

**EVENT /****Genoa Boat Show defies the gloom**

In spite of the generally gloomy economic situation, this month's 49<sup>th</sup> Genoa International Boat Show confirmed its crucial role as an important reference event for the whole yachting/boating industry at an international level.

The organisers reported encouraging figures: 2,400 boats on display and 1,450 participating companies, and the exhibitors expressed renewed confidence in the event. Recorded attendances totalled 280,500, an approximate drop of 11% compared to 2008, but a result that should satisfy the organisers at a time when the financial crisis is decimating attendance figures at other international trade shows.

The presence in Genoa of AXA Corporate Solutions together with MPS Leasing & Factoring illustrated the existing synergies between the two companies and a common interest in the nautical sector.

The show also gave AXA Corporate Solutions the opportunity of consolidating its relationships with most of the Italian yacht builders, thus strengthening its position in the Italian market as one of the major providers of insurance cover for yachts, including construction.

**EVENT /****International Marine Insurance Conference in Kuala Lumpur: risk management the key to curbing claims**

A huge range of challenges is facing insurers in the cargo market, but there are grounds for a degree of optimism, it became clear from contributions to the International Marine Insurance Conference in Kuala Lumpur at the beginning of October.

Seventy five delegates from the Singapore and Malaysian markets attended the event, organised by the Malaysian Insurance Institute, to discuss the critical issues and concerns relating to market development, legal aspects and regulations, underwriting, claims and risk management.

On the cargo side, the main challenges to be addressed by Insurers are the global trade slowdown, the drop in commodity prices, the increasing number of

serious and total losses, and the growing accumulation in values. The increased risk of piracy is of course an additional factor threatening profitability, and this was broached in a dynamic discussion led by the Malaysian Shipowners' Association. Alongside the financial aspects of such claims, a leading broker urged the participants not to ignore the trauma for hijacked crews and their families.

It was pointed out that the revised Institute Cargo Clauses (01/01/09) increase Insurers' liability as the clauses are generally more favorable to assureds, in particular by limiting the scope of the packing exclusions and by extending the duration of the voyage covered.

Against this backdrop, Mike Davies, chief executive of AXA Corporate Solutions Singapore branch, urged delegates to maintain a confident outlook for cargo business in Asia and globally, as there were positive signals from the market, such as a pick-up in global trade.

On the hull side, where loss ratios have been at a much higher level, one of the factors for success will be thorough risk management and a more discriminating approach to accepting risks.

As to the claims perspective, focus was made on the crucial role of claims reserving and the challenge Insurers face to reserve realistically for complex casualties. This topic was addressed by Mathieu Tétard, claims manager at AXA CS Singapore.

Lastly, most of the speakers emphasised the benefits of risk management as the way forward to global profitability for insurers.

Note: Mike Davies is chairman of the cargo committee of the International Union of Marine Insurance, the largest of IUMI's seven technical committees.

**MARINE /****Port State control: Paris Memorandum confirms hardening of rules**

Companies that emerge from port state inspections with a poor risk profile for their vessels are likely to have their names published by the Paris Memorandum on Port State Control, which has adopted what it calls the New Inspection Regime. This will come into effect from 2011.

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The new regime was developed from work by the European Commission and its third package on maritime security, which were driven by the European Maritime Safety Agency (EMSA). Comprising 27 maritime administrations, the Memorandum states carry out annually more than 20,000 inspections on foreign ships in port.

The main innovation is to replace the Target Factor, used until now by inspectors to select ships, by a Ship Risk Profile. As before, this will depend on generic elements (type of ship, age, flag, class, etc) and history (number of deficiencies and detentions during previous inspections). The new element consists of the level of application of the International Safety Management Code by shipowners for their entire fleet. Ships will be classified Low Risk Ship, Standard Risk Ship or High Risk Ship.

There will be regular publication by the Paris Memorandum of a list of companies which have respected the ISM Code in a weak or very weak fashion during a period of three months or more.

Under current rules, the frequency of inspection of a ship is fixed at a one year maximum. From 2011, however, ships categorised as high risk will be inspected at least every six months by way of a so-called 'expanded inspection.' Standard risk ships will be inspected every 10 to 12 months at least; and low risk ships will be inspected every 24 months only, or up to 36 months for the best companies.

Ships where inspection periods are about to expire will be classified as Priority 1 and – another change – the member states will have to inspect all these ships. Up to now the member states settled on a global objective to inspect 25 % of ships frequenting their ports, by leaning on the Target Factor. For ships with a low Target Factor which are thus never selected by inspectors, the shipowners have to undergo an inspection at least every year.

Any ship with a flag of a state on the black or grey list of the Memorandum and detained more than twice during the 36 (if black list) or 24 (if grey list) previous months will be banned from some territorial waters, and from ports and moorings of Memorandum states. A new minimum period has been set for bans, with a first offence earning three months, and a second 12 months. A third ban will be for 24 months, and be much more difficult to get lifted. To support this, a new

database called THETYS will replace the current database SIRENaC and will be managed by EMSA. It will allow easier access for inspectors to the inspection files of all ships. Training of inspectors will be strengthened, and they will now be able to examine moored ships. Harbour authorities will be able to take into account reports of deep-sea pilots in addition to those of harbour pilots.

