

the polish quarterly
of international
affairs

WINTER 2007

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MARGARITA MATHIOPOULOS

PMC's and PSC's in the Global Military Bazaar

Introduction

The issues of privatization of warfare and outsourcing of military responsibilities and activities to private military companies (PMC's) and private security companies (PSC's) are topics of tremendous importance as we examine both the shape of current conflicts and what the Western way of war may look like in the future. The privatizations of more and more military responsibilities, from intelligence and logistic support to direct involvement in combat related activities such as bodyguard duties and convoy protection, are ones that have, to date, attracted little public attention and surprisingly little discussion within the security community itself. But this is too important a trend for it not to be subject to a more thorough and complete analysis of the impact this growing phenomenon is having on the ability of Western states to wage war, and operations short of war, including peacekeeping, peacemaking and nation building tasks. It is past time for the so far limited discussion on these issues to receive wider attention from decision makers, opinion formers and the general public.

The Implications of Privatization

The implications that are surfacing as a result of the increased tendencies of Western military establishments to privatize many aspects of warfare and military operations are profound. Recent scandals in Iraq and Afghanistan have thrown unaccustomed light on an explosive trend: the growing use by Western governments, military establishments and private companies active in conflict zones of private military contractors in a host of roles that have long been the traditional provenance of armies. The use of such firms allows governments to accomplish public ends through private means, with the seemingly additional advantage that such activities can take place without much oversight by legislatures or even the press. This lack of scrutiny may be expedient, even extremely useful, but whether or not it is efficient, cost-effective or good for democracy is much more open to question.

It may well be the case that the privatization of certain tasks which have traditionally been carried out by the armed forces can benefit everyone involved,

the PMC's, the governments that employ them, overstretched military establishments, some of whose responsibilities the PMC's and PSC's are shouldering, the taxpayers who pay for their services and even, in the case of non-combat related activities, the local recipients of their services. But these benefits only accrue if the outsourcing of what have customarily been military activities is undertaken in a thoughtful and systematic fashion. Privatizing military tasks is not like the privatization of a phone company or a failing publicly owned industrial plant. Different criteria, ones that are sensitive not only to economic or personnel considerations but which also take account of the national security implications that are inherent in some of these decisions, must be applied. The political, military and economic calculations that are involved in making any particular decision on the privatization or the outsourcing of military responsibilities cannot and should not be a question of simply how many euros or dollars can be saved or what armed services personnel and equipment can be cut or redeployed. The process should also focus on the ability of the state and its armed services to conduct the types of military operations they consider most effective against a putative foe, not the ones that the outsourcing of military capabilities may force them to engage in because they no longer possess fully capable armed forces. It is just these types of overarching national security considerations that have so far been missing from the privatization and outsourcing process. But they are ones that must be fully addressed if this process is going to continue and if it is to be implemented in the correct manner.¹

All too often, the tales of combat, profit, greed, sacrifice, heroism and honour that emerge from the often hyperbolic press coverage of private military contractors read like something out of a Tom Clancy novel, a Hollywood movie or a James Bond screenplay. When some of these wild tales may be true, they obscure the fact that the reality of PMC's and PSC's is not the stuff of traditional mercenaries, freelance adventurers or a new breed of soldiers of fortune. Instead, if we look beyond the surface hype and bravado, we find that the true story is one of billion dollar, trans-national corporations chasing multi-million dollar contracts, as part of a well-honed strategy to build franchises whose value will outlast any particular conflict or emergency.

There is an extremely chequered history to the privatization and outsourcing that has occurred in other areas where government has attempted to devolve its

¹ D.D. Avant, *The Market for Force: The Consequences of Privatizing Security*, Cambridge University Press, 2005, pp. 57-70.

traditional responsibilities onto the private sector. It seems only reasonable, not to say logical therefore, to begin any examination of issues such as private military companies being engaged with intelligence gathering and analysis, weapons maintenance, combat engineering responsibilities and many of the other traditional core tasks of the armed forces, including combat itself, from a position of profound scepticism about what the tangible advantages and benefits that are going to accrue from such a privatization process are, and make a critical assessment as to whether or not they might outweigh the potential disadvantages.

The Lessons of History

In looking at all of these issues, some historical perspective may prove to be a useful starting point. The role and history of mercenaries in warfare is well known. From Xenophon's 10,000 and the auxiliaries of Rome's legions to the Condottieri of Renaissance Italy and the Landsknechts of the Thirty Years' War, the armies of Britain's East India Company, the Hessians of the American Revolution and the Dogs of War of post-colonial Africa, mercenaries seem to have always played some role in nearly every war that humans have fought. It was understood, however, that the expectations an employer could have for the mercenary troops in their service were limited. They might fight hard, but preservation of the combat strength of a mercenary unit was more important than achieving a costly victory for their employer. So the commitment one could expect from mercenaries was never going to be unconditional. And because they fought only for pay and plunder, any failure to meet the full provisions of their contract could lead to a refusal to fight, or worse, a willingness to change sides if the prospects on the other side of the hill looked greener.

Because of these realities, and because even an employer who met the demands of his mercenary troops often found themselves trapped in an upward spiral of ever escalating demands and requirements from a rapacious mercenary leader or his unruly troops, as national consciousness and patriotism grew in the modern age, so too did the idea of a soldier who fought only for pay, not out of patriotism or ideological commitment, begin to take on pejorative connotations. But it was only after their bloody behaviour in Africa's internecine strife during the 1960's and 1970's that the term 'mercenary' finally lost any of the positive resonance it may once have enjoyed.²

² See: M.L. Lanning, *Mercenaries: Soldiers of Fortune, from Ancient Greece to Today's Private Military Companies*, Presidio Press, 2005.

In the same way, it has only been relatively recently, starting with the American Civil War and most notably through the First and Second World Wars, that armed services began to take on responsibilities that did not primarily involve actual combat. Before the twentieth century, in nearly all countries, logistics, that vast tail of services and capabilities that are such a vital necessity for any military force that hopes to be able to march, manoeuvre and fight, was long a largely private undertaking. The key role that logistics has always played in warfare is hard to overstate. In any war, keeping armies in the field has always demanded enormous amounts of food and ammunition for the soldiers and fodder for their animals. All of these had to be manufactured, transported to the theatre of war and then distributed to armies in the field. But in spite of its vital role, logistics were long the Cinderella of military operations. While generals and their soldiers might bask in the glow of victories won or suffer the opprobrium of campaigns gone wrong, the successes and failures of their supply train, the jumble of individuals and services that enabled the armies to fight, received little attention until the advent of mass armies and total war. The reality of military operations, as opposed to the way that they are often presented, is that great armies do not simply appear on the battlefield, fully equipped and ready to fight. Before the advent of railways and motor transport, moving and supporting an army was frequently an almost insuperable task. While infantrymen and cavalry troops could manoeuvre on their own, the vast array of services needed to keep them fed, supplied and combat capable was largely in the hands of civilian contractors, often locally hired and of doubtful competence, honesty and reliability.

