
MARITIME INSURANCE: WHAT IMPACT HAS SOMALI PIRACY HAD ON MARINE INSURANCE?

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ABBREVIATIONS

GMIS	Global Marine Insurance Services
H&M	Hull & Machinery
P&I	Protection & Indemnity
LoH	Loss of Hire
AP	Additional Premium
ITC	Institute Time Clauses
JWC	Joint War Committee
IMB	International Maritime bureau
ICC	International Chamber of Commerce
BIMCO	The Baltic and International Maritime Council
IG	International Group
PRC	Piracy Reporting Centre
M/V	Motor Vessel
RPG	Rocket Propelled Grenade

1. INTRODUCTION

1.1 Why this topic

On 1st December 2010 I began working for GMIS Ltd as a Marine Insurance Account Executive. Among many other marine insurance covers, GMIS provides shipowners piracy cover for vessels travelling within the areas of enhanced risk.

Despite Marine Insurance being a completely new insurance field for me, it did not take long to understand the menace that modern maritime piracy exerts on the insurance & shipping industry.

Whilst we have all heard news reports of ships being hi-jacked by Somali pirates, it does not occur to many of us how serious the current situation really is.

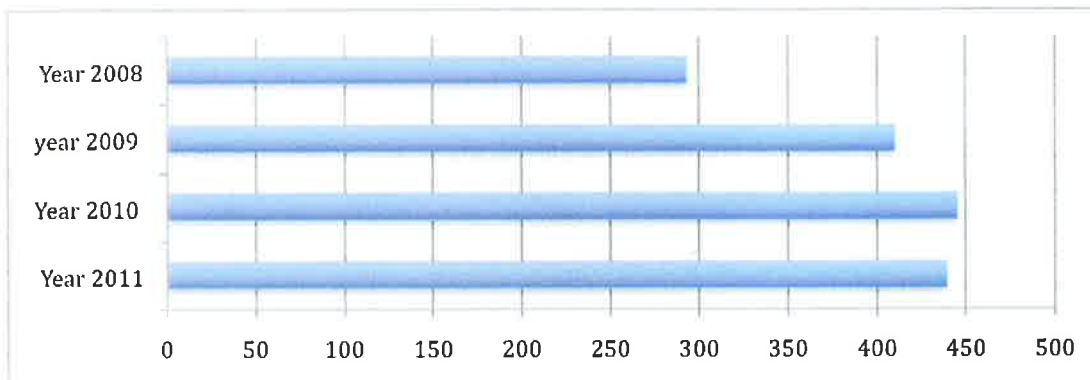
With piracy currently being one of the most discussed topics within the insurance maritime industry, it seemed beneficial for me to focus my dissertation on this topic.

1.2 Modern maritime piracy overview.

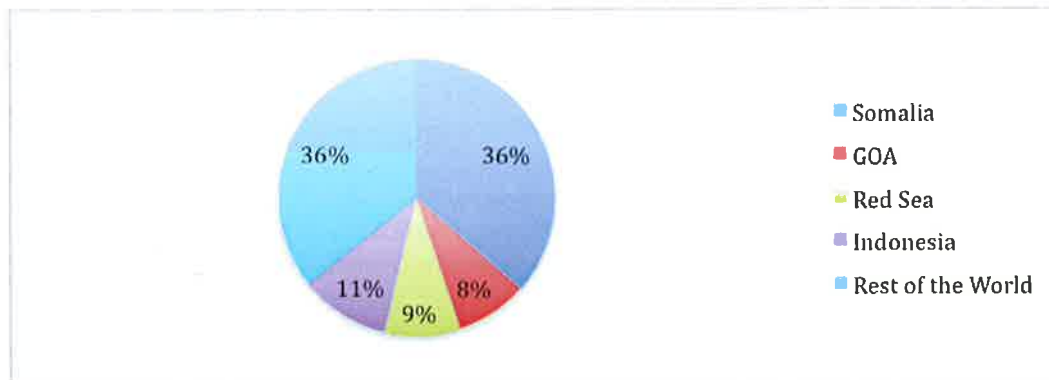
Figures provided by the ICC International Maritime Bureau help us appreciate the seriousness of the piracy threat faced by any ship travelling within pirate infested waters.

The information contained on this page has been taken from the most recent ICC Annual Report for the period of 1st January 2011 to 31st December 2011.¹

Modern maritime piracy hit a record high in 2010 with a total of 445 actual and attempted attacks compared to a total of 410 in 2009 and 293 in 2008. For 2011, this figure dropped slightly to 439.



*Total actual and attempted piracy attacks for years 2008, 2009, 2010 & 2011.



In 2011 Somali piracy accounted for 44% of all actual and attempted piracy incidents in the world.

As will be explained in this dissertation, modern piracy emerged from Somalia. Their success has prompted other areas of the world to copy their methods and tactics.

It is for this reason why my dissertation will focus specifically on Somali piracy.

¹ ICC International Maritime Bureau: Piracy and armed robbery against ships REPORT for the period 1st January 2011 – 31st December 2011.

