National Regulatory Regimes for PSMCs and their Activities: Benefits and Shortcomings

Andrea Schneiker

1 Introduction

In a world where we even regulate the size of tractor seats and the fat content of milk, it is striking that the private military and security industry, an increasingly important and powerful actor in the field of national and international security, remains almost unregulated. Neither the implementation of nor the debate about regulatory mechanisms has yet kept pace with the development of private security and military companies (PSMCs). As a consequence, no adequate international legislation exists. The same goes for regional legislation too. National legislation is little better. The majority of laws ignore the existence of PSMCs and deal with traditional mercenary activities at best, i.e. active engagement in combat (Table 1). These legislations mostly prohibit the recruitment of mercenaries within the national territory and the participation of national citizens in foreign armed forces, like the US New Neutrality Act of 1939, the British Foreign Enlistment Act of 1870 and the Australian Foreign Incursion and Recruitment Act of 1978. A recent example of such 'mercenary legislation' is a French law adopted in 2003 which criminalizes mercenary activity, but does not consider military services carried out by PSMCs (République Française 2003). South Africa and the United States, home of many PSMCs, are among the few countries that have established a national legislative regulatory scheme to oversee the activities of PSMCs that are registered in or operate from within their national territories. In both countries regulation is limited to military and military-related services sold to foreign clients and does not cover services contracted by the governments of the US and South Africa. Nevertheless, these two models are the most far-reaching ones that exist and therefore merit consideration.

However, they do not abolish the existing general lack of oversight and regulation and the problems resulting from it: As PSMCs and their employees face no real risk of punishment, they might defect from their contractual obligations, work for authoritarian regimes, rebel or terrorist-linked groups and commit human rights abuses. Even though PSMCs deny such practices, reality proves the contrary. Therefore, a broad consensus exists about the need for regulation in order to prohibit and eventually restrain such activities. Yet, the actors supporting some kind of regulation pursue different agendas. PSMCs themselves favor regulation in order to increase their legitimacy because they

assume that regulation "would help marginalize disreputable companies" and consequently "establish a respectable and therefore more employable industry" (UK Foreign and Commonwealth Office 2002: 21).

Legitimacy of PSMCs is also important to their clients (especially states but also multinationals, international organizations, NGOs) as well as the accountability of these companies in order to hold them responsible for their operations. Finally, regulation aims at ensuring an effective and efficient cooperation between clients and PSMCs (Holmqvist 2005: 43). But even though regulation is needed, it is not necessarily wanted. In this context the analysis of the South African and American examples shows that the licensing systems established ensure above all the compatibility of PSMCs' operations with the policy of their home governments, but are not stringent enough to allow a proper control and regulation of the firms' activities. As a consequence, they have to be improved. Nevertheless, it is doubtful whether the political will to do so exists because the legal vacuum in which PSMCs operate not only presents advantages for the companies themselves, but also for their home governments: if an operation fails, the government can easily shift the blame on the private firm and deny its own responsibility.

National legislation, however, is not a long-term solution because of the transnational character of the private security and military industry which allows PSMCs to relocate to more friendly environments, if regulation in their home country becomes too embarrassing. Therefore, national regulation has not only to be improved, but also to be accompanied by additional measures which would have to be established on the international level at best in order to allow a more effective control of PSMCs and their activities.

Despite the shortcomings of national regulation, there are at least three reasons for addressing the regulation of PSMCs at the national level. First, states are still the central actors within the international system. Second, states are – given certain circumstances – responsible under international law for the activities of PSMCs (Schreier/Caparini 2005: 117). This responsibility affects governments that hire PSMCs and/or governments in countries from where PSMCs operate or where they are registered (Beyani/Lilly 2001: 21). As the majority of PSMCs are headquartered in industrialized countries like the US, South Africa or Great Britain, but operate mainly in weak or failed states where governments "often have neither the power nor the wherewithal to challenge these firms" (Singer 2004c: 535), any serious regulation will have to emanate from the companies' home state and have extraterritorial application. Third, national legislation might be less effective than legislation on the international level, but it is more easily enforced.

