionics technician who might service a military operated unmanned aerial vehicle. Though these three types of private companies can be found in the conflict and disaster zones in which Australians do and will operate, the issues associated with working alongside them are less complex. This study is concerned with the complexities of PSCs who use military tactics and skills—regardless of the geographic context, service provided, and whether armed or unarmed.

2 – HOW PSCS OPERATE

Modern PSCs operate in a broad range of environments and are exposed to a variety of risks. PSCs range in size: from small companies consisting of an individual with an address book of contractors, to indigenous collectives of armed villagers, through to publicly listed multinational companies operating in multiple countries with revenue in the hundreds of millions of dollars. Broadly, 65 per cent of PSCs employ armed personnel.¹⁹ At the larger end of the scale, tier 1 PSCs are corporations exceeding 500 employees who have substantial operations in more than five countries. Such companies may be publicly or privately held—though publicly owned PSCs are rare. An industry analysis in 2007 found that only 9 per cent of 585 PSCs analysed were publicly held companies.²⁰ Examples of such companies include G4S (UK), Dyncorp (US), Aegis (UK), Academi (US), Hart International (UK), Control Risks Group (UK), AKE (UK), and Unity Resources Group (UAE/Australia). The largest of these companies, G4S, employs 283,000 personnel. These companies have extensive management structures and in-house administrative services. Often they will provide multiple and overlapping categories of private security services, and may have a number of different company structures to facilitate this. Tier 1 PSCs may have contract management, logistics, legal, audit, financial, human resources, project management, training and marketing personnel in addition to private security operators. In some cases these non-security functions will be outsourced to other professional services firms.

Tier 2 companies operate in multiple countries but do not have a broad global presence. They may have up to 500 employees, but many of these will be employed to satisfy certain contracts and will not be full-time employees of the company. Tier 2 companies may have many of the non-security in-house functions of Tier 1 firms, but are more likely to have only a small number of employees to perform these roles. In the Australian context, Dynamiq, Lockforce and OAM are examples of Tier 2 companies. Tier 3 companies fall into three categories. The first is what academic Sarah Percy has called ‘Rolodex companies’—effectively a company built around one or two individuals with access to a database of private security operators who can be employed in the event that a security contract is won. The second category is a PSC operating around one or two individuals who provide primarily risk assessment and management services, and do not employ other contractors to provide security services. Finally, in this tier are local indigenous private security firms who operate in only one location and who might have significant numbers of security personnel but have limited administrative capacity. The quality of all these firms is variable, from quality assured standards compliant firms to companies that frequently change name and misrepresent the qualifications of their employees.

Increasingly, modern PSCs are tied to larger professional service providers, particularly insurance companies. In the Australian context, Unity Resources Group and Dynamiq, for example, have formed strategic partnerships with large multinational insurance companies. In the maritime environment, a majority of PSCs have symbiotic arrangements with shipping insurers. This reflects the fact that PSCs provide a risk mitigation tool for their non-government clients, and that the protection of corporate travellers is a growing part of the industry. Now PSCs provide threat information services and collate intelligence briefs on particular areas, and use these to provide tailored security plans for individuals travelling on business. This helps to reduce the risk of an individual being kidnapped or injured, and

lowers the risk for the insuring travel insurance firm. Some PSCs run their own operations rooms to track travellers in real time, and coordinate plans and assets in the case of a crisis. This might be because of an act of violence in a high threat area, or a natural disaster, or a serious criminal threat. Some PSCs coordinate closely with insurers for kidnapping and ransom work and subsequent crisis management. PSCs have also formed partnerships with international medical services firms, such as Aspen International and International SOS. This allows them to offer medical evacuation from remote areas, or to provide medical treatment to their own staff that might be injured in a conflict or disaster zone.

As PSCs have become skilled at operating in difficult environments and have had to master logistics supply chains for their own security operations, many have branched out their services into the delivery of purely logistical functions. This has been particularly common in Africa, where several PSCs provide logistics and remote area life support for mining companies and sometimes humanitarian groups.

Many authors have attempted to categorise the services offered by the private security industry. A decade ago, military analyst Peter Singer divided the industry among military provider firms, military consultant firms and military support firms.²¹ As more firms emerged and the spread of services on offer widened, analysts found it necessary to delineate between military tactical and support services, and to parse between military operational and garrison logistical functions.²² To reflect a growth in non-government clients using private security, it was also necessary to include non-military security services including security intelligence and policing.²³ But categorising the private security industry has proved difficult. Experience has shown that most firms will offer multiple, sometimes overlapping categories of services.²⁴ These services tend to evolve quickly as new markets are identified and so taxonomies of private security services shift quickly too.

Of the PSCs that Australian government officials and military personnel are likely to encounter, the following categories of service might be offered:

- > *Secure logistics*: this is likely to be offered in conjunction with security escort and planning services, and often involves chartering of aircraft and coordination with indigenous logistics companies.
- > *Crisis support and emergency management*: this might be in the event of a kidnapping, or in response to a natural disaster affecting a client's operations and personnel.
- > *Personal security*: this might involve close personal protection and escort, security reconnaissance for travel, convoy security and protected mobility. In some cases PSCs may maintain small quick reaction forces to respond to security threats affecting their personnel.
- > *Mobile asset security*: providing security to a mobile asset; for example, shipping.
- > *Security training*: training personnel to operate in high threat conflict or disaster environment; training for management in how to detect and respond to security or emergency threats.
- > *Static security/guarding*: providing security at a designated site or facility.

- > *Security assessment and advice*: analysing security threats, mitigation and response for a particular site, travel plan or operation.
- > *Security intelligence*: providing low-level intelligence for local security services chiefly provided by locally recruited situational awareness teams.
- > *Support to intelligence operations and special forces*: though this type of security service is rare in the Australian context, PSCs have provided it to the US Government, primarily as a low signature means of force protection for sensitive operations.
- > *Evacuation operations*: secure evacuation of personnel in the event of medical emergency, natural disaster, crisis or conflict.

These services may be provided in an armed or unarmed capacity, and in varying degrees of scale. The most common service provided by value in the United States, United Kingdom, and Australia is protection to diplomatic operations in high threat countries. As an example, the US State Department contract for worldwide protection of its diplomats and embassies is worth over US\$10 billion, uses more than 260 armoured vehicles, and employs more than 1,400 private security contractors. Along with static security, these contractors are responsible for security assessment of visit locations, route reconnaissance, daily threat reporting, and ongoing refinement of defence plans and procedures.²⁵

Who hires PSCs?

There are four main categories of clients who hire PSCs: governments, corporations, non-government organisations and individuals. The US Government estimates that 75 per cent of the global private security services market is contracted by non-government bodies.²⁶

Governments

Governments are major employers of PSCs, and the US and UK governments are by far the biggest users of private security within the government client category. Government private security contracts are commonly for protecting officials and official sites in high-risk areas. This may be for diplomatic or defence staff, or to protect humanitarian and development work being carried out by government aid agencies or their funded contractors. Governments may also contract for training provision, or for close personal protection of foreign dignitaries.²⁷ In some cases, governments have contracted PSCs to support special forces and intelligence operations in Afghanistan, Iraq and elsewhere. This support may consist of providing close personal protection and protected mobility escort, local quick reaction force, secure logistics, or low level intelligence collection and analysis (primarily assessments of local atmospherics). However, it should be noted that there is a growing trend of opinion among Western governments that there should be limits to using PSCs for tasks that are inherently governmental, particularly intelligence collection.

In Australia, the major employer of PSCs is the Federal Government, which employs PSCs to train staff, to conduct security risk assessments (and suggest security strategies), and to physically protect embassies in high threat countries like Iraq and Afghanistan. The Australian Government has also

issued short-term contracts for escorting VIPs operating in countries in Africa. Government use of PSCs has become increasingly acceptable. Countries like Sweden, Norway, Japan, Canada, Finland, the Netherlands, Denmark, Brazil and the European Union now use PSCs to protect their officials.

Corporations

Large companies that operate in risky environments, or who have infrastructure and professional employees to protect, are major clients for PSCs. Companies hire PSCs to conduct security risk assessments for their domestic and international operations, for protected mobility in high threat areas, and for site security. They also employ PSCs to protect their individual executives. This can involve kidnapping and ransom consultation, travel intelligence, crisis response and evacuation. Larger multinational companies may have in-house security teams to conduct some of these tasks, and only employ PSCs when a surge capacity is required or the particular PSC has specific local knowledge and relevant connections. Major employers of PSCs are mining and energy companies working in high threat areas, or engineering, infrastructure and telecommunications firms working in post-conflict environments. Increasingly, media companies hire private security contractors to prepare for and escort them in risky environments. In the past two years, shipping companies have also become major users of private armed security teams provided by PSCs. Australian resource companies in particular have become major clients of PSCs because of the remote locations of many of their operations.

International and non-government organisations

International organisations such as the World Bank use PSCs to secure their facilities and staff, or to plan their travel operations. The United Nations has begun to use more PSCs recently, and has been criticised for this by its own working group on the use of mercenaries. Australian PSCs have been successful in securing work with organisations like the UN Development Program, World Food Program, the UN Office for Project Services, and for independent multinational electoral commissions and monitoring organisations.²⁸ Some experts have argued for the UN's extensive use of PSCs as an alternative to seeking temporary commitments of peacekeeping troops for peacekeeping and peace intervention tasks.²⁹ However, such discussions are not well advanced and the United Nations seems unlikely to seriously consider the regular use of PSCs for peacekeeping.

The use of PSCs, particularly armed PSCs, by humanitarian non-government organisations (NGOs) has been controversial. A 2008 Humanitarian Policy Group study found that every major international humanitarian organisation the group surveyed had paid for armed security in at least one operational context.³⁰ But most commonly the survey found that NGOs had contracted with PSCs for security training, risk assessment and security management consulting. In many cases, NGOs will use indigenous local armed security companies to protect convoys and supplies.³¹ Sometimes NGOs have relied upon PSCs for threat briefings and situational intelligence. On a few occasions PSCs and NGOs have coordinated with each other to secure the protection of refugees or civilians, though this is certainly not common. Humanitarian NGOs particularly are cautious not to support the development of armed groups, who might be a challenge to local authorities, and not to compromise their own humanitarian status.³² Similarly, humanitarian groups point to a lack of understanding between PSCs

and NGOs, the absence of regulation of PSCs, and difficulty in conducting effective due diligence as reasons not to employ PSCs.

Individuals

Individuals may hire PSCs for advice about kidnapping and ransom cases, to provide security risk intelligence (travel briefings), for crisis response and evacuation, for close personal protection, or to facilitate protected mobility. This is becoming more common as PSCs form partnerships with international travel insurance firms.

Private security contractors

The skills and background of private security contractors vary greatly. Many claim a background in special forces, but this is often casually asserted and incorrect. All contractors employed by reputable PSCs will usually have a background in the police or military; however, these backgrounds may not always align with the tasks being performed. For example, a private security contractor with an army background might not actually be suitable for a private armed security team operating on a shipping vessel. PSCs will employ some contractors as a full-time employee, but more commonly individual operators will perform their duties as a subcontractor. This means they carry their own private liability insurance, cover their own taxes, and could be required to carry their own medical insurance.