1.3 The emergence of Somali Pirates.

Before the impact of Somali piracy on marine insurance can be discussed, it is important to understand how modern maritime piracy emerged and why Somalia has become known as 'The Pirate State'.

Modern maritime piracy emerged in the early 1990's primarily from Somalia.

Since 1991 Somalia has been suffering from an ongoing Civil War and to this date does not have a central government or a functioning infrastructure.

'The country has been wrecked with war since 1991 due in part to the United States' hands-off policy that followed the Black Hawk Down debacle and made the country ripe for an extremist takeover by militant Islamists. Doing nothing will also allow Somali piracy to flourish and grow.'²

Somalia lies along the Gulf of Aden and the Indian Ocean and is one of the poorest countries in the world. One source of income came from fishing within its territorial waters. Without an operational coastal guard, illegal international fishing trawlers plagued the Somali territorial waters robbing the Somali fishermen of their fish and their income. It has also been reported that foreign vessels were dumping their toxic wastes in Somali waters killing the fish stock and polluting the waters.

In protest to the above, Somali fishermen started random attacks on illegal fishing trawlers. These initial attacks did not involve boarding, hijacking and kidnapping but had the simple aim of scaring the illegal fishermen so that they would go away.

Once the illegal fishing did not stop, the Somali fishermen saw the benefits of hijacking the illegal trawlers and demanding ransom for their release.

In view of the success of these initial hijacked ships and successful ransom payouts, organised pirate gangs emerged who no longer aimed solely at illegal fishing trawlers but at any ship that would fetch a high ransom in return for its release.

Inevitably such an unstable state had been unable to challenge the fast emerging pirate gangs and the Somali pirate "business" flourished.

From the first pirate attack in 1991 up to the date of writing this dissertation, pirates continue to operate, gaining experience and reinvesting part of their profits to fund and strengthen future pirate attacks with better technology, equipment and weapons.



² Page: 5 – Pirate State: Inside Somalia's terrorism at sea – 2010 – Peter Eichstaedt

2. PIRACY DEFINITION

‘Piracy’ is defined by Article 101 of the ‘1982 United Nations Convention on the Law of the Sea’ as follows:

- (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 private aircraft, and directed:
 - (i) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) 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 inciting or of intentionally facilitating an act described in sub-paragraph a or b.³

This definition presents two main problems.

Firstly it states that the act must be committed for private ends. What happens if the act itself was committed for private ends but was funded by groups with political motives?

This will be looked at in more detail under section 3 of this dissertation.

Secondly, the act must be committed in a place outside the jurisdiction of any State. Does this mean that if a ship is hijacked within the Somali waters, it does not classify as piracy?

‘As a matter of English law however, piracy is not limited to the high seas; it is enough that the ship is “at sea”.’⁴

To make matters even more complicated, there is more than one definition of piracy within the Insurance Industry.

The IMB defines piracy as: The act of boarding any vessel with intent to commit theft or any other crime, and with an intent or capacity to use force in furtherance of that act.

I believe that IMB’s definition of piracy correctly address modern maritime piracy as it is presented in today’s form. Furthermore it provides a much wider scope of cover in insurance terms. It does not restrict piracy to personal ends and doesn’t mention the ‘high seas’, implying that piracy can also be committed within a country’s territorial waters, which is often the case with Somalia.

³ The 1982 United Nations Convention on the Law of the Sea is an international agreement dealing with all traditional aspects of ocean governance and uses.

⁴ <http://www.nautinsthk.com/archive/documents/PiracyHKG09/PRESENTATIONS/ince.htm>

3. H&M / WAR INSURANCE

3.1 Historic placement of piracy peril

‘Hull losses relate to damage or loss of the vessel and associated machinery.’⁵

When it comes to insuring the Hull and Machinery of a ship there are divided opinions as to whether the piracy peril should be covered under the H&M policy or the War Policy.

‘Between 1937-1983 the peril of piracy was covered under the War policy, but with the introduction of the 1983 Hull Clauses it was transferred back to the Marine Hull Policy.’⁶

The clauses under the marine H&M policy are set out by the Institute Time Clauses. Piracy is included as an insured period under section 6.1.5 of the ITC 1983 and 1995.

Covering piracy under the H&M policy worked fine for both Insurers and Shipowners until the early 1990s. However the re-emergent of piracy in its modern form has caused uncertainty and concern within the insurance industry.

If the pirate act is committed for private ends it would be covered under the H&M policy and if it was for terrorism/war it would be covered under the war policy.

The alleged close link between the Somali pirates and terrorism group Al-Shabbab is an example of the confusion of where the piracy peril would in fact best be insured.

‘Piracy is a source of millions of dollars for Somali-based terrorists, notably to Al-Qaidi affiliate Al-Shabaab’⁷

Furthermore modern pirates are equipped with PRGs and assault rifles that could be classified as weapons of war.