Such inconsistency could be tolerated as long as battles lasted only a day and the campaign season was short. But as the needs of armies grew and soldiers could no longer carry more than a few days of campaign supplies on their backs, as armies expanded and became too large to simply live off the land, and as more and more of the essential materials of war, such as ammunition and replacement equipment, were produced far from the battlefield and then transported to the actual arena of combat, civilian contractors could no longer provide the type of support modern mass armies required. As the battlefield spread, and the ranges of small arms and artillery increased, the civilians who made up the train found themselves, often unwillingly, in harm's way. As they had not signed up to fight, when faced with danger, their tendency was to bolt for the rear, leaving soldiers in the firing line unsupported and starved of ammunition and other vital supplies. As more and more armies faced this situation, the role of soldiers in providing armies with logistical support grew until the small civilian component

that was left in the system was clustered far from the combat zone or restricted to non-essential tasks. The lesson was that civilians who were not subject to the strictures of military discipline could not be relied upon to stay at their posts if they felt themselves to be in imminent danger of life or limb, a risk that with the advent of aerial bombing could fairly be said to exist at all points in the military's supply chain. Privatization and outsourcing seeks to reverse this lesson of history. It seems to assume that human nature and the realities of the battlefield have changed. How realistic are these assessments and what are the implications if the lessons of history of logistics remain current?³

The current situation with regard to the activities of PMC's and PSC's is difficult to assess clearly and definitively. One source claimed in 2002 that in the previous eight years, the US Department of Defence (DoD) had signed 3,061 contracts, valued at more than \$300 billion, with 12 US-based PMC's. Furthermore, 2,700 of these contracts had been given to just two companies: Kellogg Brown & Root (KBR), a subsidiary of the Halliburton Corporation, and to Booz Allen Hamilton, a management and technology consulting firm. The International Consortium of Investigative Journalists, which produced the report that gives these figures, was unable to determine what percentage of these contracts was for training, security or logistical services. This, it was stated, was because of both the breadth of the military-related services offered by the larger corporations and the paucity of information on the contract award process provided by the Pentagon.⁴ It is obvious just from the raw data, however, that the use of PMC's by the DoD is widespread and cuts across all areas of military activities. And as the report was written in 2002, before the heaviest involvement of PMC's in Iraq and Afghanistan really got underway, it is obvious that both the number, dollar value and the breadth and scope of PMC involvement in supplying aid and support to the US armed services and their coalition partners has substantially increased over the past four years. As has been pointed out, the launching of the war on terror has been a windfall for PMC's: "Successive Federal budgets have allocated billions of dollars for

³ J.A. Lynn, *Feeding Mars: Logistics in Western Warfare from the Middle Ages to the Present*, Westview Press, 1994, pp. 9-31, 103-109.

⁴ L. Peterson, *Privatizing Combat, the New World Order*, The International Consortium of Investigative Journalists, Washington, 28 October 2002, www.publicintegrity.org/bow/report.aspx?aid=148, quoted in: M. Khan, "Business on the Battlefield: the Role of Private Military Companies," *Corporate Research E-Letter*, no. 30, December 2002, www.corp-research.org/dec02.htm.

improved intelligence gathering, enhanced law enforcement capabilities, improved border security and tracking of visitors, the procurement, stockpiling and distribution systems for vaccines and antibiotics, better aviation security, along with a wide range of other counter-terrorism programs."⁵ Much of this work has landed in the laps of a wide variety of PMC's. The Bush administration has refused to provide a dollar figure for the total amount of contract work that is currently being awarded to PMC's. The US government claims that many such agreements must remain secret in order to protect national security interests. But experts on the activities of PMC's have estimated that contracts given out for jobs in Iraq alone cost the Pentagon tens of billions of dollars a year, and cite as examples DynCorp, the largest PMC operating in Iraq, which currently has DoD contracts worth more than \$2 billion to provide "post-conflict police training" and other tasks around the world⁶ and a single contract that was awarded by the Pentagon in 2006 to the United Kingdom's AEGIS Specialist Risk Management company that was worth \$293 million.⁷

The Viability of Privatization for Peripheral Military Responsibilities

There are a number of major areas that need to be examined in making any assessment of the efficacy of privatizing military responsibilities and outsourcing specific military tasks. In undertaking such an examination, caution needs to be exercised when it comes to making judgments about the utility and effectiveness of some of the privatization processes now underway, as too optimistic a reading of the current situation could lead to false conclusions as to just how worthwhile privatization has been in increasing, or even maintaining, the military's effectiveness on the battlefield.

The rationale behind the privatization of government functions and responsibilities has been claims about the ability of the private sector to achieve marked increases in the efficiency of delivering goods and services, thus reducing the cost of such provisions. This in turn saves governments costly expenditures by allowing them to withdraw from the direct provision of certain

goods and services, based on the belief that a bureaucratic system is not optimal for delivering them efficiently and cost-effectively. In addition, privatization can be a revenue provider for governments when infrastructure and service provision rights are auctioned off to the highest bidder. There is, of course, no doubt that the military, as with many other areas of governmental activities, is rife with inefficiencies and waste. Without a pressing need to bow to the efficiencies that are held to be inherently part and parcel of a freely functioning market economy, the armed services frequently operate as if careful budgeting and competition are completely alien concepts. Western militaries have a well established reputation for consistently overrunning budgets for weapon procurement projects, a lack of fiscal reality in buying goods and services, a characteristic made infamous by the US Air Force's \$800 hammer, and by a seeming inability to ensure a timely and reliable supply of many of the most important items troops need in modern combat, from additional armour for vehicles to ceramic plates to add to the flak jackets of ordinary soldiers.

