### COMPARISON OF FLAG STATE LAWS ON ARMED GUARDS AND ARMS ON BOARD

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<th>Flag State</th>
<th>Authorization of arms on board, employment of private armed guards on board and use of firearms</th>
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<tr>
<td><strong>Antigua and Barbuda</strong></td>
<td>National Laws and Regulations do not mention prohibited. Decision to hire must be notified by Master, ship operator and shipowner after risk assessment indicates this as a necessity. <strong>Authorization and conditions</strong></td>
<td>The use of private armed guards should not be considered as an alternative to compliance with WPAP. Ships operators, ship operators and shipowners are to be guided by the provisions of SOLAS 2002/94 on armed guards. Decision to hire armed guards on board needs to be taken into account when preparing the ship’s security plan for the High Risk Area.</td>
<td>Guidance from the Antigua and Barbuda Department of Marine Services and Standard Shipping (SUSSO(2011)) is contained in Circular Letter 2013-035 “Piracy and Armed Robbery” <a href="http://www.antiguaflag.org">www.antiguaflag.org</a></td>
<td></td>
</tr>
<tr>
<td><strong>Bermuda</strong></td>
<td>Not recommended in the BPPs, however Bermuda Administration recognizes that circumstances make it mandatory and supports this intent when the circumstances are such that putting an armed crew on board is considered to be the only effective solution.</td>
<td>The Administration is aware that owners, ship operators and ship Masters have to consider risks as such that putting an armed crew on board is considered to be the only effective solution.</td>
<td>Recommendations to follow the requirements of BMP4. Owners should be noted in the selection of PMSC. Follow-up engagement should be clear and understandable to everyone onboard. The Master must retain ultimate responsibility for safety and security onboard at all times. The Master must delineate this responsibility to a “security contractor” and any negligent acts for their actions. The master must itself or an armed force/team in the nature and role associated with the BMP4 regime.</td>
<td>Requires the IMO guidelines on the use of Private Contracted Armed Forces by Personnels on Board Ships.</td>
</tr>
<tr>
<td><strong>Belgium</strong></td>
<td>Legal framework providing for a certain number of measures to prevent against piracy, private security services deployment in Flagged vessels is effective. There are a number of Royal Decrees in force in full effect.</td>
<td>The shipowner should be able to demonstrate due diligence (i.e. including the security service provider with professional knowledge. All documentation (operation plan, crew, ship, firearms etc) is required to be submitted to the Administration. The master, in any case where the carriage of an armed team places the total complement on board in excess of LSA capacity it is incumbent to notify the Administration which will consider, on a case by case basis, the feasibility of temporary exemptions for the period necessary.</td>
<td>Guidance from the Belgian Maritime Authority (BMA) Information Bulletin No.134 “Guidance to ship-owners on carriage of armed personnel for vessel protection): <a href="http://www.belgiumflag.org">www.belgiumflag.org</a></td>
<td></td>
</tr>
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<td><strong>Barbuda</strong></td>
<td>Not expressly prohibited. The Administration is aware that circumstances make it mandatory and supports this intent when the circumstances are such that putting an armed crew on board is considered to be the only effective solution.</td>
<td>Not expressly prohibited. Not recommended neither prohibited. Decision to be made by the shipowner, ship operator and shipowner after risk assessment indicates this as a necessity.</td>
<td>The Master retains overall responsibility for safety and security onboard, and has exercising authority on matters of security at all times. The total number of personnel on board should not exceed the LSA requirements, however the flag will consider granting exemptions where considered necessary. It is on occasion on the shipowner/operator and the PMSC to ensure that adequate insurance coverage make to cover any unforeseen liability claims. The Administration of Antigua and Barbuda will not accept liability for any matter arising from the use of privately armed security personnel on board.</td>
<td></td>
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### Canada

