

# Audacity, Déjà vu and Return to a U.S. Maritime Tradition



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Further information available at: <http://www.cargolaw.com/index-pirate.html>



# *Geography Of Risk*

- Moveable crime; shift over the last 10 years from Malacca Straits to Somalia.
- 406 attempted hijackings in 2009
  - Somalia:
    - 217 attacks; 47 hijackings; 687 hostages taken
    - Up from 9 attacks in 1998
  - South America: 37 attacks
    - Peru: 12 attacks
  - Nigeria: 28 attacks
  - Bangladesh: 17 attacks
  - Indonesia: 15 attacks
  - South China Seas: 13 attacks
  - Singapore Straits: 6 attacks
  - Malacca Straits: 2 attacks

Further information available at: [http://www.cargolaw.com/presentations\\_pirates.html](http://www.cargolaw.com/presentations_pirates.html)

# *Increased Risk*

- Somalia is now synonymous with piracy.
- What became million dollar ransoms have now tripled.
- The area of risk has expanded from 100 miles off Somalia in 2004 to well over 1,000 miles into the Indian Ocean in 2010.



# *Expense of Risk*

- Expense of re-routing ships to bypass the Gulf of Aden and the Suez Canal.
  - Depending on vessel speed, this route has been estimated to increase voyage cost by 20%.
- Ships that continue to transit via the Gulf of Aden and Suez Canal must purchase a war risk insurance coverage
  - \$20,000 per ship per voyage (excluding injury, liability and ransom coverage)
    - Up from \$500 only two years ago.
    - Estimated that increased cost of war risk insurance premiums for the 20,000 ships passing through the Gulf of Aden could reach as much as \$400 million.



(Source: UNCTAD)

# *Remedies For Risk*



- Despite worldwide attention and new strategies for combating piracy, the crime surged 39% in 2009.
- While there is no single or simple solution, ten recent events dictate the need for a traditional practice to be readopted.
- Arming merchant vessels transiting high risk areas needs consideration.



# *Ten Recent Significant Events (Somalia)*



# *M/V SEABOURN SPIRIT*

*- 5 November 2005 -*



- First cruise ship attack since 1985 capture of Italian *M/V Archille Lauro*
- First use of LRAD against pirates
- Resulted in recommended exclusion zone 200 miles off Somalia
- Prior to November 2005, the world knew little and cared less about Somali pirate success in the capture and ransom of U.N. relief shipments and random merchant vessels. With this attack, the tribal Somali pirates brought both unwanted public focus and demand for a solution. It was on account of this event C&McD was engaged to participate in a 2-hour TV special for the History Channel titled *"Return of The Pirates."*
- **\*Event significance:** Pirate ability to widely expand or change shape of the playing field limits prevents effective naval control; self defense is necessary.

# *M/V SEABOURN SPIRIT*

*- 5 November 2005 -*



- RPG after striking vessel



- LRAD aboard RMS QUEEN MARY 2



# *S/V LE PONANT*

*- 4 April 2008 -*



- Cruise ship *Seabourne Spirit* lesson not learned
- French Government Partial Ownership (CMA CGM)
- No passengers, but crew of 30 held hostage for over a week
- Ransom Paid – then French Commandos Attack
- **\*Event Significance:** Vessel type is no concern for the Somali pirates despite the world focus brought about by attack on *Seabourne Spirit*. If a vessel is unarmed, it will be attacked.

Further information available at: [http://www.cargolaw.com/2008nightmare\\_ponant.html](http://www.cargolaw.com/2008nightmare_ponant.html)

# *S/V LE PONANT*

## *- 4 April 2008 -*



Further photos available at: [http://www.cargolaw.com/2008nightmare\\_ponant.html](http://www.cargolaw.com/2008nightmare_ponant.html)



# *S/V LE PONANT*

*- 4 April 2008 -*



Further photos available at: [http://www.cargolaw.com/2008nightmare\\_ponant.html](http://www.cargolaw.com/2008nightmare_ponant.html)

# *M/V FAINA*

## *- 26 September 2008 -*



- Pirates seize arms, munitions, and 32 Russian battle tanks
- Fears of Al Queda involvement
- Within weeks, EU and NATO fleets assemble and sail to join U.S. led Combined Task Force 151
- Vessel and crew held September 2008 – February 2009, while surrounded by Navy.
- **\*Event significance:** World naval fleets were supposed to squelch the problem, but have failed. Successful naval operations have reduced attacks in the Gulf of Aden and along the east and southern Somali coasts – but the pirates simply move elsewhere.

Further information available at: [http://www.cargolaw.com/2008nightmare\\_mv.faina.html](http://www.cargolaw.com/2008nightmare_mv.faina.html)



# *M/V FAINA*

## *- 26 September 2008 -*



Further photos available at: [http://www.cargolaw.com/2008nightmare\\_mv.faina.html](http://www.cargolaw.com/2008nightmare_mv.faina.html)



# *M/V FAINA*

## *- 26 September 2008 -*



Further photos available at: [http://www.cargolaw.com/2008nightmare\\_mv.faina.html](http://www.cargolaw.com/2008nightmare_mv.faina.html)

## ***FGS SPESSART***

***- 29 March 2009 -***

(German Navy tanker)



## ***NIVOSE***

***- 22 April 2009 -***

(French Navy Frigate)



## ***LA SOMME***

***- 6 October 2009 -***

***- 20 April 2010 -***

(French Naval Supply Vessel)



**\*Significance of events:** The Somali pirates are very unsophisticated. Military presence alone will not deter attacks, despite arrest and indictment by France, United States and Germany.

