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Ships and marine technology — Guidelines for Private Maritime Security Companies (PMSC) providing privately contracted armed security personnel (PCASP) on board ships (and pro forma contract) — Part 2: International Model Set of Maritime Rules for the Use of Force (RUF) - The 100 Series Rules

Élément introductif — Élément central — Partie 2: Titre de la partie

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Foreword

ISO (the International Organization for Standardization) is a worldwide federation of national standards bodies (ISO member bodies). The work of preparing International Standards is normally carried out through ISO technical committees. Each member body interested in a subject for which a technical committee has been established has the right to be represented on that committee. International organizations, governmental and non-governmental, in liaison with ISO, also take part in the work. ISO collaborates closely with the International Electrotechnical Commission (IEC) on all matters of electrotechnical standardization.

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ISO 28007-2 was prepared by Technical Committee ISO/TC 8, *Ships and marine technology*, Working Group 4.

ISO 28007 consists of the following parts, under the general title *Ships and marine technology — Guidelines for Private Maritime Security Companies (PMSC) providing privately contracted armed security personnel (PCASP) on board ships (and pro forma contract)*:

— *Part 2: International Model Set of Maritime Rules for the Use of Force (RUF) - The 100 Series Rules*

Introduction

The rules have been developed by industry partners and legal experts to cover gaps in current laws and standards with respect to the use of graduated force by Private Armed Security Personnel on board merchant ships transiting the High Risk Area. This version has been produced following rigorous debate across the international shipping industry and the maritime security industry.

Ships and marine technology — Guidelines for Private Maritime Security Companies (PMSC) providing privately contracted armed security personnel (PCASP) on board ships (and pro forma contract) — Part 2: International Model Set of Maritime Rules for the Use of Force (RUF) - The 100 Series Rules

1 Scope

This document comprises an international model set of maritime Rules for the Use of Force (RUF) (“the Rules”) designed for worldwide use by Privately Contracted Armed Security Personnel (PCASP) on board ships. They are set out for the benefit of the Master, Ship owner, charterer, insurer, underwriters, Private Maritime Security Companies (PMSCs), PCASP and interested third parties on how and under which circumstances force may be used in self-defence in the context of maritime piracy, armed robbery or hijacking.

The objective of the RUF is twofold. Firstly, to provide the PCASP, Master and crew with guidance on lawful graduated response measures and lawful use of force in accordance with the right of self-defence when subjected to either perceived or actual acts of maritime piracy, armed robbery or hijacking. Secondly, to reduce risk to the Master, crew, PMSC, PCASP ship owner, charterer, insurer and underwriters of civil liability claims and/or potential criminal or other charges.

2 Terms and definitions

For the purposes of this document, the following terms and definitions apply.

2.1

abduction

to seize or detain any person without lawful authority or reasonable excuse from a Ship

2.2

armed robbery

any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a states’ internal waters, archipelagic waters and territorial sea and or any act of inciting or of intentionally facilitating an act described above

2.3

ship under attack

situation when the persons on board a ship perceive they are subjected to force which is likely to result in death, serious bodily harm or abduction

2.4

Crew

the Ship’s Master, Officers and ratings

2.5

firearm

portable barrelled weapon from which projectile(s) can be discharged by an explosion from the confined burning of a propellant and the associated ammunition, related ancillaries, consumables, spare parts and maintenance equipment used by security personnel at sea.

[SOURCE: ISO/PAS 28007, definition 3.11]

2.6

hijacking

illegal seizure or exercise of control over a ship by force or threat thereof or any other form of intimidation

2.7

potential threat

individual, grouping of individuals and/or vessel that may be assessed as committing or about to commit an act that threatens the safety of the ship on which a PCASP is embarked

2.8

imminent

manifest, instant and overwhelming

2.9

lethal force

force that may result in death

2.10

non-kinetic

any warning means that does not include the firing of firearms

2.11

piracy

any of the following acts:

- a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the Crew or the passengers of a private ship or a private aircraft, and directed:
 - on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; or
 - against a ship, aircraft, persons or property in a place outside the jurisdiction of any State.
- b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- c) any act of inciting or of intentionally facilitating an act described in subparagraph a) or b).

