

Anti-Piracy Manual Shipmaster

Peter van der Kruit, LLM



The Netherlands Shipmasters' Association

(March 2025)

Anti-Piracy Manual for the Shipmaster of a ship flying the flag of the Netherlands

A practical, legal reference work for the Shipmaster to help protect his ship and those on board against pirates in the Gulf of Aden and along a section of the coast of East Africa, in the official Risk Area.



This Manual is an initiative and publication of the Netherlands Shipmasters' Association (*Nederlandse Vereniging van Kapiteins ter Koopvaardij*, NVKK) and has been produced in cooperation with the Ministry of Justice and Security, the Ministry of Infrastructure and Water Management, and the Human Environment and Transport Inspectorate.

Anti-Piracy Manual Shipmaster

by

**P(Peter) J.J. van der Kruit
(PhD, LLM, MPA)**

For a more detailed discussion about maritime legal subjects see the '*Legal Handbook Shipmaster*', also published by the NVKK

Author	P.J.J. van der Kruit (LLM) in collaboration with Alex van Binsbergen and Henri A. L'Honoré Naber of the Anti-Piracy Committee of the NVKK
Cover	Henri A. L'Honoré Naber
© 2025	NVKK Publication
Edition	2 nd updated digital edition
Amsterdam (NL)	March 2025

This Manual and the *Legal Handbook Shipmaster* are available free of charge on the NVKK website: www.nvkk.nl. Also in the Dutch language.

Disclaimers

Where applicable, words used in this Manual in the masculine gender shall include all people. This Manual may be downloaded free of charge and stored in an automated database or be made public, in any form or by any means, whether electronically, mechanically, by means of photocopying, recording or otherwise, without prior written permission from the publisher. This Manual may be used for personal use or for educational purposes, but not for purely commercial purposes, such as selling or lending against payment. The content of this document may not be edited, supplemented or changed. The copyright owners have tried to trace any possible copyright claims. If any individuals believe they have such claims, they may contact us. This Manual does not establish any relationship between client and legal adviser. This Manual has been produced with the greatest possible care; the copyright owners do not accept any liability for any information included which is nevertheless incomplete or incorrect. Although this Manual has been produced with the greatest possible care, no rights may be derived from it. Under no circumstances will the information in this Manual replace the information as it has been laid down in legislation or otherwise. The copyright owners reserve the right to make changes and corrections to this Manual - without prior notification - at any time. They are not responsible or liable for any inaccuracies or omissions. Neither are they responsible or liable for any direct, exceptional, indirect, additional or consequential damage or any damage - of whatever nature and due to whatever cause - as a result of the use of information obtained - directly or indirectly - via the NVKK website or this Manual.

Preface President NVKK



The shipmaster and crew can be exposed to serious danger while sailing in an area with a high risk of piracy. The safety of ship, persons on board and cargo is always the main focus and responsibility of the shipmaster.

Since February 1st, 2022, it is possible for ships sailing under the Dutch flag to get protection from private maritime security personnel if a VPD of the Royal Netherlands Navy is unable to board the ship.

This practical Manual, with a large number of uniquely numbered checklists, is intended for masters of ships sailing under the Dutch flag, who may encounter piracy during their voyage. When armed private maritime security personnel are on board, it is very important for the shipmaster to be well prepared.

The shipmaster is guided in his/her tasks by this manual from the preparation of the voyage to the final mandatory travel reports.

The core of this manual is formed by a number of uniquely numbered checklists to make sure the shipmaster can check all relevant items. Furthermore, a number of important subjects are discussed, such as the use of force, notifications and reports, fines, etc.

This manual is primarily for the shipmaster, but it is also recommended to all other seafarers and interested parties, such as ship managers, trade unions, educational institutions and the government.

This Manual only applies to the Gulf of Aden and along a section of the coast of East Africa.

This digital publication will be updated frequently and can be downloaded free of charge from the website <https://www.nvkk.nl/>

NVKK trusts that this publication too will meet the existing need.

Leen van den Ende
President of the Netherlands Shipmasters' Association (NVKK)
Amsterdam March 1st 2025

Contents

Preface President NVKK.....	3
Contents.....	4
Author's Foreword.....	8
Maritime crimes/acts of war	8
Area.....	8
Problem.....	9
Piracy.....	9
Terrorism.....	10
Hostage-taking.....	10
Act of war.....	10
Recommendations for the shipmaster	11
Voyage planning.....	11
Routing.....	12
Military.....	12
Reporting.....	13
At the end	13
1. Outline.....	14
1.1. Introduction	14
1.2. Process	15
1.3. Shipmaster	17
1.4. Structure	19
2. Legislation and definitions	20
2.1. Introduction	20
2.2. Legislation	20

2.3.	Definitions and terminology	21
3.	Important rules for the shipmaster	25
3.1.	Introduction	25
	Article 6. Merchant Shipping Protection Act	27
	Explanation	27
3.2.	Protective measures	29
	Article 2.4.1.a. Decree (Information obligation in terms of protective measures)...	29
	Explanation	29
	Article 3 Regulations (Protective measures).....	29
	Explanation	30
3.3.	Duty to verify information from the ship manager	32
	Article 2.4. Decree (Information obligation; shipmaster's responsibility).....	32
	Explanation	33
3.4.	Additional responsibilities of the shipmaster	34
	Article 3.3. Decree (Responsibility of the master).....	34
	Explanation	35
	Article 5.9.1.b. Decree (Requirements for the security team).....	35
	Explanation	36
Section 8.	Merchant Shipping Protection Act	37
	Explanation	37
	Article 3.2 Decree (Weapons or ammunition safe)	37
	Explanation	37
	Article 3.3. Decree (Responsibility of the shipmaster)	38
	Article 4. Regulations (Weapons safe and transport cases with weapons)	38
	Explanation	39

Section 9.7.	Merchant Shipping Protection Act.....	40
	Explanation	40
	Article 3.4. Decree (Further instructions for the use of force)	41
	Explanation	41
	Article 17. Regulations (Team leader)	41
	Explanation	42
Section 10.3.	Merchant Shipping Protection Act.....	43
	Explanation	43
Section 11.4.	Merchant Shipping Protection Act.....	44
	Explanation	44
	Article 23. Regulations (Retention period)	44
	Explanation	44
Section 12.	Merchant Shipping Protection Act.....	46
	Explanation	46
	Article 6. Regulations (Embarkation, report/notification about use of force)	47
	Explanation	48
Section 17.	Merchant Shipping Protection Act	49
	Explanation	49
	Article 20. Regulations (Administrative fine imposed on the shipmaster)	50
	Explanation	50
4.	Checklists.....	52
4.1.	Introduction	52
A.	Checklist preparing the voyage.....	54
B.	Checklist Outside the official risk area (RA).....	57
C.	Checklist inside the official risk area (RA)	60

D. Checklist consultation shipmaster/teamleader about use of force63

E. Checklist notification about the use of force.....65

F. Checklist reporting after the voyage 70

5. Explanatory notes 74

5.1. Introduction 74

5.2. Gathering information 74

5.3. Use of force..... 75

5.4. Notifications and reports 75

 National..... 76

 International 78

5.5. Overview of fines imposed on the shipmaster 79

 Protective measures80

 No permission for private security personnel80

 End-of-voyage report.....80

 Notification about the use of force81

 Schedule of fines81

Annex 1. Recommended literature and websites82

This Manual only applies to piracy in the Southern Red Sea, the Gulf of Aden and along a section of the coast of East Africa, in the official Risk Area.

Author's Foreword

This Manual applies only and specifically to piracy in the southern Red Sea, the Gulf of Aden and along part of the coast of East Africa, so in the official and legal risk area. See figure 1 for the actual risk area for piracy. However, many more maritime crimes and even acts of war occur in that region. Here too, the shipmaster has a great responsibility for his ship and crew. These other maritime crimes and acts of war are briefly described in this foreword, including the area where they are contended. Then both areas are compared with each other and some recommendations will be made for the shipmaster to address the other maritime crimes and acts of war.

The Manual deals only with piracy, while this foreword deals with other maritime crimes and acts of war in the extended Red Sea area.

Maritime crimes/acts of war

Area

There are two different risk areas around the southern part of the Red Sea.

One area is specifically and only the area within which piracy can officially be countered with armed private maritime security personnel. The other risk area is the area where other maritime crimes and acts of war occur. The pirate risk area is depicted in Chapter 1, Figure 1. In this area, armed private maritime security is permitted to defend the ship against pirates. The dangerous passage area where other maritime crimes/acts of war are committed is the area where operations like EUNAVFOR ATALANTA or MSCIO is taking place:

- Gulf of Aden with adjacent coastal states, including Muscat;
- Somalia Basin
- Red Sea
- Gulf of Suez
- Gulf of Aqaba

See for more details about the operation areas for various actors: Annex 1 to this Manual.

Problem

If you sail through a dangerous or risk area on a Dutch-flagged ship, a ship owned by a Dutch shipowner or a ship with another clear connection to the Netherlands, the shipmaster runs the risk that his ship will be attacked, both by air and by water. If there is no friendly warship nearby, the shipmaster is on his own. He cannot defend himself against drones and missiles, because he does not have air warning radar on board and does not have adequate weapons to shoot rebels' offensive weapons out of the sky. Armed private maritime security is not very useful against missiles and fast drones.

According to Dutch law, armed private maritime security may only be deployed against piracy, and then only in the risk area as described in the Decree on the Protection of Merchant Shipping (see figure 1). This is not the same area as the dangerous/risk area around the Red Sea where other maritime crimes and acts of war take place. There is an overlap. See for more details Annex 1 to this Manual.

However, the shipmaster may always defend his ship and crew if he is attacked. This is based on self-defence or self-defence excess. Any firearms must then be officially and legally on board, otherwise the shipmaster may be sanctioned for illegal possession of weapons.

Below, to illustrate for the shipmaster, some similarities and differences between possible attacks on his ship are described. But the most important message is that the shipmaster always has the right to defend his ship and crew. This can also include choosing a different course, not calling at a port or not sailing through the dangerous area, if necessary, against the shipowner's orders. The shipmaster has a right of veto, because he has the ultimate responsibility on board for safety.

Piracy

The current Manual only and specifically concerns piracy. This maritime crime has four characteristics:

- On the high seas;
- Unlawful act of violence, plunder or capture;
- Two ships or aircraft;
- Personal gain (money).

Within the territorial waters of a coastal state, piracy does not exist legally, there it is called an 'armed robbery' and here the coastal state has the right to act. Within the territorial waters of a coastal state, the shipmaster must also comply with the laws of this coastal state, such as local criminal law and firearms laws. This is in addition to the laws of its own flag state. Piracy is subject to criminal law.

Terrorism

There is no clear and general definition for terrorism, and therefore also for maritime terrorism. It is usually described as:

- Use of force against ships and seafarers with a terrorist objective. This is seriously instilling fear in the population or part of the population of a country or unlawfully forcing a government or international organisation to do, not do or tolerate something, or seriously disrupting or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.
- The motivation for terrorism is often political or religious, in piracy the motivation is personal gain, such as money.
- Maritime terrorism does not have to be carried out specifically with two ships as in piracy. Shooting a merchant ship with missiles and drones can fall under terrorism.
- Maritime terrorism takes place within all maritime zones and in the air above them.
- Maritime terrorism falls under criminal law.

Hostage-taking

- Hostage-taking (kidnapping) is the unlawful deprivation of someone of their liberty with the intention of forcing another person to do or not to do something;
- Seafarers are often used as hostages to meet certain demands, such as ransom;
- Hostage-taking takes place in all maritime zones and in the air above them;
- Hostage-taking is subject to criminal law.

Act of war

Acts of war are about actions in the context of an armed conflict (war). The Houthi rebels link their actions to the armed international conflict (war) between Israel and Hamas in the Gaza

Strip. Several countries, such as the US and the UK, attack bases in Yemen, from which rockets and drones are launched. The Netherlands supports this and participates in it. Iran has a warship in the Red Sea to support the Houthi rebels. Although no country is looking for an escalation to a large-scale international armed conflict (war), the current situation could mean that an armed international conflict will arise in the dangerous/risk area, in which Dutch merchant naval ships could also become involved. In that case, one could perhaps speak of acts of war that fall under the international humanitarian law or even under the law of naval war.

Recommendations for the shipmaster

Use the present Manual for protection against piracy in the official risk area.

In addition to piracy, the shipmaster must also consider all kinds of other maritime crimes and even acts of war. The Manual you have in front of you only and specifically concerns the protection of the ship and seafarers against piracy in a demarcated risk area. This is a different area than where the maritime crimes/acts of war, including protection against them, take place. Below are a few more recommendations that the shipmaster can follow in the event of other maritime incidents/acts of war. Consultation between the shipowner and the shipmaster is extremely important in this case.

The Manual deals with piracy, while this foreword specifically deals with other maritime crimes and acts of war.

Voyage planning

During voyage planning, the shipowner and shipmaster decide whether to sail through the Red Sea. Currently (March 2025), NL-ships are advised by the Netherlands' Government not to sail through the Red Sea, but to sail around the Cape of Good Hope. If the facts and circumstances may change according to the Netherlands' Government, the shipowner and shipmaster can adjust their decision. The shipmaster ultimately decides whether not to sail through the Red Sea due to the danger to the safety of the ship and passengers.

The shipmaster can take the following points into consideration:

- Provide a specific threat analysis and a risk assessment;

- Ensure that the most recent information and advice, including that of the Company Security Officer (CSO), are fully available on board;
- Consider the active duty of the shipmaster to ask questions and to investigate;
- Use all information, such as the following websites:
 - kustwacht.nl;
 - maritimeglobalsecurity.org;
 - ukmto.org;
 - eunavfor.eu;
 - mscio.eu;
 - imo.org/en/MediaCentre/HotTopics/Pages/Red-Sea.aspx;
- Consult with the shipowner about VPD or armed private maritime security;
- Make policy about switching on or off AIS, SSAS or other sensors;
- Do not leave port until everything is in order.