Further information available at: [http://www.cargolaw.com/2000nightmare\\_singleonly14.html#Stupid-Pirate](http://www.cargolaw.com/2000nightmare_singleonly14.html#Stupid-Pirate) & [http://www.cargolaw.com/2000nightmare\\_singleonly14.html#Stupid-Pirates2](http://www.cargolaw.com/2000nightmare_singleonly14.html#Stupid-Pirates2)

# *M/V MAERSK ALABAMA*

## *- 8 April 2009 -*



- The U.S. awakens – arming the fleet
- U.S. Coast Guard Port Security Advisories (PSA) 3-09 & 4-09
- General David Petraeus advocates embarked armed guards
- **\*Event Significance:** With the closest naval support being 12 hours away, an unarmed U.S. vessel was unable to protect itself.

Further information available at: [http://www.cargolaw.com/2009nightmare\\_maersk.alaba.html](http://www.cargolaw.com/2009nightmare_maersk.alaba.html)

# *M/V MAERSK ALABAMA*

*- 8 April 2009 -*



- American Dejavu – *“Revenge of Commodore Bainbridge”*
  - The U.S.S. CONSTITUTION, launched 1797, was soon thereafter engaged to fight piracy with a fleet of her sister ships along Africa’s Barbary Coast. The effort was effective in reigning in marauding pirate units.
  - Last pirate attack on U.S. vessel prior to MAERSK ALABAMA...
    - 31 October 1803 -- The U.S.S. PHILADELPHIA ran aground off Tripoli and was captured by Tripoli pirates. The captain and entire crew were held for approximately one year. The incident was a humiliation for Commodore William Bainbridge, the vessel captain.
    - 106 years later, it was the guided missile destroyed U.S.S. BAINBRIDGE (DDG 96), named for Commodore William Bainbridge, which sprinted to the scene of MAERSK ALABAMA. The attacking pirates were killed or captured; Captain Richard Phillips of MAERSK ALABAMA, who was held at gunpoint in a lifeboat, was rescued without injury.

Further information available at: [http://www.cargolaw.com/2009nightmare\\_maersk.alaba.html](http://www.cargolaw.com/2009nightmare_maersk.alaba.html)





Further photos available at: [http://www.cargolaw.com/2009nightmare\\_maersk.alaba.html](http://www.cargolaw.com/2009nightmare_maersk.alaba.html)



# *M/V MAERSK ALABAMA*

## *“Part Deux”*

*- 19 November 2009 -*



- The merchant fleet fights back.
  - Armed guards embarked
  - Attacked successfully thwarted.
- **\*Event significance:** Embarked armed guards protect vessels from capture.

# ***HNLMS Tromp (F-801)***

***- 17 March 2010 -***

**(Dutch Frigate)**



- Catch & Release
  - Suitable for trout, not pirates...
- The lack of political will and confusion over which country has or wants jurisdiction.
  - Many pirates released.
- **\*Event significance:** The 1988 IMO Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) provides a basis for its States parties to prosecute pirates. However, lack of political will to prosecute by nations such as Canada and the Netherlands encourage more attacks.
  - Germany and U.S. are prosecuting pirates.
  - If the suspects are not released, they have often been sent to Kenya for trial. But Nairobi has recently expressed reluctance about taking on new piracy cases, arguing its criminal justice system is already overburdened.

# *M/V ALMEZAAN*

*- 1 May 2009 -*

*- 8 November 2009 -*

*- 24 March 2010 -*



- First two pirate attacks led to vessel capture
- Armed guards embarked after second capture
- Embarked guard kills pirate and thwarts attempted third capture
- **\*Significance:** Embarked armed guards successfully use deadly force.



## *The April Fools*



- 1 April 2010: U.S.S. Nicholas (FFG-47) attacked west of the Seychelles.
- 10 April 2010: U.S.S. Ashland (LSD-48) attacked off Djibouti.
- Beyond reasonable geographic control for patrolling.
  - Looking for an ant in the Appalachians.
- 13 April 2010: Executive Order outlawing payment and ransom.
- These pirates face trial at Norfolk and life in prison.
- **\*Event Significance:** If you can't pay the pirates, you can't join the pirates, and you can't protect the merchant ships – then let the ships protect themselves.

Further photos available at: [http://www.cargolaw.com/2000nightmare\\_singles.only.html#Stupid.Pirates4-5](http://www.cargolaw.com/2000nightmare_singles.only.html#Stupid.Pirates4-5)





U.S.S. Ashland (LSD-48)  
destroys pirate skiff after  
being fired upon.



Further photos available at: [http://www.cargolaw.com/2000nightmare\\_singles.only.html#Stupid.Pirates4-5](http://www.cargolaw.com/2000nightmare_singles.only.html#Stupid.Pirates4-5)



## *- CONCLUDING REMARKS -*

- Arming of merchant vessels
  - The International Maritime Organization (IMO) does not favor arming merchant vessels for fear of escalating violence.
  - Ramifications could include interference with vessels' P&I cover.
  - Certain ports may prescribe specific regulations on vessel armament.
    - Even in such nations, weapons can be declared to Customs and placed under seal.
  - Practice of arming merchant vessels dates back to the 16<sup>th</sup> Century and continued in the 1920s & 1930s for battling pirates in the South China Sea.
  - No suggestion of arming the crew; rather, inclusion of special guards who remain under the direction of the vessel's master.
  - U.S. Coast Guard sets clear guidelines and specifies when use of weapons is permitted for protection of vessel and crew ("imminent danger")
    - WWII, Korea, Vietnam armament of merchant vessels
  - Armed guards are safety equipment. While sailing in pirate-infested waters, an unarmed vessel could be deemed unseaworthy.
    - Merchant Captain Kelly Sweeney



***THANK YOU!***

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