



## Welcome

*It has been an interesting past couple of months, pirate attacks appear to be down slightly, and an eerie calm has descended.*

*The figures actually show that attack levels are around the norm, but that pirate successes are down significantly. According to the experts, it seems the combined effect of armed guards, savvy seafarers, naval interdiction and military action ashore is beginning to bite.*

*However, with the EUNAVFOR announcing that it will not be able to maintain levels into the new year, and with the Kenyan government wondering about the wisdom of its Somali sojourn, perhaps the pirates are playing a cunning, "waiting game"?*

*In the bulletin this month, we provide an overview from Seacurus' response consultants, BGN Risk. We also look at the latest security updates as citadels come to the fore, and as the shipping industry scrambles to impose standard contracts onto private maritime security companies.*



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# BGN Risk - Trends and Predictions

With developments off Somali, in the Indian Ocean and the Gulf of Aden, the past 3 – 4 years have shown how the dynamic crisis of maritime piracy has affected merchant shipping. The effects have been widespread, diverse and extremely damaging. We have seen:

- The severe commercial implications of hijackings;
- Necessary and unprecedented levels of security measures for safe passage through the high risk areas;
- The determination and confidence of pirates escalating hijacking for ransom incidents to a continuous, widespread and large scale activity;
- The mixed reactive security responses of the Naval Authorities and Commercial Security;
- Problematic legal and political initiatives from the International Community for both piracy at sea and any form of stabilization within Somalia itself.

The current situation is: 8 merchant vessels, 4 fishing vessels/Dhows and one yacht with a total of 265 seafarers held hostage. This reduction from statistics of at least three fold in January 2011 show the acute activity levels of piracy over the last 12 – 18 months in terms of hijackings and their eventual releases irrespective of the very high numbers of armed attacks against shipping with the intent of hijacking. This current situation needs to be put into context of late August 2008 when 3 vessels were taken on the same day - which arguably was the start point for the current levels of criminal activity – and was cited as an international crisis – and it firmly remains so.

Future piracy trends are becoming evident with the increased number of attacks on high value vessels – albeit more successfully thwarted by on board security – whether armed or not; and Naval actions at sea in restricting and constraining the freedom of manoeuvre for the pirate gangs using pirated vessels (fishing and merchant vessels) to extend their reach to the natural choke points of the sea lanes, approaches to the Persian Gulf and the Madagascar Channel, and the general E/SE boundaries of the current High Risk Area.

There is a natural concern of an escalation of violence through the provision of on board armed security – however the mantra should remain – “...under no account should the pirates be allowed to get on board in the first instance...” This requires proactive and preventative security measures that are planned, robust and legal supported by a collective and timely situational awareness for Crews, Operators and Owners alike.

This developing and collective contribution by the Shipping Industry will allow the Naval Authorities to concentrate on:



- Prosecuting information led operations at sea against the pirate gangs;
- Developing strategies for reducing the sanctuary of hijacked vessels with their crews being taken to the Somali coastline and held in their waters;
- While International Law Enforcement activities gather robust and accurate evidence that identifies, captures, prosecutes and imprisons these criminals.

The determination and confidence of the pirates as a whole should not be underestimated. There are no real signs of the crisis abating in the short term, new attack tactics at sea will emerge, and the situation within Somalia remains chaotic. In the event of fewer vessels being hijacked – the subsequent negotiations to get the crew and vessel released in a safe and timely manner will be increasingly fraught, complex and unpredictable – therefore support from the few, tried and tested and reliable, expert Responders, will be vital.

Media reports of prospective cuts next year in the naval presence are not ideal or timely albeit this has spurred further calls for countries to continue to provide or increase their national assets to support their merchant fleet. This is unlikely to happen - and the Shipping Industry will need to rely on their own resources and commercial security. The latter is in dire need of self or imposed professional regulation. This in order to provide professional capabilities that are sustainable and legal – and effective defence against developing piracy tactics.

With over 150 security companies offering on board security – it can be difficult without expert consultancy advice to differentiate between those companies that have a sound track record of being commercially and legally robust, as well as credible and reliable, in particular with the deployment of armed security teams.



# A Safe Place

With armed guards and ransom payments being the topic of so much debate of late, Seacurus believes it is important to discuss another important facet of anti-piracy options, that of citadels.

There have been an increasing number of occasions where crews have foiled pirates by withdrawing into a citadel. Without gaining control of the vessel, or being able to physically capture seafarers, the pirate's position is weakened and they have often been forced to withdraw.

Not only are citadels starting to gain the attention of shipowners, the military support their use too. US Navy Rear Adm. Terry Kraft, recently spoke of citadels as a strategy that can work to counter piracy. Kraft's stressed that on three different occasions, as a ship was being pirated, the crew secured themselves inside their citadel and the military were still able to communicate with the Master.



"With the crew safe in the citadel, pirates lose their most important asset, which is being able to get hostages," Kraft said. "Once we know the crew is in the citadel, it allows us more freedom of action to go after these guys to get them to surrender."

A citadel as defined in BMP4 is "a designated pre-planned area purpose-built into the ship where, in the event of imminent boarding by pirates, all crew will seek protection. A citadel is designed and constructed to resist a determined pirate trying to gain entry for a fixed period of time".

