

## Flags must act on arms

The role of the flag state is a vital element in the armed guards debate.

**Matthew Attard** of Ganado & Associates assesses its responsibilities

An increase in pirate attacks has made ship operators more conscious than ever of the need to tackle and reduce such incidents.

Our shipping department is being faced with relentless requests from ship operators determined to have armed guards onboard and demanding assistance in order to obtain the necessary authorisations from the Malta flag administration.

The local shipping community

is well aware that the flag administration is preoccupied with this matter and is working relentlessly towards reaching a formal position. Permitting armed guards onboard vessels is seen by many as sensible, however flag state administrations are demonstrating some hesitance in reaching this conclusion just as yet. Who can blame them?

For if something were to go wrong, for whatever reason, it is the administration that

ultimately bears the burden of having to patch things up as the same ship operators will inevitably refer to them and expect a quick solution.

Flag administrations must tackle and solve many challenges. The most worrying issue relates to liability that ensues in the event of an uncontrolled escalation of violence resulting in the death of innocent persons.

If the administration authorises the use of armed

guards, the international community would want to feel reassured that a proper assessment was carried out on those entrusted to protect the vessel. Asking security agencies to provide some form of accreditation may be useful, however it is not fully satisfactory because there currently is no internationally recognised body regulating such activity.

There are also local legislative logistics to overcome, for instance the current laws of Malta require any person carrying a firearm to possess a licence, which must be sanctioned by the Commissioner of Police. It is envisaged that the majority of ship operators flying the Maltese flag will not

necessarily engage the services of armed guards carrying such firearms licences.

Another potential problem is the repercussion of having armed vessels enter the territorial seas or internal waters of states where the policies or laws are against vessels carrying arms on board. No ship operator wishes to find himself in a situation where he may incur penalties or even possible detentions because he is in breach of the law where the vessel happens to be.

The list of issues that emerge is quite substantial and requires analysis by the Malta flag administration – and any other flag administration being faced with the same dilemma.



## No ship operator wishes to find himself in a situation where he is in breach of any law when entering a foreign port

**It is time for flag states to take decisions on the issue of armed guards, says ship registration lawyer Matthew Attard**

[ Photo: Ganado & Associates ]

Having said this, I find it very hard to find any plausible justifications for any administration to take the stance of not permitting armed guards on board vessels.

Many operators feel so strongly about this that they are prepared to go as far as re-flagging to other more accom-

modating jurisdictions because they are not being served in a timely manner.

It is therefore in the interests of the shipping community to see that the more serious flags take decisions on this issue. It is only by acceding to reasonable requests in a reasonable time that flag administrations will

keep the operator satisfied and loyal towards the flag.

On the other hand, ship operators need to appreciate the difficulties these flag states are facing and understand that the current analysis being undertaken is also being conducted in order to safeguard their interests. **F**