Table 1: Legislation of Selected Countries to Control and Regulate PSMCs

Country	Legislation
Australia	The recruitment of mercenaries within Australia and the Fighting of Australians in non-governmental forces abroad is an offense
Austria	Legislation concerning the formation of military associations exists but has not been applied to PSMCs yet
Belgium	An adopted law banning the participation of Belgians in foreign armies (1979) is not in force yet
Canada	The participation in armed forces that are engaged in warfare against an allied country is prohibited
Denmark	The recruitment in Denmark for foreign forces and the participation of Danish citizens in foreign armed groups (regular and irregular) is an offense
Finland	Recruiting Finnish citizens to foreign armed forces is an offense; it is possible to punish Finnish citizens for crimes committed abroad
France	The participation of mercenaries in combat activities in armed conflict and the organization and direction of such operations are punished by imprisonment and fines
Germany	No legislation concerning the activities of PSMCs, the engagement in mercenary activity is not considered a crime
Greece	It is unlawful to recruit mercenaries in Greece
Italy	Mercenary activities and the recruitment, training, financing and use of mercenaries are prohibited
Japan	No legislation exists
Netherlands	The recruitment in the Netherlands for foreign armies and the participation of Dutch citizens in armies at war are prohibited
New Zealand	Mercenary activity and the training, financing, recruitment or use of mercenaries are prohibited and punished by imprisonment
Norway	The recruitment for foreign armed forces without the permission of the King and the formation, participation in or support of private military organizations are a crime
Portugal	Portuguese citizens are not allowed to participate in combat activities abroad but are allowed to deliver military advice and technical support to foreign military forces
Russia	Mercenary activity and the recruitment, training or financing of mercenaries are punished by imprisonment
Spain	Only members of the Spanish armed forces are prohibited from engaging in mercenary activity
Sweden	The recruitment for foreign military or similar services without the permission of the government is unlawful
Switzerland	The participation of Swiss nationals in foreign armed forces is prohibited, except the Vatican Swiss Guard
Ukraine	Mercenary activity is punished by imprisonment

Adapted from: UK Foreign and Commonwealth Office 2002: 40ff.; see also Wulf 2005: 67f.; except France: République Française 2003; and New Zealand: New Zealand Government 2004.

2 South Africa

In South Africa regulation of PSMCs and their activities are dealt with in the Foreign Military Assistance Act (FMA) which came into force in 1998 (Republic of South Africa 1998). Under section 1 the FMA differentiates between mercenary activity and foreign military assistance in armed conflicts. The latter includes all conflicts between states and/or armed groups. Mercenary activity – defined as "direct participation as a combatant in armed conflict for private gain" – as well as the training, recruitment, financing and use of mercenaries are prohibited (section 2). In contrast, foreign military assistance is regulated, not prohibited. Foreign military assistance contains (section 1) "military services or military-related services, or any attempt, encouragement, incitement or solicitation to render such services, in the form of – (a) military assistance to a party to the armed conflict by means of – (i) advice or training; (ii) personnel, financial, logistical, intelligence or operational support; (iii) personnel recruitment; (iv) medical or para-medical services; or (v) procurement of equipment; (b) security services for the protection of individuals involved in armed conflict or their property; (c) any action aimed at overthrowing a government or undermining the constitutional order, sovereignty or territorial integrity of a state; (d) any other action that has the result of furthering the military interests of a party to the armed conflict, but not humanitarian or civilian activities aimed at relieving the plight of civilians in an area of armed conflict".

By including a huge variety of military and military-related services, the FMA tries to cover all activities carried out by PSMCs. Therefore, not only the standard forms of military assistance like training or advice, but also logistical, security and even medical services are subjected to regulation. The provisions concerning those carrying out and those receiving military assistance are also broad in scope. The FMA covers military assistance carried out by all natural persons who are citizens or permanent residents of South Africa or operate from within its territory as well as all juristic persons registered or incorporated in the Republic and military assistance rendered to either regular and irregular forces (sec. 1). The FMA also includes extraterritorial application.

