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Response from the Campaign Against Arms Trade to the Consultation on Private Military and Security Companies

1. The Campaign Against Arms Trade (CAAT) is working for the reduction and ultimate abolition of the international arms trade, together with progressive demilitarisation within arms-producing countries. Since it was set up in 1974, CAAT has monitored the situation regarding mercenaries and, more recently, the growth of the "Corporate Mercenary" company, referred to in your Consultation as a Private Military and Security Company (PMSC).
2. PMSCs now provide a wide variety of services. Whilst some of these are not of concern, others can have significant potential to infringe human rights and have direct lethal consequences. PMSCs have undertaken tasks which, until recently, were reserved to national armed forces. CAAT, unlike Foreign Secretary David Miliband, does not think it "essential" that PMSCs undertake all the tasks they have assumed and would question whether the industry does or should have a "legitimate role globally".
3. Since CAAT does not accept the basic assumption of the Consultation document, it will not be answering the consultation questions as set out and only addresses the request for other comments.

Abdicating responsibility

4. CAAT is extremely disappointed that, after a seven-year delay, the proposal made in the Consultation document is so weak, abdicating as it does responsibility to the British Association of Private Security Companies (BAPSC). It is fine for a trade association to "promote high standards", but this is not a substitute for Government regulation, such as that outlined in paragraph 12, below.
5. The Consultation proposals, if adopted, will give further legitimacy to what is a highly contentious private industry, ultimately answerable only to its shareholders and owners, without introducing public controls or accountability. The lack of a legal framework could mean that the Government, as it itself pointed out in the 2002 Green Paper, "might be compelled to watch while a company pursued a course that was plainly contrary to the public interest."
6. Since the activities of PMSCs can violate human rights, even kill, the Government would default in its duty if it passed the burden for upholding human rights to business. It must itself undertake the regulation of PMSCs and not exclude options on the grounds of cost or that they might impose a disproportionate burden on small businesses.

7. If licensing was introduced, the Impact Assessment says some companies would be likely to move their operations offshore. The same could be said of those trading in military equipment, but this has not prevented the Government strengthening controls on trafficking and brokering.
8. The Impact Assessment assumes that having an approved list of PMSCs might expose the Government to the risk of judicial review from a PMSC excluded from it. Presumably, however, it is not beyond the Government to set down clear conditions that a company must meet for inclusion. Additionally, at the moment, there is a risk of legal action against the Government for its failure to act to prevent human rights violations perpetrated by PMSCs.
9. The Consultation proposals are also based on the assumption that the Government can regulate by means of its position as a purchaser of PMSC services. This ignores the fact that overseas governments, mining companies, media organisations, aid agencies and others also have contracts with PMSCs. Under the proposals there is nothing to ensure that these also "contract only those companies that demonstrate they operate to high standards". Even within Government, those purchasing services from PMSCs might have a different perspective from those responsible for making sure that the PMSCs adhere to the standards in the code of conduct.
10. To complement its work in the UK, the Consultation document says the Government will seek to extend international cooperation on the issue, especially on the standards for companies agreed in Montreux in September 2008. This is welcome, but, without effective Government regulation in the UK, not sufficient. It also sets a poor example when a major host Government for PMSCs has washed its hands of responsibility.
11. The Consultation proposal says that the Government is proposing to review the self-regulation regime on an annual basis and to make a decision after three years as to whether it is working. This will leave at least three years in which more people around the world are likely to suffer at the hands of unregulated PMSCs.

Immediate steps

12. CAAT thinks the Government should immediately scrap its proposal of self-regulation by BAPSC and make an alternative proposal which includes the following features:
 - a) PMSCs should be prohibited from combat and banned from providing training, strategic advice and other support for combat;
 - b) all other PMSC services should be open to individual licensing requirements and open to prior parliamentary and public scrutiny. This should be complemented by an open register of PMSCs;
 - c) the PMSCs should be made responsible under UK law for any breaches of human rights or the laws of war that may be committed by their employees.
13. In addition, the quarterly reports on Strategic Export Controls should make it clear when equipment is being exported to a PMSC, with the PMSC in question being named.

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