

The Security Association for the Maritime Industry as a Counter Piracy Actor

Written by Christopher Crook

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Introduction

The Security Association for the Maritime Industry (SAMI) is a particularly important organization to consider when looking at world-wide attempts to counter piracy. Maritime Piracy is a significant security risk for both shipping companies and seafarers worldwide. While piracy has existed for much of our known history, in the last two decades it has grown massively and has become a serious international security issue. It is especially problematic in the critical shipping route off the coast of East Africa, in the Gulf of Aiden. In his book *Contemporary Maritime Piracy*, James Kraska notes that 'Worldwide there were nearly 3.000 attempted or successful Maritime piracy attacks during the period 2000-2009.' (Kraska 2011: 1) SAMI is a non-governmental organization which seeks to produce a level of regulatory discipline and to create better awareness of the problems of piracy. While this promotion can be aimed at the wider world, SAMI specifically deals with shipping companies and how they can best protect their ships and personnel while at sea. SAMI has a diverse range of members; ranging from security consultants and trainers to manufacturers of technology and equipment. It can be considered an international organization with 152 companies that are registered as members from 35 different nations. They also hold direct links to the commercial shipping industry, oil and gas companies and ports. This distinction separates them from many of the other counter-piracy actors. The vast majority of the main counter piracy actors are either flag states or multi-national co-operative organizations, whereas as SAMI is concerned with protecting private and business interests against the threat of piracy. As a consequence of this, SAMI is mostly an advisory organization which seeks to put pressure on governments to create regulatory legislation for the accepted measures of protection against pirates. It aims to represent the interests of the shipping industry in the shaping of counter piracy measures at an international governmental level.

Based in London on the historic ship HQS Wellington, SAMI was founded in July 2008 with the express concern of being the trade and regulatory body for the maritime security industry. However it didn't come to active existence until May 2011. While the organization is involved in counter-piracy measures, it is of course only a part of its wider mandate and responsibility. However, much of the work that SAMI does directly affect interpretation and prevention of maritime piracy. It sees its role in counter piracy as that of educating its members and equally the public of the dangers of piracy. An example of this can be seen in an A-to-Z brochure that was released to raise awareness of how to best ensure maritime security, which refers to the threat of piracy in it. In its description of piracy, it alludes to the definitions of piracy as referred to in UNCLOS (United Nations Charter on the Law of the Sea) and by the IMB (International Maritime Bureau). It explains the legal definition of piracy, as well as a brief overview of the re-development of piracy off the coasts of Asia and Africa. While it should be accepted that the responsibility of security of the sea should fall to international governments and associations, SAMI's representation of the shipping industry makes it an important and different voice in the debate. In 2011 alone, SAMI members were subject to attack by pirates an astonishing 441 times. This significant number of attempted attacks highlights the depth of the problem of piracy throughout the world.

Framing

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As J.L. Anderson noted, 'The problem of piracy – parasitic, intrinsic, episodic – will continue to exist as long as there are criminally inclined persons and maritime zones of ineffective law enforcement' (Anderson 1995: 199), therefore making piracy an eternal problem that can only be dented rather than eliminated. Thus, in its simplest terms, SAMI sees piracy as a clear threat to the harmony and safety of business interests that are transported via the sea and more widely, as a part of the political problems facing the regions they operate in. By simple definition, the complex problem of piracy in Somalia can be tackled in a number of ways. To understand how counter-piracy measures work however, one must consider how the actor is seeing the threat of the pirate. There are three major frames from which an actor would normally view at piracy; the legal frame, the security frame and finally, the criminologist frame. At first glance, one would think that as SAMI are responsible for accreditation of the private security forces, they would see piracy strictly from a security frame. This however, is not necessarily true. The security frame for analysing piracy sees the pirate in very distinct terms. It sees piracy as a threat and the pirate as an enemy. Thus under an attack by pirates, they would use extra-ordinary measures to eliminate the threat.

