

A large offshore oil rig with two tall, red and white lattice towers stands in the middle of a blue sea. Several support vessels, including a blue and white tugboat in the foreground and other orange and white barges, are positioned around the rig. The sky is clear and blue.

INSIGHT 01

# HOW EVOLVING WAR AND TERRORISM EXCLUSIONS ARE RESHAPING OFFSHORE ENERGY INSURANCE

From Addendum 42B to JNR2022-037A - how has the treatment of war and terrorism coverage developed in the offshore energy insurance market in recent years? CoverageClubb explain

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## THE BACKGROUND

A series of incidents involving damage to gas pipelines and undersea cables in the Baltic Sea since 2022 has prompted the commercial insurance market to review the extent of coverage they provide for the perils of war and terrorism for offshore energy risks.

The review concluded with the Joint Natural Resources Committee (JNRC), which represents the interests of insurers writing offshore energy risks in London<sup>1</sup>, issuing the Joint Natural Resources Committee War Exclusion and Terrorism Buyback Clause (Non-Cyber), JNR2022-037, in December 2022, with the clause subsequently becoming commonplace on offshore oil and gas package policies, in addition to some offshore renewable energy policies.

## HISTORICAL APPROACH TO WAR AND TERRORISM

The introduction of the JNR2022-037 saw it replace the Addendum 42B Exclusion, a clause that had been in existence since the 1970's and commonly used in the offshore energy insurance market.

The exclusionary language of the Addendum 42B Exclusion envisaged the motives and methods of committing acts of war and terrorism befitting for the 1970's and the evolution of warfare and terrorist acts in the subsequent decades has prompted the revision to the exclusionary language used on policies. To complement the publication of the JNR2022-037, the JNRC issued Market Note JNR2022-038, offering a detailed analysis of the clause and highlighting its similarities and differences compared to the Addendum 42B Exclusion. CoverageClubb welcomes this transparency from the JNRC, as it provides valuable insight and a clear rationale for the changes implemented.

Further revision to the exclusionary language was made in November 2024 with the JNRC releasing the updated Joint Natural Resources Committee War, Terrorism, Malicious Acts, Strikes, Riots, and Civil Commotions Exclusion and Terrorism Buyback, JNR2022-037A, in response to Underwriters' concerns around the increase in global political violence claims<sup>2</sup> with malicious acts, strikes, riots and civil commotions now also forming part of the exclusionary language.

## THE TERRORISM BUY-BACK (THE 'PROPERTY' VS 'OPERATIONS' DIFFERENCE)

Traditionally, offshore oil and gas policies have provided a buy-back for the peril of terrorism. Prior to the issuance of the JNR2022-037, the Addendum 42B Exclusion was often accompanied by a terrorism buy-back which, in a somewhat unconventional fashion, provided cover for loss or damage to offshore operations, which would have otherwise been covered by the policy, but for the presence of the Addendum 42B Exclusion, whilst still maintaining an exclusion for the peril of war.

The JNR2022-037 continues the tradition of affording a buy-back for the peril of terrorism, however and most crucially, the buy-back only applies to *"loss of or damage to Offshore property"*, whereas the terrorism buy-back that accompanied the Addendum 42B Exclusion would typically apply to *"loss of or damage to Offshore operations"*. This difference could have significant and far reaching consequences for an Insured in the event of a claim.

Given the JNR2022-037 terrorism buy-back only applies to *"Offshore property"*, this potentially restricts the buy-back to only cover first party property damage resulting from an act of terrorism and negates any buy-back coverage previously enjoyed under operator's extra expenses, third party liability and business interruption (loss of production income, loss of throughput income, loss of hire, etc.) coverages when the buy-back applied to *"Offshore operations"*.

This issue has now been addressed in the updated JNR2022-037A, with reference now made to *"loss of or damage to Offshore operations"*, albeit with a burden of proof stipulation now imposed upon the Insured.

## TERRORISM BUY-BACK BURDEN OF PROOF

The JNR2022-037A excludes coverage under the terrorism buy-back when tied to government involvement or support, with the burden on Insureds to prove otherwise. This condition introduces a significant hurdle for Insureds, particularly in cases where establishing non-involvement is challenging due to the nature of occurrence that results in loss or damage.

A further hurdle exists with the Insured having to prove that the loss does not fall within the war, malicious acts, and strikes, riots or civil commotions exclusions, whilst also having to prove that the loss *"is directly or indirectly occasioned by the use of force or violence of any person*

*or group(s) of persons, committed for political, religious, ideological or similar purposes, including the intention to influence any government and/or to put the public, or any section of the public, in fear"*.

## CONFLICTS AND COVERAGE OVERLAP

Offshore oil and gas package policies and offshore renewable energy policies often contain a multitude of coverages for different perils. Offshore oil and gas package policies for instance may afford cover for hull and machinery and cargo risks. The coverage for these risks may also be extended beyond typical 'all-risks' coverage, and encompass cover for war, strikes and related perils through the use of various 'Institute Clauses'. The introduction of the JNR2022-037 and JNR2022-037A therefore present some potential conflicts and coverage overlaps that require careful thought, consideration and drafting expertise to ensure that a clear order of precedence and hierarchy is established when the policy already provides coverage for perils that would otherwise be excluded by the JNR2022-037 or the JNR2022-037A.

Before including JNR2022-037 or JNR2022-037A within the insurance policy documentation, the full documentation should be carefully reviewed to ensure any potential conflicts or overlaps are adequately addressed. CoverageClubb are highly experienced in this exercise and would be delighted to be of assistance.

## CONCLUSION

The introduction of the JNR2022-037 and the updated JNR2022-037A represents an evolution in how the perils of war and terrorism are managed and transferred in the commercial insurance market for offshore energy risks.

Insureds face increased exposure under JNR2022-037 and JNR2022-037A due to the expanded exclusions and stringent requirements. Insureds and their insurance broker must scrutinise the policy terms and may need to negotiate amendments or seek alternative coverage to address potential coverage gaps. While both the JNR2022-037 and JNR2022-037A aim to balance risk for Insurers and Insureds, the expanded exclusions, in addition to JNR2022-037A's burden of proof stipulations necessitate greater diligence from Insureds and their insurance broker to understand these clauses and align coverage with the Insured's risk appetite and operations.

## REFERENCES:

- [Joint Rig Committee](#)
- [JRC Circulars](#)





# CoverageClubb

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