



SEMAPHORE

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General Average Contributions Arising From Piracy

Hill Dickinson has produced an opinion piece on a United Kingdom Supreme Court judgment where cargo interests were found liable for General Average contributions arising out of a piracy incident.

This arose out of a piracy incident in the Gulf of Aden in October 2010, whereby the vessel was not released for ten months and only after a ransom was paid.

The following issues arose:

- (i) whether the additional war risks and Gulf of Aden clauses in the voyage charterparty were incorporated into the bills of lading and, if so
- (ii) whether their effect was to exclude the bill of lading holder's liability for cargo's contribution in General Average in case of piracy risk

The Supreme Court has found that there was no agreement, whether in the charterparty or bills of lading, precluding the ship owner's right to claim the General Average (GA) contribution from cargo interests.

While the context was piracy risks in the Gulf of Aden, this decision is a significant one for those affected by and advising on war risks and other contract of carriage issues arising out of the Red Sea attacks on commercial shipping, as well as the Russia/Ukraine war.

The Red Sea is one of the world's busiest shipping routes, because any vessel transiting through the Suez Canal to or from the Indian Ocean must pass via the strait of Bab al-Mandab and the Red Sea.

However, the escalating and increasingly dangerous situation has led shipowners to avoid the area, diverting their vessels by the longer Cape of Good Hope. It has been estimated that the alternative shipping route avoiding the Red Sea could take an additional 14-25 days.

The Red Sea attacks have serious political and commercial considerations. There are also a number of legal implications for the shipping industry, some of which are highlighted in the article including deviation, frustration, force majeure and the effect of war risks clauses.

For further information refer to the [Hill Dickinson website](#) and search for articles on General Average and the legal implications of the Red Sea attacks.

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