

BIMCO's Position

BIMCO's ambition is to see the minimization and eventual eradication of piracy and armed robbery at sea. Only then would freedom of navigation be assured without the need for additional self-protective measures and additional insurance premiums.

BIMCO strongly urges all states to ratify the UN Convention on the Law of the Sea (UNCLOS) and believes that it is the responsibility of all coastal states to establish and enforce security in their territorial waters, in their Exclusive Economic Zone (EEZ) and on the High Seas.

BIMCO recommends that the area of risk identified in the Best Management Practice (BMP) remains unaltered but could be renamed the "Indian Ocean Piracy Risk Area" to reflect the reduction in numbers of attacks and the reduced level of risk. BIMCO believes, that the next step is to develop and produce a "Global BMP" incorporating this suggestion and including other piracy risk areas around the world. Ideally, a global BMP would also establish a single reporting process/methodology and centre for piracy related incidents.

BIMCO continues to support the use of armed guards as a supplement to BMPs, but only after a detailed voyage risk assessment has been undertaken by the shipowner, operator or manager.

The current use of private armed guards on board ships should not be seen as an endorsement or institutionalization of the practice by the shipping industry or as a waiver of the fundamental obligations of flag states under UNCLOS. BIMCO, however, firmly recommends the use of armed guards (PMSCs) that are ISO 28007 certified and particularly those that have become BIMCO Associate Members.

It is essential, in the fight against piracy, to arrest, detain and prosecute perpetrators and those who aid, abet and seek to gain materialistically from acts of piracy.

BIMCO holds the firm position that paying ransom for the release of the crew and ship is an owner's right and that this obligation to protect their seafarers should not be hindered.

BIMCO will strongly argue against any attempt by politicians or Governments to make the shipping industry contribute to the various UN/IMO/EU Funds or other financial counter piracy initiatives.

Discussion

In the Gulf of Aden, the Somali Basin and the Indian Ocean, EUNAVFOR, NATO, the Combined Maritime Forces (CMF) and independently deployed naval forces are cooperating to suppress piracy activities. BIMCO welcomes the extension of the EUNAVFOR and NATO mandates to December 2016. This extension demonstrates a political will to combat piracy. BIMCO firmly believes that a strong and vital relationship and cooperation between the navies and industry must be maintained in order to continue to deter and defeat piracy, and to agree on a "transition strategy" before the mandates draw to an end.

However, armed robbery and piracy activities in the Malacca Straits and the South China seas continue to be of concern, particularly hijackings and product theft. The current method of reporting and analysis does not reflect the real state of piracy. This issue is one that must be addressed more robustly by littoral states' law enforcement agencies.

Underreporting also contributes to the problems in the Gulf of Guinea (GOG), which continue unabated with relatively high levels of violence including an increase in kidnapping of crews for ransom. The lack of enforcement of their UNCLOS responsibilities by coastal states is of great concern to BIMCO as is the lack of effect of various initiatives, such as those supported by IMO. BIMCO supports the OCIMF led Maritime Trade Information Centre (MTISC) and encourages members transiting or otherwise operating in the Voluntary Reporting Area (VRA) to report movements and incidents in the hope that better reporting will lead to greater regional efforts.

All entities involved in the operation of ships on the high seas should cooperate with relevant authorities and agencies to provide on a case by case basis information and intelligence that can contribute to a successful arrest and prosecution of pirates. This requirement to share information is essential to the continued eradication of piracy.

The boundaries of the High Risk Area (HRA) are defined in BMP. Based on the current reduced number of attacks, the Indian (in particular) and Egyptian governments are calling on industry at the Contact Group on Piracy off the Coast of Somalia (CGPCS) and the Shared Awareness and Deconfliction meeting (SHADE) for a reduction in the size of the HRA. Industry does not, and should not, define the limitations of the HRA and can only be guided by

consolidated SHADE naval threat assessments. The individually provided assessments from the various coalitions currently continue to indicate pirate capability and intention remain, within a scenario that is both permissive and where there also remains the opportunity to attack. Industry also recognises the de facto Joint War Committee (JWC) listed areas, whilst emphasising the overarching need for early preparation of passive defence measures as required by BMP. A reduction in the current HRA runs the risk of a decrease in the protection levels of ships in the Indian Ocean and sends the wrong message to both the pirates and the international community.

However, it should be possible to now rename this area as the "Indian Ocean Piracy Risk Area". There is a growing view - now agreed by other members of the Round Table of international shipping associations (RT) - that given the global spread of piracy and armed robbery and that identical or similar counter piracy measures are advocated in most regions, a "Global BMP" should be produced by industry. This should focus on a single reporting process to a single reporting centre such as the International Maritime Bureau (IMB).

The use of Privately Contracted Armed Security Personnel (PCASP) must be considered carefully, and should be avoided unless there are no other suitable means of protecting the crew, ship and cargo. There are also liability issues associated with the use of PCASP, particularly if they are used without justification that is fully supported by effective risk analysis, or where there is inadequate provision for redundancy in numbers if a PCASP is wounded in a fire fight.

It is absolutely essential that shipowners carry out a thorough due diligence and risk assessment prior to employing a Private Maritime Security Company (PMSC). A risk assessment should include factors such as routing, ship design, manning, speed, planned operations, and the commercial, along with criminal liability, including legitimate end user certificates and all risks identified by the BIMCO standard contract, GUARDCON, and the P&I Clubs. There is a risk that governments will attempt to institutionalise armed guards and thereby implicitly transfer their responsibility for security at sea under UNCLOS to the shipowner.

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