



TUVALU SHIP REGISTRY

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MARINE CIRCULAR

MC-10/2010/12/3

9/2012

FOR: Ship Owners, Ship Managers, Ship Operators, Ship Masters and Ship Officers

SUBJECT: CARRIAGE OF FIREARMS & EMPLOYMENT OF ARMED SECURITY PERSONNEL FOR DEFENSE AGAINST PIRACY

PURPOSE: This Marine Circular serves to inform all Owners and Managers on Tuvalu's stand with regards to the subject of deterring piracy in the pirate-infested waters through the use of firearms, whether through the crew or through armed security personnel, on Tuvalu-flagged vessels.

REFERENCES: Tuvalu Ship Registry Marine Circular MC-4/2010/12/2

The Tuvalu Ship Registry (TSR) recognizes the concern amongst ship owners, ship managers, and ship operators with regards to the inherent problem of piracy in waters such as those off the coast of Somalia.

TSR further understands that there has been feedback from ship owners on the interest to use firearms and armed guards from private security companies to defend the vessel against pirate attacks.

TSR wishes all parties concerned to be aware that IMO discourages the carriage and use of firearms by seafarers for self-defense for the following reasons:

1. Seafarers may well lack the degree of skill and training required for the safe use of firearms.
2. Use of firearms may escalate an already dangerous situation, and will pose an even greater danger if used on board a vessel carrying flammable or otherwise dangerous cargo.
3. In addition to physical dangers, seafarers may face unforeseen penal consequences under foreign laws, in the event of causing death, despite the fact that many nations do reduce or absolve criminal liability where a criminal act is committed in self-defense.

However, there is no law under the Tuvalu Merchant Shipping Act that prohibits the carriage of firearms. Therefore, should ship owners or ship managers feel compelled to employ the carriage of firearms or armed security personnel on board Tuvalu-flagged vessels, then the following guidelines should be implemented by the vessel's owners/managers:

- a) Coastal/Port state law will regulate whether, and what type of firearms may be carried on board when a vessel calls at port. As such, owners/managers must:
 - Check with port authorities prior to vessel arrival that no laws are breached with the firearms carried on board.
 - Adhere strictly to procedures of declaration and storage of the firearms whilst at port. Generally, firearms are prohibited into entry of most ports in the world, as such all firearms onboard during entry must be placed in bonded store/strong room and sealed by customs.

- b) The Safety Management System must incorporate measures to ensure that the firearms are secured whilst the vessel is at sea to prevent any unauthorized or unlawful use of the firearms by the crew.
- c) Confirmation from P&I insurers that the carriage of firearms on board does not warrant a breach of the cover.
- d) Due consideration taken with regards to the type of cargo onboard such as flammable cargo or similar types of dangerous goods before engaging armed security personnel onboard.
- e) Ensure that the officers and crews adhere closely to the guidelines found in Marine Circular MC-4/2010/12/2 and its relevant Annexes.
- f) Provide additional life-saving appliances/equipment to accommodate the additional security personnel onboard (if applicable).
- g) All armed security personnel should be contracted from specialized and reputable private security firms (if applicable), as there have been allegations of over-charging, prolonging of conflict to increase profits, unnecessary & irresponsible use of violence, and involvement in criminal activities.
- h) Prioritize the employment of private security firms that use non-lethal weapons instead of lethal firearms.
- i) Carry out a cost versus benefit analysis on the employment of private security companies providing the services of armed security personnel on board vessels, seeking professional advice and guidance if required.
- j) Provide prior notice to officers and crew on the carriage of firearms and/or deployment of armed security personnel on board the vessel. The crew should not be compelled to sail on a vessel carrying firearms and/or armed security personnel should they feel uncomfortable with the risks.
- k) As far as practicable, to seek the prior consent of the mortgagee of the vessel (if any) even though it may not be a requirement under the terms of the applicable mortgage, but it is a recommended course of action as a matter of prudence.
- l) The decision to use firearms or deploy armed security personnel is the sole responsibility of the shipowners taking into account all relevant circumstances in each case and ensuring that there is no conflict with the laws of the coastal states and port authorities.

We understand that certain insurers may launch a “private navy” and give owners/managers an opportunity to obtain safe escort through pirate-infested waters. Please be advised that the above guidelines apply to owner/managers as well for this option.

Yours sincerely,

Deputy Registrar
Tuvalu Ship Registry