Conducting due diligence of the backgrounds of private security contractors is a difficult task. In many cases militaries will not release service records or answer requests to verify employment histories and skill sets of prospective private security operators. Beyond psychometric screening, police background checks and personal research, many PSCs rely on their own team members and personnel to vouch for new employees. In Australia, the pool of capable private security operators, particularly those from a Special Forces background, is small enough to permit verification through personal networks—though fraudulent contractors have occasionally been employed. Contractors tend to be mobile within the industry, moving through roles with different companies over several years as contracts are won and lost. Once hired, PSCs run induction courses and specific skills training as required.³³ This will often include weapons refresher training, driving training, communications training, and specific briefings pertinent to the planned operating environment for the contractor. More commonly, PSCs are focusing on rules governing the use of force—on the firing range and in web-based training and assessment. Recruitment of contractors is often through personal networks: between 2001 and 2004 there was a significant movement of Australian Special Forces personnel into the private security industry, but this had slowed by 2008—mostly due to a change in the pay rates to private security contractors, as well as official discouragement of personnel moonlighting in the private security industry during periods of leave from the military.³⁴

Costs in the industry vary greatly depending on the company, but officials broadly agree that \$500 is the threshold daily rate for quality personnel. Rates range between \$500 and \$1,000 for a basic expatriate private security contractor on a government contract. Locally engaged private security staff are paid significantly less. Contractors on long duration tasks will rotate through tasks depending

on specific company policy. A rotation of nine weeks on, three weeks off for close protection team members, and eight weeks on, four weeks off for operations staff is normal if working in an environment like Iraq or Afghanistan. A 2010 US study found that regardless of the actual salaries being paid to contractors, there is an extensive belief among military personnel that PSC salaries negatively affect retention within the military.³⁵

An entry level Australian private security contractor working in a close protection team on a government contract might be required to have the following skill set:

- > knowledge of local law applicable to the services specified, including the legal use of force
- > safe, effective and lawful operation of firearms
- > attack recognition/identification
- > conflict management when dealing with members of the public
- > radio communications procedures
- > tactical driving techniques
- > convoy and motorcade driving techniques
- > counter surveillance
- > vehicle recovery and extraction
- > first aid and casualty evacuation
- > bodyguard techniques and procedures
- > route planning
- > vehicle embus/debus procedures.

Some Australian PSCs set age limits on the personnel they hire and mandate high levels of military experience. Increasingly, contractors with explosive ordinance disposal or military working dog skills are in demand. At least five Australians working as contractors have died in Iraq, and it is unclear how many have died operating abroad overall since 2003.³⁶ Similarly, there is no source of official Australian government tracking of contractor casualties (though this data is available for US employed contractors through the Department of Labor). US data indicates that as of January 2008, 35 Australian contractors had been injured or killed working for PSCs.³⁷

Operational structure of a private security company

PSCs may be private companies or publically listed and their corporate structures vary from country to country. Operating structures for private security operations are reasonably common, and can be

categorised into three general organisational structures: individual operations, small team operations and established operations.

Individual. Advanced private security contractors may operate in an individual role conducting security consulting services, or in a more tactical role. It is not common for PSC operators to work individually in a close protection role in a high threat environment, but they might operate individually while conducting a security reconnaissance for travel movements, or if employed for specialist security skills.

Small Team. This is the most common type of organisational structure for a PSC operating in a conflict or disaster zone. In most cases this small team will form a tactical unit for close personal protection. Close personal protection teams often consist of four personnel, one of whom is the team leader supervising the team's operations. Within each team there will also be a designated driver and a medic, though the skill levels of these personnel can vary greatly.

At sea for maritime security operations on commercial shipping, small teams are similarly structured. Each group of four will have a designated team leader and often a medic to render first aid to the team. By contrast with small teams operating on land, PSC small teams in the maritime environment prioritise marksmanship skills at greater range as well as familiarity with the marine environment. This might include boat handling or maritime boarding skills.

Established operations. When undertaking a large contract role in a fixed location—for example, providing security at an embassy—PSCs adopt a structure similar to a military unit. If the company is working across multiple sites in a high threat country, they will have a country manager who reports to company headquarters (wherever that may be located) and manages all company operations in the country. At an individual site a company will employ a security or operations manager. This individual, with similar skills to a military company commander or company sergeant major, manages tactical operations at the particular site and is the on-the-ground interface with the client, whether government or otherwise. PSCs may employ watchkeepers to maintain an onsite operations room, and an intelligence officer to process incoming information and threat updates.

Additional staff will be employed to maintain communications within the operations room and to service radios in vehicles and on individual operators. A quartermaster will provide company operations on the site and handle equipment procurement. Companies may be responsible for their own garrison support, or may link into their client for these services. An armourer will service weapons and a technician may be on hand to service armoured vehicles. PSCs may be required to employ a liaison officer if working in a complex coalition environment, in which constant liaison with other military units or civilian organisations is necessary. They might also employ dedicated intelligence personnel in country or in their home operating country, to provide analysis of threat environments.

Increasingly, PSCs operating in Afghanistan and Iraq operate what are known as situational awareness teams. These are teams of hired local nationals with experience in the local area. They provide low-level human intelligence on atmospherics and threats in the area. Situational awareness teams are also used for local route reconnaissance, often operating in their own civilian vehicles. They report their findings to an intelligence officer.

3 – THE AUSTRALIAN GOVERNMENT AND PRIVATE SECURITY

The Australian Government and PSCs

Despite near constant operational deployments internationally by Australian civil and military agencies over the past 15 years, there has been little public discussion or examination of the Australian Government's thinking on the private security industry, or the use of private security forces. However, the government has been involved with PSCs since the cessation of Australia's contribution to combat operations in Iraq in 2008. Over the last five years, government departments and agencies have contracted more than \$250 million in security services from PSCs. Australian diplomats have been active in shaping international agreements and initiatives designed to regulate the private security industry, and consular officials have been refining their procedures for engaging with private security contractors in times of crisis. Despite this, private security has been discussed in Parliament on just one occasion—and then only very briefly.

By far the government's main influence in the industry has been as an employer of private security services. The Australian Government is the largest client by value in the Australian private security industry, by virtue of its decision to outsource the provision of tactical security services to Australian embassies in Kabul and Baghdad. At both locations, PSCs provide aspects of security to Australia's diplomatic mission.³⁸ Armed close personal protection teams are responsible for the safety of diplomatic staff and official visitors, guarding diplomatic compounds and securing movement on tasking in armoured vehicles. Contracted security managers supervise expatriate security staff and locally engaged guards, as well as expatriate intelligence analysts and locally engaged situational awareness teams. More than 100 private security contractors are employed in each location, the majority of whom are armed. The AFP has also contracted PSCs to secure compounds in Kabul, and to provide close personal protection and mobility security for AFP officers working around Kabul.³⁹ Similarly, the former agency AusAID used PSC protection services in high threat environments such as Afghanistan.

More recently, government agencies and departments have also relied on private security services to support short-notice visits by senior officials to locations such as Libya and Ethiopia. DFAT contracted a PSC to support then Foreign Minister Kevin Rudd's visits to Ethiopia in February 2011, and Libya in December 2011.⁴⁰ Beyond close protection services, mobile security and static guarding, PSCs have been engaged to conduct security reviews, audits and assessments for DFAT and AusAID, and to consult on security arrangements for agencies like Austrade. PSCs are contracted to provide training in hostile environments for DFAT and the Department of Immigration and Border Protection (DIBP). Though it has not been the only agency engaging their services, DFAT has been the lead government agency involved with the private security industry. But this is not just as an employer of PSCs.

DFAT's consular sections have also engaged with PSCs when contractors have been in crisis situations or when families of kidnapped Australian citizens have sought DFAT advice on using private security

contractors. When two Australian contractors were killed in Iraq while working for a British private security firm, DFAT acted as a mediator between their Australian-based families and Iraqi authorities. In 2004, when an Iraqi insurgent group demanding the withdrawal of Australian forces from Iraq reportedly took two Australian contractors hostage, DFAT coordinated the crisis response. This involved the prepositioning of ADF Special Forces units and AFP hostage crisis specialists.⁴¹ In 2009, the family of kidnapped journalist Nigel Brennan criticised DFAT for not facilitating the family's use of private security contractor AKE to pay a ransom. Reviews of the incident found that consular officials were concerned about recommending to the family a firm that might be regarded as mercenaries. DFAT subsequently reconfirmed its policy on 'the appropriateness of a victim's family engaging a private contractor to lead a response to secure the release of a hostage', and committed to sharing information with private security contractors where possible to do so.⁴² DFAT also undertook to better discuss the process of undertaking due diligence on private security contractors, including in consultation with peers in the United States and United Kingdom.⁴³

The Australian Government has seemingly chosen not to support the work of Australian PSCs on the basis of promoting the services of Australian companies abroad. When Unity Resources Group initially approached DFAT for assistance in establishing its operations in Iraq it was rebuffed, despite being Australian founded and operated with more than 50 per cent of its staff being Australian.⁴⁴ Other firms have not received trade support. Indeed, other than contracting with PSCs, the government's approach appears to have been to keep PSCs at a distance. There were few initiatives to convince Australians working in the industry to register with DFAT during the Iraq conflict, and little effort appears to have been taken to monitor the numbers or activities of Australian security contractors working overseas.⁴⁵ That said, DFAT had actively advised against Australians joining the booming private security industry in Iraq during the past decade.⁴⁶

There appears to be little formal policy on PSCs within government departments and agencies, other than for establishing and executing contracts. Even in this regard, the development of whole-of-government policy has been gradual. Security advisers at government agencies and departments such as Defence, Australian Customs and Border Protection, AFP and DFAT collaborate and share knowledge on contracting with PSCs. However, this is chiefly through personal interactions rather than institutionalised processes. Other than on the transition of security at Australia's Baghdad embassy from military troops to private security contractors, there has been little close coordination between Defence and other agencies on the issue of PSCs. Internal ADF policy specifies that private contractors employed by Defence will only be non-armed; however, the policy is neither detailed nor widely promulgated.⁴⁷ Across all departments, there could be wider consideration of strategic issues associated with the private security industry, other than those concerned with regulation.⁴⁸

By contrast with other aspects of government engagement with the private security industry, Australia's diplomatic engagement towards international regulation of PSCs has been notably active and pre-emptive. Australia was a founding signatory of the Montreux Document, initiated by the International Committee for the Red Cross in September 2008 to state obligations and best practices towards PSCs. Australia gave detailed input to early drafts of the Montreux Document and has supported its adoption by other states. Australians have been critical to the development of the International Code of Conduct (ICoC). DFAT's David Dutton, who led the Australian Government's

input to the process, was singled out for praise in US Ambassador King's remarks at the association's opening in September 2013—noting his leadership of the process towards the final shape of the ICoC.⁴⁹ The Australian Government decided to sign on as a foundation member of the ICoC Association, is one of the few governments contributing funding to the association, and will encourage other states to join the organisation, which it sees as necessary because 'private security contractors play an increasingly prominent role in security operations worldwide'.⁵⁰

While the Australian Government has taken a proactive lead in regulating PSCs abroad, and forging consensus with industry, NGOs and other governments through the ICoC process, it does not appear to have reflected this broad thinking in civil-military coordination at home. Efforts in Australia to date have primarily focused on contracts for security, and not on developing practical procedures by which the broader civil-military community can engage with PSCs.

Securing diplomats abroad

The Australian Government has used PSCs to provide personal protection for officials on occasions overseas since 2003, but began to transition embassy security from the Australian Defence Force to private security from 2006. The transition to private security for diplomatic staff has been widespread. Countries that use such arrangements include Sweden, Norway, Japan, Canada, Finland, EU, Netherlands, Denmark and Brazil. Such arrangements have been tested by violent incidents: insurgents attacked a British diplomatic facility in Iraq in April 2004, but a private security team successfully defended and evacuated the facility. More recently, a US diplomatic facility in Benghazi Libya had insufficient security in place, including private security, and a number of diplomatic and contractor staff were killed.