Under section 4 and section 5 the FMA establishes a two-step licensing system. Each individual or company wishing to supply foreign military assistance is required to first obtain a license to offer these services and – if authorization is granted – to apply for a second license to carry them out, i.e. before entering into contract. Requests are examined by the National Conventional Arms Control Committee (NCACC), which also covers South African arms exports. The NCACC, consisting of 12 cabinet members, then grants a

license or refuses an application. It has the power to impose certain obligations on a company along with the grant of a license and to withdraw a license at any time. Decisions to grant a license are based especially on principles of international law, human rights law and the national interests of South Africa (section 7). The violation of the law is punished with "no more than 10 years imprisonment and a fine of no more than 1 million rand"[1] (Schreier/Caparini 2005: 107). The Act was introduced in response to the growing number of PSMCs incorporated in South Africa and especially the activities of Executive Outcomes (EO) and the pressure exerted by the international community. The latter came first of all from the US-administration, which, believing statements of former employees of EO, wanted to harm its national companies' competitors (Chapleau/Misser 2002: 240).

To a large extent the literature agrees on the benefits and shortcomings of the FMA. Compared to international legislation the Act can be considered an improvement insofar as it does not adopt the inappropriate definition of a mercenary incorporated in the existing international conventions, but follows a different approach. Instead of trying to define the actors, the FMA puts their activities under legislative control. In this way it does not only cover traditional mercenary activities like active engagement in combat, but also recent developments, namely the operations of PSMCs. Another positive aspect is the connection of the licensing process to the conventional arms system (Stemmet et al. 2001: 43). From this point of view the FMA might be considered "a major step forward in both intent and word" (Schreier/Caparini 2005: 107).

However, the practical application of the FMA has been widely criticized. First, the definitions and criteria embodied in the Act are either too broad or too restrictive. By seeking to control all forms of military assistance including military training and medical assistance the FMA covers such a wide range of actors and activities "making it almost irrelevant" (Singer 2004e: 540). Moreover, the criteria to grant a license are considered being to "vague and subjective" (Schreier/Caparini 2005: 107). Furthermore, military assistance subject to regulation is limited to situations of armed conflict and the special case of an action aimed at overthrowing a government. The rendering of military assistance in other situations, e.g., for preventive purposes, is not regulated at all. Hence, Yves Sandoz (1999b: 216) raises the question what happens when "internal strife escalates into armed conflict and services covered by the Regulation of Foreign Military Assistance Act are already being rendered?" Does the executing company have to seek subsequent approval for the rendering of its services and/or suspend or even break them up? The FMA does not contain any provisions for such cases.

1 Approximately 150,000 USD.

Second, the role of the South African government in the licensing process is problematic (Schreier/Caparini 2005: 108; Singer 2004e: 539f.). On the one hand, the government, by approving each contract prior to be signed and carried out, assumes responsibility for the actions of PSMCs. This might allow companies to avoid international legal controls. On the other hand, the executive branch has the outright sanctioning power. Thus, parliamentary oversight is subverted and the institutional balance shifted in favor of the government. The latter, however, seems to lack the political will to monitor and enforce the legislation. The circumstances under which South African PSMCs operate in Iraq back this assumption. Neither the company Meteoric Tactical Solutions which is currently training Iraqi security forces (Isenberg 2004: 36) nor the PMC Erinys which protects Iraq's oil industry – activities defined as foreign military assistance by the FMA – have received a license from the NCACC to carry out these services (Schreier/Caparini 2005: 107f.). In general, the number of companies that have registered as well as the number of contracts that have received a license is very small (Beyani/Lilly 2001: 32). The modalities of the licensing process also lead one to assume an absence of political will to control and regulate PSMCs seriously. The committee issuing the licenses, for instance, is entirely composed of cabinet members, yet South African law determines that cabinet decisions are not legally binding (Stemmet et al. 2001: 43). Therefore, decisions by the NCACC risk "to be declared null and void by the courts" (Stemmet et al. 2001: 43). So a license would have no legal value and a company acting without license would not have to fear any consequences. This would explain why Meteoric Tactical Solutions and Erinys can operate in Iraq without prior approval by the South African government and even without being legally challenged for it. To sum up, the law marks a theoretical progress, but in practice it is "mostly a symbolic effort (...) to appease the international community (...) rather than a realistic deterrent to mercenarism" (Abraham 1999: 104).

