

WAYPOINTS

WEST Magazine Issue | 07

HIGH SEAS, HIGH STAKES

06

Dark Fleet Dangers

The world's 'dark' or 'shadow' fleet is flourishing. Rahul Khanna, Global Head of Marine Risk Consulting, Allianz Global Corporate & Specialty talks about this uncontrolled alternative shipping industry.

10

Maritime Security Threats in the Red Sea and the Gulf of Aden

Eunet Louw and Thomas Brambell from Crisis24 share their expertise on changes in Modus Operandi – a timeline.

24

Sanctions

Tony Paulson, Head of Asia & Corporate Director, discusses this increasing burden on the maritime industries.

32

War Risks in Charterparties

Eugene Cheng, Senior Claims Manager looks at how the maritime industry has developed several war clauses over the years.

WEST.

In a nutshell

Defence Guides

Download your free Defence Guide e-book and navigate through our curated collection of guides. From regulatory compliance to risk management strategies, our comprehensive guides cover every aspect of maritime operations.

www.westpandi.com/news-and-resources/in-a-nutshell-defence-guides



Scan here

Contents

05 Welcome Letter

Tim Davies, Deputy Head of Claims (Eastern Team), welcomes you to the 7th issue of Waypoints.

06 Dark Fleet Dangers

The world's 'dark' or 'shadow' fleet is flourishing. Rahul Khanna, Global Head of Marine Risk Consulting, Allianz Global Corporate & Specialty talks about this uncontrolled alternative shipping industry.

10 Maritime Security Threats in the Red Sea and the Gulf of Aden

Eunet Louw and Thomas Brambell from Crisis24 share their expertise on changes in Modus Operandi - a timeline.

14 True Confidence - A Red Sea Risks Case Study

Ian Clarke discusses how the Club has been advising and assisting Members with a variety of issues arising from passing through the Gulf of Aden and Bab al-Mandab Straits.

16 West's New Piracy Protection Product

Head of Product Development, Richard Turner, discusses more about this new product and what it can offer Members.

18 Hijack! A Tale of Two Ships

Two very different outcomes which serve as a reminder to Members that the risk has not gone away.

24 Sanctions

Tony Paulson, Head of Asia & Corporate Director, discusses this increasing burden on the maritime industries.

26 Ensuring Sanctions Compliance

Shipowners and their insurers need to tread ever-more carefully around a growing raft of international sanctions. Roke delve deeper into this changing area.

30 Neptune Updates

West's interactive portal for Members, brokers, and correspondents has recently had a refresh.

32 War Risks in Charterparties

Eugene Cheng, Senior Claims Manager looks at how the maritime industry has developed several war clauses over the years.

36 FuelEU Maritime

Explore the FuelEU Maritime (Regulation 2023/1805) initiative by the European Union aimed at reducing greenhouse gas emissions (GHG) from the maritime sector.

40 Briefcases

We examine recent decisions covering Force Majeure, Hull fouling and anchoring at an illegal location.

44 On The Horizon

Emma Forbes-Geary shares the latest updates from the Maritime Labour Convention.

46 West Opens Office in the UAE

West is opening a new office in Dubai, November 2024.



Visit Westpandi.com for more on the topics addressed in this issue and for information about West.

Follow us on [X](#) [in](#) [v](#)

Editorial team

Tony Paulson, Tim Davies, Erin Walton, Simon Hodgkinson, Greg Franklin, Julien Rabeux, Emma Forbes-Geary, Isabel Stanhope, Sally Johnson.

Contact information

If you would like to get in touch with us, please email: Waypoints@Westpandi.com

WEST

WELCOME

Dear reader,

Shipping is an industry influenced by externalities, whether that be the weather impacting on ships themselves, the state of global trade driving derived demand for cargo space or the effects of geopolitical events.

It has traditionally been said that war is good for shipping as it often stimulates demand but of course it has substantial downsides too and we are increasingly witnessing these negative effects. These may be actual physical threats to ships and crews where weapons of war are ranged against them, or the economic and operational impacts of these kinds of events such as the imposition of sanctions. All too often we are seeing shipping and their service providers being targeted as a means to achieve political or ideological ends.

In this latest edition of Waypoints, we look at these strengthening geopolitical headwinds and their impact on shipping and insurance. One unintended consequence of the sanctions against Russian oil has been the growth of the so-called "dark fleet" of tankers which operate outside the norms of our industry to endeavour to avoid exposure to those sanctions.

On page 06, Rahul Khanna of Allianz Global Corporate & Specialty considers the potential dangers that this fleet poses. The continued growth in the use of sanctions as a primary foreign policy tool has had a significant impact on us in the maritime industry and on page 24, Tony Paulson considers just what this has meant in terms of increased compliance and due diligence measures for both the Club and its Members. Our partners, at Roke, also describe the role their technology platform plays in helping the Club with our compliance checks.

Worryingly, there has been a recent resurgence in the piracy attacks on shipping off the Horn of Africa and we look at the recent seizure of a Member's vessel by pirates and how that was resolved with the help of the Indian Navy. Of even greater concern has been the emergence of a campaign of seemingly indiscriminate missile, drone and suicide boat attacks against ships transiting the Red Sea. Our partners Crisis24 describe the modus operandi of the Red Sea attacks on page 10. These have sadly resulted in loss of innocent seafarers' lives and on page 18 Enam Hussain describes how the Club worked effectively to support war risk underwriters in the aftermath of such an attack to manage the tragic consequences.

There are contractual ramifications for shipowners and charterers too. On page 32 Eugene Cheng helpfully sets out the structure and practical operation of the most commonly used war risk clauses in charterparties. Our popular Briefcases feature also highlights some recent legal case decisions of interest.

Finally, West is excited to be opening a regional office in Dubai in the autumn of 2024. We are the first IG Club to do so and it will support our strategy of regionalisation to help deliver service to our Members more locally in what is an important market, not only for the Club but also increasingly, in global shipowning and operational terms. We include some insights into our new office on page 46.

As always, we hope that you enjoy reading Waypoints.

Tim Davies
Deputy Head of Claims (Eastern Team)
West P&I

Piracy Protection

The West Piracy Protection product is Kidnap and Ransom insurance for shipowners and operators and their crew against the outcomes of piracy attacks in high-risk areas such as the Gulf of Guinea and the Gulf of Aden.

Our Piracy Protection Partners



Your West War and Piracy Protection specialists



Richard Turner

Head of Product Development
T +44 20 7716 6126 M +44 7766 474 492
E Richard.Turner@westpandi.com



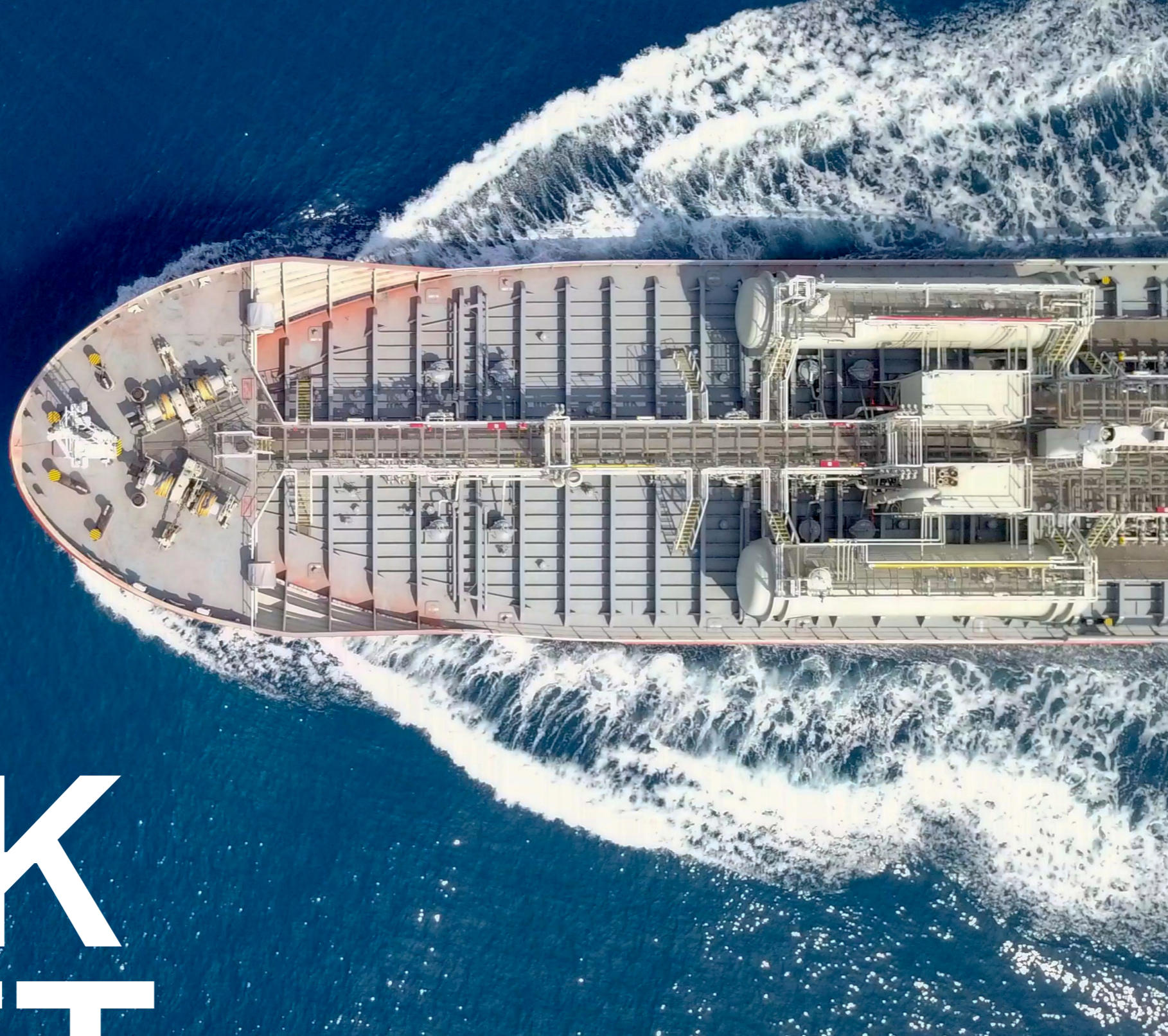
Mark Mathews

Deputy Head of Underwriting (London)
T +44 20 7716 6123 M +44 7788 872 065
E Mark.Mathews@westpandi.com

**PIRACY
PROTECTION**

westpandi.com/piracy-protection

Follow us on   



DARK FLEET DANGERS

The world's 'dark' or 'shadow' fleet is flourishing. Apart from propping up rogue states, these unregulated, and usually poorly or uninsured, tankers carrying sanctioned oil cargoes are an increasing threat to maritime safety. Without concerted international action, this dangerous fleet will continue to trade.

The sad reality is that US, UK and other countries' sanctions against Russian, Iranian and Venezuelan oil exports have accidentally created an uncontrolled alternative shipping industry. By cutting ties with western suppliers and service providers, the shadow tankers are legitimately beyond the scope of oil price caps and other trade embargoes.

As reported in Allianz Commercial's Safety and Shipping Review 2024, the size of the dark fleet is between 600 to 1,400 vessels, about a fifth of the global crude oil tanker fleet. And it continues to grow. The fleet consists mostly of older ships, many operating past their traditional lifespans, and ownership is unclear. They tend to operate outside international regulations and without proper insurance.

Shadow tankers are also likely to receive little maintenance, surveys or inspections. They frequently attempt hazardous ship-to-ship transfers in the open ocean and turn off automatic identification system transponders to hide their location and identity.

Increasing danger

With such scant regard for safety, the dark fleet poses an increasing danger to other vessels and the marine environment while avoiding liability under international treaties. Shadow ships have been involved in at least 50 incidents to date, including fires (Figure 1), engine failures, collisions, loss of steerage, and oil spills, according to the Atlantic Council and other reports.

For example, in May 2023 the Gabon-registered 26-year-old shadow tanker Pablo, believed to be involved in illicit shipments of Iranian oil, caught fire and exploded off the coast of Malaysia, killing three crew. Five months later, the similar-age Cameroon-flagged Turba was drifting out of control off the coast of Indonesia while carrying potentially sanctioned Russian oil.

In February 2024, the shadow oil barge Gulfstream capsized and grounded in Trinidad and Tobago, causing a damaging slick of Venezuelan oil as its shadow tug Solo Creed fled to Angola. The following month 2024, the 15-year-old Panama-flagged shadow tanker Andromeda Star collided with a Bulgarian freighter near Denmark while on its way to load Russian oil.

The cost of dealing with such incidents often falls to governments or, if a legitimate vessel is also involved, on its insurers. However, countering the illicit trade in sanctioned oil will not be easy, as smuggling networks use more sophisticated methods and demand for discounted oil in Asia remains strong.

Cracking down

The International Maritime Organization (IMO) recently called on flag states to crack down on the illicit activities of shadow tankers and to enforce regulations on ship-to-ship operations. IMO also asked port state authorities to subject potential shadow vessels to enhanced inspections.

In response, western governments are stepping up efforts to enforce sanctions and tighten the net on shadow fleets. For example, in November 2023, the US Treasury sent notices to ship managers in around 30 countries requesting information on 100 vessels suspected of violating sanctions on Russian oil.

