

4th Session of the IGWG on Private Military Security Companies
Presentation by Paul Gibson Director SCEG on 28th April 2015

Introduction

Chairman thank you for your kind words of introduction. I would like to thank you, the delegates, for extending this invitation to me to address you this afternoon and explain to you how responsible companies within the private security sector are embracing standards and regulations to ensure that their operations are transparent and accountable, compliant with international and national legislation and critically with human rights at the heart of their business models.

The Security in Complex Environment Group or (SCEG) was formed for UK based private security companies working abroad often in dangerous, hostile and certainly complex environments. It was established to promote professional standards across the UK private security industry, sharing best practice and providing for rigorous third party accreditation against exacting standards.

Complexity

Let me dwell for a moment on that word complex. When I had the opportunity to address the Montreux +5 Conference in December 2013 I noticed on page 45 of the report “Progress and Opportunities Five Years On” a reference to a shooting incident in Pristina involving British soldiers. The report stated accurately that two Kosovar Albanians had been shot and killed by soldiers. The 3 soldiers who opened fire were immediately the subject of an extensive criminal investigation. The Kosovar Albanians were armed and the prosecuting authority decision was based on a fine legal judgement as to whether they were firing their weapons in celebratory fire as some argued or whether they posed a direct threat to the soldiers as they argued. This is a fine judgement for the soldiers and for those charged with reviewing their actions.

The prosecuting authority decided that the soldiers had acted in self-defence. In that same action two other Kosovar Albanians were wounded and 5 years later they brought an action against the UK’s Ministry of Defence. One Mohamet Bici had been shot through the jaw. The Judge rejected the Ministry of Defence’s assertion that the soldiers fired in self-defence and the claimants reportedly received £2.4 million in compensation. I have amplified the detail in this case because it demonstrates the complexity of these issues but it also demonstrates the willingness of the UK justice system to confront these difficult cases. I also speak as one who was intimately involved in the events - the soldiers involved were part of my close protection team - interviewed under police caution twice, and seated next to Mohamet Bici for much of the court proceedings.

I also served in southern Iraq in 2004 and 2005 as Brigade Commander in the British Army and witnessed several private security companies operating in a cavalier fashion and often failing to operate within the rule of law or respecting human rights.

So I understand the issues and have seen how a hitherto unregulated private security sector has fallen well short of the international recognised standards for compliance and human rights.

Nor would I wish to suggest that the private security industry is completely transformed from those dark days in Iraq but my contention is that the private security companies I work with are demonstrably embracing standards and regulations to ensure that their companies behave in an appropriate and transparent manner, operating within the rule of law and accountable for their actions.

Language.

Before continuing it would be helpful to point to areas where language can be misleading in the security context. The term mercenary is emotive with a clear meaning that an individual labelled as a mercenary is hired for money and strongly influenced by desire of gain. Mercenaries are illegal under UK law. The companies I represent do not employ mercenaries. Instead they have rigorous vetting, training and contractual arrangements with employees and sub-contractors to ensure that they operate in an open and transparent manner.

The term ‘private military and security companies’ is not one we recognise in the UK. The companies that I represent do not conduct offensive military operations instead they provide a range of risk management and protective services for their clients which are essentially defensive in nature. Weapons are rarely fired and then only for self-protection of the individuals or their clients. The Rules for use of Force are explicitly for self-defence. Companies will make significant investment into risk mitigation measures improving their situational awareness with the aim of reducing friction and avoiding conflict.

SCEG History and Partnership with the UK Government

The SCEG was formed in January 2011, when we had representatives from just 3 companies working with ADS, a reputable and well established trade organisation, to create a group that would define and introduce robust, widely recognized professional standards for the UK private security sector. We now have well over 70 members, and represent the vast majority of the UK industry delivering security in challenging environments on land and at sea.

In June 2011, just 6 months after we were formed, and following a competitive selection process, the UK Government appointed the SCEG as its partner for the development and accreditation of standards for the UK private security industry. This was a significant achievement and created a unique construct whereby an industry body was trusted by government to be both a responsible partner and a lobbyist.

This decision was not taken lightly. Serious discussion on regulation had commenced in the 1990s and continued during the tumultuous events in Iraq and Afghanistan which saw an unprecedented use of private security companies. After lengthy and sustained engagement and consultations the British Government decided that the best way forward was to encourage industry to be the catalyst for standards and regulation whilst maintaining very close links with the process - in other words to encourage voluntary regulation. I believe that decision has been vindicated.