The new rules aim at developing safety in the waters of member countries of the Memorandum, which are most EU states plus Canada, Croatia, Iceland, Norway, and the Russian Federation.

#### **LEGISLATION /**

#### **EU demands shipowners prove they have insurance**

Member states of the European Union have been given until January 1, 2012, to enact legislation to oblige shipowners to have an insurance or financial guarantee covering maritime claims (EU Official Journal May 28, 2009, L 131, page 128). There will be tough penalties for recalcitrant operators.

The objectives, says the European Commission, are to ensure better protection of victims, eliminate substandard ships and make it possible to re-establish competition between operators. The rule is in the framework of the third package on maritime security from the European Parliament. It applies to ships of 300 tons gross or more, with the exception of warships, auxiliary warships or other state-owned or operated ships used for a non-commercial public service.

The amount of insurance for each ship, per incident, will have to be equal to the relevant maximum amount for the limitation of liability as laid down in the London Convention of November 1976, modified by the Protocol of 1996.

Member states will have to require that owners of ships flying its flag have insurance covering their ships, and that owners with vessels flying other colours have insurance in place when such ships enter a port under the jurisdiction of the member state. They can impose this obligation on ships operating in their territorial waters.

In addition, they will have to ensure that any inspection of a ship in a port under their jurisdiction includes

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verification that an insurance certificate is carried on board. This certificate will have to be directly issued by what is termed the 'insurance supplier'.

If the insurance certificate is not carried, the state may issue an expulsion order to the ship which shall be notified to the Commission, the other member states and the flag state concerned. As a result of such an expulsion order, every member state will have to refuse entry of the ship into any of its ports until the shipowner notifies the insurance certificate. This is in addition to the possibility of detention of vessels when safety issues are at stake.

Directive 2009/16/EC of the European Parliament and of the Council of April 23, 2009, on port state control already provides for the detention of ships for absence of certificates, but the EU sees it as appropriate to provide specifically for expelling a ship which does not carry a certificate of insurance. The modalities of the expulsion should allow the situation to be rectified within a reasonable time, it says.

Actions will be without prejudice to regimes in force in a particular member state such as the International Convention on Civil Liability for Oil Pollution Damage, 1992, the 1996 Hazardous and Noxious Substances Convention, the Bunker Oil Convention 2001, the Wreck Removal Convention 2007, and Regulation (EC) 392/2009 of the European Parliament and of the Council on the liability of carriers of passengers by sea in the event of accidents.

## **SHIPPING /**

### **Bringing sense to the Tower of Babel**

It is generally accepted that human error is the cause of most maritime accidents, but the fact that in many cases this is the result of a breakdown in communications is not so readily appreciated. Some seafarers describe their ships as a Tower of Babel, given that a crew of 18 for instance may comprise as many as nine nationalities. Shipmasters are concerned, too, that port and terminal staff may have only a rudimentary, or even zero, knowledge of English, the international language of the sea.

Valiantly trying to raise standards are the lecturers who teach in maritime colleges and universities around the world. The recent 2009 International Maritime English Conference (IMEC) gave voice to the challenges of

teaching this discipline, as ships become ever more sophisticated and their crews a pot pourri of ethnic and cultural input.

IMEC has had a low profile hitherto, but as a committee of the International Maritime Lecturers' Association it adds valuable debate at the International Maritime Organization, which is especially germane now as IMO prepares to revise its Standards of Training, Certification and Watchkeeping Convention 1978/95.

Prof Peter Trenkner of Wismar University of Applied Sciences, who is permanent conference chairman for IMEC, has for many years led efforts seeking greater status for Maritime English, defined as a distinct subject by the IMEC steering committee and confirmed as such in the recently upgraded IMO model teaching course. With English specified for only three tables in the 1995 STCW, he and his colleagues feel it is important that around 100 other provisions in the document should no longer take the use of English 'for granted.'

Presentations to more than 70 delegates from 23 countries at the lecturers' conference, hosted by the Maritime University of Szczecin in Poland, called for greater attention to preparing seafarers for working in multi-cultural teams, and for co-operation with the insurance market to learn from its expertise in risk mitigation.

Mastering the special terms and phraseology needed for Maritime English is fundamental, but language proficiency alone is not enough, all agreed. When a seafarer nods in response to an instruction, he does not necessarily understand what he is supposed to do.

Progress is being made, however. The question of culture is often included in Bridge Team Management courses, and there is greater application of the Standard Marine Communication Phrases introduced by IMO in 2002 as a result of years of work by Prof Trenkner and his co-thinkers.

## **DID YOU KNOW THAT? /**

### **Arctic shipping route: look to 2030**

The Arctic Ocean has a number of strategic characteristics similar to those of the Mediterranean?

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It faces major continents, offers short and direct routes between these continents, and has few exits to other oceans.

In fact, of course, the two masses of water could not be more different. In contrast to the benign Mediterranean, the greater part of the Arctic Ocean is covered by pack ice throughout the year, although coastal areas are ice-free in summer, usually for no more than two months.

Now, however, a new Arctic survey has produced evidence that the disappearance of sea ice in the Arctic is occurring more quickly than has been originally feared, so that the Arctic could have ice-free summers by 2030, whereas previously it was thought this would not happen until between 2050 and 2100.

These latest findings will add considerably to the climate warming debate, while the commercial significance will not be lost on the merchant shipping industry.

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