A month later, the G7+ Oil Price Cap Coalition countries said service providers needed to get confirmations from their counterparties for each voyage rather than annually. Supply chain partners with access to itemised costs such as insurance and freight also needed to share these down the supply chain.

In February 2024, the Coalition provided guidance on identifying oil cap price evasion methods and how to mitigate the risks and negative impacts. It also explained how to report suspected breaches.

Without concerted action across the maritime industry, there is a real risk that the dark fleet will continue to threaten safety at sea. The fleet's owners and operators may even decide their high-risk, unregulated operating model is sufficiently profitable to continue after sanctions have ended.

Rahul Khanna

Global Head of Marine Risk Consulting,
Allianz Global Corporate & Specialty



Rahul is a master mariner who spent 14 years at sea on oil tankers, bulk carriers and ore-bulk-oil before joining London Offshore Consultants in 2008 as a Marine Consultant. In 2011 he moved to Allianz Global Corporate & Specialty (AGCS) as a Senior Risk Consultant and three years later became Global Head of Marine Risk Consulting. Based in New York, he leads a global team of marine risk consultants who support the marine underwriting function at AGCS in risk selection and loss prevention of its marine portfolio. In 2023 AGCS and Allianz Property & Casualty became Alliance Commercial, which generates around €18 billion in gross premium globally.



Figure 1: Lower safety standards on dark fleet tankers and lack of regulatory oversight increases the risk of catastrophic incidents for which there may be no or inadequate insurance.

MARITIME SECURITY THREATS IN THE RED SEA AND THE GULF OF ADEN

Houthi Campaign Against International Shipping

Change in Modus Operandi: A Timeline

Houthi operations targeting international shipping in the Red Sea and surrounding waterways continue to threaten maritime shipping interests in the region, however, the targeting methodology of the Houthi movement has consistently evolved. Initial operations involved a series of relatively ineffective long-range attacks

utilising weaponised unmanned aerial vehicles (UAVs) and missiles, which were mostly intercepted by western coalition and Israeli forces operating in the region.

From mid-November 2023, Houthi operations began to leverage more capable weaponry – including an increasingly diverse range of anti-ship cruise missiles and anti-ship ballistic missiles, as well as weaponised UAVs

and water-borne improvised explosive devices, also known as unmanned surface vessels (USVs) – principally targeting Israeli-linked vessels closer to Yemen and the southern Red Sea region. On 9 December 2023, the Houthi movement declared they would target all vessels bound for Israeli ports and by January 2024, approximately 30 vessels had been targeted in the southern Red Sea and the Bab al-Mandab.

On 9 January 2024, the Houthis claimed their first attack on a US warship operating in the region, followed by the first round of largely retaliatory US-led strikes on Houthi military assets in Yemen. The strikes appear to have done little to disrupt Houthi operations against international shipping in the Red Sea and surrounding waterways as Houthi forces appear to have begun deliberately targeting oil and chemical tankers, likely due to the international attention given the ecological impacts of the recently damaged crude oil tankers such as the SOUNION, AMJAD and BLUE LAGOON I.

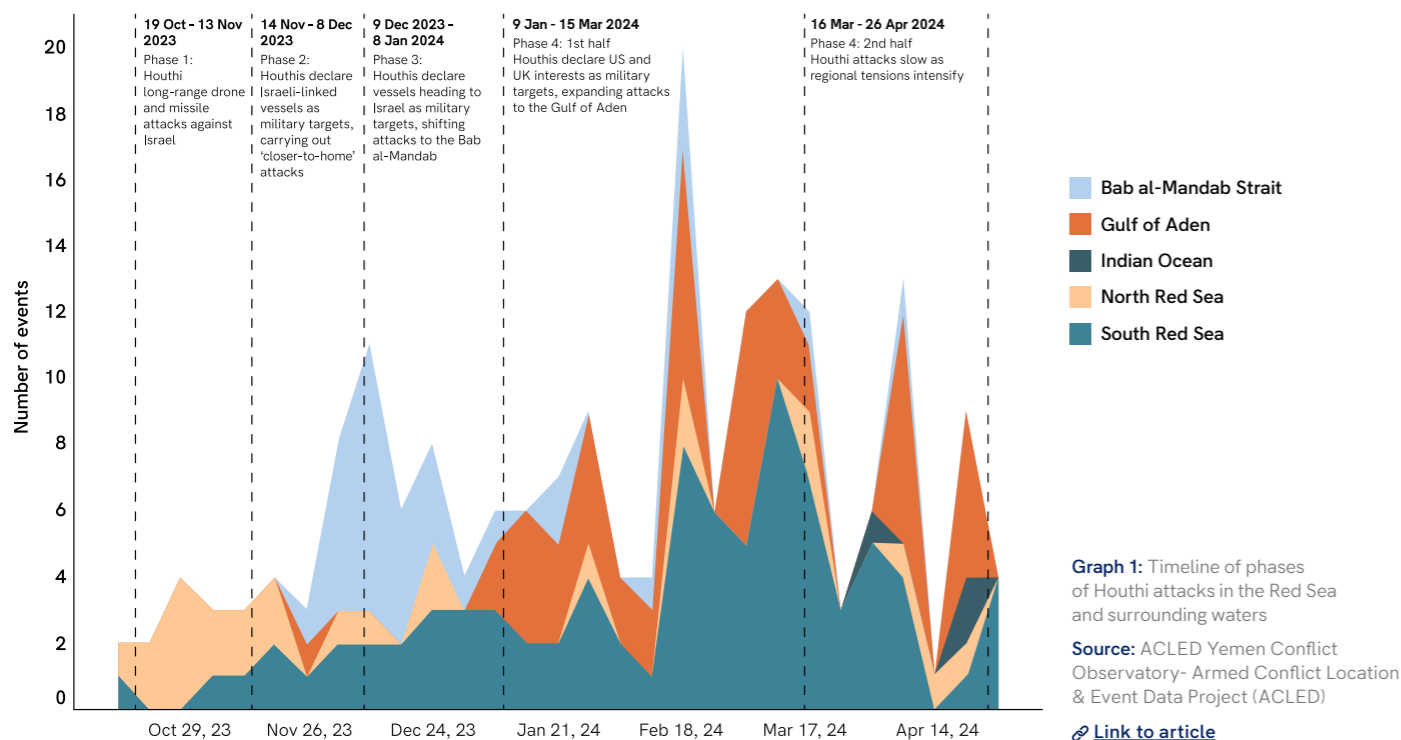
Approximately 75% of Houthi weaponised UAV and USV attacks on international shipping have been intercepted by international coalition forces deployed to the Red Sea and the Gulf of Aden region to counter the Houthi threat, compared to approximately 16% of missile attacks.

More than 82% of the recorded attacks in the Gulf of Aden targeted commercial vessels (including the MSC Orion, approximately 300NM southeast of the Horn of Africa and the first vessel to be targeted by Houthi forces in the Indian Ocean). However, the threat to vessels transiting the Gulf of Aden is most significant for Israeli owned or operated vessels, or vessels owned and/or operated by organisations considered to be complicit in the Israel’s ongoing military operations in Gaza, or vessels assessed to have wider strategic importance Israeli military interests, including UK and US vessels.

Furthermore, Houthi forces largely employ long-range missiles against international shipping targets in the Gulf of Aden, while weaponised UAVs and USVs are primarily used by Houthi forces to target vessels in the Southern Red Sea.

According to armed conflict location data and incident reporting resources, Houthi operations targeting international shipping in the Red Sea, and surrounding waterways, have significantly relied on weaponised UAVs and USVs. More than 40% of the events recorded between October 2023 and June 2024 involved these weapon systems, while missiles are primarily employed to target international shipping in the Gulf of Aden. However, the effectiveness of weaponised UAV and USV attacks to target international shipping has been limited.

Houthi Attacks During the Red Sea Crisis by Week
October 2023 - April 2024



EUNET Louw

Associate Consultant
Crisis24



EUNET has been an Associate Consultant with Crisis24 since October 2023, having previously supported Crisis24’s Integrated Risk Management Solutions since April 2022. As an Associate Consultant, EUNET supports Crisis24 crisis security and consulting methodology, producing various analytical reports that identify threats to an organisation’s people, assets and reputation within a specific location, specialising in maritime security threats. EUNET is one of Crisis24’s experts on maritime security threats in the Red Sea and the Gulf of Aden and has previously been deployed to the region to support on various response-related cases.

Thomas Brambell

Associate Consultant - Team Lead
Crisis24



Thomas is an experienced analyst with growing expertise in maritime security, as well as relevant experience providing operational and logistical support to organisations operating in a variety of different professional contexts. He has notable experience using different digital and analytical resources, and is trained in qualitative and quantitative methodology and research methods - he is an Office of National Statistics Accredited Researcher with experience in ethnographic and interpretive research methods.

Houthi Tactics Employed in the Red Sea, a Cycle Seen Before

Houthi operations targeting international shipping in the Red Sea and surrounding waterways is largely consistent with the tactics shown during their civil conflict with the internationally recognised Yemeni government. Following operational or tactical setbacks, the Houthis would regroup, and seek to further escalate both the scale of their attacks and the conflict in an effort to maintain the initiative, gradually expanding the conflict. This strategy enabled the Houthi movement to eventually extend their control from Saana to much of northern Yemen.

While their adversary has shifted from the Yemeni government and regional strategic actors to the US and Israel, the Houthi movement continues to escalate and expand their operations in the Red Sea after each operational setback.



Map 1: Map visualising the approximate locations of Houthi-launched attacks targeting commercial vessels in the Gulf of Aden from 19 November 2023 – 22 August 2024, with the attack on the MSC Orion highlighted

Source: Crisis24

[Link to article](#)

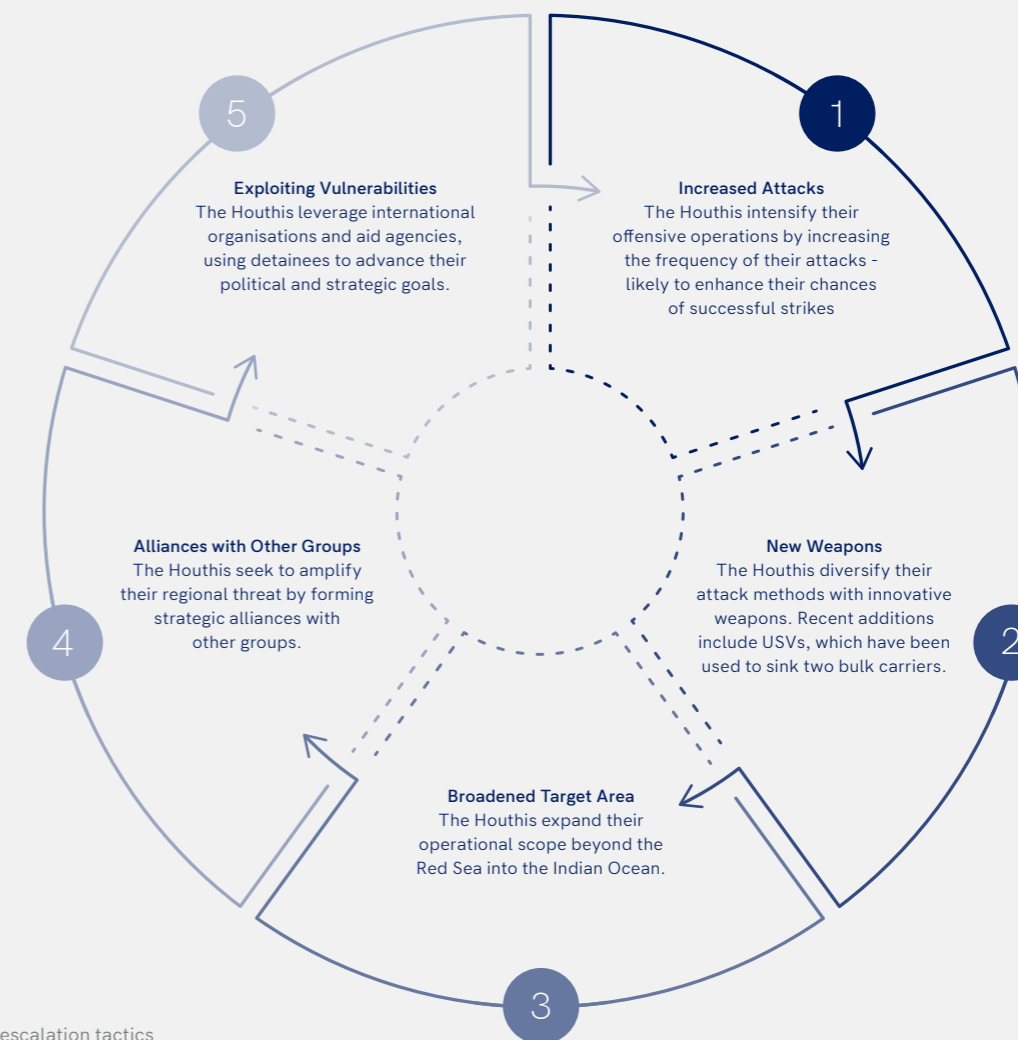
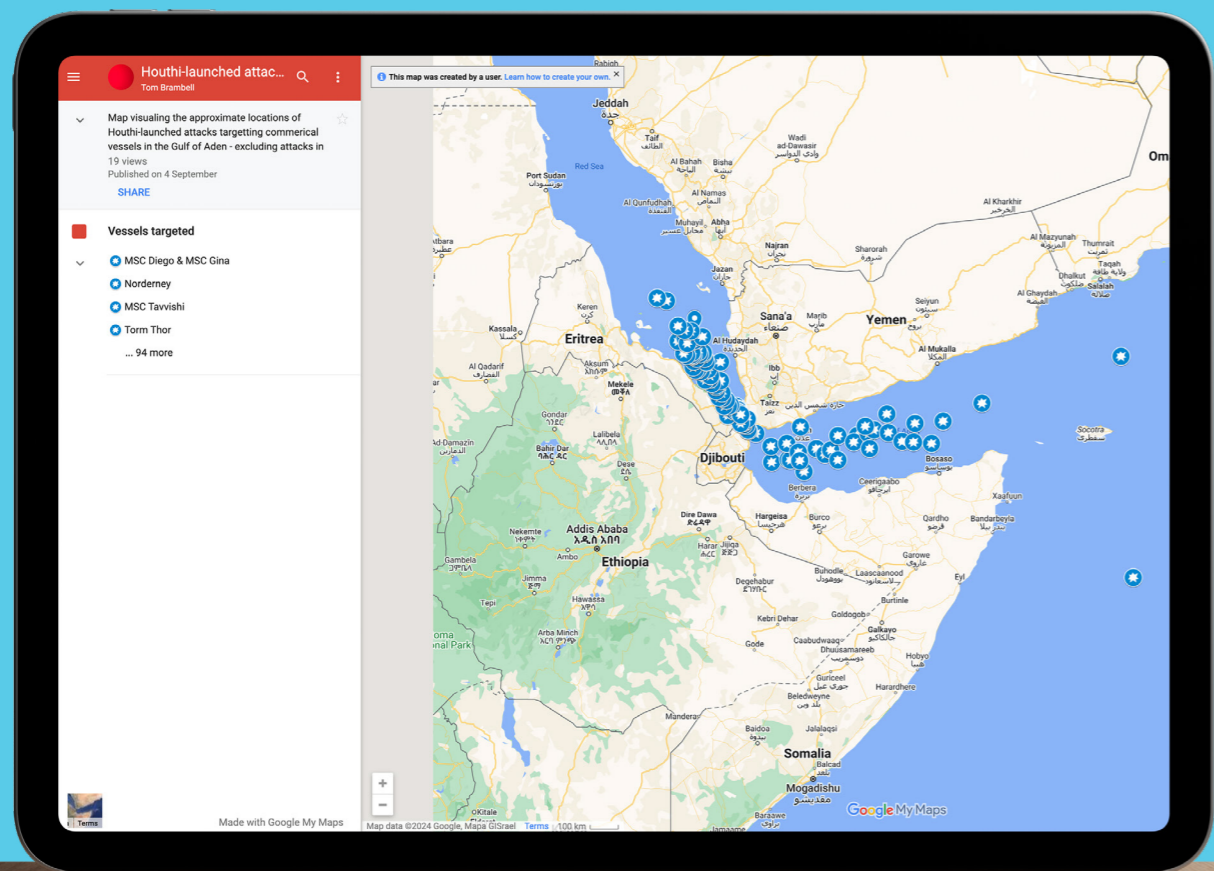


