



## CURRENT ISSUES – IUMI POLITICAL FORUM

Updated as per 2 December 2015

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## A. ACTION

### 1) Liability of carriers of passengers by sea – EC evaluation

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#### *Brief description*

The European Commission has published an evaluation roadmap to assess the application and the impacts of Regulation (EC) no. 392/2009 on the liability of carriers of passengers by sea. The evaluation will consider, amongst others, the strict liability regime with a cap to ensure necessary insurance cover.

This is mostly an issue for liability insurers and not for the property insurance market. However, IUMI is listed among the stakeholders to be included in a consultation exercise in 2016:

*“insurers providing cover for non-war risks (International Group of P&I Clubs, IUMI) and for war risks (IUMI)”.*

#### *Relevant authority / organisations and documents / links*

- **EC:** Regulation (EC) No. 392/2009
- **IMO:** Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974, as amended by the Protocol of 2002.

#### *Timeline / important dates*

- Planned start date: December 2015.
- Open public consultation: End 2015/first quarter 2016.
- Target survey, interviews and case studies: Second quarter 2016.
- Planned completion date: December 2016.

#### *IUMI will:*

- Liaise with International Group and other stakeholders, and respond to the consultation as appropriate and where relevant to IUMI as a representative of the marine and transport insurance markets.

### 2) Ship recycling – EU study on a financial instrument

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#### *Brief description*

The European Ship Recycling Regulation (SRR) entered into force on 30 December 2013. Its main objective is to ensure that ships sailing under the flag of an EU Member State are recycled in a sustainable manner at the end of their operating life.

The SRR brings into force requirements of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships that was adopted by the IMO in May 2009, but not

expected to enter into force before 2020 at the earliest. In addition, the SRR requires that ships flying an EU flag may only be recycled in facilities approved by a Member State (for facilities within the EU) or the Commission (for facilities in third countries).

A financial mechanism to incentivize shipowners to recycle ships in a safe and environmentally manner was considered in the SRR, which requires the Commission to “submit to the European Parliament and to the Council a report on the feasibility of a financial instrument that would facilitate safe and sound ship recycling.” Following up on this, the European Commission (EC) initiated a study by Ecorys, DNV GL and Erasmus University of Rotterdam.

Several options have been examined, ranging across guarantees, escrow, insurance, port levies, licensing, or a hybrid of these. For insurance, the original idea was to create a fund that would be attached to the ship for its life and respond when the vessel was recycled at an EU approved yard. A revised version would have responded only where the vessel was a CTL.

Members of the IUMI Political Forum have attended three meetings where the various proposals were reviewed and the stakeholders asked to comment. IUMI has argued against the insurance options, explaining that insurance is a strictly regulated and highly competitive business, with clear limits on what it can and cannot take on. It does not have limitless appetite and is there to cope with unexpected fortuities rather than inevitable events. During the second stakeholder validation seminar in November 2015, it became clear that due to the many conceptual and legal problems insurance will be ruled out from the range of potential solutions.

The new proposal is for a port levy and license system, which will require payments from any ship over 500 gt in a European port. There are still concerns about the possible distortion of markets in ports, ship values and even recycling facilities. The complexities, administrative structure and costs of the new scheme remain considerable, and several flag states expressed reservations during the second stakeholder validation seminar.

#### **Relevant authority / organisations and documents / links**

- **EU:** The European Ship Recycling Regulation (COM(2013)1257, 20 November 2013).
  - *Financial instrument to facilitate safe and sound ship recycling*, 2<sup>nd</sup> interim report, Ecorys / DNV GL / Erasmus School of Law, 30 October 2015.
- **IMO:** The Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships, adopted May 2009.

#### **Timeline / important dates**

- First stakeholder validation seminar: 5 March 2015.
- Second stakeholder validation seminar: 12 November 2015.

#### **IUMI will:**

- Support international regulation and solutions under the auspices of IMO through the Hong Kong Convention.
- Give input to the EC study through the participation in stakeholder seminars and in writing, explaining how insurance works and its limitations that makes insurance unfit as a financial instrument to facilitate safe and sound ship recycling.

### 3) Places of Refuge

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#### *Brief description*

Current practice concerning places of refuge is a concern to insurers. The “*Flaminia*” incident prompted a new EC Cooperation Group on Places of Refuge, charged with assessing the need to improve existing legislation and why EU Member States took so long to provide safe refuge. Draft “EU Operational Guidelines” was presented to Member States and industry stakeholders in January 2015, and a joint industry group submitted their comments by end January. Based on this the EC has consolidated the text and organised a table top exercise in September in which IUMI was represented. Information about the guidelines was presented in a paper to the IMO-MSC in March 2015. IUMI were among the co-sponsors of this paper. The co-operation group on PoR met again in November 2015, and a possible event is considered with the European Parliament in January 2016.