2.12

Privately Contracted Armed Security Personnel (PCASP)

armed employee or subcontractor of the PMSC

[SOURCE: ISO/PAS 28007, definition 3.2]

2.13

Private Maritime Security Company (PMSC)

organization which provides security personnel, either armed or unarmed or both, on board for protection against piracy

[SOURCE: ISO/PAS 28007, definition 3.1]

2.14**self-defence**

use of reasonable and necessary force, including lethal force, to defend against attack or imminent attack

2.15**suspicious contact or craft**

any vessel which exhibits behaviour similar to that of a potential threat

2.16**team leader**

designated leader of the personnel contracted to provide security services aboard the ship

[SOURCE: ISO/PAS 28007, definition 3.21]

2.17**warning shots**

deliberately aimed gunfire at an assessed safe distance from the threat, in order to deter an actual, perceived or threatened attack.

3 General

These Rules, in conjunction with applicable national and industry RUF guidance, address the situation after a ship owner has decided to employ a PMSC to provide PCASP in order to protect a ship and the persons on board from acts of piracy, armed robbery or hijacking. Such a decision should be taken only after a detailed risk assessment.

The Rules should fully support any contractual relationship and division of decision-making responsibility as between the Master and PCASP. The Rules are also subject to the respect of individual flag State, national and international laws; in particular SOLAS, Chapter XI-2, Regulation 8.

The Rules have been drafted with due diligence taking into account current IMO Maritime Safety Committee (MSC) Circulars, ISO PAS 28007, as well as applicable and relevant national and international laws where practicable.

This document forms the first of a hierarchy of supporting RUF documentation. The Rules will be available to all stakeholders in an abbreviated form of a Bridge Card and a PCASP immediate reference card. The Bridge Card and immediate reference card will mirror the Fundamental Principles and detail of the Rules contained within this document.

The Rules do not imply that there is an automatic right to revert to the use of force when faced with a suspicious contact or craft. A court of law will determine whether or not the use of force was lawful.

The Rules do not cover detailed PMSC Standard Operating Procedures.

The Rules should be read in conjunction with each other and none of them should be regarded individually as a required step in a series of pre-planned responses to deter a perceived or actual attack.

4 Fundamental principles

4.1 The right of individual self-defence as recognised and provided for under applicable flag State, national and international law, is not affected or negated by the use of the Rules in any way whatsoever.

4.2 The Rules do not provide any form of immunity to any person who uses force, including lethal force, unlawfully.

4.3 Nothing in these rules shall be construed as a derogation of the Master's authority under SOLAS.

4.4 The identification of and immediate actions to be taken in relation to a suspicious contact or craft may occur within a very short time-frame. Speed of decision-making on identification will be essential.

4.5 All contacts or craft deemed to be suspicious, should, as the circumstances allow, be identified by the Master, the PCASP, Officers or Crew as a potential threat prior to invoking the RUF. This process reduces the risk of mistaken identification of otherwise innocent indigenous seafarers and their craft.

4.6 During an incident, an individual's decision to use reasonable and necessary force in self-defence up-to-and-including the use of lethal force, is to be made in the context of all the information available to that person at that time and according to applicable flag State, national and international law.

4.7 Prior to the use of any necessary and reasonable use of force against a suspicious surface contact or craft, warnings should be given by the PCASP using all available means.

4.8 In all situations no more force is to be used than is reasonable and necessary to deter a potential threat.

— Any engagement that includes the use of force must be limited in its degree, intensity and duration and commensurate to the threat posed.

— Lethal force should only be used as a last resort

— Lethal force may only be used if the PCASP has a reasonable and honest belief that there is an imminent threat to his life or the lives of others.