Image 1: Cycle of escalation tactics

Source: Crisis24



Outlook

The threat of further escalation and the expanding operational capabilities of Houthi forces represents a significant threat to maritime shipping interests in the region. The Houthis utilise various resources to guide and inform vessels targeting their methodology. This includes open-source maritime traffic information and intelligence gathered by the Behshad, an Iranian cargo ship stationed in the Red Sea and serving as an Islamic Revolutionary Guards Corps forward-operating and reconnaissance base.

Intelligence sources indicate that Russian military intelligence officers have been deployed to Yemen to assist the Iran-backed Houthis in targeting commercial vessels in the Red Sea.

Despite evolving capabilities and strategic partnerships, the Houthis remain heavily reliant on Iran. This relationship has largely forced the Houthi's to prioritise Israeli targets in favour of Saudi targets and remains contingent on specific geo-political developments, including, but not limited to, the

signing of a ceasefire agreement between Israel, Hamas and other armed Palestinian insurgent groups in Gaza.

While the Houthis remain inextricably linked to the wider regional conflict, US-led strikes on Houthi military assets in Yemen have proved partially effective, successfully targeting various Houthi launch and radar sites across Houthi-controlled areas in Yemen. They have failed to totally disrupt Houthi operations against international shipping in the Red Sea and surrounding waterways.

However, renewed attacks have emerged in recent months as Iran weighs possible retaliation against Israel over the assassination of Hamas official Ismail Haniyeh in July. This has renewed fears of a wider regional war in the Middle East, and both the effectiveness and sustainability of deployed naval assets in the Red Sea and the Gulf of Aden to safeguard maritime shipping interests in the region remains limited.

Red Sea Risks
Case Study

TRUE CONFIDENCE

The Club has been advising and assisting Members with a variety of issues arising from passing through the Gulf of Aden and Bab al-Mandab Straits.

Initial concerns from Members (owners or charterers) are whether they can safely go through this area and whether the terms of the charterparty are sufficiently protective. The other issues relate what happens if a vessel is successfully attacked and suffers damage.

Sadly, the Club has also seen a Member's vessel taken by the Houthis. The Galaxy Leader's crew remain in Yemen despite the International Maritime Organization's (IMO's) protestations and outcry amongst the sea faring community. In another tragic incident, the True Confidence was struck by drones and resulted in the loss of three lives. One of the difficulties in the area is salvage/tug assistance to aid a stricken vessel as a main provider's tugs are sanctioned by the Office of Foreign Assets Control (OFAC). Thankfully on a number of occasions the US authorities have been pragmatic and understanding in granting a licence swiftly to enable the crews to be rescued. This has also resulted in vessels being saved, thus minimising the risk of pollution or other environmental damage.

In the True Confidence case, cover was provided by Members' War Risks insurers. The Club has assisted them with handling the crew death, injury and repatriation claims. A swift response was important and the Club is grateful to our correspondents, McLeans in Djibouti, who worked with the local authorities to see that the crew were given specialist care on arrival.

Having medical care, including psychiatric expertise, on-hand assisted the crew with coming to terms with trauma and easing their return home. This in turn reduced the likelihood of claims being made. Repatriation was also far from easy as the crew were of various nationalities and needed visas. Thankfully, the Filipino Embassy through its base in Cairo was able to act quickly and saw the majority of crew issued with travel documents in a matter of hours. This was the first case in the area where a Houthi attack had led to loss of life and it was important for the Member to protect their interests in the press and through social media. Deft handling of this from the outset through media consultants demonstrated the speed of compassionate reaction to the incident by the shipowners and managers.

Since the attack on the True Confidence in early March 2024, there have been further tragic incidents such as the Tudor, which became a total loss, and the Sounion.

It appears that geopolitical tensions are a marker of 2024 and with various inter-related regional conflicts on-going there is unlikely to be a short-term end in sight. Members need to ensure that they have solid war risks policies in place, charterparty terms that are kept under review and a response plan to an attack of this nature wherever in the world it may be. The Club can provide War Risks policies as well as underlying P&I and FD&D cover.

Ian Clarke

CEO (Hellas),
West P&I



Ian joined the Club in 2005 and after leading a claims team in London moved to Greece in 2011 where he heads the Piraeus office. He is a practising English solicitor and admitted to the Piraeus Bar. Prior to joining the Club he worked at other IG P&I Clubs and as a lawyer in private practice.

He is responsible for managing P&I and FD&D claims for Members based in Greece, Cyprus and the Middle East. Ian regularly speaks at conferences and is actively involved in the marketing of the Club.

West's new Piracy Protection product

Earlier in 2024, West responded to the increased piracy risk situation by launching a new Kidnap and Ransom (K&R) product - Piracy Protection Plus – which is designed for Members and other clients to protect ships and crews from K&R scenarios.

The new product has been developed in collaboration with the Hamilton syndicate at Lloyd's and embeds emergency response via our partners, Crisis24 and the law firm HFW.

The policy is designed to help owners manage the evolving threat of piracy in high-risk waters. It provides cover for vessels entering a War & Piracy 'breach' area, such as the Gulf of Aden or the Gulf of Guinea, where there is a higher risk of vessels being seized.

Unlike the traditional War and Loss of Hire products available in the market, Piracy Protection is much more responsive to the types of piracy attacks that can take place in these locations.

The West product offers some of the widest policy coverage in the market.

Risk triggers for a claim include the seizure, or attempted seizure of a vessel. There is protection in place for the shipowner and crew. Indemnities are provided for ransoms, including loss in transit of a ransom, and the costs of response consultants and legal experts, including reputational risk expenses. Standard coverage includes indemnities such as crew repatriation, extra fuel costs and unscheduled port calls. Extended coverage is also available for Loss of Hire related to a seizure.

Many War insurers now currently offer premium discounts for clients who purchase K&R protection, thereby making this type of policy highly cost-effective to purchase.

West has a range of solutions, stretching from the protection of a single ship conducting a voyage through a specific high-risk zone, through to the provision of annual worldwide cover for all vessels within a fleet.

For more information, please contact us at WestPiracy@westpandi.com or speak to your broker.

Richard Turner

Head of Product Development,
West P&I

Richard has extensive experience working in the Marine Insurance sector. He has recently joined West in the London office, having previously been employed at Victor Insurance and before that, the RSA Insurance Group. Richard served as President of the International Union of Marine Insurance (IUMI) from 2018 to 2022, the first British national to hold this position in IUMI's 150-year history. He is a regular industry speaker and lecturer, and is current Chair of IUMI's ESG Committee as well as a member of IUMI's Education Forum.



**PIRACY
PROTECTION**

westpandi.com/piracy-protection

Follow us on   

HIJACK!

A TALE OF TWO SHIPS

Two of West's entered ships were hijacked by Somali pirates in the past 12 months. They had very different outcomes, but both serve as a reminder to Members that the risk has not gone away.

MV Ruen

Bulgarian shipowner Navibulgar's 27,781 GT bulk carrier MV Ruen was seized by pirates on 14 December 2023 around 380 nautical miles east of the Yemeni Island of Socotra. The Maltese-flagged 2016-built ship was carrying steel from South Korea.

The 18 crewmembers – made up from eight Bulgarians, nine from Myanmar and one Angolan – locked themselves in the citadel but the pirates broke in the next day. The captain had already contacted the European Union Naval Force's (Eunavfor) Atlanta operation, and Spanish Navy ship ESPS Victoria

arrived at the scene on 16 December. The Indian Navy ship INS Kochi and Japanese navy vessel Akebono, part of Combined Task Force 151, were also on hand and followed the ship into Somalia's territorial waters.

The shipowner appointed a response consultant to negotiate the crew's release, with legal assistance by Holman Fenwick & Willan (HFW). On 18 December an injured Bulgarian crewmember was evacuated to INS Kochi for medical care. Negotiations progressed for the next three months while the ship and the rest of the crew remained captive.

In a surprising development on 13 March 2024, Ruen upped anchor and set sail to the east, potentially as a new pirate mothership from which to launch attacks further into the Indian Ocean. However, two days later and some 260 nautical miles off Somalia, the pirates encountered the INS Kolkata, so turned around and headed west.

Kolkata ordered Ruen to stop and opened fire on its steering gear when the pirates refused to do so, causing a fire in the steering gear room. Following a 40-hour military operation, involving another Indian Navy ship and various surveillance aircraft and drones, the 35 pirates

surrendered and the 17 crew were freed on 16 March. Amazingly, apart from one of the pirate commanders being hit by shrapnel in his left eye, no one else was injured in the heavily armed assault.

The crew were transferred to Kolkata while the navy searched the damaged Ruen for arms, ammunition and contraband. The crew then reboarded on 17 March, made emergency repairs and headed to Salalah, Oman a few days later. Kolkata handed the pirates over to the police in Mumbai on 23 March. Under India's anti-piracy laws, they face life imprisonment.

Below: Indian Navy photograph of surrendered pirates on MV Ruen following an armed assault from air and sea **Source:** Indian Navy [Link to article](#)



Above: Indian Navy photograph on X of pirates on the MV Abdullah **Source:** Indian Navy [Link to article](#)

MV Abdullah

While the seized Ruen was anchored off the coast of Somalia, possibly the same Somali pirate gang boarded the Bangladesh steel maker KSRM's 32,714 GT bulk carrier MV Abdullah on 12 March 2024, about 600 nautical miles east of Somalia's capital Mogadishu. The Bangladeshi flagged 2015-built ship, managed by KSRM subsidiary Brave Royal Ship Management Limited, was carrying coal from Mozambique.

The captain reported around 20 pirates had boarded and that he and the other 22 Bangladeshi crew were safe

but not in the citadel. The ship headed to Somalia's territorial waters and dropped anchor, shadowed by ships from the Italian Navy (Eunavfor) and Indian Navy.

The pirates contacted KSRM demanding a ransom on 20 March. The negotiations were managed directly by chief executive officer Mohd Mehrul Karim, again with support from HFW. KSRM had experience of negotiating with pirates following the seizure of its ship MV Jahan Moni for 100 days, between December 2010 to March 2011.

Settlement with the Abdullah pirates was reached 21 days later on 10 April, the day of Eid – which photographs shared by crewmembers showed they had been allowed to celebrate. The pirates headed to shore on 14 April, leaving the ship and its crew free to continue their journey to Hamriyah in the United Arab Emirates. After discharging the coal and going on to load limestone in Mina Saqr, the ship arrived back at Kutubdia in Bangladesh on 13 May and the crew were reunited with their families.