While it is fair to suggest that this approach might have been used in the past by default, the growth of importance of international law in both combat and political decision making causes difficulties with strictly adhering to a security frame. The legal frame on the other hand also has its difficulties. By governing under this frame, an actor would see piracy as rule-breaking and the pirate as a criminal. It's response to such action would be to prosecute and ultimately imprison any person involved in such activity. The major issue with this approach can also be seen when applied to the threat of global terrorism. Both terrorism and piracy experience fluidity in terms of the methods and tactics that are employed. In addition to this, there is major difficulty in putting together than a mutually acceptable international standard for the arrest and prosecution of those involved. While in the example of terrorism, there is large public support for holding the perpetrators accountable. This is simply not the case for piracy. Piracy is seen as an issue overseas for the vast majority of the world's population, and thus, the political pressure to enforce the law and eliminate the problem of piracy is minimal at best. As Peter Cook suggested in an article for SMT Online, 'the asymmetric threat of terrorism continues to challenge national security forces, and the maritime domain opens a new paradigm of possibilities. Terrorists are becoming more sophisticated. They can watch, wait and then identify the weaknesses of security measures discovered by criminals, and find ways to exploit any gaps in the armour.' (Cook 2011) The suggestion that the two threats can be somehow intertwined is intriguing. An argument can be made given the attack on the USS Cole in Aiden in 2002 that terrorism can be considered as dangerous to maritime security in the region as piracy.

However, piracy can be seen somewhat differently in the sense that for some in Somalia it is simply the best way to make a living. The large number of fishermen in the region makes the fishing industry far less lucrative than it perhaps might be in a more economically and politically developed state. Therefore, piracy is for most people in the region, the easiest way to make enough money to survive. This problem feeds into the criminologist paradigm that sees piracy as a deviant behaviour and a possible example of a failed state. Their solution to the problem of piracy would be the rehabilitation of the pirates, and eventually the state. This particular frame however is not suitable for SAMI given that it is an advisory organization, this would be much more applicable to an international organization with governmental powers. In reality, it is not possible to put SAMI definitively into one particular frame. It sits somewhere between the legal and security frames due to a conflict in priorities. The clear goal is set out as aiming 'to facilitate clear dialogue and a common standards framework in the delivery of maritime security products to the shipping community.' By setting up the standards of accreditation, there is a clear consideration for the legal frame. This is concerned as much with the legality of the security personnel and equipment as it is the pirates themselves. However, it is also clear that they are concerned with the security frame. For many of the security personnel, and indeed the seafarers, piracy is seen as a threat to their wellbeing and to the business that they are undertaking at sea. The reactions of the two frames leave very different responses to a pirate attack.

However, it can be argued that one is considered more important to SAMI members. In a 2011 publication regarding a meeting of The All-Party Parliamentary Group on the Great Lakes Region of Africa, the priority becomes clear. It is noted that 'it was clear that serious problems remain, and one ship owner spoke of the fears, the sleepless nights of stress and of feeling abandoned. A view echoed by others, especially when concerns about potential escalation of the violence used by pirates were voiced.' In this sense it is clear that the priority for the membership is that security personnel be given the legal authority to be able to retaliate against pirates when under attack. It is also made clear

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that at the time, it was still illegal for a ship bearing the British flag to have armed guards on board. However, the committee did make it clear that a reversal of this was under serious consideration. In essence this shows that the PMSC's are looking for the legal authority to be able to fulfil their security mandate without the fear of prosecution.

While there is clearly a serious threat to maritime security from piracy, SAMI's genuine concern is with the promotion of improved maritime security as a whole, and not exclusively to piracy. However, it is clear that their efforts, in conjunction with other organisations improved the standard of on-board security greatly. The co-operative measures that SAMI engages in with other organizations have proved valuable to on board security. The requirement of its members to implement the BMP procedures has improved the standards of security immeasurably. They also offer the live piracy map on their website via the IMB which allows their members to track the piracy hotspots throughout the region they are in, and the wider world. This clearly suggests that the feeling of SAMI is that counter-piracy measures are best focused in prevention rather than elimination as without serious political and cultural change, piracy will inevitably continue.

