

ReCAAP ISC PIRACY & SEA ROBBERY

CONFERENCE 2012

26 APRIL 2012
SINGAPORE



*Safeguarding Seafarers:
A Shared Responsibility*

Jointly organised by:



Safeguarding Seafarers: A Shared Responsibility



CONFERENCE REPORT

A conference jointly organised by:

- The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia Information Sharing Centre (ReCAAP ISC)
- The Baltic and International Maritime Council (BIMCO)
- The International Association of Independent Tanker Owners (INTERTANKO)
- The S. Rajaratnam School of International Studies (RSIS)

ReCAAP ISC PIRACY & SEA ROBBERY

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ABOUT THE REGIONAL COOPERATION AGREEMENT ON COMBATING PIRACY AND ARMED ROBBERY AGAINST SHIPS IN ASIA (ReCAAP), AND THE ReCAAP INFORMATION SHARING CENTRE (ISC)

The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) is the first regional government-to-government agreement to promote and enhance cooperation against piracy and armed robbery in Asia. It was finalised on 11 November 2004 and entered into force on 4 September 2006. To date, 18 States have become Contracting Parties to ReCAAP.

The 18 Contracting Parties to ReCAAP are the People's Republic of Bangladesh, Brunei Darussalam, the Kingdom of Cambodia, the People's Republic of China, the Kingdom of Denmark, the Republic of India, Japan, the Republic of Korea, the Lao People's Democratic Republic, the Republic of the Union of Myanmar, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of the Philippines, the Republic of Singapore, the Democratic Socialist Republic of Sri Lanka, the Kingdom of Thailand, the United Kingdom and the Socialist Republic of Viet Nam.

The ReCAAP Information Sharing Centre (ReCAAP ISC) was established under the Agreement, and was officially launched in Singapore on 29 November 2006. It was formally recognised as an international organisation on 30 January 2007.

The roles of the ReCAAP ISC are to:

- Serve as a platform for information exchange with the ReCAAP Focal Points via the Information Network System (IFN); facilitate communications and information exchange among participating governments to improve incident response by member countries; analyse and provide accurate statistics of the piracy and armed robbery incidents to foster better understanding of the situation in Asia;
- Facilitate capacity building efforts that help improve the capability of member countries in combating piracy and armed robbery in the region; and
- Cooperate with partner organizations and like-minded parties on joint exercises, information sharing, capacity building programme, or other forms of cooperation, as appropriate, and agreed upon among the Contracting Parties.

The ReCAAP ISC facilitates exchange of information among the ReCAAP Focal Points through a secure web-based Information Network System (IFN). Through this network, the ReCAAP Focal Points are linked to each other as well as the ReCAAP ISC on a 24/7 basis, and are able to facilitate appropriate responses to incident. The agency receiving the incident report will manage the incident in accordance with its national policies and response procedures, and provide assistance to the victim ship where possible. The agency will in turn, inform the ReCAAP Focal Point which will submit an incident report to the ReCAAP ISC and its neighbouring Focal Points.



ABOUT THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)

BIMCO is the oldest of the international shipping associations, comprising a membership of a broad range of stakeholders with vested interests in the shipping industry, including ship-owners, managers, brokers and agents. The shipowner segment alone operates about 65 per cent of the world's merchant fleet measured in deadweight tonnage. The association's main objective is to facilitate the commercial operations of its global membership through the provision of quality information and advice, education and training. While promoting fair business practices and developing standards for contract terms, BIMCO is a strong advocate for harmonisation and standardization of all shipping related activity, whether at sea, in ports or ashore. In support of its commitment to ensure a level playing field for all actors within the global shipping industry, the association promotes

the development and application of internationally agreed regulatory instruments. In acknowledgement of its constructive contributions to the regulatory process, BIMCO is accredited as a Non-Governmental Organisation (NGO) with all relevant United Nations agencies. In the pursuit of reaching its objectives, the association maintains a close dialogue with Governments and diplomatic representations around the world including maritime administrations, regulatory institutions and other stakeholders.

ABOUT INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS (INTERTANKO)

INTERTANKO has been the voice of independent tanker owners since 1970, ensuring that the oil that keeps the world turning is shipped safely, responsibly and competitively.

Membership is open to independent tanker owners and operators of oil and chemical tankers, i.e. non-oil companies and non-state controlled tanker owners, who fulfil the Association's membership criteria. Independent

owners operate some 80% of the world's tanker fleet and the vast majority are INTERTANKO members. As of January 2012, the organisation had 240 members, whose combined fleet comprises some 3,100 tankers totalling 250 million dwt. INTERTANKO's associate membership stands at some 330 companies with an interest in shipping of oil and chemicals.