⁵ Page 12: Success in Insurance – 2003 – S.R. Diacon & R.L Carter

⁶ Page:57 : Reeds Marine Insurance – 2005 – Barrie Jervis

⁷ <http://www.saveourseafarers.org/time-to-get-tough-with-somali-pirates.html>

3.2 Current placement of piracy peril

‘Presently, the hijackings of ships off Somalia have been accepted as acts of piracy and that is unlikely to change, but could conceivably do so if, for example, the UK Government were to find evidence that ransom monies were being used to finance the civil war in Somalia, or to further the causes of Al Queda.’⁸

‘While piracy is excluded from the Institute War and Strikes Clauses, loss of or damage to the vessel caused by any terrorist or person acting maliciously or from a political motive is included in the coverage.’⁹

Taking the above into consideration it is easy to understand the conflict of opinions of which policy should in fact be covering piracy.

Consider the following hypothetical scenario: Pirates hijack a ship for personal gain but had been funded by a terrorist group and 50% of the ransom payment is to be allocated to the terrorist group. Should this risk be covered under the H&M or the War policy?

It comes as no surprise that Insurers have different views on where the modern piracy risk should in fact be covered.

Within the past decade the majority of insurers have preferred to transfer the piracy peril from the H&M policy to the War Risks policy.

3.3 Advantages and Disadvantages of transferring the piracy peril to the War policy

‘War Risks Cover protects against the danger of loss in a war zone at an additional premium. The war risks areas are established by the London-based Joint War Committee’.¹⁰

There are benefits to both insurers and shipowners by covering piracy under the war policy.

The benefit to shipowners is that there usually are no deductibles under the marine war policy and any pirate claims will not affect their Hull claims records. The disadvantage to shipowners is that Shipowners will need to notify and receive approval from war insurers prior to navigating in the pirate infested listed areas which will usually also be subject to an AP.

The benefit to insurers is that they can charge an AP when ships navigate into the Listed Areas.

The Listed areas set out by the London-based JWC lists the enhanced risk areas and are constantly revised to reflect the most recent trouble spots and pirate infested areas.

The most recent Listed Areas issued by the JWC is dated 8th December 2011 and a copy of this can be found on APPENDIX 1. An example of an Extra War Risks quotation can be found on APPENDIX 2.

⁸ <http://www.nautinsthk.com/archive/documents/PiracyHKG09/PRESENTATIONS/ince.htm>

⁹ <http://www.marsecreview.com/2011/02/piracy/>

¹⁰ <http://www.aida.org.uk/AIDAEurop/AIDASTellaspaper.pdf>

4. PROTECTION & INDEMNITY INSURANCE

P&I Clubs insure shipowners third party liabilities arising out of the use and operation that are not covered under other policies.

‘Piracy is not covered by the P&I Clubs as named peril since P&I insurance provides coverage against the liabilities that are set out in the risks covered rule, not the insured perils clause.

‘Therefore, to establish whether the shipowner might rely on the P&I insurance while facing the risk of piratical incident it is necessary to establish what type of third party liabilities might arise out of the piratical seizure and in what circumstances the P&I insurance will pay out when such liabilities are declared.’¹¹

4.1 Crew Cover

Somali pirates had initially built up a reputation of being non-violent towards the crew. It was in their interest to keep the crew safe in an attempt to negotiate a higher ransom for the safe release of crew and vessel.

Recently it seems that Somali pirates are becoming more violent in their attacks and in their treatment towards the crew. With an increase in number of attempted hijackings and a decrease in number of successful hijackings in recent years it seems pirates are becoming agitated and it is often the crew who pay the price.

According to the most recent IMB annual report there has been a dramatic increase in incidents of violence toward seafarers since 2007.

Crew liabilities are covered under the normal P&I policies.

Year	2007	2008	2009	2010	2011
No of Incidents	433	1011	1169	1270	890

¹²

4.2 Pollution and Wreck Removal

Ships carry thousands of litres of fuel. Pirates are already using RPGs and assault rifles and continue to arm themselves with more powerful weapons. It is feared that piracy could cause a major environmental disaster if a ship’s fuel tank is sunk, run aground, or set on fire.

The cost of pollution clean up and wreck removal will normally fall upon the P&I insurers.

4.3 Cargo

‘The shipowner’s liabilities might also extend to the liability to cargo owner for cargo loss, damage or other responsibility.’¹³

¹¹ Page 61: The increased risk of piracy presenting new challenges for marine insurance market:

<http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=1966487&fileId=1966514>

¹² Page: 11 - IMB: Piracy & Armed Robbery against Ships for period 01/01/11 to 31/12/11.

¹³ Page 62: The increased risk of piracy presenting new challenges for marine insurance market:

5. LoH/EARNINGS INSURANCE

LOH policies 'covers the insured for loss of income resulting from physical damage to a particular insured vessel.'¹⁴

A stand alone policy or an extension to the LoH policy can normally be negotiated to extend the policy to cover the period the ship is detained by pirates although no physical damage may be sustained to the vessel.

Many H&M/War insurers are also willing to extend their policy to include a LoH element.