3 The United States

Besides South Africa the United States have adopted the most comprehensive legislative scheme to control and regulate PSMCs and their activities. Like in South Africa, regulation is not based on a definition of the actors concerned, but of the military and military-related services they deliver. This affects PSMCs as well as other private actors performing these services. But contrary to the South African legislation military assistance is not regulated apart from other military products but within the arms export control system. The relevant legislation is the International Traffic in Arms Regulations (ITAR) (US Department of State 2006: 464ff.) that came into force in 1998 and is part of

the US Arms Export Control Act of 1968. The ITAR regulates the export of defense articles as well as defense services. The former include mainly weapons and military equipment (Part 121). The latter are defined in § 120.9 as "(1) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; (2) The furnishing to foreign persons of any technical data controlled under this subchapter (see § 120.10), whether in the United States or abroad; or (3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice (...)" (US Department of State 2006: 467f.).

The ITAR does only regulate such services rendered to foreign clients – regular governments and irregular forces a priori alike (Sandoz 1999b: 217) – but it is not important whether these services are rendered in the United States or abroad. Services contracted by the US government are not regulated under the ITAR. Similar to the South African FMA, the ITAR establishes a two-step licensing system which is overseen by the State Department's Office of Defense Trade Controls. Any individual or company wishing to offer defense services has to register with this agency (§ 129.3). In order to sell military services, a registered company has to apply for a license before signing a contract. Each application is examined by a range of different government offices (Beyani/Lilly 2001: 32) with two exceptions: Contracts with NATO members, Japan, Australia and New Zealand do usually not require a license, whilst contracts with countries under UN or US embargo are generally refused (§ 126.1; § 129.5; § 129.6).[2] Examples of contracts signed under the ITAR are the ones between MPRI and the governments of Croatia and Bosnia in the mid-1990s to train their armed forces.

Even though the ITAR is very comprehensive, it suffers from several shortcomings. First of all, the licensing process is very complicated and opaque. As Deborah Avant (2002: 2) explains: "The Defense and State department offices involved in the process vary from contract to contract, and neither the companies nor independent observers are exactly clear about how the

2 The contracts that require a license depend on the service that should be delivered. Some specifically sensitive activities like the provision of fully automatic firearms require a license no matter the recipient. A comprehensive list of these services is entailed in § 129.7. Information about the countries to which military services cannot be delivered can be found in the Defense Trade Controls – Embargo Reference Chart published by the State Department.

process works." Second, parliamentary oversight is weak. Prior to granting a license the State Department has to inform Congress only about contracts in excess of 50 mio. USD. However, this does not happen very often because most contracts value less or if not can easily be split up or partially subcontracted. Public scrutiny is even less because the amount of information released is very meager. Once a license is granted, no further monitoring mechanisms or reporting requirements exist. Finally, a lot of authors criticize that regulation under the ITAR has "more to do with U.S. foreign policy than with the provisions of international law" (Sandoz 1999b: 217). In fact, decisions to grant a license largely depend on the contract's expected benefits to US interests (Peterson 2002: 7). This practice promotes lobbying by all actors concerned, PSMCs and the administration alike. The private security and military industry is cautious to highlight the value of the military services in question to US foreign policy and has employed a swarm of lobbyists to promote its interests. A group of 10 companies, for instance, spent more than 32 mio. USD on lobbying government agencies in 2001 (Yeoman 2003: 4). PSMCs having close links to high-ranking US politicians and/or those having gained the resources of powerful legal departments by merging with listed companies are in a privileged position to influence the licensing process (Peterson 2002: 7). It is also possible that one government agency seeks to influence another on behalf of a PSMC. An example of successful lobbying is MPRI convincing the responsible State Department office to grant a license initially rejected. In 1998, MPRI had applied for a license to assist the government of Equatorial Guinea with building up a coast guard. The request was rejected because of human rights violations by the West African State (Yeoman 2003: 2). MPRI lobbyists consequently argued that in this case a PMC from another country would get the job (Schrader 2002: 4). According to an official note remarking that MPRI "may need our help and moral support in getting the (...) license from State" (Peterson 2002: 7), the Pentagon also backed MPRI's application. MPRI was finally granted the license. Charles Snyder, Deputy Secretary of State for African Affairs explains this change of mind by adopting MPRI's argumentation: "A country like Equatorial Guinea is going to get [training] from somewhere, so we'd rather have U.S. contractors on the ground. That way at least we'd have feedback from professional trainers as to whether this is having any impact or not." (Peterson 2002: 7)

Besides the ITAR, PSMCs can sell their services through the Pentagon's Foreign Military Sales (FMS) Program. Under the FMS no license is required because the company does not sell its services to foreign clients, but to the Pentagon which pays the PSMC and in turn is reimbursed by the beneficiary of the service. Thereby it is self-evident that the Pentagon only contracts services benefiting US interests. PSMCs generally prefer contracts under the

FMS as it secures them the support of the government and – compared to the long licensing process under the ITAR – saves time, a resource they often lack (Peterson 2002: 7).

