



December 23, 2002

CIRCULAR NO. 25/02

TO MEMBERS OF THE ASSOCIATION

Dear Member:

NEW BIMCO US SECURITY CLAUSES

The Baltic and International Maritime Council (BIMCO) has just published new US Security Clauses for use in voyage and time charterparties in response to recent US regulations.

The relevant BIMCO press release is enclosed herein. The full text of the BIMCO C-TPAT and US Security Clauses are set out in that document.

Members are asked to note their records accordingly. As will be recalled, potential difficulties as might arise in regard to this issue were originally notified to the membership at large in Club Circular No. 17/02 of August 22, 2002. As a result of more general industry concerns, the new BIMCO clauses have now emerged.

If any Members have questions as to the enclosed, or generally, the Managers will, as usual, be pleased to answer them.

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

BIMCO

PRESS RELEASE



20 December 2002

THE BALTIMORE AND INTERNATIONAL MARITIME COUNCIL

For immediate release

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U.S. Security Clauses to be used in voyage and time charter parties

In the wake of the events of 11 September 2001 the U.S. has been imposing on the shipping industry new security regulations and measures, which have caused increased expenses and delays to vessels calling in the U.S. In an effort to protect owners against the consequences of these new security measures, a set of standard clauses have been produced by BIMCO for incorporation into voyage and time charter parties, as appropriate.

The "U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) Clause", was drafted to take into consideration the situation where the charterers have voluntarily signed the so-called C-TPAT Agreement, but the owners have not. Owners who wish to help the charterers comply with their obligations under the C-TPAT Agreement may use the Clause, although they are not legally bound to do so. (For more information on the C-TPAT Agreement, please refer to the U.S. Customs website: www.customs.ustreas.gov/enforcem/tpat.htm)

The two remaining clauses, "U.S. Security Clauses" (one for voyage chartering and one for time chartering), were drafted to establish between the parties the liability for time lost and expenses incurred associated with the new U.S. requirements, *e.g.*, consequences of new reporting procedures and the posting of security guards on board vessels calling U.S. ports.

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and Crew be liable for any delays, losses or damages howsoever arising out of any failure to meet the requirements of the C-TPAT Agreement signed by the Charterers.

The Charterers agree to indemnify and hold the Owners, Master and Crew harmless for any claims made against the Owners, Master and Crew or for any delays, losses, damages, expenses or penalties suffered by the Owners arising out of the C-TPAT Agreement signed by the Charterers.

U.S. Security Clause for Voyage Chartering

If the Vessel calls in the United States, including any U.S. territory, the following provisions shall apply with respect to any applicable security regulations or measures:

Reporting

The Vessel or its agents shall report and send all notices as required to obtain entry and exit clearances from the relevant U.S. authorities.

Any delay caused by the failure to so report shall be for the Owners' account, unless such failure to report is caused by or attributable to the Charterers or their representatives or agents including but not limited to the shipper and/or receiver of the cargo.

Clearances

Unless caused by the Owners' negligence, any delay suffered or time lost in obtaining the entry and exit clearances from the relevant U.S. authorities shall count as laytime or time on demurrage.

Expenses

Any expenses or additional fees relating to the cargo, even if levied against the Vessel, that arise out of security measures imposed at the loading and/or discharging port and/or any other port to which the Charterers order the Vessel, shall be for the Charterers' account.

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Although under a voyage charter party it is usually for the owners to comply with and pay for port related requirements and costs, the Clause focuses on items that nevertheless ought to be for the charterers' account because they are cargo related. Such items would include time lost in obtaining entry and exit clearances, which is not attributable to the vessel, counting as laytime or time on demurrage and any expenses or additional fees relating to the cargo, even if levied against the vessel, being for the charterers' account. Finally the Clause stipulates that notice of readiness may be tendered even when the vessel has not been cleared for entry by the authorities. This provision is designed to attempt to protect the owners against any arguments that the vessel is not legally ready although she is ready for all other purposes.

The time charter party clause is less complicated and simply proposes that all costs and expenses arising out of security regulations or measures will be for the charterers' account as the employment of the vessel is solely the charterers' prerogative.

If you require further information please contact Carsten Hornecker, Documentary & Legal Division (e-mail: documentary@bimco.dk). The full text of the BIMCO C-TPAT Clause and U.S. Security Clauses follow this article.

U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) Clause

The Charterers have voluntarily signed the C-TPAT Agreement with the U.S. Customs Service. The Owners, Master and Crew will use reasonable efforts to assist the Charterers to comply with their obligations under the C-TPAT Agreement. However, under no circumstances shall the Owners, Master

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Notice of Readiness

Notwithstanding anything to the contrary contained in this Charter Party the Vessel shall be entitled to tender Notice of Readiness whether cleared for entry or not by any relevant U.S. authority.

U.S. Security Clause for Time Chartering

If the Vessel calls in the United States, including any U.S. territory, the following provisions shall apply with respect to any applicable security regulations or measures:

Notwithstanding anything else contained in this Charter Party all costs or expenses arising out of or related to security regulations or measures required by any U.S. authority including, but not limited to, security guards, launch services, tug escorts, port security fees or taxes and inspections, shall be for the Charterers' account, unless such costs or expenses result solely from the Owners' negligence.

Note to the Editor:

BIMCO is the world's leading private association of shipping companies, with nearly 2,600 members in 122 countries. The owner-members of BIMCO control a fleet of 510 million DWT thereby representing 65% of the world's merchant fleet. Among its many activities, the organisation provides strictly professional, non-political information and counselling services for the maritime community including owners, brokers, agents and club members. BIMCO is an official observer at the International Maritime Organization.

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