Although the ship may not have suffered any physical damage, the shipowner will be deprived from hire income whilst the ship is in possession of the pirates.

Most ships are on Charter Hire. The standard charter party agreement holds that the Charterer will be liable to pay the daily charter hire for the first 90 days of ship seizure from pirates. In such an event the shipowner will be able to claim Loss of Hire only after this period plus any deductible days agreed.

With pirates demand higher ransom payments, negotiations take longer to conclude resulting in ships being held hijacked for longer periods.

'The periods that hijacked ships are being held for is now roughly six months on average, up from 2009's average of two to three months.'¹⁵

The number of days a ship is held captured has a direct effect on LoH policies as this will increase the total claim amount. The claim payout for a ship held captured for a period of 120 days will be much less than a ship held captured for 170 days for example.

¹⁴ https://www.warrisk.no/Internet/War_risk_cover/Loss_of_Hire_insurance/

¹⁵ <http://www.saveourseafarers.com/somali-piracy-takes-alarming-turn.html>

6. KIDNAP & RANSOM INSURANCE

K&R Insurance is a relatively new policy offered by Marine Insurers and has stemmed from modern maritime piracy to cover gaps in cover between the various marine policies in regards to ransom payments.

‘K&R might be considered as the policy filling in the gap created by the lack of clarity as to the ransom coverage’¹⁶

The extent of cover under such policies will depend on the wording and each shipowners needs.

Cover can include, ransom payment, excess ransom payment, loss of ransom payment in transit, news management, interaction/negotiation, crisis management, support to the families of the kidnapped, cost of ransom delivery, legal liabilities, medical care and support to the families of the crew.

‘The K&R policies are very advantageous as they provide certainty to the assured that the ransom paid to pirates will be recovered under such policy, as well as other expenses resulting from the piratical attack. It has been proven that the list of insured losses in the K&R policies is rather exhaustive.’¹⁷

¹⁶ Page:56

<http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=1966487&fileId=1966514>

¹⁷ Page:57

<http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=1966487&fileId=1966514>

7. RANSOM

7.1 The current situation

Ransom for the release of hostages and ships have increased year on end.

‘Over the past five years, Somali pirates’ ransom demands have increased a staggering thirty-six fold, from an average of \$150,000 in 2005 to \$5.4 in 2010. The largest known ransom payment was for the South Korean oil tanker ‘Samho Dream’, for which a record \$9.5 million was paid in November 2010.’¹⁸

Pirates are demanding ever increasing ransom payments for the safe release of hijacked ships/crew. This results in a direct increase in H&M/War insurers liability. This increasing liability is in turn passed on to shipowners in the form of higher premiums.

In respect to ransom, insurance acts as a form of reimbursement. The shipowners must initially pay the ransom amount, and then be reimbursed from insurers. Shipowners lead the ransom negotiations and in theory are free to come to an agreement with the pirates. In practice, most insurers advise policyholders to have insurers as the first point of contact in the event of a pirate attack.

7.2 Differing views on ransom payment

There are differing views on the subject of ransom payment. From one point of view it may be argued that the payment of ransom facilitates crime, encourages further attacks by the proprietors and also promotes a message that crime does pay. On the other hand however, it is recognised that the hostages have a right to live and not endure more suffering than is necessary.

From a pure economic point of view, it is cheaper to pay a ransom for the release of the crew and the vessel rather than pay a Total Loss claim.

From a humanitarian point of view, a ransom is probably the only way to save the lives of the crew without endangering it further.

Currently P&I insurers do not contribute towards the payment of ransom payments. This may change in the future however if pirates start to kidnap crew from the vessel instead of hijacking the vessel itself.

¹⁸ [http://www.saveourseafarers.com/total-cost-of-piracy-menace-hits-u.s.\\$12-billion.html](http://www.saveourseafarers.com/total-cost-of-piracy-menace-hits-u.s.$12-billion.html)

7.3 Legality of ransom payment

Although the payment of ransom is not illegal under English Law, not all countries share the same view.

On 24/05/11 three Britons, an American and two Kenyans were arrested in Somalia for illegally smuggling \$3.6 million into Somalia to pay a ransom for the safe release of their vessel and crew. They were sentenced and found guilty. Although they were sentenced to jail they were later pardoned but their intended ransom money was confiscated.

‘Somalia’s transitional federal government, which controls only part of the country, opposes ransom payments, believing that it fuels piracy.’¹⁹

It is for this reason that the payment of ransom to Somali pirates is usually delivered by air or sea.

As insurance cannot participate in illegal activity, the delivery of ransom payment must be considered in line with the country the delivery is to be made in (or high sea), the nationality of the persons delivering the ransom payments, and how the ransom is to be delivered.

Furthermore, ‘many countries including the USA and the members of the EU specifically prohibit any payment of funds that could be used to fund terrorism. Any suggestion that ransoms were being diverted to terrorists could result in both the shipowners and underwriters find themselves at risk of prosecution.’²⁰

¹⁹ <http://www.newsy.com/videos/somalia-jails-six-foreigners-over-ransom/>

²⁰ MARSH – Marine Practice – Piracy: The Insurance Implications

8 PROTECTIVE MEASURES AGAINST PIRACY

8.1 Best Management Practices (BMP4)

The BMP4 booklet is produced and supported by a number of different companies/organisations who share an interest in combating Somali piracy.