In autumn 2011, our remit was extended to include the maritime sector in response to the meteoric rise of armed counter-piracy operations to protect shipping in the face of the threat from Somali pirates. This was a significant decision, reflecting close consultation between the Foreign Office, the Department for Transport and SCEG.

Standards, Regulation, and the International Code of Conduct

The first step in regulating private security companies was the 2008 Montreux Document¹ governing the role of states in their relations with private security service providers. The next step was the development of the International Code of Conduct for Private Security Service Providers (ICoC) which focuses on the industry, setting out commonly-agreed principles for companies to sign up to. UK industry contributed to both of these international agreements. Before joining, all SCEG applicants are required to have read and agree to abide by the principles of the Code.

The International Code of Conduct envisaged two further steps: the development of international standards with human rights at their heart, and the establishment of an independent mechanism to monitor and oversee compliance with the Code.

PSC-1 was developed as the first standard to translate the requirements of the Code into specific, auditable measures for land-based private security. The standard assesses that a company's policies and procedures – and crucially the implementation of these on the ground – reflect key issues around human rights risks, including the impact of operations on stakeholders, rules on the use of force, and weapons movement, storage and use. It was endorsed by the UK Government in 2013 and UK companies are being independently audited and certified to PSC-1. It is an American standard but it is expected to become a fully international standard in the summer of 2015 when it will be known as ISO 18788.

SCEG aims to provide confidence that its members operate at high professional and ethical standards and full SCEG members are required to demonstrate that they are working to achieve certification to PSC-1.

¹ *“Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict”*.

ICOC Association

The establishment of the International Code of Conduct Association in September 2013 laid the foundations for the second requirement of the Code. SCEG members played a constructive and influential role in the development of the Articles of Association and SCEG holds observer status within the Association. The Association is the governance and accountability for the Code and aims not only to oversee its implementation but also to promote the responsible provision of security services and raise industry standards across the globe. As a multi-stakeholder initiative the Association is governed jointly by its three main stakeholder groups: governments, private security companies and civil society organisations, each of whom has equal representation on a 12-member Board of Directors.

The core functions of the Association are threefold: certification, monitoring and handling complaints. Under certification member companies will need to demonstrate that systems and policies meet the Code's principles and the standards derived from the Code. Through established human rights methodologies the Association will monitor member company's operations to ensure that these comply with the Code. Member companies will be expected to manage an accessible, fair and effective complaints process whereby persons who claim to be aggrieved by alleged violations of the Code can seek redress.

SCEG has been very supportive of the Association and 2 out of the 4 industry board members are SCEG members. SCEG will continue to remain fully engaged with the Association to encourage others to develop coherent transparent affordable standards and oversight mechanisms.

Maritime Standard

Our work on the maritime regulatory front has been detailed and substantial, and I believe we have brought together a strong, objective and coherent UK industry voice, influencing the myriad of international, commercial and government agencies involved in this challenging and dynamic field.

In recognition of the increasing threat of piracy in the Indian Ocean, discussions between the International Maritime Organisation and ISO began in earnest in January 2012 to decide how best to develop an international standard for armed security guards on ships in the High Risk Area. Four months later IMO's Maritime Safety Committee approved MSC Circular 1443 - *Interim Guidance 4 to Private Maritime Security Companies providing Privately Contracted Armed Security Personnel on board Ships in the High Risk Area*. It also concluded that ISO should develop an international standard to be known as ISO 28007 and for it to be completed as a matter of urgency. The publication of ISO 28007 in March 2015 was in my view a game changer. It means that maritime security companies have a robust auditable standard and it is recognised by the UK government as an important contributor to the promotion of high professional standards amongst maritime security providers,

Third Party Audits and Accredited Certification

Of course, the key to the success of these standards has been the identification of independent 3rd party accreditors who ensure that companies claiming to comply with the standard do so fully and in a properly auditable fashion. The United Kingdom Accreditation Service has accredited 4 certification bodies and they conduct rigorous third party audits of companies to certify them against PSC1 and ISO 28007.

As part of their audits the certification bodies will assess how well the company's human right impact assessments have been incorporated into their management processes. The audits will also examine the legal framework in which the companies are operating including examination of the licenses issued by the host nations.