Lessons learned

Both hijackings took the industry by surprise. The Ruen was the first ship to be successfully boarded by Somali pirates since 2017, and the lack of attacks and stronger Somali government had led to declassification of the Indian Ocean high risk in area on 1 January 2023. The focus had also shifted to attacks by Yemen's Houthis rebels in the Red Sea and Gulf of Aden, which started in October 2023 following the onset of the Israel-Hamas war.

While the Indian Navy's successful recapture of Ruen might have deterred the pirate gangs, their successful ransom of the Abdullah suggests otherwise. But we should consider too that the former was driven by the Indian Navy's desire to put on a show of force at the expense of the safety of the ship and its crew, while the latter was driven by the owner's desire to protect his fellow countrymen at all costs.

Both cases show that the pirates remain capable of boarding ships several hundred nautical miles from Somalia's coast, beyond the former high risk area. They also appear to be increasingly sophisticated and better informed, for example having higher technology military equipment and knowledge of K&R cover limits.

Both cases also show the increasing impact of social media in hijacks. Crews sent information and videos from their mobile devices until these were confiscated, and navy crews also added to the instant online news coverage. The net result is significantly increased public awareness, putting even greater pressure on shipowners to resolve incidents as quickly as possible.

In conclusion the attacks show there is no room for complacency. In addition to taking out suitable insurance including K&R cover, owners of ships travelling within 1,000 nautical miles of Somalia should revisit BMP5 Best Management Practices to Deter Piracy and Enhance Maritime Security in the Red Sea, Gulf of Aden, Indian Ocean and Arabian Sea published in 2018.

In particular, they should refer to BMP5 section 5 on ship protection measures, such as practicing avoidance manoeuvring, hardening with razor wire or overhanging barriers, use of water and foam jets and enhanced bridge protection. Should piracy risks escalate, owners should also reconsider carrying armed guards, though this can now involve a protracted approval process.



Shipowners sailing anywhere near Somalia should revisit the ship-hardening requirement of BMP5

Sources

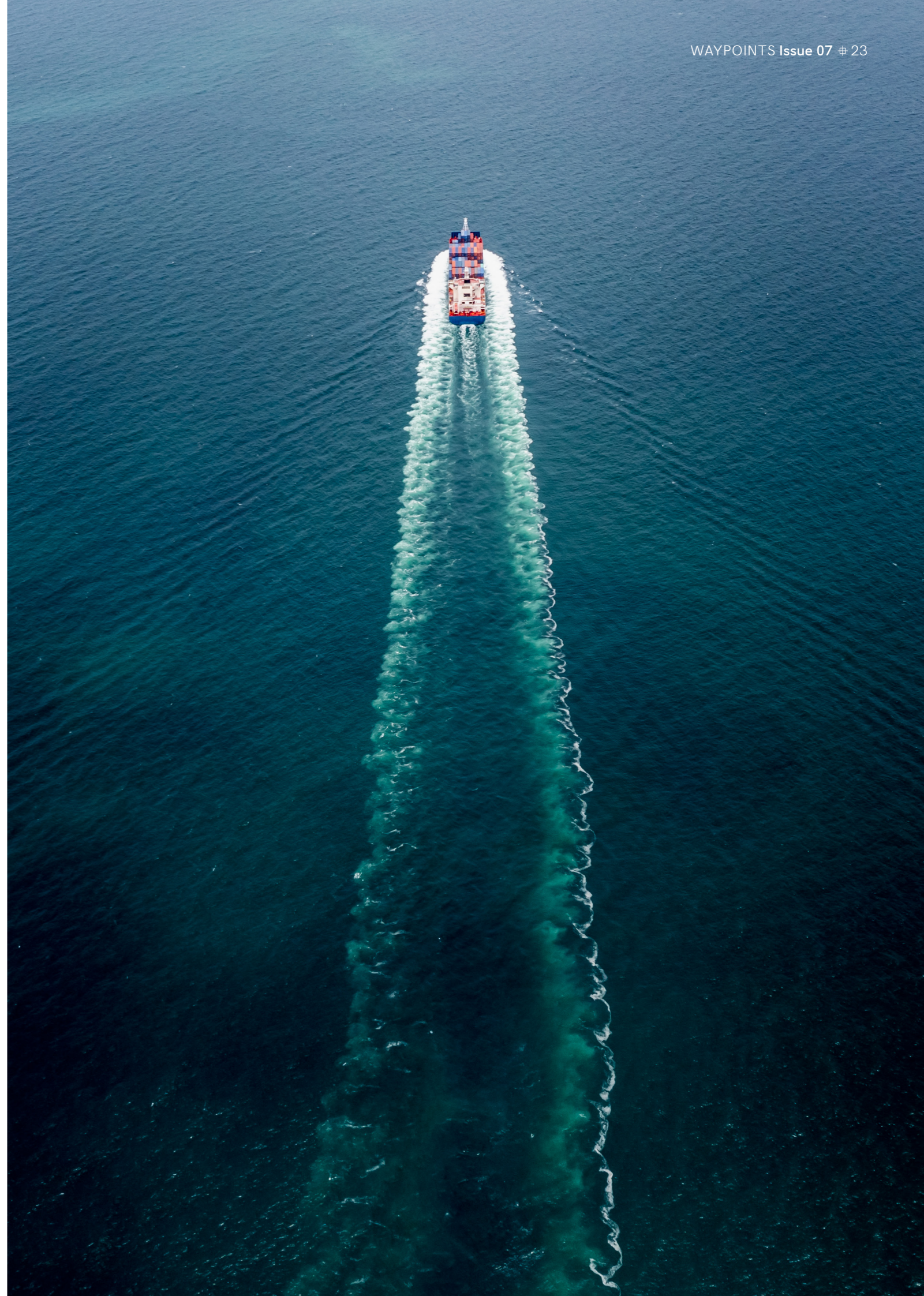
- Eunavfor Operation Atlanta 19 December 2023: [Development of the hijack incident involving the Maltese flagged merchant vessel Ruen](#)
- Eunavfor Operation Atlanta 14 March 2024: [Update on piracy event involving the Bangladesh-flagged bulk carrier merchant vessel Abdullah](#)
- Maritrace 14 March 2024: [Hijacked cargo ship RUEN on the move after 45 days at anchor on Somalia's coast](#)
- SpokespersonNavy 15 March 2024: [#IndianNavy's Mission Deployed warship & an LRMP responded to a piracy attack on MV Abdullah](#)
- Indian Ministry of Defence 16 March 2024: [Anti-piracy operations against pirate ship MV Ruen by Indian Navy](#)
- Guardian 17 March 2024: [Indian Navy recaptures Somali pirate ship and frees crew](#)
- Vessel Tracker 19, 20, 25 March 2024: [Ruen Cargo Ship Latest News](#)
- Al Jazeera 23 March 2024: [Captured Somali pirates arrive in India to face trial over ship hijacking](#)
- Reuters 14 April 2024: [Somali pirates say hijacked ship MV Abdullah released after \\$5 million ransom was paid](#)
- BBC 14 April 2024: [Somali pirates free Bangladesh-flagged vessel, MV Abdullah](#)
- Maritrace 14 April 2024: [Hijacked cargo ship ABDULLAH released on the east coast of Somalia](#)
- Vessel Tracker 13, 14, 16 May 2024: [Abdullah Cargo Ship Latest News](#)

Enam Hussain

Head of Middle East Operations & Offshore, West P&I



Enam is West's Head of Operations for Members in the Middle East, Indian subcontinent, Turkey and Africa. He is also responsible for the Club's global offshore membership. After qualifying, in 2005 as a solicitor, he worked for international law firm Hill Dickinson in commercial litigation and international trade. After two years he joined what is now NorthStandard P&I Club, becoming Head of the Claims team for Europe, before moving to West in 2017. His expertise is in major casualty management, and he has handled some of the world's largest major casualties, involving most complex and technically demanding wreck removal operations.



SANCTIONS



Russia, Iran, Venezuela, North Korea, Belarus, Myanmar, Syria, Cuba – the list of states around the world subject to sanctions seems to continue growing and with it the impact on the maritime community, writes Tony Paulson.

Although sanctions have been around for some time, they were typically a blunt tool which had detrimental impacts on a state's whole population rather than just the government or person being targeted. But starting in the late 1990s the Clinton Government in the U.S. began to deploy so-called "smart sanctions", targeting specific people, entities and industries in an effort to bring about the desired change.

These sanctions have undoubtedly become the foreign policy tool of choice and will often be the first reaction when something felt to be adverse to states' interests occurs – and the bad news for shipowners, charterers and insurers is that they are increasingly being targeted at us. Why?

This recent era of sanctions started by targeting Iran around 2010 and revealed a distinct lack of knowledge about shipping and insurance. This often led to unintended and significant consequences for the maritime community. But with further iterations and a widening of sanctions programmes to encompass other countries came opportunities to educate the regulators and refine understanding, aided by interactions with industry bodies like the International Group of P&I Clubs who have done vital work to avoid the worst excesses of misguided rule making.

Bodies such as OFAC, U.S. State Department, EU, OFSI in the UK and others now realise that to bring about the change they desire, means impacting the method of

carrying that trade and the insurers and other service providers on which they rely to keep goods moving. Disincentivising shipowners against carrying certain goods by threatening them and others with designation – almost certainly a business-fatal event – is the new normal for foreign policy makers.

The Russian Oil Price Cap Regime imposed by the G7 Coalition as a means of trying to limit the Kremlin's income from oil sales is the latest example; the Coalition has no direct means of restricting Russia's production and not all states have refused to stop buying Russian oil. So if the producer and receivers are out of reach that only leaves the means of transport connecting the two as the leverage point.

The growing focus on the maritime industry has had significant impacts on shipowners and insurers, and the compliance burden has grown exponentially with the number and scope of the various sanctions regimes. Shipowners and P&I Clubs are not the police force of the seas and have no formal role in enforcing sanctions, yet continued pressure from regulators with the threat of designation and other enforcement actions hanging over us have left no choice but to tacitly accept the mantle of sanctions enforcement.

Despite having no legal obligation to do so, Clubs now routinely track entered ships in a number of high sanctions risk areas.

Due to a misplaced belief that automated identification system (AIS) is the panacea for sanctions enforcement (rather than the anti-collision tool with known technological and network drawbacks which it actually is), Clubs have had to invest in tracking software and time and resource to triage the many false AIS returns and follow up any that may be of concern.

At West, we've also invested heavily in building sanctions teams across our global network of offices to deliver local advice to our Members on the complexity of the various regulations, as well as publishing guidance and delivering presentations and seminars on the topic.

Our centralised compliance function has also been boosted with additional resources – the extra investment in compliance has been real and substantial.

The same goes for our Members. Various "guidance notes" – nothing mandatory but beware the consequences if you choose not to comply – have been published by the various sanctions regulators. These implore shipowners and charterers to investigate the bona fides of every intended trade and those involved in it, to check the AIS history, to examine all the cargo documentation for signs of irregularity and generally to exercise "appropriate due diligence".

Always knowing the cargo's origin can be especially challenging, particularly where the cargo has previously been transferred by ship-to-ship (STS) and checking back through repeated STS operations can be difficult. Even some of the best known operators in our industry have inadvertently become embroiled in sanctionable activity precisely because of the difficulty in establishing the true origin. Specialist resources¹, such as Qwest Forensics¹, may be required to be able the true origin of a cargo to be identified.

There is also strong encouragement for every operator to create a Sanctions

Compliance Programme or SCP, in the words of the EU "...calibrated according to the specificities of their business and the related risk exposure". Guidance from the U.S. suggests it should be based around five essential components of management commitment, risk assessment, internal controls, testing/auditing and training.

Again, none of these measures are mandatory but operators should be in no doubt that the regulators will consider content the strength of the SCP when deciding on culpability for potential violation – in other words a strong SCP may help mitigate fines.

All of these increased burdens have required investments in compliance capabilities and management time in ensuring an organisation does not breach sanctions. But the fact is that sanctions are here to stay. Some commentators suggest that even if Russia were to withdraw from Ukraine tomorrow, sanctions in some form would need to continue for many years as a means of deriving reparations for the losses caused by the invasion. Disputes with other states like Iran currently seem intractable and new conflicts always risk sanctions being used as a first response. Shipping and insurance, therefore, look set remain in the sanctions spotlight for the foreseeable future.

¹ Qwest Forensics is a West Partner and provides a wide variety of intelligence services delivered by former police and security professionals. Further details can be found [here](#)

Tony Paulson

Head of Asia & Corporate Director,
West P&I



Tony Paulson is the Club's Head of Asia & Corporate Director. He joined West of England in 1990 and having worked in the Claims Department dealing with a wide variety of Members which included a secondment to the Hong Kong office, he became a Director in 2005. As well as being appointed Head of Asia in 2023 with responsibility for the overall management of the Club's Asian operations. Tony's responsibilities also encompass technical insurance matters such as the content and interpretation of the Rules, pollution, sanctions and liability and compensation regimes. He works extensively with the International Group, where he sits on a number of Committees, including Chairing the Pollution Committee.

ENSURING SANCTIONS COMPLIANCE

ROKE

Shipowners and their insurers need to tread ever-more carefully around a growing raft of international sanctions. The USA, European Union and UK all have expanding lists of designated individuals and organisations which are off limits or highly restricted for trade or financial support.