SAMI has had great success in the UK in its dialogue with the government over the legislative issues that will allow it to take the first steps towards a more hands on role in combating the threat of piracy. In the 2010-12 House of Commons Foreign Affairs Committee report on Somali Piracy, SAMI laid out its desire for shipping companies to be able to use armed guards on board its ships both legally and effectively. Within the document, it is made clear that there is a considered need for further integration of PMSC's into the discussion of how to best combat piracy. Within the document, it is noted that there has been a level of integration, for example SAMI were welcomed into the leadership forum of OHQ Atalanta at the EUNAVFOR base in Northwood. However, they recommend that the 'British Government, EU or NATO led anti-piracy operations and initiatives can seek the collaborative support from the professional private maritime security companies via SAMI.' (Ottaway 2011: 191) In their eyes, by receiving the approval of government, the PMSC's will be able to effectively react to piracy as a security issue. While it is clear that a legal approach is preferable for most actors involved, for SAMI's members, the ability to defend its security is vital. In addition to this, SAMI recommended to the government that PMSC's are allowed to be represented within the UN and IMO. The core of the vision is that the security companies should be able to pursue their mandate of protecting the shipping industry in conjunction with governmental organizations ensuring the law is respected. It does not have to be a choice between a security frame or a legal frame, the two should be able to work hand-in-hand to control the threat of maritime piracy.

Counter Piracy Practices

SAMI exists as an important voice in the debate over counter-piracy measures, however it is key to note that the scope of actors involved is large. By simple reality, flag states and international organizations such as the United Nations, the International Maritime Bureau and the International Transport Federation have a wider reaching mandate than smaller independent actors. However, in the case of SAMI, it is also important to note its link with the Maritime Security Review organisation through its founder and Chief Executive Peter Cook. Much of the expertise accumulated through the MSR allows for SAMI to recommend up to date security protocols which are concurrent with the ever-changing threat. As noted in SAMI's Executive Summary document, during 2011 there was a significant increase in the number of shipping companies adopting the IMO guidance for contracting Private Contracted Armed Security Personnel (PCASP) to provide security for their ships transiting the High Risk Area (HRA) of the Indian Ocean. It is believed that currently somewhere between 35-40% of ships transiting the HRA have PCASP embarked. Concern has been expressed over the rapid proliferation of PMSCs without government or an international framework in place.

SAMI's expertise has been put into many of the initiatives that they encourage their members to implement on their craft. The widely used Best Management Practice (BMP) system for reporting threats and securing vessels is prominently mentioned in their literature, and it is possible for companies to receive the updates of BMP through SAMI for implementation. There is also the recommendation for the use of particular security infrastructures such as Citadels. Citadels are a safe room located on a ship from which those being attacked can lock themselves away from their attackers and survive for an extended period of time on supplies held inside. Citadels are not without their critics however. There is an argument that they can be ineffective when those on a ship either do not have the means to

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contact a warship, or if the warship is too far away. There is also a potential issue of pirates firing on the citadel with automatic weapons and injured those contained inside. However, as Jay Bahadur argues, Citadels 'have been effective even when a warship was not in the immediate vicinity.' (Bahadur 2011: 183) The containment of on-board personnel until help can arrive buys vital time for the safety of those on board. The collaborations between SAMI and the wider industry can be seen in a multitude of counter piracy measures. For example, SAMI publishes the IMB live piracy map on its website so its members can keep an eye on up-to-date threat assessments in the piracy affected regions. The technical advice offered by the organization allows for easier implementation of the BMP and thus provides a better opportunity for better standards of security throughout the industry. For example, on their website alone, SAMI offers documentation and a podcast detailing the implantation of BMP4, the latest edition of the Best Management Practice programme.

The BMP programme has proven to be the most widely implemented counter piracy measure within the shipping industry. In fitting with SAMI's vision for an accepted level of standards for armed guards on ships, the BMP programme offers a minimum set of standards required to effectively combat piracy. According to James Kraska, the BMP programme 'consists of planning and operational practices for ship owners, operators, managers, and masters of vessels transiting in the Gulf of Aiden and the Somali Basin.' (Kraska 2011: 59) In terms of pure security, it is clear that the implementation of BMP has been critical in the efforts against piracy. A major reason that it has been successful is the fact that it has targeted the major technical reasons why a piracy attack is likely to succeed. It recognises that low speed, vessels sitting low in the water, inadequate safety planning, lack of defensive measures and readiness and slowness to react to an attack are major reasons for attack success. Thus, the measures in BMP are aimed at combating these particular problems. While it is true that SAMI are not alone in the implementation of these standards, and they were also not created by them, it represents a significant standard when they made BMP mandatory for all companies applying to be members.