The growth in use has prompted the shipping industry to produce a set of guidelines on the construction and use of citadels in waters affected by Somalia piracy. The document has received approval from Round Table members (Intertanko, BIMCO, ICS and Intercargo) as well as other industry associations. NATO, EU NAVFOR and the Combined Maritime Force (CMF) have also approved the document.

Citadels have proved to be successful in a number of attacks, but there have also been instances in which citadels have been breached. These failures can be attributed to a number of factors, including poor construction and location of the citadel. With the use of citadels increasing, pirates are gaining experience in defeating them – these counter measures have included the use of weapons and ship-board tools, attempts to smoke out the crew and even setting fire to the vessel.

Reports are emerging that in addition to their usual piracy paraphernalia, pirates are taking plastic explosives on their missions with the aim of blasting their way into citadels and strongholds. This is a concern, but if constructed and managed properly, then citadels are an important part of a layered shipboard defence.

It is strongly recommended that citadels are used as a complementary rather than self-protection measure. Simply having somewhere to go and hide probably isn't that much use if the other measures aren't implemented and followed.

NATO has been quick to stress that it remains the responsibility of owners, operators and Masters to decide and implement policy in relation to the use of citadels. It also stresses that the use of a citadel does not guarantee a military response.

There is a considerable degree of misunderstanding of the citadel concept in merchant shipping, and in light of this the Security Association for the Maritime Industry (SAMI) held an event solely focused on citadels in London last month.



The SAMI "Citadel Symposium", which was proudly sponsored by Seacurus, saw presentations by BIMCO, NATO, security consultants and intelligence providers building a picture of not just what a citadel is, but providing a vital view on the strengths and weaknesses and of the industry guidelines.

# Standard Security

The Baltic and International Maritime Council (BIMCO), which represents (65%) of the world's shipping has announced the creation of a standard contract for private maritime security companies (PMSCs).

The new contract, which is expected to be launched in 2012, will provide what has been touted as "a much-needed benchmark on which to judge PMSCs"; and as a means of, "weeding out second rate security firms".

However, it has been stressed that this is no cure all for a new industry which has wrestled with its reputation – and in signing the contract a maritime security company doesn't necessarily guarantee its performance. BIMCO sees that the contract will sit alongside the work of other organisations which are pushing hard to develop the best practices and standards, such as the Security Association for the Maritime Industry (SAMI).

BIMCO's Head of Security, Giles Noakes has reportedly led the developments and the contract takes account of the International Maritime Organization's MSC.1/Circ.1405/Rev.1 and MSC1/Circ.1406/Rev.1.

The new contract, which will be drafted by a team of experts comprising shipowners, lawyers and underwriters, and with the assistance of the International Group of P&I Clubs (IG), will require private security firms offering armed guards to follow the International Maritime Organization (IMO) guidelines for owners on the use of privately contracted armed security personnel on board ships.

While much of the new BIMCO contract will deal with operational aspects of employing armed security guards, issues of liability and responsibility will be of prime importance," BIMCO has said.

The increased use of armed security comes after Britain, the United States and other governments have begun to reverse their opposition, amid growing acceptance that weapons could be the best deterrent to Somali pirates.

However it is not thought that the introduction of stringent new regulations, standard contracts and robust accreditation to police private maritime security providers will hamper the continual and rapid growth of the sector. The increase in demand is driving growth, as new private maritime security firms are springing up almost daily. "It is very important that this new sector is regulated and that harmonised terms are developed and agreed", says BIMCO.



As a result of the boom, security prices are expected to fall as the market becomes saturated. However the higher operating standards required to fulfill the rules and regulations will perhaps act as a steadying influence on price. Supply will rise to meet demand, but costs will become fixed. It is understood that PMSCs are charging anything from \$30,000 to \$250,000 depending on the length of the transit through the high-risk area.

It is accepted that shipping needs security, but it needs the right security –and with so many new players rushing into the market it is simply impossible to know the good from the average, the average from the bad. BIMCO has reportedly given this project the highest priority, and the standard contract will be published as soon as possible – most likely within the next two months.

There are a range of potential concerns when one views private maritime security providers – and aside from their ability and expertise to do the job at hand, it has been seen that too many security companies do not have the requisite levels of insurance coverage.



This issue was raised recently, as P&I Clubs voiced their concern about the low levels of public liability cover many of the companies carry. According to the IG the vast majority of maritime security companies are simply not taking out sufficient levels of public liability cover – something which is leading the Clubs to reassess which providers their Members should use.

It seems that most of the problem hinges on the apparent lack of commercial experience within most maritime security companies – something not helped by the bad advice they are getting in some quarters.

Public liability is a hugely significant issue when you are carrying weapons – and Lloyd's List has noted that there is a seeming disconnect between the priorities of many companies. They recently cited the example of one maritime security provider which had taken out a \$10m of employers' liability cover but then only taken \$2.5m public liability. Something which makes no sense to many, and which is a huge concern for shipowners.



It seems likely that the P&I Clubs will move this issue up their agenda, and will release a statement and clear guidance in the coming weeks as they look to stress the importance of contractors having proper and sufficient public and employers' liability insurance cover.

The moves by the Clubs to stress their demands more clearly, the steps being taken by BIMCO for a standard contract, and the SAMI accreditation scheme mean that soon it will be much easier to differentiate between security providers.



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