The intention of the booklet is to assist ships to avoid, deter or delay piracy attacks off the coast of Somalia, including the Gulf of Aden.

Experience, supported by data collected by Naval forces, shows that the application of the recommendations contained within the BMP booklet make a significant difference in preventing a ship becoming a victim of piracy.

The BMP4 provides among others, advise on:

- Risk assessments to be carried out by ship operators;
- Typical pirate attack;
- Planning;
- Ship protection measures;
- What to do in case of a pirate attack;
- What to do if pirates take control;
- In the event of military action;
- Post incident reporting.

A copy of the content pages of BMP4 can be found on APPENDIX 3

It is usually written within the insurance policy covering the peril of piracy, that the shipowner is to abide to the recommendations/practices set out by BMP4 .

‘Compliance with BMP4 will normally be expected as standard and may even be underwriting requirement.’²¹

²¹ MARSH – Marine Practice – Piracy: The Insurance Implications

8.2 Naval Patrol

‘Since August 2009, NATO warships and aircraft have been patrolling the waters off the Horn of Africa as part of Operation Ocean Shield. Their mission is to contribute to international efforts to counter maritime piracy while participating in capacity building efforts with regional governments. Operation Ocean Shield cooperates closely with other naval forces including US-led maritime forces, EU naval forces and national actors operating against the threat of piracy in the region.’²²

Despite the many stories of naval military forces successfully deterring pirates, and reducing attacks it must also be recognised that the Indian Ocean is a vast area and the presence of the naval forces can be compared one police car patrolling an area the size of France.

8.3 IMB – Piracy Reporting Centre

Prior to 1992 shipowners and merchants had nowhere to turn to when their ships were attacked or hijacked. The IMB established the PRC with the below two main objectives:

‘1) To be the single point of contact for ship Masters anywhere in the world who are under piratical or armed robbery attack. The information received from the Masters is immediately relayed to the local law enforcement agencies requesting assistance.

2) The information received from the ship Masters is immediately broadcast to all vessels in the Ocean region - thus highlighting the threat to a Master enroute into the area of risk.’²³

Since 1992 the PRC has gathered vast amount of information on piracy attacks and their changing trends which is in turn is used by law enforcement agencies, naval forces and insurers.

‘The work of the 24 hour manned PRC is vital to shipping in understanding the areas of risk as well as the shifts in these areas of risk.’²⁴

²² <http://www.aco.nato.int/page208433730.aspx>

²³ <http://www.icc-ccs.org/piracy-reporting-centre>

²⁴ <http://www.icc-ccs.org/piracy-reporting-centre>

8.4 Armed Guards

Insurers did not initially welcome the use of armed guards on board ships in fear that this would escalate violence. However, with the first signs of using armed guards being positive insurers are currently keeping a neutral stance.

‘Shipowners are employing armed security firms to accompany their ships. Despite fears if escalated violence, this has proved an effective deterrent.’²⁵

Most pirates abort an attack after they hear warning shots fired by the armed guards and to this date there has been no successful hijacking of an armed guarded vessel.

The view within the insurance industry at the moment is that it is up to the discretion of shipowners to assess the risk for each voyage within the areas of enhanced risk, and employ armed guards if they feel it is needed. If ship operators do decide to use armed guards, the H&M/WAR/LOH/P&I insurers must be notified to ensure that cover will not be prejudiced.

If the speed of the ship is below 17 knots and there is a very low freeboard, some insurers may even be reluctant to quote in the absence of a security team on board.

Having security guards on board merchant ships (whether armed or unarmed) is a relatively new concept. As with any new market product, these contracts have not been tried and tested. One security company could offer a contract that widely differs to that provided by another. In the absence of standardised contract wording, Insurers are faced with the time-consuming task of analysing a large number of contracts to ensure that they do not prejudice the insurance cover.

‘BIMCO and the IG recognise that the growth in the number of Private Maritime Security Contractors, each with differing contractual terms, has resulted in uncertainty.’²⁶

In March 2012 BIMCO released a standardised drafted contract that can be used by security companies and that will provide certainty to insurers and shipowners.

BIMCO’s Chief Officer Legal and Contractual Affairs, Grant Hunter said “The objective is to create a contractual benchmark for the employment of security services so that minimum levels of insurance cover for PMSCs are established and that adequate safeguards are put in place to ensure that liabilities and responsibilities are properly addressed and that all necessary permits and licenses are obtained.”²⁷

²⁵ <http://marsecreview.com/2011/02/piracy/>

²⁶ North P&I Club member circular reference: 2012/016 published on 29th March 2012

²⁷ BIMCO Press Release dated: 28.03.12 -

https://www.bimco.org/News/2012/03/28_GUARDCON.aspx

9 PIRATES EXPANDING THEIR TERRITORY

A new tactic used by pirates in the last couple years is the use of a mother ship.