Routing

- Decide on the use of the Maritime Security Transit Corridor (MSTC) and local traffic separation schemes;
- Ensure a permanent assessment of the general and specific risks that the ship runs in terms of attacks, but also in terms of navigation and collisions.

Military

- The navies of the US and the UK, as well as the Dutch government, consider the threat of Houthi rebels in the south of the Red Sea, that is between 12°N and 16°N, to be very high. Especially for ships with ties to Israel.
- Vessels wishing to wait to assess the danger/risk area before proceeding are advised to wait in the Red Sea north of 18°N, or in the Gulf of Aden east of 048°E.
- If the vessel is approached on VHF by the Yemeni Navy to alter course to Al Hudayah or another location on the northwest coast of Yemen, the actions to be taken are:
 - Ignore the VHF-call and maintain own sailing plan if it is still safe to do so.
 - Call a coalition warship on VHF-channel 16 to report position, course, speed and intentions, and/or to request advice.

- Report the incident to UKMTO and the US Navy.

Reporting

- Dutch flagged vessels or vessels with other ties to the Netherlands are advised to report any passage through the danger area to:
 - United Kingdom Marine Trade Operations (UKMTO) via www.ukmto.org;
 - Maritime Security Centre Indian Ocean (MSCIO) via www.msicio.eu;
 - U.S. Navy Naval Forces Central Command (NAVCENT), Naval Cooperation and Guidance for Shipping (NCAGS) via m-ba-navcent-ncags@us.navy.mil or via +973-1785-0033;
 - Coastguard Netherlands via mik-nl@kustwacht.nl or security@kustwacht.nl;
- Report any suspicious situation to: UKMTO, via watchkeepers@ukmto.org or via +44 2392 222060 or to MSCIO.
- If attacked, immediately contact: US Naval Forces maritime operations centre in Bahrain, via +973 1785 3879.
- Report any use of force to the Public Prosecution Service (OM) in the Netherlands.
- Report any use of force also to the ship manager/CSO.

At the end

The shipmaster must continuously check the above-mentioned information whether the internet addresses are still correct. It is important that the shipmaster always receives the correct and accurate information in a timely manner, before deciding whether to sail through the dangerous/risk area. In addition to the information from the shipping company, the shipmaster must also be permanently provided with the latest and most up-to-date information by the NL Ministry of Defence in the context of the national cooperation between the merchant navy and Ministry of Defence/Royal NL Navy. This is usually done via the Dutch Coastguard to the CSOs of the shipping companies. The shipmaster can also ask the Dutch Coastguard directly for the latest information (security@kustwacht.nl).

This Manual deals with piracy, while this foreword specifically deals with other maritime crimes and acts of war in the Red Sea area.

1. Outline

1.1. Introduction

The purpose of this Manual is to provide more insight and information to the shipmaster when Privately Contracted Armed Security Personnel (PCASP) come on board; this is due to legislation in this area.

As the NL legislation only concerns piracy in the Southern Red Sea, the Gulf of Aden and East Africa, this Manual applies only to this official Risk Area and not to other areas with a piracy risk, such as the Gulf of Guinea or areas where maritime crimes and acts of war take place.



Figure 1. Official Risk Area for piracy (RA)

(Source: NL Merchant Shipping Protection Decree)

In short, only in the before mentioned official Risk Area (RA) ships may sail under the Dutch flag making use of Privately Contracted Armed Security Personnel (PCASP). Under this legislation the shipmaster gets new responsibilities and obligations, which can also be enforced and, where necessary, penalised with sanctions or measures.

The shipmaster can navigate this Manual via the Contents page or a search function. NVKK's Legal Handbook Shipmaster may be useful for the explanation of certain legal issues. Both the Handbook and this Manual can be downloaded free of charge from the NVKK website (www.nvkk.nl).

The NL legislation on Privately Contracted Armed Security Personnel (PCASP) has entered into force. If the correct permissions and permits have been granted, a shipmaster may sail in the Gulf of Aden and along a section of East Africa with Privately Contracted Armed Security Personnel (PCASP). See Figure 1 for the official Risk Area where Privately Contracted Armed Security Personnel (PCASP) are permitted.

The application process will be explained in detail below to provide the shipmaster with a better understanding. The diagrams (Figures 2 and 3) are intended for the shipmaster. It shows the shipmaster his own tasks and responsibilities, placed within a broader context.

The shipmaster is and remains the pivot on board the ship.

1.2. Process

1. The ship manager may submit a request for protection to the Coastguard.
2. The Coastguard will decide whether a VPD team (military) should be used or if armed private maritime security is an option. The principle is: "VPD, unless...".
3. If official permission is granted for private armed maritime security, the ship manager will engage a maritime security company with an official Dutch licence to perform armed maritime security activities.
4. The agreement (contract) between the ship manager and this maritime security company (licence holder) sets out details such as numbers, embarkation point, time, rates, duration, etc.

5. Protective measures such as those specified by law, BMP, etc. remain in force, even if Privately Contracted Armed Security Personnel (PCASP) are on board.
6. The ship manager passes on all the mandatory details and data, such as documents, names and weapon numbers to the shipmaster.
7. On the basis of this information, the shipmaster will check the private maritime security personnel and their firearms when they board the ship.
8. The shipmaster and the team leader of private maritime security personnel will ensure that they have the same information about names, arms, rules about the use of force, etc.
9. The shipmaster also needs to check the regulations and the required documents/licences of the coastal state where the ship is moored.
10. If there is something wrong with the papers, the private security personnel or the firearms, the shipmaster must refuse the security personnel or firearms permission to come on board.
11. The shipmaster must then postpone departure until everything is in order.
12. When the private maritime security personnel and their firearms are on board, the shipmaster is the person responsible.
13. The shipmaster stores and guards the firearms and ammunition and has the key to the arms and ammunition safes.
14. No more than two hours before arrival in the official Risk Area, the team leader gets the key to the arms and ammunition safes.
15. The security personnel may only use force against pirates after the shipmaster and the team leader have had a consultation about this unless there is no time or opportunity to do so.
16. The team leader - not the shipmaster - has the leadership and responsibilities of the use of force.
17. The shipmaster still has the leadership of and authority over the ship, including changes in course and speed or evading manoeuvres as well as protective measures, etc.
18. The team leader keeps the shipmaster informed about the use of force against pirates.
19. Immediately after the use of force, this is reported by the shipmaster to the Netherlands Public Prosecution Service.

20. After the voyage, the shipmaster and the team leader separately report to the Human Environment and Transport Inspectorate about the whole voyage, the so-called end-of-voyage report.

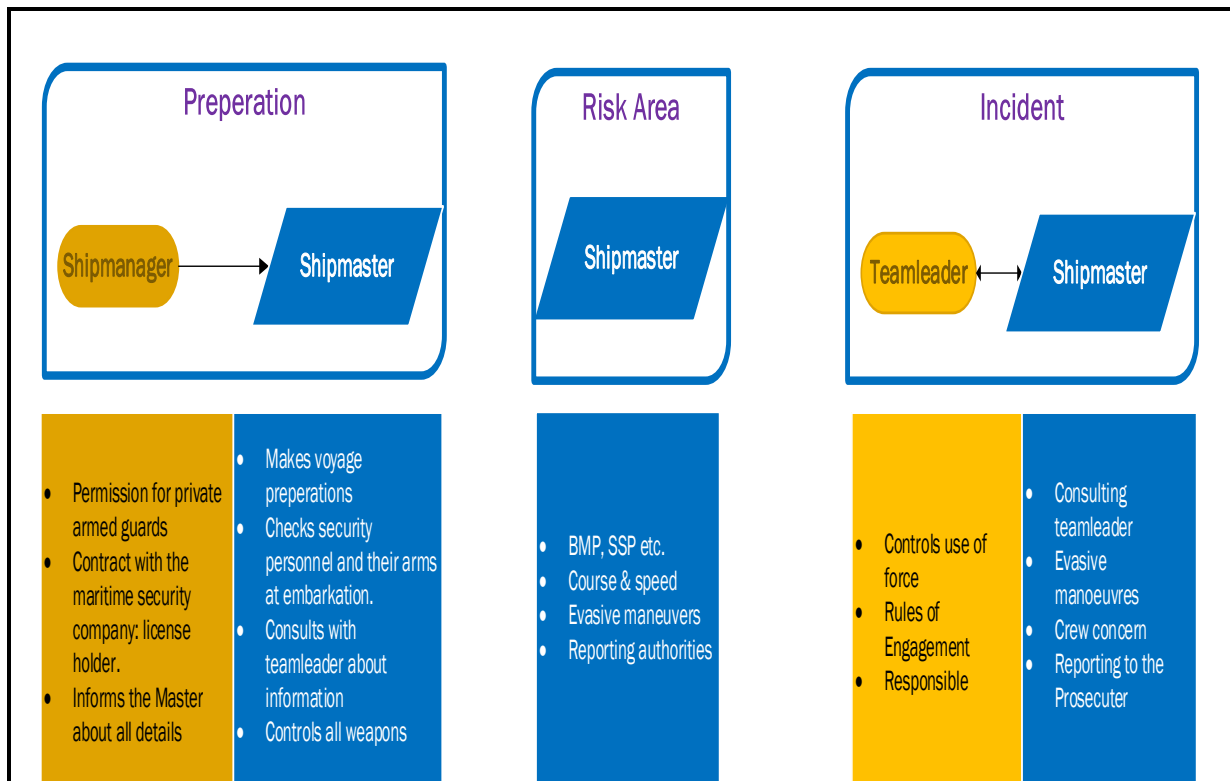


Figure 2. Overview of the private security personnel process

1.3. Shipmaster

- The shipmaster gets all the information required by law from the ship manager.
- The shipmaster also has an active request obligation.
- The shipmaster prepares the voyage properly, including all protective measures reasonably required.
- The shipmaster checks the team leader, security personnel and firearms against the data provided by the ship manager before embarkation.
- The shipmaster consults with the team leader before the start of the voyage. All information is compared.
- The shipmaster must postpone departure until everything is in order.
- The shipmaster is in control of the firearms and ammunition on board.

- No more than two hours before entering the official Risk Area, the shipmaster gives the keys to the arms and ammunition safes to the team leader.
- The shipmaster reports the ship’s movements in the official Risk Area to the appropriate authorities (see also page 78 of this Manual).
- The shipmaster consults with the team leader before the use of force.
- Immediately after the use of force, the shipmaster sends a notification to the Netherlands Public Prosecution Service, including video and sound recordings.
- On leaving the official risk area, the shipmaster is in control of the firearms in the ammunition safes again.
- On debarkation, all private security personnel disembark with their firearms.
- On debarkation, the shipmaster is responsible for the correct, local required documentation for the firearms, as the shipmaster may be importing firearms.
- The shipmaster sends a general report on the whole voyage to the Netherland’s Human Environment and Transport Inspectorate.

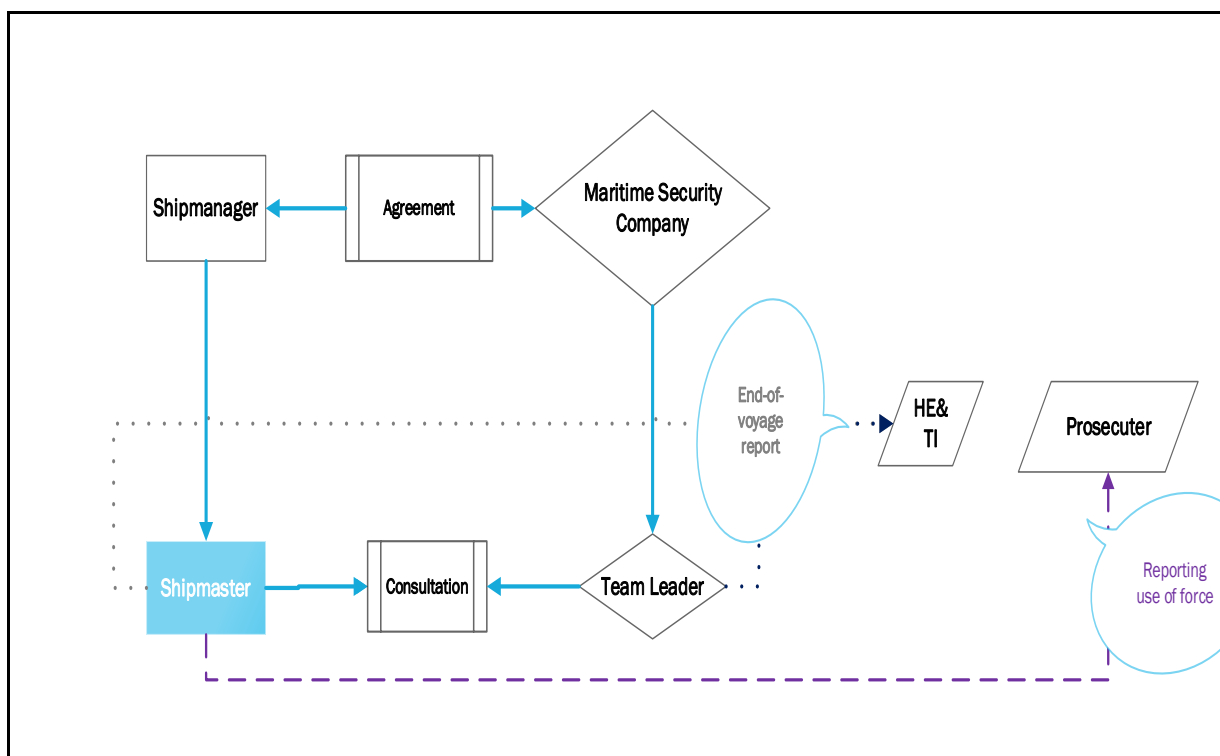


Figure 3. Overview of the Merchant Navy Protection Act

1.4. Structure

Chapter 1 is the introduction to this Manual.