After an explosion and fire aboard the “*M/T Stolt Valor*” at a distance of 40 nm from Kingdom of Saudi Arabia in March 2012, a place of refuge was denied by the coastal States in spite of repeated requests. In September that year, a round table of shipowner associations and IPTA urged the MSC to consider what additional measures may be appropriate, and stressed the need for all States to apply amongst others the IMO Guidelines on places of refuge for ships in need of assistance.

Following these incidents, and further prompted by the “*Maritime Maisie*” being held at sea off the coast of Japan for weeks after a collision and fire in December 2013, IUMI is, together with the International Chamber of Shipping (ICS) and the International Salvage Union (ISU), campaigning to urge governments to adopt the IMO places of refuge guidelines.

#### *Relevant authority / organisations and documents*

- **IMO – MSC & MEPC & LEG & CCC:**
  - MSC77/8/2: Places of refuge, submitted by IUMI, 14 February 2003.
  - Resolution A.949(23): Guidelines on places of refuge for ships in need of assistance, 5 March 2004.
  - MEPC64/INF.30 (27.7.2012) from ROPME/MEMAC and MSC91/21 (24.9.2012) from ICS, BIMCO, INTERCARGO, IPTA and INTERTANKO, concerning the “*M/T Stolt Valor*” incident.
  - LEG101/11/4: Places of refuge for ships in need of assistance, submitted by ICS, IGP&I, IUMI & ISU, 14 March 2014.
  - III1/INF.33: Port of refuge, *Maritime Maisie*, submitted by Hong Kong, China, 14 May 2014.
  - MSC93: Statement made by Intertanko.
  - CCC1/INF.2: Investigation on the fire and explosion on board the *MSC Flaminia*, submitted by Germany, 3 June 2014.
  - MSC94/20/1: Guidelines on PoR – proposed additional text, submitted by Liberia, the Marshall islands, IMPA, IFSMA, INTERTANKO, INTERCARGO and INTERMANAGER, 10 September 2014.
  - MSC95/INF.8: Information on the work within the European Union on operational guidelines for places of refuge following recent incidents, submitted by EU Member

States, the European Commission, IUMI, BIMCO, ICS, ISU, INTERTANKO and IG, 31 March 2015.

- **EC/EU:**
  - Directives 2009/17/EG (23.4.2009) and 2002/59/EG (27.6.2002), mandating EU Member States to provide places of refuge for stricken vessels in order to prevent greater damage to the environment.
  - IUMI invited to contribute to the work of the Correspondence Group on the development of “Operational Guidelines” for Places of Refuge, 15 April 2014. Consultation letter 17 June 2014, IUMI response sent 20 June 2014.
- **EMSA:**
  - Background document for an industry consultation meeting 26 June 2013 and questionnaire concerning the EC Vessel Traffic Monitoring and Information System.
- **U.S. Coast Guard:**
  - Places of Refuge Policy - Commandant Instruction 16451.9, 17 July 2007.
- **ICS, ISU & IUMI:** Joint press release 13 February 2014.
- **ICS, IGP&I, IUMI, ISU & Asian Shipowners’ Forum:** Joint position paper April 2014.
- **UK SOSREP** presentation during Legal & Liability workshop, IUMI conference, London, 17 September 2013.

#### *Timeline / important dates*

- Legal & Liability workshop, IUMI conference, Hong Kong, 23 September 2014.
- EC roundtable discussion with all relevant stakeholders during IMO MSC 94, London, 21 November 2014.
- EC: First discussion industry stakeholders on the Draft EU Operational Guidelines, Brussels, 15 January 2015.
- Political Forum workshop, IUMI conference, Berlin, 15 September 2015: LEMONIA Tsaroucha, EC – DG MOVE.
- EC Table Top Exercise, Malta, 1 September 2015.
- EC event with members of European Parliament and industry, Brussels, 27 January 2016.
- MSC 96, 11-20 May: Introduction of EU Operational Guidelines.

#### *IUMI will:*

- Actively promote better accommodation of ships in distress through the implementation and enforcement of existing measures.
- Provide input to the Draft EU Operational Guidelines together with a joint industry group (ICS, IG, ISU, IUMI, INTERTANKO).
- Give input to training programme to be developed for the implementation of the new EU Operational Guidelines.

## 4) Cat fines & low-sulphur fuels

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### *Brief description*

Machinery damage is by far the most frequent cause of loss in marine insurance, and the numbers are likely to increase with the introduction of low-sulphur limits. Historically, 40% of hull claims by number are machinery damage and make up 20% of costs.

