



MARCH 28, 2012

CIRCULAR NO. 10/12

TO MEMBERS OF THE ASSOCIATION

Dear Member:

BIMCO GUARDCON CONTRACT FOR THE EMPLOYMENT OF SECURITY GUARDS ON VESSELS

Members are referred to BIMCO's GUARDCON contract for the employment of security guards on vessels (GUARDCON), which has just been published today, March 28, 2012.

The decision as to whether to employ guards (whether armed or unarmed) is an operational one for Members. In making that decision, Members must always comply with flag state law as well as any applicable local laws. Members are also reminded of their obligation to follow the due diligence principles set out in IMO MSC Circular 1405¹ together with Best Management Practices (currently Version 4, August 2011).

Nevertheless, it has been recognized that the growth in the number of private maritime security contractors (PMSCs), each with differing contractual terms, has resulted in uncertainty. Accordingly, to benefit the wider shipping community, BIMCO has developed GUARDCON, drafted by a working group comprising shipowners, property underwriters, International Group P&I club representatives, maritime lawyers, representatives of security companies and other shipowner and marine insurance associations. GUARDCON is intended to harmonize terms of engagement of PMSCs (described in GUARDCON as contractors) as well as simplifying the processes for vetting and approval of contracts by shipowners and their P&I clubs.

Members are reminded that GUARDCON does not represent a recommendation by BIMCO or the International Group of P&I Clubs for, or endorsement of, the use of security guards on board vessels. Nor are security guards a substitute for strict compliance with Best Management Practices. Placing security guards on board a vessel should also only be considered after a risk assessment has been carried out, and the master should be involved in the decision-making process. However, the provisions of GUARDCON have been reviewed by the International Group's Maritime Security Sub-committee and conform with club cover and pooling requirements.

GUARDCON addresses a number of key issues, including:

- standards to which the contractor (PMSC) must conform in terms of:

¹ MSC.1/Circ. 1405-Rev.1 Revised Interim Guidance to Shipowners, Ship Operators, and Shipmasters

- providing adequate insurance to cover their liabilities and contractual indemnities (which Members should verify); and
 - having in place the necessary permits and licenses to allow them to lawfully transport and carry weapons
- liability and indemnity provisions based on knock-for-knock principles; and
 - the master's responsibility for the safe navigation and overall command of the vessel.

If a Member decides to use an amended version of GUARDCON, or a different contract, it is recommended that consultation with the Club take place well in advance of any contemplated embarkation of PMSCs to ensure that the proposed amendments, or different contract, comply with Club cover and pooling requirements.

GUARDCON is accompanied by a separate guidance document "*Guidance on the Rules for the Use of Force*". This is aimed at assisting Members in respect of agreeing on the rules for the use of force that must form part of any contract for the employment of PMSCs. Members should however note that the rules for the use of force must comply with the provisions of MSC.1/Circ.1405 and with flag state and applicable national laws.

Should Members have any questions regarding GUARDCON, your Managers will be pleased to assist.

Yours faithfully,


Joseph E.M. Hughes, Chairman & CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB

All Clubs in the International Group of P&I Clubs have issued similar circulars.