The United States turned to contractors to secure its diplomatic facilities because its 1,450 dedicated staff in the Diplomatic Security Service were not sufficient to protect facilities and escort movements at 285 sites worldwide. The British Foreign and Commonwealth Office also use PSCs to secure its diplomats for the same reasons. In the case of Australia's Baghdad embassy, while ADF personnel were available for the task, it was determined that private security would be more appropriate because 'commercial security arrangements reflect the improving security situation in Iraq and both countries' intent to normalise bilateral relations'.⁵¹ The transition to private security also allowed DFAT to have greater control over the tactical procedures employed to protect its staff while at the same time allowing the government to reduce its military presence in Iraq. Additionally, DFAT judged that the local expertise possessed by private contractors was an important asset. DFAT does not normally operate its own security service as the US Department of State does, though it employs regional security advisers who often have security backgrounds.

Australia's Baghdad embassy established security contracts after the military conducted risk assessments, and ADF personnel were intimately involved in the transition to civilian security forces. Soldiers closely mentored incoming contractors during the transition.⁵² The embassy security contract in Afghanistan cost DFAT \$143 million over five years, and in Iraq \$90 million over four and a half years.⁵³ In Iraq and Afghanistan, private security forces at the Australian embassies are staffed by

a mix of expatriate staff and local national staff. The Baghdad embassy employed up to 60 Chilean contractors to fulfil aspects of the contract.⁵⁴ The two security providers (Unity Resources Group and Hart International) have differing views on using third country nationals. In both cases, contractors use pistols and semi-automatic weapons provided by the Australian Government—along with necessary communications equipment and protection measures for armoured vehicles. Australian citizen PSCs contracted to the Australian Government have DFAT-sponsored security clearances (similar to security clearance arrangements for other government industry partners) and are issued with Australian diplomatic passports.⁵⁵ The issuance of such passports is similar to the practice for deployments of other specialists such as the Australian Civilian Corps. A degree of information and intelligence, necessary to understand possible threats, is provided to the companies by DFAT and Australian intelligence agencies.

The PSCs are able to operate in Afghanistan and Iraq respectively through registration and licensing with local government authorities. In theory, private security contractors employed on these contracts are beholden to the laws of the countries in which they operate—though in practice it seems unlikely that the Australian Government would choose to leave contracted staff in the hands of the Afghani or Iraqi judicial systems.

There are benefits to using PSCs at embassies. Diplomats can obtain armed personnel with specific skills appropriate to their working environment, whereas there are few close personal protection trained staff in the ADF. DFAT can stipulate precisely how teams will operate—an important issue given previous tensions between the ADF and diplomats on how best to manage force protection and signature issues. PSCs, on the surface at least, also come with a lower administrative overhead than military forces and are more suitable to post-conflict environments. PSCs can also surge extra personnel if required, though this is dependent on being able to establish a contract that permits this.

However, there are also complications that arise with the decision to use PSCs to guard Australia's embassies. Firstly, there might be perceived or real conflicts of interest when a firm provides security for several different governments at the same time. Secondly, it is far easier for a host state to withdraw a private security licence than it is to revoke the status of military forces, and thus the legal operating premise for embassy PSCs is more risky than for a military guard. Thirdly, the contractual management requirements of such a contract are immense—DFAT personnel need to supervise every aspect of their work: from how many daily trips are undertaken to the state of weapons and ammunition counts. The US experience has been that contract management requirements are regularly underestimated. In Australia, there has not been a large concurrent boost to the number of DFAT staff managing security contracts. The burden on DFAT forced by contract management and oversight could increase significantly, should there be a major incident involving contractors at either embassy. In the United States, incidents such as the Blackwater Nisoor square shooting prompted even greater supervision of private security contractors by US State Department management staff. One decision was that State Department diplomatic security agents would ride in every private security vehicle in an embassy motorcade—a heavy administrative burden.⁵⁶

Finally, and most importantly, it is not clear what liability the government might have should a private security contractor injure or kill a civilian. A case against one PSC being finalised in the United States found that contractors could not be considered state actors.⁵⁷ However, it would be difficult for the Australian Government to argue that contractors on Australian diplomatic passports, carrying government-issued weapons, were not state actors carrying out their tasks on behalf of the Australian Government. Despite not having full oversight of their actions, the government might have full ownership of the consequences. These could be severe. Negative reputational impact arising from a contractor incident could affect Australia's diplomatic relations. There have been incidents in the provision of security at Australia's embassies including escalations of force against suspected and real threats. Additionally, one of the companies contracted on DFAT's embassy contract in Iraq is involved in legal proceedings for a lethal shooting incident that occurred six years ago.⁵⁸ At the time of writing, no contractors at either embassy have been convicted of any criminal offences.

DFAT's embassy security contracts have been an effective solution to the problem of carrying out diplomatic duties in a high threat environment. However, as DFAT becomes more intimately involved in managing aspects of the contract, providing weapons and security clearances and conducting extensive due diligence on companies involved, it will be important to continually assess whether a private solution is more cost-effective and necessary than simply providing ADF detachments to Australian embassies in high risk environments.

4 – THE AUSTRALIAN PRIVATE SECURITY INDUSTRY

PSCs in Australia

Though not as large as the private security industry in the United States, United Kingdom or South Africa, Australia's industry is nonetheless significant and mature. This is for three reasons: Australian military personnel are well regarded for their experience and interoperability with the US and UK militaries; Australian Special Forces personnel were available at the start of the Iraq war because of Australia's limited involvement in that operation; and Australian mining and energy companies have created a demand for the private security industry. A 2007 survey of the private security industry found that 9 per cent of PSCs globally reported that they have an active presence in Australia, with one in three of these firms providing tactical security services.⁵⁹ More recently, 22 PSCs of those listed in the International Code of Conduct for Private Security Providers report that their headquarters are located in Australia.⁶⁰ Nine companies not listed on the International Code are either based in Australia or have strong Australian connections. For example, Unity Resources Group (described in detail below) while not headquartered in Australia, is considered an Australian company because its founder and the majority of its senior management personnel are Australian. Additionally, Australian former military and police personnel work for a wide range of non-Australian PSCs. Australia has more local PSCs than other nations in the region, with the exception of Papua New Guinea, whose numbers are swelled by the presence of many locally formed PSCs.

Australian PSCs have largely operated in Iraq and Afghanistan. More recently, Australian security companies have expanded their operations to support mining operations in Africa and maritime security operations in the Indian Ocean. Australian private security contractors report extensive operations across the globe—from kidnapping and ransom consultancies in Columbia to close personal protection and travel reconnaissance in Mongolia. Australian companies were heavily involved in the Iraq conflict: as an example, the Perth-based company Osprey Asset Management contracted to provide the security underpinning the delivery of ballot papers in the 2005 Iraq elections. This was an extensive job lasting six months, which required helicopter support and numerous teams of private security contractors for security escorts.⁶¹

A small group of Australian companies offer security intelligence, training and technical services. Of 31 companies identified in this study as being either Australian owned, operated or based, 10 regularly provide security that requires a level of military tactical skill, including the use of weapons. All of these 10 companies have been awarded Australian government contracts. Four Australian-based companies report having more than 500 personnel. The company with the largest reported presence in Australia is AKE Group, a British company that claims to employ over 40 ex-Australian Special Forces personnel and maintains an Australian office. Another major company is Hart Security, a British company that has a strong Australian connection on its board and performs the security contract for the Australian embassy in Kabul. A third major company is Unity Resources Group, who operates the security contract for Australia's embassy in Baghdad. Finally, Control Risks Group is a major multinational PSC with operations in Australia.

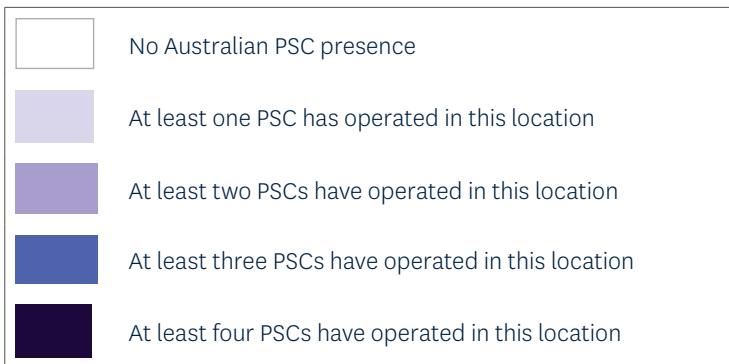
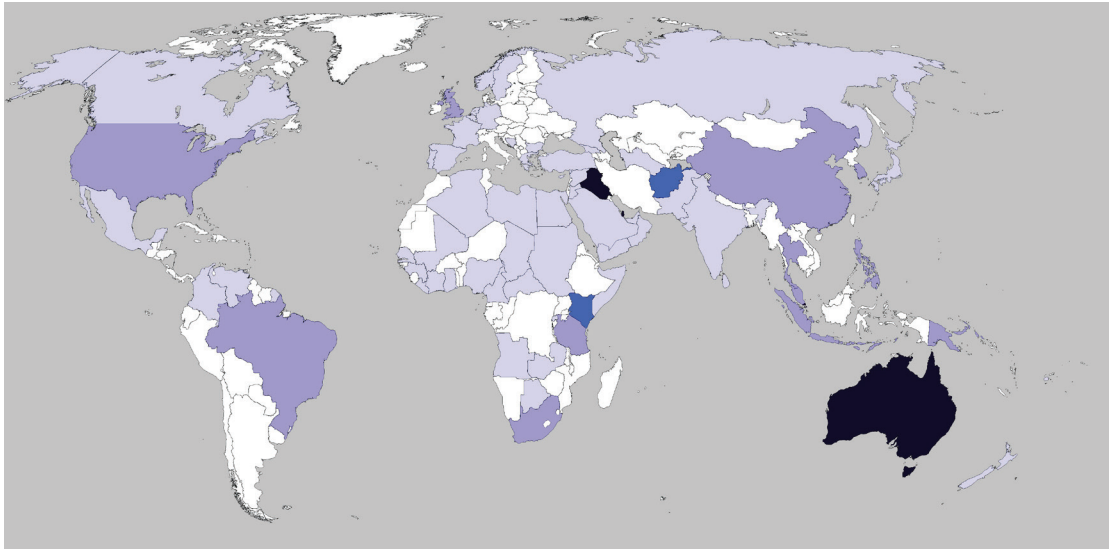
The services offered by Australian PSCs can be grouped as follows:

- > Security assessment and advice, secure logistics, crisis management, evacuation operations (25 of 31 companies): auditing sites, travel plans, logistic arrangements and property for security risks and devising strategies to address them.
- > Static, mobile and personal security (29 of 31 companies): providing armed or unarmed protection to individuals or groups, private property and assets.
- > Security intelligence and technical surveillance (12 of 31 companies): Conducting investigations into fraud, security vetting, corporate counter-espionage, site and asset surveillance, intelligence support for protection and maritime operations.
- > Maritime Security (10 of 31 companies): Armed escort and/or on-board security teams for merchant and private vessels, navigation and geospatial monitoring, intelligence and surveillance support.
- > Security training (19 of 31 companies): lethal or non-lethal training of security personnel, weapons handling, unarmed close combat. This can also include institutional consulting; for example, some companies have assisted in the training of Afghan police and military units.

There is a significant degree of overlap between services offered by Australian companies. Because the thresholds for entry to the private security industry are low, new firms appear regularly and smaller firms are often absorbed into bigger ones or close completely. In the time since this survey was completed, five small Australian PSCs have closed their operations.⁶² Though it is difficult to determine the number of Australian private security operators working in the industry—in Australia and abroad—it is unlikely that more than 1,500 Australians are engaged in private security operations based on analysis of industry public reporting.

