

**Implementing Ordinance for the Ocean-Going Vessel Security  
Ordinance  
(Seeschiffbewachungsdurchführungsverordnung - SeeBewachDV)**

**of 21 June 2013**

**(Federal Law Gazette I, p. 1623)**

Based on Section 31 (4) second through fourth sentences of the Trade Regulation Code (Gewerbeordnung – GewO) in conjunction with Section 4 (2), Section 5 (3) and Section 6 (1) second sentence of the Ocean-Going Vessel Security Ordinance of 11 June 2013 (Federal Law Gazette I, p. 1562), of which Section 31 of the Trade Regulation Code has been inserted in the form of Article 1, number 4 of the Act of 4 March 2013 (Federal Law Gazette I, p. 362), the Federal Office of Economics and Export Control, in consultation with the Federal Police Headquarters and the Federal Maritime and Hydrographic Agency, respecting the rights of the Bundestag, decrees:

**Section 1**

**Appointment of a designated executive**

(1) The principal executive is determined according to Section 5 (3) of the Works Council Constitution Act (Betriebsverfassungsgesetz – BetrVG) in the version of the promulgation of 25 September 2001 (Federal Law Gazette I, p. 2518), last amended by Article 9 of the Act of 29 July 2009 (Federal Law Gazette I, p. 2424).

(2) The appointment of a senior executive as the designated executive by security company management and compliance with the requirements of Section 11 (2) of the Ocean-Going Vessel Security Ordinance must be documented. All employees of the company must receive written notification of the appointment. Employees under this ordinance are all employees of the security company, including deployed security operatives.

**Section 2**

**Organizational structure**

(1) The organizational structure must include the following aspects in particular:

1. the definition and documentation of the responsibilities within the security company, including details on managerial authority, transferability of this authority and provisions on replacements during absence, the assigned responsibilities within the security company as well as the communication in writing of these responsibilities to the employees, particularly in the case of subsequent changes,

2. the guarantee by security company management that the security teams on board ocean-going vessels are sufficiently staffed, for which purpose at least four security operatives are required; deployment of a greater number of security operatives depends on the risk assessment made in the course of operations planning; documentation of the criteria for determining staffing requirements, including role distribution within the security team; assurance that the following roles are filled on the deployed security team, with positions b), c) and d) also capable of being performed by the same person while maintaining the minimum number of four security operatives:
  - a) team leader,
  - b) deputy team leader,
  - c) guards and
  - d) a trained paramedic,
3. the assurance by security company management that a sufficient number of employees will be available around the clock on land to maintain operations.

(2) All employees must be promptly briefed on changes in the organizational structure that are relevant for performing the security function. The briefing must be in writing.

### **Section 3**

#### **Process framework**

(1) A process manual must be prepared to ensure a proper process framework within the security company. The manual must describe the procedures under Section 5 (1) of the Ocean-Going Vessel Security Ordinance and the respective responsibilities, taking into account the risks associated with the security function.

(2) The process manual must be provided to the employees as a guide. The designated executive must ensure that the process manual is maintained. Changes in the processes, especially based on changes in legal requirements, must be immediately included in the process manual. The employees must be immediately informed of the changes, and steps taken to ensure that they actually acknowledge the changes.

### **Section 4**

#### **Personnel selection process**

The personnel selection process is based on a requirements profile that is to be prepared by the security company. The personnel selection documentation must include the following records:

1. a certificate of good conduct not more than three months old or a comparable foreign document from an authority at the place of residence,
2. curriculum vitae,

3. evidence of the knowledge required under Section 10 of the Ocean-Going Vessel Security Ordinance and of periods of service in the armed forces and police,
4. valid Medical Certificate for Service at Sea according to Section 12 of the Seafarers' Act (Seearbeitsgesetz) from 20 April 2013 (Federal Law Gazette I p. 868) as well as
5. a certificate from a medical officer, specialist or psychologist, if facts are known which give reason to doubt personal aptitude under Section 9 (1) of the Ocean-Going Vessel Security Ordinance.