From uneatable food, to irregular mail deliveries, to what often appear to those caught up in them wholly arbitrary personnel policies, everyone from politicians to the business sector to soldiers in the field have a pet complaint about the way the military conducts itself both on and off the battlefield. The question, however, is how far any process of privatization of functions or outsourcing of responsibilities and activities can go towards addressing these often legitimate complaints? There is undoubtedly a good deal of leeway for private military firms to step in and provide some of the goods and services that the armed services currently undertake using uniformed personnel. Service such as base catering, providing laundry services, rear area hospital and medical facilities, base vehicle maintenance and such tasks as inventory management are all functions that are important to the smooth and efficient running of any military establishment and which may be more efficiently provided through a greater use of private companies.

The Inherent Shortcomings of Relying on Private Military Companies

However, it is important not to overestimate the scope and nature of the type of privatization or outsourcing of current military jobs and responsibilities that can actually take place. Many, if not all of the tasks that the military currently provides through its own personnel that are the most suitable for privatization are ancillary services. While important, most, if not all, are on the periphery of the armed services core responsibility, which remains to make war. Thus, while many of the tasks that could be privatized are important for the morale of service

⁵ I.M. Cuthbertson, "Peering into the Abyss: Understanding and Combating NBC Terrorism," in: H. Gaertner and I.M. Cuthbertson, *European Security and Transatlantic Relations after 9/11 and the Iraq War*, London: Palgrave MacMillan, 2005, p. 75

⁶ G. Guma, *The Quiet Rise of National Security*, Toward Freedom, April 2006, <http://towardfreedom.com/home/content/view/449/69/>

⁷ N. Robertson, *Iraq Contractors Make Billions on the Front Line*, CNN, 13 June 2006, www.globalpolicy.org/security/issues/iraq/contract/2006/0613billions.htm.

members and some can directly affect the readiness level of the military as a whole and in at least some cases, even impact the combat capabilities of individual units, none are core warfighting tasks.

There is also the reality that PMC's and PSC's operate outside of the military chain of command and are therefore not automatically responsive to military orders, instructions or even suggestions.⁸ While this may not be a crippling problem where the PMC's are engaged only in peripheral activities, it becomes a much more serious problem as they become engaged in missions that are more vital to the safety and security of troops in a conflict zone and those elements of the military that take part in actual combat operations. While PMC's sign binding contracts with the government and the armed services that employ them, disobedience and a refusal to follow orders bring none of the draconian penalties that would attach to such behaviour if it were to be indulged in by regular troops. Instead, it is merely a contractual dispute that can only be settled through a long and arduous process of civil litigation. In a combat zone, where delay can cost lives and a refusal to follow orders and fulfil commitments can lead to both soldier and civilian deaths, a court case that is resolved two or three years down the line is hardly an adequate response to such a dangerous situation.⁹

Thus, if such outsourcing is going to occur, there will have to be strict supervision of contractors to ensure that contracts are properly let and fulfilled, to ensure that services which often still have an important role in ensuring military readiness, power projection and combat capabilities are properly delivered. Careful monitoring of contract commitments is also a necessity to ensure quality control and to prevent over-billing. Criminal sanctions, including imprisonment and heavy fines, for both the individual civilians involved in an incident and the local managers and corporate officers who are responsible for fulfilling a contract's provisions, must be part of any outsourcing or privatization process and their attendant contracting procedures. The current situation, where a PMC or its employees can simply refuse to carry out a task if going forward appears to them too dangerous, is not a situation that can be sustained in a combat zone. When a private firm bails out of a contractual commitment or refuses to carry out the military's orders, it is the armed services and their

⁸ D. Isenberg, *A government in search of cover: PMCs in Iraq*, British-American Security Information Council, March, 2006, www.basicint.org/pubs/Papers/pmcs0603.htm#02.

⁹ A. McColl, *The not-so-white Companies: PMF's and Perceptions of Legitimacy*, University of Durham, 2004, pp. 9-10, www.mngt.waikato.ac.nz/ejrot/cmsconference/2005/proceedings/criticalinternational/McColl.pdf.

personnel that are left to scramble to fill the unanticipated shortcomings in their overall capabilities. To impose such a burden on military forces that are already experiencing overstretch and mission creep is both unfair and dangerous. It is clear from the extensive evidence of over-billing and sub-par services that have emerged in both Iraq and Afghanistan, from Halliburton overcharging for fuel supplies¹⁰ to contractors and their civilian drivers refusing to take their slots in convoys that they feel are at serious risk of ambush, that not all contractors are meeting their contractual commitments.¹¹ When they do not, it is the military as a whole, and individual service personnel in particular, who have to step into the breach and take up the slack that the PMC's and their staffs have left in the wake of their unreliable or dishonest behaviour.¹²

Serious questions have also been raised about both the quality and qualifications of many of the staff that PMC's and PSC's have hired to fulfil military contracts. As private companies are primarily concerned about profit, the pressure is always to keep personnel costs as low as possible, as they are usually the biggest item in any company's budget in what is frequently a labour-intensive industry. The danger lies in such companies skimping on the quality of the personnel they hire to keep costs low. Some PSC's have hired former military personnel at very generous salaries, with bodyguards able to earn between \$100,000 and \$200,000 for some of the riskier close protection jobs in Iraq. But these highly qualified and carefully selected individuals are the elite of the PMC and PSC personnel pool. Further down the employment food chain, there is widespread evidence of insufficient screening in an application process that should be tailored towards ensuring that those who are hired are both qualified and suitable to do the often arduous work required even in rear area base facilities and the frequently dangerous tasks they are called upon to carry out in more forward areas. Instead, the process seems more geared to finding warm bodies with the minimum amount of skills and experience necessary to fill a particular job slot. Thus while the military has significantly increased the amount of training it gives its truck drivers and maintenance personnel before sending them to Iraq, PMC's remain content to hire American

¹⁰ D. Jehl, "A Region Inflamed: Reconstruction; U.S. Sees Evidence of Overcharging in Iraq Contract," *New York Times* of 12 December 2003.

¹¹ P. Chatterjee, "Driving Into Danger," *CorpWatch*, 29 March 2005, www.corpwatch.org/article.php?id=12010.

