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“Existing International Instruments and Mechanisms”

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“Existing International Instruments and Mechanisms”

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As the scale and scope private military and security companies (PMSCs) are rapidly expanding internationally, the question of their regulation is evermore pressing. Although credible exact figures on the activities of the companies are not available,¹ there is ample indication that the companies play a central role around the world. In Iraq, a Department of Defense survey estimates that there are some 180.000 contractors compared to 160.000 U.S. troops (Singer, 2007: 2). In Nigeria some 1000 registered security companies constitute the second economic sector in the economy after oil (Abrahamsen and Williams, 2006a). Moreover, the scope of PMSC activity is steadily expanding. The trend to privatize and outsource a growing range of activities places PMSCs in charge of an ever growing range of formerly military or policing tasks. The predictable consequence is that PMSCs are increasingly visible and controversial. Incidences such as that in the Nisour square Baghdad where Blackwater contractors were involved in an incident leaving 17 dead civilians on 16th of September 2007 focus attention around the regulatory context of PMSC work. This presentation discusses one aspect of that regulatory context, namely the existing international regulation.

Contradictory statements about the state of international regulation of the PMSCs abound. On the one hand it is often suggested that there is a lack of regulation and that PMSCs operate in a legal vacuum. Confronting these assertions are statements underlining that PMSCs are covered by international law, that they do not operate in a legal void and that if anything the problem is the multiple contradictory legal norms and standards. This presentation suggests that both understanding are partly valid. A multiplicity of indirect international legal instruments *coexists* with a scarcity of specific ones. To make this point the presentation departs from the complexity and diversity of PMSC activity as an object of regulation (1). This clarifies the multiplicity of potentially relevant indirect international instruments of regulation (2). It also helps understand the scarcity of international instruments specifically designed to regulate PMSCs (3). The presentation then proceeds to suggest that this constellation has limited the significance of international instruments as tools for regulating PMSCs (4). The presentation concludes by pointing to three coexisting, mutually exclusive understandings, of the proper role and potential of the UN 1989 Convention in this context (5).

1 The PMSC as an Object of Regulation

When regulation is discussed it is important to clarify what it is one wants to regulate, why, how and at what kind of costs. A look at what PMSCs do in what contexts makes clear that no self-evident simple answer can be given to these questions.

¹ I endorse the suggestion that “current information about the private Security Industry is largely piecemeal and unsubstantiated”, something the industry survey (based on 14 companies) does not do address (IPOA, 2007).

PMSCs have in common that they are private firms selling military and security services. However this covers a wide range of things. PMSCs are firms involved in the provision of

- **Logistics:** such as cooking, construction work, medical services, but also the provision and maintenance of equipment including armament systems, in-air refueling of military aircraft or the operation of UAVs (unmanned armed vehicles).
- **Consultancy:** advising on security needs, often involving suggestions for how to answer those needs, including in situations of armed conflict.
- **Training:** of armed forces, police units but also of private security staff, sometimes in the context of ongoing conflict.
- **Intelligence:** the provision and analysis of intelligence and intelligence related services (e.g. translation, interrogation). Sometimes suggestions about how intelligence should be acted upon.
- **Direct security services:** such as for example the guarding of convoys, of military compounds, of refugee camps but also in provision of personnel for specific security or military operations.

More than this, it is useful to recall that PMSCs work in diverse contexts and for a variety of clients. PMSCs work spans the full range of contexts. In particular it is worth recalling that PMSCs operate:

- **In political situations:** ranging from declared war to internal wars, and “post-conflict” as well as in situations to situations of “peace”.
- **In geographical locations:** spanning stable developed OECD states (e.g. Germany) as well as highly unstable states with severe and lasting security problems (e.g. Ituri, DRC).
- **For clients:** including armed forces, states, political movements, private firms, NGOs, criminal organizations and private individuals.
- **With a legality of contracts:** going from the fully illegal contract (e.g. an organized crime organization hiring a security specialist to bomb a rival), to contracts that are partially legal (e.g. states using PMSCs to do their “dirty work”), and contracts that are fully legal (e.g. a registered contract between an extractive firm and a contractor guarding its installations).