## **Section 5**

### **Personnel review process**

The reliability and personal aptitude of the security operatives must be reviewed at intervals of no more than twelve months pursuant to Sections 8 and 9 of the Ocean-Going Vessel Security Ordinance. The review shall be documented.

## **Section 6**

### **Familiarization training for personnel**

(1) A written plan shall be developed by the security company for familiarization training of each individual security operative, which must include:

1. introduction to the working environment, particularly:
  - a) ship types,
  - b) routes and
  - c) local conditions,
2. clarification of the allocation of responsibilities and command structure under Section 12 (2) during a deployment
3. handling of the equipment,
4. explanation of and training in the procedures, with particular attention to the process manual as well as
5. explanation of how to meet the competence requirements under Section 10 of the Ocean-Going Vessel Security Ordinance by the time of deployment on ocean-going vessels if evidence thereof has not already been provided under Section 4 second sentence number 3 at the recruitment stage.

(2) The familiarization training must be documented and the documentation brought to the attention of the designated executive.

## **Section 7**

### **Further training process for personnel**

(1) The competence under Section 10 of the Ocean-Going Vessel Security Ordinance must be kept up to date through annual training. The time, duration and content of the training and the names of the participants shall be documented.

(2) Every security operative entrusted with providing security on board ocean-going vessels must participate in weapons training at least four times per year. The individual weapons training sessions may not be more than six months apart in each case.

(3) The designated executive must ensure that all information on the current threat level in hazardous sea areas which is available to the security company is obtained and analysed. Relevant situational knowledge must be transmitted immediately to the security operatives on deployment. This information may be supplemented by the team leader during a deployment. During this process, the time intervals between information procurement, the information sources and the analysis completed shall be documented. In addition, it must be demonstrated that information services that allow a current overview of deployment-related events were consulted. Information to be obtained under the first sentence includes, in particular, any regarding:

1. the strategies and weaponry of specific criminal groups and
2. the targets of attacks.

## **Section 8**

### **Guaranteed provision of legal advice**

Security operatives must be guaranteed access around the clock to legal advice in accordance with Section 4 (1) second sentence number 4 of the Ocean-Going Vessel Security Ordinance. Experts versed in providing legal advice shall be engaged for this purpose. The contact information for such persons or employees shall be provided to all security operatives. All security operatives must be promptly informed of changes in responsibility.

## **Section 9**

### **Documented control and verification processes**

(1) The internal verification processes pursuant to Section 4 (1) second sentence number 5 of the Ocean-Going Vessel Security Ordinance must provide control mechanisms for the daily operational processes. The controls must, in any event, cover compliance with the legal requirements, particularly under Sections 4 through 6 and 13 through 14 of the Ocean-Going Vessel Security Ordinance.

(2) The organizational structure and process framework, including the procedures at sea, must be reviewed regularly for design, reasonableness and effectiveness (system inspection). An employee who is not directly engaged in the routine work of the operations planning department should be entrusted with this task. The system inspection may also be outsourced and conducted by outside experts.

(3) If system deficiencies are detected during internal verification processes or in planning and executing the security function, security company management must define processes for addressing these deficiencies pursuant to Section 4 (1) second sentence number 5 of the Ocean-Going Vessel Security Ordinance. At the same time, the designated executive shall be informed of the deficiencies detected. He must initiate the process for addressing the deficiency. The process must include the following steps:

1. description of the deficiency,
2. causal research,
3. gathering suggestions for improvement,
4. agreement on corrective measures,
5. implementation of the measures and
6. success monitoring.

(4) The relevant contact persons for the individual steps shall be determined. Escalation levels and emergency procedures must also be established. The process and details of the respective contact persons shall be documented. Section 3 (2) third sentence applies to needed changes in the measures for complying with legal requirements.

## **Section 10**

### **Documentation system**

Security company management shall ensure that the documentary requirements of the security company under this ordinance are met by creating a documentation system. The following items shall be defined for this purpose in writing:

1. the responsibilities,
2. the facts and records to be documented,
3. the form of documentation,
4. the methods for document identification, protection and retrieval,
5. the manner of use of the documents,
6. the power of disposal over the documents as well as
7. the measures for complying with the retention periods under Section 13 (3) of the Ocean-Going Vessel Security Ordinance.