The most typical and well known contaminant that can destroy an engine in a short time is cat fines. Cat fines are an inevitable by-product of refining and consist of small particles of metal that are deliberately introduced to 'crack' the fuel. Unless removed by purification, cat fines will become embedded in engine parts and cause serious and rapid engine damage. Filtration of fuel has been a requirement on board for many years, but crews are now noticeably less experienced and less reliable in operating the systems. The level of cat fines is also likely to increase with the introduction of new low sulphur regulations, which will require more refining.

Vessel operators and crew often have no idea about the purity of the fuel they use, nor is there any compulsion to find out before using it. Often, the purifiers installed are inefficient and cannot cope. Cases are known where filters have been removed. Engines need fuel with no more than 15ppm, but fuel is produced at 60ppm and over. There is clearly a need for more crew training and somebody to verify that the equipment and systems installed really remove the cat fines on their way to the engine.

According to the fuel testing agency DNV Petroleum Services, the bunker fuel industry in the U.S. has seen a rise in metals content as a result of regulations to reduce the level of sulphur in bunker fuel. Low sulphur fuels are less lubricating and this combined with the introduction of increased amounts of abrasive materials, causes damage. Once cat fines become embedded in engine parts, they cannot be removed. Until fairly recently, such losses have simply been described as engine damage or crew negligence and the real cause not identified. It is only now that definite attributable losses are being reported.

Claims due to cat fines have been identified in the range of USD 300,000 to USD 1.5m, mostly in low speed engines. Wear is very rapid; for example, if liners are replaced, they could be worn out again in three days. In a technical paper presented at the CIMAC Congress in 2013, cat fines were found in 84% of all the cylinder liner high wear cases investigated.

### Contributory changes which would help:

- Sampling and testing of fuel before use
- Improved fuel handling on board
- Improve the quality of bunkers
- Alter the ISO standard
- Charter/bunkering contracts should specify fuel less than 60ppm
- Regular cleaning of filters, frequent drainage
- Clean the settling and service tanks during dry dock
- Check centrifuge capacity on specifications for new buildings
- Ensuring optimized fuel system treatment

- Introducing a new fuel cleaning system layout
- Automatic control of the cleaning flow rate
- Intensified monitoring of the fuel treatment efficiency

IUMI raised the need of more class involvement to ensure that vessels safely can operate on the new fuels required in the future with IACS in January 2011, and attended a meeting with the Machinery Panel in September 2013 to present the insurance industry's concerns. Following this meeting, the IACS Machinery Panel decided to review the members' current requirements on facilities provided for handling the fuel on board in order to establish a common baseline. IUMI will be invited to take part in these discussions.

Furthermore, recent statistics from the California Department of Fish and Wildlife show that switch-overs between heavy fuel oils and distillate fuels to comply with the lower 0.1% sulphur limit in the Californian ECA increase the risk of vessels losing power. The risks related to the complex switch-over will have to be carefully monitored, and proper crew training and awareness is needed.

Nevertheless, 1 January was the implementation date of the 0.1% sulphur content limit for marine fuel on vessels operating in the North American Emission Control Area. The U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard are ramping up their inspection and enforcement efforts to monitor compliance.

The 0.1% sulphur limit also became mandatory in the northern European Emission Control Areas (ECAs) as of 1 January 2015. The European Commission has proposed that at least 10% of vessels calling in European ports are monitored for compliance, with results being made public. From 2016, up to 40% of vessels inspected will have their fuel sampled. No escalation of incidents or specific challenges reported thus far from the new northern ECA limits.

#### Ultra Low Sulphur Fuel Oil (ULFSO)

The main challenges with the new ULFSO are: Cold flow properties (heating required), stability (limited experience), and compatibility (increased storage capacity and separation requirements, and higher demands for tank cleaning between bunkering due to the variation in fuel quality). The International Council on Combustion Engines (CIMAC) published in June 2015 a position paper on these new fuels, including some key technical considerations for shipowners and operators. CIMAC has also initiated a working group with technical experts from the industry to address the limited experience and collate information in order to develop a technical guide for these fuels.

In November 2015, the U.S. Coast Guard confirmed several reports stating that main engines may not attain the expected speed when using ultra low sulphur fuel oil. Consequently, the Coast Guard revised its list of recommendations to vessel owners and operators about the importance of establishing effective fuel oil changeover procedures to comply with MARPOL Annex VI emission regulations.

#### *Relevant authority / organisations and documents*

- **IMO – MEPC & MSC**
  - MARPOL Regulation 14 & Annex VI: "Prevention of Air Pollution from Ships, allowing for special (SOx) Emission Control Areas".