- Finally (and obviously by now), the firms referred to as PMSCs are a diverse lot:
- **Of varying size and stability:** Some firms are large multinational corporations, quoted on stock-markets with long corporate histories while others are informal one man creations that come and go.
 - **Of varying origin:** PMSCs are often talked and written about as if they were only or mainly a UK and US phenomenon. It may be worth recalling that this is not the case. Other OECD countries also have significant private security sectors and so do non OECD countries. These companies are not restricted to covering their national home-market but also work internationally. KK (a Kenyan company) for example is present widely East Africa and companies across Latin America, Africa and Asia have subcontracted staff to firms in Iraq and Afghanistan.

- **With varying ties to their home states and their public security forces:** some firms are closely tied to their home states and their armed forces while others operate largely independently of these.
- **With varying company cultures/policies and strategies:** firm policies on vetting of staff, labor relations, choice of clients, and acceptable working environments/tasks correspondingly could not be more diverse.

2 The Multiple Indirect Instruments

Because PMSCs are diverse, complex and multiple, they raise correspondingly multiple and complex legal and regulatory questions. Dressing a complete list of these questions and the legal instruments that might be used to address them is beyond the ambition here. The purpose below is to give an indication of the multiplicity of international legal instruments potentially relevant for the regulation of this activity. Because these instruments are not primarily designed for regulating PMSC activity, but rather are general instruments designed to regulate violations of a specific kind of human right, or more generally ensure its enjoyment, the instruments of regulation are termed indirect (Table 1 gives an overview). Just briefly in terms of each of these categories and their pertinence for regulating PMSC activity:

The international regulation of war and peace: Some PMSC activity falls directly under the international regulation of war. Because PMSCs may be used to prepare or engage war, their activities may be subjected to restrictions as part of attempts to regulate just reasons for going to war, *jus ad bello*. Hence, neutrality laws – as specified e.g. by the 1907 Hague Convention V (article 4) – strictly limit the role that might be played by individuals and companies of purportedly neutral states. Similarly, because PMSCs may work in war situations they are subjected to the rules regulating behavior in war, the *jus in bellum*. The ICRC has insisted and repeated that when PMSCs engage as combatants they are bound by the Geneva conventions and states are responsible for ensuring that these are followed. Finally, contractors are also significantly held by IHL in post conflict situations (*jus post bellum*) (UHL, 2005, UN, 2005).

Rules Concerning Mercenarism: Slightly more specific, part of PMSC activity falls under the international regulation of mercenarism. It does so to the extent that PMSCs engage in mercenarism (act as soldiers of fortune) as defined by international law.² The OAU Convention for the elimination of mercenarism in Africa and the UN Convention against the finance and use of mercenaries both demand that signatories refrain from using mercenaries and take measures to prevent mercenaries from operating from their territories.

² The basic definition of a mercenary, adopted with variation in the two conventions, is spelled out in article 47 of the protocol additional to the Geneva Conventions of 12 August 1949 which defines a mercenary as a person who *combines* the characteristics of being 1) is specifically recruited locally or abroad in order to fight in an armed conflict, 2) does take direct part in hostilities; 3) is motivated essentially by private gain; 4) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict; 5) is not a member of the armed forces of a Party to the conflict; and 6) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

Specialized Conventions: Even more specifically, the wide variety of PMSC activity may make a wide range of international treaties relevant for their behavior. The list in table 1 is only a selection of treaties and conventions that have recently been invoked in relation to PMSC activities. The list could be extended.

Arms trade regulations and embargoes: In addition to this, regional and international regulations of arms trade and military assistance may have a bearing on PMSC activities. Firms providing logistics (including arms), training (also soldiers), consultancy (also on military matters) or providing direct security services (which are separated only by a thin and often blurred line from military services) are trading arms and providing military assistance. Hence both more permanent rules (such as the UN Small Arms Trade Treaty; EU and ECOWAS regulations) and specific regulations concerning a specific country or a specific conflict (embargoes of different kinds) directly regulate PMSC activity.

National rules with international application: Moreover, some regulation which is national in origin is adhered to internationally by firms that are not operating in the jurisdiction where the regulation is directly applicable. This is the case for example of the US foreign corrupt practices act or the UK anti terrorism legislation.