While the reason for the US regulatory legislation seems to be the securing and promotion of national foreign policy interests, the FMA apparently has been established above all as a response to international pressure. Despite these motivations and the legislations' shortcomings based thereupon, the FMA as well as the ITAR can be considered an improvement compared to international legislation. As a consequence, they provide relevant models for national legislation in other countries. But until now regulatory oversight of PSMCs outside South Africa and the US is weak. In 2002, the British Government has published a Green Paper that discusses different possibilities of national regulation of PSMCs ranging from self-regulation of the industry by a voluntary code of conduct over different forms of licensing to a ban on military activities abroad (UK Foreign and Commonwealth Office 2002: 22ff.). But none of the exposed measures has been implemented so far. However, the British government does exercise some control over military activities performed by private companies that are contracted not by foreign clients, but the government itself. These oversight structures were originally established to control non-military services like the handling of equipment. But whilst the government is outsourcing more and more sensitive military tasks like logistics and training it has not updated its oversight mechanisms yet (Krahmann 2005: 2ff.). Germany on the contrary has been much more vigilant to maintain control over military tasks carried out by private companies through governmental shareholdership and stricter legislative control (Krahmann 2005: 7ff.). Nevertheless, this regulation is too new to permit valid conclusions about its effectiveness (Schreier/Caparini 2005: 114). However, every legislation on the national level suffers from general shortcomings regardless of specific deficiencies of particular mechanisms.

4 General Shortcomings of National Legislation

At least three fundamental problems prevent national legislation from being a long-term solution to an effective control and regulation of PSMCs. The first difficulty results from the transnational nature of the private security and military industry and the organizational structure of PSMCs. They operate on a global level, have in general only small infrastructures (Singer 2004e: 535) and are in many cases registered off-shore in tax havens like the Caymans or the Bahamas (Singer 2003a: 75). This provides them a high degree of mobility. Thus, PSMCs can easily transfer to countries with a more friendly legislation. Another possibility for PSMCs to elude legal challenges is to split into

subsidiary companies, to merge with another firm or just to take on a new name (Singer 2004c: 535). EO for instance, against which the South African legislation was mainly directed, absconded from legal control as it dissolved officially and continued to exist through subsidiaries like Teleservice or Alpha 5 that operated from Angola.

Two other difficulties derive from the extraterritorial application of national legislation. First of all, extraterritorial enforcement needs adequate instruments to monitor the activities of PSMCs abroad in order to reveal irregularities. States usually lack such mechanisms. In this context the South African minister charged with the elaboration of the Act declared that his country will not be able to oversee the activities of its PSMCs without the help of journalists (Singer 2004e: 536). US provisions are little better. Even though embassy officials should exercise general oversight (Avant 2002: 2), no specific or personalized clauses exist. On the contrary, most US diplomats consider such control as inconsistent with their job (Singer 2004e: 539), especially if the ones they should oversee are former colleagues or even bosses (Avant 2005: 151). When the Colombian government, for example, asked the US embassy in Bogotá to help them pursue employees of the American PMC Airscan that were involved in the bombing of a suspected rebel-controlled Colombian village in 1998 during which 18 civilians including 9 children were killed (Singer 2004e: 539), a State Department official declared: "Our job is to protect Americans, not investigate Americans." (Miller 2002a)

Linked to missing oversight mechanisms is the problem of extraterritorial enforcement of national legislation. US criminal law, for instance, does not apply outside the US (Singer 2003b: 10). The Uniform Code of Military Justice, in turn, only allows punishing offenses committed by members of the US military. The 2000 Military Extraterritorial Jurisdiction Act extends the realm of the Code to civilians contracted by the Pentagon, but does not cover transgressions committed by civilian contractors working for other government agencies or for foreign clients (Singer 2004e: 537). As a result of such half-hearted legislation, not a single employee of a US company identified as culpable in the Abu Ghraib prisoner-abuse scandal "has been indicted, prosecuted, or punished, even though the US Army has found the time to try the enlisted soldiers involved" (Singer 2005a: 4). Besides, extraterritoriality of national legislation is difficult to enforce in an international system which gives national sovereignty almost absolute priority. But even if a state has the legal means for extraterritorial enforcement of PSMCs and their personnel, the company concerned still can avoid prosecution by relocating to another country or performing one of the other possibilities explained above (Singer 2004e: 536). As a consequence, national legislation has to be improved and accompanied by additional measures on a higher level.

