

## PIRACY - Full article form UIB Outlook Issue 9

### BACKGROUND

International trade is being drastically affected by a new surge of ocean-based theft.

Much of the current focus is centred on events occurring in the eastern coastal waters of Somalia and in the Gulf of Aden. This is not to say that piracy doesn't feature highly in other theatres of the world. The Malacca/Singapore straight continues to be one of the world's most active areas for piracy, although the second ranking area actually falls to Nigeria. In recent history, during the troubles in Northern Ireland, two coaster ships were hijacked and sunk by the IRA in the span of one year. In 1985, the cruise ship Achille Lauro was hijacked off the coast of Egypt by terrorists from the Palestine Liberation Front. The New Zealand environmentalist, yachtsman and public figure Sir Peter Blake was killed by Brazilian pirates in 2001. And, in July 2009, the Finnish-owned ship MV Arctic Sea was hijacked in Swedish territorial waters.

Piracy in many waters of the world is escalating at an alarming rate and threatens to drastically disrupt international trade.

### SOMALIA AND THE GULF OF ADEN

Piracy has been a growing problem in Somali waters for over ten years; however, it has been during the past four that the number of attempted and successful attacks has risen dramatically. With a virtually dysfunctional government, long, isolated, sandy beaches and a population that is both desperate and used to war, Somalia is a perfect environment for piracy to thrive.

In 2008 alone, there were a total of 111 attacks in total resulting in 42 vessels being hijacked and 815 crew members taken hostage. Piracy incidents off the Somali coast peaked in September 2008 with 19 attacks in that month alone. The rate of attacks in January and February 2009 was about 10 times higher than during the same period in 2008. However, authorities estimate that only 10% to 50% of attacks are actually recorded – due to vessel owners looking to keep their insurance premiums down by not reporting unsuccessful piracy attempts and also because there is much illegal activity in Somali waters.

### HOW PIRATES OPERATE

Pirates often operate using small skiffs with powerful outboard engines that are fast and manoeuvrable both at sea and on land. They launch from 'mother ships' (these are often captured fishing trawlers) to increase their range. They often attack ships from astern at night, using grappling hooks and ropes or hooks on poles to board the ship before anyone raises the alarm.

From sighting pirates to actually being boarded often takes less than 15 minutes - the element of surprise is one of their best weapons; however other weapons often now utilised include AKM assault rifles, RPG-7 rocket launchers, semi-automatic pistols and hand grenades. They also use hi-tech equipment to seek their quarry and aid their get away, such as GPS receivers, mobile and satellite phones.

It is rare for pirates to attempt to scale the high walls of very large crude carriers (VLCC's), but it has happened. In November, 2008, the MV Sirius Star became the largest ship to be captured by pirates. She was en route from Saudi Arabia to the United States carrying 25 crewmen and fully loaded tanks. Her hull

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value was reported to be worth approximately US\$150m and the cargo valued at some US\$100m. As a result of her full load of cargo, the height from the main deck to the waterline was relatively low at about 9 metres. Ships in this low-freeboard condition are easier to climb aboard and therefore become easier targets for pirates.

## DEFENCE AGAINST PIRATES

It is very difficult to take successful evasive action against a group of determined and experienced pirates, especially if the vessel has low sides, a low maximum speed and low crew numbers. Low crew numbers have become increasingly common as higher insurance premiums and fuel costs cut into ship-owner's margins. Without a full complement of crew, it is impossible to maintain a sufficient watch in dangerous waters.

In one instance of attempted piracy, a tugboat in order to avoid being boarded, put itself into a high-speed tight spin and continued until the pirates realised that boarding was not going to easily possible.

Other ways of preventing boarding include using Long Range Acoustic Devices (LRAD's - sonic cannons) and water guns. However, these devices are only uni-directional and therefore an attack by more than one skiff renders them ineffective. A serious issue about using non-lethal weapons to deter pirates is the lack of protection they offer to crew members, who become sitting targets for pirates with automatic weapons and rocket launchers whilst operating the device. A major tanker corporation is known to be using razor wire and employing the services of ex-marines in the defence of their ships.

