

BIMCO LAUNCHES STANDARD CONTRACT FOR SECURITY ESCORT VESSEL EMPLOYMENT

The need for a standard contract is spurred by the continuing attacks by Nigerian pirates, which take place primarily in international waters in the eastern Gulf of Guinea. Local laws, and sometimes just local enforcement practices, makes it difficult for shipowners to call ports in the region with “foreign” armed guards on board their ships. Some countries in the area also prohibit local armed guards from boarding foreign commercial vessels.

Consequently, private maritime security companies (PMSC) have developed security escort vessel services in these areas in partnership with local navies to comply with local regulations and practices. Typically, the escort vessels must carry a team of local naval armed guards sometimes accompanied by a liaison officer from the PMSC. At present there is no standard form of contract available to shipowners and PMSCs for hiring SEV services when operating in West Africa.

In response to demand from its members, BIMCO now launches a standard SEV contract which will assist in harmonizing terms and conditions for hiring escort vessels to make it easier and safer. The new contract is dubbed SEV-GUARDCON because it is based on BIMCO’s GUARDCON contract for the employment of security guards on board ships.

SEV-GUARDCON has been drafted specifically for cross-border transits where an SEV is needed to accompany the owner’s vessel through the Exclusive Economic Zone (EEZ) or territorial waters of more than one state. The structure mirrors GUARDCON wherever possible to ensure familiarity, and the insurance provisions have been kept as close as possible to the original GUARDCON wording. The liabilities and indemnities provisions reflect that SEV-GUARDCON covers services of an independently operated SEV as opposed to a security team carried on board the merchant ship. It will soon be available on BIMCO’s secure contract editing system, SmartCon, as well as in a sample version on the BIMCO website accompanied by explanatory notes.

COASTAL CARRIAGE OF FOREIGN TRADE CONTAINERS IN CHINA BY INTERNATIONAL CONTAINER LINERS FLYING NON-FIVE-STAR FLAGS

Ingosstrakh's P&I Correspondent in China Messrs. Huatai Insurance Agency & Consultant Service Ltd., continues to keep us in loop of new regulations on sea trade in region.

On November 18, 2021, the State Council of the People's Republic of China published Official Reply of the State Council on Approving Temporary Adjustments to the Implementation of the Provisions of Relevant Administrative Regulations in the Lin-Gang Special Area of China (Shanghai) Pilot Free Trade Zone (Letter No. 115 [2021] of the State Council) (hereinafter referred to as 'the Reply'). According to the Reply, eligible international container liner companies from foreign countries, the Hong Kong Special Administrative Region and the Macao Special Administrative Region shall be allowed to conduct the pilot program of the coastal carriage of foreign trade containers, with the Yangshan Port Area of Shanghai Port as an international transshipment port, between Dalian Port, Tianjin Port, and Qingdao Port and the Yangshan Port Area of Shanghai Port, by using their wholly-owned or controlled vessels flying non-five-star flags engaged in international voyages. This pilot program will be effective until December 31, 2024.

On December 13, 2021, the Ministry of Transport of the People's Republic of China published Announcement of the Ministry of Transport on the Implementation of the Pilot Program for the Coastal Carriage by International Container Liners Flying Non-Five-Star Flags Owned or Controlled by Overseas International Liner Company (hereinafter referred to as 'the Announcement').

According to the Regulation of the People's Republic of China on International Ocean Shipping and the Regulation on the Administration of Domestic Water Transport, no foreign international shipping operator is allowed to operate the shipping business between Chinese ports.

Article 22 Paragraph 2 of Regulation of the People's Republic of China on International Ocean Shipping stipulates: "Foreign international shipping operators may neither operate the shipping business between Chinese ports, nor operate the shipping business between Chinese ports in disguise by such means as using the rented Chinese vessels or shipping space or exchanging the shipping space."

Article 11 of Regulation on the Administration of Domestic Water Transport stipulates: "No foreign enterprise, other economic organization, or individual may engage in water transport business, or engage in water transport business in a disguised form such as leasing a Chinese vessel or shipping space. Any enterprise, other economic organization, or individual in the

Hong Kong Special Administrative Region, Macao Special Administrative Region, or Taiwan region shall be governed mutatis mutandis by the provisions of the preceding paragraph, except as otherwise prescribed by the State Council.”

The Reply by the State Counsel temporarily adjusted the above regulations and asked the appropriate departments of the State Council and the Shanghai Municipal People’s Government shall, according to the aforesaid adjustments, accordingly adjust the rules and regulatory documents developed by these departments and this Municipality in a timely manner, and establish the management rules meeting the requirements of the pilot program. Based on this requirement, the Ministry of Transport published the Announcement, setting detailed provisions for the qualifications on vessels and cargoes, application materials and procedures, etc.

The Main Content of the Announcement is as follows:

Qualification on Vessels and Cargoes

1. Vessels shall be intercontinental ships operating on main routes.
2. Cargoes are confined to foreign trade container cargoes, of which Through Bills of Lading have been signed.
3. Principle of reciprocity shall be met, namely the places where the actual controller of the international container liner company is located, the actual registration place of business, the country/region where the vessel is registered, are clearly open to Chinese enterprises to conduct their coastal carriage of foreign trade containers.

Application Procedures for Conduction of the Pilot Program

1. Application Materials to the Ministry of Transport

- 1) The Application Form for Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags (see attachment 1);
- 2) Business registration documents and notarized documents of the international liner companies, copies of Qualification Registration Certificate for International Liner Transportation;
- 3) Certificate of Registry, Certificate of Classification for vessels intended to conduct coastal carriage of foreign trade containers, supporting documents to certify the ownership of the ships;

4) Commitment Letter for Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags (see attachment 2);

5) Supporting legal materials to prove that the places where the actual controller of the international container liner company is located, the actual registration place of business, the country/region where the vessel is registered are clearly open to Chinese enterprises to conduct their coastal carriage. In the absence of the legal documents, a statement of compliance is needed to prove the principle of reciprocity is met.

2. If the aforesaid materials are all in order, the Ministry of Transport will issue Approval Letter for the Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags (see attachment 3) within 20 days after receipt of the materials.

Vessels flying non-five-star flags without approval shall not carry container cargoes between Chinese ports; including foreign trade container cargoes loaded at a Chinese port then export via a Chinese transshipment port, or transshipped into China via a domestic port and discharged at another Chinese port. In case of violation, punishment will be incurred according to Article 37 of Regulation of the People's Republic of China on International Ocean Shipping.

CAMEROON. VACCINATION AGAINST POLIO

Ingosstrakh's P&I Correspondent in Cameroon TCI (Africa) DOUALA, alerts on new decision local Authorities that renders binding the vaccination against Polio (and yellow fever) for the crew of any vessels calling in Cameroon.

As from 1st December 2021 all crew will be systematically checked upon vessel's arrival, and failing to evidence that the crew have their vaccinations (polio and yellow fever) up to date, they will be vaccinated by the local Sanitary Authorities.