Chapter 2 gives all the definitions and terminology.

Chapter 3 focuses on the statutory provisions important for the shipmaster. They are included verbatim, followed by a brief explanation. The term '**Master**' is in bold in these statutory provisions.

Chapter 4 is the key chapter of this Manual. It includes several uniquely numbered checklists which can be downloaded or printed individually, which makes it easy to use them on board.

These checklists can also be used as an annex to the mandatory reports.

Chapter 5 gives a brief explanation of a few complicated subjects.

2. Legislation and definitions

2.1. Introduction

This section briefly introduces the legislative system of the NL piracy legislation. It informs the shipmaster of the differences between the Act, the Decree and the Regulations. This is followed by a description of the definitions and terminology used in this legislation.

Legislation may change, so make sure you always have the most recent version. You can find this for the Netherlands on the website: wetten.overheid.nl.

This legislation only applies to ships sailing under the Dutch flag in the Gulf of Aden and along a section of the coast of East Africa. See Figure 1.

2.2. Legislation

As the legislation consists of several provisions, obligations and rules which together form a hierarchical structure, this chapter starts with a brief explanation of the Act, the Decree and the Regulations.

Merchant Shipping Protection Act (Wet ter Bescherming Koopvaardij, WtBK):

- Contains general mandatory provisions that apply to everyone.
- Describes the rules that apply to this subject in general terms.
- Has been adopted by the Senate and the House of Representatives after receiving advice from the Council of State.
- Changing the law takes years.

Merchant Shipping Protection Decree (Besluit bescherming koopvaardij, Bbk):

- This is also called an Order in Council (Algemene Maatregel van Bestuur, AMvB) or a Royal Decree (Koninklijk Besluit, KB).
- Gives a detailed elaboration of the Act.
- Has been adopted by the Government after receiving advice from the Council of State.

Merchant Shipping Protection Regulations (Regeling bescherming koopvaardij, Rbk):

- Has been derived from the Act and the Decree.
- Is the detailed, concrete interpretation of the Act and the Decree.

- Contains specific rules and details about specific subjects.
- Has been adopted by the Minister of Justice and Security.



Figure 4. Hierarchy of the Act, Decree and Regulations

2.3. Definitions and terminology

Below are some of the terms and definitions from the Act, the Decree and the Regulations. The Act has its own terms and definitions. The Decree and the Regulations use the definitions from this Act and add a few more. Several specific and relevant terms have been added by the author. In some definitions, the legal jargon has been converted into more understandable language.

Term	Definition
Attempt	Approach of the vessel by a boat with pirates.
Boarding	Pirates on board, the shipmaster still has control of the ship.
Excessive force in legitimate self-defence	Exceeding of the criteria and conditions of legitimate self-defence because of vehement emotions such as fear, anger or panic.
Force	Anymore-than-minor compulsive force exercised on persons/ property.
Hostage taking	Pirates have control of the ship and restrain persons on board.
Licence	Legal permission to engage armed private maritime security personnel to provide services.

Licence holder	Maritime security company that is the holder of a licence as provided for in the law.
Maritime security activities	Monitoring of the safety of persons and goods on board a ship by private maritime security personnel.
Maritime security company	An enterprise that, during the exercise of its profession or business, offers and performs security activities on board a ship and mainly uses the services of persons for this purpose.
Medical certificate	Medical certificate of fitness to perform maritime security activities.
Notification about the use of force	Mandatory notification by the shipmaster to the Public Prosecution Service that force has been used during an incident with pirates. The shipmaster can demonstrate in this notification that they have done everything possible to prevent the use of force and that the use of force was within the terms of the legislation.
Permission	Permission to hire armed private maritime security personnel.
Piracy	Any illegal act of violence or detention or depredation committed for private ends by the crew, or the passengers of a private ship directed against another ship outside the territorial sea of a state, or an attempt thereto (Article 101 UN Convention on the Law of the Sea)
Private maritime security personnel	Staff employed by a maritime security company or staff made available to the maritime security company based on a temporary employment agency contract.
Private maritime security staff member	Member of the security team who will be or has been deployed by the licence holder on board a ship.
Private security team	The armed private maritime security personnel, including the team leader, deployed or to be deployed on board a ship.

Protective measures	Planning and operational measures to be taken by the ship manager and shipmaster for protection against piracy.
Report	A report by the shipmaster after the voyage with armed private maritime security personnel (end-of-voyage report).
Risk Area	The official maritime area where pirates can be expected. The exact coordinates are given in the Decree. See also Figure 1 of this Manual.
Rules for the use of force	<p>Rules for the Use of Force (RUF) are rules for armed private maritime security personnel in which the use of force is defined, including:</p> <ul style="list-style-type: none"> • To which extent; • Under which conditions; • Who gives authority; • Under which circumstances; • In which manner; • When applicable.
Seafarer	A natural person working on board a ship in any capacity.
Security team	The armed private maritime security personnel, including the team leader, deployed or to be deployed on board a ship.
Self-defence / legitimate self-defence	<p>Legitimate self-defence is a legal concept. Self-defence as such is a more general term. Self-defence is defending yourself, other persons on board and the ship against pirates or the threat of pirates. Criteria and conditions for self-defence are:</p> <p>The use of force must be proportionate, so do not use more force than is necessary to fend off the attack.</p> <p>Immediate threat of danger, such as an aggressive approach by a vessel with visible pointed arms and a ladder.</p> <p>The ship has not been put at risk due to your own fault, which means preventative measures, as specified in the most recent version of the BMP etc, are also included.</p>
Ship manager	The ship manager as defined in Section 1 (1) (1) of the Seafarers Act (shipowner).

Storage place	Place ashore or on a ship used by the licence holder for the storage of firearms and ammunition. This is not the weapons safe on board.
Supervisory officials	Officials of the Human Environment and Transport Inspectorate, who are responsible for supervising compliance with the provisions from the Act, the Decree and the Regulations.
Team leader	The armed private maritime security officer who is designated by the maritime security company as supervisor for the other armed private maritime security personnel and who is operationally in charge of the armed private maritime security personnel during the transport.
Transport	Movement of a ship between two or more seaports.
Transport case	Storage place for the permitted weapons (firearms), to be sealed with a lock.
Use of force	The use of force and the threat of force, including the drawing of a firearm.
Weapons	The equipment and weapons designated under the Act for the use of force on board.
Weapons safe	Storage place on board, to be sealed with a lock, to be used for the transport cases with weapons (firearms).

Table 1. Tabel with concepts and explanations

3. Important rules for the shipmaster

3.1. Introduction

Legislation is the combination of the law and the corresponding decrees and regulations.

Below the most important provisions for the shipmaster are quoted verbatim (*in italics*) and explained briefly point by point. The most important provisions from the Act are given first, followed by the corresponding provisions from the Decree and the Regulations. A decree is ranked lower than the law, while regulations are ranked lower than a decree.

The most important subjects from this legislation are described from the point of view of the shipmaster of a ship sailing under the Dutch flag and for the official area with a risk (RA) in the Gulf of Aden and along a section of the coast of East Africa. See also Figure 1 of this Manual.

All statutory provisions in which the shipmaster is mentioned will be described. The term '**master**' is shown in bold in the legislation quoted verbatim.

The legislation uses the term '**master**', while the Manual uses the term '**shipmaster**'. Both mean the same person, also known as the captain of the vessel.
This manual uses the terms '**section**' and '**article**' of the legislation interchangeably.

Only that part of the article in which the '(ship)master' is mentioned will be quoted. The article is therefore not always quoted in full. This does not mean that the other provisions are not important for the shipmaster.

For reasons of clarity, only the most important articles and provisions are discussed in this Manual. For the full text, please refer to the current legislation. If you are interested, you can find the explanation (Explanatory Memorandum) of many of the subjects on the internet, usually on: overheid.nl.

Each section of the Act that is explained starts on a new page, followed by the details from the articles of the Decree and the Regulations. The sections and articles are in the same order as in the Act. See the order by subject in the table below.

Subject	Act	Decree	Regulations
Duty to verify, permission for armed private maritime security personnel	Section 6.2 Section 6.3	Art. 2.4	Art. 6.2
End-of-voyage report	Section 12.1 Section 12.2	Art. 5.13	Art. 6.3
Fines	Section 17.2.a Section 17.2.b Section 17.2.d Section 17.2.e		Art. 20
Handing over pirates	Section 10.3		
Management of firearms	Section 8	Art. 3.2 Art. 3.3	Art. 4
Notification about the use of force	Section 12.3		Art. 6.4
Protective measures	Section 6.1 Section 6.2	Art. 2.4.1. a	Art. 3
Responsibilities of the shipmaster	Section 6.4	Art. 2.4 Art. 3.3 Art. 5.9.1. b	
Shipowner's information obligation towards the shipmaster	Section 6.3	Art. 2.4	Art. 6
Use of force	Section 9.7	Art. 3.4.5	Art. 17
Video/sound recordings, privacy	Section 11.4		Art. 23

Table 2. List of relevant sections and articles from the NL legislation on piracy

Table 2 only mentions those articles that refer to the shipmaster.

The other articles provide more context and are obviously also important for the shipmaster.

Article 6. Merchant Shipping Protection Act

1. The **master** and the ship manager shall apply all the reasonably possible protective measures, designated by ministerial regulation (the Merchant Shipping Protection Regulations), prior to and during a transport on which private maritime security personnel are deployed.
2. Prior to the deployment of private maritime security personnel, the **master** and the team leader must ensure that the permission referred to in Section 3 (2) has been granted and that the rules laid down by or pursuant to this Act relating to the protective measures, the identity and nationality of the private maritime security personnel, the weapons, cameras and microphones have been complied with.
3. The ship manager and the licence holder shall provide the **master** or the team leader with correct and complete information in accordance with their duty to verify. Rules shall be laid down by or pursuant to an order in council regarding the information and the provision of the information.
4. Rules shall be laid down by or pursuant to an order in council (the Merchant Shipping Protection Decree) regarding the **master's** responsibility for the safety of the ship and the persons on board in connection with the maritime security activities and compliance with the rules referred to in subsection 2.

Explanation

- Section 6 (1) states that the shipmaster must take all reasonably possible protective measures on board. This is at the discretion of the shipmaster, who is the person responsible for these measures.
- If the ship manager submits the application for armed private maritime security personnel to the Coastguard, the ship manager will also state all reasonably possible protective measures. The shipmaster can get this checked.
- The ship manager must ensure that everything is on board for this purpose. The shipmaster can always ask the ship manager for more or specific protective measures if the shipmaster thinks this is necessary.

- Section 6 (2) states that the shipmaster must ensure that permission has been granted by the Minister to take Privately Contracted Armed Security Personnel (PCASP) on board. The ship manager must provide this information to the shipmaster. If this has not been done, the shipmaster must request this information from the ship manager.
- The shipmaster must also comply with all the rules about protective measures, data on private security personnel, cameras, microphones, firearms, etc. Otherwise, the shipmaster may be given a fine.
- Section 6 (3) states that the ship manager must provide the correct and complete information to the shipmaster, which the shipmaster needs to have in order to check private security personnel and their firearms when boarding the ship.
- This concerns, for example, the names of the security staff members and the numbers of the firearms, including the relevant documents. See below under Article 2.4 Decree.
- The team leader will get this information from their own company.

The shipmaster and the team leader must compare the information they have with each other and check it (verify it). If this information is incorrect, this must be resolved before the ship sails out to sea.

- The shipmaster must check all the data before the security personnel board the ship with their firearms. The shipmaster can take photos of the firearms, their numbers or other external characteristics as evidence for this.

The shipmaster can refuse the security personnel and their weapons permission to board if the data is incorrect. As soon as the private maritime security personnel are on board, the shipmaster is responsible for these people and their firearms.

- Section 6 (4) states that the Decree gives the shipmaster even more responsibilities. See hereafter under Article 2.4 Decree and Article 3 Regulations.
- It is of crucial importance that the shipmaster inspects the data, including any mandatory local documents if the armed security personnel embark in a foreign port.

Inadequate inspection by the shipmaster can result in the shipmaster receiving a high fine.

Hereafter, all details of section 6 Merchant Shipping Protection Act are explained once more for the captain, now including all subjects and details from the lower laws and regulations.

The most important subjects are:

- Protective measures;
- Duty to verify and share information;
- Additional responsibilities of the captain.

3.2. Protective measures

Hereafter the subject Protective Measures will be explained in full, using the relevant provisions of the Decree and Regulations.

Article 2.4.1.a. Decree (Information obligation in terms of protective measures)

Prior to the embarkation of the security team, the master and team leader shall receive the correct and complete information from the ship manager or the licence holder regarding the protective measures;

Explanation

- In the application for armed private maritime security, the ship manager must demonstrate that all reasonably possible measures will be taken. This means that not all measures are always compulsory. It depends on the type of ship, the number of crew, etc. See also the most recent BMP and other guidelines.
- The ship manager must inform the shipmaster about the protective measures to be taken. These are also included in the official 'permission' to sail with armed private maritime security personnel on board. The shipmaster therefore must have that permission on board and check it.