¹² Lou Dobbs Tonight, "Bin Laden Associate Surrenders," *CNN*, 13 July 2004, <http://transcripts.cnn.com/TRANSCRIPTS/040713/ldt.00.html>.

truck drivers with no military experience, knowledge of desert driving conditions, training in driving in convoys or the ability to perform even emergency maintenance on their rigs and then ask them to drive vital supplies through the cauldron of the Sunni Triangle in Iraq.¹³

Standards are even more lax when it comes to PMC's and PSC's hiring locally engaged staff and nationals of third party states. From Indian truck drivers, to Filipino chefs, from Thai laundry workers to South African cleaning staffs, all have found employment servicing coalition forces in Iraq and Afghanistan. They are in addition to the literally thousands of Iraqis and Afghans who have found employment in every job imaginable, from security guards and bomb disposal specialists, to cooks and bottlewashers. Even if amongst these enormous cadres of non-military personnel that are employed in operational zones there is no-one with a dubious background, which is impossible to imagine, there is still the additional danger that these people, most of whom are citizens of less developed nations, are less well educated and trained than the military personnel they are substituting for or replacing. There are also claims that many of these workers unwillingly end up working in combat zones because they were tricked by unscrupulous recruiters who failed to properly explain what their duties would be.¹⁴ In addition, because of the wide variety of nationalities that may be thrown together by PMC's and PSC's to meet a particular need, and because many of the individuals involved are employed on contracts that vary dramatically in length, some of them being very short, they may never have met before they start working together, may not share a common language and may never have the chance to build the type of small group cohesion and mutual confidence that can be so vital to successfully carrying out a mission or task in a dangerous or stressful environment.

There is the additional disadvantage that where it is the PMC's and PSC's that employ local staff for a variety of jobs in an area of active military operations, the armed services personnel who might otherwise have interacted with such locals have much less direct day-to-day contact with such locals and thus miss out on regular opportunities to build personal relationships with them. By failing to build such relationships, military personnel may be cut off from a

¹³ S.I. Erwin, "Dangerous convoy duties prompt expanded training for truck crews," *National Defense*, December, 2004, www.allbusiness.com/periodicals/article/275382-1.html.

¹⁴ A. Eunjung Cha, "Underclass of Workers Created in Iraq," *The Washington Post* of 1 July 2004, www.washingtonpost.com/wp-dyn/articles/A19228-2004Jun30.html.

valuable source of information and intelligence on local attitudes and conditions. There is also the problem that where the screening of local or third party personnel is not fully in the hands of the military, but is left to the private companies themselves, there is no real way of knowing the background of some of the people who are being allowed into military bases and to mingle with military personnel. In the age of the suicide bomber, the types of background and security checks that PMC's and PSC's carry out on their personnel, individuals who may enjoy access to vital and important locations or offices where intelligence information and security plans are kept, are at best often perfunctory and sometimes non-existent. It does not give confidence that the same companies and a number of their individual managers have, in the past, been happy to do business with a range of dictatorships, insurgent groups, drug cartels and organized crime syndicates and even, on occasion, with jihadist groups with known links to al-Qaeda.¹⁵

While some have argued that such problems are isolated and simply the teething pains involved in getting a new paradigm for service provision up and running, worrying incidents are frequent and serious enough to beg the question if what successful military operations really need is more outsourcing and privatization. Does the most efficient and effective solution to plugging the gaps that the continuing shortage of the uniformed military personnel needed to fill all of the myriad of non-combat roles that the armed forces have to shoulder to conduct actual operations lie in the ever greater involvement of private military companies? The information available to us so far, based on the experiences of the coalition forces in Iraq, Afghanistan and in peacekeeping and nation-building missions in many other parts of the world, suggests that the answer to the question of do we need greater privatization of military functions seems to be a resounding no.

PMC's and their Shortfalls with Regard to Their Legal Status, Oversight, and Their Long-Term Impact on Military Capabilities

The only realistic measurement, with regard to the value and feasibility of the privatization of what have previously been military tasks and responsibilities, are whether or not the viability, integrity and security of a given mission is being adversely impacted or is being carried out as well, or preferably

¹⁵ D.G. MacDougall, *The Potential of Private Military Companies (PMC's) in Hemispheric Security and Defense*, Colegio Interamericano Defensa, April 2004, pp. 22-23, <http://library.jid.org/en/mono43/Macdougall.doc>.

better, than it could or would have been had the introduction of PMC's and PSC's into the mission's components not taken place. It is highly doubtful that the advent of PMC's and PSC's is going to have a neutral effect on the ability of armed services to carry out the full range of missions with which they are routinely tasked. And while the use of PMC's and PSC's is still a fairly recent phenomenon, enough information has been collected on their performance, both collectively and individually, to allow some tentative conclusions to be drawn with regard to their effectiveness and value compared to having the military continue to perform the vast majority of tasks that have traditionally been part of their mandate.

While military trained technicians and logistical specialists have had their share of recruitment efforts of PMC's directed towards them, it is personnel with a background in special forces and operations that have been most aggressively targeted for recruitment by PMC's, with PSC's being at the forefront of the effort to attract special forces personnel into private sector employment. All of this is going on at a time when, given the pressing needs of both the war on terror in general, and fighting against the insurgencies in Iraq and Afghanistan in particular, most Western countries have been aggressively recruiting from amongst their existing trained military personnel to increase the size and improve the capabilities of their special forces. The conflict of interest between governments and militaries on the one hand and PMC's and PSC's on the other is both obvious and potentially dangerous.

Initially, PMC and PSC recruitment took advantage of the considerable downsizing in military forces all over the world that took place as a result of the end of the Cold War, and recruitment was given another boost by the large reductions in Western armies that followed their victory in the Gulf War. But as time has passed, especially after 9/11 and the invasions of Afghanistan and Iraq, and the subsequent extensive counter-insurgency campaigns in both countries, any surplus of trained military personnel from major Western armies has long since been soaked up. Indeed, the two countries with the largest commitments in Iraq and Afghanistan, the United States and the United Kingdom, are experiencing serious difficulties in meeting recruitment targets for their ground forces, particularly for the combat arms. In addition to their failure to attract new recruits, despite raising age limits and lowering educational standards, these same armed forces face an even more serious problem in retaining high-trained and skilled personnel after the expiration of their contracts. It is a problem that is particularly acute amongst senior non-commissioned and warrant officers and

field grade commission personnel, who are often the best trained and knowledgeable personnel in any active military unit and who provide the backbone of any military formation's structure, capabilities and readiness.

