

The Standard

STANDARD BULLETIN

SETTING THE STANDARD FOR SERVICE AND SECURITY

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PIRACY SPECIAL EDITION

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 ^ Fishing vessel Feng Guo No 168 attacked and reportedly captured off Tromelin Island, October 2010 In this special edition of the *Standard Bulletin*, we examine current issues associated with piracy. Whilst piracy is an age-old scourge, the marked increase in pirate activity, particularly in the Gulf of Aden and Indian Ocean, threatens not only shipowners, but also seafarers and world trade.

Shipowners are increasingly relying on armed guards to protect their interests and we examine the International Maritime Organisation's recent guidelines on their use. From a legal perspective, we summarise the advice we provide to members to ensure armed guard contracts do not prejudice insurance cover. From a practical perspective, we examine the steps members can take to avoid a pirate attack that should form the foundation of any anti-piracy strategy. We also look at some charterparty issues and recent case law.

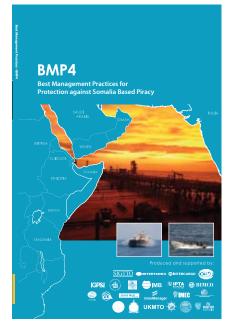
THE CURRENT POSITION

According to the International Maritime Bureau Piracy Reporting Centre, this year alone there have been 304 attacks and 31 hijackings worldwide to date. Off Somalia, 362 hostages have been taken and seven killed. Overall, 19 ships and 377 hostages are currently being held by Somali pirates. The average cost of ransoms has increased significantly from around \$600,000 in 2008 to a current average of approximately \$3.5 to \$4.5 million. The highest ransom paid to date was reportedly \$9.5 million to release the *Samho Dream* in November 2010. The attacks have spread from the Gulf of Aden and Somali coastal areas to areas off Kenya, Tanzania, the Seychelles, Madagascar, Mozambique, Oman and the Maldives, extending as far as the west coast of India.

Pirates have changed their tactics to try to thwart anti-piracy efforts. Pirates now use captured merchant ships as motherships to launch attacks far from the Somali coast. Motherships are more effective attack platforms than smaller skiffs and they enable pirates to operate during the monsoon season. A further worrying trend has been an escalation in the levels of violence used against captured crews, with stories of keelhauling and other brutal methods of torture being reported. Piracy has gained an increasingly high political and public profile, and the maritime and mainstream media is filled with stories of heavily armed Somali pirates attacking and capturing merchant ships on a regular basis.

The military response to the threat of piracy has been reported extensively, but the shipping community itself is also responding in a number of ways.

BEST MANAGEMENT PRACTICE



Best Management Practice (BMP) refers to a series of self-help counter-piracy measures produced by the shipping industry in consultation with the combined naval forces – EUNAVFOR, the NATO Shipping Centre and the United Kingdom Maritime Trade Operations.

Currently in its fourth edition, BMP is contained in a pocket-sized booklet that provides shipowners with practical advice to enable them to avoid, deter or delay piracy attacks. BMP includes information about the high-risk areas, risk assessments, typical pirate attacks, liaising with naval forces, planning and preparation, hardening ships against attack, and what to do during and after an attack by pirates. Further information about the steps members should take is provided in the next article.

BMP is essential reading for all ships transiting high-risk areas and its value has been recognised and endorsed by the military presence in the region. It has been reported that no ship that was fully compliant with BMP has been captured by pirates. The Standard Club will provide copies of the latest BMP booklet to all of its members whose ships transit high-risk areas.

GUARDS AND SHIP PROTECTION DETACHMENTS

The use of guards – both armed and unarmed – and military ship protection detachments (often naval personnel) have become more commonplace to assist in the defence of ships against pirate attack. Attitudes towards the use of guards have softened, with the International Chamber of Shipping and the International Maritime Organization recently adopting a neutral stance.

Guards are not only able to assist in the defence of a ship but are also able to provide practical advice and assistance to the master in relation to hardening the ship against attack. It has been reported that no ship deploying armed guards has been captured by pirates. Deploying guards does not, in itself, prejudice club cover, but members must ensure compliance with flag state, other applicable laws and The International Convention for the Safety of Life at Sea (SOLAS). It is also important for members to take appropriate care in the selection of the guards and to seek confirmation from their club that contractual arrangements do not prejudice cover. The Standard Club has spearheaded efforts to try to agree a standard set of liability clauses for armed guard contracts and this work is on-going. Contractual issues are explored in more detail later in this *Standard Bulletin*.

_ LOBBYING

Piracy is gaining an increasingly high profile and is now reported not only in the specialist maritime press but also in the mainstream media. This is, at least in part, due to extensive lobbying by shipowner, oil company and insurer association representatives, including the International Group of P&I Clubs.

The shipping industry liaises with government through the United Nations, the International Maritime Organization and working groups, and also has an on-going relationship with the co-ordinators of military operations in the region. Lobbying has largely focused on increasing the effectiveness of the military response, establishing a proper framework for the prosecution and detention of pirates, promoting BMP, regional capacity building, and highlighting the effects of piracy on shipowners and world trade as well as on seafarers and their families. The Standard Club sponsors the 'Save our Seafarers' campaign (www.saveourseafarers.com), which aims to raise awareness of the human and economic cost of piracy.

CONCLUSION

The shipping industry is responding to the growing threat of piracy in the Gulf of Aden and Indian Ocean by recognising that the military is incapable of providing complete protection and by adopting a series of self-help measures. BMP provides practical steps that can be adopted to reduce the risk of a ship being taken and can be supplemented by the deployment of guards or military personnel. Both have been proven to be effective counter-piracy measures. Actions taken at sea have been supplemented by lobbying aimed at raising public and political awareness of a growing scourge that threatens not only shipowners but also seafarers and world trade.

