



## Courtesy translation

19 June 2014  
Version 3

### **Guidelines for navigating waters with a piracy threat, including the use of private armed guards**

Before a shipowner chooses to navigate waters with an internationally recognised piracy threat, including taking private armed guards on board his vessel as protective measure against pirate attacks, a number of conditions should as a minimum be considered. This guide has been jointly prepared by the Danish Shipowners' Association, the Shipowners' Association of 2010, the Danish Maritime Officers, the Danish Engineers' Association, CO Sea, the United Federation of Danish Workers, and the Danish Trade Organisation for Safety and Security.

These guidelines, in their original form were aimed at Somalia based piracy, but the latest version also focuses on navigating off the coast of West Africa. These guidelines must be read along with the most recent versions of the following documents (please find the latest versions in annex): The Danish Maritime Authority's Technical Regulation on measures for prevention of piracy and armed robbery against Danish ships of 23 November 2011, the Danish Ministry of Justice's Order on the use of private armed guards on Danish cargo ships of 27 June 2012, Best Management Practices for Protection against Somalia Based Piracy Version 4 (BMP4), Interim Guidelines for Owners, Operators and Masters for protection against piracy in the Gulf of Guinea Region, and IMO Circulars MSC.1/Circ.1334 of 23 June 2009, MSC.1/Circ.1390 of 9 December 2010, MSC.1/Circ.1405/Rev.2 of 25 May 2012 and MSC.1/Circ.1443 of 25 May 2012. This list will be updated, should other relevant internationally recognised guidelines be subsequently adopted.

1. When navigating in waters with identified risk of pirate attacks, the shipowner shall observe the Danish Maritime Authority's Technical Regulation on measures for prevention of piracy and armed robbery against Danish ships.
2. If a ship enters waters or ports presenting a risk of piracy/armed robbery at sea, the shipowner shall be obliged to take care of the seafarers. The shipowner shall, in accordance with what is considered sound company practice, conduct an individual and concrete risk assessment and take measures to prepare the ship and the crew for any attacks, prevent attacks and handle cases where the ship is attacked, including if crewmembers are taken hostage. The seafarers shall be informed of the possibilities for eventual to leave service under the provisions of Section 18 a of the act on seafarers' conditions of employment, etc.<sup>1</sup>
3. The shipowner shall have conducted a risk assessment, based, amongst others, on the BMP4 and MSC.1/Circ.1405/Rev.2.

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<sup>1</sup> Ref. consolidated act no. 1018 of 20 August 2013 chapter 3 a, "Consolidated act on seafarers' condition of employment etc.", as amended.

4. The shipowner shall, on the basis of a risk assessment, ensure the appropriate implementation of relevant Ship Protection Measures, e.g. as those mentioned in BMP4. Should the shipowner, on the basis of the risk assessment, choose to use the protection of private armed guards, this shall constitute an integral part of other necessary Ship Protection Measures.
5. The shipowner must have analysed his own insurance as well as that of the security company and ensured their adequacy. It is also recommended to obtain the insurer's approval of any contract between the shipowner and the security company.
6. The shipowner shall ensure to be fully updated on the current situation and threat in the relevant area, via, amongst others, the websites of the Maritime Security Center Horn of Africa (MSCHOA), NATO Shipping Centre, ReCAAP ISC, ICC International Maritime Bureau and NAVWARNS.
7. The shipowner shall ensure that in the event of a critical situation during the voyage (e.g. a pirate attack or a hijacking), plans and resources, to handle such an event, are available including an eventual negotiation situation. MSC.1/Circ.1390 of 9 December 2010 can assist the shipowner in developing procedures that can help to prepare the crew in case of attack and/or hijacking.
8. Each shipowner should ensure that the security company employed is qualified to do the job at hand. The International Maritime Organization, IMO has developed a (interim) guidance including criteria to be considered. Please see MSC.1/Circ.1405/Rev.2 of 25 May 2012.
9. A qualified maritime security company should consider the following factors; and also taking into account MSC.1/Circ.1443<sup>2</sup>:
  - a. The security company must have implemented a quality management system.
  - b. Training of the guards:
    - i. Basic safety training, (guards must have a training equivalent to the STCW Convention requirements for personnel not involved in the tasks related to the ship's safe navigation (maritime safety));
    - ii. Physical and mental readiness (compliance in accordance with the shipowners' own standards);
    - iii. Maritime security training (the practical part of the guards' work on a ship);
    - iv. Evidence of safe weapon handling and weapon training;
    - v. Up-to-date first aid certificate.
  - c. Documentation:
    - i. SOP (Standard Operation Procedure)
      1. Risk assessment;
      2. Armament of the assignment with resources and equipment;
      3. Instruction of personnel as regards behaviour and obligations;
      4. Daily log of the assignment, including watch roster;
      5. Written debriefing after the completion of the mission.
    - ii. Evidence of regular control of the security company's owners and the clean criminal record of the guards hired.
  - d. The security company, including employed guards, must have approval in accordance with national legislation.
  - e. There must be a firearms register with the security company, which is available for the shipowner and the authorities.