— No more rounds of ammunition than are necessary should be fired.

Annex A (informative)

The 100 Series Rules

A.1 Numbering.

The Rules commence their numbering at 100 and end at 103. As the numbering increases from 100 to 103, the type, application and degree of lawful force that may be used changes.

A.2 Explanatory Notes.

The Rules have explanatory numbered “Notes” that provide additional amplification in terms of context, clarity and guidance. They are non-exhaustive and may be amended/added to in subsequent revisions, or as necessary.

A.3 General

Nothing in these rules shall be interpreted in any way whatsoever as limiting an individual's right of self defence as universally recognised and provided for under applicable and relevant national and international laws.

RULE 100

In the event of any actual, perceived or threatened attack by third parties the Team Leader (TL) or, in the TL’s absence, other PCASP, shall advise the Master or (in the Master’s absence) the Officer of the Watch that he intends to invoke these Rules for the Use of Force.

NOTE 1: Nothing in these Rules shall be construed as a derogation of the Master’s authority under SOLAS. Accordingly, the Master always retains the authority to order the PCASP to cease firing. However, for the avoidance of doubt, nothing in these rules shall compromise each of the PCASP’s right of self-defence in accordance with applicable and relevant national and international law.

NOTE 2: The Master shall, at all times have and retain ultimate responsibility for the safe navigation and overall command of the ship. Any decisions made by the Master shall be binding and the PMSC must instruct the PCASP accordingly.

NOTE 3: Each of the PCASP shall always have the sole responsibility for any decision taken by him for the use of any force which must always be in accordance with these Rules and applicable and relevant national and international laws.

RULE 101

Non-kinetic warnings may be used where there is a reasonable belief that a craft is displaying behaviour(s) assessed to be similar to those of a potential attacker.

NOTE 1: Non-kinetic warnings *may* include, but are not limited to, the use of VHF, loud-hailers and/or recorded defensive messaging equipment projected by electronic means (Long / Medium Range Acoustic Devices (L/MRAD)) and evasive ship actions. Non-kinetic warnings by visual signal means may include, but are not limited to, the use of flashing lights, flares and non-lethal eye-safe lasers as per manufacturer's instructions. Non-kinetic warnings including the use of water cannon and/or high pressure water hoses may also be appropriate.

NOTE 2: Firearms may be held up and visually shown to a potential attacker as part of a non-kinetic warning and an accompanying verbal warning given by PCASP. Normal safety procedures shall be conducted on all firearms and the TL shall command the PCASP to "*Load*" the firearms with ammunition at the designated loading bay. Loaded firearms should have safety catches applied.

RULE 102

Firearms may be used to fire aimed Warning Shots when it is assessed by the TL or in the TL's absence, other PCASP that Warning Shots may deter an actual, perceived or threatened attack.

NOTE 1: A verbal warning is to be given by PCASP prior to firearms being discharged.

NOTE 2: Subject, whenever necessary, to the authorization of the Master, Warning Shots shall be deliberately aimed and fired at an assessed safe distance by PCASP around the attackers/potential attacker's craft. They are solely intended to further reinforce the deterrence of a perceived attack and no more rounds than are necessary should be fired.

NOTE 3: Any use of force, especially the use of firearms, shall take into consideration the risk of any unintended consequences or harm.

RULE 103

When under attack or when an attack is imminent, reasonable and necessary use of force may be used in self-defence, including, as a last resort, lethal force.

NOTE 1: A ship and the persons on board are under attack when it is perceived that they are subjected to force which is likely to result in death, serious bodily harm or abduction.

NOTE 2: An attack is imminent when the need to defend against it is manifest, instant and overwhelming.

NOTE 3: The firing of firearms directly at an attacking craft in order to disable the attacking craft is legitimate, in order to attempt to neutralize/prevent an on-going attack and when all other graduated RUF measures have failed to deter the attack.

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