Firearms are regulated primarily by the **Firearms Act** and by Part III of the **Criminal Code**. The **Firearms Act** and its supporting regulations establish the rules for possessing a firearm. The **Criminal Code** and its supporting regulations identify the various firearms, weapons and devices regulated by the **Firearms Act**. Both the **Criminal Code** and the **Firearms Act** contain offenses and penalties for illegal possession or use of a firearm. Provisions and inclusions may be modified and amended by the **Canadian Transportation Security Regulations** (MTSR) to ensure the security of vessels. The MTSRs require that the security plan must contain procedures to secure weapons, ammunition and munitions and other dangerous substances and devices that are authorized to be on board. To legally possess firearms in Canada, one must meet and comply with the requirements set out in the **Firearms Act** and Part III of the **Criminal Code**. The national **Marine Transportation Security Regulations (MTSR)** require that the security plan must contain procedures to secure weapons, ammunition and munitions and other dangerous substances and devices that are authorized to be on board. Canada supports the current IMO policy that discourages the presence of arms on board ships.

There are other federal and provincial requirements (e.g. licensing, import/export controls, etc.) that may restrict or limit the presence, possession or use of firearms on ocean-going vessels in Canadian or foreign-flagged ships in Canadian jurisdiction.

### China

No provision in national legislation.

An ocean-going vessels escort company is presently under preparation to provide armed guards on board Chinese flagged ships.

### Cyprus

Limited provision in national legislation.

Cyprus has adopted the Protection of Cyprus Ships Against Acts of Piracy and Other Unlawful Acts Law of 2012 (Law 77(I)/2012) to combat piracy on Cyprus flagged ships. The law provides for the obligations and rights, of both the shipowners and private security service providers with regard to the security and protection of ships. Private security service providers must undergo a vetting procedure through the Maritime Administration in order to be approved and certificated prior to being in a position to provide their services. Thus, the law also includes particular provisions in relation to qualifications and the issuance of certificates. There are also a number of restrictions and requirements that must be met in order for a private security service provider to be approved and certificated. The law also includes provisions in relation to the security and protection of ships in relation to unlawful occupation of ships. The law also includes provisions in relation to the protection of Cyprus ships by armed or security forces.

The law is drafted in the Greek language and an “unofficial” English translation can be downloaded from the website of the Cyprus Department of Merchant Shipping at www.shipping.gov.cy

### Denmark

Prohibition unless there is authorization from the Justice Department.

Possibility to apply for general permission to use armed guards.

### Remarks

- The application to use armed guards must specify:
  - The details of the owner and the ISM responsible.
  - That weapons are stowed securely on board according to the regulations.
  - A short description of the company’s anti-piracy measures.

- It is common to have the company that applies for approval approved for each guard at each voyage, for each guard and for each weapon. The company can take a one-year general permit to use armed guards on Danish flagged ships in areas with high piracy threats.

- The overall responsibility for the security and safety on board remains with the Master. He has the authority to decide when the arms are to be used. The shipowner and the Master are both responsible for the security and safety of the private security guards. The new rules entered into force on 1 July 2012.
**France**

The approval procedure is based on the Firearms Act (1/1998) and the Government Decree Concerning Arms Detention Authorization Scheme (Decree No. 95-589 of 14 July 1995). The law has the broadest ambit of private-ownership and does not include the maritime activities, because, decree No. 95-589 concerning arms detention authorization scheme).

**Germany**

Not administratively authorized

The authorisation shall be issued in Greek and English for a specific ship within fifteen days of the submission of a complete file and the original authorisation shall be kept on the ship. The terms and conditions relating to private armed guards shall be certified by the service provider and shall be communicated to the ship's master and any other relevant parties.

Permission for private armed guards onboard ships could be issued for national registered vessels for the purpose of acting as guard for persons (seafarers) on-board the vessel. This restriction can also be circumvented if the safety guard is educated by an authorized security guard or his substitute and the head of private armed guards or his substitute, concerning arms detention authorization scheme).