## **Section 11**

### **Communication system**

(1) Security company management shall ensure, through setting up and maintaining a suitable communication system, that

1. the employees are informed of the responsibilities pertaining to them,
2. imminent or observed violations of legal or operational requirements are immediately reported to management and to the designated executive.

(2) Security company management shall establish a point of contact that, in addition to the communication channels under paragraph (1), is responsible for receiving and forwarding information on imminent or observed violations and suggestions for improvements to management and the designated executive. This point of contact shall be announced internally.

(3) Information on imminent or observed violations under paragraphs (1) and (2) as well as suggestions for possible improvement under paragraph (2) and their processing shall be documented.

(4) The designated executive shall report regularly to security company management in writing on material events in the operational processes. Reports generated under the first sentence shall be retained pursuant to Section 13 (3) of the Ocean-Going Vessel Security Ordinance.

Material events in the operational processes are:

1. results of the internal control and verification processes under Section 9,
2. feedback from employees, business partners, customers, governmental authorities and other involved parties,
3. changes that may affect the operational framework under Section 4 (1) of the Ocean-Going Vessel Security Ordinance, the procedures or the standing orders under Section 5 (2) of the Ocean-Going Vessel Security Ordinance as well as
4. recommendations for improvements to the operational framework or procedures.

## **Section 12**

### **Deployment procedures**

(1) For planning and conducting operations at sea, Section 5 (1) of the Ocean-Going Vessel Security Ordinance requires that the security company define procedures for planning and conducting such operations. The procedures shall be documented.

(2) The security company's operations planning required under Section 5 (1) second sentence number 1 of the Ocean-Going Vessel Security Ordinance must consider the general circumstances. Operations planning is based on a risk assessment by the security company. This must expressly take into consideration the technical and structural particulars of the ship, including the available equipment on board, the planned route, the travel duration and current developments in the sea area. The security company must give consideration to the applicable guidelines of the International Maritime Organization (IMO) "Revised Interim Guidance to Shipowners, Ship Operators and Shipmasters on the Use of Privately Contracted Armed Security Personnel on Board Ships in the High Risk Area" in the version published by the Federal Ministry for Transport, Building and Urban Development dated 15 May 2013 (IMO guidelines for private maritime security companies; German Transport Gazette 2013, p. 651). The applicable "Best Management Practices for Protection against Somalia Based Piracy (BMP) in the version published by the Federal Ministry for Transport, Building and Urban Development on 22 May 2013 (German Transport Gazette 2013, p. 655) must be observed and implemented in the operations planning. Security company management shall ensure that a clear hierarchy and

command structure exists within the security team and make these known to all participants before the deployment. The command structure must also be followed during exercises. A team leader must be appointed pursuant to Section 2 (1) number 2, last partial sentence, letter a, and the leader's deputy pursuant to Section 2 (1) number 2, last partial sentence, letter b. All deployed security operatives must follow the team leader's instructions. The captain's overriding authority to issue orders remains unaffected. The definition of responsibilities, including all changes, must be documented.

(3) The team leader shall, to the best of his knowledge and belief and giving consideration to all situation-related facts, assist the captain in his assessment as to whether an attack is in progress. In the event of an attack, the team leader remains strictly with the captain in order, in his role as advisor, to ensure communication with the captain who has overriding authority to issue orders. If weapons are used, the security company's procedural rules on the use of force and weapons specified in Section 5 (1) second sentence number 3 of the Ocean-Going Vessel Security Ordinance and in paragraph (4) must be followed.