Russia heads the embargoes following its initial invasion of Ukraine in 2014. Other sanctioned countries include Belarus, Cuba, Iran, Myanmar, North Korea, Syria, and Venezuela.

Like all Clubs, West is subject to sanctions legislation and thus potentially exposed to enforcement measures, although if an entered ship engages in activity which exposes the Club to such enforcement, then, whether intentional or not, cover for that activity automatically ceases under the Club's Rules.

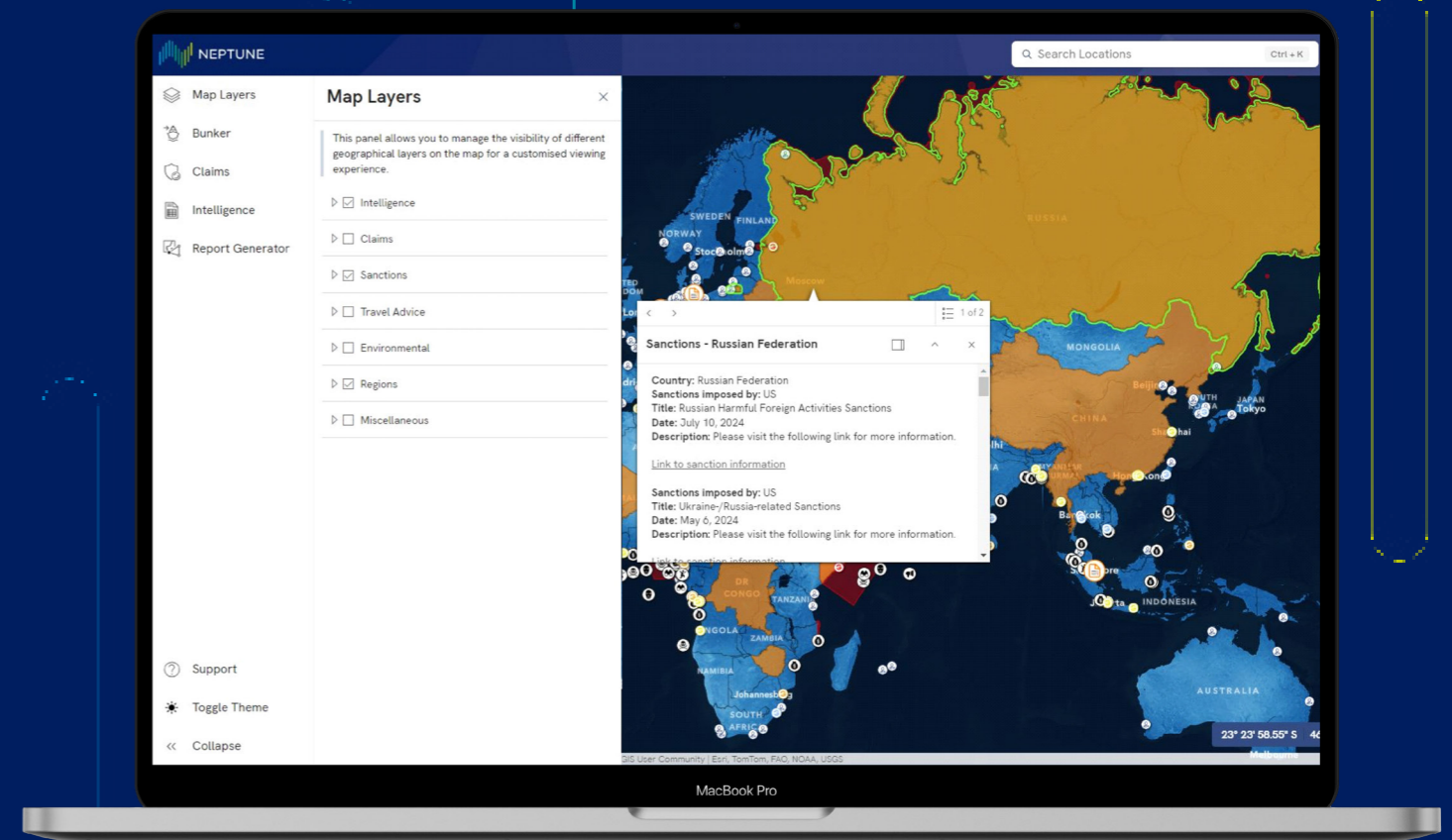
So how does the Club protect itself and its Members against sanctions-related risks? This is where Roke comes in. We provide the Club with three separate services: Neptune, Geollect and Intelligence.

Neptune

Neptune is an interactive portal for Members, which provides a global overview of sanctions as well as weather systems, natural disasters and maritime security risks. It combines data from our extensive range of international suppliers and intelligence sources, West's own claims and correspondents' data, and third-party providers such as Veritas Petroleum Services.

For sanctions information, you simply click on the country of interest and up pops a list of all current sanctions with links to further official information.

Figure 1: Neptune sanctions screen – clicking on a country provides details of all current sanctions



Geollect

Geollect is an online geospatial intelligence tool for internal use at the Club to track the trading of entered vessels into areas posing a significant sanctions risk or engaged in potential high risk activity. Together with West's managers and our sophisticated systems, we constantly monitor the automatic identification system (AIS) signatures of all ships entered in the Club.

Any vessels making port calls into sanctioned countries, or showing anomalies such as switching off AIS, or vessels engaging in ship-to-ship transfers, trigger an alert. These alerts are then triaged by the Club's Loss Prevention team. Should any warrant more detailed investigation these are passed to our Intelligence team: this is the third aspect of our service to the Club.



Figure 2: Geollect constantly monitors the AIS signatures of every ship entered in the Club

Intelligence

Our team of Intelligence analysts includes global leading experts in defence, national security and supply chain intelligence. These experts have vast experience in monitoring and assessing methods which ships use to evade sanctions, from illicit ship-to-ship transfers to switching off AIS and spoofing AIS locations and identities.

When a ship goes AIS dark or starts showing a questionable AIS position, speed or direction, its actual location and activity is verified with detailed satellite imagery, radio frequency data and other local intelligence.

Our evidence-based reports include assessments of AIS spoofing and identification of a vessel using satellite imagery, which are both assessed against a likelihood. We use probabilistic language, ranging from less than 5% certainty or 'remote chance' to more than 95% certainty or 'almost certain'.

We assist the Club with a number of investigations and help ensure that false positives are avoided through human verification via our expert team. Indeed, while there are of course other providers of monitoring services such as ours, we would contend that none is backed by the same level of human intelligence and expertise as that provided by Roke.

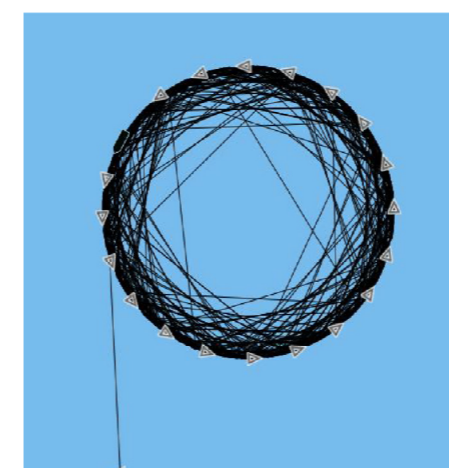
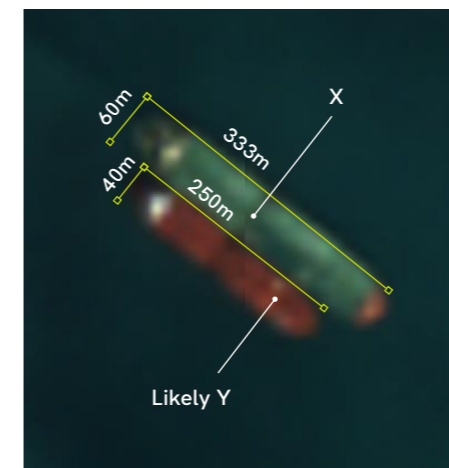
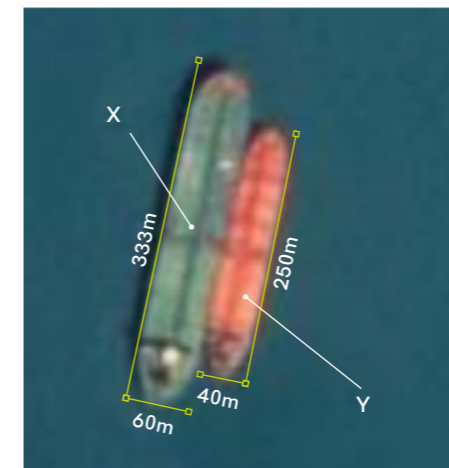


Figure 3: Roke intelligence analysis of an oil tanker's almost certain spoofed AIS anchor circle (left) led to almost certain satellite identification of the ship undertaking two sanctions-busting STS transfers.

Source: Sentinel-2 Imagery from the European Space Agency

Ben Gwilliam

Head of Intelligence, Roke

Ben is a former Intelligence Officer and Bridge Officer with the British Royal Navy. He joined Roke (then called Geollect) in 2020 as Head of Intelligence Operations.



Ryan Lloyd

Head of Technology, Roke

Ryan earned his Doctorate in Geophysics before joining Geollect as a Geospatial Intelligence Officer in 2018. He is currently the Roke Intelligence Head of Technology.



Roke is a British company based at Roke Manor near Romsey in Hampshire, UK. It was founded as Plessey Research Roke Manor Limited in 1956 as a research and development centre for Plessey, a British electronics, defence and telecommunications company formed in 1917. Plessey was taken over by GEC and Siemens in 1989 and Roke was acquired in 2010 by the British Chemring Group, a global business providing a range of advanced technology products and services to the aerospace, defence and security markets. In 2021 Roke acquired Cubica Technology, which specialises in artificial intelligence, machine learning, data fusion and autonomy, and this was followed in 2023 by Geollect, a subscription-based platform that enables geospatial gathering, presentation, and analysis of datasets. Roke's main hubs are located in Romsey (Hampshire), Gloucester, Woking, and Manchester, plus colleagues working from a range of customer sites across the country, and remotely.



UPDATES

West's geographical information portal for Members, brokers, and correspondents has recently had a refresh.

Neptune is now faster and more intuitive to use, providing Members' operational and technical teams with access to multiple sources of information to assist with risk management, voyage planning and execution, 24/7. Users can search for the Club's own claims data, alongside correspondent details, monthly threat assessments from Risk Intelligence, and monthly Mariners' Alerting and Reporting Scheme reports to build a full picture of risks in each port prior to a vessel's arrival.

Members of West, brokers, and correspondents also have the benefit of free access via Neptune to the subscription-only VPS bunker quality data for HFO, MGO and VLSFO in the top ten bunker producing ports.

The Report Generator function makes it easy to generate and export personalised reports to share with your team both onshore and onboard.

A monthly Risk Intelligence report is available which can provide Members with a brief summary regarding security information. However, further details are always available, on demand, by contacting our Loss Prevention team.

A detailed training video is available within the platform's 'Support' tab, to ensure you get the most out of Neptune.

Neptune is a collaborative effort between West and its Members. Should you have any feedback or suggestions for new features, please contact us at neptune@westpandi.com

Erin Walton

Assistant Corporate Director,
West P&I



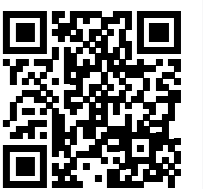
Erin joined the Club in 2014 from a London shipping law firm where she trained and practised for four years and became Assistant Corporate Director in 2023. She studied law and politics at the University of California before obtaining her LLB at the College of Law in London. She also holds a Master of Laws in International Law from The University of Notre Dame. Erin represents the Club on several International Group Sub-Committees and is also currently Vice Chair of INTERTANKO's Insurance and Legal Committee.