Mother ships are usually fishing vessels that have been hijacked by pirates and in turn used to launch attacks on unsuspecting vessels.

'Mother ships are commercial vessels are being actively used by pirates as floating bases to launch attack skiffs, to resupply pirate attack groups and to conduct hijackings.'²⁸

Oil tanker Irene SL has been reported to been hijacked some 1,000 miles off the coast of Somalia in February 2011.

On March 26th 2012, a vessel was attacked and hijacked by Somali pirates some 1,800 nautical miles east of Somalia clearing showing Somali pirates expanding their working territory.



'The hijacking this week of a vessel in waters close to the Maldives indicates the growing reach of Somali pirates and provides a wake-up call to Marine Insurers and Shipowners.'²⁹

This affects Marine Insurers as pirates have essentially expanded their territory and can launch attacks further out at sea on unsuspecting vessels.

Mother ships enable pirates to remain out at sea for longer periods of time searching for the perfect vessel to attack. Likewise, mother ships allow pirates to increase their operational territory, and attack further out at sea that would not have been possible otherwise.

²⁸ <http://saveourseafarers.com/somali-piracy-takes-alarming-turn.html>

²⁹ Page 4: Insurance Day - 28.03.2012

10 . THE COST OF PIRACY

10.1 The human cost of piracy

Piracy news reports are usually associated with the economic cost of piracy (ransom payment).

What is very often neglected is the human cost of piracy.

Over the past five years thousands of seafarers have been held hostage, subjected to gunfire, suffered abuse, denied medical attention, subjected to beatings, torture, suffered injuries and psychological drama.

“The human cost of piracy cannot be defined in economic terms,” Bowden added. “We do note with great concern that there were a significant number of piracy-related deaths, hostages taken, and seafarers subject to traumatic armed attacks in 2011. This happened in spite of the success of armed guards and military action in the later part of the year.”³⁰

Within 2011, 6 seafarers were assaulted, 802 held hostage, 42 injured, 10 kidnapped and held for ransom, 27 threatened and 8 killed.³¹

The human cost can be further extended to the families of the seafarers who also endure endless suffering in fear of the safety of their loved ones.

In 2009 M/V Maersk Alabama was constantly in the media due to the vessel being hijacked and the American Captain and Crew held hostage. The American Special Forces successfully freed the hostages in a rescue operation.

Since then rescue missions for seafarers held hostage are almost unheard off. The majority of seafarers are from third world countries such as the Philippines and they sadly do not receive the same media attention as with the case of the American crewed Maersk Alabama.

³⁰ Oceans Beyond Piracy: Press release dated 8th Feb 2012 -

http://oceansbeyondpiracy.org/sites/default/files/ecop_press_release_feb_8_2012.pdf

³¹ International Maritime Bureau – Annual Piracy Report 2011

10.2 The economic cost of piracy

'Oceans Beyond Piracy released a report that raises concerns about the cost of Somali Piracy to the world economy. Approximately 80% of all costs are borne by the shipping industry, while governments' account for 20% of the expenditures associated with countering piracy attacks. The report estimates the 2011 economic cost of piracy was between \$6.6 and \$6.9 billion.³²

According to 'Oceans Beyond Piracy'³³ report for the 2011 year, the economic cost of piracy is as below:

1. Increased speeds	\$2,710 million
2. Military costs	\$1,270 million
3. Security guards & equipment	\$1,064 - \$1,160 million
4. Re-routing	\$486 million - \$681 million
5. Insurance	\$635 million
6. Labour	\$195 million
7. Ransoms	\$160 million
8. Prosecutions/imprisonment	\$16.4 million
9. Counter-piracy organisations	\$21.3 million

Total economic cost of Somali piracy in 2011 \$6.6 billion - \$6.9 billion

³² Oceans Beyond Piracy: Press release dated 8th Feb 2012 -

http://oceansbeyondpiracy.org/sites/default/files/ecop_press_release_feb_8_2012.pdf

³³ Page 2: Economic cost of Somali piracy Report 2011 -

http://oceansbeyondpiracy.org/sites/default/files/economic_cost_of_piracy_2011.pdf

11 . CONCLUSION

Regardless of the anti-piracy protective measures implemented, it seems that the only way to fully eradicate Somali piracy is to tackle the problem within Somalia itself. With Somalia's poverty and lack of government there is always a large supply of young men who are willing to risk their lives in pursuit of success of previous pirates.

As the thought of solving Somali piracy from the source of the problem falls far outside the scope and capability of the insurance industry, it means that marine insurers must come to terms with the long-term piracy risk they are faced with.

It comes as no surprise that marine insurance premiums across all marine policies have significantly increased as a direct result of piracy. These premium increases are by no means unjustified and reflect a risk which is becoming more of a liability year on end.

