CLYDE&CO

Update

The resurgence of conventional piracy?

The Gulf of Guinea has emerged as a new piracy hot spot, just as piracy in the Gulf of Aden has started to decline. Unlike their Somali equivalents, pirates off the coast of West Africa generally specialise in theft of valuable cargo as well as frequently ransacking crew quarters for personal items, acting as a modern day version of the pirates widespread in the 18th and 19th Centuries; although recent crew hostages may signal a new direction.

Piracy off the coast of Somalia has been grabbing the headlines since 2008 with pirates haphazardly targeting vessels with seemingly no regard to nationality or type of vessel but then holding the vessel and crew, often for long periods of time whilst demanding a ransom. Whilst the seizure is at sea, this kind of piracy has a great deal of similarity to kidnap & ransom and response consultants specialising in K&R have quickly broadened their field of work to meet the demand. Whilst Somali pirates will on occasion steal cargo, their main strategy is to secure huge ransom payments.

Somali piracy, and the ransom payments demanded, was spiralling but now the International Chamber of Commerce International Maritime Bureau ("IMB") has reported that the number of ships attacked in the first 9 months of 2012 is at its lowest since 2009. The widespread belief is that this dramatic decrease in the seizure of vessels can be attributed to the surge in deployment of private marine security guards on board vessels in the last year which has acted as a considerable deterrent.

However, it is often the case, as piracy declines in one area, another takes its place. Attacks by pirates in the Gulf of Guinea off the West coast of Africa have increased in frequency and sophistication, with the IMB reporting 58 incidents in 2012 compared with 30 attacks for the whole of 2011. Back in August 2011, even before this increase, the Lloyd's Market Association placed the Gulf of Guinea in the same high risk category as Somalia, and we would argue that this region now represents the greatest challenge to piracy insurers.

The goals and methods of the pirates in the Gulf of Guinea are usually very different from Somali pirates and are in fact more akin to the 'traditional' violent plunder associated with piracy. West African pirates have focused on the theft of high value cargo, particularly gas oil. Rather than hold the vessel the attack is short (often less than 72 hours), violent (they appear to have no concern as to the crew's welfare and little patience in negotiating; with fire arms reported as used in over 38 attacks last year) and difficult to trace, preferring ship to ship transfer of the cargo rather than heading inland as Somali pirates do.

The removal of 4 crew members off the coast of Nigeria appears to be an exception to this rule, but the fear is that ransoms may soon become attractive alternative revenue streams for these pirates.

One of the key difficulties with West African piracy is that it takes place in the territorial waters of Nigeria, Togo and Benin and those countries will not allow the deployment of private marine security guards on board vessels at this time. Each country has adopted a different strategy to seek to combat this growing problem but it appears that state financed security vessels are not a sufficient deterrent to pirates and are not sufficiently well co-ordinated. Specialised tracking systems are available and insurers will want to consider carefully what warranties are applied to vessels travelling through the area.

For insurers this situation encompasses a range of disparate risks and the inter-relationship of the various parties to the maritime adventure is a key consideration. Given that the target of the attack is generally the cargo, cargo insurance clearly plays an important role in the loss. However, beyond the loss of any cargo, there are many other potential losses during a piracy event including the risk of both physical and psychological harm to the crew, delays and changes to the voyage, potential damage to the vessel, off-hire days and additional port costs, to name just a few.

Which party should purchase any piracy cover and/or who should be covered by it could be a matter of debate given the primary cause of the loss is the method of theft of the cargo.

Further, piracy cover will traditionally be triggered by a ransom demand whereas clearly alternative or additional triggers need to be formulated. Some have suggested seizure would be enough, and this of course would mean adopting a model which is different from the standard K&R wording often grafted into a piracy policy.

What is clear is that insurers will want to be flexible in their approach to respond to the growing problems in the West African waters and that different solutions may be needed to address the different type of piracy encountered.

Special risk at Clyde & Co

We have a dedicated team at Clyde & Co dealing with kidnap and ransom and piracy: assisting with policy wording, risk management, claims coverage issues and recoveries. If you have any queries, please do not hesitate to contact us.

Further information

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