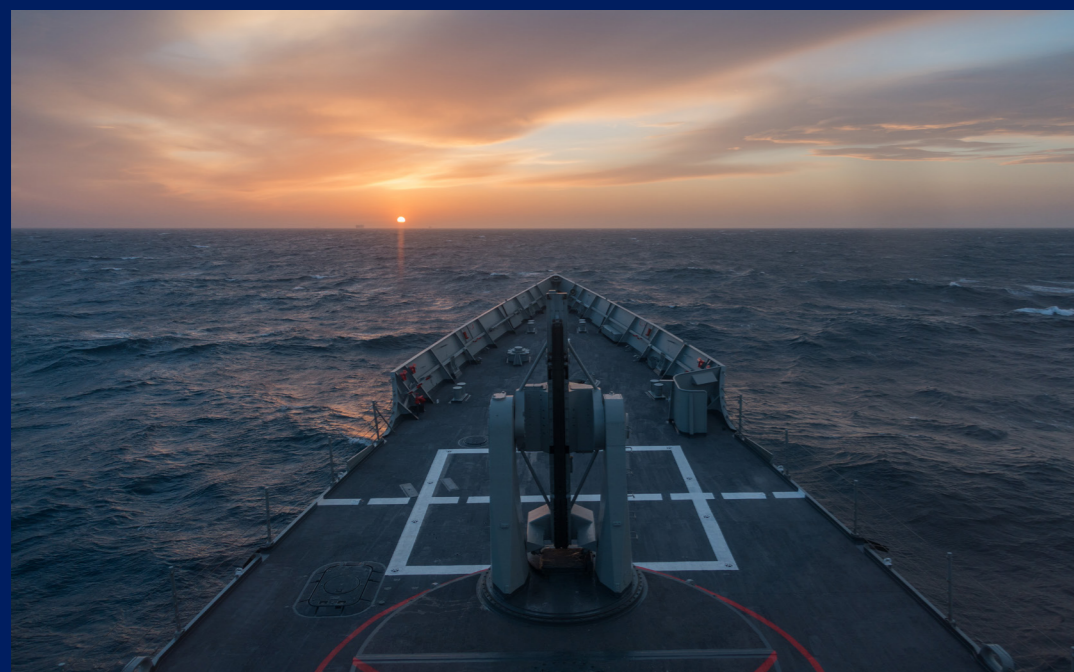
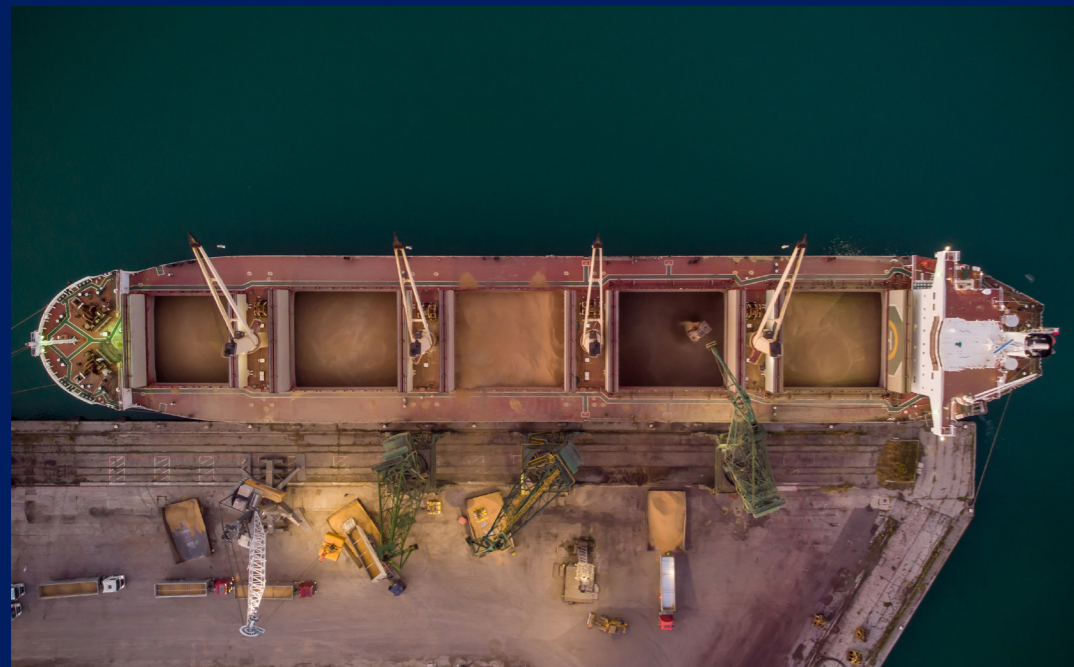


Register now

Scan the QR code or visit

neptune.westpandi.net





WAR RISKS IN CHARTER PARTIES

In times of peace, war risk issues tend to be left on the backburner. In more turbulent times, these issues find their way again to the front of the maritime industry's agenda. The recent situation in the Red Sea and the Gulf of Aden is a timely reminder for owners and charterers to re-acquaint themselves of the effects of war on charterparties.

Conwartime 1993 and Conwartime 2013 – The applicable test

War risks are not a new threat, and the maritime industry has, over the years, developed several war clauses to assist parties in the resolution of any war related disputes.

In time charters, Bimco's Conwartime is the clause frequently utilised by parties. Two commonly used versions are the Conwartime 1993 and the Conwartime 2013. The major difference between the two is the test for determining whether a ship is obliged to proceed to the area perceived as being exposed to war risks. The former includes a requirement for the risk to be a real likelihood but the latter excludes such a requirement.

The Conwartime 1993 states that an owner may refuse an order if in their reasonable judgment, the ship "maybe, or are likely to be, exposed to War Risks". On the other hand, the Conwartime 2013 states that an owner may refuse an order if in their reasonable judgment, the ship "may be exposed to War Risks whether such risk existed at the time of entering into this Charter Party or occurred thereafter."

The differences were largely driven by two major cases concerning war risks, namely *The Triton Lark* and *The Paiwan Wisdom*.

War risks are not a new threat, and the maritime industry has, over the years, developed several war clauses to assist parties in the resolution of any war related disputes.

In *The Triton Lark*, the Court decided that the above words “likely to be” in the Conwartime 1993 meant that an owner could only rely on the Conwartime clause to refuse charterers’ orders if there was a “real likelihood” of a war risk.

This standard of “real likelihood” was complicated and required a complex analysis of the degree of risk and whether or not a danger is more or less likely to occur. Further, *The Triton Lark* did not provide much guidance on the applicability of this new test because the case was remitted back to the tribunal for further deliberation. By reason of these factors, Bimco amended the Conwartime to avoid the complexities associated with the “real likelihood” test. The new test in the 2013 version simply requires owners to show that in the reasonable judgment of the master, the ship may be exposed to war risks.

Conwartime 1993 and Conwartime 2013 – When the risk arose

The other major difference between the two Conwartime versions is that the Conwartime 2013 expressly states that an owner is entitled to rely on the remedies in the clause regardless whether the risk existed at the time the charter was entered into, or whether the risk occurred thereafter. The charterers in *The Paiwan Wisdom* attempted to argue that the owners were aware of the risk at the time the charter was fixed and were therefore precluded from relying on the war risk clause. This argument was rejected by the Court. To promote certainty, Bimco cemented the position in *The Paiwan Wisdom* by making the above amendments to the Conwartime 2013.

Voywar 2013

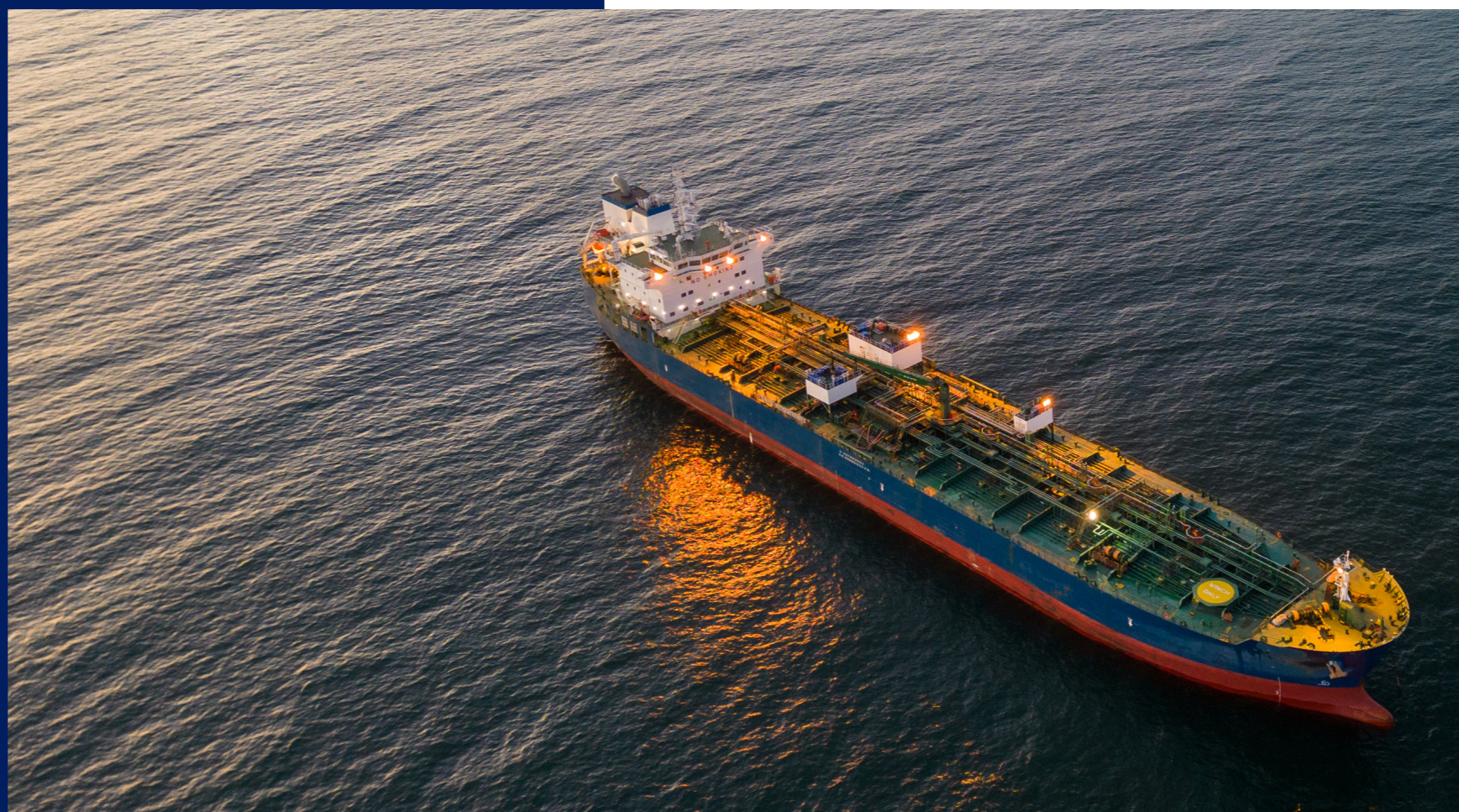
The situation is slightly different in the *Voywar 2013* which caters for voyage charters. In the *Voywar*, an owner cannot rely on the remedies in the war clause if the risk had existed at the time the contract was formed. The logic behind this is that an owner in a voyage charter would have apprised themselves of the risks of the specific voyage in the charter and would therefore need to prove that the risk had materially changed before they are entitled to the remedies of the clause.

Trip time charters

This position concerning the *Voywar* extends to time charters where a specific route is fixed in the charter. In *The Polar*, an owner who had contractually agreed to pass through the Gulf of Aden was not allowed to rely on the remedies of the war clause. As a result, owners who enter into trip time charters with a certain route specifically provided for in the contract should be cautious because they may lose their right to remedies under a war clause. It is important to note that owners will only lose their rights to remedies in relation to the agreed route. For instance, owners will not be allowed to deviate because they had already agreed to adhere to a specific route. However, all other remedies unrelated to the issue of the agreed route would remain intact.

Another issue arising in trip time charters is when one incorporates the Conwartime 1993, whether an owner needs to prove an escalation in the risks before they are entitled to rely on the remedies. A trip time charter with the Conwartime 1993 appears to be similar to a voyage charter where an owner would have apprised themselves of the risks of the specific voyage. Further, *The Paiwan Wisdom*’s findings (on the issues concerning when the risk arose) are technically irrelevant to trip time charters as the case concerned a long-term time charter. Pending further clarity from case law, it is advisable that owners pay attention to this point when negotiating trip time charters.

It is expected that tribunals and courts hearing war risk disputes are likely to have more sympathy for owners.



Unsafe ports

Even in the absence of war risk clauses, an owner may still refuse charterer’s instructions to proceed to a port if the port nominated is unsafe. The safety of a port extends to the approach to the port. In this regard, the approach to several Red Sea ports may be limited to the passage via the Gulf of Aden, especially if the approach voyage originates from East Asia. In such circumstances, a dispute may arise as to the safety of the approach voyage to the nominated port and whether an owner is entitled to refuse charterers’ orders.

Conclusion

The increasing destabilisation of the Middle East may lead to further security threats in the Red Sea and its surrounding waters. War risk clauses and their effects on charterparties have never been more relevant. It is expected that tribunals and courts hearing war risk disputes are likely to have more sympathy for owners due to the rising number of incidents which have occurred in 2024.

Eugene Cheng

Senior Claims Manager,
West P&I



Eugene read law at the National University of Singapore and was admitted to the Singapore Bar as an Advocate & Solicitor in 2013. Prior to joining the Club, he practised law at a boutique shipping law firm based in Singapore. His practice straddled both wet and dry disputes and he has appeared as counsel before all levels of the Singapore Courts. He was also appointed as an Adjunct Research Fellow at the National University of Singapore’s Faculty of Law where his academic papers have been published in leading international law journals. Eugene joined the Club in 2017 and he handles both P&I and FD&D claims for members based in Asia. He has also authored a number of the Club’s defence and claims guides.

FUEL EU MARITIME

FuelEU Maritime (Regulation 2023/1805) is an initiative by the European Union aimed at reducing greenhouse gas emissions (GHG) from the maritime sector.

This regulation will enter into force from 1 January 2025 and aims to reduce Green House Gas (GHG) intensity of the energy used by ships, use of onshore power supply (OPS) in main European ports for containerships and passenger ships and incentivise the uptake of renewable and sustainable fuels.

To put it simply, GHG intensity is the amount of GHG emitted for the same energy output. GHG intensity is measured in Grams of CO₂ (or equivalent) per Megajoule (gCO_{2e}/MJ). By way of illustration, the reduction of GHG intensity is similar to transitioning for the production of electricity from coal to gas, to windmills. This is different from the EU Emissions Trading System (EU ETS) where the focus was the fuel efficiency from the vessel. Here, the focus is the GHG efficiency of the fuel.

