



# Circular

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## OUTLINE

- GUARDCON does not represent a recommendation or endorsement by BIMCO or the International Group of P&I Clubs for the use of security guards on board vessels.
- GUARDCON addresses key issues including adequate insurance, lawful transport and carry weapons, liability provisions and the Master's responsibility for the vessel.
- Cover for any amendments to GUARDCON must be agreed in advance with the Club.
- A separate guidance document accompanies GUARDCON "Guidance on the Rules for the Use of Force" and forms part of any contract employing private maritime security contractors.

## TO THE MEMBERS

Dear Sirs

### **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), published on 28th March, 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 1405<sup>1</sup> together with Best Management Practices (currently Version 4, August 2011).

Nevertheless, it has been recognised that the growth in the number of Private Maritime Security Contractors (PMSC's), each with differing contractual terms, has been resulting in uncertainty. Accordingly, to benefit the wider shipping community, BIMCO has developed GUARDCON, drafted by a working group comprising of shipowners, property underwriters, IG P&I Club representatives, maritime lawyers, representatives of security companies and other shipowner and marine insurance associations. GUARDCON is intended to harmonise terms of engagement of PMSC's (described in GUARDCON as Contractors) as well as simplifying the processes for vetting and approval of contracts by Members 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 subcommittee and conform with Club cover and Pooling requirements.

GUARDCON addresses a number of key issues, including:

- standards to which the Contractor (PMSC) must conform to in terms of:
  - providing adequate insurance to cover their liabilities and contractual indemnities (which Members should verify); and
  - having in place the necessary permits and licences 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 Members decide to use an amended version of GUARDCON, or a different contract, they are recommended to consult with their club 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". That guidance 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 they should contact the Club.

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

Yours faithfully

**THOMAS MILLER (BERMUDA) LTD.**

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

## CONTACT

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