



## SHIPOWNER'S LEGAL EXPENSES COVER FOR THE CARRIAGE OF ARMED GUARDS

### Armed Solutions

Since the International Maritime Organization (IMO) released MSC.1/Circ.1406 "Interim Recommendation for Flag States Regarding the use of privately contracted armed security personnel onboard ships in the High Risk Area", a number of nations have begun to reassess their approach to armed guards onboard vessels flying their flags.

Amongst some high profile States looking to potentially allow weapons on their ships, the UK, Indian and Norwegian governments have all stated their desires (to varying degrees) to address the issue.

In the UK, Mike Penning the shipping minister has suggested a change in the government stance on armed guards. In a statement he said, "the Department for Transport is considering amending the current policy to recognise that engaging armed personnel is an option for UK-flagged ship owners to combat piracy." In India similar moves are seeking to provide "military" style units to vessels. While the Norwegian government has presented new rules and regulations on the carriage of arms onboard their vessels.

Even the upcoming version of the industry Best Management Practice (BMP4) carries guidance on armed guards. They state that the use, or not, of armed Private Maritime Security Contractors onboard merchant vessels is a matter for individual ship operators to decide following their own voyage risk assessment and approval of respective Flag States.

This means that many more vessels will now begin to carry privately contracted armed security personnel. With the potential risks which such steps bring.

## Risks

There are many risks related to placing armed guards onboard. Lethal weapons by their very nature carry with them potential for death and serious injury, whether to crewmembers or innocent fishermen. When weapons are discharged there are a whole host of problems if things go wrong.

While the use of armed guards provides a degree of assurance against pirates, it is increasingly bringing concerns for masters and shipowners who fear the liabilities that they may carry as a result.

Seacurus has looked at these issues and risks in-depth and has launched a new insurance product providing reassurance to clients through, "Shipowner's Legal Expenses Cover for the Carriage of Armed Guards".

Transiting the High Risk Area with an armed team onboard may help ease the fears of piracy, and with the cover that Seacurus now offers there is an option for real reassurance across the whole process.

## Questions and Answers

### What does this cover insure?

This cover will respond when the insured shipowner, it's corporate officers, ship's master and crew are cited in legal proceedings (civil or criminal) following allegations of killing, maiming or personal injury arising as a direct consequence of the actions of armed guards carried lawfully on-board the insured's vessel.

### What type of policy is this?

This is a term value policy. The usual term of the policy will be determined by the length of the voyage to be insured. Alternatively if the policy is written on a fleet basis then the term would be one year. The value of the maximum policy indemnification is USD 1,500,000 per insured event.

### Does this policy cover all claims arising as a direct result of the carriage of armed guards on-board the assured's vessel?

No. The claims must relate to allegations of corporate killing, manslaughter, maiming or personal injury arising as a consequence of the accidental or deliberate discharge of weapons onboard the insured vessel.

### When must a claim be notified to the insurer?

Claims must be notified to the insurer as soon as the assured becomes aware of the same. The event giving rise to the claim must have arisen during the period of insurance and will become time barred if the plaintiff fails to bring the claim within the statute of limitations.

### Are any jurisdictions excluded from the cover?

No, as this is a marine loss it is understood that the plaintiff may have a number of jurisdictions within which to bring their claim and the insured's interests will be rigorously defended in whatever jurisdiction the claim is made.

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## Is there a deductible?

Yes, there is a USD10,000 deductible per insured event.

## Can the cover be purchased on a fleet/multi-breach basis?

Yes, cover may be purchased on either a single voyage or fleet/multi-breach basis. Premium discounts may be available for a multi-breach/fleet cover.

## How many vessels can be covered under the policy?

The policy can be tailored to accommodate a single ship or multi-ship fleet cover.

## What are the advantages of insuring a fleet under one policy?

By insuring multiple vessels under the same policy and limiting the number of claims in the aggregate during the term of the policy it is possible to obtain effective risk transfer for a meaningful reduction in the per voyage premium cost.

## What is a typical claims scenario?

A crew member may be killed following the accidental discharge of a loaded weapon. A claim may be brought by the crewmember's dependents for corporate manslaughter.

A Somali child being used as a human shield may be killed in a fire fight which arises when the armed guards are called into action to defend the vessel from the threat of piratical attack. Further to which a human rights lawyer progresses claims against the corporate following allegations of corporate killing.

## Are there any conditions precedent to the cover?

Yes, it is a condition precedent to this policy extension that the carriage of Armed Guards onboard the Insured Vessel has been approved by the Insured Vessel's Flag State and the Insured's P&I Liability insurers.

## When is the premium payable?

The premium is payable prior to the inception date of the policy.

## Is this cover relevant for all vessel types?

Yes.

## Who is the insurer?

The risk is insured by certain Underwriters at Lloyds of London who are market leaders in the provision of legal costs insurance.

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## Is there any overlap with other insurances?

No, the legal costs arising out of an insured event would not be covered by the traditional insurances, namely, P&I, FD&D or D&O. Nor would they be covered by an owner's marine K&R insurance which is only triggered by a demand for ransom. It is most likely that claims would arise during efforts made to avoid a hijacking, consequently the K&R policy would not be triggered and the shipowner would not have the benefit of the legal liability cover therein.

## Why buy the cover?

In recent guidelines issued by the IMO, liabilities, losses and expenses arising out of the deployment of a privately contracted armed security team (PCASP) may impact on the shipowner's property and liability insurance cover.

The IMO reminds owners/operators to consult with their insurers prior to contracting with and embarking PCASP to assess the potential impact on their insurance cover, particularly as it relates to armed engagements and liability insurance held by the PMSC.

To this extent an immediate and obvious gap in cover concerns the indemnification of legal costs which may be incurred by the shipowner as a consequence of an armed incident.

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