From 1 January 2025 ships' GHG intensity will have to be 89.34gCO_{2e}/MJ or less. By 2050 the GHG intensity of vessels will be down by 80% i.e. 18.23gCO_{2e}/MJ.

Scope and compliance

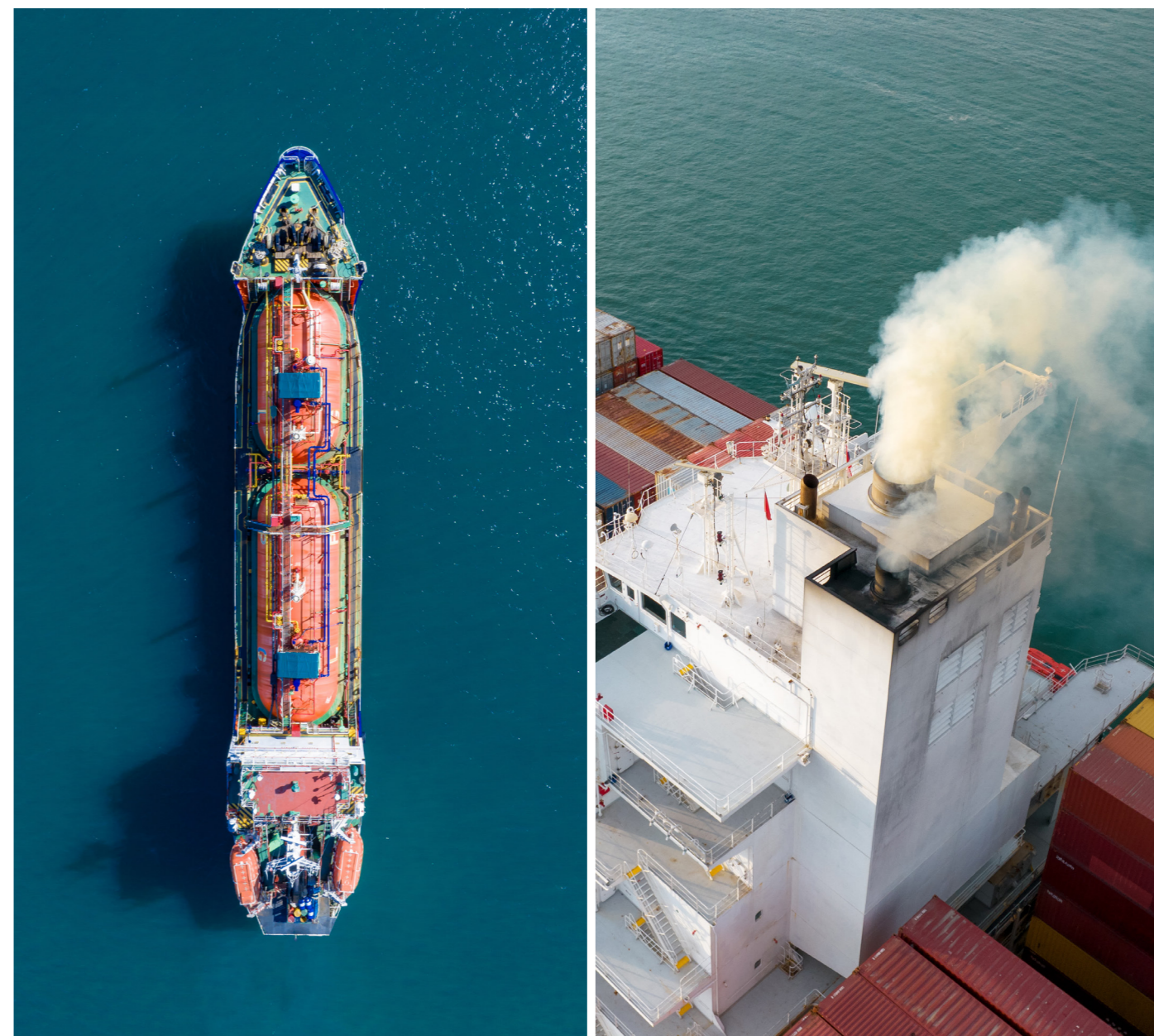
The regulation will apply to CO₂, CH₄ and N₂O emissions. The regulation shall apply to the same ships and voyages covered by EU ETS.

The "Shipping Company" who has responsibility for the Document of Compliance (DOC) under the ISM Code will be responsible under the regulation.

How is the GHG emission factor of fuel determined?

GHG intensity will be measured based on the reported fuel consumption, from EU Monitoring, Reporting and Verification (EU MRV) and the emission factors of the fuels used on a "well-to-wake" basis. The emission factor of fuel will be determined either by default values set up in the regulation or actual values certified by laboratories.

RFNBO (renewable fuels of non-biological origin) will be incentivised for the first 10 years with a GHG intensity halved.



Banking, borrowing and pooling of compliance

If the ship has a compliance surplus on its GHG intensity the shipping company can bank it to the same ship's compliance balance for the next reporting period only.

If the vessel has a compliance deficit in a reporting period, the shipping company can in certain conditions borrow in advance a compliance surplus of the corresponding amount from the next reporting period.

The compliance of 2 or more vessels can under certain conditions be pooled in order to balance the GHG intensity targets. Thus, the overperformance of one ship can be off set against the under-performance of another ship.

Ships with a higher GHG intensity than the threshold (a "compliance deficit") must pay a remedial penalty proportional to their compliance deficit. Ships may also be issued an expulsion order if they are non-compliant for two consecutive years.

Contractual considerations

Members should pay attention to 3 main areas when entering into contracts:

1. Ship management contracts and bareboat charters: these contracts will need to clearly define who will be responsible for reporting to the authorities, who will pay the fines and whether the "shipping company" will be indemnified.
2. Charterparty: Members will need to consider the extent of time charterer's obligations to supply compliant fuel, who ultimately will be responsible for paying fines (in case of non-compliance) and who benefits from the surplus.
3. Certifications and standards: for Biofuels and RFNBO.

The regulation can be found [here](#)

The Q&A published by the EU can be found [here](#)

To explore the full article and gain deeper insights, visit our website [here](#)

Julien Rabeux

Head of Claims (Singapore),
West P&I



Julien is Head of Claims in West's Singapore Office. He studied law in France and England and subsequently qualified as a solicitor in a London shipping law firm. Julien was based in West of England's Hong Kong Office for 5 years, before moving to Singapore when the Club launched its office there. Prior to joining the Club, Julien worked for another IG Club in London for 7 years.



BRIEFCASES

We look at the details of some recent cases, discuss the lessons to be learnt and examine the consequences and potential implications of each decision.

RTI Ltd v MUR Shipping BV [2024] Force Majeure: should a party's duty to overcome a Force Majeure hindrance extend to a non-contractual act?

MUR Shipping BV (the "Owners") entered into a Contract of Affreightment (COA) with RTI Ltd (the "Charterers") for the shipment of bauxite from Guinea to Ukraine. In April 2018, the Office of Foreign Assets Control (OFAC) added the Charterers' parent company to the Specially Designated Nationals (SDN) list. It was a contractual term under the COA that payment of freight had to be in USD. As a result of the sanctions USD payments would be delayed (or possibly rejected) because such transfers would have to be cleared by a US intermediary bank.

This led to the Owners invoking the force majeure clause in the COA. The COA defined "force majeure" an event which, among other conditions, could "not be overcome by reasonable endeavours from the Party affected". Charterers responded that the sanctions could be overcome by making payments in Euros.

The question therefore was:

Do "reasonable endeavours" to overcome a force majeure event also extend to accepting an offer of non-contractual performance (i.e. making payment in a currency not agreed in the contract)?

Held:

That as a "fundamental point of principle" applying to all force majeure clauses, a non-contractual solution could not prevent a party from declaring force majeure.

Why does this decision matter?

This decision applies to all force majeure clauses (whether or not the clause contains a "reasonable endeavours" obligation) as there is an implied term that a party relying on force majeure has the obligation to take reasonable steps to overcome the hinderance. This decision provides certainty in that parties do not have to accept non-contractual performance (however reasonable) as part of their duty to use "reasonable endeavours" to overcome the force majeure event.

The "Globe Danae" [2023] Hull fouling and Charterers' liability after redelivery

Globe Danae was chartered for one time charter trip via the east coast of India to Brazil. Upon arrival in Brazil the vessel remaining idle in tropical waters for 42 days during which time the hull became fouled. The vessel was eventually redelivered to the owners. The owners subsequently arranged underwater cleaning at another port in Brazil where the vessel was subsequently delivered into her next fixture.

The charterparty was on an amended NYPE form. Rider clause 86 provided that if the vessel remained idle in tropical waters for more than 25 days, "... underwater cleaning of hull including propeller etc. to be done at first workable opportunity and always at Charterers' time and expense..."

The charterers agreed that the cleaning expenses were for their account, however the owners claimed an additional USD 74,506.70 for the 2.29 days' cleaning time, (equivalent of hire at the charterparty rate). The charterers argued that the owners

were entitled to damages to put them into the same position as if there had been no need to clean which would require the owners to prove that they had suffered a loss of hire during cleaning.

The question therefore was:

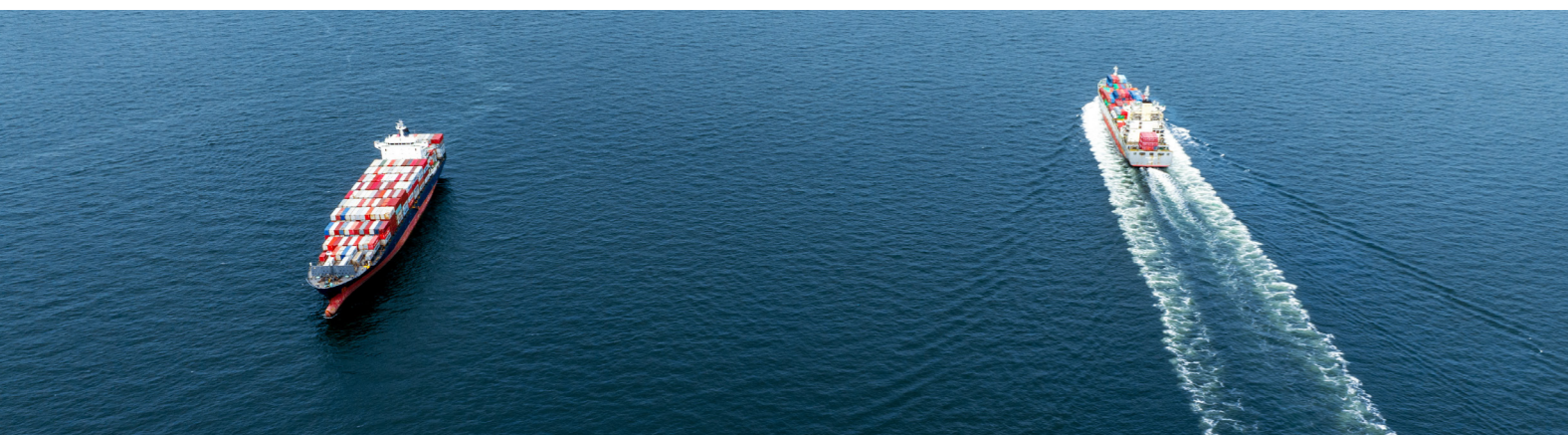
Whether owner's claim in "damages" which required owners to show that they had actually suffered a loss? Or was the claim, a claim in "debt", so that if the owners undertake cleaning after redelivery, they can claim for the cleaning time even if they have not suffered a loss of time?

Held:

The owners had a claim in debt for a sum equivalent to hire at the charterparty rate, for the time spent cleaning the hull (not necessary for the owners to show there had been a loss of time). The clause clearly stated that cleaning was to be done "always" in the charterers' time, so the owners were entitled to the charterparty rate of hire regardless of whether cleaning took place before or after redelivery.

Why does this decision matter?

This decision is a welcomed clarification as to the meaning of a task (not just hull cleaning) to be done in "charterers' time". Owners will not be required to prove a loss during the cleaning time (for hull fouling).



THE “AFRA OAK” [2023] Owners not liable for detention when anchoring at an illegal location

Mercuria, Charterers of the “AFRA OAK” instructed the Master to proceed to Singapore Eastern Outer Port Limits (EOPL) and wait for further orders where safe to do so. The Vessel proceeded to Singapore EOPL and anchored within Indonesia’s territorial waters. Indonesia as a signatory of the UNCLOS Convention, allows vessels’ innocent passage through its territorial waters, so long as the passage is continuous and expeditious, without anchoring, unless in distress.

The vessel was arrested for violation of Indonesian law and detained for 8 months, causing serious economic losses. Charterers claimed indemnity from Owners for breach of their orders, which necessarily required safe navigation and compliance with coastal states’ applicable laws.

The question therefore was: Could Owners defend their liability for breaching Charterers’ orders, by relying on the Hague Rules exception in Article 4 Rule 2 (a)?

This provides:

“2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from:

(a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship.”

Held:

Confirmed that the Master’s action to anchor within Indonesia’s territorial waters without the necessary permits, amounted to negligent navigation. The above defence was therefore triggered, excluding Owners’ liability. The circumstances here were distinguishable from a scenario where the Master’ breach of charterers’ orders, were purely concerned with the commercial employment of the Vessel, like in the “Hill Harmony” [2001] where the Master proceeded via a different route from that ordered by the charterers.

