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Statement of  
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Before the  
United States Senate Committee on  
Homeland Security and Governmental Affairs

February 27, 2008

Mr. Chairman, Senator Collins, Members of the Committee:

I would like to thank you for having me appear in front of you today to discuss the role of private security contractors (PSCs) and their use in overseas operations in support of United States government (USG) requirements.

It is an honor to present to you today and to assist the Committee in its review of the use of the private security industry.

Of course, the private security industry, my industry, has been under a great deal of scrutiny due to the recent events and significant incidents in Iraq and Afghanistan involving private security contractors operating in support of U.S. government requirements. These events, especially tragic incidents involving the deaths of private security employees and local civilians alike, have brought questions concerning the practices of private security providers, their oversight, and their accountability, to the daily forefront of newspapers and morning discussions across kitchen tables throughout America.

At best, private security contractors are viewed as a necessary evil; and, at worst, as trigger happy thugs who sacrifice America's reputation at home and abroad and damage its strategic operations by operating as if they were above the law in their pursuit of a quick, opportunistic buck. Mr. Chairman, Senator Collins, members of the Committee, this view is a gross caricature of an industry in which ArmorGroup, my company, has been operating for more than 26 years, providing a wide range of defensive protective services, including kidnap and ransom support, risk avoidance training, and the removal of mines and unexploded ordnance in heavily populated regions, to governments, commercial organizations and NGOs working in hostile or remote locations around the world.

That being said, as events increasingly show, it is certainly prudent to examine the role of private security companies, the standards to which they are expected to operate, and the oversight and enforcement mechanisms necessary to ensure their conduct and operations fall within the rule of law.

Before I discuss each of these areas I would like to begin with the following foundational premise for our industry: how private security contractors conduct themselves directly impacts how we are perceived as a country by a local population.

Unlike many other contractors from the private sector, private security contractors interact and engage with the local inhabitants that reside in the areas where we operate. Whether escorting and protecting a USG diplomat or Provincial Reconstruction Team member meeting with a local community leader or providing the secure delivery of goods and supplies across an unsecure road network, the roads and villages we transit are the same roads and villages of the local populace we are assisting.

As private security contractors, it is the actions we do - good or bad – and the image we project, that influence and shape how the local civilian populations view our nation. As much as

diplomats or soldiers who place themselves in harm's way to protect America's interests, the conduct and disposition of private sector protective security specialists paint a striking canvas from which we, as a nation, are viewed by local inhabitants. As an American, I know how I would feel about large numbers of foreign security contractors driving down our streets. Would we really expect the Iraqi people or the population of any other nation to feel so differently when they witness an expatriate laden security escort team careen through their neighborhood?

This morning I hope that I can convey to you some of the regulatory provisions that are coming to this industry and what we, in the private sector, can do to assist the U.S. government with the implementation of these changes.

***What is the extent to which the U.S. Government has, or should have, a coordinated and comprehensive framework for determining when to use PSCs?***

While the development of a coordinated and comprehensive U.S. government framework for using PSCs has been under discussion and long in the making, it seems to me that the question is not when we will use private security providers, but rather which firms are qualified to provide the optimal services commensurate with the best interest of our national policy objectives and the American tax payer.

Previously, we have witnessed examples where PSCs have been awarded contracts which seemed to be based more on their claimed rather than their demonstrated professional capabilities. With the continued maturing of the PSC industry, and the USG's continued use and review of PSCs, we now see more effective pre-validation of a company's standards, practices, and capabilities under the established procurement mechanisms of the USG's Federal Acquisition Regulations.

We believe that the use of suitable PSCs will continue to provide the U.S. government with additional capacity to promote regional stabilization efforts in high risk areas around the world for many years to come.

While the specific decision on whether to use a PSC will always depend on the United States' requirements at that time, depending on a given need and circumstance, experience has shown that contingency requirements normally develop with little warning. Hurricane Katrina, the deteriorating security situation of Iraq in late 2003 and 2004, the need to train and mentor a large number of local security personnel in Iraq, Afghanistan, West Africa, and elsewhere all indicate that the United States' interests could be best served by identifying, validating, and competing suitable firms for contingency response contracts in advance of a crisis or need.

Likewise, U.S. government demand for private security contractors seems poised for continued growth with the establishment of National Security Presidential Directive 44 and Department of Defense (DoD) Directive 3000.5 for Stability, Security, Transition and Reconstruction.