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<sup>2</sup> Further reference is made to ISOPAS 28007

- f. The security company must have an end user certificate (as proof that it may lawfully possess and use weapons).
  - g. RUF (Rules for the Use of Force), including clear description of powers and the ship's hierarchy, where the master has the overriding authority in all conditions.
  - h. Insurance shall be documented and adequate for the task.
  - i. The security company must provide appropriate safety equipment for the guards.
  - j. The security company must have a 24-hour manned emergency telephone line.
10. The size of the security team must guarantee a sufficient amount of guards for effective and continuous watch-keeping and must be based on a risk assessment. There may be special circumstances, such as ship size, which justify watch-keeping with fewer or more guards.<sup>3</sup>
  11. The shipowner and master must ensure proper storage of the weapons that the shipowner or security company has taken on board for defence against pirate attacks. With regard to storage and access to weapons, it must be ensured that these are only taken out following approval by the master in waters where there is a pirate threat, and that they only be handed out in accordance with the contract signed with the security company. The shipowner must have procedures for registration of the weapons on board.
  12. The master shall ensure that the crew receives a briefing from the security team. This crew briefing should include issues such as weapons handling and management, as well as attack situations.
  13. The master shall ensure full implementation of the required and recommended protection measures against pirate attacks and comply with the agreed reporting obligations towards the shipowner and the authorities.
  14. The guards may only use their weapons in self-defence or defence of others against an imminent threat to life, mobility or ship. Rules for the use of force must be prepared by the shipowner in dialogue with the master and if necessary with support from the security company. The use of force must be made within the framework of the flag state legislation – and where appropriate also the coastal state law, including any weapon permits.
  15. If weapons are used to counter for piracy attacks, adequate documentation of events must be guaranteed.
  16. It shall be ensured that the use of guards and weapons is made in accordance with flag state rules, for Danish flagged ships reference is made inter alia to the Danish Ministry of Justice's Order on the use of private armed guards on Danish cargo ships. Furthermore it should be ensured, that the transport and storage of weapons will take into account relevant coastal and port states' regulations.
  17. It shall not be possible to dismiss seafarers held hostage in connection with piracy. The employment shall not terminate though the ship is lost in connection with piracy or is no longer able to have it at his disposal.<sup>4</sup>

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<sup>3</sup> The typical size of guard teams are 2 – 4 guards.

<sup>4</sup> Ref. consolidated act no. 1018 of 20 August 2013 chapter 3 a, "Consolidated act on seafarers' condition of employment etc.", as amended.

18. A company, that has seafarers taken hostage in connection with piracy, shall do its utmost to urgently end the hostage situation and get the seafarers home safely.
19. The parties to these guidelines will in good faith monitor their application by shipowners, seafarers and security companies, and keep each other regularly informed. These guidelines will be continuously updated based on the experience gained and any additional relevant internationally recognised guidelines.