While part of these losses of personnel can be ascribed to people leaving the military profession altogether, there is also a significant component that can be ascribed to the outflow of highly trained personnel in particular, to the mere existence of PMC's and PSC's and their aggressive recruitment practices that are targeted on this small pool of highly trained, experienced and reliable military personnel. Thus the PMC's and PSC's are actively courting the same small pool of elite special forces soldiers, both officers and enlisted personnel, which the military is most anxious to retain in uniform. It is one thing for PMC's to provide lucrative employment for officers and senior NCOs at the end of their military careers. But the pool of retirees has not proven to be large enough to satisfy the voracious appetite of PMC's and PSC's for qualified personnel who are physically capable of being deployed into the actual combat situations. Thus the companies have instead aggressively targeted active military personnel who are close to the end of their contract period with the military in the case of enlisted men, or officers who are in a position to resign their commissions at a time of their choosing. A background in special forces means that personnel who have such experience tend to give PMC's and PSC's employees who are highly trained, self-disciplined and totally professional in their attitudes and actions, and in addition possess the experience and commitment necessary to carry out assignments under even the most difficult conditions. These capabilities contrast sharply with those of new military recruits and even trained soldiers who have recently joined their units, even the experienced personnel who join special forces formations, who are less capable of taking decisions or operating independently, without the close supervision of more experienced and senior personnel. Thus the PSC's are poaching from the armed services personnel who are in many ways the most valuable asset the armed services possess, soldiers in their prime, who have years of training and experience under their belts and who possess, in the case of special forces soldiers in particular, a unique understanding of not only how to conduct a counter-insurgency campaign but who are also fully versed in the intricacies of the civil-military relations that form the cornerstone of the types of 'hearts and minds' operations that are an essential component of gaining local allies to first cooperate against an insurgency and then participate in any nation-building activities.

Of course, the fact that many ex-special forces personnel are now employed by PMC's and PSC's means that their capabilities are not completely lost to the armed services. But while PSC's do represent one vehicle by which the wisdom and experience of seasoned former military personnel can continue to be available to the government and armed services, access to all of this valuable knowledge, which was gained on the government's payroll, can come at a steep price, both in financial terms and in the opportunity costs that the loss of such specialist personnel represents to the military. It is already clear that the aggressive recruitment by PMC's and PSC's has had a negative effect on retention rates among highly trained special forces personnel and in other areas where technical and specialist knowledge and experience is at a premium. The large salaries that the PMC's and PSC's pay their staff, especially former special forces personnel, are something of a special case, but the availability of good pay and fringe benefits is a phenomenon that stretches across the entire range of PMC jobs that require military training and skills, and one that has had an adverse impact on the morale of regular military personnel in conflict zones. Soldiers are often called upon to perform similar, or even more dangerous missions than those taken on by PMC personnel, but for a fraction of the pay and benefits, making them feel undervalued and unappreciated, which in turn adversely impacts morale and motivation.

The high salaries on offer in Iraq and Afghanistan have already caused elite soldiers from armed forces on both sides of the Atlantic to prematurely leave the military in record numbers. So serious have these losses become that in August 2006 the British government was forced to double the pay for all ranks that serve in their special forces, the SAS and SBS, in what will probably prove to be a forlorn attempt to keep the "older, wiser heads" amongst these elite soldiers in uniform.¹⁶ But with PMC's and PSC's in Iraq and Afghanistan offering annual salaries of up to \$200,000 for soldiers who have special forces backgrounds, which is double what the British Army will pay an SAS sergeant even after this latest large pay increase, military salaries are still far from competitive with those being offered by the private sector. The continued chaos in Iraq and resurgent Taliban activities in Afghanistan, the fact that bushfire wars continue to break out all over the globe and with the continued worldwide threat from terrorism and organized crime, all place an ever higher premium on those who can act as bodyguards, especially those trained in personal protection duties by

¹⁶ "SAS get 50% pay rise to halt quitters," *The Sunday Times* of 6 August 2006.

the military. When this reality is coupled with the continuing rise in the actual numbers of PMC's and PSC's in the market place, it is probably inevitable that armed forces all over the world are going to continue to see a haemorrhaging of their most high trained and motivated personnel. Governments and militaries will thus continue to face the conundrum that they are paying premium prices to employ trained personnel whose skills and knowledge they footed the bill to develop and hone, while the PMC's and PSC's continue to essentially reap the financial benefits of all of this training and experience which they themselves did nothing to develop.

The Legal Status of PMC's and PSC's.

A major issue in employing PMC's and PSC's and regulating their operations and behaviours is their ill-defined legal status in international law generally, and specifically with regard to the web of international treaties, in particular the Hague and Geneva Conventions, that seek to codify the laws of war and govern the conduct of governments and their armed services in a range of different types of conflicts. This ambiguity about the status of PMC's arises from the fact that the whole edifice of rules that are supposed to govern behaviour in wartime is largely based on treating the state and its military forces as the main elements to be regulated by the relevant international conventions. Thus there are clear lines of responsibility drawn in such agreements between governments and their legally constituted military forces, with armed services being given clear codes of conduct that they are supposed to follow and states being responsible for ensuring their armed services follow the international rules that governments have, by signing international treaties and agreements and having their provisions written in their military's laws and regulations, committed them to follow.

But while the laws of war are clear when they talk about the duties and responsibilities of regular armed services, and even when they deal with a wide variety of insurgent groups, there is little that deals either directly or indirectly with the status of PMC's. While traditional mercenaries do rate a variety of mentions in international conventions, mainly to de-legitimize their activities, the more ambiguous nature of PMC's and their relationship with the governments that employ them is never dealt with directly. It is an uncertainty about the actual status of PMC's that the parties involved, the PMC's themselves, their government employers and the armed services they operate alongside, all have a stake in preserving. The main players share a vested interest in not having the exact nature of their various interconnections too closely

investigated and regulated, especially by the international community. In their dealings with PMC's, governments want to be able to assert plausible deniability in connection with any scandal that may arise with regard to the behaviour of the PMC or its staff, be it Halliburton overcharging the military for fuel in Iraq or bodyguards employed by PSC's running private prisons and inflicting torture on suspected terrorists in Iraq and Afghanistan. In the same way, it is rarely in the military's interest to highlight the activities of PMC's, as this simply draws attention to their own shortcomings in a variety of different areas and their loss of their previous monopoly in exercising force to achieve their government's objectives.