Underpinning the International Standards

In support of these international standards SCEG has undertaken additional work across a spectrum of activity to support these standards and improve compliance.

Within the UK for those seeking employment in the industry as armed security personnel we have established an enhanced vetting process using a highly credible and respected national body the Disclosure and Barring Service.

City and Guilds supported by SCEG members has developed a Maritime Security Operative Qualification which encapsulates all the core competencies required by ISO 28007 so that clients can have confidence that the armed security personnel are properly trained.

The UK government has put in place a rigorous and responsive license regime so that the export, control and disposal of weapons being used by private security companies is subject to exacting standards and scrutiny.

Relationship with government

I have spoken in glowing terms about our relationship with the UK government but it would not be giving you the full picture if I did not point out some of the inevitable frictions in that relationship. Industry is impatient for change and to embrace regulation but in an industry that until recently was completely unregulated, with complex legal and presentational issues at every turn the government approach has understandably been cautious. This has inevitably been frustrating for some in the industry.

Floating armouries are a feature of maritime security operations in the Indian Ocean and the industry represented by SCEG was determined to have appropriate licenses authorising the use of these maritime platforms for the storage of weapons. Understandably the UK government had been concerned about the risks associated with these armouries. However without these licenses British Companies had a stark choice either to cease trading or run the very serious risk of being in breach of UK trade laws. I took every opportunity to make this

point to government, in the strongest possible terms, including at Ministerial level. After several months of engagement with the relevant government departments the Department for Business Innovation and Skills announced that it would issue UK trade licences authorising the use of floating armouries for the storage of controlled equipment including firearms. This was a significant step by the Government but there is more to be done in this area as we have yet to achieve a floating armoury operating under a UK flag.

Firearms training in the UK

Let me turn to firearms training in the UK – another problematic issue we are tackling with the UK Government. In the autumn of 2011 Prime Minister David Cameron announced that the UK would be putting privately contracted armed guards on British flagged ships transiting the Indian Ocean off the Horn of Africa.

Industry set about to deliver well trained individuals and teams for the task but the UK's firearms legislation is very restrictive and it has not been possible to conduct appropriate firearms training in the UK for this task. This in my view is unacceptable. SCEG has repeatedly and doggedly raised this issue with Government and we are working with the Home Office, the police and other stakeholders to develop a firearms course that we can conduct in the UK.

Evolution of the Industry

The security landscape is changing and those changes are radical and are having a dynamic impact on the private security sector. In 2014 NATO combat operations ceased in Afghanistan. Additionally and critically, Western defence spending is declining without a commensurate decline in political ambition. The UK's National Security Strategy rejected any notion of the shrinkage of the UK's influence despite significant cuts in the Ministry of Defence and Foreign Office budgets. We are creating a strategic deficit which will have to be filled by the private sector. All be it reluctantly, governments will increasingly outsource contracts to the private sector in areas that until recently were considered to be the sole jurisdiction of the military. SCEG companies are already involved in capacity building and a wide range of risk consultancy activity. This trend will continue.

Money

Let me talk briefly about money – vulgar as it might seem in these magnificent surroundings – but private security companies are in the business of making a profit. It is vital that the costs of increasing regulation and standards being embraced by many do not make companies uncompetitive. Otherwise we risk penalizing the good guys.

The key to this is the understanding of clients, both state and private sector. We collectively, and here I refer to everybody in this room, have a responsibility to draw the client into a full understanding of - and commitment to - regulation. It is their recognition of the relevance of

standards to local communities, the global security environment and to their own exposure to risk that will ensure that security companies investing in quality are not disadvantaged commercially.

As a community we need to communicate effectively with clients ranging from governments, international organisations and development agencies ... to the extractives sector, the shipping industry - and humanitarian and development organisations. We then need to persuade them that the additional costs implicit in high standards are worth accepting. Without that acceptance, the dynamics of the market will move against widespread improvement of standards, especially where regulatory systems are based on voluntary participation.

And finally within industry we recognise that we have still some way to go to build the necessary trust with civil society but we would ask at least for recognition that we are heading firmly in the right direction and that some of the key components underpinning the ICOC Association have been achieved in a remarkably short time frame due in no small part to the efforts of industry.

Thank you