5 Proposals to Improve National Licensing Systems...

The following proposals do not represent an exhaustive list, but rather constitute an attempt to tackle the most critical loopholes and shortcomings of national licensing systems described above. First, it is important to base the control and regulation of PSMCs and their activities on clear definitions. Therefore, national legislation should define most precisely the activities prohibited, for example direct participation in combat, and the activities permitted, i.e. to be regulated. The criteria by which applications will be reviewed should also be determined prior to the assessment process. Decisions to grant a license should not be based primarily on national interests, but rather depend on whether the service concerned would increase instability, further destabilize the economic situation or violate international sanctions. Second, a higher degree of transparency in the licensing process is needed. For that reason the government agencies involved in the internal assessment process should be determined beforehand and known by all actors concerned. More transparency should also be required from the companies concerning their corporate structure, financial situation, military capacities and records of contracts and clients. Companies should also make sure that their employees meet certain standards as to qualification and conduct. PSMCs that hire personnel with a criminal record or having violated human rights should not get a license from the state. Third, to oversee companies and their personnel the government, i.e. the agencies involved in the licensing process, has to develop an appropriate and comprehensive monitoring system and enforcement regime. As regulation has to have extraterritorial application in order to be of use, these structures must contain extraterritorial powers. Oversight in the countries where the operations take place could be done by national supervisors or in cooperation with the local government, international or regional organizations or even NGOs. Fourth, there should be more parliamentary oversight. Thus, parliament should be informed about all contracts prior to their approval, giving it at least the right to ask for more information if not requiring its authorization for sensitive contracts and those that exceed a certain value. (Schreier/Caparini 2005: 137f.)

6 ... and to Establish Additional Regulatory Mechanisms on Other Levels

As to additional measures on other levels, the most effective mechanisms to control and regulate PSMCs would have to be established on the international level. The number of respective proposals is huge. They range from the revi-

sion of the 1989 International Convention against the Recruitment, Use, Financing, and Training of Mercenaries; the extension of the UN Special Rapporteur's mandate to PSMCs; the creation of an international register that lists all the companies and their clients similar to the UN Register of Conventional Arms, to the extension of the International Court of Justice to the activities of PSMCs and their employees. Nevertheless, "any regulating movement on the international front will take years to agree and to implement" (Schreier/Caparini 2005: 135) because of the varying and often opposed interests of the actors concerned.

Regulation on the regional level would be somewhat easier to realize but, still faces considerable obstacles. One possibility would be the harmonization of national legislations by regional organizations such as the African Union or the European Union (Holmqvist 2005: 55ff.). Such a regional approach would face the same risks as national regulation – e.g., serving above all its authors' interests – but might serve as an example for further regulation on an international level.

The loosest form of regulation would be self-regulation of the private security and military industry through the formulation of common codes of conduct. In order to exert a certain pressure to PSMCs such codes should not be elaborated by and directed at individual companies, but the industry level. Even though self-regulation does not tackle the question of the companies' accountability because it is not legally binding "it may serve to increase the legitimacy" of PSMCs (Holmqvist 2005: 50).

In conclusion, national legislation should still have the best chances of being enforced, leaving apart self-regulation. However, above all, the question whether and/or how to regulate PSMCs is a political one. Regulation on the national level has the best chances to be enforced when home governments are affected by the companies' activities and consequently come under international pressure. The British Government, for example, published its Green Paper in the course of its involvement in the so-called Sandline Affair. Sandline International, a UK-based private military company, had delivered arms and military expertise to the Sierra Leone government thus violating UN sanctions with the knowledge of the British Government (Shearer 1998a: 77; Singer 2003a: 115). The latter managed to appease its critics by publishing the Green Paper, but until now has failed to realize any of the proposed regulatory measures. Thus, as long as the benefits of non-regulation surpass the economic and political costs for governments, the enforcement of national legislation will remain difficult.