Why does this decision matter?

This case is firstly a reminder of the effect of paramount clauses in charterparties, which incorporate the Hague or Hague Visby Rules defences into the contract. Secondly, it is a reminder that owners’ failure to comply with charterers’ employment orders, gives rise to an indemnity claim for resulting losses, unless there is an overriding element of vessel’s safety or navigation. One needs to keep in mind the distinction between the vessel’s “employment” and “navigation”. The choice of the vessel’s ocean route, scheduling and trading, are matters of employment as they serve to exploit the vessel’s commercial capacity and profitability. On the other hand, if the loss arises from a decision that has a strong seamanship element (even if the same is in breach of charterers’ orders), the “negligent navigation” defence may indeed be triggered.

Julien Rabeux

Head of Claims (Singapore),
West P&I

Julien is Head of Claims in West’s Singapore Office. He studied law in France and England and subsequently qualified as a solicitor in a London shipping law firm. Julien was based in West of England’s Hong Kong Office for 5 years, before moving to Singapore when the Club launched its office there. Prior to joining the Club, Julien worked for another IG Club in London for 7 years.



Trudy Pisani Cerulli

Claims Manager,
West P&I

Trudy qualified as a Maltese lawyer in 2006, following which she obtained an LLM in shipping in Southampton and requalified as an English solicitor. In 2007, Trudy joined an IG P&I Club, where she handled a variety of P&I cases including cargo claims, collisions, wreck removals and personal injuries. Trudy then moved to a shipping law firm where she worked for 10 years, specialising in insurance and charterparty disputes, including cargo indemnities, off-hire, speed and performance disputes, damage to hull and ship arrests. Trudy joined the West of England in 2021, as part of the Eastern team. She looks after Members in the Middle East and handles a variety of FDD and P&I claims.



ON THE

HORIZON

The Maritime Labour Convention (MLC) is an International Labour Organization convention covering terms of employment, living and working conditions, and social protection such as access to medical care, health protection, and welfare.

MLC applies to all commercial seagoing ships over 500GT flagged in or operating between States Parties to the Convention, except fishing, naval, and traditionally built vessels.

The Special Tripartite Committee which oversees MLC, identified certain areas which needed to be addressed, particularly those arising from COVID-19. These were adopted at a meeting in June 2022 and come into force on 23 December 2024. They are summarised below:

Recruitment

If third-party agencies or shipowners fail to meet the terms and conditions of the employment contract or agreement which result in financial loss to the seafarer, those entities must provide compensation to the seafarer.

Repatriation

MLC sought to streamline and strengthen the repatriation process, ensuring that the seafarer could promptly return home. These further changes detail the responsibilities of various state authorities to ensure the repatriation happens as quickly as possible. It should be noted that these new provisions do not place any further responsibility on the financial security provider.

Accommodation / recreational facilities and shore-based welfare facilities

Seafarers are to be provided with appropriate social connectivity on board and States are to provide internet access within their anchorages/ port limits as far as reasonably practicable.

Food and catering

Seafarers must be provided with good-quality drinking water at no charge. Furthermore, food supplies and drinking water must be checked for quality, quantity, variety and nutritional value.

Medical care onboard / ashore

Seafarers are to be immediately disembarked as soon as practicable should they need urgent medical care or if they are a suicide risk and given access to medical facilities ashore. In the event of death, States are to facilitate the repatriation of the body or ashes of seafarers according to the wishes of their next of kin.

Health and Safety

With more women becoming seafarers, it has been reaffirmed that personal protective equipment must be appropriately sized. Any deaths that occur onboard are to be recorded and reported annually to the ILO.

Financial

Despite the International Group's agreement with States Parties that naming the Registered Only in the MLC financial security certificates issued by Clubs would be sufficient.

Emma Forbes-Gearey

Loss Prevention Officer,
West P&I

Problems have arisen with PCO inspectors in certain jurisdictions, however, whereby they register a non-compliance against the ship because the Certificate does not name the "shipowner", i.e. the Declaration of Maritime Labour Compliance (DMLC) holder where different to the Registered Owner. These has been addressed by an amendment making it clear within the Convention to PSCOs that financial security certificates are compliant if issued to either the shipowner or the Registered Owner.

Full details on these changes and the MLC in general can be found on our [dedicated webpage](#)

Emma, who holds an MSc in Sustainable Maritime Operations, worked as a Deck Officer for four years and gained experience on a range of vessels, such as combination carriers, passenger ships, and yachts. In 2019, she joined the Club after transitioning directly from her seagoing career and now attends to Loss Prevention matters.



WEST OPENS OFFICE IN THE UAE

West is delighted to be opening a new office in Dubai in the United Arab Emirates (UAE) in November 2024.

It will be the Club's seventh office, enhancing West's existing global network of bases in Hong Kong, London, Luxembourg, New York, Piraeus and Singapore and further underlining our strategy of regionalisation. It will also be the first Middle Eastern office to be opened by an International Group Club.

The new UAE regional base in the Central Park Towers (Figure 1) reflects the growing importance of West's Members from the Middle East, Africa and India, which currently account for 14.5 percent of total entered tonnage. This figure is expected to grow considerably over the next decade as West consolidates its position as the region's leading marine insurer.

Gagan Dhillon has been recruited as Chief Executive Officer, to lead the new office, where he will be joined by senior claims handlers. The Club is looking forward to seeing the new UAE base develop into a comprehensive claims service hub for the region.

As with the Club's other regional offices, Dubai will primarily provide expert local claims-handling and communications services to Members based or trading in the Persian Gulf region and Indian subcontinent. Underwriting will continue to be done from the London head office, with additional claims support from Piraeus.

Experienced team

A master mariner, Gagan spent 13 years on tankers before joining NorthStandard P&I Club in 2010, where he became a P&I Claims Director for Greece. He is well known in the Greek and Middle Eastern shipping communities.

In his new role Gagan will report to Enam Hussain, who has recently been promoted from Head of Eastern claims to Head of Middle East Operations & Offshore. Gagan will also work closely with West's Senior Underwriters Nigel Burridge and Gary Henderson, who are joint heads of the Club's Middle East team, in managing and coordinating development of new business in the region.

Enam's new job title reflects the fact that many of the Club's Middle East Members are in the offshore sector, with entries including vessels for platform support, construction,

cable laying, dredging and towing. As such the UAE will also be hub of expertise for developing new business in the global offshore sector.

Key maritime hub

West's move to Dubai directly supports the UAE government's drive to position the country as a leading international maritime hub. Dubai has already risen to 11th overall in DNV's The Leading Maritime Cities of the World 2024 and is now third only to Singapore and London as the most attractive relocation option for maritime headquarters.

Complementing the government's drive is a new UAE Maritime Law, which came into force in March 2024. One of many positive reforms is acceptance of P&I Clubs' letters of undertaking (LOU). Enam recently took part in a major casualty workshop in Dubai, as part of a working group with the International Group of P&I Clubs with the UAE Ministry of Energy & Infrastructure.

West's commitment to the region is further demonstrated by the fact that the Club's directors are holding their November 2024 Board meeting in Dubai. This is likely to be the first of many in the region in the coming years.

I am very much looking forward to being part of West in this increasingly important maritime region. This office and local team will position us at the heart of a growing maritime hub for owners, charterers and traders.

Gagan Dhillon
Chief Executive Officer (UAE), West P&I



Regionalisation is a key part of our strategy, and this office will further enhance the quality and personal touch of our services to existing Members, as well as supporting our new business development in the region.

Tom Bowsher
Group Chief Executive Officer, West P&I

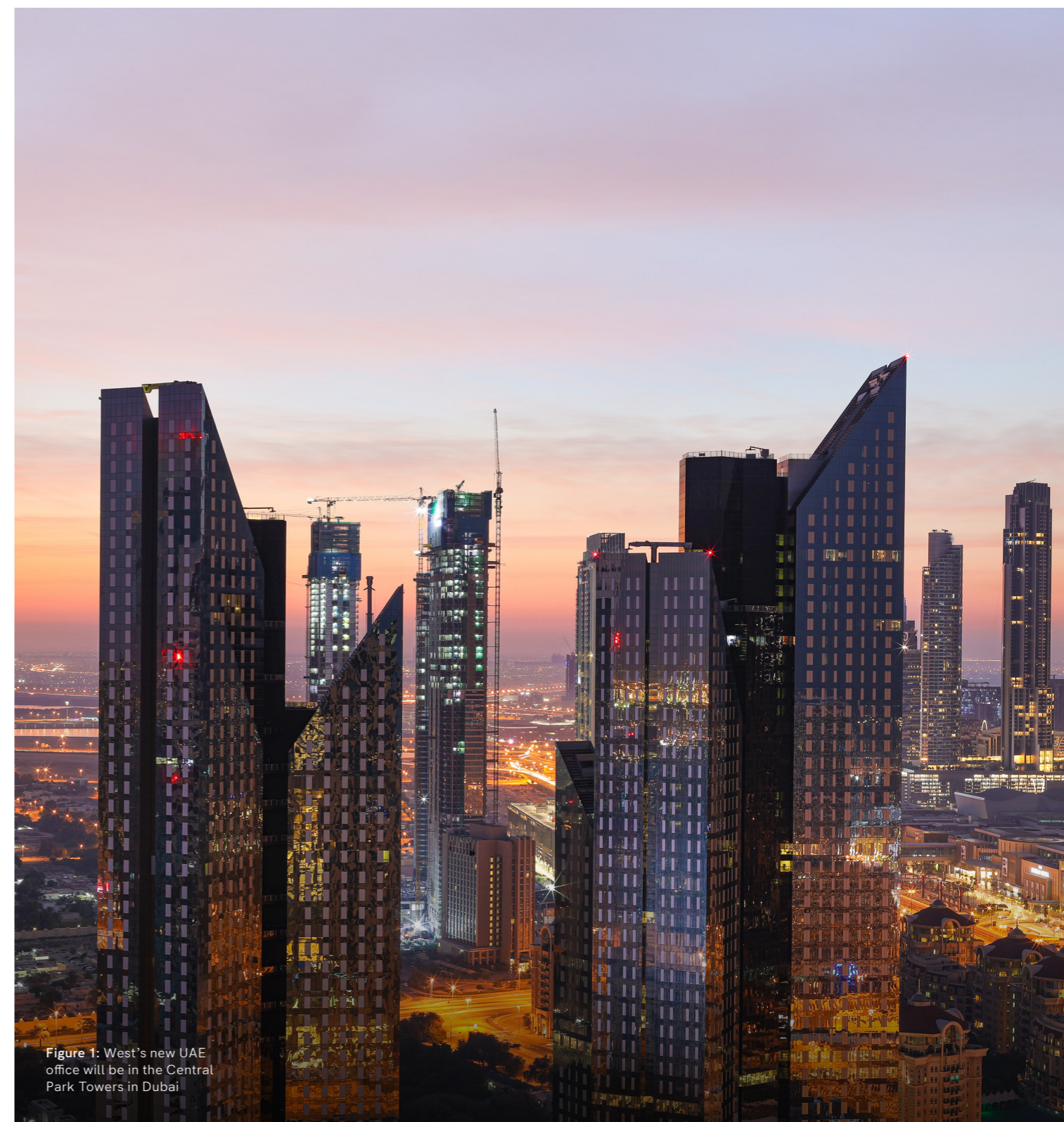


Figure 1: West's new UAE office will be in the Central Park Towers in Dubai

Enam Hussain

Head of Middle East Operations & Offshore,
West P&I



Enam is West's Head of Operations for Members in the Middle East, Indian subcontinent, Turkey and Africa. He is also responsible for the Club's global offshore membership. After qualifying, in 2005 as a solicitor, he worked for international law firm Hill Dickinson in commercial litigation and international trade. After two years he joined what is now NorthStandard P&I Club, becoming Head of the Claims team for Europe, before moving to West in 2017. His expertise is in major casualty management, and he has handled some of the world's largest major casualties, involving most complex and technically demanding wreck removal operations.

The logo for WEST, featuring the word "WEST" in a bold, white, sans-serif font with a small square symbol at the end, set against a red background.

WEST.

The text "West War" in a white, sans-serif font, positioned on a red background.

West War

A comprehensive primary war risks insurance. It offers first-class cover for physical loss and/or damage together with P&I on a primary basis caused by war or war like conditions and is backed by A-rated reinsurers.

westwar@westpandi.com

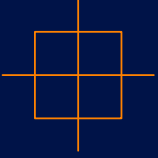
The word "WAR" in a bold, blue, sans-serif font.

WAR

westpandi.com/products/war

Follow us on   





WEST

Luxembourg

31 Grand-Rue
L-1661 Luxembourg
G.D. Luxembourg
T +352 4700671

UK (London)

One Creechurch Place
Creechurch Lane
London EC3A 5AF
T +44 20 7716 6000

Greece (Piraeus)

Akti Miaouli 95
1st Floor
185 38 Piraeus
T +30 210 4531969

Hong Kong

1302 YF Life Centre
38 Gloucester Road
Wanchai, Hong Kong
T +852 2529 5724

Singapore

77 Robinson Road
Level 15-01, Robinson 77
Singapore 068896
T +65 6416 4890

UAE (Dubai)

Central Park Towers
DIFC, Level 16, Office 16-31
Dubai, UAE

USA (New York)

777 3rd Ave, Floor 19
Suite 1901, New York
NY 10017
T +1 917 733 2584

Follow us on   