



September 2020

Maritime Security Piracy

Introduction

The threat of piracy remains a major concern for shipowners. Heightened activity in the Gulf of Aden and wider Indian Ocean between 2009 and 2011 brought modern piracy to the world's attention. Whilst the security threat off East Africa has decreased markedly in more recent times, the situation in other hotspots such as West Africa has deteriorated. This highlights that the maritime security landscape is volatile and prone to change even before the potential impact of Covid-19 is factored in.

According to the second quarter report of 2020 from the International Maritime Bureau (IMB), there was a 25% increase in the total number of incidents of piracy and armed robbery in Q2 2020 as compared to Q2 2019. The report noted that 98 ships reported incidents to the IMB Piracy Reporting Centre (IMB PRC) in the first half of 2020. The report recorded 81 ships boarded, 10 reported attempted attacks, six ships fired upon and one ship was hijacked. The consequences of these attacks resulted in 54 crew being kidnapped, 23 taken hostage, 10 crew being threatened and assaulted and six being injured.

Recent trends

The decline in piracy and armed robbery in some regions should not detract from the significantly heightened risk in other regions.

West Africa

The Gulf of Guinea is currently a piracy hotspot with the IMB reporting that in 2019 there was a dramatic increase in kidnappings. The number of crew kidnapped increased from 78 in 2018 to 121 in 2019 and the region now accounts for over 90% of global crew kidnappings. Piracy off West Africa tends to consist of violent theft and kidnapping, rather than hijacking vessels for ransom as has been the Somali model in recent years. The club has previously issued an [article](#) looking at the issues across the region.

East Africa

There were no reported hijacking incidents off Somalia in 2019 with only one reported suspected incident to date in 2020. The ongoing conflict in Yemen continues to pose a threat to ships passing through the Gulf of Aden, Bab-el-Mandep and Red

Sea region. There have previously been reports of ships being attacked with rockets off the coast of Yemen and sea mines have also been reported. The IMB advise that ships and crews remain cautious when travelling through the region.

Strait of Hormuz

The waters off Iran in the Strait of Hormuz were a focal point of maritime security instability during 2019. It remains to be seen if/when there may be further incidents in these waters. Ships passing through these waters are advised to be extra vigilant for any suspicious behaviour.

Southeast Asia

Here the picture has been mixed, with a decrease in recorded incidents in Indonesia (25 in 2019) thought to be attributable to Indonesian Marine Police patrols. However, there has been a rise in armed robbery incidents across the region, while the threat of kidnapping remains high in the Sulu and Celebes Seas. For more information, members are recommended to refer to the [website](#) for Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

The rest of the world

During 2019 and 2020, there have been attacks off Haiti, Mexico, Ecuador, Colombia and Mozambique. Libya is also said to remain a risk. These instances of maritime insecurity highlight the need for vigilance in parts of the world other than the usual piracy hotspots.

Does the club cover piracy?

The club's rules contain no definition of, or exclusions for, piracy or armed robbery at sea. Therefore, the third-party liabilities insured by the club remain covered when they arise out of incidents of such incidents.

These liabilities are likely to include:

- loss of life/personal injury/illness;
- trauma/stress treatment and counselling;
- crew substitution and repatriation; and
- crew/passenger loss of effects.

Liabilities could also extend to pollution, wreck removal and potentially cargo liabilities/general average in the case of a shipowner's contributory fault or negligence.



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Such liabilities are, however, excluded from cover if caused by the use/engagement of certain 'weapons of war' that are specifically named in the club's rules or any 'other similar weapons of war' to those specifically named. Also, whilst P&I liabilities arising from acts of piracy are not excluded risks, those arising from terrorism are excluded and would fall under the shipowner's P&I war risks cover.

It is important to also note that, where a war risks policy includes piracy as a specific named peril, there may be overlap between P&I liabilities covered by the war risk P&I underwriters and those covered by the club.

Are ransom payments covered by the club?

As stated above, the third-party P&I liabilities arising out of incidents of piracy will, provided the 'weapons of war' or terrorism exclusions are not triggered, be covered by the club. Ransom is not a risk which is expressly covered under a member's P&I entry but cover may be available on a discretionary basis. However, one issue relevant to the exercise of that discretion is the availability of alternative insurance. With this in mind, the club does offer a bespoke kidnap and ransom cover to shipowners. The cover is provided in conjunction with insurance brokers in the marine market and responds to the ransom itself, the delivery of the ransom and the risk of loss in transit, crew liabilities, and associated fees and expenses. Cover for loss of hire can also be provided. Specialist responders are available to assist members in ransom negotiations, providing support and expertise under difficult circumstances.