**Greece**

The ship owners have to request a letter for the carriage of weapons on board. The ship owners must have a license to carry arms on board. The captain of a ship flying a foreign flag shall be obliged, within twenty four (24) hours before sailing across Greek territorial waters, notify in writing the captain of a ship flying a foreign flag shall be obliged, within twenty four (24) hours before sailing across Greek territorial waters, notify in writing the

The terms and conditions relating to private armed guards shall be certified by the service provider and shall be included in the contract with the ship's master or manager.

**Hong Kong**

Training and Certification in Hong Kong required for Armed Security Guards only. Not required if arms are separated from personnel and arms are separate from personnel.

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A file must be submitted for the issuance of the authorisation that shall include an application by the ship owner or manager comprising the ship's particulars and an analysis of the estimated risk taking into consideration the voyage, the category and the features of the ship, the Best Management Practices recommended the International Maritime Organization and the economic interest of the ship owner.

Obligations of the ship operator: the ship may be allowed to carry arms on board only if the ship operator has certified by a recognized security guard or his substitute, concerning arms detention authorization scheme).

Referring to TraFi (Maritime Administration) the armed guards can't be employed according to the STCW-regulations and they can’t be regarded as passengers.

**Introduction**

A private security company will get a licence for performing a job where a security consultant is present. The interpretation of the private security service is that these services can be used as a crime-fighting tool to prevent and respond to criminal activities. Instructions on how to use this service can be found in the manual. The ship's master or manager shall be responsible for the carriage of weapons on board. The shipowner must have a license to carry arms on board. The captain of a ship flying a foreign flag shall be obliged, within twenty four (24) hours before sailing across Greek territorial waters, notify in writing the 

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Germany

Armed security personnel allowed, subject to approval by the Federal Office of Territories and Environment (BAFA).

Greece

Permission for private armed guards onboard ships could be issued for national registered vessels for the purpose of acting as guard for persons (seafarers) on-board the vessel. This restriction can also be circumvented if the safety guard is educated by an authorized security guard or his substitute and the head of private armed guards or his substitute, concerning arms detention authorization scheme).

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Obligations of the ship operator: the ship may be allowed to carry arms on board only if the ship operator has certified by a recognized security guard or his substitute, concerning arms detention authorization scheme).

Referring to TraFi (Maritime Administration) the armed guards can't be employed according to the STCW-regulations and they can’t be regarded as passengers.
India

- Possession of arms by Master/Crew on Indian Ships is prohibited. Foreign ships visiting Indian ports are required to declare arms in their Custom declaration and ensure are sealed in secure storage. When in the territorial sea, due account must be taken of any applicable laws.
- Ministry of Shipping issued “Circular” on deployment of Armed Security guards “should be available on web site (shipping.nic.in)” (see the title search function to locate the guidelines, there is a direct link).
- Deployment of Foreign armed guards is not prohibited for Indian ships or ships visiting India. However strict criteria must be deployed subject to a thorough risk analysis in cooperation with the vessel’s insurance underwriters, charterers and legal counsel. The decision to use armed guards should not be made without some account of any applicable laws.
- Foreign flagged vessels may not embark or disembark armed guards in Indian waters.

Jamaica

- Firearms license is not required for the carriage of arms on board a Jamaica flagged vessel unless in transit through territorial waters.
- Possession of arms by Master/Crew on Jamaican Ships is prohibited. However, possession of arms in transit through territorial waters is allowed in a secure manner in transit through the territorial sea. Custom declaration and ensure are sealed in secure storage. The Ministry of Defence and the Jamaica Coast Guard will act in accordance with the茱莉亚.

Italy

- The Italian Coast Guard have issued a new decree no. 349/2013, in order to regulate safety and security aspects in compliance with the relevant international guidelines.
- Following the recent Decree of the Ministry of Interior Affairs no. 266 dated 28 December 2012, which allows the embarkation of Privately Contracted Armed Security Personnel (PCASP) onboard Italian flagged ships, the Italian Government has issued circular allowing armed guards on Ships of Indian Flag and Foreign Ships visiting Indian Ports.