Article 3 Regulations (Protective measures)

1. The ship manager guarantees in any case the availability of the following protective measures, provided for in Section 6 (1) of the Act:

- a. binoculars for the team on the bridge;*
- b. floodlights;*
- c. concertina razor wire;*

- d. *materials that can be used to bolt doors and hatches that provide access to the bridge, the quarters of crew and passengers and the engine room, and*
- e. *materials that can be used to reinforce windows and portholes.*
2. *Prior to the passage through the official Risk Area, the **master** will in any case take the following protective measures, provided for in Section 6 (1) of the Act:*
 - a. *the designation of a safe muster point or safe room for the seafarers and passengers on board the ship;*
 - b. *fitting the concertina razor wire in places designated for that purpose;*
 - c. *fitting water or foam jets at possible access points on board;*
 - d. *preparing the crew by means of drills focusing on protection against piracy;*
 - e. *bolting doors and hatches that provide access to the bridge, the quarters of seafarers and passengers as well as the engine room;*
 - f. *the reinforcement of large windows and portholes that need such reinforcement, and*
 - g. *the protection of equipment and devices of the ship against use by third parties.*
3. *During the passage through the official Risk Area, the **master** will in any case take the following protective measures, provided for in Section 6 (1) of the Act:*
 - a. *the use of one or more lookout posts with trained crew;*
 - b. *the use of binoculars by the team on the bridge, and*
 - c. *having floodlights available for immediate use.*
4. *If, due to special circumstances, it is not possible to take one or more of the measures specified in paragraphs 1 to 3, the ship manager must report this, explaining the reasons, on the form specified in Article 2, stating any alternative measures that are being taken where possible.*

Explanation

- This article from the Regulations gives very detailed provisions about protective measures. The shipmaster must comply with them on board the ship whenever such is reasonably possible.

- Article 3 (1) Regulations addresses the ship manager regarding specific protective measures, but the shipmaster must ensure they are in place on board before departure to an area with a high piracy risk.
- The ship manager can state and justify in the permission application why certain protective measures cannot be taken. The shipmaster must be able to check this, as it is the shipmaster who is responsible on board.
- Article 3 (2) Regulations directly addresses the shipmaster. The shipmaster must take all the measures mentioned before entering the OFFICIAL RISK AREA. The Ship Security Plan (SSP) could also play a part in this.
- Article 3 (3) Regulations is also directly aimed at the shipmaster and concerns the passage through the OFFICIAL RISK AREA. The shipmaster must take specific measures at that point. Floodlights and deck lights may be used, but they can also attract pirates in the dark. It is up to the shipmaster, in consultation with the team leader, to decide this.
- Many of these measures must be organised together with the ship manager as part of the preparations for the voyage. However, the shipmaster is the person responsible on board the ship.

The ship manager provides all that is required for the protective measures, while the shipmaster applies them and is responsible for them on board.

- Article 3 (4) states that the ship manager must also specify any protective measures that cannot be taken, for example due to the type of ship, when submitting the application for private protection. The shipmaster must ensure, however, that this has all been properly arranged. The ship manager must inform the shipmaster about this.

The shipmaster is responsible for all protective measures on board.

If some protective measures cannot be taken on board, the ship manager must be able to give a proper justification for this in the application for sailing with private security personnel. But it is the shipmaster who is responsible on board.

3.3. Duty to verify information from the ship manager

Hereafter the subject verification of information by the shipmaster will be explained in full, using the relevant provisions of the Decree and Regulations. Sections 6.2 and 6.3 of the Act are about the shipmaster's "duty to verify" and state that the ship manager must provide the shipmaster with correct and complete information about private security personnel and their weapons. The shipmaster uses this information to check private security personnel and the weapons that come on board the ship. The shipmaster also discusses with the team leader whether both have the same appropriate and correct information (they verify each other).

Article 2.4. Decree (Information obligation; shipmaster's responsibility)

1. *Prior to the embarkation of the security team, the **master** and team leader shall receive the correct and complete information from the ship manager or the licence holder regarding:*
 - a. *the protective measures;*
 - b. *the size of the security team, the identification data and the nationality of the private maritime security staff members;*
 - c. *the number of firearms and brand, type and registration number of each weapon and the quantity of associated ammunition;*
 - d. *the weapons safe or safes,*
 - e. *the number of sets of handcuffs and the number of cameras and microphones.*
2. *Furthermore, they shall receive:*
 - a. *a copy of the mandatory national and local documents from the relevant coastal states allowing the firearms concerned to be taken on board in a legal manner;*
 - b. *a copy of the end user's certificates evidencing the legal ownership of the relevant firearms;*
 - c. *a copy of the permission, the licence and the ISO certificates referred to in Article 5.1, and*
 - d. *a copy of the agreement between the ship manager and the licence holder concerning the performance of maritime security activities.*

3. *If the information and documents referred to in paragraphs 1 and 2 are incomplete and incorrect, the **master** shall refuse to take the security personnel, firearms and ammunition on board.*
4. *The **master** shall postpone the departure of the ship or entry into the official Risk Area if the rules laid down by or pursuant to the Act have not been complied with.*
5. *Further rules may be laid down by ministerial regulation regarding the information and documents referred to in paragraphs 1 and 2, and the time at which these must be provided at the latest, as well as the recording thereof by the **master** and the team leader within the period specified.*

Explanation

- Section 6 of the Act states that the Decree includes rules about providing the correct and complete information by the ship manager to the shipmaster. They have been laid down in the above article.
- The shipmaster must have this information at the time when the security personnel go on board at the latest. The Regulations state that this is four hours prior to departure. See below.
- However, information about the protective measures should, of course, be on board sooner, as the shipmaster will otherwise not have time to build this up.
- The shipmaster will check private security personnel and their firearms when they board the ship.
- The information the shipmaster must get from the ship manager includes:
 - All protective measures;
 - Size of the security team;
 - Identity and nationality of the private maritime security staff members;
 - Number of firearms and brand, type and registration number of each weapon;
 - Quantity of associated ammunition;
 - Weapons safe or safes;
 - Number of sets of handcuffs;
 - Number of cameras and microphones;

- Copy of the mandatory national and local documents from the relevant coastal states allowing the firearms concerned to be taken on board in a legal manner;
- Copy of the end user's certificates evidencing the legal ownership of the relevant firearms;
- Copy of the permission, the licence and the ISO certificates referred to in Article 5.1;
- Copy of the agreement between the ship manager and the licence holder about the performance of maritime security activities.
- The maritime security company provides this information to the team leader of the security personnel.
- The shipmaster and the team leader must compare this information before, during or after embarkation. Any discrepancies or doubts about the data on the security personnel or their weapons must be resolved. If necessary, this is done with the help of the shipowner and the maritime security company.
- If specific data on security staff members or firearms is incorrect, the shipmaster must refuse to allow these people or weapons on board.
- If the above information and documents are incomplete or incorrect, the shipmaster must postpone the ship's departure; in any case, the shipmaster may not enter the official risk area.

3.4. Additional responsibilities of the shipmaster

Hereafter the subject additional responsibility of the shipmaster will be explained in full, using the relevant provisions of the Decree and Regulations. Section 6.4 of the Act states that the Decree gives the shipmaster additional responsibilities. This has already been partly described above and will be discussed in more detail below.

Article 3.3. Decree (Responsibility of the master)

1. *The **master** is responsible for the management and the safe storage of the firearms and the associated ammunition on board the ship and is in possession of the keys to the weapons safe or weapons safes.*

2. *Two hours prior to sailing into the official risk area at the latest, the management of the firearms and the associated ammunition shall be transferred to the team leader, including the keys to the weapons safe or weapons safes.*
3. *For safety reasons, firing exercises by private maritime security personnel may take place on board and around the ship only after the team leader has received consent from the **master**.*

Explanation

- The Decree contains additional responsibilities of the shipmaster for the security of the ship and the persons on board in connection with the maritime security activities, such as managing and guarding the firearms and ammunition on board.
- The security personnel bring their firearms on board in locked transport cases.
- These are stored in locked weapons or ammunition safes or in cabinets, storage places or cabins.
- Firearms and ammunition are stored in separate weapon/ammunition safes.
- The shipmaster keeps the keys to the weapons and ammunition safes and gives them to the team leader two hours before sailing into the official Risk Area, enabling the team leader to get everything ready before the official Risk Area is entered.
- The shipmaster must record in the ship's log that they have handed over these keys to the team leader.
- The shipmaster must give permission for firing exercises by private security personnel. Shipping movements around the ship and safety on board in particular are important in this respect. This is recorded in the ship's log.

Article 5.9.1.b. Decree (Requirements for the security team)

*The maritime security company shall ensure that each member of the maritime security team: Participates in safety drills on board the ship, after receiving instructions from the **master** to do so.*

Explanation

- Article 5.9 (1) (b) Decree states that private security personnel must take part in the security drills required by law. These may include a lifeboat drill, fire drills as well as anti-piracy drills. This is to be decided by the shipmaster.

Section 8. Merchant Shipping Protection Act

Private maritime security personnel shall not use any weapons other than those designated by the Minister by an order in council (the Merchant Shipping Protection Decree) for performing maritime security activities. Rules (the Merchant Shipping Protection Regulations) shall also be laid down by or pursuant to an order in council (the Merchant Shipping Protection Decree) regarding the method of storage of the designated weapons on board the ship.

Explanation

- This section from the Act concerns the use of specific weapons and how they are stored (firearms and ammunition). The section states that the details of this are set out in the Decree and the Regulations.
- The shipmaster must ensure that only approved weapons and ammunition come on board. The shipmaster will get the details from the ship manager for that purpose in advance. If this is not the case, the shipmaster will actively request them.
- As firearms and ammunition are mainly the shipmaster's responsibility, the Decree and the Regulations are described in detail below.

Article 3.2 Decree (Weapons or ammunition safe)

- 1. The firearms and the associated ammunition shall be safely stored on the ship during a transport in a separate, properly locked weapons or ammunition safe.*
- 2. By regulation of the Minister (the Merchant Shipping Protection Regulations), further rules shall be laid down regarding the weapons or ammunition safe.*

Explanation

- The Decree states that the firearms and ammunition must be securely stored in locked weapons and ammunition safes. The ship manager must provide these safes, while the shipmaster is responsible for them on board.
- Weapons/ ammunition safe: storage place on board to be sealed with a lock, in which the transport cases with firearms and ammunition are stored separately.
- Transport case: storage space for firearms or ammunition, to be sealed with a lock.

- Firearms must always be stored separately from the ammunition, i.e. in different safes.
- The Regulations give more details about management and storage. See below.

Article 3.3. Decree (Responsibility of the shipmaster)

See Article 3.3. Decree on page 34.

Article 4. Regulations (Weapons safe and transport cases with weapons)

1. *The weapons safe may only be accessed by the **master** or, with express permission from the **master**, by the team leader or another official designated by the **master**.*
2. *The **master** keeps a record of persons who have access to the weapons safe.*
3. *Opening a transport case and distributing weapons require express permission from the **shipmaster**.*
4. *On board the ship, a transport case will be opened only by the team leader or their replacement.*
5. *Firearms stored in a transport case are not loaded with ammunition. The ammunition is stored separately in a transport case.*
6. *The team leader daily registers the brand, type, serial number and quantity of weapons present in each transport case. The **master** ensures that the registration takes place and signs the registration for that purpose, together with the team leader.*
7. *Two hours prior to reaching the official Risk Area, the team leader, in consultation with the **master**, will take the transport cases to the bridge.*
8. *The weapons that are not used during the passage through the official Risk Area are stored in a transport case on the bridge. The transport cases are not locked during this passage and are supervised by the armed member of the security team on duty on the bridge.*
9. *No later than two hours after leaving the official Risk Area, the team leader puts the transport cases with weapons back into the weapons safe.*
10. *The team leader ensures that the firearms are regularly maintained and work adequately, in accordance with the instructions of the licence holder.*

Explanation

- Weapons or ammunition safe: storage place on board to be sealed with a lock, in which the transport cases with firearms and ammunition are stored separately from each other.
- Transport case: storage space for weapons, to be sealed with a lock;
- Weapons and ammunition arrive on board with the transport cases. They are then stored separately in the weapons safe and the ammunition safe respectively.
- The shipmaster manages the weapons and ammunition safes and has the key.
- Management also includes registering the persons who have access to the safes.
- The transport cases may only be opened by the team leader with permission from the shipmaster.
- The team leader records all details daily, while the manager checks and verifies whether the team leader is doing so.
- The keys of the weapons and ammunition safe are handed by the shipmaster to the team leader of private security personnel two hours before entering the official Risk Area.
- The team leader prepares everything, including the weapons, for any confrontation with pirates. These are guarded by a security guard at all times.
- Two hours after leaving the official Risk Area, the weapons and ammunition are put back into transport cases and respective safes. From then on, they are the shipmaster's responsibility again.

Section 9.7. Merchant Shipping Protection Act

*The team leader shall not issue an order for the use of force until after they have determined, in consultation with the **master**, that the protective measures referred to in Section 6 (1) have not resulted in averting the risk of piracy, unless this consultation or the result thereof cannot reasonably be expected.*

Explanation

- This section is about the deployment of private maritime security personnel and the use of force, including the rules for the use of force. These are described in the Decree. See below.
- Section 9 is very important for the shipmaster, as it determines that the team leader of private security personnel - and therefore not the shipmaster - is responsible for the use of force. This differs from the national legislation of many foreign flag states.
- The shipmaster and the team leader must consult with each other about the possible use of force against pirates in advance unless such consultation is not possible.
- It must be established in this consultation that the protective measures have failed and that the pirates intend to attack the ship. The decision to use force must then be taken. See page 65 of this Manual for the checklist for this consultation between the shipmaster and the team leader.
- The team leader will give the order to use force. Private security personnel will not use force if they have not been ordered to do so by the team leader, unless there is no time to wait for that order because danger posed by the pirates has increased unexpectedly and suddenly.
- Of course, the shipmaster does retain the command and authority of the ship, such as course and speed settings or avoidance manoeuvres and sailing away, but the shipmaster also remains in charge of preventative protective measures, the use of the safe room, watchkeeping, etc.
- Section 9 (8) of the Act states that the Merchant Shipping Protection Decree sets out the instructions for the use of force for private security personnel.
- These instructions for the use of force can be found in Article 3.4 Decree.

