

Oil Companies International Marine Forum



Please reply to London Office:
29 Queen Anne's Gate, London,
SW1H 9BU, England.

Telephone: 44 (0)20 7654 1200
Fax: 44 (0)20 7654 1205
email: enquiries@ocimf.com

3 February, 2009

US House of Representatives
Sub-Committee on Coastguard & Maritime
Transportation

February 4th, 2009

Written Testimony

Captain Phil M. Davies; Director
Oil Companies International Marine Forum

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

Glossary

CTF 151 - Combined Task Force (CTF) 151

- Established by the US Navy to conduct counter-piracy operations in and around the Gulf of Aden, Arabian Sea, Indian Ocean and the Red Sea and to create a lawful maritime order and develop security in the maritime environment.

EUNAVFOR - European Naval Force

- Established by the European Union the force consists of Naval units and support from EU member countries. Operational HQ is in Northwood, UK. The mission of EUNAVFOR is the protection of World Food Program vessels and fighting piracy around the Horn of Africa.

IMO – International Maritime Organisation

ISPS – International Ship & Port Security Code

MARAD – US Maritime Administration

MARLO – Maritime Liaison Office

- MARLO's mission is to facilitate the exchange of information between the US Navy, CTF 151 and the commercial Maritime community. Based in Bahrain it operates as a conduit of information to ensure the safety of shipping.

MSC HOA – Maritime Security Center Horn of Africa

- Established at Northwood UK as Operational Headquarters for EU Naval Forces. Maintains highly informative website for use by merchant vessels.

MSPA – Maritime Security Patrol Area

- The MSPA was established to provide a defined area of operations for Naval Forces. Within the MSPA transit corridors have also been established and merchant vessels are encouraged to utilise these.

OCIMF – Oil Companies International Marine Forum

UNSCR – United Nations Security Council Resolution

UKMTO – United Kingdom Maritime Trade Organisation

- Based in Dubai the UKMTO monitors vessel movements and piracy in the Arabian Sea, Persian Gulf, Gulf of Aden & East Africa.

VLCC – Very Large Crude Carrier

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

The Oil Companies International Marine Forum, OCIMF, wishes to thank the committee for the opportunity to submit testimony. International Piracy on the High Seas is one of the most critical and concerning issues facing the marine community today. OCIMF appreciates the committee taking interest in the issues and are committed to implementing solutions to ensure world trade continues to flow safely and without threat to the environment.

OCIMF is a voluntary association having as its members over 70 of the world's leading oil companies. Our members engage in activities of mutual concern relating to transportation by tanker and marine terminalling of crude oil, liquefied natural gas, liquefied petroleum gas, their derivatives and related organic compounds, with special reference to the protection of the marine environment and the promotion of safety in marine operations.

In relation to piracy OCIMF's priority is the safety and well being of mariners while adhering to the principle of free movement of trade in international waters.

Within this testimony it is our intent to address key elements related to piracy;

- How tankers differ from, and why they may pose different piracy risk than other vessels.
- What is the current situation in the Gulf of Aden?
- Other areas of concern for International Piracy.
- Incidents.
- Lessons Learned.
- Best Maritime Practices to Avoid, Deter & Delay Piracy.
- What is, or can be done, by the industry & governments.

In support of efforts to reduce piracy attacks OCIMF, in conjunction with other industry groups has produced a booklet, Piracy 'The East Africa/Somalia Situation; Practical Measures to Avoid, Deter or Delay Piracy Attacks'. It is intended to distribute this booklet free to vessels transiting the area. Copies are attached to this testimony and may be of interest to the committee as the booklet reflects the current situation and industry actions within the Gulf of Aden.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

Piracy is a term used to describe acts of armed robbery, hijacking and other malicious acts against ships in international waters. They are carried out with the intent of stealing valuables onboard and/or extorting money from ship owners and/or other third party interests by holding the ship or crew to ransom. The International Maritime Bureau (IMB) defines piracy as “the act of boarding any vessel with intent to commit theft or any other crime, and with an intent or capacity to use force in furtherance of that act”. Since this definition reflects the popular understanding of the word ‘piracy’, this term will be used throughout this testimony to describe any such act against a ship. All evidence to date indicates that the situation in the waters off Somalia is a piracy and not a terrorist threat.