It also publishes details of meetings discussing the practical details of the use of citadels, or more specific details on Norwegian ships. There is also the interesting development of Q-Ships, which are defined as armed vessels which are disguised as regular commercial vessels in order to actively attract an attack. While being a relatively simple idea, it is necessary to continue to evolve and change its counter methods. This is down to the fact that as criminals, pirates will continue to evolve their attack strategies to facilitate the most success. SAMI also published details on their website of how they accredit standards for the use of Security personnel on board ships. It has formed two working groups, Standards and Accreditations Working Group (SAWG) and Rules for the Use of Armed Force Working Group (RUFWG). SAWG has been working with maritime law firms to draft a standard contract for the engagement of PMSC's (Private Maritime Security Companies). These working groups were set up in response to the will of both flag states and the wider shipping industry. They consider concerns from shipping companies and associations, the marine insurance industry and the wider maritime community. The RUFWG is tasked with formulating a proposal for standard rules on the use of force on ships.

According to the SAMI website, the work of this focus group will be 'reviewed by a QC who is specialises in maritime law before presentation to the flag States and shipping associations'. It is unclear as to how much the working groups have achieved to this point as there has been no documentation from SAMI of the work that they have done to date. However, within the House of Commons Foreign Affairs Committee Papers there is evidence of progression of the arguments that the working groups are looking to consider.

However, it is the use of force on ships that has proven most controversial. Normally flag states are responsible for determining whether the use of armed guards is permissible. There have been different responses to this issue, for example the United States allows ships bearing its flag to have armed guards on board, whereas South Africa allows un-armed guards to roam the ship. In many ways, this lack of cohesion over the issue on an international basis shows that SAMI's work to try and help facilitate an accepted international procedure is needed.

There has also been a push for greater government backing of PMSC's due to a historical cultural habit of shipping companies. The shipping industry has traditionally advised its workers not to antagonise or resist a pirate attack. Clearly this gave the personnel on board very little chance of evading an attack and left them and the ship under significant risk. As with any long established mantra, old habits die hard. It is clear that there is a place for armed

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security guards given their unique skill sets, which would simply not be held by your average seafarer. As Kraska suggests, 'personnel must also be able to recognize threatening behaviour, attempts to circumvent security measures; be skilled in crowd management, communications and security equipment, emergency procedures, and contingency plans.' (Kraska 2011: 73) However, with the growth of the implementation of counter methods, shipping has become safer, albeit not completely safe. This realistic approach of limitation rather than elimination has helped many seafarers and shipping companies protect themselves and their assets from piracy attacks. As noted in SAMI's documentation on the A-to-Z of Maritime Security, armed guards have to be regarded as a necessary, if unsavoury reality in the fight against the evolving threat of maritime piracy.

Evaluation

Given its relatively short existence, SAMI can understandably have only made the beginnings of the impact it hopes to. However, there is significant evidence to suggest that there is significant support and need for the mission that it is attempting to undertake. Considering the growing demand from shipping companies for the right to have armed guards on-board their ships to protect personnel and assets, it is clear that an international accepted code of conduct for implementation of armed guards is required. The stark reality that piracy is a serious threat in the Gulf of Aiden in particular is a fact that shipping companies are starting to take notice of. It is also fair to say that news coverage of the threat of piracy has also highlighted it as a more serious threat in the eyes of the public. In the UK, the coverage of the case of British woman Judith Tebbutt who was held by Somali pirates for more than six months highlighted the dangers of piracy in the region.

In terms of SAMI's attempts to create an effective counter-piracy response, there has been a contrasting tale of fortunes. It is fair to say that the organization deserves praise for the way in which it has made the dangers of piracy clear to its members. Its policy of having to implement BMP to even become a member of the union sets an improved standard of security which can only serve the industry well. In addition to this, its promotion of safety measures such as Citadels and Q-Ships to its members have meant that shipping companies have been able to keep their craft secure with up to date technology. The expertise that is offered to its members in that regard is excellent. However, undoubtedly the most interesting part of SAMI's mandate has been its push for greater governmental accreditation and legislation on the use of armed guards on board ships. Within the House of Commons Foreign Affairs Committee Report on Piracy in Somalia, there can be seen to have been significant attempts on SAMI's part to improve standards. Within the document it is noted that, 'the Government does not currently recognise an accreditation process for PSCs operating in the maritime security sector. Shipping companies must, therefore, be extra vigilant in selecting an appropriate PSC to provide armed security onboard their ships.' (Ottaway 2011: 27) This issue shows that clearly a problem exists for shipping companies which SAMI has made a good effort to remedy. Clearly, improved standards across the industry can only help better secure vessels against the threat of piracy. The simplest way for improvements to be achieved is through accreditation and uniform standards. Considering their relatively short existence, SAMI has proven to be successful in laying the foundations for a greater standard of accreditation for the private security services in the maritime industry.

