

New guidance on armed guards

The use of armed guards on merchant vessels was discussed at the 89th session of the IMO's Maritime Safety Committee (MSC) in May and interim guidance on the employment of privately contracted armed security personnel on board ships transiting the high-risk piracy area off the coast of Somalia, in the Gulf of Aden and the wider Indian Ocean was approved.

It was expected that joint guidelines would be issued for both ship owners and flag states. However, time constraints led to the development of two separate sets of guidelines, with those for ship operators given priority. This document is entitled *Interim guidance to shipowners, ship operators, and shipmasters on the use of privately contracted armed security personnel on board ships when transiting the high risk area* (MSC.1/Circ.1405).

It is intended to assist shipping companies when considering the appointment of security providers. The guidelines draw attention to the fact that flag-state laws and regulations concerning the use of armed guards will apply as will those of the coastal state and ports. Members are advised that the use of armed guards in no way diminishes their responsibility to implement the shipping industry's Best Management Practice (BMP) tool for countering piracy.

Emphasising the overriding responsibility of the master for the safety, security and protection of the ship, the guidelines identify the need for a clear unambiguous relationship between the master and the leader of the armed guards. Rules for the use of force should be clear, unambiguous and made available for review. It is expected that the armed guards should contribute to constructive dialogue with national and international military forces in the area but always subject to the master's authority.

[Click here](#) for MSC.1/Circ. 1405

[Click here](#) for MSC.1/Circ. 1406

Guidelines for shipowners

The following provides a brief summary of the sections covered in the guidelines for shipowners, operators and masters.

Risk assessment. The decision to use armed guards when navigating within the high risk area is one for the individual company following a thorough risk assessment and the adoption of all practical self-protection measures outlined in BMP.

Selection criteria for armed guards. Concerns about experience and competence of security contractors have increased as more providers make their services available. This section has been written to support the adoption of due diligence when assessing prospective companies and includes a review of the company structure, background, vetting and training. A list of questions that a ship operator may wish to ask potential contractors has been included in an annex to the guidelines.

Compliance with flag and coastal state jurisdiction. As described above, it is extremely important that Members consult their flag state is consulted at an early stage when considering employing armed guards on a vessel to ensure that all of the relevant legislation can be complied with. This section highlights the importance of fulfilling this requirement and identifies some of the operational matters that need to be discussed.

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Insurance. Guidelines recommend that owners ensure armed guards maintain their own insurance cover and that terms of engagement do not prejudice the shipowner's insurance. Owners are strongly recommended to consult with their insurers *prior* to contracting with security providers, particularly as it relates to armed engagements.

Embarked security team size, composition and equipment. The number of armed guards embarked requires careful consideration, and this section describes the contributing factors that owners should discuss with the security provider and includes being able to operate within the vessel's certification provision. The threat assessment and duration of employment will dictate the extent of provisions and equipment required to provide the level of security agreed at the time of employment.

Command and control. This is an extremely important aspect of any voyage undertaken with armed guards and requires a documented structure linking the owner/operator, master, ship security officer, the ship's other officers and the armed guard team leader. This section provides guidance on how to ensure transparent information flow between all parties.

Management of firearms. Documented compliance with flag state, coastal state and port state legislation is an essential requirement of every voyage assisted by armed guards. Weapon and ammunition storage, operational procedures and control systems will be required to ensure the highest standards of safety can be achieved.

Rules for the use of force. Armed guards should provide a detailed graduated response to a pirate attack. It is essential that all personnel have a complete understanding of the rules for the use of force and understand their primary function of boarding prevention. This section highlights the importance of only using force in a manner consistent with applicable law and be proportionate to the threat and situation. Security providers should require that their personnel do not use firearms against persons except in self-defence or defence of others.

Reporting and recording. As a matter of good practice, a ship operator and master should maintain a log of every circumstance in which firearms are discharged. Such actions should be fully documented. This section also includes advice on the collection of contemporaneous written statements from all persons present at the incident in anticipation of legal proceedings.

Crew training. Training associated with the content of the guidelines should be given to the crew of a vessel carrying armed guards so that they can familiarise themselves with the complexities of the new dynamic on board.

Annexed to the guidelines is a set of questions Members may wish to ask potential providers of armed security services and a blank copy of the MARSEC 2011 contract.

Recommendations for flag states

The interim recommendations for flag states recommend that flag states should have in place a policy on whether or not the use of armed guards will be authorised and, if so, under which conditions.

A flag state should take into account the possible escalation of violence which could result from the use of firearms and carriage of armed personnel on board ships when deciding on its policy. The recommendations are not intended to endorse or institutionalise the use of armed guards and do not address all the legal issues that might be associated with their use onboard ships.

An inter-sessional meeting of the IMO working group on maritime security and piracy will meet in September 2011 to develop recommendations to governments on the use of armed guards, review the interim guidance to shipowners, ship operators and shipmasters for any consequential amendments and agree an MSC circular for the promulgation of the recommendations to governments.

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If necessary, the working group will also agree a revised MSC circular on guidance to shipowners, ship operators and shipmasters and identify any necessary consequential amendments to the existing circulars on the these issues. These are

Recommendations to governments for preventing and suppressing piracy and armed robbery against ships (MSC.1/Circ.1333)

Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships (MSC.1/Circ.1334).

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