Piracy is normally by definition restricted to International waters, acts of piracy in territorial waters are deemed acts of armed robbery and fall under the jurisdiction of the sovereign state. Somalia is considered a failed state and hence is unable to assume its responsibilities as a sovereign state. Protection is therefore required for vessels operating both in International waters and those within the territorial waters of Somalia. Though not addressed in this testimony OCIMF recognises that re-building the political institutions of Somalia must be a critical path to fighting piracy both afloat and ashore. Government & Industry action is required to keep this International strategic shipping route open and safe for transit.

Vacating an international sea route sets dangerous precedents; the Gulf of Aden remains an important waterway for world trade with approximately 7% of all oil and 5% of LNG passing through the area. If oil tanker traffic were to be re-routed to avoid the Gulf of Aden this would add an additional 10-15 days to transits and increase tanker demand by around 8%.

Armed attacks on merchant vessels transiting the Gulf of Aden, and other waters near the Horn of Africa, have increased in frequency over the past months. Approximately 20,000 vessels a year transit the Gulf of Aden. There were 140 attempts and at least 39 vessels that were boarded detained and/or held hostage by pirates in 2008 (Source: UKMTO). Such acts have usually been conducted with the use or threat of violence, which can be particularly traumatic for those directly involved, as well as their families.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

How tankers differ from, and why they may pose different piracy risk than other vessels.



Tankers, in loaded condition, are particularly at risk from attack due to a number of factors;

- Speed; generally few laden tankers are capable of speeds in excess of 15 knots. To date all attacks on vessels have been on vessels at speeds of less than 16 knots.
- Freeboard; This is the distance from the water to the deck, as can be seen in the picture above, some types of loaded tankers may be particularly vulnerable as their freeboards are around 12-15 feet and easily scalable via ladder.
- High Value; the cargoes carried are generally of high value and offer an attractive reward or ransom token for the pirates.
- Environmental damage; the potential for an environmental incident exists throughout the attack and any subsequent capture.

Current Situation

While OCIMF appreciates the current cooperation between international navies and governments, we also believe we could do better. Given that we expect the tension to continue for an extended period of time optimising the co-operation between all parties is imperative.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

The establishment of the Maritime Security Patrol Area, (MSPA), and the establishment of compressed shipping lanes in the Group Transit Area, make naval patrols to deter & disrupt piracy attacks more effective. With the formation of EUNAVFOR, CTF 151 the contribution of NATO and the independent actions of Russia, China, Malaysia and India to send forces to the area the naval presence is now significant.

Of concern to industry is the challenge over communication with the various forces, with EUNAVFOR operating from Northwood, UK, and CTF 151 from Bahrain. Shipping organisations, to avoid confusion, need to have a single point of contact for maritime security issues. We also need to look at bringing in “non-aligned” Russia, Malaysia, India, and China. OCIMF recognises that significant improvements have been made however the scale of the task and the area covered continues to increase hence the need for communications protocols to be implemented quickly. We believe that the EUNAVFOR coordination, based on Northwood, (which is also a key NATO center), provides an excellent solution, as it has strong links with the Central Command in Bahrain and is now becoming recognised by industry. OCIMF and industry partners have during the past six months supported EUNAVFOR further with the placement of senior merchant navy personnel within the Northwood staff as liaison officers.

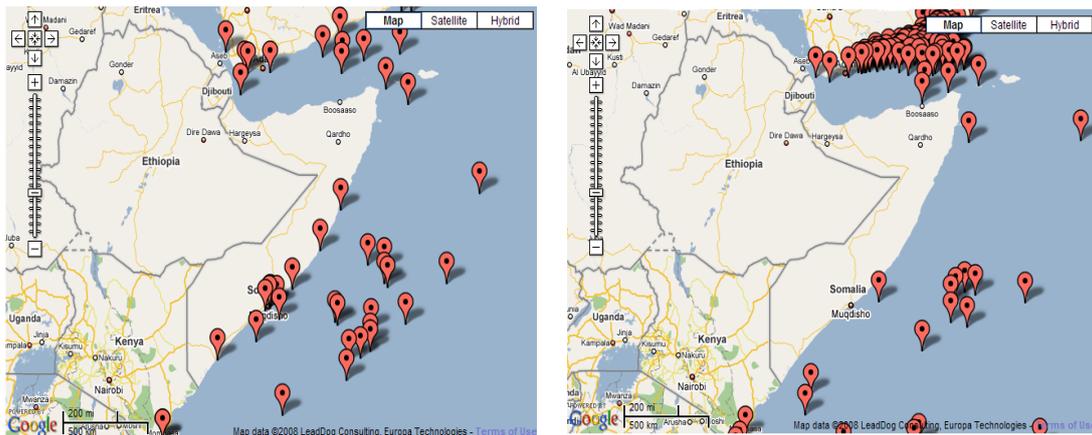
OCIMF has successfully facilitated discussions between agencies through the hosting of a ‘Joint Industry Naval Forces Piracy Workshop’ in London in December. We intend to follow-up this discussion with a further workshop later in 2009. OCIMF has continued to work within its remit as a consultative organisation to IMO to advance the work and role of IMO in combating piracy and in the development of key UNSCR resolutions. OCIMF supports the actions directed under UNSCR1851 and is a member of the Contact Group working committee on industry.