ABOUT S. RAJARATNAM SCHOOL OF INTERNATIONAL STUDIES (RSIS)

The S. Rajaratnam School of International Studies (RSIS) was officially inaugurated on 1 January 2007. It was previously known as the Institute of Defence and Strategic Studies (IDSS), which was established ten years earlier on 30 July 1996. Like its predecessor, RSIS was established as an autonomous entity within the Nanyang Technological University (NTU).

The School exists to develop a community of scholars and policy analysts at the forefront of Asia-Pacific security studies and international affairs. Its three core functions are

research, graduate teaching and networking activities in the Asia-Pacific region. It produces cutting-edge security related research in Asia-Pacific Security, Conflict and Non-Traditional Security, International Political Economy, and Country and Area Studies.

The School's activities are aimed at assisting policymakers to develop comprehensive approaches to strategic thinking on issues related to security and stability in the Asia-Pacific and their implications for Singapore.

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EXECUTIVE SUMMARY



The ReCAAP Information Sharing Centre jointly organised the ReCAAP ISC Piracy & Sea Robbery Conference 2012 on 26th April 2012 with BIMCO, INTERTANKO and S. Rajaratnam School of International Studies (RSIS). The theme of the conference is "Safeguarding Seafarers: A Shared Responsibility." The conference provided a platform for sharing of situational updates, exchanging of views, and addressing challenges pertaining to piracy and armed robbery against ships among stakeholders comprising government agencies, international organisations, shipping associations, ship owners and operators, maritime industries, research institutes and like-minded individuals.

The conference consisted of two sessions: "Overview and Perspective of Piracy and Armed Robbery Against Ships" and "Safeguarding Seafarers: Citadel and Armed Guards onboard Vessels". A spectrum of issues was addressed during the presentations and discussion, of which two areas were of exceptional concern to the participants at the conference this year.

The first was the issue of under-reporting. A number of presenters expressed their concern that there might be a growing trend of ship owners and operators under-reporting incidents. They expressed concern that this might impede the relevant authorities from accurately assessing the situation.

The other area of concern was the increase in the deployment of privately contracted armed security personnel (PCASP) onboard vessels. While some presenters agreed that there were benefits in the deployment of armed guards, they were concerned that ship owners and operators might see the armed guards as a substitute for Best Management Practices (BMPs). Presenters emphasised that there should be a layered defence in the protection of seafarers against pirates and the deployment of armed guards should only be one of the considered approaches. They also reminded the participants that there were flag States that prohibit the deployment of armed guards onboard vessels and that it would be a huge logistical challenge to have weapons onboard vessels.

At the end of the discussion, despite differences in perception on the situation and the pros and cons of various anti-piracy measures, participants were agreeable that no measures can substitute the implementation of BMPs, and safeguarding seafarers should be the responsibility of all stakeholders.

WELCOME REMARKS



**His Excellency,
Dr. Pornchai Danvivathana**
*Ambassador of Thailand,
Royal Thai Embassy, Muscat,
Governor of ReCAAP ISC (Thailand)*

Dr. Pornchai Danvivathana welcomed participants to the conference and noted that the ReCAAP ISC Piracy and Sea Robbery Conference received much accolades and constructive feedback since its first inception in 2009.

With reference to the theme of the conference which is "Safeguarding Seafarers: A Shared Responsibility", he stressed that combating piracy and armed robbery at sea is the responsibility of all stakeholders, including governments, shipping companies, ship owners, operators and crew. He hoped that the conference will continue to provide a platform for all stakeholders to come together to share information, exchange views and learn best management practices from one another.

In his address, Dr. Pornchai emphasised that as an information sharing hub, the ReCAAP ISC strives to be the conduit between governments and shipping industries in ensuring timely reporting, responsive assistance and immediate follow-up on investigation. To be able to do this, close cooperation and collaboration with the shipping industry is essential and necessary. On this note, he added that the ReCAAP ISC had participated in forums and presentations organised by overseas shipping associations and supported the International Maritime Organization (IMO) in training personnel operating in the three Information Sharing Centres under the Djibouti Code of Conduct (DCoC).

Dr. Pornchai also highlighted that in 2011, the ReCAAP ISC had launched three posters: an anti-piracy poster with BIMCO on "Plan, Prepare, Protect", a poster with the Information Fusion Centre (IFC) for owners and operators of tug boats and barges entitled "Guidelines for Tug Boats and Barges against Piracy and Sea Robbery", and a situation snap-shot poster showing location of incidents reported in Asia in 2011 which included the contact details of the ReCAAP Focal Points and Contact Point. The posters provide key anti-piracy pointers, reminders and an overall situation update to governments, ship owners/operators on land; and ship masters and crew at sea.

In conclusion, Dr. Pornchai reminded participants that eradicating the threat of piracy and armed robbery against ships is the responsibilities of all, and each one can make the difference.

