



The Regulation of PMSCs: Challenges and Good Practices

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N.B. Mark Gray speaks at the invitation of the UNODC Global Maritime Crime Programme, but the views expressed are his own, and do not necessarily reflect the views and/or policy of UNODC.



Master/Team relationship

- *“At all times the Master of a ship has the ultimate responsibility for the safety and security of the ship. Even at [the highest levels of] security ... a Master may seek clarification or amendment of instructions issued by those responding to a security incident, or threat thereof, if there are reasons to believe that compliance with any instruction may imperil the safety of the ship.”* (ISPS Code Part B Para 4.10)
- Team authority extends from the inalienable right to self defence.

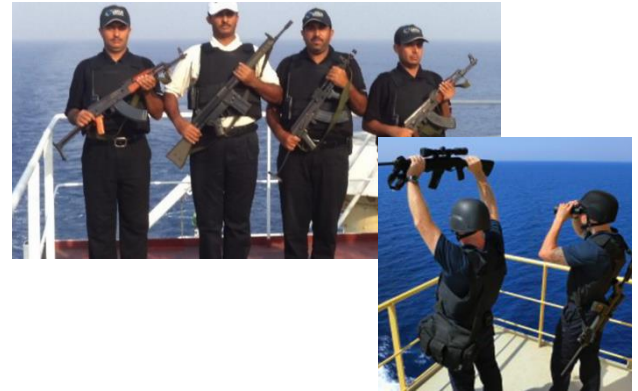


Right of self-defence: lethal force

- An individual right;
- Can be applied to protect others;
- Must be proportionate;
- Must be exercised for only as long as the threat to life applies;
- Can only be applied where there is a *genuinely held belief* that life is threatened;
- This belief cannot, generally, be ordered ... or un-ordered;
- Pre-emptive self-defence is reasonable.

Challenges

- Training the concept of self defence;
- “Better value” guards more used to less sophisticated applications of the use of force;
- Master’s authority ... does he have it?
- Proportionality;
- Jurisdiction;
- Nature of cargo & added risks.



Practicalities

- Are the weapons legal?
- Are the guards properly trained to use those weapons?
- Are the weapons functional as intended?
- Do the guards (or Master) fully understand the rules governing the use of force?
- If lethal force is used, what jurisdiction conducts any follow up?

Training of PMSCs

- MSOs/PCASPs must be regularly trained in firearms use, including live firing;
- MSOs/PCASPs must be familiar with the firearms that they will use;
- **Demand to see: Maritime Firearms Competence Certificate (for each MSO);**
- **Demand to watch: each MSO conduct weapon handling drills (no ammo).**



Weapon Functionality

- Weapons should be serviced regularly (annually = NATO standard) by a trained armourer to ensure functionality;
- Servicing should be certificated;
- **Demand to see: servicing certificate (<12 months old); armourers' credentials;**
- **Demand to witness: weapon test firing of all weapons (1 or 2 rounds per weapon)**

Use of Force

- TL and MSOs should understand the circumstances under which they might use lethal force;
- PMSC should have written *Rules for the Use of Force* (RuF), which should be shared with Master;
- **Insist upon: asking TL/team questions on their RuF and their application; Master should talk through scenarios.**



Rules for the Use of Force
(RUF)

Version 1.0

April 2013

Professionalism

- Does Master have confidence in team?
- Do they have right equipment (e.g. binos, night vision, trauma packs)?
- Manning of watches – alertness?
All round observation?
Changeovers? “Aircon warriors”?
- MV *KSL Sydney* incident (Oct 18).