Article 3.4. Decree**(Further instructions for the use of force)**

1. *In addition to and in accordance with Section 9 of the law, a private maritime security guard must fire one or more warning shots into the air before firing in a targeted manner, in order to avert the imminent danger of piracy.*
2. *If the danger has not been averted, the private maritime security guard will fire at the bow of the ship posing the piracy threat and then, if the danger has not been averted, fire at the ship's engine with the aim of causing the ship to sail.*
3. *If, in extreme cases, the danger has not been averted and there is an immediate danger to the lives or safety of those on board the ship to be protected, the private maritime security guard is authorized to fire on non-vital parts of the ship. the body of persons on the ship that poses the threat of piracy.*
4. *The third paragraph also applies if persons on the ship who pose an imminent danger of piracy attempt to gain or have gained access to the ship to be protected.*
5. *The shipmaster is constantly kept informed by the team leader of his assignments to the team members and of the progress of the use of force, unless this is not reasonably possible.*

Explanation

- This article contains the rules for the use of force on board when the pirates attack.
- This means Dutch law gives permission to use force on board under specific circumstances.
- There is a clear structure in the use of force: from warning shots to shooting non-vital body parts of the pirates.
- The team leader keeps the shipmaster informed about the incident's developments, unless this is not possible.

Article 17. Regulations**(Team leader)**

1. *Without prejudice to what has been determined by or pursuant to Sections 6, 9, 11 and 12 of the Act, the team leader has the following tasks:*
 - a. *acting as an intermediary between the security team and the **master**;*
 - b. *acting as an intermediary between the licence holder and the **master**;*

- c. giving advice to the **master** about security measures to be taken on board the ship which do not involve the use of weapons;*
 - d. leading the joint drills of the security team and the crew in the maritime security activities aimed at protecting against piracy if the **master** orders to do so.*
 - 2. The team leader takes at least the following actions before embarkation:*
 - a. informing the other members of the security team about the procedure manual and the rules governing the use of force;*
 - b. getting the other members of the security team to sign a declaration stating that they are familiar with the content of the procedure manual and the rules governing the use of force;*
 - c. inspecting the weapons and equipment of the members of the security team;*
 - d. carrying out a drill with the security team in the use of weapons in particular, and*
 - e. appointing a member of the security team as team medic.*

The shipmaster must check whether the team leader has carried out the above.

Explanation

- This article once again establishes that the team leader of private security personnel - and therefore not the shipmaster - is responsible for the operational management of any use of force against the pirates.
- The team leader is in charge of private security personnel, but as persons on board the ship they are ultimately the shipmaster's responsibility.
- The shipmaster is in charge of private security personnel where the safety and public order of the ship are concerned.
- The shipmaster must also check whether the team leader has performed all the prescribed actions, in particular those mentioned in Article 17 (2).

Section 10.3. Merchant Shipping Protection Act

*The arrested persons shall be immediately handed over to the **shipmaster** by the private maritime security personnel. The provisions of Title VIB of Book 4 of the Dutch Code of Criminal Procedure shall apply mutatis mutandis.*

Explanation

- Article 10 (3) of the Act determines that any captured pirates must be handed over to the shipmaster.
- The shipmaster is also responsible for the captured persons.
- The shipmaster will discuss this with the Public Prosecutor in the Netherlands.
- This is described in detail in the “Legal Handbook Shipmaster”, also published by NVKK.
- See also the provisions in the Code of Criminal Procedure.
- The Decree and the Regulations do not have any provisions about this.

Section 11.4. Merchant Shipping Protection Act

*The team leader shall provide the **master** with the files containing the video or audio recordings to facilitate the **master's** reporting or notification obligation, as referred to in Section 12.*

Explanation

- Private security personnel wear cameras and microphones during a piracy incident.
- The video and sound recordings are saved.
- The team leader gives these recordings to the shipmaster, who adds them to the notifications and reports. See also under Section 12 of the Act below.

Article 23. Regulations (Retention period)

- 1. The ship manager, the maritime security company, the **master** and the team leader are entitled to view the video recordings and listen to the audio recordings.*
- 2. The files with video and audio recordings will be deleted by the ship manager, the **master** and the private maritime security personnel from their systems once they have been sent, together with the reports referred to in Section 12 (2) and (3) of the Act, to the Minister or the Public Prosecution Service respectively, but no later than within 28 days of leaving the official Risk Area.*
- 3. In derogation from paragraph 2, the files with video and audio recordings may be stored for a longer period by the ship manager, the **master** and the private maritime security personnel where such is necessary for the establishment, exercise or defence of a legal claim.*

Explanation

- The Act states that the shipmaster may view and listen to all recordings, including those of private security personnel.
- The shipmaster can do so via the team leader.
- As soon as the files have been sent to the Public Prosecution Service or the Ministry in the Netherlands, they must be deleted from the systems on board.
- Otherwise, all files must be deleted 28 days after leaving the official Risk Area.

- All files may, however, be stored on board if this is necessary for possible evidence in a lawsuit.
- All this is to be decided by the shipmaster.

Section 12. Merchant Shipping Protection Act

1. For each transport on which private maritime security personnel are deployed, a report shall be drawn up, in accordance with rules (the Merchant Shipping Protection Regulations) to be issued by the Minister, in the Dutch or English language, separately by the **master** and the team leader of the private maritime security personnel.
2. These reports shall in all cases state whether and how the powers referred to in Sections 9 and 10 have been exercised. If these powers have been exercised, the files with video or audio recordings as referred to in Section 11 (2) or (5) shall be attached to the reports. The reports shall be sent to the Minister.
3. Any use of force and any use of handcuffs by private maritime security personnel shall be reported in a notification immediately by the **master** to the Public Prosecution Service once the risk of piracy has ended in accordance with the rules to be issued by the Minister. The files with video or audio recordings, as referred to in Section 11 (2) or (5), shall be attached to this notification.

Send the end-of-voyage report to the Human Environment and Transport Inspectorate.
Send notification about the use of force to the Public Prosecution Office in the Netherlands.

Explanation

- Section 12 of the Act is important to the shipmaster as it deals with the notification about the use of force and the end-of-voyage report.
- Sections 12 (1) and (2) state that after each transport (i.e., voyage) where Privately Contracted Armed Security Personnel (PCASP) were on board, a report must be prepared for the Human Environment and Transport Inspectorate. See the website for the correct address.
- Both the shipmaster and the team leader prepare an end-of-voyage report, so two different reports are prepared and sent.
- This general end-of-voyage report also confirms whether force has been used and whether handcuffs have been used.

- The video and sound recordings of the private security personnel are added to this end-of-voyage report. See Article 11 of the Act for more details.
- For the content of this end-of-voyage report, see page 70 of this Manual. The checklists of this Manual can be used as an annex to the official report forms. This simplifies the shipmaster's task.
- Section 12 (3) states that the shipmaster must issue a notification about the use of force during a piracy incident separately. The video and sound recordings are also added to this.
- This notification about the use of force is sent to the Public Prosecution Service in the Netherlands immediately after the use of force.
- For the content of this notification about the use of force, see also page 65 of this Manual. This checklist may be used for the notification about the use of force, as an annex to the official form. That makes it easier for the shipmaster.

NB Just picking up a firearm may constitute 'use of force' and requires sending a notification to the Public Prosecution Service. See also the definitions relevant to this legislation on page 21 of this Manual

Article 6. Regulations (Embarkation, report/notification about use of force)

1. *The ship manager provides the **master** with the information specified in Article 2.4 (1) and (2) of the Decree at least four hours before the embarkation of the security team, the weapons and the equipment.*
2. *In order to comply with the duty to verify, provided for in Section 6 (2) of the Act and Article 2.4 (1) and (2) of the Decree, the **master** and the team leader will use the standard forms included in Annex 2 and Annex 3 respectively. The **master** will send the forms completed by the **master** and the team leader to the Coastguard and the Inspectorate to inform them immediately upon embarkation.*
3. *For the reports, specified in Section 12 (1) of the Act, the **master** and the team leader of the private maritime security personnel will use the standard form, included in Annex 4 and Annex 5 respectively. The forms, specified in paragraph 1, form part of these reports. The **master** and the team leader send the reports, specified in Section 12 (1) of the Act, to the Inspectorate within 48 hours of the debarkation of the security team.*

4. For the notification to be sent to the Public Prosecution Service, as provided for in Section 12 (3) of the Act, the **master** will use the report forms included in Annex 6.

Explanation

- This article specifies what the shipmaster must report and when. The annexes referred to concern the Regulations.
- This has been further elaborated in Chapter 5 of this Manual and the checklists.
- Article 6 (1) determines that the shipmaster must receive all the information from the ship manager at least four hours before the embarkation of the security team with firearms.
- Article 6 (2) determines that the shipmaster and the team leader must verify whether they have the same information. This is done on the basis of the form from Annexes 2 and 3 of the Regulations.
- In practice, a copy of the crew list, with the required information about the members of the security team, can also be added. This means that the shipmaster does not always need to complete the whole form but can also add existing information to the official form. An example is the completed checklist from this Manual. This can help the shipmaster save time.
- Article 6 (3) determines that the shipmaster must produce an end-of-voyage report, on the basis of the official forms from Annex 4 of the Regulations. Again, the shipmaster can use the completed checklists from the Manual. They can be added as an annex to the official form. This means the shipmaster does not need to complete all kinds of forms unnecessarily.
- Article 6 (4) states that the shipmaster must use the official form, Annex 6 to the Regulations, for a notification about the use of force. Again, the shipmaster can use the checklist from this Manual as an annex, which saves a lot of work.

Section 17. Merchant Shipping Protection Act

1. *The Minister may impose an administrative fine on the licence holder for an amount to be determined by ministerial regulation in respect of violation of the rules laid down by or pursuant to this Act and the conditions attached to the licence.*
2. *The Minister may:*
 - a. *impose an administrative fine on the ship manager and the **shipmaster** for an amount to be determined by ministerial regulation in respect of violation of the rules laid down by or pursuant to Section 6 (1);*
 - b. *impose an administrative fine on the team leader and the **master** for an amount to be determined by ministerial regulation in respect of violation of Section 6 (2);*
 - c. *impose an administrative fine on the ship manager for an amount to be determined by ministerial regulation in respect of violation of the rules laid down by or pursuant to Section 6 (3);*
 - d. *impose an administrative fine on the **master** for an amount to be determined by ministerial regulation in respect of violation of the rules laid down by or pursuant to Section 6 (4);*
 - e. *impose an administrative fine on the team leader and the **master** for an amount to be determined by ministerial regulation in respect of violation of the rules laid down by or pursuant to Sections 12 (1) and (2).*
3. *The administrative fine to be determined based on subsections 1 or 2 shall be, at most, the amount determined for the fourth category referred to in Section 23 (4) of the Dutch Criminal Code.*

Explanation

- This section is about the administrative fines that may be imposed on the shipmaster if the shipmaster breaches Article 6 of the Act (see above);
- An administrative fine may be imposed on the shipmaster if one of the following occurs:
 - A breach of the rules on protective equipment;

- The permission to use private security personnel has not been properly checked (verified);
 - Failure to check private security personnel properly on embarkation, including all data on the security personnel, firearms, ammunition, cameras, etc. In short, check (verify) with the team leader whether you both have all the correct data;
 - Noncompliance with the rules about the shipmaster's responsibility for the safety of the ship and those on board in connection with the maritime security activities;
 - Failure to send a notification about the use of force or the end-of-voyage report.
- The administrative fine for the above breaches is € 4,500 maximum.
 - The amounts of the other fines are set in the Regulations (See below.)

Article 20. Regulations (Administrative fine imposed on the shipmaster)

*The highest administrative fine that may be imposed on the **master** for a violation of Section 6 (1) and (4) and Section 12 (1) and (2) of the Act and Article 6 (2) in conjunction with Article 2.4 of the Decree is the same as the second category fine provided for in Section 23 (4) of the Criminal Code.*

Explanation

An administrative fine may be imposed on the shipmaster for breaching Section 17 of the Act (see above), but also for breaching several other sections of the Act (see below).

The shipmaster may be fined when one of the following sections are breached:

- Merchant Shipping Protection Act
 - Section 6 (1): Failure to apply sufficient protective measures;
 - Section 6 (2) / Article 2.4 Decree: Sailing into the area with a high piracy risk (RA) without sufficient protection;
 - Section 6 (4): Failure to take the additional responsibilities, such as checking the permission for the use of private security personnel and of all the data on security personnel, firearms, ammunition, cameras, microphones, etc.;
 - Section 12 (1): failure to submit an end-of-voyage report to the Human Environment and Transport Inspectorate;

-
- Section 12 (2): failure to submit a notification about the use of force to the Public Prosecution Service.
 - These fines are imposed by the supervisory officials of the Human Environment and Transport Inspectorate.
 - The maximum amount of this fine is € 4,500.
 - The Human Environment and Transport Inspectorate applies a schedule of fines with the exact amount of the administrative fines for each violation.
 - The shipmaster must ensure there are reasonably adequate protective measures in place before and during the voyage. The shipmaster can check the official permission for that purpose, which must be sent to them by the ship manager.
 - The shipmaster may be fined if they depart to an official Risk Area and not all the rules have been met. In that case, the shipmaster must postpone departure. The same applies to entering an official Risk Area without sufficient protective measures.
 - Some rules, such as those about the unlawful use of force, can also be enforced under criminal law in the Netherlands, i.e. via the police and the Public Prosecution Service.
 - In short, if the shipmaster breaches any rules from the Merchant Shipping Protection Act, the Merchant Shipping Protection Decree or the Merchant Shipping Protection Regulations, the shipmaster may incur an administrative fine or be brought to trial under criminal law, including the Economic Offenses Act.

