



Insight Article

War risk insurance

Since the tragic terrorist attacks on the United States on 11th September 2001 there has been an increased focus on war risks insurance. The purpose of this article is to explain how the war risk cover is designed to supplement the ordinary insurances against marine perils.

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The term "marine insurance" includes both marine perils and war risk perils. However, it is usual to distinguish between these perils when describing the covers available. In English practice, war perils are excluded from the ordinary marine cover on hull and machinery and for loss of hire, as well as from the standard P&I cover, by the so-called "war risks" exclusion clause. In Norwegian practice, insurance against marine perils covers all risks with the exception of the "classic" war perils that include capture at sea, confiscation and other similar interventions by a state power, other than the flag state or the state where the major ownership interests of the vessel are located. The importance of the distinction between marine and war perils is due to the fact that, firstly, different insurers often underwrite them. The second reason is that there is also a different scope of the cover as such, i.e., the types of liabilities and losses that fall within the various covers.

War Risk Underwriters

is a specialised area and the number of underwriters who are willing to undertake such insurance is quite limited. A small number of such underwriters is based in the London market, with even fewer in other markets. Although the number of "leaders" offering this type of cover is small, the capacity to provide insurance is quite significant.

Shipowners in a number of states have also formed mutual war risk associations, such as Den Norske Krigsforsikring for Skib for Norwegian-owned or controlled tonnage, and the Hellenic Mutual War Risk Association (Bermuda) Ltd for Greek-flagged and Greek-owned ocean-going vessels. Although most of these war risk insurers are controlled by shipowners, utilising specific national flags, reinsurance is usually arranged in the London market.

The Cover

A shipowner's basic insurance needs will normally be covered by three different types of insurance: hull and machinery, loss of hire, and P&I insurance. However, insurance against war perils (war risks) is quite different. For example, the war risks insurance, as set out in the Norwegian Marine Insurance Plan (the Plan), covers hull and machinery, loss of hire, P&I and occupational injury. ¹ In addition to the standard hull and machinery-type losses, the war risks insurance will also compensate the owner for the total loss of the ship if he has been deprived of the ship by the intervention of a foreign state power. Furthermore, the loss of hire element will also include loss of time, if the ship is forced into a port by a foreign state power for the purpose of capture or temporary detention, regardless of whether there is physical damage to the ship. Finally, the war risk cover includes coverage for liabilities and expenses that would have been covered under the ship's normal P&I insurance, if the event had not been caused by a war risk. For example, if a shipowner has been held liable for oil pollution damage caused by a war peril, such as an old World War II mine, it will be covered under the Plan by the war risk underwriter.

1 Beyond the "ordinary" sum insured for hull and machinery, separate sums insured for P&I, hull/freight interests and loss of hire need to be agreed in the policy in order for the assured to have cover for these interests.
Differences between Norwegian and English practice
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The terms "war risk" or "war perils" seem to have the same broad meaning in Norwegian and English law and practice. There are, however, some differences that should be noted. For example, in contrast to the Norwegian market, the London market does not cover requisition of the ship by a foreign state power. There are also some differences in the types of liabilities and losses that fall within the cover. The most important difference is that the standard London terms do not include P&I liabilities. This means that separate war risk P&I insurance needs to be obtained. This can normally be arranged through the owners' P&I Club.

Special Feature of the War Risk Cover

A special feature of the war risk cover is the right of the insurer to suspend the cover under certain critical circumstances. For example, an outbreak of war between major global powers could result in the total cancellation of such insurance.

Furthermore, a war risks underwriter, in contrast to other underwriters, has the discretion and is entitled to change the trading limits set out in the policy at any time. It should be noted that under the Plan there is a distinction between 'excluded areas' and 'conditional areas'. In an excluded area the ship will be without cover, although, in practice, cover can be negotiated with the underwriter on terms and conditions which satisfy both parties, whilst in a conditional area the ship will be covered against payment of an additional premium and subject to any other conditions that may be stipulated. As a recent example, the 11th September incident triggered changes in the trading limits and increased war risk premiums.

Limit of insurance

The war risk cover is also subject to an upper limit, which normally will be the agreed insurable value of the ship. This includes also war risk P&I cover, although a separate limit needs to be agreed for P&I war risk. As a consequence of the "standard war P&I cover" being insufficient, the Gard Club, like all P&I Clubs within the International Group of P&I Clubs, has since 1986 arranged an additional market war risk cover designed to cover claims in excess of the amount recoverable under the owners' underlying war risk policy, including war P&I risks.

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