

Topic 2 – Legality of Private Security Contractors on Ships

Shipping by sea is the largest method of shipment within the shipping industry, and unsurprisingly, there are many risks associated with it. One of those risks is piracy. Piracy has been an issue since the dawn of the ship. Recently, however, piracy has taken on a new image. Instead of the crossbones' flag that we see in the movies, piracy has taken form aboard small ships sailing from the Somali Coast, as well as from other states that have minimal policing. Pirates typically overtake slow ships, steal the cargo, and hold the crew members hostage for ransom. In 2008 there was a massive spike in piracy which forced shipping companies to find a solution. One such solution is taking wider, longer routes, which increase the costs of fuel and supplies. Bypassing the Gulf of Eden, where many attacks take place, would cost an additional 3.5 million dollars for tankers and 74.4 million for liner trades.¹

Another alternative is hiring private security firms to protect the ships. Depending on what level security a shipping company wishes to purchase, prices could range from as little as \$30,000, and up to or in excess of \$50,000. Economically, hiring private security firms to secure private shipping vessels is the smarter option. Accordingly, an industry for such security has emerged, and it is worth hundreds of million-dollar business in the Gulf of Eden alone. With a continued upwards trajectory, the industry has the potential to grow into a billion dollar one.²

The international laws regarding private security are vague and unclear. Everyone agrees that the gun laws apply to the flag state as well as the states the ship will be docking in. What isn't clear is what happens on the high seas. The IMO Secretary-General in 2012 said, "The carriage of firearms on board merchant ships is a complex legal issue with Member States taking diverse positions. The Committee has determined that the carriage of armed personnel is a matter for flag States to authorize, however it has also accepted that their carriage has legal implications for coastal and port States, particularly with respect to the carriage,

¹ http://www.huffingtonpost.com/david-isenberg/private-military-contractors_b_1548523.html

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embarkation and disembarkation of firearms and security equipment in areas under the jurisdiction of such port or coastal States.”³

The laws regarding private security rights are unclear. Individuals have the right to defend themselves from pirate attacks and repulse them. If death or injury is caused to pirates or crew members, a number of nations could claim jurisdiction. It also becomes unclear if the contractors seize the pirates what to then do with them. They are responsible to hand them over to a warship or authorities of the coastal nation. The problem with this is each nation has its own set of laws regarding piracy. Switzerland and the International Red Cross created the Montreux Document that 17 nations have signed on to. This document specifies private contractors’ regulations in armed conflict areas but does not carry over to the seas. It seeks to regulate their actions and enforce the Geneva convention. This is a potential solution to the international issue.⁴

Things to focus on when writing your position papers:

- Should private security contractors be considered legal?
- Who should have jurisdiction in international waters?
- Should the IMO have a military arm for enforcement?
- Should private security contractors be forced to use non-lethal force?
- Should flag states be required to supply military forces on vessels?

The questions above are merely guidelines for doing research and for crafting position papers. There are many more aspects to these topics, and methods for dealing with them. You are encouraged to be creative and come up with intuitive solutions to these real issues that the world faces every day. Please be sure to represent your country's stance on these issues. You are expected to both know and understand what your countries views are and express them as their representative in YUNMUN. All rules and regulations that are stated in the YUNMUN Handbook must be followed. In your position papers, please provide your country's stance, and continue that stance while you are participating in the conference. Plagiarism on any position papers is unacceptable and will be dealt with accordingly.

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⁴ <http://iisonline.net/the-legal-issues-of-private-armed-security-on-commercial-ships-2/>

I look forward to a great conference!

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