4. Checklists

4.1. Introduction

The core of this Manual consists of a number of checklists that can help ensure that the shipmaster does not forget anything when a voyage involves passing through an area with a high piracy risk. The checklists make sure that the inspection of the tasks carried out on board is complete, comprehensive and systematic. The purpose of a checklist or inspection list is to tick off a list of items that must be checked, so that nothing is forgotten. The checklists can be completed with yes/no answers or a brief comment. The checklist also serves to give the shipmaster of a ship sailing under the Dutch flag a clear structure before, during and after any possible violent incident with pirates, while there are Privately Contracted Armed Security Personnel (PCASP) on board.

There are several checklists, from voyage preparation to the final report to the Minister in the Netherlands. All checklists start on a new page, so that each checklist can be downloaded and printed individually on board. That means everyone in any place can use the same checklist. Because of the unique numbering system, a checklist can easily be completed by more than one person. Of course, the checklists are not always complete for each ship in each situation, but they can serve as an aid for the shipmaster. The shipmaster can always add items to the checklists, reflecting the specific situation.

More general and detailed checklists can be found on the internet. See also Annex 1 of this Manual for references. Those checklists and books are not specifically intended for Dutch ships and Dutch legislation, but they do provide the shipmaster with useful background information.

The NL Merchant Shipping Protection Act states that several reports and notifications must be issued by the shipmaster. The corresponding Merchant Shipping Protection Regulations state which reports, and notifications must be issued, including the corresponding standard forms. These standard forms sometimes ask for information that is already kept up to date on board, such as crew lists and journals.

Existing data and completed checklists from this Manual may be sent as annexes with the standard forms prescribed by law. In other words, they do not need to be completed again. This can potentially save the shipmaster a lot of time.

If the supervisory body requires more details, it may ask the shipmaster to provide them.

The checklists in English can also be used for sending notifications to the Maritime Security Centre Indian Ocean (MSCIO), United Kingdom Marine Trade Operations (UKMTO), Netherlands Coastguard and the ship manager.

You will find the following checklists in this Manual:

- A. Checklist: Preparing the voyage
- B. Checklist: Outside the area with a piracy risk (RA)
- C. Checklist: Inside the area with a piracy risk (RA)
- D. Checklist: Consultation between shipmaster and team leader about use of force
- E. Checklist: Notification about the use of force
- F. Checklist: Reporting after the voyage

A. Checklist preparing the voyage

This checklist:

- is intended for internal use and as a reminder to the shipmaster.
- concerns all preparations before the trip, from the moment it is known that there is a risk of piracy to an area up to and including the embarkation of armed private maritime security guards.
- helps in planning and implementing protective measures, in which the ship manager also plays a major role.
- can be used in the shipmaster's obligation to verify and in consultation with the team leader (Article 6 WtBK, Article 2.4 Decree bk and Article 6 Regulation bk). See also the forms in Appendix 2 and Appendix 3 of the Bk Regulations.
- can be added as an attachment to legally required forms, which saves the shipmaster time when completing these official forms, such as the final report.
- can also be completed separately with the item number and YES or NO.

Examples:

A.2. YES

A.3. NO

Etc.

Checklist A starts on the next page.

<h2 style="margin: 0;">A Checklist voyage planning</h2>		
A.1.	Date/place of embarkation and expected debarkation of security personnel and firearms. Embarkation: Expected debarkation:	
A.2.	Has the shipmaster thoroughly checked the private maritime security personnel and their firearms on embarkation?	YES/NO
A.3.	Are the number of security personnel and their names and nationality in accordance with the ship manager's information / the official permission?	YES/NO
A.4.	Is the number, brand, type and registration number of the firearms in accordance with the ship manager's information / the official permission?	YES/NO
A.5.	Is the number and calibre of the ammunition in accordance with the ship manager's information / the official permission?	YES/NO
A.6.	Are the corresponding official documents of security personnel, firearms and ammunition, including those of the coastal state, in accordance with ship manager's information / the official permission?	YES/NO
A.7.	Are the weapons safes on board in accordance with the rules?	YES/NO
A.8.	Are the number of sets of handcuffs known and on board?	YES/NO
A.9.	Are the number of cameras and microphones known and on board?	YES/NO
A.10.	Is a copy of the end user's certificates for the legal ownership of firearms on board?	YES/NO
A.11.	Is a copy of the ship manager's permission and contract between ship manager and maritime security company (licence holder) on board?	YES/NO
A.12.	Is a copy of the required licence and all ISO certificates, such as 9001:2015, 2800:2007 and 28007:2015 on board?	YES/NO
A.13.	Was the departure postponed because not all conditions and rules were complied with?	YES/NO

A.14.	Are the weapons and ammunition stored in accordance with the rules?	YES/NO
A.15.	Has the knowledge among the private security personnel of Dutch legislation on piracy, such as the rules for the use of force, been checked?	YES/NO
A.16.	Has there been an adequate consultation (verification) between the shipmaster and the team leader, including the exchange of information as prescribed in the legislation?	YES/NO
A.17	Have all important phone numbers on board been checked and distributed?	YES/NO
A.18	Is there a policy about having AIS on/off in the official Risk Area?	YES/NO
A.19	Have all reasonably possible protective measures been taken in accordance with the official permission, BMP and SSP?	YES/NO
A.20.	Anything to add or any comments from the shipmaster	

B. Checklist Outside the official risk area (RA)

This checklist:

- is intended for internal use and as a reminder to the shipmaster.
- is used from the moment the private maritime security team embarks until it reaches the official risk area.
- can be added as an attachment to legally required forms, which saves the shipmaster time when completing these official forms, such as the final report
- can also be completed separately with the item number and YES or NO.

Examples:

B.2. YES

B.3. NO

Etc.

Checklist B starts on the next page.

B Checklist outside the official risk area (RA)		
B.1.	Have any drills with crew and private security personnel taken place, e.g., about the rules for the use of force?	YES/NO
B.2.	Do those on board - in particular private security personnel - have knowledge about and comply with the rules for the use of force?	YES/NO
B.3.	Are the shipmaster's express wish and order to prevent the use of force and only use this out of legitimate self-defence, in accordance with the legal standards, known to all persons on board?	YES/NO
B.4.	Do those on board have knowledge about and comply with all the instructions of the Public Prosecution in the Netherlands and, where relevant, of the coastal state they are in?	YES/NO
B.5.	Does the shipmaster keep the key to the weapons safes, as prescribed in the legislation?	YES/NO
B.6.	Have the private security personnel been integrated into the safety protocols on board, such as opportunities for drills and protection, but also lifeboat drills and fire drills?	YES/NO
B.7.	Have the shift rosters and working and resting hours of the private security personnel been checked by the shipmaster?	YES/NO
B.8.	Are weapons and ammunition stored separately, as prescribed by law?	YES/NO
B.9.	Has the ammunition been checked in accordance with the rules, e.g. temperature and storage life?	YES/NO
B.10.	Have all the protective measures been taken as prescribed in the legislation, BMP etc.?	YES/NO
B.11.	Has the shipmaster given permission for firing exercises?	YES/NO
B.12.	Are the weapons been used by certified persons only?	YES/NO
B.13.	Have the keys to the arms safes been transferred to the team leader two hours before entering the official Risk Area?	YES/NO
B.14.	Will an opportunity to sail in convoy in the official Risk Area be used?	YES/NO

B.15.	Are any opportunities for extra protection, e.g. by navy ships, being used?	YES/NO
B.16.	Have the time and location of entering the official Risk Area been established?	YES/NO
B.17.	Have the entry into the official Risk Area and the ship’s movements been reported to the locally coordinating authorities, such as MSCIO and UKMTO?	YES/NO
B.18.	Are all points of access to accommodation and control rooms blocked from access from outside?	YES/NO
B.19.	Have all openings that could give pirates access to accommodation (portholes, doors, etc.) been locked?	YES/NO
B.20.	Have the most likely scenarios been checked?	YES/NO
B.21.	Have the persons on board been informed about a safe position, such as the citadel?	YES/NO
B.22.	Additional information and comments by the shipmaster	

C. Checklist inside the official risk area (RA)

This checklist:

- is intended for internal use and as a reminder to the shipmaster.
- provides the shipmaster with assistance when sailing within a piracy risk area or the 'official risk area', but also during a possible encounter with pirates.
- helps implement final protective measures.
- can be added as an attachment to legally required forms, which saves the shipmaster time when completing these official forms, such as the final report.
- The checklists can also be completed separately with the item number and YES or NO.

Examples:

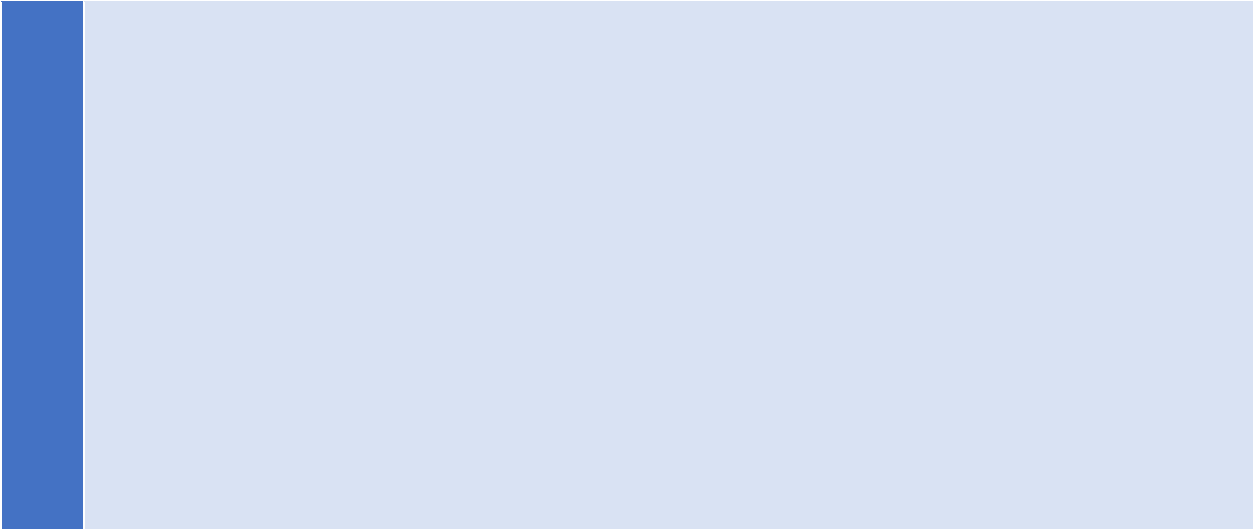
C.2. YES

C.3. NO

Etc.

Checklist C starts on the next page.

C Checklist inside the official risk area (RA)		
C.1.	Have all protective measures been taken?	YES/NO
C.2.	Have the lookouts been briefed and put into strategic places?	YES/NO
C.3.	Are dummies being used?	YES/NO
C.4.	Are warnings on banners being used?	YES/NO
C.5.	Is the policy for navigation lights and deck lights known and being implemented?	YES/NO
C.6.	Have tools, gas cylinders, etc. been locked away?	YES/NO
C.7.	Has the bridge been set up as the control centre?	YES/NO
C.8.	Are the radar and other relevant instruments under constant surveillance?	YES/NO
C.9.	Are there specific brief watch shifts for guards on deck and on the bridge?	YES/NO
C.10.	Are there any ships that are trying to get closer?	YES/NO
C.11.	Has any manoeuvring taken place to keep a distance from possible danger?	YES/NO
C.12.	Have any evasive manoeuvres been carried out?	YES/NO
C.13.	Has the swell, waves, wind, etc. been used to prevent the approach and boarding by pirates?	YES/NO
C.14.	Are the daily positions, incidents, SITREPS, etc. passed on to the authorities?	YES/NO
C.15.	Are shift rosters and work lists kept for private maritime security personnel?	YES/NO
C.16.	Does the team leader take responsibility for the storage, management and use of all weapons and ammunition after receiving the key?	YES/NO
C.17.	Does the AIS and SSAS work normally and have the measures been taken according to the SSP?	YES/NO
C.18.	Have the Best Management Practices (BMP) been implemented and maintained?	YES/NO
C.19.	Have the time and location of incidents been recorded?	YES/NO
C.20.	Is the emergency communication plan ready for immediate start?	YES/NO
C.21.	Are all statutory rules complied with?	YES/NO
C.22.	Additional information and comments from the shipmaster	



D. Checklist consultation shipmaster/teamleader about use of force

This checklist:

- is intended for internal and external use and as a reminder for the shipmaster.
- determines that the ship is threatened by pirates.
- shows which 'boxes have been checked', being a strong indication that the team leader is allowed to order the use of force and is held accountable for it. From that moment on, the shipmaster is not responsible for the use of force.
- notes that the shipmaster and the team leader have consulted about the result of all protective measures and the team leader may order the use of force, or notes that consultation between shipmaster and team leader could not reasonably be waited for and that the team leader may use force against the pirates, and that from that moment on he is responsible for the use of force against pirates.
- can be added as an attachment to legally required forms, which saves the shipmaster time when completing these official forms, such as the final report.
- The checklists can also be completed separately with the item number and YES or NO.

Examples:

D.2. YES

D.3. NO

Etc.

Checklist D starts on the next page.