In 2008 there were attacks on one of every four hundred and eighty vessels transiting the Gulf of Aden, 39 of these attacks were successful. The implementation of the Maritime Security Patrol Area, MSPA, late in 2008 and the introduction of the Group Transit Scheme by EUNAVFOR in December, 2008, appear to have had an effect in reducing the number of successful attacks, though this

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

period also coincides with a period of seasonally poor weather in the area which may also explain part of the reduction.

Between January 1st – 26th, 2009, there have been two successful hijackings and 11 further attempts. Both successful attempts took place outside the MSPA; the unsuccessful attacks were deterred by a combination of vessels following the Best Practices established by Industry and EUNAVFOR with naval intervention. Approximately 40 pirates have been detained during this period.



The two maps above show the increase in reported piracy attacks from 2007 to 2008, (Source: International Maritime Bureau, IMB).

Other Areas of Concern

Though the naval forces are currently focused on the Gulf of Aden additional attacks, including the VLCC Sirius Star, have taken place offshore East Africa, as indicated in the charts above. As in the Gulf of Aden these attacks appear to be launched from mother vessels. As the naval forces and actions by merchant vessels are successful within the Gulf of Aden there is a concern that piracy activities will move increasingly into the Indian Ocean.

The Gulf of Aden is currently unique in that the vessels have been hijacked and ransomed. Other areas of concern to the industry are:

- **Nigeria;** The situation in the Niger Delta area of Nigeria has led to attacks on oil facilities and vessels. These attacks have led to personnel being killed, kidnapped and held to ransom.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

- **Malacca Straits;** Piracy has been an issue in this area for over 20 years, the common modus operandi is to board the vessel and steal valuables from the vessel and crew. Actions by the littoral states of Indonesia, Malaysia & Singapore have led to a significant decrease in attacks in recent months.
- **Brazil;** Similar to the Malacca Straits these attacks are restricted to robbery of valuables from the vessel and crew.

The International Maritime Bureau, IMB, tracks data on piracy attacks through their coordination center in Kuala Lumpur, Malaysia.

Incidents

In all of the reported incidents the pirates attack from small open boats or 'skiffs'. Generally the pirates fire on the vessels in order to persuade them to stop and allow boarding. The pirates appear able to board vessels at speeds up to 16 knots.



The above picture shows a typical skiff with pirates displaying armaments including an RPG.

Sirius Star (Tanker)

The vessel was attacked approximately 300 miles East of Somalia. Access to the vessel was made via the stern where the freeboard was approximately 15 feet. The vessel had followed all best practices and was taken advice throughout the incident directly from the UK Maritime Trade Office in Dubai and EUNAVFOR in Northwood, UK. The combination of a calm sea, low freeboard and speed of 15 knots allowed the pirates to gain access. The vessel was held off the coast of Somalia for 57 days. Normal process after capture is for the vessel to be taken to an anchorage where the pirates are reinforced by 30-40 additional guards.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

At the time of attack the vessel was headed south for passage through the Mozambique Channel, following the incident many owners have re-routed vessels to the East of Madagascar.

Maersk Regensburg (Container Vessel)

Vessel was attacked approximately 200 miles off Mombasa, though hit by multiple armaments the vessel was able to out run the pirates by increasing speed to 18 knots. Following this attack revised instructions were issued to Masters restricting passage through the high risk area of vessels with either speed less than 18 knots or having a freeboard less than 10 metres, (33 feet).