Such studied ambiguity, however, leaves PMC's and their employees in a grey area with regards to their status as combatants under the Hague and Geneva Conventions if they are taken prisoners or accused of committing war crimes. While they are clearly combatants if they carry or crew weapons and are acting under the lawful authority of a government or its military command, questions arise if they as PMC's employees do not have a combat role, but rather service a country's military establishment in any one of the myriad of support roles that PMC's have assumed even in conflict zones. For example, do PMC's employees still qualify for the protection afforded to soldiers under the Geneva Convention if they are not in uniform and not part of a military chain of command? Should they instead be afforded protection as civilians under the Hague Convention? And while the citizen of a country who is employed by a PMC to support that country's armed forces is clearly not a mercenary, what is the status of third party nationals in either combatant or non-combatant roles working for a government and a military force that is not their own?¹⁷ The slow pace at which international law is made, and the unwillingness of many states to renegotiate or expand such key treaties as the Geneva Convention, means that it is inevitable that the status of PMC's and the individuals in their employ is unlikely to be clarified at any time in the near future. This is probably not a crippling burden, given the nature of the conflicts that have so far seen PMC's on the battlefield. It is highly unlikely that the insurgents in Iraq or the Taliban in Afghanistan would pay any attention to international agreements defining the status of PMC's, even were such treaties to be negotiated. However, in any future inter-state conflict, where the countries involved are all parties to the various conventions that

¹⁷ P. Carter, "Hired Guns: What to do about military contractors run amok," *Slate* of 9 April 2004, <http://slate.msn.com/id/2098571>.

constitute the laws of war, the lack of status of PMC's will become an issue, and the ones most likely to suffer from this ambiguity are the individual employees of the PMC's who find themselves captured in the conflict, either on the battlefield itself or in the rear areas where most PMC employees work.

Given this situation, what can be done to regularize the status of PMC's and PSC's in terms of international law in general, and the laws of war in particular? A number of international bodies, including the United Nations and International Committee of the Red Cross (ICRC) have raised concerns about the lack of effective and consistent supervision and monitoring of PMC's. Strict controls and oversight of PMC's are necessary, they believe, to ensure that such corporate entities and their staffs are scrupulously following the provisions of the Hague and Geneva Conventions. The lack of any such supervision is one of the key areas where the United States, as by far the largest employer of PMC's, could move aggressively to change. It could be achieved through more careful supervision of the PMC's and their activities by creating an Ombudsman's office in the DoD, and in other states' defence ministries, that would cover all PMC's and PSC's, regardless of which of the country's armed services employed them. Such an Ombudsman's office would be armed with broad powers to terminate contracts or withhold payments should a PMC or its employees not be acting in conformity with the provisions of either its specific contract, more general governmental and military policies and finally national and international law. Individual investigative officers from the Ombudsman's staff would thus be assigned roving commissions in the field to carry out both announced and surprise inspections to investigate if a PMC was meeting both its specific contractual commitments and also to ensure that the PMC's operations were in conformity with the provisions of the Hague and Geneva Conventions and any other relevant international laws, including those that cover such issues as fair employment and environmental issues. And as far as the status of PMC and PSC employees goes in conflict zones, all should be declared to be members of armed services auxiliary forces, and given distinctive identification patches and identity documents to demonstrate this status. As armed forces auxiliaries, they would, in the event of capture, be entitled to the protections afforded to military personnel under the Geneva Conventions.

But Western nations who employ PMC's and PSC's have yet to face up to all of the realities of their mere existence, let alone begin to tackle some of the consequences of their actions. We face a situation where the activities of large military-related corporations which are increasingly taking on some of the key

aspects of sovereign states, including the use of large scale military forces in both defensive and offensive operations, face less public scrutiny and oversight, and are subject to fewer regulations, than the food and beverage industries. This is hardly an acceptable or sustainable situation. Indeed, questions remain whether effective control, similar to the oversight that the military faces from legislature and the rules of engagement that armed services operate under in conflict zones, can ever be imposed on PMC's and PSC's, because these types of restrictions are frequently contrary to the very idea of how a private business should be allowed to operate. Such a situation leads to a serious democracy deficit, because private corporations, with or without the sanctions of a government, are now in a position to undertake military actions without any legislative oversight or public knowledge about their activities. The implications for foreign and security policies of states from such a development are likely to be both significant and far-reaching.

We now face a situation where officially sanctioned non-state actors, whose financial and personnel resources outstrip the capacities of many nations, have the right to maintain what are in effect armed forces and deploy them without aggressive oversight from any state, including the country where they may be notionally headquartered. We therefore are faced with a situation where the most critical executive pillar of state authority, the monopoly on the use of military force, now has a private twin that is not subject to the same external restraints, public opinion, open government and freedom of information policies. Nor do PMC's face an aggressive media industry, because it continues to prefer to focus the majority of its efforts on investigative reporting on governmental, not corporate, activities. These are potentially very destabilizing developments whose long-term value remains dubious and open to debate and whose emergence can hardly be seen as a good or healthy sign for democracy and accountability. We need to ask how credible do Western democratic nations look to the rest of the world they attempt to introduce democracy into as well as other regions on the point of a bayonet wielded by private military forces who work in a legal, and to some extent moral vacuum. It is a contradiction that goes to the heart of democratic values and the rule of law.

It is open to question whether PMC's and PSC's, whatever value and expediency there may be in their short-term employment to help prosecute an unpopular war, can serve a long-term constructive role in a democratic society. It is this assessment, one that takes account of the potential damage to the democratic accountability that we routinely expect from those who wield military power in

the name of Western nations and their values, that we need to examine to get a true sense of all of the implications inherent in the growing reliance that Western governments and armed forces are placing on PMC's and PSC's. It needs to be recognized and clearly understood that there are a number of disadvantages and inherent limitations that are involved in employing PMC's and PSC's. Foremost amongst these drawbacks is the almost total lack of accountability that is associated with their operations and the behaviour of their employees. The shortcomings of international law with regard to the status and activities of PMC's have already been detailed. The domestic laws in major Western states also offer only incomplete and relatively easily circumventable rules and regulations to govern the activities of PMC's operating overseas. The only real sanction available to governments does not come from their statutory authority as a state, but rather from their role as the employer of a military contractor and the ability they have in that role to cancel contracts and perhaps invoke penalty clauses that impact the PMC's bottom line. But perhaps this power is more valuable than it appears at first blush, because as corporate entities, PMC's are only in business to make profits. Anything that compromises their ability to meet financial targets is more likely than anything else to get their attention and compel their compliance with their government employer's wishes. The problem lies in galvanizing governments into action against prominent corporate entities, many of whom spend a great deal of money lobbying both governments and legislatures to ensure that imposing sanctions on them can only occur with a heavy political price being paid by their opponents.