P&I insurers have adapted to accommodate piracy. Their liability has increased in recent years due to Somali pirates becoming more violent towards the Crew. P&I insurers may be called to cover ransom payments if pirates change their tactics to kidnapping crew in return for ransom rather than hijacking the ship itself.

The K&R and War LoH policy have been created as a direct result of modern piracy. Both of these policies have been welcomed by the shipping industry and have proved to be popular.

In my view the flexibility shown by LoH and K&R insurers has not been reflected by H&M/WAR insurers.

As opposed to K&R & LoH policies, H&M/WAR policies have been in existence for many centuries. It may be for this reason that they have found it harder to adapt to the emergence of piracy in its modern form. At present, the majority of marine insurers have transferred the piracy peril to the War Risks policy whilst others have chosen to keep the piracy peril under the H&M policy.

From an insurance perspective I agree with insuring piracy under the War policy. By doing this, insurers can charge an AP whenever a vessel navigates within the Listed Areas. These Listed Areas are updated throughout the policy year to reflect the most recent trouble spots. Therefore insurers are always obtaining an AP reflecting the perceived risk at the time of transit.

With Somali piracy being accepted as a long term problem, I believe it would be beneficial to both the insurance and shipping industry if:

- All Hull insurers come to a unified agreement as to which policy would best be suited to cover the piracy peril. Piracy should be covered under either the H&M or the WAR policy but not both. This causes unnecessary confusion and uncertainty.
- All Marine insurers to come to an agreed definition of piracy. This definition needs to reflect the piracy risk as it is presented today and not as it was presented 100 years ago. There is currently more than one definition within the market and each definition widely differs from the other.

There is no doubt that the piracy risk presented to insurers in the future will be different to the one presented today. By working together marine insurers will be able to share knowledge and better understand this fast changing risk.

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APPENDIX

APPENDIX 1 : JOINT WAR COMMITTEE MOST RECENT LISTED AREAS (08/12/2011)

Joint War Committee

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JWLA/019
8th December 2011

Hull War, Piracy, Terrorism and Related Perils

Listed Areas

The Joint War Committee has recently reviewed the Listed Areas, last altered 1st August 2011, and has agreed the following changes which are incorporated in the new list as attached.

Added: Syria

Deleted: Ivory Coast

Mindanao, between the ports of Polloc Harbour and General Santos inclusive

Qatar

This list will be published on the LMA and IUA websites and will be accessible to all on www.lmalloyds.com and www.iua.co.uk.

The application of this list on individual contracts will be a matter for specific negotiation.

**Neil Roberts
Secretary**

Information relating to the work of the Joint War Committee(JWC), including an outline of key issues under discussion, circulars and Listed Areas, can be accessed from the JWC page of the LMA website via the following link: www.lmalloyds.com/lma/jointwar



A Joint Committee of the LMA and IUA



JWC Hull War, Piracy, Terrorism and Related Perils Listed Areas (8th December 2011)	
Africa	
Benin	
Djibouti excluding transit	
Eritrea, but only South of 15° N	
Gulf of Guinea, but only the waters of the Beninese and Nigerian Exclusive Economic Zones north of Latitude 3° N	
Libya	
Nigeria	
Somalia	
Indian Ocean / Arabian Sea / Gulf of Aden / Gulf of Oman / Southern Red Sea	
Waters as defined overleaf	
Asia	
Pakistan	
Eastern Europe	
Georgia	
Indonesia / Malaysia / Philippines	
The port of Balikpapan (SE Borneo) including waters out to 25 nautical miles	
Borneo, but only the north east coast between the ports of Kudat and Tarakan inclusive	
The port of Jakarta	
Sulu Archipelago including Jolo, as defined overleaf	
Sumatra (Sumatra), but only the north eastern coast between 5° 40' N and 0° 48' N, excluding transit	
Middle East	
Bahrain excluding transit	
Iran	
Iraq, including all Iraqi offshore oil terminals	
Israel	
Lebanon	
Saudi Arabia excluding transit	
Syria	
Yemen	
South America	
Venezuela, including all offshore installations in the Venezuelan EEZ	



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Definitions:

Named Countries shall include their coastal waters up to 12 nautical miles offshore, unless specifically varied above.

Named Ports shall include all facilities/terminals within areas controlled by the relevant port authority/ies (or as may be more precisely defined by Insurers) including offshore terminals/facilities, and all waters within 12 nautical miles of such but not exceeding 12 nautical miles offshore unless specifically stated.

Sulu Archipelago

The area enclosed between:

- a) on the western side, a straight line between Tanjung Bidadari (5°49'6N, 118°21'0E) to position 3°32'0N, 118°57'0E
- b) on the south eastern side, a straight line from there to position 5°50'0N, 122°31'0E, and thence northwards to position 7°06'6N, 122°31'0E
- c) on the northern side, a straight line from there to Batorampon Point Light (7°06'6N, 121°53'8E)
- d) and on the north western side, a straight line from there back to Tanjung Bidadari.