Damage caused by RPG's to Maersk Regensburg

Lessons Learned

Key lessons learned have been incorporated into the OCIMF booklet, Piracy 'The East Africa/Somalia Situation; Practical Measures to Avoid, Deter or Delay Piracy Attacks'. In summary these are;

1. Risk Assessment

Prior to transiting the High Risk Area, the ship owner and ship Master should carry out their own risk assessment to assess the likelihood and consequences of piracy attacks to the vessel, based on the latest available information. The output of this risk assessment should identify measures for prevention, mitigation and recovery and will mean combining statutory regulations with supplementary measures to combat piracy.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

2. Preparation

Recent experience demonstrates that vessels can significantly improve their chances of avoiding or delaying an act of piracy by taking a number of relatively simple preparatory steps

In a typical pirate attack small high speed (up to 25kts) open boats deploy from a mother ship, which is often a pirated fishing vessel. Commonly two or more of these small, high speed, open boats are used in attacks, often approaching from either quarter of the intended target.

Experience also suggests that, before pirates have gained control of a vessel, the sudden appearance of Naval Forces by air or sea usually persuades them to abandon the attack. Therefore, delaying the pirates at any stage of an attack buys additional time and can greatly increase the chance of Naval Force intervention.

Careful preparations by the ship, including specific training for the crew, may dissuade the pirates from pressing home an attack and hijacking a vessel if their closer inspection of the potential target reveals a number of protection measures.

If pirates choose to proceed with an attack the physical preparations may prevent or delay boarding of the vessel. If the pirates do manage to board the vessel, preparations onboard can still delay or prevent them taking control and hijacking the vessel.

Owners of vessels that make frequent transits through the High Risk Area may consider making further alterations to the vessel and/or provide additional equipment and/or manpower as a means of further reducing the risk of piracy attack.

3. Conduct During Transit of the High Risk Area

Before entering the High Risk Area, ship owners and Masters should:

- Gather up-to-date information on the situation
- Review the risk assessment in light of latest information
- Based on the risk assessment, make necessary preparations
- Register passage with Maritime Security Centre-Horn of Africa, based at EUNAVFOR/NATO base at Northwood. (www.mschoa.org).
- Report to UKMTO

Once in the High Risk Area, vigilance is likely to be the best form of defense against attacks by pirates. On entering the High Risk Area, the Master should therefore, as a minimum, set Security Level 2 as defined by the ISPS Code. (Security Level 2 actions should be reviewed to ensure they are appropriate to the threat – deck patrols are not recommended).

A final check should be carried out to verify that all defense and security measures are in place, or to hand, and fully operational.

Any equipment that may be required at short notice, for example fire pumps, should be tested and left ready for use.

It is recommended that the transit through the High Risk Area is conducted at Full Sea Speed.

It is further recommended that vessels review their machinery to ensure that everything is in full working order and consider operating two steering motors and two generators.

As it is considered unlikely that the pirates currently have the ability to monitor Automatic Identification System, AIS, transmissions, it is recommended that the AIS be left on but that the amount of information be restricted to ship's identity, type, position, course, speed, navigational status and other safety-related information which may be of use to the Naval Forces in the event of an attack.

4. Actions on Encountering Pirates

Maintain maximum sustainable speed and consider evasive maneuvers while maintaining maximum speed to create a confused wake. Maneuver to remove any lee from either side of the ship (sea state dependent).

Activate fire pumps to commence use of fire hoses and water monitors to cover areas of the vessel vulnerable to attempts to board. The water spray and jets are likely to hamper the pirates' physical attempts to board and may deluge their boats, swamping them or causing damage to the engine.

Crew alerted and told to go to their designated pirate attack muster station, roll call carried out to ensure that all crew members are safe and accounted for – once complete all positions to report to the bridge to confirm citadel secured.

Rules of Engagement

OCIMF strongly supports the use of non-lethal defensive measures to Avoid, Deter or Delay any pirate attack. Evidence to date is that vessels, in the Gulf of Aden, that have followed the Best Practices as adopted within the OCIMF booklet are better able to avoid, deter or delay an attack.

Oil tankers and LNG ships do not provide a platform conducive for armed guards or gunfire. OCIMF does not support the use of armed guards for a number of reasons;

- Significantly increased risk of personnel injury, fire & explosion.
- Risk of escalation of conflict – Pirates will assume all vessels are armed and attack tempo will increase accordingly.
- Difficulties of firing on a small boat as opposed to pirates who have a large target.
- Dealing with pirates onboard after a successful attack; liable to lead to increased risk of harm to crew.
- Armed guards are not supported by key International Organizations.
- Consequences of injury to pirates due to gunfire.
- Possibility of mistaken identity, local fishermen are known to carry guns as self protection against pirates and sharks.
- Master has command of the vessel and is responsible for all personnel onboard. Merchant vessels are not warships and it is very difficult for Masters to control weapons teams.