- National Security Presidential Directive 44 – clarifies U.S agency responsibilities for stability support operations and tells the private sector to align efforts in support of future anticipated USG overseas requirements for private sector providers

- DoD Directive 3000.5 for Stability, Security, Transition and Reconstruction – provides insight into how the military approaches stabilization operations in areas at risk and the role that private security providers fulfill in support of these efforts

In the last two years, I have had the privilege of participating in many U.S. government interagency and public-private sector initiatives related to the more effective realization of linked U.S. government agency pre- and post conflict stabilization efforts around the world in high risk areas. I would offer two observations in regards to these experiences:

- The progress of U.S. government interagency discussions and cooperation with regards to the delivery of overseas stabilization efforts is undeniable and real. The contracted private sector provider that wishes to be relevant for emerging interagency requirements must be familiar with the culture and language of multiple government agencies.
- Every indication exists that the U.S. government will continue to look to qualified, appropriate, and experienced PSCs to provide the focused resources and capabilities for overseas contingency operations.

For these reasons, I believe the U.S. government’s coordinated framework for determining when to use PSCs should be less about deciding when to use private contractors and more about setting the common standards, validation, and oversight procedures needed to ensure that the right ones are selected. My company would prefer to do everything we can in terms of proving our standards and procedures before a contingency operation even gets underway so that we are able to respond and deliver immediately when called upon to do so.

### ***Is there a need to establish government-wide standards, licensing requirements, or contract provisions for security providers?***

As to the question on whether there is a need to establish government-wide standards, licensing requirements, or contract provisions for security providers, the answer can only be “absolutely yes” and ArmorGroup has been a leading global exponent of government-backed regulation for many years. However, I believe the evidence is clear that in many regards the first steps are already in place and we are now in the initial stages of standard development, implementation, and review.

### **Establishing industry standards, best practices, and accountability**

The development of industry standards, best practices, and accountability provisions was first addressed by the private security industry well before the ramp up of private security providers in Iraq in 2003. In the case of ArmorGroup, we have long established formal corporate programs to ensure that company employees act at all times within the relevant international and local legal and humanitarian frameworks including an employee Code of Conduct, a stringent ethics policy, and an ethics review board. In 2004, in keeping with our commitment to transparency, we published the PSC industry’s first white paper calling on the UK Government to regulate the industry, and we became a publicly traded company. We have also been instrumental in the founding and provision of intellectual support to the establishment and ongoing operations of the two largest

industry trade associations, the International Peace Operations Association and the British Association of Private Security Companies. We ensure our employees are trained and certified on the tenets of international humanitarian law as well as the local laws of the countries in which they operate. We implement deliberate leave rotation, provide personal insurance and welfare policies, and teach cultural training to ensure our employees, our “quiet professionals”, are prepared to provide our protective services in an ethically sensitive fashion in the most complex of environments.

Unfortunately, a number of newer PSCs working in support of U.S. government programs in Iraq and elsewhere, but without this rigorous approach to ethics, have found themselves embroiled in difficult incidents which have resulted in controversy surrounding the USG’s use of private security contractors. USG regulation has begun to take shape, including the following key provisions for PSCs.

- The 2006 National Defense Authorization Act (NDAA) established that DoD’s private contractors could be held accountable under the Uniform Code of Military Justice.

In theater, USCENTCOM policies and directives prescribed the manner in which DoD PSC contractors received authorization to provide armed security services within Iraq and Afghanistan.

- The 2008 National Defense Authorization Act (NDAA) included three key provisions impacting PSC operations:
  - Section 841 (Wartime Contracting Commission under Senators Webb and McCaskill)
  - Section 861 (MOU between DOD, DOS, and USAID)
  - Section 862 (record keeping and training, equipping and conduct of PSC, as well as review of incidents)
- MEJA Expansion and Enforcement Act – Representative Price’s Bill (H.R. 2740) passed overwhelmingly in the House and a similar bill by Senator Obama is under consideration in the Senate. If signed into law, the bill would extend MEJA authority and US law to all private security providers, not just those supporting DoD operations.
- Ambassador Kennedy’s “Report on Personal Protective Service in Iraq” released in October 2007, establishing recommendations for Department of State’s PSCs.
- DoS-DoD Memorandum of Agreement (MOA) on USG private security contractors operating in Iraq released in December 2007.

## **Regulation is now established – industry stands ready to assist in its implementation**

Private security contractors will gladly follow the U.S. government regulatory requirements provided to them. In essence it is what the industry has requested for some time. With the establishment of the MoA between the DoS and the DoD for PSC operations in Iraq, and the provisions of the 2008 NDAA, the industry is hopeful that this will be a blueprint of interagency

policies and operating practices that can be applied to other future areas of operations as required.

Private security providers stand ready to assist and will do so more efficiently when the implementation procedures are developed in an inclusive manner with the USG taking into account companies' experiences and management practices. Companies that comply with prescribed regulatory and performance standards should be rewarded with more opportunities to support USG stabilization objectives; companies that do not should be held accountable through the loss of contracts and the ineligibility to bid on new ones.

