

CONWARTIME 2025 and VOYWAR 2025 – new and improved?

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In an age of rising geopolitical tensions in which several ‘cold’ conflicts have turned ‘hot’ and international shipping has found itself increasingly in the firing line of asymmetric warfare, the arrival of new editions of BIMCO’s universally used war risks clauses has been welcomed across the industry.

War risks clauses give the shipowner and the Master (and by extension the disponent owner) the right to refuse to continue with the contractual voyage (or in certain cases, to cancel the voyage) in case proceeding with it would, in the reasonable judgement of the Master or the

shipowners, expose the Vessel (or her cargo or crew) to war risks – which are exceedingly broadly defined in the BIMCO war risks clauses.

These clauses were last amended in 2013, before the invasion of Crimea and long before attacks on shipping became a regular occurrence in the Red Sea, and were widely thought to be due for an update.

The changes in the 2025 editions are, however, incremental only. In particular, key changes include:

1. A requirement (at sub-clause (d) in CONWARTIME 2025 and sub-clause (e) in VOYWAR 2025) for Owners to demonstrate that they have used *"reasonable endeavours to obtain appropriate cover"* (including additional premium) where requesting reimbursement under the war risks clauses from charterers.

   This avoids a loophole in the previous version whereby the shipowner was only required to show that additional premium had been reasonably incurred - but not that the level of the premium itself was reasonable.
2. The definition of *"insurance costs"* is now included in the clauses (at sub-clause (a)(ii) of both forms), including K&R insurance that may be taken out for entering an area subject to war risks.
3. Owners are now obliged to notify their charterers of the insurance costs *"as soon as practicable and, if possible, before the Vessel enters an Area exposed to War Risks"* (sub-clause (d) of CONWARTIME 2025 and sub-clause (e) of VOYWAR 2025).
4. The use of "whatsoever" in the vessel's liberty (under sub-clause (f) of both forms) *"to comply with all orders, directions, recommendations or advice whatsoever"* has been reordered, to add clarity. This makes it clear that the vessel can comply with guidance that might not be properly described as 'orders, directions, recommendations or advice'.

   In addition, the new version of CONWARTIME makes it clear that the vessel remains on hire throughout the occurrence of an event falling within (f).

5. The time to give new orders for a safe port (in case the Master and/or Owners refuse to proceed to the original load or disport on the grounds of war risks) has been extended from 48 to 72 hours (sub-clause (g) of CONWARTIME 2025 and sub-clauses (b) and (c) of VOYWAR 2025).
6. For VOYWAR 2025, the heavily-criticised mechanism for calculating additional freight has been changed as follows:

    - In the 2013 version, if the extra distance exceeds 100 nm *"additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route"*,
    - In the 2025 version, the 100nm threshold is removed, and freight is to be *"based on the estimated time and/or expenses incurred or saved as a result of that alternative route, as documented by the Owners".*

These are tidying changes to the 2013 version of the war risks clauses, tending towards a requirement that owners document their war risks claims and 'enhance transparency' (per the official guidance notes) in circumstances where the clauses are being used frequently and the opportunity for unmeritorious claims from the shipowner is thereby increased.

The changes to the clauses do not take into account recent events, the increase of AIS 'spoofing' as a weapon of asymmetric warfare, or the commentary suggesting (particularly in light of the Supreme Court decision in The Polar [2024] UKSC 2) that the shipowner's ability to refuse to proceed where an area is subject to war risks is not as unfettered as the standard war risks clauses might suggest.

It follows that we may see calls for a new edition of these universally-adopted war risks clauses even before this latest edition has been widely incorporated.

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Author

John Xavier Butler

Partner

+44 (0)7765 652739

john.butler@adamsmoorelaw.com