Australian PSCs work for a broad range of clients. Eleven of the 31 surveyed companies have been awarded Australian Government contracts, an additional two claimed government contracts but no records could be located to verify this. Eight PSCs work for shipping companies in the maritime environment. Other clients include banks, mining and resources, energy, media agencies and critical infrastructure providers. One company of those profiled revealed it had worked for a foreign defence establishment.⁶³

Locations where Australian private security contractors and companies have operated 2000–2013



Private Security Company Profile: Unity Resources Group

Unity Resources Group is a multinational PSC headquartered in Dubai with subsidiary operations in the United States, Hong Kong, China, Jordan, Iraq, Afghanistan, Australia, Kenya and South Sudan. Unity notes it has ‘1,200 staff operating from a network of global offices across Australasia, Africa, the Americas, the Middle East, Central Asia and Europe’, a high proportion of whom are permanently employed.⁶⁴ Unity has a partnership with HCC Speciality, a kidnapping and ransom insurer, under which Unity is responsible for providing global crisis response services to policyholders. This includes phone advice and access to ‘land, sea and air support services to clients in complex and fragile environments’. This partnership incorporates access to geographically-based situation reports and intelligence, rebranded from iJet international, a self-styled ‘operational risk management solutions’ provider.⁶⁵

Gordon Conroy, a former squadron commander in the Australian SAS, founded Unity in 2000. Its senior management, formed around a 20-person strong headquarters in Dubai, includes a number of Australian former Special Forces personnel. The company is incorporated in Singapore, but has previously had registered offices in Australia and considers itself an Australian company. The initial growth of the company was fostered by being awarded a large security project in Iraq, which Conroy performed with a small group of former colleagues.⁶⁶ The company's major project at present is providing security for the Australian embassy in Baghdad, where it employs 160 expatriate staff, many in an armed capacity. This includes up to 40 per cent of contractors who are former Australian or New Zealand Special Forces, along with other private security contractors from more than 20 nationalities. Several hundred local national staff are employed to provide support to Unity's Iraq operation, including providing local armed guards and local intelligence services. Unity has been awarded several other contracts with the Australian Government. These include contracts for providing equipment to the ADF in Tarin Kowt, Afghanistan and operating sustainment aircraft between Dubai and Tarin Kowt to support military activities.

Unity runs its own intelligence department and employs former ADF staff as intelligence analysts both in Australia and overseas. Neil Marshall, Unity's director of global operations, outlines, 'we have very good collection and analysis; we use that for the protection of our people, and for mission planning'.⁶⁷

Unity has been particularly successful in providing security support to the mining and energy sector, particularly for Perth-based companies' offshore operations. Unity provides security services for an oil and gas supplier in southern Iraq. In Sudan it employs over 260 staff, including medical specialists, providing 'procurement and supply chains as well as critical life support and building and supporting refugee camps'.⁶⁸ Unity has also operated maritime armed security teams to protect commercial shipping in the Indian Ocean.

Unity has been praised for its work in Iraq, particularly by Australian military personnel—including senior ADF leaders. It has also been complimented for facilitating the return of kidnapped victims in Iraq (Unity was involved in the 2006 kidnapping case of Jill Carroll, a journalist working for US newspaper *Christian Science Monitor*).⁶⁹ However, Unity has also received criticism for a number of incidents in which its employees shot and killed civilians. During 2006, Unity employees shot and killed an Australian–Iraqi dual citizen who approached them at a vehicle checkpoint. Twice during 2007, Unity personnel were involved in lethal incidents in Iraq. In the first a Unity protected NGO convoy was attacked in Baghdad and three Unity employees died, as well as a client in one of the vehicles.⁷⁰ In October 2007, while contracted to provide security for a USAID contractor, Unity employees killed two local Iraqis during an incident.⁷¹

5 – THE REGIONAL VIEW

PSCs in Australia’s neighbourhood

In the past 20 years, Australia’s neighbourhood has been home to several PSCs, as well as private military companies. This section will survey where and how PSCs have operated in Australia’s neighbourhood, as well as the issues arising from their use—now and in the near future. Australia’s neighbourhood remains fertile ground for the presence of PSCs due to its often-weak governments, poor security environment, and extensive and expansive mining and energy operations. However, it is highly unlikely that a Sandline type private security situation would occur again—that is, the sudden appearance of an armed private force able to influence political decision makers in a regional country. There are few apparent private military companies still in existence, and the experience in Papua New Guinea serves as a warning to Pacific Island politicians who might look for a quick fix to their security problems. But PSCs are a feature of the security landscape in many of the near countries in which Australia has interests. In Papua New Guinea particularly, the presence of so many local and expatriate PSCs establishes them as an important civil-military actor to be considered in any security assessment of the country.

The South-West Pacific

In Australia’s near region, Papua New Guinea stands out as the country with the most extensive, and controversial, experience with private security forces. The PNG government’s contract with Sandline (see Chapter One for detail) has significantly shaped the way Australians and the region think about the use of force by private companies. Though Sandline was a private military company and the types of services it was offering the PNG government bear little resemblance to those offered by modern PSCs, the distinction is lost on many familiar with the incident. Key Australian government officials at the time were forced to respond to a constitutional crisis in Australia’s nearest neighbour, brought upon by the machinations of a private company. Some officials were surprised by the sudden emergence of a ‘strike force’ of 70 foreign military personnel, equipped with attack helicopters, electronic warfare aircraft and sophisticated military weaponry. In the South-West Pacific, where professional military officers and high-grade offensive military weaponry are not widespread, privatised professional military force and training has a disproportionate ability to alter political balances of power. Additionally, the Sandline forces were directly competing with the Australian Government for the provision of advice to the PNG and represented a possible threat to Australia’s interests in the near neighbourhood.

Today, PSCs are widespread in PNG and the demand is increasing as more mining and energy projects come online, including a \$17 billion LNG project. Past estimates have suggested more than 2,000 PSCs operating in PNG, ranging from companies formed for local site protection by specific villages, to large indigenous security companies like Guard Dog Security, to multinational corporations like Group Four Security.⁷² Officially, the PNG Security Industries Association, a PNG government licencing body, reports that 400 companies have security licences and employ more than 20,000 personnel.⁷³

PSCs provide advice to expatriate staff on evacuation and security in the case of crisis, provide mobile protection for business people operating in Port Moresby and elsewhere in the country, and provide security risk assessments and services to infrastructure and pipelines in all parts of the country. Multinational companies with operations in PNG, such as Exxon and Interoil, have their own security staff that employ PNG citizens as well as expatriate staff to provide their security operations. Few of these PSCs offer armed services, as it is not possible for foreign private security operators to operate with a weapons licence. However, residents of PNG may enrol as a special constable in the PNG police, which permits them to use weapons in a private security role. Some elements in the PNG police force, particularly the mobile squad, compete with PSCs to provide security at mining and energy infrastructure sites for a fee.

At the local level, the use of private security in PNG can often be problematic. Land disputes are common, and in certain cases mining sites have been attacked because local landowners were not hired to provide security services. The Ramu Nickel project in Madang for example, owned and operated by the Chinese Metallurgical Group Corporation, employs ex-Chinese People's Liberation Army officers to supervise local security, and has experienced friction with local landowners over the provision of security to its sites. At other sites across the country there have been complaints of police being co-opted to enforce the interests of security companies, or to provide intelligence reporting to security companies. There can often be friction between expatriate security staff and locally engaged stakeholders, particularly when local tribal dynamics are not apparent.

Elsewhere in the South-West Pacific, using PSCs has been less common. Though the Solomon Islands has experienced conflict and unrest, there is little evidence of widespread private security use—beyond local security services for commercial and residential premises. An Australian private security operator was consulted last decade by a former Solomon Islands Prime Minister about the feasibility of establishing a separate state on Gozo Island, but declined the contract to advise on the security aspects of this political endeavour.⁷⁴ There are few mining operations in the Solomon Islands. The Goldridge gold mine near Honiara employs local security staff, and a new nickel mine planned for Isabel Island is likely to require a security presence given current disagreements over local land ownership.⁷⁵ In both cases, Australian companies have an interest.

In Timor-Leste, there are few reported examples of PSCs operating. During Australia's intervention there in 1999, a private team of former NZ SAS personnel working for the PSC Onix International mounted a mission to rescue a Chinese Indonesian businessman being held by militia groups in a remote jungle location.⁷⁶ Between 2001 and 2002, the US PSC DynCorp was employed to provide armed and unarmed security to US military logistics teams operating as part of the stabilisation effort using a mix of expatriate and locally engaged staff. DynCorp also provided helicopter lift services, oversaw aspects of Timor-Leste police service training and administered international police efforts.⁷⁷

As well as being host to PSCs, the South West Pacific has also served as a recruitment pool for PSCs. Nowhere has this been more apparent than in Fiji. Like the British Gurkhas, Fijians, for a period, were favoured for PSC recruitment. The Fijian military gained a degree of peacekeeping experience during the 1990s, particularly in Lebanon, and so when the war in Iraq commenced in 2003 there was a pool of Fijian soldiers with operational experience who were either available for hire or were looking to

leave the Fijian military. During the Iraq war more than 1000 Fijians worked in contracting roles, many for security companies.⁷⁸ One ex-Fijian colonel reported hiring more than 600 Fijian personnel for an operation that involved introducing and distributing a new currency for the Iraqi Government.⁷⁹ At the time, this was initially supported by the Fijian Government. In 2005 the Fijian Minister for Labour declared, 'the government knows that more men are leaving for Kuwait and Iraq and that is a good thing, because it is providing employment for the unemployed. This is one solution to the increasing unemployment rate'. Many Fijian families became dependent on remittances from these private soldiers serving in Iraq.

Over time, multinational PSCs set up recruiting offices in Fiji. Problems resulted from the widespread practice of fraudulent intermediaries charging Fijian villagers a fee to register for employment with these PSCs. Some firms also didn't pay the correct rates to their Fijian employees.⁸⁰ Additionally, as Fijians started to be killed in the Iraq conflict, there were issues with the correct payment of compensation to families. In response, the Fijian military government introduced laws strictly regulating the operation of PSCs. Up to 20 Fijians died during the past decade as a result of their employment as private security contractors. Though Fiji remains a possible recruitment pool for private security contractors, the popularity of this has waned, and the regulatory environment is now more difficult for PSCs seeking to recruit. That said, as recently as 2010, Fijians were being recruited by expatriates for private security. That year the UN Working Group on Mercenaries alleged that the Australian company Allied Gold Ltd had recruited Fijians to provide armed security services at the Simberi gold mine in PNG.⁸¹ It seems likely that as long as Fiji's military remains highly trained and under-compensated, there will always be an incentive for Fijian soldiers to move to the private security industry.

South-East Asia

In South-East Asia, the Philippines is home to an array of PSCs contracted to protect mostly expatriate staff—particularly in the mining and resources sector. The Philippines has also hosted PSCs such as Blackwater (now known as Academi), who scoped the construction of a jungle training facility at Subic Bay in 2007.⁸² A subsidiary, Select PTC, was also reportedly used to support US Special Forces counter-terrorism missions in the Philippines during 2010.⁸³

A number of Australian companies have established PSC operations in Indonesia, though this is less common now than it was five years ago. OAM, for example, operated on mine sites in Kalimantan, South Sulawesi and Sumatra, providing security management and site safety services.⁸⁴ Unity Resources Group established an office and subsidiary operation in Jakarta in 2005, but closed it after several years. Private security contractors interviewed for this report are less than enthusiastic about the current and future prospects for international PSCs operating in Indonesia, suggesting that security work is increasingly being performed by domestic security companies, often with entrenched links to local government or military officials.