## **Suggested implementation mechanisms**

### **1. Involving PSCs and other stakeholders in ongoing standard setting dialogues and implementation processes**

- Continued formal discussion with private sector providers on how best to implement the provisions of 2008 NDAA Sections 841, 861, and 862
- Continued formal discussion with private sector providers on how to best to implement the provisions of the DoS-DoD MOA on U.S. government private security contractors in Iraq
- Extension of similar MOA provisions to other current contingency areas of operations such as Afghanistan, AFRICOM, and other potential high risk areas prior to the conducting of contingency response or stability support operations
- Provide transparency of implantation process and seek input from other third parties, such as key civil society stakeholders that work closely with affected populations
- Actively involve industry trade associations (the International Peace Operations Association, the British Association of Private Security Companies, the Private Security Company Association of Iraq, and the Private Security Company Association of Afghanistan) in these discussions.

### **2. Codification of standards and best practices in company policies and daily operating practices**

- Companies must establish their own formal ethics policies and codes of conduct, in addition to what is codified in regulations.

### **3. Training of USG personnel interacting with PSCs within the COCOM/Chief of Mission Area of Responsibility**

- Pre-deployment training and education for U.S. government personnel likely to come in contact with PSCs in contingency operations
- Continuation of DoD-DOS-Private Sector Working Group as outlined in the January 30<sup>th</sup>, 2008 meeting chaired by Deputy Secretary of State Negroponte and Deputy Secretary of Defense England

### **4. Education for impacted/affected local populations**

- Local populations should be given a better understanding of how to register a complaint to appropriate authorities concerning PSC operations. They should also have the means for formal redress in the event of criminal misconduct on the part of PSCs.

**A more proactive role for trade associations**

While many industry best practices are codified in the existing codes of conduct and ethics policies of individual firms and internationally recognised trade associations, not all U.S. government private security contractors are members of these trade associations or have ratified codes of conduct.

An alternative method of regulation could be that the USG mandates that its PSCs require some type of third-party accreditation to validate their attainment of industry standards. While trade associations exist to further industry best practices and represent their members’ interest, strict enforcement of these standards ultimately depends upon the will and consensus of the members to prove an effective self-enforcement mechanism exists, and for the USG to prove that it takes these standards seriously by committing to only work with those companies who have accreditation.

***How could U.S. Government agencies and firms improve their oversight of PSC operations in the field?***

**Oversight for private security providers begins with a corporate commitment to the ethical delivery of services**

The operating principles for appropriate private security stand clear:

- a formal corporate commitment to the ethical delivery of services;
- local knowledge of, and respect for, indigenous populations; and
- a defined corporate “operating envelope” which limits a company’s role to purely protective, defensive security support.

ArmorGroup’s strong credibility has been built on combining the principle of operating in a strictly defensive fashion with stringent ethical and regulatory structures, backed up by our employees’ respect for the cultural and legal systems of the countries in which we operate.

**An effective corporate ethics program would contain the following provisions at a minimum:**

- Provide protective services only using defensive measures (effective security management, armored vehicles, body armor and low caliber firearms);
- Full adherence to and mandatory induction and continuation training on U.S. and host nation local laws and international human rights and humanitarian law;
- Full adherence to and mandatory induction and continuation training on country-specific Rules for the Use of Force;
- Formal commitment to comply with host nation law, co-operate with host nation law enforcement agencies and submit records of all notifiable incidents to those agencies;
- Formal commitment to establish transparency by registering host nation subsidiary companies, ensuring local participation in management and the payment of local taxes;
- Formal declaration that will not undertake any activity that would be formally censured by the U.S. government or local governments;
- Formal declaration that will not plan or participate in any offensive operations;

- Formal declaration that will not plan or participate in any operations that seek to destabilize governments or alter the political-military balance in a host nation;
- Formal declaration that will not supply lethal equipment, nor permit employees to bear arms, except for those carried for personal protection or the defense of clients, without possessing a license from the host government or mandated authority;
- A formal commitment and establishment of an Executive Ethics Committees to review and approve all significant new client contracts.

## **Increased USG resources in areas of operation would help provide improved oversight to private security providers**

While reputable PSCs can and have established policies and codes to ensure the ethical delivery of their services, ultimately only the USG can establish formal industry-wide regulatory and ethical standards through the introduction of more stringent contractual obligations and a commitment to enforcement of those obligations. The regulatory provisions described above are an important step in establishing standards but will only be effective if sufficient resources are committed to ensure that they are upheld and a more rigorous approach is taken towards those who do not uphold them.

Working under the direction and guidance of Congress and the U.S. government agencies we support, the private security industry is capable of providing meaningful contributions to U.S. government stabilization and reconstruction efforts in high risk areas around the world. This work, we know, must be delivered with full adherence to U.S. and host nation local law and with full commitment to the provisions of international human rights and humanitarian law.