## PAYMENTS AND RANSOMS

A few years ago ransoms were in the tens to hundreds of thousands of dollars range. In 2008 they ranged between \$0.5m and \$2m, although recent reports indicate that demands have shot up; US\$3.5m was been demanded for the release of the MV Stella Mari. It has been estimated by certain experts that in 2008, worldwide, pirates gained about \$80 million through ransom payments. Shipping firms, and sometimes governments, are prepared to pay these sums since they are relatively small compared with the value of a ship, let alone the life of crew members. Many associations believe the payment of ransoms has probably fanned the flames of the piracy situation but it is recognized that there is little alternative if governmental rescue or intervention is unlikely. It seems unlikely that shipping firms will be prepared to risk the loss of life and equipment for the betterment of the situation.

## TREATMENT OF HOSTAGES

Hostages seized by the pirates usually have to wait 45 days or more for the ships' owners to pay the ransom and secure their release, but the pirates' treatment of the hostages is relatively humane. In most of the hijackings, the bandits have not harmed their prisoners and indeed are generally quite hospitable towards their hostages, in anticipation of the ransom being met. There have been reports of western-type food being cooked on the Somali shoreline and being delivered, along with cigarettes and alcohol, to the hostages on board captured vessels. Their reputation for turning over the ship, cargo and crew over upon receipt of the demanded ransom has been cited as a reason for their continued success in having their demands met.

## ENVIRONMENTAL ISSUES

Large oil tankers pass through the Gulf of Aden and the danger exists that a pirate attack could cause a major oil spill in what is a very sensitive and important ecosystem. Piracy could cause a major environmental disaster in the Gulf if a tanker is sunk or run aground or set on fire. The use of ever more powerful weaponry, as pirates are emboldened, makes this increasingly likely. A tanker could be set on fire,

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sunk or forced ashore, any of which could result in an environmental catastrophe that would devastate marine and bird life for years to come. The pirates' aim is to extort ransom payments and to date that has been their main focus; however, the possibility that they could destroy shipping is very real.

## THE AFFECT OF PIRACY ON INTERNATIONAL TRADE

Some 16,000 ships a year pass through the Gulf of Aden, carrying oil from the Middle East and goods from Asia to Europe and North America. Any company, whose cargo is prevented from reaching its destination on time, will lose money. Add to this the cost of paying ransoms and the damaging economic effect of Somali piracy is obvious. The consequences are not limited only to companies whose vessels are hijacked either; of wider concern is the rapidly rising insurance premiums for ships that need to pass through the Gulf of Aden. The danger means that war risk insurance premiums must now be paid, and premiums are reported to have risen tenfold in a year. If the cost of extra insurance becomes prohibitive, or the danger simply too great, shipping companies may avoid the Gulf of Aden and take the long route to Europe and North America around the Cape of Good Hope. The extra weeks of travel and fuel consumption would add considerably to the cost of transporting goods. At a time when the price of oil is a major concern, anything that could contribute to a further rise in prices must be considered as very serious indeed.

## INSURANCE

There are a number of insurance covers that may respond to a piracy event which can broadly be split into two categories:

'Physical Loss or Damage' to the Hull & Machinery and the cargo carried onboard  
'Liability' in the form of Protection and Indemnity (P&I) insurance.

Whilst piracy is an insured peril under the Institute Time Clauses - Hulls, there is a trend to delete coverage under these clauses and to include it under the Institute War and Strikes Clauses instead. On the cargo side, piracy is not an excluded peril under the Institute Cargo Clauses (A), but it should be noted that there is no coverage under Institute Cargo Clauses B, C or the applicable Institute War and Strikes Clauses.

Generally, P&I coverage will only react following a piracy incident which involves the use/engagement of 'weapons of war'. There does not appear to exist a standard definition of what constitutes 'weapons of war', but it is generally accepted that it includes mines, torpedoes, bombs, rockets, shells and explosives and the like. P&I insurance, if activated, will provide cover for crew's loss of life, personal injury or illness, substitution and repatriation and for the loss of personal effects belonging to the crew and passengers. Liabilities could also extend to pollution, possible wreck removal, and potentially cargo liabilities/general average claims in the case of a shipowners' contributory fault or negligence. Ransom payments are not expressly covered by P&I clubs.

Marine Kidnap and Ransom (K&R) insurance, sometimes known as Marine Special Protection, is now commonly taken out by shipowners. These insurances can provide cover for ransom payments, specialised assistance (e.g. ransom negotiations) additional expenses and personal accident.

There are also underwriters prepared to subscribe to bespoke contracts for loss of market/value of cargo due to delay in delivery as a result of a piracy incident.

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