Informal rules, including general voluntary standards codes of conduct: Last but not least a long list of informal rules with a bearing on the regulation of PMSC activities could be dressed. Many voluntary codes of conduct directly concern the activities of PMSCs. This is true of codes of conduct that cover different aspects of firm relations with the society in which they operate, with the government in the countries where they work (e.g. Transparency International Business Principles for Countering Bribery), as well as general codes of conduct regulating business behavior in relation to specific issues (e.g. the maintenance of security³) or in specific sectors (e.g. the Extractive Industries Transparency Initiative www.eitransparency.org) or any thinkable combination of these (e.g. UN Global Compact Principles).

This protracted (and yet incomplete) list of indirect international regulatory instruments underlies the view of those who argue that PMSCs are well covered by international law (e.g. de Wolf, 2007, Doswald-Beck, 2007, UCHL, 2005, Zarate, 1998).

3 The Scarce Specific Instruments

The abundance of international legal instruments indirectly relevant for the regulation of PMSC activity is matched by the paucity of instruments designed specifically to regulate PMSCs. This paucity has the same roots as the abundance of indirect instruments of regulation. The complexity, multiplicity and variety of PMSC activity have limited the development of specific international instruments for regulating PMSC activity (see TABLE 1).

There is at present no international treaty or convention that regulates the activities of PMSCs specifically. It is sometimes suggested that situation specific regulation constitutes a form of international regulation. For example, in Iraq the Coalition Provisional Authority in Iraq (order 17 of June 24 2004) defined the legal status

³ The *Voluntary Principles on Security and Human Rights* for firms in extractive and energy sectors, are a good example (www.voluntaryprinciples.org).

of contractors working for the authority.⁴ However, the CPA is not an international authority and the instrument not an international legal instrument. The only formal form of regulation of PMSC activity internationally is the regulation specified in the contracts tied to specific operations. Contracts usually define the scope and scale of activities the PMSC concerned may engage in. They also define the “rules of engagement” regulating the PMSC use of force in conflict situation. That is contractual regulation is at present the formal regulation of most immediate relevance for the regulation of PMSC activity.

In addition to this, informal international regulation of PMSC activity exists in the form of limited and voluntary codes of conduct and standards of behavior developed specifically for PMSCs. Examples of such codes of conduct include the codes of conduct promoted by the professional associations of companies in the sector such as the International Peace Operations Association Code of Conduct or the British Association of Private Security Companies Charter or the Codes of Conduct.

PMSC activities are not consistently regulated by any body of international law. This makes it justified to suggest, as many observers do, that PMSCs operate in a legal vacuum (Coleman, 2004, Dorn and Levi, 2007a, Minow, 2003, Scoville, 2006).

4 International Instruments Regulating PMSCs

This constellation of scarce specific instruments and abundant indirect ones has been of limited practical utility for regulating PMSC activities. The technical difficulties of using the hypothetically relevant instruments have been compounded by a political unwillingness to do so. This point will be made in general terms and elaborated specifically with reference to the difficulty of using international regulatory mechanisms of mercenary activity.

The diversity and complexity of PMSC activity often makes it technically difficult to regulate with the help of formal legal instruments such as those listed above. The reason is that much of this activity falls outside the categories on which these legal instruments are based. Basic distinctions between public and private, civilian and combatant, peace and war or between national and international are difficult to apply in straightforward fashion. For example: PMSCs often operate as private actors but at the service of states making the boundary between the public and the private (corporate and/or individual) highly uncertain (Dorn and Levi, 2007b). Similarly, the proximity and presence of PMSCs as private agents “on the battle field” blurs the distinction between civilian and combatant (Heaton, 2005, Zamparelli, 1999). Finally, the lack of a clear line between “military” and “security” aspects of PMSC activity makes the categories war and peace difficult to meaningfully employ (Olonisakin, 2000). The difficulties of easily placing PMSC activities in legal categories render regulation correspondingly uncertain. It makes questions of applicability and suitability of indirect instruments central. PMSC activities consequently have tendency to fall between potential regulatory mechanisms even when attempts are made to stretch and bend categories and interpret them as widely as possible, in order to capture PMSC activity. This is all the more significant as the use and enforcement of the formal international regulation just cited depends on the due diligence of states that is on their willingness to enforce international regulations (UCHL,

⁴ In a way often interpreted as granting them immunity from legal pursuit by Iraqi authorities.

2005). Uncertainty and disagreement about categories is an easy technical/formal excuse for not doing this which is often combined with an outright and publicly stated lack of political willingness.