D Checklist consultation shipmaster/teamleader on the use of force		
D.1.	Is the ship in the official Risk Area?	YES/NO
D.2.	All relevant protective measures have been taken (SSP, BMP etc.)?	YES/NO
D.3.	Requested help from the locally coordinating authorities (MSCIO, UKMTO, etc.)?	YES/NO
D.4.	The preventative protective measures have not averted the threat?	YES/NO
D.5.	Do the pirates have weapons, a ladder or other climbing equipment?	YES/NO
D.6.	Have the pirates shown any weapons?	YES/NO
D.7.	Have the pirates used any weapons?	YES/NO
D.8.	Is there any immediate threat?	YES/NO
D.9.	Is the safety of the ship, persons on board and cargo at risk?	YES/NO
D.10.	Have all the options to prevent the use of force been applied in vain?	YES/NO
D.11.	Is there any assistance in the vicinity?	YES/NO
D.12.	Is everyone familiar with the rules for the use of force?	YES/NO
D.13.	Is the use of force recorded wherever possible?	YES/NO
D.14.	Have the team leader and the shipmaster concluded that all possible preventative measures have failed and that only the use of force can defend the ship and the persons on board against assaulting pirates?	YES/NO
D.15.	Is the use of force the last resort to protect the ship, the persons on board and the cargo?	YES/NO
D.16.	Has the use of force by the pirates proportionate and subsidiary responded to?	YES/NO
D.17.	Has the ship manager/CSO been informed about the use of force?	YES/NO
D.18.	Additional information and comments from the shipmaster	

E. Checklist notification about the use of force

This checklist:

- is intended for internal and external use and as a reminder for the shipmaster.
- notes that the ship has used force against pirates.
- reports the used force against the pirates to the Dutch Public Prosecution Service
- has been drawn up by the shipmaster immediately after the use of force. The team leader does not report on the use of force.
- shows that the use of force report consists of several parts: before, during and after the use of force. These reports can be added to the general end-of-trip reporting to the ILT.
- shows that this use of force report is not the end-of-trip report for the entire trip. This is a separate report and is addressed to the ILT.
- can be used as an appendix to the official use of force reporting form in accordance with Appendix 6 Regulations.
- can be added as an attachment to other legally required forms, which saves the shipmaster time when completing these official forms, such as the final report.
- can also be completed separately with the item number and YES or NO.

Examples:

E.11. YES

E.12. NO

Etc.

Checklist E starts on the next page.

E Checklist notification about the use of force		
Basic data		
E.1.	Ship's name:	
E.2.	Call sign:	
E.3.	IMO number:	
E.4.	Name and contact details of the shipmaster:	
E.5.	Name and contact details of the ship manager/DPA:	
E.6.	Details of permission for sailing with private security personnel:	
E.7.	Name and contact details of the security company:	
E.8.	Name and contact details of the team leader:	
E.9.	Details of the security company's licence:	
E.10.	Details of the contract between ship manager and security company:	
Incident including the use of force		
E.11.	Date and time (GMT) of start and end of the incident:	
E.12.	Ship's position:	
E.13.	Your ship's freeboard during the attack:	
E.14.	Light or dark?	
E.15.	Your ship's course and speed:	
E.16.	Have evading manoeuvres been carried out?	YES/NO
E.17.	Weather conditions and conditions of the sea:	

E.18.	Pirates' mother ship present?	YES/NO
E.19.	Type and number of pirates' assault boats:	
E.20.	Number of pirates:	
E.21.	Type and number of pirates' weapons and ammunition:	
E.22.	Weapons shown by pirates?	YES/NO
E.23.	Did the pirates have any ladders or other climbing equipment?	YES/NO
E.24.	Immediate threat posed by pirates?	YES/NO
E.25.	Was the safety of your own ship, cargo and those on board at risk?	YES/NO
E.26.	Possibility of external assistance present?	YES/NO
E.27.	Citadel / safe room in use?	YES/NO
E.28.	Alarm raised?	YES/NO
E.29.	Have any requests for assistance been issued by the shipmaster?	YES/NO
E.30.	Measures/actions taken by the shipmaster:	
E.31.	Measures/actions taken by the team leader:	
E.32.	Measures/actions taken by those on board, e.g., use of safe room:	
E.33.	Were the protective measures no longer sufficient?	YES/NO
E.34.	Has any consultation taken place between shipmaster and team leader about the use of force?	YES/NO
E.35.	Distance between pirate vessel and your own ship while using force:	
E.36.	Use of force by pirates?	YES/NO
E.37.	Shots in the air or targeted shots by pirates?	YES/NO

E.38.	Attempt, boarding or kidnapping by the pirates?	YES/NO
E.39.	Time of transfer of responsibility for use of force to team leader:	
E.40.	Use of force ordered by team leader?	YES/NO
E.41.	Weapons taken up and shown by private security personnel?	YES/NO
E.42.	Use of force only according to rules for the use of force, out of legitimate self-defence?	YES/NO
E.43.	Use of force within the legislation and instructions?	YES/NO
E.44.	Compliance with the rules for the use of force?	YES/NO
E.45.	What kind of force has been used by the security personnel and for what purpose?	
E.46.	Use of force against pirates in their boat at sea?	YES/NO
E.47.	Use of force against pirates on board, including putting on handcuffs?	YES/NO
E.48.	Structure of use of force followed?	YES/NO
E.49.	Warning shots by private security personnel?	YES/NO
E.50.	Shots targeting pirate vessel or persons?	YES/NO
E.51.	Casualties?	YES/NO
E.52.	Injury of and assistance to casualties?	YES/NO
E.53.	Use of force by others, e.g. a naval vessel to provide assistance?	YES/NO
E.54.	Pirates flee with their own vessels?	YES/NO
E.55.	Pirates captured at sea by, for example, naval vessels?	YES/NO
E.56.	Pirates apprehended on board and handed over to the shipmaster?	YES/NO
E.57.	Recorded in ship's log, etc.?	YES/NO
E.58.	Add video and sound such as film, video and photos as an annex.	YES/NO
E.59.	Witness statements present?	YES/NO
E.60.	Status of casualties known?	YES/NO
E.61.	Treatment of apprehended pirates?	YES/NO
E.62.	Incident assessment by the team leader of the private security personnel?	YES/NO

E.63.	Incident assessment by the shipmaster, in which the shipmaster argues convincingly that they have done all they could to prevent the use of force and that all rules were observed by the shipmaster and those on board during the use of force?	YES/NO
E.64.	Reported to the Dutch Coastguard and the locally coordinating authorities?	YES/NO
E.65.	Time when the ship resumes its voyage.	
E.66.	Damage assessment?	YES/NO
E.67.	Comments and additional information from the shipmaster	
E.68.	Signed by the shipmaster	

F. Checklist reporting after the voyage

Below you will find the checklist for the general end-of-voyage report to be sent to the Human Environment and Transport Inspectorate (Shipping Inspectorate) in the Netherlands.

This mandatory report is written by the shipmaster after the voyage.

The team leader also reports to the Inspectorate after the voyage, independently and separately. So, both reports go to the Inspectorate.

The email addresses can be found on the Inspectorate's website.

NB

The notification about the use of force is a separate notification and is sent to the Public Prosecution Service in the Netherlands. See Checklist E.

Any notifications about the use of force must be added to this general end-of-voyage report to the Inspectorate. See also page 70 of this Manual.

- Checklist F is the end-of-voyage report for the shipmaster, or it can be used for this purpose.
- The shipmaster can use all the completed checklists to compile the end-of-voyage report, i.e., Checklist F, for example by adding all the completed checklists as an annex to the legal form (Annex 4 to the Regulations) of the official end-of-voyage report; the video and audio recordings should also be added.

Checklist F starts at the next page

F End-of-voyage report		
F.01.	Ship's name:	
F.02.	Call sign:	
F.03.	IMO number:	
F.04.	Name and contact details of the shipmaster:	
F.05.	Name and contact details of the ship manager/DPA:	
F.06.	Details of permission for sailing with private security personnel:	
F.07.	Name and contact details of the security company:	
F.08.	Name and contact details of the team leader:	
F.09.	Details of the security company's licence:	
F.10.	Details of the contract between ship manager and security company:	
F.11.	Add completed Checklist A	YES/NO
F.12.	Add completed Checklist B	YES/NO
F.13.	Add completed Checklist C	YES/NO
F.14.	Add completed Checklist D	YES/NO
F.15.	Add completed Checklist E	YES/NO

F.16.	Add video and audio recordings	YES/NO
F.17.	Shipmaster's signature	
F.18.	Additional information and comments of the Shipmaster	

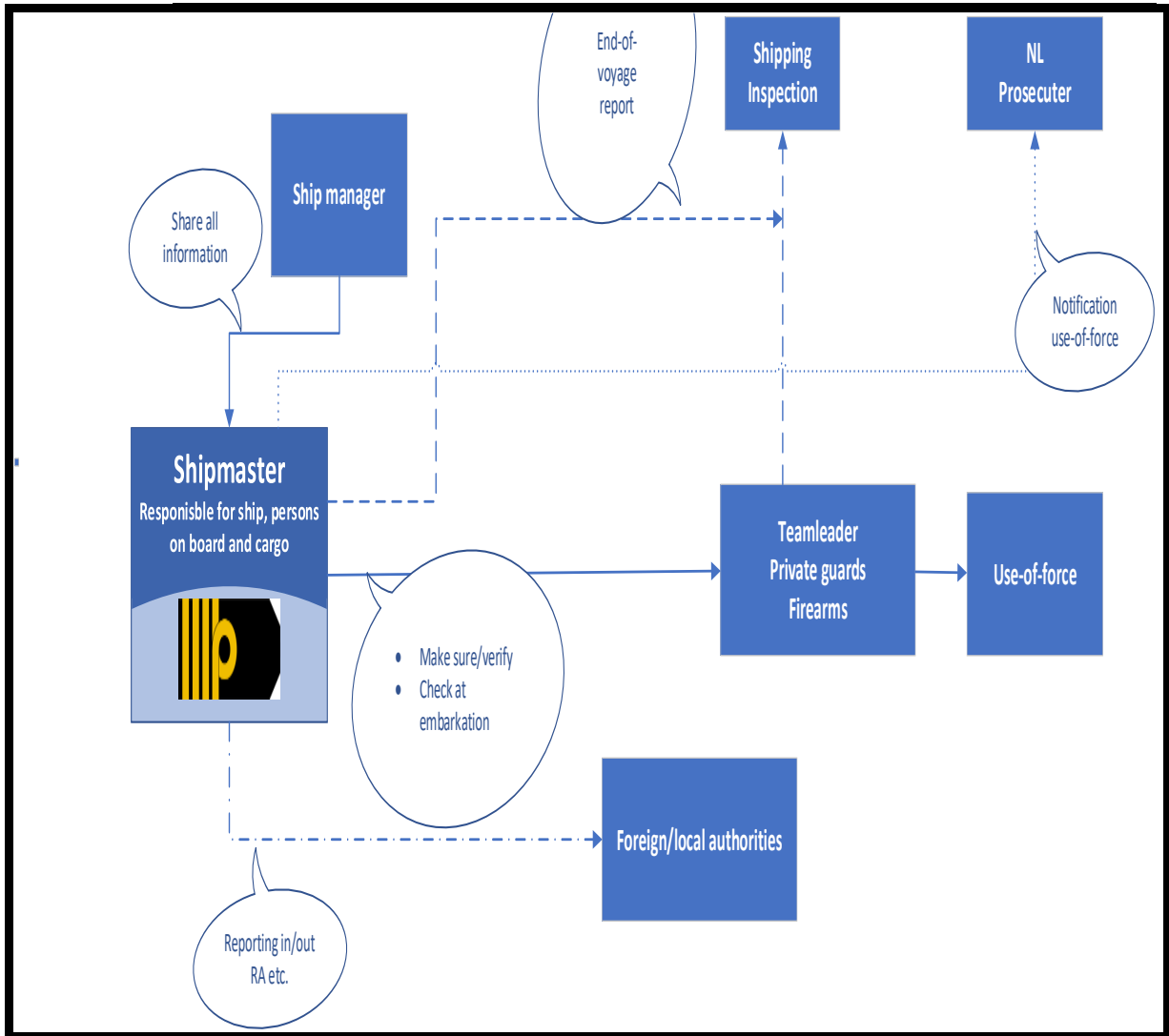


Figure 5. Overview of shipmaster’s network for combating piracy

5. Explanatory notes

5.1. Introduction

These explanatory notes will briefly deal with the following:

- Gathering information;
- Use of force;
- Mandatory notifications and reports;
- Fines imposed on the shipmaster.

The explanation is given from the shipmaster's point of view and as a clarification for the shipmaster. The shipmaster is and remains the key player when there is an incident with pirates. The shipmaster is responsible for ship, seafarers and cargo.

5.2. Gathering information

The shipmaster can use different sources to gather information. Several international and national organisations are often active in areas with a piracy risk around the Horn of Africa. These organisations try to work together, but they do not always succeed in this. This is due to the presence of foreign naval vessels, which usually only assist the ships sailing under the flag of their own country and in some cases other merchant ships. They do not participate in the international coalition.

The shipmaster must actively gather all information needed to guide the ship through the area with a piracy risk as safely as possible. This applies from preparing the voyage to leaving the dangerous area.

For up-to-date information, the websites of these organisations should be consulted.

The NATO Shipping Centre and Netherlands Coastguard can also play an important role in this, including the references to other ministries. Other interesting sources of information include IMO/Maritime Security and Piracy, the International Chamber of Commerce (ICC) and its department Commercial Crime Services, as well as the International Maritime Bureau (IMB) and its Piracy Reporting Centre.

All these organisations provide information on their websites. They also often have specific information for the shipmaster. See also Annex 1 of this Manual.

5.3. Use of force

Force is any more-than-minor compulsive force exercised on persons or property, using a weapon. Weapons are the equipment and weapons designated under the Act for the use of force. Even just holding and displaying a firearm constitutes the use of force. The use of force is prohibited and punishable, and this also applies on board. An exception is an instance where force is used based on the Dutch Merchant Shipping Protection Act or as legitimate self-defence. The use of force on board is regulated in the Netherlands in the approved Rules for the Use of Force (RUF). These are generally not national laws or rules originating from the government, but regulations applied within a profession.

RUF applied on board must have been approved by the Dutch government and must be known to the shipmaster, crew and private security personnel. It is up to the shipmaster to check whether the latter is the case. The shipmaster will do so in consultation with the team leader. This can also be recorded, e.g., in the ship's log.