From a framing standpoint, many of the actions taken by the organization have understandably been with the PMSC's in mind and thus have taken on a security based frame. In satisfying the needs of the industry, they have created a strong position from which they could potentially increase their mandate. There has been some evidence of this occurring. For example it has been suggested that 'one of SAMI's first members, Triton, under the leadership of Director, Simon Jones has begun a new venture to establish coastguard protection for Somaliland. SAMI fully supports this work and will continue to back this type of constructive initiative.' (Ottaway 2011: 190) This suggests that there is potential for SAMI to look into being part of a political solution in Somalia. While this would not be something that would normally be expected of the organisation, the ability to be able to protect Somali infrastructure could be a valuable tool against piracy. Somalia has long suffered from political instability and mistreatment, and thus simply does not have the ability to formulate any kind of meaningful protection for the rule of law. Given SAMI's blatant desire for the PMSC's to have greater legal freedom to do their job, it is clear that a serious consideration of the legal realm has been made. There has often been a worry that many shipping companies are concerned that potential security contractors are not either effective or willing to act within the law. In turn, this created distrust and lack of enthusiasm for having armed guards on board their crafts. However, given the increasing threat of maritime

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piracy to maritime security, these measures are simply necessary. As Bahadur argued 'Simple security measures – such as extra watches, barbed wire, travelling in convoys and lockdown areas in which the crew can barricade themselves – are extremely effective at deterring pirate attacks.' (Bahadur 2011: 252) He goes on to argue that the International Maritime Organization should implement these measures as a bare minimum requirement. While this has yet to come to fruition, SAMI has forced members to adopt these measures through BMP and this is an important step forward.

While there is clearly a limit to how much progress SAMI can realistically make at this current point in time, there is a possibility of facilitating real progress through its co-operative missions with other organizations. By attempting to give the security industry a voice in policy making, it has ensured that it is not being ignored. As noted earlier, they were invited to a policy meeting regarding OHQ Atalanta by EUNAVFOR which is an important sign of progress in ensuring the security industry is represented. In addition, its initiative of championing BMP to its members brings it into line with other organizations such as the UKMTO, EUNAVFOR and NATO. In addition to this, the co-operative measure with the IMB to publish its live piracy map on the SAMI website shows the potential for co-operative work. However, given SAMI's obvious desire for the interests of PMSC's to be represented, there is a danger of conflict of interest with other organizations. This is particularly true of the governmental bodies that are concerned with countering piracy. In many ways PMSC's will always struggle to convince governmental bodies that they can be trusted. There is an issue with the potential for PMSC's to act in their interest rather than doing what is legal. In addition to this, there is a stigma attached to the distrust of PMSC's over the standard of the work and ethics. For this reason, there is still a lot of work to do for SAMI to provide the security industry with a genuine voice in policy decision making.

For the most part, SAMI is acting effectively as a union with the hope of promoting both the increase of uniform security standards and of the potential problems with maritime security, of which piracy is an example. While its voice is currently only significantly heard in the UK, SAMI are hopeful that their global clientele will enable them to have a larger voice on the world stage going forward. The message of improved standards can only serve to help the security industry, and thus SAMI should continue to lobby for this vision. However, there is a danger that the interests of the security industry and potential proliferation of PMSC's being involved in shipping leaves potential pitfalls. Corruption is always a potential problem in any money making business, the pursuit of improved standards needs to continue to be pushed over any monetary gains. In addition to this, all PMSC's need to act under the rule of the law, hence SAMI's mission for better legal protection is important. Simply turning the waters off Somalia into a Wild West shootout will not help counter piracy. Piracy is a wicked problem and as such the counter piracy organizations should remember that a realistic aim is to constrain piracy as eliminating it entirely is unrealistic. While political instability and lack of opportunities continue to exist in Somalia, people will always be tempted to make quicker and bigger money by engaging in illegal activities. Piracy is as much a political problem as it is a security problem. SAMI can continue to hold up their end in combating piracy, the rest however, lies in the hands of world governments.

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