Indeed, the political enthusiasm for relying on international instruments to regulate PMSC activity is limited. This is partly because any such regulation runs into the perennial difficulty of all attempts to control and regulate security at the international level. Most states prefer to have strict control over their own security and are unwilling to delegate control over the use of force to the international level and/or to share information of their own activities. Since some PMSCs activity is specifically intended to circumvent national and international rules this argument has substantial relevance both in the context of developing and developed countries (Musah, 2002, Walker and Whyte, 2005). More than this, the unwillingness to rely on international instruments to regulate PMSC activity is reflective of the overall hesitation to regulate markets. Indeed, market construction, outsourcing and privatizing have been declared policy aims in across very different contexts. The attachment to this policy has traits of a “new religion” (Minow, 2003) with missionary overtones as it has been pushed onto those hesitant in adopting it.⁵ “Massive failings” on most accounts including the economic, humanitarian and military have been disregarded and/or explained away (Markusen, 2003, Rasor and Bauman, 2007, Reno, 2004). Many states have not been willing to interfere with markets (national or international). This has severely hampered the innovative use of existing international regulatory instruments not to speak about the development of new instruments specifically designed to regulate PMSC activity.

These general arguments are well illustrated by the limited role of the 1989 UN convention in regulating PMSC mercenarism. Technical difficulties hamper the use of the convention for this purpose. The Convention’s definition of “mercenary” is for example often argued to be difficult to work with for the regulation of PMSCs. The reasons provided are numerous and contradictory. They include that the definition used in the convention:

- covers persons not corporations and hence misses most relevant PMSC activity;
- does not properly allow for a distinction between legal and legitimate PMSC activity and illegitimate ones;
- emphasizes the individual gain motivation which is both difficult to prove legally and irrelevant;
- is based on the nationality of a person; a criteria that might be both misleading (as it can change rapidly) and irrelevant;
- is restricted to situations of armed conflict and/or of armed activity aimed to undermine states, hence excludes most relevant situations including those where soldier for hire are used (i) in “peace” situations (ii) by states against their own citizens and (iii) by individuals or firms for reasons other than de-stabilizing a state.

In addition to these concerns with the definition of mercenarism, the Convention has also been criticized for other technical reasons, including for its purported lack of clarity about

⁵ Military assistance and SSR support is increasingly channeled through private firms and the market. The model that is promoted in this way is clearly one where the market has a place. For example, “the SSR process in Sierra Leone has concentrated n constructing a Western-Style security structure: an externally-focused army, an unarmed constabulary, and a small, tightly controlled armed police component” (Abrahamsen and Williams, 2006b: 16).

the criminalization and extradition procedures, its lack of enforcement mechanisms and its lack of clear monitoring procedures.

However, the weak political interest in and support for the 1989 UN convention is no doubt the key reason for its limited role in regulating PMSCs. States have not been interested in using it innovatively to regulate PMSCs and/or in reforming it to make it more suitable for that purpose. This is linked to the technical difficulties just indicated. It is also linked to the timing and tone of the Convention. The convention was conceived in response to concerns that arose during the de-colonization struggle and hence appears slightly anachronistic to some observers (Milliard, 2003).⁶ The most significant reason however, is that many states have simply not been interested in regulating the sector, at least not at the international level through the UN convention. Regulation has been seen as potentially hampering efficiency, imposing red tape and potentially undermining the competitiveness of firms in the industry.

The weakness of the political backing is visible in the history of the convention. The convention was adopted in 1989 by the general assembly, but it took 12 years for it to enter into force which it did in 2001 when Costa Rica became the twenty second state party. Today 30 states have ratified the convention. However, none of the UN permanent Security Council members have nor have key states for PMSC activity such as South Africa, Israel, Columbia, Sweden, Denmark or El Salvador. The states parties to the convention also do not seem to find it an important and/or useful instrument for regulating PMSCs. Angola, Congo-Brazzaville, the DRC, Nigeria, and Ukraine are all signatories that have permitted or benefited from mercenary trade (Frye, 2005: 2642). Tellingly, the working group on the use of mercenaries tried to obtain information from UN member states regarding their views on issues relevant to the convention. 23 replied, some only to express the view that “mercenarism” did not exist in, or affect, their countries (UN, 2007: 5 and 9). In so many words, most states found the Convention by and large irrelevant and were not even willing to spare the time necessary to answer a request for information about their view on it.