KEYNOTE ADDRESS



Mr. Koji Sekimizu,
Secretary-General, IMO

Mr. Koji Sekimizu began his address by assuring the audience that the IMO has been advocating and working hard towards a coordinated approach in combating maritime piracy. In Southeast Asia, IMO was instrumental in establishing the framework for regional cooperation in the Straits of Malacca and Singapore.

He noted that intra-regional agreement such as the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) promoted an enhanced cooperation among the Contracting Parties in combating piracy and sea robbery. He explained that the ReCAAP had provided a foundation for information sharing, training, and capacity-building in the region. The ReCAAP model was a success and many of its initiatives had been incorporated into the Djibouti Code of Conduct (DCoC).

Mr. Sekimizu elaborated that the DCoC promotes regional cooperation mechanism supported by the IMO and other development partners. The IMO placed considerable efforts to fully implement the DCoC. Aside from the DCoC, the IMO also explored other ways to strengthen the protection of ships from pirates, and supported the industry guidelines on BMP which provided practical measures to protect vessels.

Mr. Sekimizu also highlighted the cooperation between IMO and the United Nations (UN). He informed the conference that on several occasions, he had discussed with Mr. Ban Ki-moon, Secretary-General of the UN

about the need to strengthen anti-piracy efforts. Mr Ban had agreed that capacity-building in Somalia and neighbouring countries should be enhanced through cooperation between the IMO, UN, and other international organisations. With Mr. Ban's support, the IMO organised a number of important events in May 2012 such as the ministerial meeting of the DCoC states, conference on capacity-building to counter piracy off the coast of Somalia and high-level segment of the IMO Maritime Safety Committee (MSC) addressing arms onboard merchant vessels.

He added that the IMO will continue to support the work of the UN Political Office for Somalia (UNPOS) in implementing national security and stabilisation plans and facilitates dialogue between the transitional government and regional authorities through the "Kampala" process. Such activities may include assistance for Somalia to accede to international laws such as the Suppression of Unlawful Acts at Sea (SUA) and International Shipping and Port Security (ISPS) Code. The implementation of ISPS Code will be a catalyst for the development of port security programmes and procedures that will help ports in Somalia to comply with international standards.

In conclusion, Mr. Sekimizu emphasised that Somali-based piracy was a reflection of the wider threats and deep-rooted problems in the Somalian society. A real progress in anti-piracy efforts could only be made by addressing the cause of these problems on land.

OPENING REMARKS



Mr. Torben Skaanild,
Secretary-General, BIMCO

Mr. Torben Skaanild started his address by commenting on the current piracy situation. Successful attacks off the coast of Somalia were on a decline due to multinational efforts and the use of armed guards. However, Mr. Skaanild's cautioned against over optimism as piracy has existed in the Gulf of Aden for 2,000 years. Given the attractive business of piracy, pirates would always adapt to each step made in counter-piracy efforts.

He further informed the participants that for 2012 alone, there were over 166 attacks with seven ships captured and over 200 seafarers held hostages along the coast of Somalia. Furthermore, the reach and scope of pirates and the ransom amount would continue to rise. There were also concerns that pirates in other parts of the world were imitating the act of their Somali counterparts. While piracy attacks in the Gulf of Guinea have declined due to Nigeria's more robust counter-piracy efforts, pirates have shifted their operations to neighbouring countries.

Mr. Skaanild noted that the conference would address both practical and legal issues of the piracy problem, and through sharing and discussion help alleviate the unfortunate situation where the payment of ransom was the only way to guarantee the safety of hijacked crew.

As the Secretary-General of BIMCO, Mr. Skaanild assured the audience that BIMCO has been extremely active in its anti-piracy effort. These efforts include advocating to the UN for more robust efforts against piracy, promoting BMPs and constructing citadels in merchant vessels. Another notable effort was an attempt by BIMCO to regulate the proliferation of PCASP by standardising a contract to be signed by ship owner and Private Maritime Security Companies (PMSCs). The objective of the contract was to provide an agreement that clearly spelled out the responsibilities and liabilities of the PCASP, particularly in the potential use of lethal force onboard a merchant ship.

SESSION ONE



TRENDS ON PIRACY AND ARMED ROBBERY AGAINST SHIPS IN ASIA

Ms. Lee Yin Mui,
*Assistant Director (Research),
ReCAAP ISC*

Ms. Lee Yin Mui presented the methodology adopted by the ReCAAP ISC in classifying incidents using a 4-categories classification system broadly defined as follows:

- Category 1 (very significant): mainly incidents involving kidnapping of crews or hijacking of vessels or death/missing crew;
- Category 2 (moderately significant): mainly incidents involving armed/unarmed pirates or robbers who threatened or even assaulted the crew;
- Category 3 (less significant): mainly incidents involving robbers either armed with knives or unarmed, boarded vessel with the sole intention of stealing items onboard, and escaped upon detected with or without the stolen items;
- Petty theft (minimum significant): mainly theft involving robbers who were not armed and the crew not harmed.