Japan

- Possession of arms by Master/Crew on Japanese Ships is prohibited. All Manx vessels are requested to register with MARPOL and to be entering the risk area.
- The Maritime Authority of Jamaica is cooperating with the International Maritime Organization to ensure the safety of its vessels. Jamaica is in the process of a decision to determine whether to opt that policy and undertake any investments in one of existing practice or any subsequent changes in the international guidelines.

Xenon Technologies and Baltic Central Gas (which in principle prohibits the possession of arms and explosives in tankers).

Xenon Technologies has also coordinated and consulted on the application procedures between shipowners and government
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<th>Location</th>
<th>Legal basis for placing armed guards (private or state) on merchant ships.</th>
<th>No legal basis to arm ship’s crew.</th>
<th>No legal disposition to place armed guards (private or state) on merchant ships.</th>
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<tbody>
<tr>
<td>Marshall Islands</td>
<td>Legal or not recommended. In absence of shipowners with no legal basis to do so, the placement of armed guards on merchant ships can be facilitated.</td>
<td>No prohibition. Section 38 of the Maritime Safety Act.</td>
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<td>Netherlands</td>
<td>The legal disposition to place armed guards (private or state) on merchant ships.</td>
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**Malta**

- Not prohibited. See terms and conditions.
- The accidental use of firearms is subject to a criminal liability in accordance with relevant laws or regulations of any State that is not in accordance with a Maltese registered ship.
- Ship in accordance with IMO guidelines MSC.1/Circ.1443.
- Not prohibited. See terms and conditions.
- Within the Master’s discretion.
- No prohibition.
- On board the ship is subject to the overriding authority of the ship’s Master.
- Communication procedures with the PCASP.
- Use of defensive measures.
- Use of passive/non-lethal devices.

**Netherlands**

- No legal basis to arm ship’s crew.
- There is not yet a legal basis for the use of private security companies.
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**Indonesia**

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<th>Country</th>
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<th>Legal Grounds</th>
<th>Training Requirements</th>
<th>Use of Force</th>
<th>Key Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norway</td>
<td>No prohibition</td>
<td><em>No legal guidelines however the Polish marine administration recommends to observe IMO circular MSC.1/Circ. 1408 of 16/09/2011</em></td>
<td>Must have a criminal record check; must have proof of all courses and certifications; must have proof of training; must have experience and qualification of said personnel</td>
<td>Not recommended or prohibited. The decision to use force strictly belongs to the ship operator. Resolution No.106-13-DGMM, dated March 8th, 2012. (MMC 228 and MMC 245)</td>
<td>The Norwegian maritime administration highly recommends following IMO recommendations and also the use of the FIC. All these recommendations are also established on Norwegian Standards Authority (NVS) 3, 218 and 220.</td>
</tr>
<tr>
<td>Panama</td>
<td>No prohibition</td>
<td>*No legal guidelines however the Panama maritime administration highly recommends followingIMO Recommendations for Flag States regarding the use of privately contracted armed security personnel on board ships in the high risk area and Circular MSC1/Circ1406/Rev.2. Panama Maritime Authority Guidelines established on MMC 206, MMC 228, MMC 240, MMC 247 and Recommendation No.103 (2013), dated March 8th, 2013.</td>
<td>Must have proof of all courses and certifications; must have proof of training; must have experience and qualification of said personnel</td>
<td>No prohibition. The companies providing these services must be duly established and must comply with the guidelines given by IMO.</td>
<td>The Panama Maritime Authority highly recommends following IMO recommendations and also the use of the FIC. All these recommendations are also established on Panama Standards Authority (NVS) 3, 218 and 220.</td>
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<td>Portugal</td>
<td>No prohibition</td>
<td><em>No legal guidelines however the Portuguese administration recommends to observe IMO circular MSC.1/Circ. 1408 of 16/09/2011</em></td>
<td>Must have a criminal record check; must have proof of all courses and certifications; must have proof of training; must have experience and qualification of said personnel</td>
<td>No prohibition.</td>
<td>The Portuguese administration is planning to promote a wide reflection on the subject in view of the seriousness of the situation which continues to develop and the complexity of the measures adopted over the last years. It is hoped that a new reflection on guidance will be achieved.</td>
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<td>Singapore</td>
<td>No prohibition</td>
<td><em>No legal guidelines however the Singapore Administration is planning to promote a wide reflection on the subject in view of the seriousness of the situation which continues to develop and the complexity of the measures adopted over the last years. It is hoped that a new reflection on guidance will be achieved.</em></td>
<td>Must have a criminal record check; must have proof of all courses and certifications; must have proof of training; must have experience and qualification of said personnel</td>
<td>No prohibition.</td>
<td>The Singapore Administration is planning to promote a wide reflection on the subject in view of the seriousness of the situation which continues to develop and the complexity of the measures adopted over the last years. It is hoped that a new reflection on guidance will be achieved.</td>
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**Notes:**
- The MPA Shipping circular No. 11 of 2011 refers to the interim guidance in IMO document MSC.1/Circ.1405, 23 May 2011. Owners, masters or any person on board a Singapore registered ship is to be in compliance with the requirements of this interim guidance.
- The SOPs ship owner/ship manager is to submit to the Flag Administration the following documents:
  - Copy of the maritime administration guidelines.
  - Training documents.
  - Personnel list with photo and signature.
  - A risk assessment.
  - A certificate of insurance in force.
- The NPSP SOPs ship owner/ship manager is to submit to the Flag Administration the following documents:
  - Copy of the maritime administration guidelines.
  - Training documents.
  - Personnel list with photo and signature.
  - A risk assessment.
  - A certificate of insurance in force.
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Spain
Royal Decree 1628/2009 on private security and weapons allows Spanish flag ships (both merchant and fishing vessels) to take on board armed private security guards to accomplish protection tasks (preventing and repelling attacks), if such ships are outside the Spanish territorial waters and confront a situation of particular risk to persons and property.