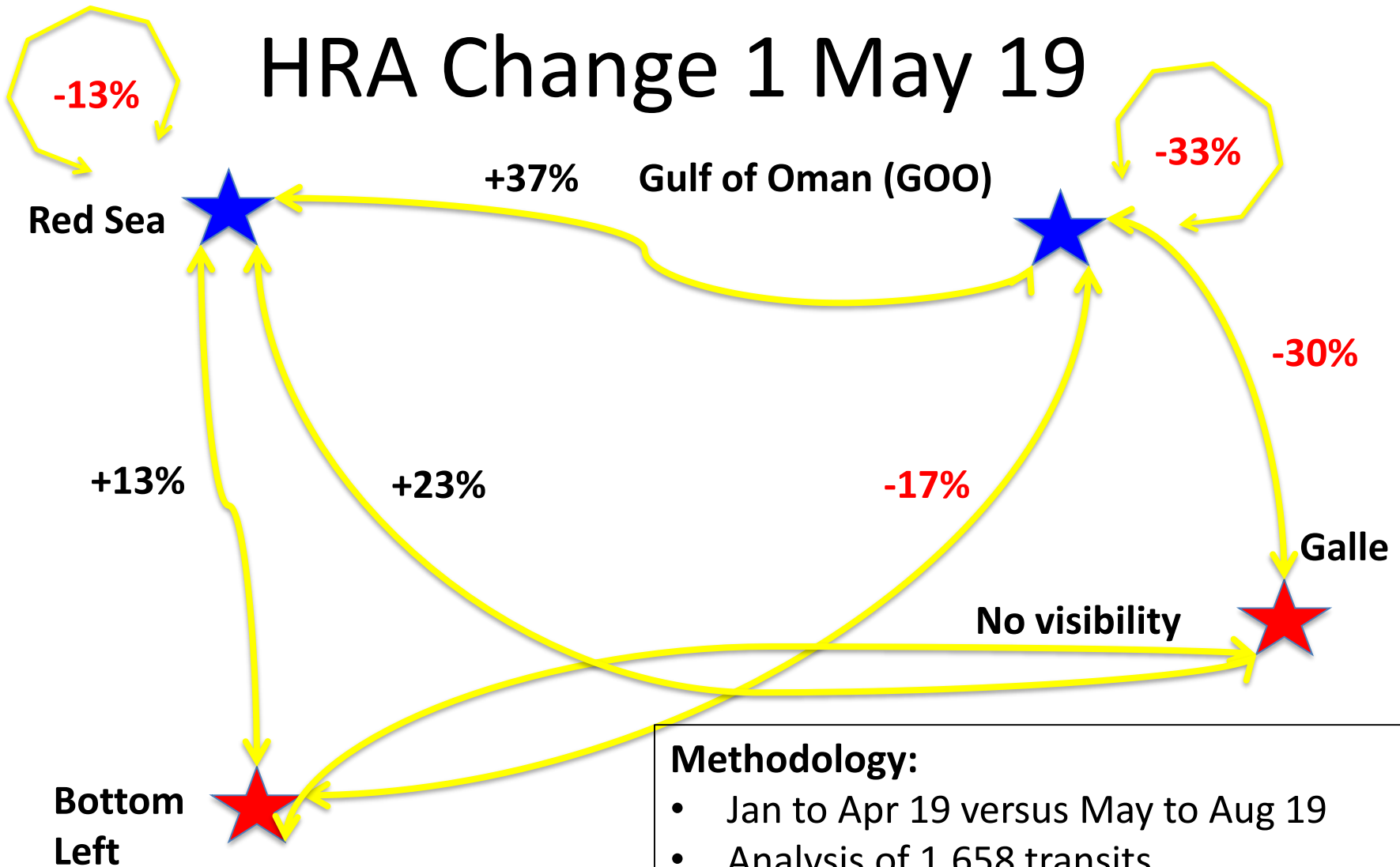


KSL Sydney Oct 18

- Pirate skiff approached from rear;
- Not sighted until 5m from hull and grapple on deck;
- Team reacted quickly enough to “deter” boarding and eliminate threat ... but lucky;
- Key points:
 - pirates approach from rear at closing speed of 12 knots ... 5 mins to cover 1nm; will not appear on radar until last minute, if at all.
 - Pirates still very much operating ... end of monsoon is key period



HRA Change 1 May 19



Methodology:

- Jan to Apr 19 versus May to Aug 19
- Analysis of 1,658 transits
- 15 Aug 19 as cut off date
- Average monthly transits on each route for each period compared