Ms. Lee then updated the conference on the situation of piracy and armed robbery against ships in Asia during January-March of 2012. Although the statistics showed an improvement compared to the same period in 2011, the numbers were still higher compared to the same period in 2008, 2009 and 2010. Ms Lee pointed out that although the decrease was more apparent in the number of attempted incidents, there were fewer incidents of vessels being attacked while underway in the South China Sea and in the Straits of Malacca and Singapore. However, there has been an increase in incidents reported at ports and anchorages in Indonesia which accounted for more than half of the incidents occurred at ports and anchorages in Asia. Ms. Lee commented that although most of the incidents were Category 3 or petty theft in nature, overall, there has been an increase in the number of Category 2 incidents during January-March of 2012 compared to the same period in the past four years.



On the situation in the Straits of Malacca and Singapore, Ms. Lee reported that a total of four incidents were reported during January-March 2012, a decrease from the 10 incidents reported during the same period in 2011. She highlighted that all four incidents involved tug boats towing barges which had been targeted more frequently compared to past years. She proceeded to mention that there had been improvement in Malaysia and the South China Sea. The number of incidents reported in Malaysia has decreased from seven incidents during January-March 2011 to only one incident during the same period in 2012. Situation in the South China Sea has improved remarkably with no incident reported there during the first quarter of 2012. These improvements could be attributed to an increase in surveillance and enhanced patrols carried out by the littoral States; and better situation awareness among seafarers who adopted BMPs in their anti-piracy measures.

Following the situation update, Ms. Lee shared on three case studies. The first was the recovery of hijacked Malaysia-registered tug boat *Sin Hin 5*, towing barge, *Sin Hin 6* which was reportedly hijacked on 28 Dec 11; and two robberies onboard vessels *OXL Lotus* on 22 Jan 12 and *Andakini* on 22 Mar 12 at the port of Chittagong, Bangladesh. The Bangladesh Coast Guard managed to apprehend three robbers and recovered the items stolen from *Andakini*; and in the incident involving *OXL Lotus*, the stolen items were also recovered.

Ms. Lee concluded that although there has been a decrease in the number of incidents, it remains unclear whether this is due to under-reporting or it was a true reflection of the current situation. She encouraged the littoral States to continue to enhance their surveillance and presence while seafarers are urged to observe BMPs and maintain situational awareness. Details of the report for period January-March 2012 can be found on the ReCAAP ISC website at www.recaap.org.

SESSION ONE



ASIAN SHIPOWNERS' PERSPECTIVE ON PIRACY AND ARMED ROBBERY AGAINST SHIPS

Mr. Yuichi Sonoda,
Secretary-General,
ASF

Mr. Yuichi Sonoda began his address by introducing the Asian Shipowners' Forum (ASF). He mentioned that the ASF controlled about 50% of the world's merchant fleet. The objective of the ASF is to promote the interest of Asian shipping industry and projects.

Mr. Sonoda noted that piracy and armed robbery at sea was a common problem throughout the world but situations differed from region to region. In Asia, the most common problems were armed robberies and petty thefts where no hostages were held for ransom. However, he opined that despite continuous effort by the littoral States, the situation in Asia has not improved very much in 2011 and 2012 when compared to 2008, 2009 and 2010. Mr. Sonoda specifically listed Indonesia, Vietnam, Bangladesh and certain areas near the Singapore Straits as areas that warrant more attention.

Mr. Sonoda pointed out that incidents that occurred at ports and anchorages was also of concern to the ASF. He hoped that this situation would be kept under control and improved through better cooperation among the littoral States. While he appreciated the efforts of the ReCAAP ISC and the IFC in monitoring the situation, he felt that more needs to be done. He hoped that the ongoing capacity building efforts by the ReCAAP ISC and their well-established network through the ReCAAP Focal Points could contribute towards a safer environment for seafarers in the Asian region.

As a closing remark, Mr. Sonoda brought to the audience's attention the 'Save Our Seafarer (SOS)' campaign.



THE CONTINUED NEED FOR BMP AND FUTURE REQUIREMENTS FOR SAFE TRANSITS

Mr. Tim Wilkins,
Regional Manager Asia-Pacific,
INTERTANKO

Mr. Tim Wilkins summarised the development of BMP which is currently in its 4th edition. He informed the participants that INTERTANKO would continue to issue regular security bulletins to its members and conduct outreach campaign such as the SOS campaign mentioned by Mr. Sonoda.