How then can greater transparency, accountability and oversight be imposed on PMC's that continue to prefer to operate in the shadows, even when employing thousands of staff to fulfil contracts worth hundreds of millions of dollars? The task is not made any easier by the fact that PMC's usually operate in distant countries, where communications are sketchy, and the local press, which in the West is the most usual source of surveillance, is often weak and subject to both formal controls and informal intimidation. Western reporters attempting to monitor the activities of PMC's in conflict zones have also routinely been denied access to company sites and personnel, and unlike with the military, where such denials can be appealed to both politicians and public opinion to force more openness, private companies have a perfect right to deny such access. Traditionally, in such situations, the press and public rely on staff and employees of the corporation concerned to either come forward publicly to express concerns about what they view as shoddy services being provided by their employer or outright illegalities that they have either taken part in,

witnessed or, at the very least, have documented evidence about. However, the hiring practices of PMC's mean that the type of personalities who might take such actions in a more conventional corporate environment may either not be present, or have a stronger than usual interest in conforming to the prevailing corporate culture and the policies and behaviours that stem from it. This problem is demonstrated by the calibre of employees that PMC's and PSC's tend to hire, which slew towards two very different types. One type is senior ex-military personnel, who have strong professional loyalty towards the management structure, almost regardless of what that structure is. The other is a semi-skilled worker who is not very motivated or concerned about big picture issues. Both types of characteristics do not place a premium on ensuring corporate accountability, except when narrow personal considerations impact the decision-making process. While such highly specific, and usually anecdotal revelations may make for a good news report, they do little to improve the picture of the performance and behaviour of the PMC's as corporate entities.

There is thus a confluence of circumstances that come together to veil many, if not most of the activities being carried out by PMC's, from public attention, oversight and accountability. Basic rights that citizens and press have in their dealings with government entities, such as the ability to ferret out information through the freedom of information requests, are not possible with PMC's, whose corporate documents dealing with performance, auditing, profitability and failures remain hidden by the protections afforded to more conventional corporate entities. Contractual oversight, however, is not the only issue with regard to the monitoring of the activities of PMC's that we have to contend with. There are also a number of larger political and policy issues that come into play when a PMC is hired and given specific tasks in an operational zone. Experience in Afghanistan and Iraq, not to mention earlier conflicts all over Africa, have highlighted the reality that sometimes the politicians who hired them and the military commanders who are their notional bosses are uninformed, or worse, unaware of some of the activities being undertaken by PMC's or their employees. Not only have PMC's been found to be bypassing the guidelines set for them by local commanders, there have also been instances, especially in smaller conflicts which attract less political or press scrutiny, where a PMC, or frequently its local staff, has different objectives in mind from other stake-holders. This divergence in objectives from the ones being espoused by both those that employ them and local elites, can end up with PMC's or renegade staffers implementing their own policies, not those of the government that employs them. On the other hand, there is the equal danger that PMC's have

little vested interest in securing any particular outcome in a conflict, even one favourable to their employers. The motivations of the PMC is to maximize profit, and a quick and easy resolution to a particular problem in a conflict, either at the local or at the national level, is unlikely to be helpful to ensuring a healthy bottom line for the PMC's who are involved in servicing the forces involved in such a conflict.

In addition to these military and political concerns, it needs also to be noted that PMC's may not always or even frequently represent the most cost effective solution. While some PMC's have achieved savings over the cost associated with having military personnel involved in supplying certain logistical services, especially those that lie at a distance from actual combat zones, often such savings have been achieved not by providing a better, more reliable and efficient service, but through radical cost cutting, hiring unqualified staff, diluted service provisions, substandard performance and in some cases, by a total or partial failure to supply the contracted goods and services. To cite Peter W. Singer: "The use of Private Military Firms in Iraq appears to be driven less by any supposed financial cost savings and more by political cost savings." What does this translate to on the ground? The death toll amongst the employees of PMC's and PSC's does not appear in the official statistics of military personnel who have been killed or wounded in a given conflict or even in the small death announcements published by such papers as *The New York Times*, which simply replicate official lists. This helps keep the death toll artificially low and may serve to lower the political costs of initiating or maintaining a particular mission or operation, as the real consequences of military engagement in a region or country are effectively obscured.

Beyond that, given the way that contracts are being let, with the vast majority of business going to a very small cadre of corporations with close and long-established ties to the Pentagon, we need to be aware that turning a public monopoly into a private monopoly needs not, and more often than not does not automatically translate into better service at lower costs: over-billing, padding personnel rosters, recruiting unqualified or under-qualified staff, covering up failure or incompetence and burden shifting of tasks back onto the military when they prove unprofitable can and does frequently occur. Indeed, it has been claimed that the use of PMC's can seriously hinder the military's ability to effectively fulfil its mission, and may actually increase the danger to military personnel. As an example of this, it has been claimed that the high number of

military-plane crashes in South America in recent years could be due to unqualified PMC mechanics and technicians working on airplane maintenance.¹⁸

The Return of the Condottieri on a Global Scale

Such is the power of the news and images coming from Iraq and Afghanistan that it is hard to remember that it was not these two large counter-insurgency campaigns, and the conventional wars that preceded them, that formed the template for the emergence of PMC's and PSC's. The involvement of the types of large scale corporate PMC's that are employed as contractors in Iraq in particular by the US and British governments, as well as the smaller PSC's that have found a lucrative niche both there and in Afghanistan, are something of a new development and may not necessarily signal how PMC's and PSC's may evolve in the future.