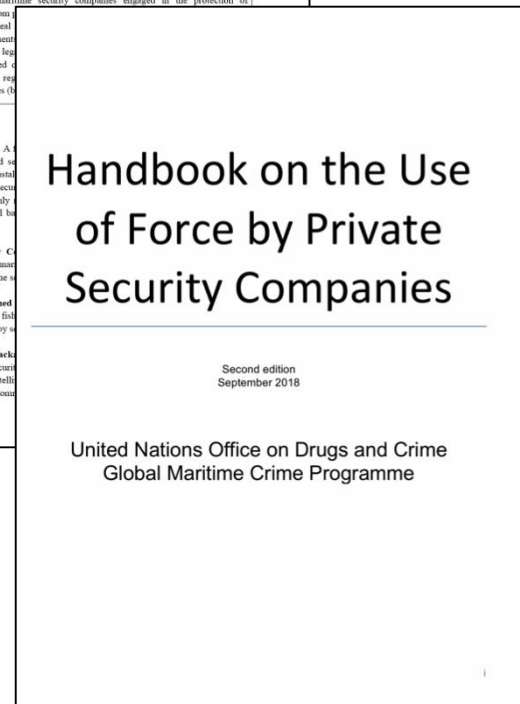
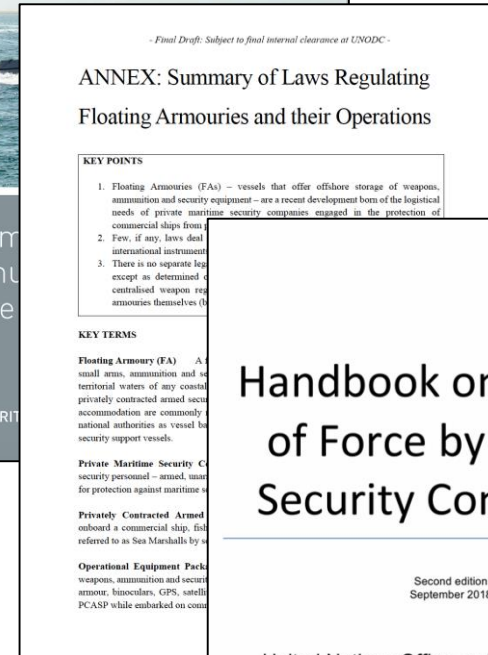
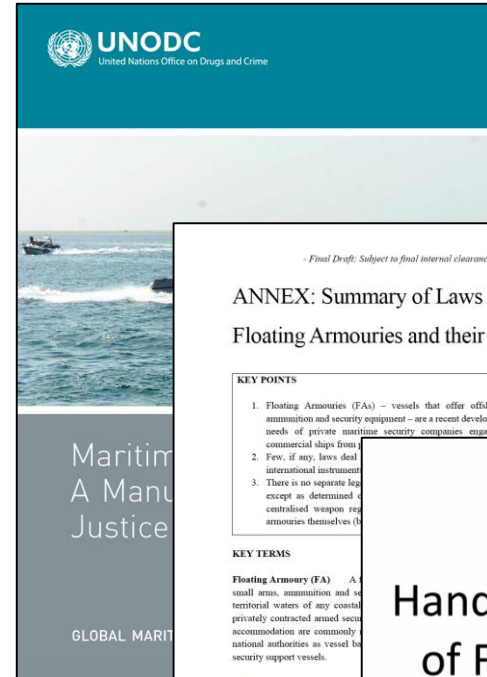
PMSC Observations

- Many PMSCs operating at loss;
- Most VBAs/FAs operating at loss;
- Many MSOs paid less than ITF seafarer minimum wage;
- One generally gets what one pays for ... \$10,000 is the minimum cost to provide a legal, trained, capable, professional, properly paid team, legally embarked with legal, serviced, effective weapons under proper, professional management control with proper (not forged/bribed) ISO certificate – if you are being bid less, ask why!



UNODC GMCP Guides

- *Maritime Crime: A Manual for Criminal Justice Practitioners;*
- *Summary of Laws Regulating Floating Armouries and their Operations;*
- *Handbook on the Use of Force by Private Security Companies.*



Summary

- Shipping companies must exercise DD;
- Masters must conduct further checks;
- If your security guards' salary is less than your children's pocket money ... they are likely to be equally ill-equipped to provide for your security;
- If your chosen PMSC does not own their weapons and have correct authorisations, *you*, the ship-owner, are an unwitting illegal arms trafficker;
- There remains a very real piracy threat ... armed security is a consistently proven defence.