Singapore has long been a hub city for PSCs. In a global private security industry survey in 2007, 44 per cent of PSCs reported an active presence in South-East Asia 'largely due to Singapore acting

as a venue for activities such as information analysis and consultancy as well as logistics and support services'; only 10 per cent of these companies then offered physical security services.⁸⁵ Now Singapore has become a hub for the maritime private security industry. Because of the presence of shipping companies and agents in Singapore, the city now functions as a sort of market exchange for private armed teams who operate on shipping in the Indian Ocean. Some maritime PSCs stage their personnel through Singapore, though the official movement of weapons and tactical equipment through Singapore appears limited.

The Indian Ocean

To Australia's west, Sri Lanka has become a major hub for maritime private security. A common port there for armed teams to embark and disembark from shipping is Galle in southern Sri Lanka. New industries have emerged in Galle in recent years to support the booming Indian Ocean private security industry. Sri Lankan companies offer 'battle hardened Sri Lankan sea marshals' for hire, and provide transport for teams boarding ships and logistical support for the movement of weapons and ammunition.⁸⁶ The Sri Lankan Government provides support to the private security industry too, issuing licences to store PSC equipment and weapons, and controversially hiring weapons to some private teams. The new emergence of maritime private security in the Indian Ocean is also bringing the industry into Australia's near waters.

6 – PSCS AT SEA

PSCs have not only been active on land; as part of the response to the pressures of Somali-based piracy the presence of PSCs at sea has boomed in the past three years. The maritime security industry has been steadily building since at least 2008. In 2009, the ship *Maersk Alabama* was attacked by pirates and successfully defended by a private armed team. Now more than 180 companies offer to provide armed protection for commercial shipping, primarily in the Indian Ocean; however, there are less than 10 companies that industry professionals consider legitimate and established. It is difficult to determine how many individual private security contractors are currently working in the Indian Ocean as there is no central registry for their licensing or qualification. But at least one large British PSC claims to employ more than 1,000 people for its seaborne operations.⁸⁷ Hundreds more staff are employed to provide support services for the industry on land. Most contractors are British or American; however, contractors from Australia and New Zealand are common too because their military training is interoperable with the United States and United Kingdom. At least two Australian PSCs are active in the maritime industry, running as many as 50 teams in the Indian Ocean. As many as 18 private ships have been operating as floating armouries in international waters, allowing private security contractors to arm themselves for transits and sidestep arms trafficking regulations enforced in port.⁸⁸ Armed guards at sea are the new normal and look likely to be an enduring feature of maritime security—particularly in the counter-piracy fight.

Initial evidence suggests that private armed contractors have been effective in reducing successful pirate attacks upon shipping. Piracy attacks have decreased considerably since 2012, and though it is too soon to conclusively establish why, some experts believe this is because of the use of private armed guards.⁸⁹ In recent months, 9 out of 10 failed pirate attacks on merchant ships were repelled by armed PSCs.⁹⁰ Efficiently regulated PSCs represent a cost-effective counter-piracy solution for shipping companies and allow navies to incur lower costs operating counter-piracy flotillas. However, there have also been problems. Encounters between pirates and privateers are now common. One company reports over 90 encounters with pirates, 18 of which were resolved by firing shots.⁹¹ Already, there have been momentous consequences arising from the use of lethal force against suspected pirates. An incident in which Italian marines killed two suspected pirates operating as contracted security onboard a civilian tanker, resulting in their imprisonment, legal action against Italy's ambassador in India, and the resignation of Italy's foreign minister.⁹²

Two underlying factors have driven the shift to using armed PSCs: the rising costs of insurance, and the escalating costs associated with capture by pirates. The average ransom is now \$4.58 million and captured ships and crew are held for an average 158 days. Shipping companies lose millions in foregone chartering income while their ship is held to ransom. They also incur high costs in hiring specialist ransom negotiators, ransom drop experts, and support for crews once released. Hiring a private security team to ride shotgun on a ship's transit for \$50,000 is a comparatively small price to pay to substantially reduce these costs.⁹³ There is now a widespread belief in the shipping and insurance industry that armed security on ships works to deter piracy. Successful piracy incidents have dramatically decreased and total piracy activity (including approaches to ships and disrupted attacks) has declined. Governments have accepted private security on ships as an increasingly

normal feature. The UK Government began to facilitate the use of PSCs in late 2011, as did the United States. Most major shipping nations now permit the use of armed guards, of a sort. India and Japan both recently responded to lobbying from their shipping industries to allow the use of private armed guards. Only China has not declared an official policy that acknowledges and permits the use of armed guards, though companies such as COSCO have used British private security providers to secure their Indian Ocean transits.⁹⁴ Some countries, like Italy and the Netherlands, do not permit the use of private armed guards on their flagged shipping, believing that lethal force should be the exclusive preserve of national authorities. Instead, they require shipping companies to hire military soldiers for protection. These vessel protection detachments (VPDs), as they are known, tend to be larger than armed teams provided by PSCs—sometimes up to 24 strong. In most cases they are better equipped than private armed guards, and operate with the full mechanisms of national government in support.

Maritime PSCs provide two types of service: armed contractors and armed convoy escort vessels. Contractors are ideally ex-navy personnel with shipping industry-accredited safety and training qualifications, working in teams of three to six people.⁹⁵ Maritime PSCs offer a full suite of counter-piracy services, including hardening of vessels in accordance with industry standards, crew counter-piracy training, and preparation of onboard citadels (panic rooms used during a pirate attack). Some firms offer boarding teams ‘well versed in waterborne operations and boarding/counter boarding drills, waterborne interdiction and maritime/amphibious warfare’.⁹⁶ A small number offer private armed patrol boats, which aim to create exclusion zones around client ships and engage suspicious craft that approach. Such maritime private security firms are not new: some briefly operated in the Malacca Straits in the middle of the last decade.

New service industries have emerged to support the needs of armed guards on shipping and hundreds of staff are employed on land. Logistics agencies facilitate the movement of personnel, weapons and equipment. Firms sell piracy intelligence and provide situational awareness through their ‘operations rooms’. Medical companies provide a limited safety net for armed guards needing evacuation and treatment at sea. Other companies provide bespoke insurance, vet guards for clients, and offer certification for individual contractors. An online marketplace connects armed teams offloaded due to sudden shipping schedule changes with other ships seeking their services at short notice.

Contractors embark with body armour, medical kits, satellite communications, night-vision equipment and weapons (usually small arms such as AK47s and RPK light machine guns).⁹⁷ Costs for PSCs and their contractors vary greatly. Individual contractors earn up to \$500 per day and companies can charge out contractors for \$1,000 per day.⁹⁸ A typical contractor will work on contract for up to one year and complete some pre-deployment training. PSCs embark from ports near the Gulf of Aden, including Port Djibouti, Salalah, Muscat and Dar-Es-Salaam. A common port for disembarkation is Galle in southern Sri Lanka, an average 13 days’ passage from the Suez Canal and close to international shipping routes.⁹⁹ New support industries service armed teams there. Sri Lankan companies offer ‘battle hardened Sri Lankan sea marshals’ for hire, and provide transport for teams boarding ships and logistical support for the movement of weapons and ammunition.¹⁰⁰ The Sri Lankan Government provides comprehensive support for PSCs and the Sri Lankan Ministry of Defence licenses them to store equipment and weapons in bonded warehouses within naval bases.¹⁰¹

A majority of companies surveyed for this project procure their weapons in western Europe, and all reported complying with flag state regulations for carrying firearms. However, ‘flag of convenience’ states provide limited inspection regimes, and compliance with the International Traffic in Arms Regulations is complicated and expensive for maritime PSCs. Governments require companies to register weapons movement through their ports and often refuse permission to private companies. Some PSCs sidestep regulations by using their own floating armoury ships on the high seas.¹⁰² This allows their contractors to embark on client ships in port, and pick up their weapons and equipment during a rendezvous outside of territorial waters. Some companies and contractors acquire weapons illegally and simply dispose of them overboard at the end of a transit.

Using maritime PSCs to guard against the piracy threat seems to have been effective, yet the practice is not without risks. The boom in PSCs responding to the piracy threat in the Indian Ocean has overwhelmed the pool of quality private security contractors. The shipping industry has already acknowledged ‘significant competence and quality variations ... across the spectrum of contractors’.¹⁰³ In October 2013, Indian authorities detained the MV Seaman Guard Ohio, a ship belonging to a US private security firm, as well as 22 contractors working aboard it. Advanfort were alleged to be operating illegally in Indian waters, with illegal weaponry, and staging the movement of its staff through Indian territory before ‘holding’ them on the ship at sea in between security deployments. Conditions on the ship were found to be substandard, some contractors had not been paid, and several contractors lacked the necessary qualifications to operate in a shipboard security role.¹⁰⁴ Poor quality firms are emerging in the maritime private security arena, and reportedly undercutting the operations of more established major companies. Some established PSCs are exiting the market as contract values are driven down.

The legal status of armed PSCs is uncertain in many cases. It seems clear that the proliferation of maritime PSCs seems already to have contributed to breaches of international conventions on the movement of weapons. It is extremely difficult to prosecute illegal behaviour by maritime private contractors or the companies that support them because their legal status is unclear and there are so many overlapping jurisdictional issues associated with their use. Disputes arising from contentious and potentially lethal confrontations between PSCs and pirates have already occurred. The regulation issues that have vexed the private security industry on land are magnified at sea where there is less transparency of actions and less state control.

This new presence of private security at sea has implications for navies and customs agencies operating who might need to coordinate with PSCs, or at least be alert to their presence. Coordination between authorities and privateers has generally been ad hoc, but now needs to be made more formal. As the presence of maritime PSCs has become more common in the high-risk area, mistaken identification and friendly fire confrontations become a greater risk. Already, there have been occasions when warships attached to coalition military forces have mistaken private contractors for pirates. In 2009, when less than 20 maritime PSCs were known to be operating in the Indian Ocean, a Royal Australian Navy frigate attached to Combined Task Force 151 spotted armed gunmen on the bridge of a ship they intended to board. Suspecting pirates had hijacked the ship, the frigate’s captain considered options for an opposed boarding. But as it emerged, the ship had simply embarked a team of private armed guards to protect its passage through the Indian Ocean.¹⁰⁵ Such episodes could have

fatal consequences as well as major diplomatic repercussions. Tighter information sharing is needed so that navies and customs agencies know when and where to expect the presence of private counter-piracy forces. Close information sharing will also be necessary to monitor how pirates respond to the presence of armed security teams onboard shipping, and to prevent an arms race between such teams and pirates. Greater information sharing and coordination could also encourage PSCs to more diligently report confrontations with pirates.

There are challenges and opportunities for maritime authorities in coordinating and cooperating with armed guards at sea. Good intelligence preparation can help. The first task is to determine the likelihood of encountering armed guards in an assigned area of operations. In the Indian Ocean, this task is made simpler by the fact that coordinating authorities such as Maritime Liaison Office (US Navy), Maritime Security Centre–Horn of Africa (European Naval Forces), and the United Kingdom Maritime Trade Office all keep records on ships moving through their regions that have declared the presence of armed security onboard. The Suez Canal Authority also dictates that ships must register the presence of onboard security, as do many coastal states (though with varying degrees of success and accuracy). In waters closer to Australia, the Office of Transport Security has an interest in tracking the presence of armed security. By combining information from these sources, along with shipping schedules, long-range identification and tracking (LRIT) data and automatic identification systems (AIS) reporting, it is possible to predict when and where armed guards might be encountered. But the system is not perfect, and most reporting is voluntary. And beyond the Indian Ocean high-risk piracy area, there is little coordination on the movement of armed guards on shipping. Good intelligence preparation also requires due diligence on private security firms to understand their reputation, equipment and methods of operation. There are various industry initiatives that provide a source of information on firms who have signed up to, for example, the International Code of Conduct for Private Security Providers.¹⁰⁶ There are several industry established self-regulation groups (described in detail in Chapter Eight) who conduct screening of sorts and can provide information on their members.