During much of the 1990s and well before 9/11 and the wars that grew out of it, PSC's were highly active and highly effective in a variety of operations they were involved in, in Latin America and sub-Saharan Africa. There are numerous countries with inadequate military structures that are subject to almost incessant insurgencies. A variety of PSC's, from Sandline in the UK to the South African based Executive Outcomes gained a reputation amongst African governments of being able to first stave off military disaster and then 'corset' government forces sufficiently to defeat rebels, criminal gangs and even incursions from neighbouring states. Deploying only a few officers and well trained enlisted personnel, and usually backed up by airpower in the shape of one or two helicopter gunships, these PSC's were able to stabilize situations and even deliver victory, albeit often only temporarily, to the governments that employed them. Indeed by employing local personnel, these PSC's could transform the status of what were essentially marauding armed gangs, whether they be government soldiers or rebel insurgents, and by dressing them in new uniforms, have them reclassified as part of a completely legal private security company. These freelance forces were then available to be hired by other governments to do the fighting that was beyond the capabilities of their own armed forces. There are serious implications that stem from any attempt to legalize and legitimize on a global scale this "new kind of armed forces," who are less than regular military forces but claim to be more responsible and responsive than traditional, and now illegal mercenaries. There exist a plethora of unstable governments with

¹⁸ J. Kurlantzick, "Outsourcing the Dirty Work," *The American Prospect* 14, no. 5, 1 May 2003, www.prospect.org/print-friendly/print/V14/kurlantzick-j.html.

incompetent armed services who face aggressive insurgencies and would be only too willing to be customers of any corporation that could promise them victory, regardless of the financial and physical harm that might befall their civilian populations from any escalation in the usually low level insurgencies so many less developed nations face. The mere existence of such capabilities is a dangerous development, one whose full implications for the future health and stability of literally dozens of run-down and/or failed states is still to be fully explored. But if the experience of the use of PSC's by African states is any indication, the long-term effects of the deployment of PSC's are going to be less than happy. PSC's fight for whoever pays them, so they tend to end up keeping in power the very kleptocracies that have done so much to impoverish Africa and its people over the past forty years.¹⁹ It is all too easy to imagine this scenario being played out on a global scale.

Conclusions

First, it is important that we establish, once and for all, in both official and public perceptions, that when we are discussing PMC's and PSC's we are not talking about shopping mall security guards or laundry workers. Such companies may have on their books both of these types of employees but what we are really looking at is corporations, some of which are very large and complex, that have many of the characteristics of an integrated military force and which are sometimes in a position to exercise as much, or more, freedom of action as a sovereign state. Modern PMC's and PSC's operate in a grey area somewhere between private personnel, who carry weapons and carry out the sovereign tasks usually associated with military forces and the traditional mercenaries that populate the history books of all periods of history, in all the regions of the world. While it may well be the case that the employment of PMC's may have certain short-term advantages, this usefulness and their supposed effectiveness are often diminished by a number of serious drawbacks. The fact is that PMC's are largely unregulated, and the unacceptable reality of this lack of oversight is exacerbated by the lack of accountability and transparency that PMC's cling to as vital components of their corporate culture.

What is needed is prompt legislative action at both the international and national levels to alter this culture and minimize the risks posed by the endemic

¹⁹ E.B. Smith, "The new condottieri and US policy: The Privatization of Conflict and its implications," *Parameters*, 22 December 2002, www.highbeam.com/library/docFree.asp?DOCID=1G1:95447364.

secrecy that surrounds so much of the operations of private military corporations. Loopholes must be closed and the status of private military corporations must be clarified, with appropriate laws, legislative rules and legal accountability put in place to ensure, going forward, that there will be effective oversight of PMC's by the appropriate authorities. The aim must be to have effective mechanisms in place as quickly as possible to ensure verifiable compliance by PMC's with all relevant general laws and regulations, as well as the provisions of their commissioning contracts.

Beyond these steps, both politicians and military commanders need to take a deep breath and begin to calmly conduct a complete overview of all of their military operations to re-evaluate which of the tasks carried out by armed forces are so important to national security that they cannot and should not be outsourced. Given the explosive and largely unplanned growth which has taken place in the responsibilities and activities undertaken by PMC's over the past five years, it is very difficult to believe that there is not considerable scope to redefine their areas of appropriate activities and eliminate their involvement in those areas of war fighting and peace making which are more properly the responsibility of states and their properly constituted armed forces.

We should begin by accepting that replacing a state monopoly on the use of military force with a series of private monopolies in specific areas of military operations will not necessarily, or even be likely to bring about a sustained improvement in overall warfighting capabilities. In making such determinations, our starting point should be ensuring that the pursuit of private profits does not conflict with public policies and interests. To sum up, and to again quote Peter W. Singer, the director of the Project on US Relations with the Islamic World at the Brookings Institution, on the creation and operations of PMC's:

"The outcome is a distortion of the free market that would shock Adam Smith, an interface between business and government that would awe the Founding Fathers, and a shift in the military-industrial complex that must have President Eisenhower rolling in his grave. Without change, this is a recipe for bad policy, and bad business."

To make the point in a single pithy phrase: Never try to save a penny when core security issues are at stake.

BOGUSŁAW WINID

Poland's Participation in the Stabilization Mission in Afghanistan

— The military operation in Afghanistan has its roots in the tragic events of 11 September 2001. It was the terrorist attacks launched on that day against the World Trade Centre and the Pentagon¹ that triggered the establishment of the international anti-terrorist coalition. As a result, operation "Enduring Freedom"² (EF) was launched by the United States jointly with other countries. Overthrowing the Taliban regime and ridding Al-Qaeda led international terrorist groups of Afghan government support were the main goals of the operation.

The defeat of the Taliban regime enabled the international community to follow with actions for the reconstruction of the Afghan state. These are executed mainly under the operation carried out by ISAF (International Security Assistance Force).³ The operation began at the turn of 2001 and 2002 and primarily includes stabilization missions, intended to support the new government of Afghanistan (re-establishment of government institutions, armed forces and the police, expansion of the central government authority across the entire country). Initially, ISAF was led by individual allied states, including the UK (ISAF-I) and Turkey (ISAF-II), and jointly by Germany and the Netherlands

¹ It is worth recalling that, following 11 September 2001, for the first time in its history the North Atlantic Alliance invoked Art. 5 of the Washington Treaty, where collective defence is authorized in case of an attack against any of the allied states. Referring to this article following a terrorist attack rather than (what was the original intent of the authors of the Treaty) an act of aggression by another state demonstrates an *ad hoc* accommodation of internal NATO procedures to face the threat of international terrorism.

² Operation EF is led by the US under Art. 51 of the Charter of the United Nations, authorizing the states' individual or collective self-defence, and under resolution No. 1368 (2001) of 12 September 2001 of the UN Security Council, where the main objective of the operation is specified, namely to combat terrorism, including the destruction of terrorist camps and powerbase in the territory of Afghanistan.

³ Operation ISAF is carried out under resolutions of the UN Security Council no. 1386 (2001) of 20 December 2001, no. 1510 (2003) of 13 October 2003, no. 1563 (2004) of 17 September 2004, no. 1623 (2005) of 13 September 2005 and no. 1707 (2006) of 12 September 2006 as well as the agreement on the re-establishment of permanent government institutions in Afghanistan (the so-called Bonn Agreement) of 5 December 2001.