(4) The security company shall strictly avoid the application of physical force and the use of weapons. Exceptions may only be made in line with the prevailing German legislation, particularly Sections 32 through 35 of the German Penal Code (Strafgesetzbuch – StGB), with special consideration given to appropriateness, necessity and proportionality. In areas where attacks on the ocean-going vessel are threatened, the deployed security operatives must carry their weapons with them ready for use. If an attack is in progress and other milder defensive measures are unsuccessful or if their use is unpromising, the team leader gives the instruction – after the captain has expressly ordered it – to occupy the defensive positions and make preparations to fire. With consideration given to the general circumstances in individual cases, the following basic escalation levels are provided for:

1. warning shots into the air,
2. warning shots into the water in the vicinity of the attackers,
3. targeted shots at objects, particularly at the boat motor or hull,
4. as a last resort, if all milder defensive measures are ineffective, it is possible to use firearms directly against the attackers.

(5) In defining the communication channels between the security operatives and the captain under Section 5 (1) second sentence number 4 of the Ocean-Going Vessel Security Ordinance, the team leader is to be appointed as the person who is responsible to the captain. The team leader is answerable for the security operatives on his security team during the entire deployment and has legal responsibility for them, particularly with regard to the rules and regulations that must be observed on board ocean-going vessels. The team leader shall remain in contact with the captain and with his security company during the deployment. In addition, he must remain available for queries from German authorities. In the absence of the team leader, his deputy shall assume this function.

(6) The security company shall also ensure that its deployed security operatives observe legal and company requirements and procedures on board ocean-going vessels. The measures undertaken for supervising security operatives pursuant to

Section 5 (1) second sentence number 5 of the Ocean-Going Vessel Security Ordinance must be described to the Federal Office of Economics and Export Control.

(7) The conduct of the security operatives in defending an attack shall be documented pursuant to Section 5 (1) second sentence number 6. The security company shall outline the actions it took in this regard in an attachment to an application for approval. This shall also include the measures that are adopted with respect to protecting the documentation against forgery, deletion or misappropriation.

(8) In the course of outlining the procedure under Section 5 (1) second sentence number 7 of the Ocean-Going Vessel Security Ordinance, the security company shall describe the entire supply chain with respect to procurement, transport, loading onto the vessel and unloading, storage and protection of the equipment. Export, import or transit licences as well as trading and brokering licences that have been obtained must be produced. The internal rules and measures for weapons and ammunition storage shall also be produced.

### **Section 13**

#### **Standing orders**

(1) The general standing order shall incorporate at least basic information on the following list, accompanied with an attachment containing the legal provisions of the Federal Republic of Germany that are relevant for the information in accordance with the first sentence:

1. general description of duties,
2. legal status of the security operatives,
3. rights to issue directives,
4. rules on periods of service,
5. general conduct during deployment,
6. rules on handling uniforms and equipment,
7. reports and notifications as well as
8. data protection and confidentiality obligations.

(2) With the deployment-specific standing order, it must be ensured that the precise individual order is complied with in accordance with the underlying contract, the relevant legal regimes, terms of the general standing order and the process manual and also with the ship particulars. The deployment-specific standing order shall incorporate, at a minimum, information on the following list, accompanied with an attachment containing relevant legal provisions of the coastal and port states traversed:

1. ship particulars, such as rooms, storage facilities for weapons and ammunition, existing safety devices, life-saving equipment, cargo,
2. ship route,
3. contact person and specific managerial authority,

4. description of the specific assignment,
5. conduct in emergencies as well as
6. directory with important telephone numbers,

## **Section 14 Equipment**

(1) The security company shall outline which weapons and other equipment are used. The description must also include their specific characteristics.

(2) The equipment must include:

1. night vision device,
2. range finder,
3. binoculars,
4. long firearm,
5. short firearm,
6. sufficient ammunition,
7. ballistic helmet,
8. camera,
9. ballistic vest,
10. radio equipment with microphone headset, satellite telephone,
11. medical equipment as well as
12. automatic life vest.

(3) In selecting the respective model, the security company must ensure that it is possible to comply with the import, export and transit provisions that apply to the Federal Republic of Germany and to the port and coastal states as well the provisions for trading and brokering transactions in foreign trade.

(4) The security company shall examine the equipment for operative readiness before each deployment. Non-functioning equipment parts must be replaced with equivalent equipment parts. Changes shall be reported without delay to the Federal Office of Economics and Export Control.

## **Section 15 Entry into force**

This ordinance shall enter into force on the day after its promulgation.