Normally, the use of force against pirates takes place outside the territorial sea of a coastal state, i.e., in international waters. If the use of force took place in the territorial waters of a coastal state, there is a chance that this coastal state also requires a notification or report. This may be the case because the legislation of that coastal state also applies in its territorial waters. The best thing you can do is to send the notification/report to the coastal state as well, in consultation and in cooperation with the ship manager.

5.4. Notifications and reports

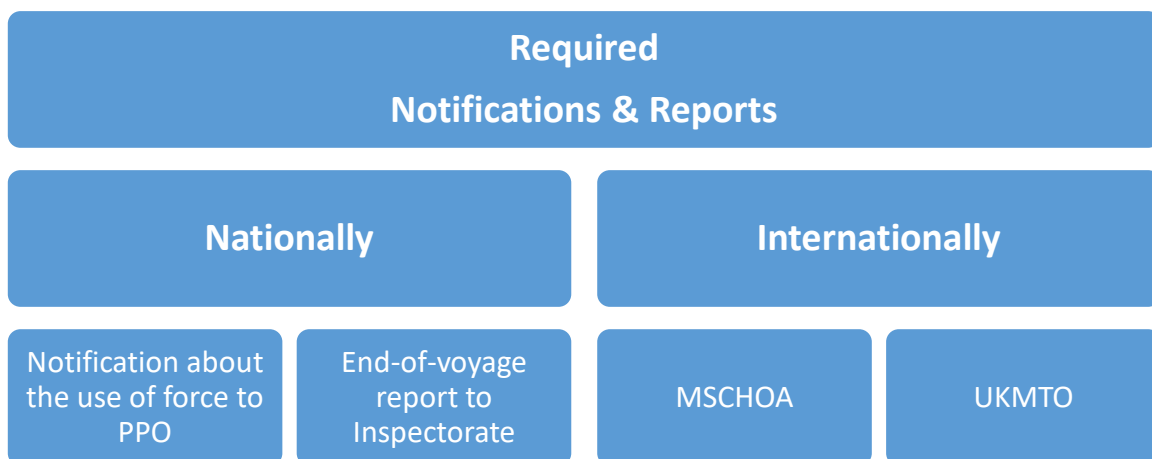


Figure 6. Overview of notifications and reports issued by the shipmaster

National

For the shipmaster, there are two forms of reporting that are nationally required by law:

1. Notification about the use of force to the Public Prosecution Office in the Netherlands;
2. Report to the Human Environment and Transport Inspectorate at the end of the voyage with private security personnel.

Notification about the use of force

After using force against pirates, the shipmaster must send a notification about this to the Public Prosecution Service in the Netherlands immediately. See Checklist E of this Manual.

Even just picking up a firearm and threatening to use it or the use of handcuffs constitutes the use of force. This notification is prepared by the shipmaster and should be brief, factual, clear and concise, with the checklist as guideline. See page 53 of this Manual.

This is a notification, not a report.

The checklist does not aim to be complete. Subjects can and may be added to it at any time, especially if those subjects are relevant to demonstrating that the shipmaster has done everything possible to act within the applicable legislation. The shipmaster must send all the relevant video and sound recordings with the notification about the use of force. The team leader must make these recordings available to the shipmaster for that purpose. Following the notification about the use of force, the Public Prosecution Service may ask for a more detailed report. The same checklist can then be used again, adding a more detailed description and answers to specific questions from the Public Prosecution Service.

Procedure for notification after use of force on board

1. The shipmaster sends a notification about the use of force to the Public Prosecution Service, possibly via the ship manager.
2. The ship manager may add their own views to this notification.
3. In principle, the team leader - not the shipmaster - is responsible for the use of force.
4. The Public Prosecution Service may ask the shipmaster for a more detailed report.
5. The Public Prosecution Service will decide whether the use of force was lawful or not.

6. If the use of force was lawful, the Public Prosecution Service will report this to the team leader, the maritime security company and the shipmaster, possibly via the ship manager.
7. If the use of force was unlawful or if there is any doubt, the Dutch police will start an investigation on the instructions of the Public Prosecution Service.
8. On the basis of this police investigation, the Public Prosecution Service will decide whether to bring charges against the team leader or private security guard.
9. The shipmaster can be heard as a witness.
10. If this leads to criminal proceedings, the court will ultimately decide about the lawfulness of the use of force.
11. Following this, an appeal to a higher court or the Supreme Court is possible, if the team leader / security guard disagrees with the court decision about the use of force against the pirates.

End-of-voyage report

After the end of each voyage with private maritime security personnel, shipmaster and team leader must report to the Human Environment and Transport Inspectorate separately. See also Checklist F from this Manual.

The end-of-voyage report can be compiled from all completed checklists from this Manual.

The end-of-voyage report of the shipmaster also states whether any weapons were raised and used. If so, it states how this was done, if an order was given to do so and if the rules for the use of force were observed. But it also mentions whether any persons were apprehended, whether they tried to escape and whether they were handed over to the shipmaster. Previous notifications about the use of force sent to the Public Prosecution Service in the Netherlands can also be used for this end-of-voyage report, for example as an annex to the report.

The end-of-voyage report is written by the shipmaster and the team leader separately. The shipmaster can outsource this to one of the persons on board, such as the Ship Security Officer (SSO), but the shipmaster signs the report as the person responsible.

This report is a brief chronological outline of the facts and circumstances and contains the parts mentioned in the previously completed checklists. This report is accompanied by all the

video and sound recordings made. The team leader will make them available to the shipmaster.

International

A ship entering the official Risk Area must report to several civil or military organisations.

This is provided for in the Merchant Shipping Protection Regulations and comes under the protective measures the shipmaster must take. The shipmaster can also call or email these organisations to request assistance in the event of any incident involving pirates. Keeping the communication with these organisations open, e.g., by reporting on the ship's movements through the official Risk Area and requesting assistance when there is a risk of an attack, is therefore a protective measure. These organisations have different communication channels, such as email, logging in on their websites, telephone, the onboard communication system and also social media, such as X or Facebook. The two most important international organisations for the official Risk Area in the Gulf of Aden and along part of the coast of East Africa are discussed in brief below.

MSCIO

The Maritime Security Centre Indian Ocean (MSCIO) is an initiative of the European Union Naval Force (EUNAVFOR) ATALANTA, established to enhance maritime security across the Red Sea, Gulf of Aden, Indian Ocean, and Persian Gulf. The MSCIO plays a crucial role in safeguarding global trade routes and ensuring freedom of navigation in one of the world's most strategically significant waterways. MSCIO monitors maritime merchant shipping movements around the Horn of Africa and forms the link between the military operation Atalanta and merchant shipping.

A ship manager or shipmaster can register with this organisation voluntarily. This is referred to as the EU NAVFOR Voluntary Registration Scheme, VRS. The shipmaster notifies the organisation of the anticipated course and speed. This is done by the Ship Initial VRA Report Form, which also can be sent to the Dutch Coastguard. See for more details: www.mscio.eu/reporting/vessel-registration/. MSCIO also has an interactive website, enabling the shipmaster to see on board where any incidents are taking place or what the

latest protective measures are. MSCIO also shows maps of the risk area's on its website with the recommended routes, the so-called Maritime Security Transit Corridors or the Internationally Recommended Transit Corridors (IRTS). The shipmaster must report when the ship enters or leaves the corridor. Always visit this organisation's website for the latest information: www.MSCIO.eu.

UKMTO

United Kingdom Marine Trade Operations (UKMTO) forms part of the British Royal Navy. It also keeps track of all the data on shipping in the Risk Area. UKMTO's role is to gather and distribute information and to coordinate military assistance in the event of a pirate attack. It gets a lot of information from local governments and organisations. As the UK is no longer part of the EU, this may lead to a degree of confusion. UKMTO would also like to be informed when a ship passes through the risk areas, uses corridors and leaves the risk areas. But it would also like to hear about any suspicious activity or actual pirate attack.

The risk areas from MSCIO and UKTMO are not always necessarily the same as the Dutch official Risk Area (RA). For the Netherlands flagged vessels the latter is compliant.

Always visit this organisation's website for the latest information: www.ukmto.org

5.5. Overview of fines imposed on the shipmaster

The Act, the Decree and the Regulations are enforced by officials of the Human Environment and Transport Inspectorate of the NL Ministry of Infrastructure and Water Management. The most fines imposed are administrative fines, but criminal sanctions are possible as well.

So, this legislation provides mostly for administrative fines for different people or companies, such as the licence holder, the ship manager, the team leader and the shipmaster.

An administrative fine is a sanction under administrative law that can be imposed by the Human Environment and Transport Inspectorate without intervention of the police, the Public Prosecution Service or a court. An objection or an appeal can be lodged against an administrative fine. For more information, see the Legal Handbook Shipmaster.

However, the Public Prosecutor can also enforce legislation when criminal law is concerned. This may be the case, for example, when innocent fishermen rather than pirates are shot at.

In such case the court will pass its judgement, which can be appealed against at the Court of Appeal or even at the Supreme Court: See the Criminal Code, the Code of Criminal Procedure and the Economics Offences Act. These laws are also explained in the Legal Handbook Shipmaster.

Protective measures

The ship manager must provide the shipmaster with sufficient and adequate protective measures. On board the ship, the shipmaster is responsible for them. Exceptions to the reasonably possible protective measures on board are in the official permission provided by the ship manager to the shipmaster. If the shipmaster takes insufficient protective measures, this may incur a fine of € 4,500 maximum.

No permission for private security personnel

If there is no official permission for Privately Contracted Armed Security Personnel (PCASP) but the shipmaster nevertheless takes them on board, the shipmaster can be given a considerable fine. This crime may involve the illegal possession of firearms by the shipmaster.

The ship manager will ask the NL Minister for permission to sail with armed protection. If that permission for armed private security has been granted, the ship manager must notify the shipmaster and present a copy of the document granting permission.

Before the armed security personnel board the ship, the shipmaster must check whether the ship manager has been officially granted permission for Privately Contracted Armed Security Personnel (PCASP) by the NL Minister. If this permission is not in order, the shipmaster may receive a fine of € 4,500 maximum.

End-of-voyage report

If the shipmaster fails to submit an end-of-voyage report to the Human Environment and Transport Inspectorate, the shipmaster may be given a fine of € 4,500 maximum.

Notification about the use of force

If the shipmaster fails to submit a notification about the use of force to the Public Prosecution Service in the Netherlands, the shipmaster may be given a fine of € 4,500 maximum.

Schedule of fines

The maximum fines imposed on the shipmaster are € 4,500. The total sum of the fines imposed on the shipmaster may amount to thousands of euros. The NL Human Environment and Transport Inspectorate has compiled a schedule of fines, stating the concrete amounts of the fines for each infringement. These fines are called administrative fines.

Annex 1. Recommended literature and websites

The documents and websites mentioned below contain a lot of detailed information about piracy. These are general documents that do not focus on the shipmaster. But reading these documents will give the shipmaster a good overview of the general international context of piracy.

This Manual only applies to the Gulf of Aden and along a section of the coast of East Africa, in the official Risk Area (RA).

1. Legal Handbook Shipmaster, available free of charge on the NVKK website:
https://www.nvkk.nl/files/1116/1996/2043/JHK_2021digitaal_.pdf
2. BMP5, Best Management Practices to Deter Piracy and Enhance Maritime Security in the Red Sea, Gulf of Aden, Indian Ocean and Arabian Sea (2018):
(<http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Documents/BMP%20West%20Africa.pdf>).
3. IMO documents about piracy:
(<http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Pages/Default.aspx>).
4. IMO-Piracy and armed robbery against ships:
<https://www.imo.org/en/OurWork/Security/Pages/PiracyArmedRobberydefault.aspx>
5. IMO-Global Counter Piracy Guidance for Companies, Masters and Seafarers (2018):
(http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Documents/global-counter-piracy-guidance-bmp_low_17-07-18.pdf).
6. UN & Piracy under International Law:
<https://www.un.org/Depts/los/piracy/piracy.htm>
7. NATO Shipping Centre:
<https://shipping.nato.int/nsc>
<https://shipping.nato.int/nsc/operations/global-maritime-risk>
8. Counter-piracy under International Law:
<https://www.geneva-academy.ch/joomlatools-files/docman-files/Publications/Academy%20Briefings/Counterpiracy%20Briefing%201.pdf>
9. Maritime Security Centre Indian Ocean (MSCIO)
<https://www.msicio.eu/>

10. Netherlands Coastguard:

www.kustwacht.nl

11. International Chamber of Shipping (ICS):

<https://www.ics-shipping.org/free-resources/maritime-security>

12. IMB Piracy Reporting Centre:

<https://www.icc-ccs.org/index.php/piracy-reporting-centre>

13. ICC Commercial Crime Services:

<https://www.icc-ccs.org/>

14. UKMTO, United Kingdom Marine Trade Operations:

<https://www.ukmto.org/indian-ocean/recent-incidents>

Contacts: <https://www.ukmto.org/indian-ocean/contacts>

Reporting Formats: <https://www.ukmto.org/indian-ocean/reporting-formats>

VOOR KAPITEINS DOOR KAPITEINS

NEDERLANDSE VERENIGING VAN KAPITEINS TER KOOPVAARDIJ

DE **NVKK** IS ER VOOR IEDERE KAPITEIN EN ZIJN WETTELIJKE VERVANGER.

De **NVKK** zet zich in voor het belang van de kapitein in nationale en internationale wetgeving.

LID VAN DE NVKK is tevens lid van Europese en internationale kapiteinsverenigingen.

De **NVKK** is deelnemer in vele maritieme overlegfora.

Samenwerking met Nautilus, KVNR en Nautical Institute NL.

Betrokken bij Zeemanshuizen, koopvaardijpredikanten en herdenkingen.

Zie de informatie op: www.nvkk.nl