The example of the 1989 UN Convention has illustrated the general point that the existence of international regulatory instruments directly relevant for the activities of PMSCs, or part thereof (as most instruments are “indirect”) has not necessarily helped ensure effective international regulation. The complexity involved in regulating PMSC activities that often defy the basic of assumptions of the regulatory instruments available is part of the explanation for this. But the lack of interest in using, transforming and developing regulatory instruments is at least as important. The consequence of this is that formal international regulation of PMSC plays a rather limited role. Informal international regulation (voluntary codes and standards) fares slightly better. It is, by definition adopted, and sometimes developed, by the PMSCs themselves with the explicit intention of legitimizing activities. As such it is integrated into PMSC codes of conduct, less susceptible to be rejected on technical grounds and hence something (the concerned) PMSCs can be required and expected to follow. There are obvious limitations to informal

⁶ “...sovereign equality, political independence, territorial integrity, and self-determination of peoples” are the key concerns in the convention. These concerns are not outdated. However, by the time the convention passed the emergence of PMSCs, the end of formal colonial aspirations and the emphasis on good governance and capacity building had radically transformed the concrete expression of these concerns (Clapham, 1996, Duffield, 2001).

regulation in terms of scope, content, monitoring, enforcement, and actual regulatory impact on PMSC behavior in general. However, at present it is the most significant type of international instruments for regulating PMSC behavior.

5 The 1989 Convention as a Regulatory Instrument in the Current Context

This account of the role of international regulatory instruments raises the general question of what scope there is for formal international regulation of PMSC activity in general. To conclude this presentation I want to suggest that three general answers coexist and compete with each other (the positions are summarized in Table 2). I will draw on the discussions surrounding the 1989 Convention to introduce them:

The Conservative View: The conservative view is that the relevance of the 1989 Convention is best ensured by working with the convention as it stands, without expanding its role either through legal practice or through reformulations and redefinitions. The rationale for this position is that even if the convention has many limitations, it is an international legal instrument that has entered into force, an achievement unlikely to be repeated. As such it is potentially useful, albeit in a limited way. This position is likely to perpetuate both the idea that the Convention is of marginal contemporary relevance and the related difficulties of finding political backing for the Convention and actions based on it.

The Market Accommodating View: holds that the only way to ensure the 1989 Convention's pertinence as an international regulatory instrument is to ensure that it acknowledges and makes room for legitimate market activities (and hence PMSCs). The "post-colonial myopia" has to be overcome (Milliard, 2003). From this perspective the convention could be useful for separating legitimate PMSCs from illegitimate ones paving the way for regulated markets. Practical suggestions to this end include redefinitions of mercenarism that would exclude legitimate PMSC activity,⁷ the development of codes of conduct that PMSCs could follow and corresponding black-listings of erring ones. Generally, measures should be developed in dialogue with PMSCs and their interest groups to ensure the effectiveness of the measures. The consequence of this view is that PMSC activities are legitimized (at least in part) and can hence more readily be extended. As for the Convention, while its visible relevance would be increased, its substantive role would be less clear and its role as a regulatory instrument correspondingly weakened.

The De-Commodifying View: Quite contrary to the market accommodating view, the de-commodifying one considers markets for military and security services as largely illegitimate, dangerous and reflecting a minority political position. "The rise of the corporate mercenary has effectively resulted in a divergence between the letter and the spirit of international law." (Coleman, 2004: 1506) The main ambition of regulation should be to establish the consistency.⁸ The 1989 Convention could be used in this spirit

⁷ Former special rapporteur Ballesteros suggested on such redefinition in (UN, 1997).

⁸ Coleman further argues that the "employment of the modern mercenary can be understood as merely one facet of a larger philosophical problem posed by the United States' apparent combination of both the power and the will to ignore international law in multifold circumstances" (Coleman, 2004: 1449).

to underscore the illegitimacy of markets and to de-commodify (taking out of the market) the use of force. This translates in the promotion of measures that would expand the understanding of mercenarism so that it could be used to condemn the market activities of PMSCs. In addition to these measures that reestablish state control over the market for example by introducing licensing and registration systems ensuring that PMSCs and their staff are under state (or international) control, by creating mechanisms by which states (both host and home) register/approve contracts, and/or by strictly limiting the activities in which PMSCs may lawfully engage. This position delegitimizes PMSC activity generally. Its effect on the Convention is uncertain. It may increase the interest of states (and others) resisting the watering down of the state monopoly on the legitimate use of force in the Convention as a regulatory instrument.