Armed guards on ships can also be an intelligence asset for maritime authorities, and fleets should consider whether engaging with PSCs might improve overall situational awareness. While there are established channels for reporting piracy incidents and coordinating counter-piracy information, a more formalised program could harness the skills of the many ex-military shipping guards. This might include formal post-attack debriefs and situation reporting. Similarly, naval counter-piracy forces may choose to share information with trusted private security providers—beyond that which currently occurs through regional information centres. Providing trusted communication systems to private companies and shipping groups may facilitate information sharing with military maritime surveillance platforms. While efforts are underway to coordinate rules of engagement and orders for opening fire among armed guards,¹⁰⁷ there are as yet few standards for tactical cooperation between private armed guards and navies or coast guards during a piracy attack. The potential for miscalculation and friendly fire incident is high. Similarly, few navies have protocols for accepting prisoners detained by private armed guards and transferring evidentiary holdings. The feasibility of prosecuting pirates detained by private armed guards has yet to be tested, and it is unclear just what the legality of such detention would be in any event. In short, maritime authorities should develop standard operating procedures for engaging with armed guards now, rather than events leading development reactively.

Though armed guards have helped reduce the need for naval counter-piracy forces, they may create a new demand for maritime authorities—policing private maritime security companies. PSCs work across multiple overlapping jurisdictions, and there is much legal ambiguity about their operations. In the few cases in which guards have been prosecuted for their actions at sea, a presumptive jurisdiction has proved difficult to determine. The Contact Group on Piracy of the Coast of Somalia has convened experts from its second working group to determine the legal status of private counter-piracy forces. Some experts argue that using private force at sea in anything other than self-defence is inherently illegal, and tantamount to piracy itself. The legal definitions of self-defence vary greatly between flag states, and views as to whether a hired armed guard can legitimately claim self-defence differ. To be sure, some companies are stretching their services beyond any reasonable definition of self-defence, particularly those promising clients boarding parties and enforceable exclusion zones.

Though there have been few well-documented cases of misbehaviour by armed guards on shipping, there are incidents in which they were reported to have killed suspected pirates. As the private maritime security industry expands and now that most major shipping companies have authorised the use of armed guards, it is reasonable to assume that more incidents will require close scrutiny by maritime authorities. Also, as oversight mechanisms developed by the maritime security industry mature, there may be requests for naval assistance to monitor general practices of PSCs at sea and to investigate alleged breaches. Maritime authorities should think now about what circumstances might prompt them to apprehend armed guards at sea, or to interdict the operations of privately armed patrol boats. This pending issue complicates navies' ability to coordinate their actions with armed guards and private maritime security companies. A navy that shares information or coordinates patrolling with maritime security providers might later be accused of being complicit in any misbehaviour. Though the private security industry has matured greatly on land, including by developing regulatory regimes, the emergence of a new industry at sea is forcing a rethink of means to engage—and to regulate.

7 – EMERGING PRIVATE SECURITY INDUSTRIES – CHINA

Just as the private security industry has evolved in the decade since US intervention in Iraq, so too will it evolve in the coming decade. The private security industry has chiefly been the preserve of Western firms, largely the United States, United Kingdom and their allies. However, as Asian powers have grown their worldwide trade and economic interests, so too has their need for security. Companies in China particularly have grappled with how to best secure their commercial interests overseas—and how to evacuate their citizens from complex environments when disaster or conflict strike. These emerging powers are already starting to develop their own PSCs. This poses both a challenge and an opportunity. These new firms are arriving into the industry at a time when there are mature standards for quality control, risk management and accountability. They can be set up for best practice from the start and employ contractors untainted by many of the poor procedures learned by some Western firms while operating in the largely unregulated contract environments of Iraq and Afghanistan. However, some of the concerns that come with the business practices of companies in the developing world will ride with Chinese and Indian PSCs. Very few Chinese PSCs in particular have signed up to any of the international instruments designed to regulate the PSC industry, though China itself is a signatory to the Montreux Document.

Chinese PSCs have been operating overseas for most of the last decade, particularly in Africa. Three factors have driven growth during that period. Firstly, more Chinese companies are operating assets overseas—up to 16,000 companies employing over 800,000 workers overseas by some estimates.¹⁰⁸ These Chinese companies prefer to employ Chinese security companies because they can communicate with personnel, they are cheaper than Western PSCs, and they trust them more than local national security guards. Secondly, the domestic market for security services in China has become crowded, leading firms to look for overseas expansion opportunities. Finally, security events have highlighted Chinese consular services' limited reach and reinforced the need for companies to secure and protect their own people. Over 35,000 Chinese citizens needed to be evacuated when unrest took place in Libya in 2011. The following year, armed Chinese security contractors, in conjunction with local military forces, helped rescue 29 kidnapped Chinese workers in Sudan. There are commercial and reputational reasons for Chinese companies operating overseas to employ PSCs, particularly Chinese PSCs. Chinese private security firms have been encouraged in their overseas activities by the Chinese Government, particularly through national government legislation and privatisation efforts.¹⁰⁹ At the same time that Chinese PSCs are being driven to expand overseas, non-Chinese PSCs have been establishing their presence within China. G4S, for example, established a Chinese subsidiary in 2001 that now employs over 1,500 staff to provide technical security services, guarding and risk consultancy.¹¹⁰

Most Chinese PSCs provide low-end guarding services for Chinese-owned business and close personal protection services for Chinese workers. China City Guard, for example, has been providing security for Chinese state-owned enterprise property (particularly mining sites) since 2005.¹¹¹ In South Africa, Sino South African Security and Zhonghua Xuanlong security provide armed guards for Chinese

markets, restaurants and factories. Many of these Chinese companies working in Africa subcontract guard work to local national personnel, most of whom do not have military experience. In some of the more dangerous African countries (Nigeria, Rwanda, DRC and the Congo) bad experiences with locally engaged security personnel have led to a resurgence in employment of Chinese nationals in security roles. This has fuelled local disputes over lost employment in some cases.

Former military service is highly regarded in the higher-end Chinese PSCs. Genghis Security Advisor, a firm providing maritime security and close personal protection for Chinese workers, published its aims to recruit more than 1,200 former special forces personnel in 2013. The company runs corporate security training programs in the US and Israel. The majority of staff at Jindun Security, a company mostly operating in Northern Africa and the Middle East, are referred to as former special forces personnel. Ex-military staff are recruited through popular recruitment websites like Zhaopin.com. Chinese PSC staff have also been directly recruited from the People's Armed Police and special tactics sections of the Public Safety Bureau. However, because of the Chinese military's limited recent combat experience, some Chinese companies still prefer to hire Western PSCs because they believe that their own national PSCs are of a poor quality. The Chinese Overseas Shipping Company, for example, signed a contract with a British PSC to provide armed guards for its shipping transiting the piracy high risk areas of the Indian Ocean.

However, there is a strong pull for Chinese PSCs employing Chinese citizens to work on Chinese owned or operated sites overseas. In January 2011, the Chinese Ministry of Public Security changed national legislation to permit the privatisation of more than 31 regional and city level security services companies as part of a plan to encourage the Chinese private security industry to internationalise its operations. These regional and city level security services companies, employing more than four million people, are closely tied to provincial and city police units. Privatisation was seen as the first step in increasing the supply of firms able to provide security services for Chinese owned and operated sites overseas. Before privatisation, few Chinese PSCs had taken steps to establish operations overseas. One of the few that had, Shandong Huawei Security Group, established an overseas security service in 2010 and an overseas training centre based in Beijing. In June 2012, Australian-based security company, MSS Security, signed a strategic alliance with Shandong Huawei at the company's headquarters in Qufu City, Shandong province.¹¹² The two companies have pledged to jointly develop overseas security service markets and cooperate on developing management and training standards. Shandong employs over 3,500 staff and continues to make developing its overseas presence a priority.

Large numbers of Chinese security personnel emerging into sites worldwide could have several implications. Firstly, it will change the dynamic of the employment of local nationals in countries where Chinese security firms lift their presence. Secondly, it could lead to friction with local nationals. Many of those employed in Chinese regional level security services firms have never travelled overseas before, have little experience in negotiating security with local nationals, and have limited language skills and on the ground experience. In Papua New Guinea, for example, Chinese private security personnel employed to guard the Ramu nickel mine in Madang have had ongoing disputes with local landowners regarding the provision of local security services at the mine due to their limited

experience working in the country. In 2010, a Chinese security officer was badly injured during a local protest. The potential to see more such incidents as Chinese PSCs broaden their footprint is very real.

Finally, the emergence of the Chinese private security industry will increase the Chinese Government's strategic footprint. There will be more citizens to evacuate from a conflict or disaster zone in the event of a crisis or emergency, but it will ease the burden on the Chinese Government to be responsible for evacuations. For Australians operating in areas where Chinese businesses and citizens are concentrated, for example in South Sudan, Chinese PSCs will soon become a familiar sight.

8 – PSC INITIATIVES AND REGULATION

Regulating the private security industry has proved to be a vexed issue over the past two decades. Because PSCs tend to operate in multiple countries, employing a broad range of citizens and working in often-complicated legal structures spanning multiple jurisdictions, just working out what rules govern PSC activities can be a fraught task. Additionally, transnational understandings on the regulation of the private security industry have been slow to develop. Regulatory structures, where they have developed, have been focused on establishing norms and processes for conflict resolution, rather than establishing binding law. There are four types of regulation relevant to the private security industry:

- > domestic and international law
- > United Nations initiatives
- > international civil society regulatory initiatives
- > private security industry self-regulation.

This section will focus on UN initiatives, private security regulation that has emerged from international civil society, and self-regulation from within the private security industry itself. Of these, the most important initiative has been the Montreux Document, which aimed to clarify states' existing responsibilities with regard to what it terms 'private military and security companies'. This document established the consensus necessary to pursue other forms of industry regulation, particularly developing the International Code of Conduct and industry quality standards. Recently developed international standards for private security provide a method of auditing the quality of PSCs and allowing clients to discriminate between hiring legitimate firms and poor quality companies. The most promising development of industry regulation is currently taking place in the development and adoption of international standards, which are now a mandated requirement for US and UK government private security contracts. This movement is tightening quality control across the industry. However, despite all the work done to regulate the industry, mechanisms for investigating and prosecuting poor or illegal behaviour by private security contractors and companies still remain largely untested.

International Committee of the Red Cross

The Montreux Document

The Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict of 17 September 2008 (the Montreux Document) was completed in 2008 and opened for states' signature in September of that year. It is a joint initiative of the Switzerland Government and the International Committee of the Red Cross, and was the first international document explicitly

aimed at codifying state responsibilities for private military security companies. Forty-seven countries, including Australia, have endorsed the document.

The Montreux Document seeks to clarify states' responsibilities in relation to using PMSCs in armed conflict.¹¹³ In particular it highlights the obligations of three types of states:

- contracting states (countries that hire PMSCs)
- territorial states (countries on whose territory PMSCs operate)
- home states (countries in which PMSCs are based).

The Montreux Document compiles good practices designed to help each category of states take national measures to implement their obligations under international humanitarian law. These include:

- ensuring accountability and rule of law through domestic legislation
- establishing procedures for quality control of PMSC personnel and firms, such as vetting and licencing procedures
- establishing national reporting and oversight mechanisms.

While the Montreux Document is an excellent initiative to set international norms for using private security services, it nonetheless is non-binding on member states and does not establish any legal procedures for PSC accountability under international law.

