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Riding Shotgun: Armed Security Guards onboard Merchant Ships

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The use of armed security guard onboard merchant ships in high-risk piracy areas is hotly debated within the international shipping industry. While their use has been mostly opposed, ongoing pirate activity off the Horn of Africa is causing some rethink.

IN AMERICAN PIONEER history, “riding shotgun” meant to ride as an armed guard next to the driver of a stage coach to protect its cargo and passengers. Now after an upsurge of piracy off Somalia and apparent difficulties with controlling the situation, the United States has advocated that merchant ships passing through the area embark armed security guards.

This move has been opposed by much of the international shipping industry. This begs the questions whether armed security guards are really necessary – or is the move just an extension of the US gun culture to the maritime domain? The right to own weapons is strongly entrenched in early American frontier and revolutionary history. It is strongly defended despite the evidence that gun violence in the US is much higher than in most other countries.

Hiring Private Armed Guards

The US has made armed security guards a requirement for US-flag vessels passing off Somalia, and is encouraging the practice more widely. After a second attack on the US-flag container ship, *Maersk Alabama*, in November 2009, the admiral in command of US naval forces in the Middle East praised the security guards onboard the ship for firing on the pirates and preventing the attack.

Several private security companies (PSCs), mainly American and British, are now offering protection services, including the provision of armed security guards, for ships transiting high-risk piracy areas off the Horn of Africa. The costs of these services are high, typically around US\$21,000 a day for a three-person detachment. The Yemeni navy is also charging up to US\$55,000 per ship under a

contract managed by a UK-based company to guarantee a vessel's safe transit through the Gulf of Aden.

The controversy is over the carriage of firearms onboard ship rather than the employment of PSCs themselves. It is understandable that owners of high value and vulnerable assets passing through risky areas would wish to supplement crews with additional security personnel. More vulnerable, high-value vessels include dredgers, slow moving tugs and barges, oil rigs and luxury motor yachts. The vexed questions are whether or not these personnel are armed, and if armed personnel are employed, should they be private security contractors.

The international shipping industry and the International Maritime Organization (IMO) mostly agree that arming ships or placing armed guards onboard is undesirable. It could lead to an escalation of violence. However, the IMO and industry associations strongly support the use of non-lethal measures, such as acoustic devices and high pressure fire hoses, to deter and prevent a piracy attack.

Firearms onboard Ship

There are strong legal and practical arguments against firearms onboard a commercial vessel. The use and handling of lethal weaponry requires special training and precise rules of engagement (ROE), normally only practised by disciplined military forces acting under governmental authority. The use of firearms onboard oil tankers, LNG and LPG carriers and other vessels with volatile cargoes is especially dangerous.

The carriage of firearms onboard merchant ships poses legal questions. Most states, including Singapore, have legislation preventing ships from having weapons onboard in their territorial waters. Under many jurisdictions, the consequences of mistaken identity and the injury or death of a person may be severe, not only for the person who fired the weapon but also for the ship master and ship owner, even though these parties may have believed they were acting with justification.

The carriage of weapons and the use of deadly force by PSCs must be covered under legislation of the flag State, but few flag States have such legislation. It is also essential that armed guards be appropriately trained and experienced. Many of the guards being used come from Army backgrounds, including ex-Gurkhas, who may not be familiar with conditions at sea, including what constitutes abnormal or normal behaviour of small craft in risky areas. Blanket authorisations to open fire when approached by small craft are especially dangerous.

The legal and practical questions against arming merchant ships generally do not apply if the personnel involved are military. Operation Atalanta, the anti-piracy mission of the EU in the Gulf of Aden, offers the opportunity for merchant vessels to engage trained military personnel, armed or unarmed. These personnel embark before the transit and disembark afterwards. Cruise liners, in particular, are believed to regularly avail themselves of this offer.

Situation in Southeast Asia

The use of PSCs onboard vessels in the Malacca and Singapore Straits has been debated over the years. The littoral countries have adopted varying approaches. Singapore has a pragmatic approach that acknowledges the use of PSCs, even armed personnel, in certain circumstances, but Indonesia and Malaysia have been against using them, particularly in their territorial waters.

Rather than pursuing different approaches, it would be helpful if the littoral States were to agree on guidelines for the employment of PSCs. These guidelines might cover issues such as legal authorities, self defence, liaison with law enforcement agencies, training and security vetting of personnel, the use of weapons, communications with sovereign authorities, record-taking and evidence.

The Need for Guidelines

Even better than this regional approach, as the use of PSCs is increasing, the IMO should develop global guidelines for the employment of PSCs and armed security guards at sea. Along with various shipping industry associations, the IMO already has best practice guidelines on how ships might deter, avoid and prevent a pirate attack, but at present these caution against the use of armed guards.

The current situation requires clarification. The IMO and much of the international shipping industry oppose the use of armed guards, but this approach has its problems. It ignores the reality that in certain circumstances, albeit limited, armed guards might be appropriate, and are already being used at sea. Internationally agreed guidelines would help clarify this confused situation.

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