He also presented statistics that indicated an improved situation in Somalia with the percentage of successful attacks decreased from 29% to 17% over the past three years. Nevertheless, the number of attacks has increased by 19% and the ransom payment has also increased to USD 8 million. To date, there were four cases of hijacking in 2012, one of which did not reach out to the naval presence. So far, a total of six merchant vessels with 148 crew was held and more attacks can be expected in the coming months with improvement in the weather conditions. As such, INTERTANKO urged all its members to be vigilant.

Mr. Tim stressed that while the number of successful attacks was lower because of greater naval presence; BMP compliance and increase in PMSC deployment had contributed towards the low pirates' success ratio. Nevertheless, the scope and range of piracy attacks are still wide and thousands of vessels are still at risk.

He mentioned that there was a continuous call to make the BMP mandatory as reports suggested that there was a high degree of non-compliance. He added that

there were ships which did not comply to the BMP requirement. However, he cautioned that when the BMP became a routine ritual, there was the danger of complacency. Hence, he advocated that ship masters, shipping companies and shipping associations should ensure high level of compliance to BMP by continuously assessing and auditing it.

Mr. Wilkins also raised the issue of under-reporting. He believed that it was important for all incidents and deployment of armed guards onboard vessels be reported to the nearest coastal state so that INTERTANKO and the relevant authorities could have a clearer picture of the situation and devise the most appropriate response.

Other than the deployment of armed guards, Mr. Wilkins proposed exploring other possible solutions to counter piracy attacks such as the usage of citadel, deployment of vessel protection detachments and innovative equipment and ship designs.

Mr. Wilkins agreed that it was not likely that the piracy problem be resolved in the short term. As such, ships would remain vulnerable to changing tactics adopted by pirates; and deployment of armed guards onboard vessels was a temporary solution. In conclusion, he reminded participants that piracy is a lucrative business with determined people who will adjust their tactics to assure their gain even if it comes with escalating consequences.

SESSION TWO



SOMALI PIRACY: THE ONGOING THREAT

CDR SG Stein Olav Hagalid,
*Branch Head,
NATO Shipping Centre*

CDR SG Stein Olav Hagalid started his presentation by updating the situation off the coast of Somalia from the perspective of the naval force operating in the region. There were seven captured vessels along with 210 seafarers currently being held hostage by Somali pirates. Despite a decline in piracy incidents in 2012 compared to 2011 when over 30 vessels were held, the numbers were still significant. A new trend emerged with fishing vessels being targeted by pirates. The overall actual and attempted piracy attacks have decreased considerably in the last six months of 2011, and would continue to trend downwards in the first quarter of 2012.

CDR SG Stein added that the North Atlantic Treaty Organisation (NATO) believed that the decline was attributed to the anti-piracy efforts carried out by governments and international shipping community, such as implementation of BMPs, deployment of naval patrols, construction of citadels, and the use of PCASP. He added that the naval forces are neutral to the use of PCASP, but they do support the proposal for licensing of PCASPs.

CDR SG Stein was concerned, however, that the implementation of BMP has been relaxed as shipping companies grow more reliant on the use of PCASPs. Furthermore, there have been many cases of under-reporting when PCASPs were deployed onboard vessels leading to loss of critical intelligence information.

He acknowledged that despite the decline in number of attacks, piracy was still a problem. The ransom amount paid to Somali pirates was increasing, and ships as well as seafarers were detained for longer duration. The pirates' tactics have also evolved and their areas of operation have expanded. In response to the situation, NATO will continue to deploy naval patrols in the joint operating areas and destroy pirate bases. He repeated NATO's call for the merchant shipping industry to comply with BMP and maintain situational awareness. CDR SG Stein also called on governments to increase the presence of naval assets and patrols, and place more emphasis on international cooperation.



CITADEL: IMO GUIDELINES

Mr. Giles Noakes,
*Chief Maritime Security Officer,
BIMCO*

Mr. Giles Noakes's presentation was on the use and construction of citadel onboard merchant vessels. A citadel is a designated area specifically built into the ship where, in the event of imminent boarding by pirates, all crew will seek protection in it. Mr. Noakes stressed that the construction and use of citadel usually involved a very complex decision-making process which involved ship owners, ship operators and crew.

He explained that the IMO did not release guidelines on citadel for security reasons and also to maintain a certain level of flexibility because the construction of citadel must be customised to the type and size of vessels. If a detailed guideline was released, pirates will be able to use it to access the citadels. Detailed information regarding the citadel can be obtained in two password-enabled websites, i.e. the NATO Shipping Centre (NSC) and BIMCO websites.