These three contradictory views underscore that international regulatory instruments can be used for widely diverging purposes, in very different ways and with diametrically opposed consequences for PMSCs and their activities. The obvious implication is that basic question – what is the aim of regulation? – is of essence. The answer is pivotal for thinking about by which existing international regulatory mechanisms can be used, should be transformed or perhaps even invented. It is also essential for thinking about the process through which this can best be done. This point is at the heart of this presentation. As the presentation has shown there certainly is no shortage of (indirect) international legal instruments that may be useful to regulate part of PMSC activity. The question is if there is an interest in using them. Similarly, even there is no abundance of direct legal instruments; the central issue is if there is an interest in such regulation and in that case what exactly its aim should be. The current lack of enthusiasm about using international regulatory instruments to control PMSC activity – and the related limited practical impact of these – would seem to indicate that there is not. Reflection about the implications for human rights, public security, peace and regime stability may change this. The regulatory context of the next Nisour incident may well be different from this one.

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7 Tables

TABLE 1: International Regulatory Instruments (selected examples)

	Specific	Indirect
Formal	<p>Situation Specific Regulation: (CPA Order 17 of 24 June 2007)</p> <p>Contractual Regulation</p>	<p>Regulation of Peace and War</p> <ul style="list-style-type: none"> - Hague Convention V - International Humanitarian Law (Geneva Conventions, additional protocols) - International Law Commission Draft Code of Offences against Peace and Security of Mankind <p>Regulation of Mercenarism</p> <ul style="list-style-type: none"> - 1977 OAU Convention for the Elimination of Mercenarism in Africa - 1989 UN Convention against the Finance and Use of Mercenaries <p>Specialized Treaties/Conventions</p> <ul style="list-style-type: none"> - The UN Convention against Transnational Organized Crime - The UN Convention against Torture - The Slavery Convention - Council of Europe Convention on Action against Trafficking - ILO Conventions - Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft - Hague Convention for the Suppression of Unlawful Seizure of Aircraft - Convention in the Prevention and Punishment of Crimes against Internationally Protected Persons - Convention against the Taking of Hostages - Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation - The UN Mine Action Standards <p>Arms Trade Regulations:</p> <ul style="list-style-type: none"> - ECOWAS Convention on Small Arms and Light Weapons - EU Arms Export Controls, embargoes - UN Small Arms Trade Treaty <p>Internationally applied national legislations</p> <ul style="list-style-type: none"> - the US Foreign and Corrupt Practices Act - the UK Anti-Terrorism, Crime and Security Act
Informal	<p>IPOA code of conduct</p> <p>BAPSC charter</p> <p>Voluntary Standards (e.g. The Voluntary Principles on Security and Human Rights)</p> <p>Firm Policies</p>	<p>Global Compact Standards</p> <p>The Code of Conduct of the International Red Cross and Red Crescent</p> <p>NGO Standards and Codes of Conduct</p>

TABLE 2: Views on the Role of the 1989 Convention

	Conservative	Market Accommodating	De-Commodifying
General Rationale	Promote the convention as is with the limited aim of using it against mercenarism classically understood.	Acknowledge the legitimate role of markets and establish regulation that sort legitimate firms from illegitimate ones	Reaffirm the state control over the legitimate use force. Take military security services out of the market
Suggested Action	Increase number of parties (common to all)	Restrict mercenarism: distinguishing it from PMSC activity Promotion of PMSC codes of conduct Black lists and information exchanges on contract breaches Increased dialogue with PMSC firms and Interest groups	Expand mercenarism: include corporations Registration and licensing systems for PMSCs State approval of contracts Strictly limited tasks Expand monitoring and enforcement mechanisms
Implications for PMSC activity	Largely irrelevant	Legitimizing Extension of activities	De-legitimizing Restriction of activities
Implications for Convention	Irrelevance	Possible increased adherence to Convention Risk that effective regulation is moved to national, firm and market level	Possible increased adherence to Convention
Exponents		The PMSCs/ professional associations Zarate, Milliard	Frye, Coleman.