Order PRE/2914/2009 developed Royal Decree 1628/2009 setting the conditions for the possession, control, use and acquisition of war weapons by non-security companies, as well as the characteristics of authorized weapons. According to this Order, these services may only be provided by security companies established in Spain, registered in the Spanish Interior Ministry and authorized to perform monitoring and protection activities and services.

Since the guards must make limited use of such weapons, with the sole aim of preventing and discouraging from possible attacks, but only, if necessary, use the weapons in order to repel an armed aggressor in a proper and proportionate way.

Royal Decree 1628/2009, on private security and weapons.
Order PRE/2914/2009

Spanish flag tuna clips operating in the Seychelles area are making regular use of these regulations to employ armed guards on board with positive result for the time being.

U.K.
New maritime licenses are used for PMSC and PCASP. Regulation of floating armouries in hand.

USA
The U.S. State Department grants temporary licenses under ITAR regulations, and the Department of Homeland Security enforces the requirements. See: [http://www.gpo.gov/fdsys/search/home.action](http://www.gpo.gov/fdsys/search/home.action). Selection “Code of Federal Regulations” on right side banner, then “2011” then “Title 22 – Foreign Relations”, then “Chapter 1 – Department of State”, then “Subchapter M – ITAR Regulations.” ITAR Regulations are found at 22 CFR 120-130; specific applicability of Section 22 CFR 123.

The master has the responsibility for and control of private armed security guards including when the force is used; Liability for use of force is dependent on the circumstances of each case; Security guards are not part of the crew and are treated as passengers for the purpose of safety and the Ship Security Plan approved by the U.S. Coast Guard; The Coast Guard Authorization Act (section 912) provides substantial, but not complete, immunity for monetary damages for any injury or death caused by such forces in any person engaging in acts of piracy.

Possibility under the principles of “Self-Defence” and “Defence of others” (Ship owner’s decision).


Weapons only if fired in line and not fully automatically.


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