UN

United Nations Human Rights Council

Working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination

Established in 2005, this UN working group is mandated by the UN's Human Rights Council and succeeded the mandate of the UN's Special Rapporteur on using mercenaries, which had been in existence since 1987.¹¹⁴ The five-member working group supports the Human Rights Council by, among other tasks, studying and identifying sources and causes, emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination. The working group regularly conducts fact-finding missions, compiles reports on their findings, and submits them to the UN's Human Rights Council for action. A 2010 report submitted to the UN General Assembly called for the adoption of a new international legal instrument on private military and security companies—a convention on PSCs.¹¹⁵ However, this initiative has been unsuccessful and has failed to gather much support from national governments or industry.

The working group has been criticised by the private security industry and international legal experts, particularly for its ongoing use of the term ‘mercenaries’, which many argue, is unnecessarily inflammatory and outdated. Sarah Percy argues, ‘Criticism of mercenaries in terms of self-determination [has] lingered on long after mercenaries were actually threatening self-determination’.¹¹⁶ James Cockayne argues, ‘The United Nations has long been constrained in its ability to tackle this issue as the result of disagreement between western and non-aligned states over how to talk about PSCs.’¹¹⁷ In short, critics suggest that the working group has not adapted its analysis to account for more modern PSCs who use armed force for defensive purposes, are contracted to legitimate governments, and do not seek to undermine governments in developing nations. The working group has attempted to investigate lethal incidents involving PSCs with home or contracting states (including Australia)¹¹⁸ but often fails to receive responses to its communiqués with national governments. The working group is resourced to conduct one field visit per year to monitor the activities of mercenaries.

The working group is now focusing its efforts on the UN’s use of PSCs in its own operations, arguing,

*The United Nations should serve as a model for world governments and other organizations in its use of private military and security companies ... without proper standards and oversight, the outsourcing of security functions by the United Nations to private companies could have a negative effect on the effectiveness and image of the United Nations in the field.*¹¹⁹

United Nations Voluntary Principles on Human Rights and Security (Voluntary Principles)

The Voluntary Principles are a UN-initiated, non-binding code of conduct for private companies that contract private security services, particularly those in the mining industry.¹²⁰ These principles were agreed to in 2000, chiefly between the US, UK, Netherlands and Norway governments and selected companies and non-government organisations (NGOs). The Voluntary Principles lay out considerations such as the investigation of incidents and the restriction of force used by PSCs, and suggest that private companies include these principles in their contracts with PSCs. The Voluntary Principles are less frequently mentioned now, and to a large extent have been superseded by the principles in the Montreux Document and ICoC.

United Nations Office on Drugs and Crime (UNODC)

The United Nations Office on Drugs and Crime (UNODC) sponsored the development of a detailed set of Rules for the Use of Force for PSCs that can be incorporated into company processes. Captain (RAN) Rob McLaughlin, a RAN legal officer and associate professor in law at the Australian National University, led the effort. The initiative includes a web-based technical training tool and a template for PSC reporting.

The UNODC is also developing a handbook on the regulation of PSCs, funded by the United Arab Emirates.

The International Code of Conduct for Private Security Providers (ICoC)

The International Code of Conduct for Private Security Providers (ICoC) builds on the foundations of the Montreux Document and came about as a result of conversations between the Swiss Government, the International Committee for the Red Cross and the private security industry. It was launched on 9 November 2010. The ICoC aims to ‘set high standards for the industry worldwide and to establish external independent mechanisms for effective governance and oversight’.¹²¹ The code is an articulation of human rights principles that PSCs should abide by. It outlines specific principles regarding the PSC and personnel conduct in areas such as the use of force, detention, identification and registration, personnel vetting, record keeping, weapons management and weapons training, and incident reporting. In the initial stages of the ICoC, firms were required only to submit a letter stating their intent to abide by the code and they were considered to be a participant. At its peak, over 700 PSCs signed up to the ICoC. The ICoC was created by a non-binding, consensus driven, inclusive process, with a broad definition of ‘private security provider’ (essentially anyone providing security services), and has been successful in creating a forum in which private security industry issues can be discussed.

Between 2010 and 2013, a multi-stakeholder temporary steering committee undertook extensive consultations to build the International Code of Conduct Association—a mechanism by which independent governance and oversight of member companies could be executed. That association was launched in September 2013 with the purpose of ‘promoting the responsible provision of private security services and respect for human rights and national and international law by exercising independent governance and oversight of the Code’.¹²² There are three membership pillars in the association: states, PSCs, and civil society NGOs (though at this stage only one NGO has joined). The association is itself an NGO, with a board and secretariat. The board is charged with creating a regime with which to certify that its members comply with the code, by conducting inspections and monitoring the human rights related performance of member companies. Finally, the association will implement a mechanism to deal with allegations that member companies have violated the code.

Critics of the ICoC have suggested that as formal standards become more entrenched in the industry, there will be little additional benefit for PSCs in being a part of the ICoC process.

Standards Organisations

Private Security Company Business Standards

A number of initiatives are underway, or have been successfully implemented, aiming to provide accountable and enforceable business standards by which PSCs can operate. Some companies have certified their companies under the ISO 9001 Quality Management Framework, a set of agreed business procedures and rules governed by the International Organization for Standardization. However, this standard is generic and not specifically adapted to the unique business situations of the private security industry.

One purpose of the International Code of Conduct for Private Security Providers is to ‘establish a foundation to translate those [PSC management] principles into related standards’. Effectively, it is a set of rules to make sure that PSCs implement their commitments under the code. To meet this intent, the US Department of Defense provided \$3.1 million to fund the development of Private Security Company standard one (PSC1) by ASIS International, an international security association with over 38,000 members.¹²³

The PSC1 standard was developed through consultation with over 200 experts from more than 20 countries, including representatives from government, industry, private sector clients and civil society. PSC1 incorporates 52 of the 54 good practices in the Montreux Document as well as other good practices and human rights. The standard was published in March 2012. It is auditable and companies can be subjected to an in-field performance assessment to make sure they comply with PSC1’s rules. The US has adopted this standard, the United Kingdom Accreditation Service is in the process of adopting it, and it is under consideration for adoption by Australian standards organisations. PSC1 has also been submitted to the International Organization for Standardization so that it might become an international standard for PSCs operating in complex environments—this process may take several years.

The PSC1 standard provides a common set of rules that PSCs can comply with, and against which their operations can be checked. US Defense Acquisition Regulations now require PSCs employed by the US Government to comply with PSC1.¹²⁴ Other countries and private sector clients are incorporating a requirement to comply with PSC1 into their contracts with PSCs. In time, compliance with PSC standards will make due diligence easier and distinguish high quality PSCs from others in the market.

A second standard, PSC2, (more technically ANSI/ASIS PSC.2-2012 Conformity Assessment and Auditing Management Systems for Quality of Private Security Company Operations) allows certifying bodies, like national standards organisations, to become accredited to certify and inspect PSCs.¹²⁵ PSC2 provides a tool that allows governments and potential employers to assess a private security company’s compliance with PSC1.¹²⁶

These PSC standards have the potential to further professionalise the industry and lift standards. However, critics of the process have warned:

*... it also represents a risk of industry capture of the regulatory regime. With the multi-stakeholder oversight mechanism that the Code promises still not yet established, there is a danger that certification against the new industry ‘standard’ will offer the industry increased legitimacy without increased accountability.*¹²⁷

Maritime standards

A draft maritime standard for PSCs was introduced at the International Maritime Organization (IMO) in November 2012.¹²⁸ In March 2013, the International Organization for Standardization published this standard (known as ISO 28007).¹²⁹ The ISO 28007 standard is based on the ‘100 Series Rules’—a set of guidelines on the use of force by PSCs operating at sea. The 100 Series Rules, similar to a conceptual

rules of engagement, have been devised by a consortium of PSCs and shipping organisations.¹³⁰ However, the US Government does not recognise either the 100 Series Rules or current ISO 28007 standard as effective in certifying PSCs. An international shipping insurance club, BIMCO, has also provided a standardised contract for the employment of private contracted armed security personnel onboard shipping. Known as GUARDCON, it has an accompanying certification regime, and provides guidance to shipping companies on the best way to manage contracted security personnel.¹³¹

At the individual contractor level, there are many types of qualifications available to private security personnel; however, a mandated national accreditation scheme for individual skills does not currently exist and verification of most maritime security qualifications remains problematic.

Other initiatives

Security in Complex Environments Group (SCEG): SCEG is a standing private security industry body in the United Kingdom. A special interest group coordinated by ADS Group and a UK industrial association, the SCEG is a focal point for UK private security industry engagement with government. The UK Government appointed SCEG as its partner for the development of standards and accreditation for the UK private security industry.¹³²

Private Security Monitor: The Private Security Monitor is an independent research project that collates information on research relevant to the regulation analysis of private military and security services. It is part of the Sié Chéou-Kang Center for International Security and Diplomacy at the University of Denver's Josef Korbel School of International Studies, and operates in partnership with the Geneva-based Centre for the Democratic Control of Armed Forces (DCAF).¹³³

International Stability Operations Association (ISOA): The ISAO is a PSC professional association based in Washington DC. The organisation has been influential in the industry, particularly under its former president Doug Brooks. The ISOA chiefly serves as a lobbying group for PSCs and also publishes a journal that looks at issues in what it terms the 'stabilisation operations' industry.¹³⁴

Security Association for the Maritime Industry (SAMI): SAMI is a professional association for maritime PSCs. Though it has been an active participant in many of the processes associated with the booming maritime PSC industry it has not been successful in self-regulating large parts of the maritime security industry.¹³⁵

9 – CIVIL-MILITARY GUIDELINES FOR PRIVATE SECURITY

Cooperation between civil-military actors and PSCs often does not happen easily. Because of the controversy and accompanying secrecy that has often surrounded PSC use in the Australian context, principles for detailed coordination between government agencies, the military, NGOs, civilian authorities and PSCs have rarely been announced. What follows in this section is a set of guidelines that can be used to give direction to engagement between civil military actors and PSCs. These guidelines are informed in part by the NGO–Private Security Provider guidelines developed by the European Interagency Security Forum, which detail how NGOs should enter into private security contracts and manage the issue of using private security forces for armed protection.¹³⁶ However, these guidelines are necessarily broader and incorporate recommendations for interaction at the tactical, operational and strategic levels—with additional recommendations specific to Australian government interaction with PSCs.

1. Developing situational awareness of and with PSCs is critical

Although PSCs have been a feature of conflict and disaster zones where Australians operate for some time, Australian civil-military actors do not regularly develop their own situational awareness of where and how PSCs are operating. Nor is there well developed understanding of the capabilities that PSCs possess. It is important for civil-military actors to understand which PSCs might be active in areas they operate in, what roles they are performing, and who they are contracted to.

At the tactical level, military commanders should maintain situational awareness of where and how PSCs are operating, including through the use of blue force tracking systems where possible and appropriate. Commanders and managers responsible for an area of operations in a conflict or disaster should seek to maintain a degree of coordination of PSC movements, and an awareness of what capabilities PSCs have and in what numbers they are operating. This is critical not only to avoid friendly fire incidents, but also for tactical planning.

NGOs, where appropriate and willing, might consider sharing a limited degree of situational awareness with PSCs to deconflict their activities and movements. At the least, NGOs should consider establishing a channel for sharing situational information with PSCs in the event that coordination is required in an emergency situation.

In all cases, civil-military actors must be mindful of sectoral limits on sharing information—NGOs have humanitarian principles that will limit the information they can share, militaries and governments must protect classified information, and PSCs have commercial in confidence information that they cannot disclose.

2. Sharing information and developing intelligence

For PSCs to effectively undertake their roles when contracted to government there needs to be a degree of information and intelligence sharing. Certainly, companies protecting officials or national

facilities need to be apprised of threat warnings at least. In the Australian context, information and intelligence sharing between government and PSCs has been a sensitive issue, particularly because of information-sharing restrictions placed on departments like DFAT. Yet, these sensitivities are out of step with the reality that the Australian Government routinely provides classified access at the highest level to a range of industry experts and consultants. In a coalition environment, providing threat warnings and intelligence to personnel from different nationalities is even more difficult.