Should ships carry guards?

There is no cover restriction or prohibition regarding the engagement of armed or unarmed private maritime security contractors (PMSCs) or the use of convoy escort protection. Appropriately trained and competent PMSCs may enhance on-board security and assist in the response to a piracy incident. The decision as to whether to engage PMSCs is an operational one for members, which should be based on a voyage-specific risk assessment. The club expects its members to exercise due diligence in the selection of a PMSC, including following the latest version of the IMO's guidelines. The club also recommends that members obtain positive confirmation that the chosen PMSC holds the applicable international standard – ISO/PAS 28007-1:2015 – and that it also complies with the IMO's guidelines.

Are there any contractual issues with the use of security companies?

There are a variety of different contractual arrangements in use by PMSCs and by states that provide naval or military personnel. These arrangements may contain assumptions of responsibility to indemnify/hold harmless in respect of loss or damage. Liabilities assumed by members may not be covered by the club if they would not have arisen but for the terms agreed which the club had not approved in advance.

The club strongly recommends the use of BIMCO GUARDCON. Its use has considerably improved the terms upon which providers of maritime security have been engaged and it has simplified the process as to the approval of PMSC contracts. It has also ensured that minimum levels of insurance cover are held by providers of maritime security. Another important contractual issue is the treatment of the master's responsibility and authority in relation to the use of arms by a PMSC. Contracts should recognise the master's responsibility for the overall safety of the ship, but members should not voluntarily contract on terms where decisions as to the discharge of live rounds are referred to the master, whose experience and training may not have prepared him for combat decisions.

If BIMCO GUARDCON is to be used in the context of the Gulf of Guinea (where the deployment of PMSCs is prohibited in certain territorial waters), owners are encouraged to use 'GUARDCON West Africa' which is a form of the contract specifically adapted for use in this region.

Members are also referred to flag state and coastal state guidance for further information.

What should an owner member do if a charterer orders a ship to a known piracy hotspot, e.g. West Africa?

The decision as to whether to call at a high-risk area such as West Africa is an operational one for members in consultation with charterers. Those areas that are perceived as high risk are subject to change and are regularly reviewed and updated by the [LMA joint war committee](#).

Owners with ships who may transit high-risk areas are strongly encouraged to comply fully with all the recommended BMP planning, voyage and reporting procedures. See further below in relation to BMP.



In case it is decided to call at West Africa, for example, the club would expect owners to take all relevant steps as identified in a voyage specific risk assessment to ensure the safety of crew and cargo (whilst ensuring that owners know where costs fall under their chartering arrangements). These steps may include, but are not limited to, the presence of guards on board, payment of crew bonuses and additional insurances (such as Additional War Risk premiums (AWRP) and K&R cover).

Where can members find the best guidance to avoid being attacked?

The club has made available to members the Best Management Practices (BMP) developed by the industry and first published in February 2009 (now in version 5) in response to the situation in the Red Sea/Gulf of Aden/Indian Ocean and Arabian Sea. The BMP are kept under review and version 5 reflects practical lessons learned by the industry and by the military regarding effective methods to deter and defend against piracy. Guidance is also available in relation to West Africa following the publication of [BMP West Africa](#).

The Maritime Global Security [website](#) provides comprehensive maritime security guidance to shipowners. This website also includes links to other useful maritime and military security resources.

Global Counter Piracy Guidance for Companies, Masters and Seafarers, first published in June 2018, also contains guidance on piracy and armed robbery-related issues. The guidance includes information about threat and risk assessment, and planning for voyages transiting areas where the threat of attack by pirates and armed robbers exists.

Other organisations which provide invaluable assistance and information are IMO, MSCHOA, UKMTO, the NATO Shipping Centre, the EU Naval Task Force (EUNAVFOR) and the IMB.

Lastly, the International Group's [website](#) and the club's [website](#) provide useful information with the latter including emergency reporting contacts for various regions.

Recommendations

While the global threat landscape continues to evolve, the risk of piracy remains. As such, the club continues to recommend to members that they exercise caution when trading to areas that may be at risk from piracy. Members are strongly encouraged to comply with the latest version of BMP and other related guidance.

The Standard Club is always on hand to assist. If members have any questions in relation to this publication they should not hesitate to contact the authors or their usual club contact.

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