On the use of the citadel, Mr. Noakes strongly advised the following measures to be taken: Firstly, the crew must still be able to control the ship and to take refuge while waiting to be rescued. Secondly, there must be a safe muster point outside the citadel where all crew could rally during an imminent boarding by pirates or when the vessel is under attack. And lastly, the pirates must be denied to the use of tools and equipment onboard vessels.

He also shared that it is important to have provisions within the citadel to last at least 72 hours, toilet facilities and more importantly, communication linkages with the outside world. The latter is very important as it would be the only means for the crew to inform neighbouring navies that the ship has been hijacked and maintain continued communication with them. Navies will only take military actions when they have ascertained that all personnel are inside the citadel.

Mr. Noakes concluded by saying that the use and construction of citadels should be seen as complementary to the implementation of BMP. It would not prevent a ship from being hijacked or guarantee a prompt response from naval forces. The citadel should be the last layered defence against pirates.

SESSION TWO



CITADEL: CASE STUDY

Captain Choi Gum Chul,
*Accident Investigator & Safety Manager,
Hanjin Ship Management Co. Ltd.*

Captain Choi Gum Chul briefly introduced the Hanjin Ship Management (HSM) and its anti-piracy efforts. He further explained HSM's reporting procedure in the high risk area, particularly in the Indian Ocean Region (IOR). These procedures include reporting to relevant authorities in case of hijacking, briefing, drilling, and other anti-piracy activities, as well as maintaining communications with home base and neighbouring naval forces.

He elaborated on HSM's other anti-piracy measures such as the use of PCASP and construction of citadel. HSM ships in high risk area are fitted with physical barriers, such as razor wire, steel plate, empty drum, water and stream spray, while tactical helmets and body armours were provided for the crew. To implement these measures effectively, the HSM conducts joint drill twice a year in Korea to familiarise military personnel with characteristics of merchant vessels so they could conduct better counter-piracy military operations.

At the end of his presentation, Captain Choi shared the case study of an attempted hijack on one of HSM's ships, *M/V Hanjin XX*, in the Indian Ocean while she was enroute from Spain to Singapore in April 2011. The successful implementation of BMP denied the pirates' access and control of the ship. All crew was able to get inside the citadel and with communication established with the Republic of Korea Navy, *M/V Hanjin XX* was successfully rescued with no casualty reported.



PRIVATELY CONTRACTED ARMED SECURITY PERSONNEL ONBOARD VESSELS (PCASP)

Captain Geoffrey John Pearson,
*Global Head of Fleet Security,
BW Fleet Management Pte Ltd*

Captain Geoffrey Pearson began his presentation by introducing BW's anti-piracy measures, which is based on the layered defence principle comprising of detection, prevention and deterrence. All vessels were required to comply with BMP at all times and Captain Pearson added that he would personally brief all ship masters on the BMPs to ensure that they were updated with the procedures. The engagement of PMSC was only one of BW's many layers of defence.

Captain Pearson maintained that BW has a very strict process for the selection of PMSC. Through the thorough review of several recommended service providers, BW will shortlist a selection of service providers that specifically fulfil their requirements. BW will ensure that every service provider was in full compliance with IMO MSC.1/Circ. 1405 and proper vetting was done. If the request for other PMSC by chartered vessel is received, BW would ensure that the chartered vessels were competent in their choices and fulfilled BW's requirements.

He also explained BW's decision to contract PMSC would only be made after a careful risk analysis based on intelligence reports from various sources. Even if the risk analysis suggests the deployment of armed guards, Captain Pearson will discuss with the master to explore voyage alternative and explore the possibility of deploying unarmed security personnel onboard the vessel instead. The placement of an armed team will be a last resort as it is a logistical challenge to place and remove weapons onboard the vessel.

Captain Pearson also shared a BMP checklist that helps the ship master comply with the BMP and make sure that the armed guards complied with the guideline provided under MSC.1/Circ.1405. One must also bear in mind the laws and regulation of the flag States, including those who prohibits the carriage of weapons onboard. In most cases, BW's voyages were carried out without the use of armed guards unless necessary.

He also shared with the participants the benefits in having an armed security team onboard. He explained that armed security personnel were a massive morale booster and able to support with the hardening and fixing of security equipment. They helped in crew drill and train crew in anti-piracy measures and played the advisory role in some instances when the vessels were sailing through lower risk areas. The security guards can also act as additional lookouts, thus freeing the crew for other tasks and thus an additional layer in BW's deterrent measures.

Captain Pearson felt that it was a sad reflection of today's world that shipping companies have to go to such length to protect innocent seafarers at their legitimate place of work. He concluded his presentation by urging the audience to come up with better alternate solutions than what are available currently.