PSCs are also information collectors and in some cases can be intelligence providers. At the tactical level, PSCs develop daily information on route security and atmospheric conditions in a given area in which they operate. Governments particularly should develop clear channels and reliability grading for information and intelligence generated by PSCs. Where government employs a PSC, it might consider issuing its private security operators with commander's critical information requirements so that observations and information can be prioritised. However, information and intelligence collection by private security contractors should be incidental to their security duties. More broadly, a capacity to debrief private security contractors operating in conflict zones where the Australian Government does not have a presence would be useful.

Similarly, Australia's intelligence agencies should develop their intelligence regarding worldwide private security operators, particularly those who might operate in Australia's neighbourhood. This could be detailed to the individual level and, within constraints, shared with government departments who manage private security contracts. This could be a task usefully performed by a government-owned open source centre—providing a reach-back facility for deployed personnel also. Finally, as PSCs perform mission critical roles and have special access to government personnel and facilities, intelligence agencies should actively monitor the risk of insider threats from within PSCs.

3. Establish coordination channels prior to a conflict or disaster deployment

Although there is better awareness now of where and how Australians are engaged in the private security industry, a central government liaison point with the private security industry remains important for coordination ahead of any conflict or crisis. Australia does not have a formal industry body similar to the Security in Complex Environments Group in the United Kingdom, and would benefit from a more regular forum for coordination with government. A coordination point is also important for embassies and consular staff who need to determine where Australian PSCs are operating.

At the tactical level, coordination between the military and PSCs is critical. The government is able to mandate coordination between the military and PSCs that it employs, including implementing trusted communications measures. However, the task is more challenging for private security contractors operating in support of companies, international organisations and international militaries. At a minimum, deployed Australian military units should establish a liaison officer for private security issues, preferably located within an operations branch. This liaison is important prior to deployment as well. The ADF should understand PSC standard operating procedures, and be prepared to rehearse crisis tactics, techniques and procedures with companies employed to secure Australian embassies, so that in the unlikely event the ADF is called to respond to a crisis at one of those locations employing contractors, coordination and incident hand-off procedures are well understood.

Similarly, because Australia's security ally, the United States, relies extensively on PSCs, it would be prudent for the Australian Government to maintain a designated liaison point with the US Government on operational and strategic issues associated with using PSCs. This could include the exchange of information on PSCs maintained within the US Department of Defense SPOT system.

4. Mature and constant due diligence is necessary

Due diligence of PSCs and contractors remains important for the Australian Government and civil-military actors who might engage with PSCs. Within the bounds of legal constraints, the government might consider biometric enrolment of contractors and a means to allow PSCs to verify the military backgrounds of potential employees. Within constraints, sharing a database on available contractors between departments within the national security community should be considered.

Due diligence is a constant process, not just something to be undertaken at the point of establishing a contract. Sharing contract performance assessments between government departments is also a component of due diligence. There is a role for government in leading PSCs' private sector clients to become more sophisticated customers and contract managers—particularly when it comes to differentiating between the many types of security services available. This is particularly relevant in Australia given the extent of PSC use by the mining and energy sectors.

5. The Australian Government can influence the private security industry

The Australian Defence Force is a major supplier of training and talent for the private security industry. ADF views on the suitability of employment of its people in the industry have changed over the past decade. Now, active and productive personal networks exist between the ADF and PSCs. The ADF has built provisions into its enlistment conditions that stipulate that military personnel must remain in the inactive reserves for a period following separation from the military. This provision could be extended, requiring former military personnel who remain as inactive reservists to declare any employment with PSCs. Certainly this would allow better data collection on the flow of military personnel to PSCs and better delineate possible conflicts of interest.

Similarly, the Australian Government can leverage its bulk as a private security services purchaser to lead change within the industry. This might include promoting an Australian private security standard, and showing a clear preference for companies who are accredited to the standard (or international equivalent).

6. Understand incident management and reporting procedures

Australian government personnel and civil-military actors operating in close proximity to PSCs, including those not employed by Australians, need to be aware of reporting and investigation procedures in the event of an incident involving private security contractors. This could be incorporated into pre-deployment training. In a deployed environment, incident reporting requires not only liaison with the military and the employer of a PSC, but also with host government agencies and police, as well as local nationals in the area of the incident. Civil-military actors should anticipate any need for post-incident mitigation, which could be extensive.

7. Confirm responsibilities to PSCs in disaster and conflict zones.

Government, civil and military actors should clearly understand their responsibilities to PSCs. In a conflict zone, this would include deciding whether military quick reaction forces should be tasked to support private security contractors (of any nationality) who are attacked and require support. This involves an analysis of obligations to PSCs as non-combatants under international humanitarian law. In a disaster zone, this would include consideration of what logistical and medical services government actors are required or might choose to offer to PSCs. These responsibilities need to be clearly understood and demarked between departments and agencies.

8. Training

Pre-deployment military training should include preparation for engagement with PSCs. This should include developing an understanding of the rules for the use of force and the standard operating procedures that PSCs use. Similarly, although many PSC staff are ex-military personnel, the military might benefit from conducting training for PSCs as and when relevant military doctrine changes. Training for PSCs in the laws of unarmoured conflict and rules for the use of force would help foster confidence in contractors' ability to comply with rules, regulations and ethics. PSCs could be incorporated in mission rehearsal exercises. The military might be able to conduct joint risk assessment exercises with PSCs to minimise the chances of tactical problems or incidents, either once deployed to a conflict or disaster zone or before when training in Australia.

9. Confirm responsibilities for PSCs

One of the most important considerations for civil-military actors is to confirm their own responsibilities in the event they decide to employ PSCs. This includes the possible liability for actions the private security contractor undertakes. An emerging legal doctrine suggests that those who contract for the use of PSCs bear significant responsibility for their actions. In the case of governments, this could mean that although PSCs are not official government personnel, they are effectively state actors. The risks of using PSCs should be constantly evaluated.

Methodology

Many aspects of the work conducted by the private security industry are confidential. This is for three reasons: the need to maintain commercial confidentiality, the need to retain operational security, and extreme circumspection about discussing the more sensitive aspects of the industry in public forums. Many of the research findings in this paper are derived from more than 75 interviews conducted with private security contractors, company officers, insurers, company owners and financiers, military personnel and former military personnel, intelligence officials, NGOs, diplomats, private security associations, government officials, and academics from the United States, United Kingdom, Switzerland, South Africa, Australia, New Zealand, the Netherlands, India, China, Indonesia, Japan, Papua New Guinea, the Solomon Islands and Fiji. Many of these interviewees wished to remain anonymous because they were not authorised to speak on these issues under the terms of their employment.

A survey conducted among PSCs did not yield sufficient responses to undertake substantial statistical analysis, but was useful in initiating conversations with a range of newer PSCs. Published literature on PSCs was reviewed along with military doctrine and policy documents. Where available, Australian government records on private security contracts and policy were analysed, as well as corporate information pertaining to Australian based, operated or owned PSCs. The research also used 'grey' sources, including online discussion forums and the professional networking platform LinkedIn. These forums were used to corroborate information PSCs or contractors provided regarding staffing numbers, clients and geographic spread of operations.

Many of the research conclusions in this paper were refined during a workshop on private security and the Australian Government, conducted in Canberra, Australia on 24 October 2013. The workshop included representatives from government agencies and departments, the private security industry, and non-government organisations. Conclusions and findings are the author's responsibility.

Definitions

There are many definitions used to describe the private security industry, many of which overlap and are not used consistently in the literature. Some terms have negative connotations and are not in frequent use within the industry. The following terms may be encountered:

Mercenaries: this term is rejected by the modern private security industry and generally understood to refer to soldiers of fortune, with little professional standards or loyalties, often operating in support of challengers to legitimately elected governments. This description might fit, for example, the amateurish military forces that fought in Africa during the 1960s. These mercenary groups had little in the way of a professional company structure, employed unconventional military discipline, and frequently indulged in violent, criminal activity. Similarly, the term might accurately be applied to the private armies that operated in Europe before the nineteenth century. Modern PSCs are not encompassed by the legal definition of a mercenary as used in Australian domestic law. The term 'mercenary' is most commonly used by the UN Human Rights Council and in media reporting, but is rejected by most other stakeholders in the industry.

Contractor: this term is used broadly to refer to a private individual or company providing services to the government. This can include providing non-security and security related services in an armed or an armed capacity, in a domestic or offshore environment. It may refer to providing civilian type services, such as IT support, or it may refer to military tactical tasks. In its most common use, the word 'contractor' is used to draw attention to the fact that the person is not a government employee.

Private Military and Security Companies (PMSCs): The Montreux Document, the seminal multilateral document concerning the private security industry, defines PMSCs as 'private business entities that provide military and/or security services, irrespective of how they describe themselves. Military and security services include, in particular, armed guarding and protection of persons and objects, such as convoys, buildings and other places; maintenance and operations of weapons systems; prisoner detention; and advice to or training of local forces and security personnel.'¹³⁷

United Kingdom Joint Military Doctrine defines PMSCs as ‘the full range of companies involved in the supply of discreet security, defence and military services, including the provision of support and training to commercial and public sector interests’. This definition applies across UK government policy.¹³⁸

Private Military Company (or Private Military Firm): Stemming from a UK government green paper on the private use of force, this term is now understood to refer to private firms who provide exclusively military functions such as combat services. Examples of a PMC would be Sandline as it operated in Papua New Guinea, or Executive Outcomes as it operated in Sierra Leone. This type of firm no longer apparently exists, and is not considered a part of the private security industry for the purposes of this paper.

Private Security Company (PSC): this is the preferred term used within the private security industry.¹³⁹ It refers to private companies who offer security services to either government or non-government clients. The United States General Accounting Office defines PSCs as ‘private companies, and/or personnel, that provide physical security for persons, places, buildings, facilities, supplies, or means of transportation’.¹⁴⁰ The US Department of Defense details: ‘Private security functions include guarding of personnel, facilities, designated sites, or property of a Federal agency, the contractor or subcontractor, or a third party. PSCs may not engage in combat, defined as deliberate destructive action against hostile armed forces or other armed actors. The use of force by PSCs is limited to self-defense, the defense of others and the protection of inherently dangerous property or critical infrastructure from theft or destruction.’¹⁴¹

Private Security Providers (PSPs): this term is primarily used in Afghanistan to describe non-government security groups.¹⁴² It includes non-Afghan PSCs, but is more commonly used to refer to local Afghan-led security companies or armed militias—which may be legal or illegal under Afghan law.

Privately Contracted Armed Security Personnel (PCASP): the International Maritime Organisation (IMO) uses this term to refer to private armed teams operating onboard commercial shipping, primarily in anti-piracy duties.¹⁴³ In the IMO’s use, these teams are employed by ‘private maritime security companies’.

Home State: a country in which a PSC bases its operations.

Contracting State: a country that hires PSCs.

Territorial State: a country on whose territory PSCs operate.

Local National: an employee who is a citizen of the country in which PSCs are operating, often employed for low-level static guarding tasks or to provide situational awareness information.

Third Country National: an employee of a private security company who is not a local citizen in the host state, and is not from what would be considered an advanced Western nation. Often these employees have military experience in their home country and charge a lower daily rate; however,

their language skills may be rudimentary. Ugandans and Chileans have been popular among some PSCs, as have Fijians and Gurkhas.

Expatriate: an employee of a private security company who is a citizen of an advanced Western country (generally the United States, United Kingdom, Australia or New Zealand). Most likely to be found in a team leader or management role.

ENDNOTES

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