

Business Line

Rogue vessels in Indian waters

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Security should be a joint affair. — N. Rajesh

Private security providers must collaborate with the navies of coastal states such as India and Lanka. International cooperation to tackle piracy has become a crucial issue.

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The detention of Seaman Guard MV Ohio, a 390-tonne fishery patrol vessel, at Tuticorin port, has thrown up challenges of anti-piracy and maritime security.

The 25 guards and 10 crew members have been remanded to judicial custody, currently detained in Palayamkottai Central Prison in Tirunelveli. The vessel itself is registered in Sierra Leone. The matter is now under investigation.

On October 12, the Indian Coast Guard vessel ICGS Naiki Devi intercepted the vessel and ordered it to proceed to Tuticorin Port. Tamil Nadu police has filed an FIR based on India's Arms Act 1956, Essential Commodities Act 1955 and Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices), Order 2005, against the crew and guards of the ship. The arms found include semi-automatic rifles and a large quantity of ammunition. One of the charges is that the vessel purchased 1,500 litres of subsidised diesel illegally from fishermen. Indian coastal police had earlier been tipped off by fishermen who reported that the ship was carrying armed guards.

Fees favoured to ransom

The MV Ohio is owned and operated by AdvanFort, a private US firm specialising in providing anti-piracy security support to commercial vessels, especially in the piracy-afflicted waters of the Indian Ocean. AdvanFort provides armed guard services to defend cargo ships in piracy high-risk areas.

The vessel is equipped with a wide array of directive and omnidirectional radio-communications sensors, including very high frequency ones, and satellite communications antennae, maritime radars and satellite navigation systems.

Mystery surrounds the role of US-based Arab billionaire Samir Farajallah who owns AdvanFort. Farajallah reportedly has contacts with the Pentagon and has acted as facilitator for US companies in Iraq, Libya and Afghanistan through enterprise conferences. Farajallah founded AdvanFort in Virginia in 2009 with regional offices in London, Dubai and Manila, providing maritime security, intelligence operations, and armed security personnel for a hefty price.

The incident has raised issues of international cooperation to tackle piracy in the region. It is in the interest of all parties, whether governmental or private security providers to work out sound and effective coordination arrangements for sharing information and mission details. There are questions over the unregulated and growing anti-piracy industry.

Plagued by piracy in the Indian Ocean, shippers are more than willing to shell out up to \$90,000 as escort fees instead of paying millions of dollars in ransom. More than 320 private maritime security companies have mushroomed the world over attracted by this lucrative business. The vessel had even berthed at Kochi Port August 23-26, 2013. It had previously been boarded and inspected by the Indian Coast Guard ICGS Vaibhav at Tuticorin port on

September 9 and had been certified as being in conformity with Indian laws. Its presence in the area was therefore well known to the Indian Coast Guard.

The MV Ohio had been on patrol some 50-60 nautical miles south of Kanyakumari astride busy shipping routes. Around October 12, it was stationed approximately 15 nautical miles off the Indian coast line clearly beyond the territorial limit. (The issue of measuring the distance from the tiny Kasuwari island or sand bar four miles off the coast is to be settled in the light of the Law of the Sea Convention).

Is entry unauthorised?

The vessel started moving towards Tuticorin presumably on instructions from the Coast Guard, after which it was intercepted and the ensuing drama followed.

If indeed the Coast Guard had asked the vessel to proceed to Tuticorin, then there is no question of unauthorised entry into Indian waters. The ship's VDR (Voyage Data Recorder) would throw more light on the sequence of events.

As per the Law of the Sea Convention which India has ratified, Indian law applies only within its territorial waters up to 12 miles. Beyond this, for 12 -24 miles, is the contiguous zone where India is entitled to pursue vessels which violate anti-smuggling or pollution laws inside the territorial waters and attempt to flee.

After that, up to 200 miles is the exclusive economic zone where India has rights over the living and non-living resources. Even beyond, up to the natural limit of the continental shelf (to be determined by the UN Commission on this matter), India has rights to the resources of the sea bed. However, freedom of navigation for any vessel is to be provided beyond the 12-mile limit.

Therefore, the MV Ohio was entitled to this freedom of navigation up to the 12-mile limit. These fundamental facts should be clearly understood by all stakeholders involved in matters of the sea, including coastal and state authorities.

One hopes this controversy will be resolved in an amicable spirit, reflecting the common desire of India and other countries to strengthen action against piracy which has become a real menace in the region.

Private security providers must coordinate and collaborate better with the Coast Guards and navies of coastal states such as India and Sri Lanka. India, as the leading naval power in the area, should take the initiative in coordinating maritime security.

(The author is a former Ambassador of India.)

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