SESSION TWO



ARMED GUARDS ONBOARD VESSELS: THE LEGAL ASPECT

Mr. Bill Kerr,
*Partner and Master Mariner,
Holman Fenwick Willan Singapore LLP*

Mr. Bill Kerr shared on the legal aspect of having armed guards onboard vessels by illustrating some of the points in the context of the new BIMCO Guardcon contract. The Guardcon is a standard contract for the employment of security guards onboard ships to combat piracy. It was intended to protect both parties (the ship company and the PMSC).

Although Guardcon was intended to be a balance contract, he felt that it was fair to say that it was probably more pro-ship owners than pro-PMSC. For that reason, it can be expected that there will be more pressure from the PMSC to propose changes to some of the clauses inside the Guardcon.

Mr. Kerr emphasised that while the detail of each contract can vary, there were a number of clauses in the standard contract that should not be tempered with to ensure best protection for both parties. He elaborated on the following clauses:

- **Clause 6 (The Contractor's Obligation).** Both parties must be confident in fulfilling their obligation; failing which, the parties should seek re-negotiation. The contractors must not have an automatic right to sub-contract. Mr. Kerr shared on a case where the security company sub-contracted to another company who does not comply fully with the license they have and the ship ended up being detained by the authorities.

- **Clause 8 (Master's authority and division of responsibility).** This is drafted to ensure that no provision of Guardcon will contravene the mandatory provision of International Convention for the Safety of Life at Sea (SOLAS). For this purpose, the master has the expressed authority over all the security personnel onboard the ship. The master does not have the control over the use of arm. It is the private security team leader who has to decide when to use arms, and that was intended to protect the master from being potentially criminal liable. In short, the master cannot order anyone to fire their weapon, but has the authority to order them to stop firing. However, the master's authority and SOLAS cannot interfere with the security personnel's right to self-defence. So if the master orders the team to cease firing and if they feel they are under personal threat, they have the option to continue.
- **Clause 9 (Hijacking).** The contractors do not guarantee the safety of the vessel or crew during the provision of the security services.



- Clause 10 (Permits and licenses). Permits, certificates and licenses, operational permits etc are keys to the provision of security guards. The logistics of placing weapons onboard is challenging and weapons must be removed from the ship at the end of the engagement. While it was an obligation, there are companies currently operate without permits and licenses and it was the purpose of the Guardcon to 'eliminate' companies operating without licenses. This clause primarily protects the interest of the ship owner.
- Clause 12 (Insurance Policies). Insurance protection is integral to any contract for the security guards and feature very prominently in the Guardcon. The clause was drafted in consultation with insurers and was intended to offer package products to PMSC specifically to cover their obligation and liability under Guardcon. In order to be covered, the vessel must be a member of a valid P&I club.
- Clause 15 (Liabilities and Indemnities). Given the challenging nature of the services provided under the Guardcon, the liability provisions were essential to its entire rationale. The underlying principles were that each party should bear the losses suffered by those responsible for that area of the contract and the losses of the property that follows.
- Clause 16 (Security Personnel liability). The idea of this clause was to protect each member of the security detail personally, thereby excluding individual liability and gives him the protection he will need under the contract.
- Clause 17 (Security Personnel – Waiver). Guardcon provides a standard waiver form. When a passenger boards a ship he/she is often asked by the owner to sign a waiver on boarding ship and security personnel will be no exception to that. However, the general Kidnap & Ransom provision will also cover those onboard the vessel, including the security personnel.

At the conclusion of his presentation, Mr. Kerr invited participants to visit BIMCO's website for a copy of the Guardcon contract.

QUESTIONS & ANSWERS SESSION



Dr. Euan Graham, the moderator for the conference, presided over the questions and answers session. Presenters were invited on the panel for discussion.

The first question put forward was with regard to the issue of under-reporting. A participant was interested in knowing how the presenters were able to conclude that there was a problem of under-reporting and why would ship owners choose not to report.

The panelists responded that the conclusion was drawn by comparing the naval intelligence on the number of active pirate groups operating in the region with the number of incidents reported. Assuming the intelligence was accurate, the number of incidents should be higher than what was reported. As for the reasons for under-reporting, it could be for fear of self-jeopardy. The conference noted that 15 percent of the flag States do not allow the use of armed guards onboard vessels, if the vessel involved in the incident has armed guards and if the company or master reported that, it would show them up as violating State law.

The panelists were concerned that the rise of such a trend would cause an information blackout. They felt that honest reporting was essential for authorities to have an accurate picture of the situation and if the authorities know that there were armed guards onboard a vessel, they can better allocate the naval resources to concentrate on more vulnerable vessels. Other panelists were worried that ship operators used armed guards as an alternative to BMP.