Indian Ocean / Arabian Sea / Gulf of Aden / Gulf of Oman / Southern Red Sea

The waters enclosed by the following boundaries:

- a) On the north-west, by the Red Sea, south of Latitude 15° N
- b) on the west of the Gulf of Oman by Longitude 58° E
- c) on the east, Longitude 78° E
- d) and on the south, Latitude 12° S

excepting coastal waters of adjoining territories up to 12 nautical miles offshore unless otherwise provided.



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APPENDIX 2 : EXAMPLE OF AN EXTRA WAR RISKS QUOTATION FOR A VESSEL TRANSITING THE INDIAN OCEAN/GULF OF ADEN

PREMIUM CALCULATION

MY "CONFIDENTIAL"

MARINE WAR RISKS COVER

ADDITIONAL PREMIUM FOR A TRANSIT THROUGH: **INDIAN OCEAN/GULF OF ADEN**

DATE OF TRANSIT: **20 Jun 2012**

PERIOD OF COVERAGE NOT EXCEEDING: **7 DAYS**

RATE OF PREMIUM FOR TRANSIT: **0.047500%**

PREMIUM NO CLAIM BONUS DISCOUNT: **50%**

ADDITIONAL PREMIUM DETAILS:

Currency: USD							
		GROSS PREMIUM USD	LESS NCB DISCOUNT USD	NET PREMIUM USD	10% Tax USD	3% Tax USD	TOTAL DUE USD
<u>War Hull & Machinery</u>							
USD 112,332,332	X 0.047500%	53,353.30	26,096.67	26,016.97		0.00	26,016.97
<u>War TW/Disbursements etc</u>							
USD 56,000,000	X 0.025750%	13,400.30	6,728.17	6,728.17	0.60		6,728.17
<u>War LCH</u>							
USD 10,238,000	X 0.047500%	4,862.80	2,445.39	2,445.30	0.80		2,445.30
		72,182.37	36,094.13	36,094.13	0.80	0.00	
							TOTAL USD ADDITIONAL PREMIUM DUE: USD 34,891.13

Currency: EUR							
		GROSS PREMIUM EUR	LESS NCB DISCOUNT EUR	NET PREMIUM EUR	10% Tax EUR	3% Tax EUR	TOTAL DUE EUR
<u>War Hull & Machinery</u>							
EUR 0	X 0.047500%	0.00	-	-		0.00	0.00
<u>War TW/Disbursements etc</u>							
EUR 0	X 0.025750%	0.00	-	-	0.00		0.00
		0.00	0.00	0.00	0.00	0.00	
							TOTAL EUR ADDITIONAL PREMIUM DUE: EUR 0.00

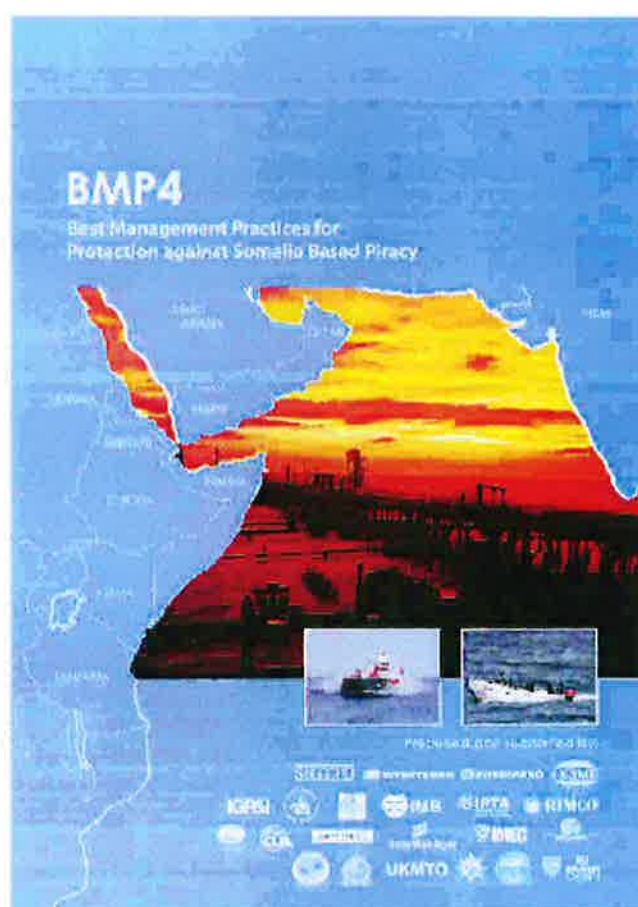
IMPORTANT CONCLUSION:

The NCB discount will be deemed earned once the war breach voyage has been completed without incident.
In the event of a claim or incident reported the NCB must be repaid in full.

Our Premium Invoice will follow upon completion of the call transit or as agreed

20 April 2012

APPENDIX 3 : BEST MANAGEMENT PRACTICE 4 (COVER & CONTENTS PAGE)



BMP4

Best Management Practices
for Protection against
Somalia Based Piracy

(Version 4 – August 2011)

*Suggested Planning and Operational
Practices for Ship Operators, and
Masters of Ships Transiting the
High Risk Area*



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