What is, or can be done, by the industry & governments

Industry

It is estimated that as many as 30% of the vessels transiting the Gulf of Aden are not following the minimum guidance outlined in publications such as the OCIMF guideline, Piracy 'The East Africa/Somalia Situation; Practical Measures to Avoid, Deter or Delay Piracy Attacks'. These vessels put themselves at serious risk of harm and the ease of their capture encourages piracy to continue. OCIMF along with its industry colleagues are working with Naval Forces and governments through the Contact Group, EUNAVFOR, IMO and other forums to reach out to vessels not complying with basic precautions.

All vessels are required to operate to the requirements of the ISPS code, as a minimum vessels must review their procedures to ensure they are fully updated to meet the piracy threat.

Governments

OCIMF supports the work of the Contact Group on Piracy off the Coast of Somalia, (CGPCS), as proposed under UNSCR1851. In addition OCIMF believes the following actions at Government & International organisation level will help to bring an end to International Piracy on the High Seas in this area.

1. Communication

We need to ensure that lines of communication are kept simple; there is currently a significant amount of confusion in regard to overall operational control. Vessels require a single point of contact for assistance, particularly when under attack. OCIMF supports the continued utilisation of Northwood, UK, and the forward assistance provided by UKMTO in Dubai and MARLO in Bahrain. OCIMF does not support the establishment of further regional coordination centres as this is likely to do little to assist in mitigating piracy on the high seas.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

2. Continued Protection

Somalia is in many ways a special case, as it is a failed state which is unable to secure its territorial waters and its legal system is inadequate to deal with the impartial prosecution and detention of its own citizens who undertake piracy. Until this situation is resolved it is likely that piracy will remain a substantive issue off the coast of Somalia including both the Gulf of Aden and the North Western part of the Indian Ocean.

In addition to the continued role of Industry in ensuring its vessels are not easy targets we require long term commitments from Naval Forces to provide protection. We also recognise that littoral states can provide protection through Coastguards and encourage Navies to play a role of developing the Coastguards of the littoral states. In the long term Industry is not concerned whether protection comes from Navies or Coastguard, provided it is effective. Mixture has its advantages: Surveillance and intervention capability of navies, legal capabilities of Coastguards. Better still if Coastguards are from littoral states then they can follow through on prosecution. It is OCIMF's belief that governments of OECD countries should consider accelerating funding and training programmes for Coastguard development in littoral states.

3. Provide for better legislation and prosecution

- Current legislation - The Problem
 - The absence of an internationally-agreed procedure for prosecuting captured pirates has discouraged many nations from taking more vigorous action against piracy.

- Future - Establish an International Tribunal
 - International tribunals such as the International Criminal Court in The Hague ("ICC") are established under a treaty to prosecute offences in circumstances where national courts are unable or unwilling to prosecute.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.

- A more practical alternative is to establish treaties to allow prosecution within the littoral states to the conflict; probably the most suitable places for prosecuting Somali pirates are Kenya and the Yemen, which are both close to the areas where piracy occurs. OCIMF supports this approach as it allows the littoral states who do not have naval assets to support the anti-piracy efforts through successful prosecution of the pirates.
- Legal and policy difficulties arising from the capture of pirates are may be avoided or overcome by having Law Enforcement Detachments ("LEDETs") from the prosecuting countries on board vessels, to arrest pirates at source.
- An important role for Industry is to ensure that evidence is clearly recorded and witnesses as requested are available to the courts.

Piracy - The West Africa/Somalia Situation
Practical Measures to Avoid, Deter or Delay Piracy Attacks

This booklet has been produced by the Oil Companies International Marine Forum (OCIMF), the International Association of Independent Tanker Owners (INTERTANKO), International Association of Dry Cargo Shipowners (INTERCARGO), the ICC International Maritime Bureau (IMB) and the Society of International Gas Tanker and Terminal Operators (SIGTTO) with the aim of providing practical information to assist seafarers faced with potential or actual acts of piracy while operating in the Gulf of Aden and other waters near the Horn of Africa (the 'High Risk Area'). The High Risk Area covers that area of the ocean where attacks are known to have taken place at the time of writing (January 2009), but this may change over time if the pirates change their tactics and/or extend their area of operation.

The Oil Companies International Marine Forum is a company limited by guarantee incorporated under a private Act of Parliament in Bermuda.