The next issue raised was whether States lack the legal tools to fight piracy effectively or do the governments lack the political will to do so? A participant believed that it was the legal tools that was lacking and proposed establishing an anti-piracy convention to address the problem. One panelist felt that the idea of a convention was sound, but it will be a long process and it only addresses one of the many aspects of piracy. Even if there were legal tools to prosecute the pirates, it would still be very expensive and States may resist efforts for such a convention. Others pointed out that there were in fact legal regimes in place and it would be better to implement existing conventions



and address the piracy issue at its social roots. The panelist explained that many arrested pirates returned to piracy upon their release and youth in Somalia aspired to be pirates. This was a reflection of the social problems in Somalia that must be tackled before the piracy problem can be effectively addressed.

A participant felt that there was no need to develop new convention as there were enough means to deal with the problem. The real problem, in his opinion, was a lack of public and political attention on the issue. This is because piracy was an insignificant issue in the context of world trade and economy. He felt that the solution was to convince governments that it was their responsibility under the law of the sea to address the piracy issue and that they should not hold back, but let the military do what the people have contracted them to do.

The last topic of discussion was on arms proliferation and the Somali pirates' business model. A panelist responded that the reports on arms proliferation have not been verified. With regard to the business model of pirates, he

felt that the pirates were also caught in a paradox. With the introduction of more effective anti-piracy measure, the pirates may have to escalate the level of violence to achieve their objective, however if they do that, then they risk attracting the attention and hence stronger reaction from governments.

CLOSING REMARKS



**His Excellency,
Dr. Pornchai Danvivathana**
*Ambassador of Thailand,
Royal Thai Embassy, Muscat,
Governor of ReCAAP ISC (Thailand)*

In his closing remarks, Dr. Pornchai expressed his gratitude to the participants for attending the conference and for sharing their ideas and perspectives. He also thanked BIMCO, INTERTANKO and the RSIS for co-organising the conference.

Dr. Pornchai reminded the participants that as the information hub for piracy and sea robbery in Asia, the ReCAAP ISC looks forward to continue sharing information with its focal points and other stakeholders via its website. Participants were invited to visit the ReCAAP website at www.recaap.org, which contains the ReCAAP ISC reports and contact details of ReCAAP Focal Points and Contact Point.

Lastly, Dr. Pornchai encouraged all stakeholders to voice their views and learn from each other through frequent dialogues. He hoped that the conference had served as a platform for all participants to understand that the responsibility to protect and safeguarding seafarers should be shared among all.

PROGRAMME



0830 Registration

MORNING SESSION (CONFERENCE)

0900 **Welcome Remark**

HE Dr. Pornchai Danvivathana, Ambassador of Thailand, Royal Thai Embassy, Muscat,
Governor (Thailand) of the ReCAAP Information Sharing Centre (ISC) Governing Council

0910 **Keynote Address**

Mr. Koji Sekimizu, Secretary-General, IMO

0920 **Opening Remarks**

Mr. Torben C. Skaanild, Secretary-General, BIMCO

SESSION ONE

OVERVIEW AND PERSPECTIVE OF PIRACY AND ARMED ROBBERY AGAINST SHIPS

0930 **Trends on Piracy and Armed Robbery Against Ships in Asia**

Ms. Lee Yin Mui, Assistant Director (Research), ReCAAP ISC

0950 **Asian Shipowners' Perspective**

Mr. Yuichi Sonoda, Secretary-General, Asian Shipowners' Forum (ASF)

1005 **The Continued Need for BMP and Future Requirements for Safe Transit**

Mr. Tim Wilkins, Regional Manager Asia-Pacific, INTERTANKO

1020 **Coffee/Tea break**

SESSION TWO

SAFEGUARDING SEAFARERS: CITADEL AND ARMED GUARDS ONBOARD VESSELS

1035 **Somali Piracy: The Ongoing Threat**

CDR SG Stein Olav Hagalid, Branch Head, NATO Shipping Centre

1050 **Citadel: IMO Guidelines**

Mr. Giles Noakes, Chief Maritime Security Officer, BIMCO

1105 **Citadel: Case Study**

Captain Choi Gum Chul,
Accident Investigator & Safety Manager, Hanjin Ship Management Co. Ltd

1120 **Privately Contracted Armed Security Personnel (PCASP) Onboard Vessels: Case Study**

Captain Geoffrey John Pearson, Global Head of Fleet Security, BW Fleet Management Pte Ltd

1135 **Armed Guards onboard Vessels: The Legal Aspect**

Mr. Bill Kerr, Partner & Master Mariner, Holman Fenwick Willan Singapore LLP

1150 **Q & A Session**

Moderator: Dr. Euan Graham, Senior Fellow, Maritime Security Programme, RSIS

1220 **Presentation of Mementos**

1225 **Closing Remarks**

HE Dr. Pornchai Danvivathana, Ambassador of Thailand, Royal Thai Embassy, Muscat,
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1230 **End of Conference**

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