- MSC93/INF.8: Safety implications arising from the supply of “Out of Specification” Marine Fuels, submitted by ICS and IPTA, 13 March 2014.
- **EU**
  - Sulphur Directive 1999/32/EC with amendments.
- **CIMAC**
  - Congress 2013, Paper no. 51: “Onboard fuel oil cleaning, the ever neglected process How to restrain cat-fine damages in two-stroke marine engines”. Paper presented by experts from MAN Diesel and Turbo (Denmark), DNV Petroleum Services (Singapore), NanoNord (Denmark), Alfa Laval Tumba (Sweden).
  - Position Paper 6/2015: New 0.1% sulphur marine (ECA) fuels, June 2015.
- **UK P&I Club Risk Focus: Loss of power**
- **Joint Hull Committee** information pack: Marine engine damage due to catalytic fines in fuel, joint paper with Braemar (The Salvage Association), 26 September 2013
- **U.S. Environmental Protection Agency (EPA)**: North American Emission Control Area: <http://www.epa.gov/otaq/oceanvessels.htm#north-american>
- **Wärtsila** Fuel Oil Requirements (Heavy Fuel Oil)
- **Gard** Loss Prevention Circular No. 01-14: Prevention of engine damage due to catalytic fines, February 2014.
- **IACS Machinery Panel**
- **ISO: 8217:2012** – Specifications of marine fuels
- **U.S. Coast Guard**:
  - Safety Alert 13-15: Ultra Low Sulfur Fuel Oil & Compliance with MARPOL Requirements, 19 November 2015.

### *Timeline / important dates*

- **Sulphur limits:**
  - Californian waters: 0.1% sulphur limit as of 1 August 2012.
  - North American Emission Control Area (ECA): 1.0% sulphur limit as of 1 August 2012.
  - European and North American ECAs: 0.1% sulphur limit as of 1 January 2015.
  - MARPOL – outside ECAs: 0.5% sulphur limit as of 1 January 2020.
- IACS letter to IUMI 23 July 2012. IUMI response 19 November 2012.
- Loss Prevention workshop, IUMI conference London, 15-18 September 2013.
- Meeting with IACS Machinery Panel, 3 September 2013. Working group results expected in spring 2015.

### *IUMI will:*

- Strongly recommend a common baseline among IACS members following a review of current requirements on facilities provided for handling the fuel on board when participating in these discussions.
- Increase awareness by presenting available documentation of losses due to cat fines, and warn of the risks involved.
- Monitor developments related to switch-over from heavy fuel to distillates in the ECAs.
- Consider possible action to amend the ISO standard.
- Prepare position paper with the inclusion of the JHC information pack from September 2013 endorsed by IUMI.

## 5) General Average and York-Antwerp Rules

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### *Brief description*

York-Antwerp Rules (YAR) are one of the very few subjects relating to shipping that does not fall into the international convention scheme. YAR are more like a professional common set of rules agreed upon by the various parties involved in the shipping industry, i.e. shipowner, P&I and property insurers together with GA adjusters. As long as these rules are mentioned in the contractual relationship of the party to the maritime venture; charter-party and/or Bill of lading, any GA situation will be sorted out using those rules.

Since their first inception in 1890, YAR have been amended several times to consider the shipping evolution and acknowledge legal impact of some important international maritime conventions. The last attempt was made in 2004, but this new set of rules remains unused. Hence, it has been agreed that the Comité Maritime International (CMI) shall make a 2<sup>nd</sup> attempt to amend the 1994 rules.

A new International Working Group (IWG) was established in October 2012, with the mandate to carry out a general review of the YAR on General Average (GA) and draft a new set of Rules taking into consideration that the 2004 YAR had not found acceptance among shipowners. Target date for adoption of the new YAR is the 2016 CMI conference.

The CMI IWG issued in 2013 a questionnaire to national associations. A summary report was discussed at a CMI Colloquium in Dublin in September. Items requiring further work were identified and groups formed to consider them. Four sub-groups met in London in March 2014 to work on the following items:

- Financial issues
- Rules X and XI including security documents and processes, treatment of low value cargo
- Salvage and GA
- Tidying up paper

Reports from the three first sub-groups were presented 19 May 2014, and formed basis for first discussions during the meeting of the International Subcommittee on General Average in Hamburg 14-15 June 2014. The IWG and its subgroups continue to work towards a firm set of proposals, and three areas of disagreement are now remaining: (1) Non-Separation of interest agreement in Rule G, (2) the treatment of temporary repairs of accidental (as opposed to sacrificial) damage at a port of refuge in Rule XIV b and (3) differential salvage settlements. The hope is to agree in principle on a wording in time for the CMI conference in New York May 2016.

Non-binding guidelines are also currently being drafted in view of adoption at the CMI conference in New York. The purpose is to assist commercial interests in dealing with GA cases and proved:

- General background information
- Guidance as to recognised best practice
- Recommended wordings.

### *Relevant authority / organisations and documents*

- **CMI & national law associations**
  - Questionnaire from the CMI IWG March-June 2013. 26 responses, including that of IUMI 30 August 2013 available from the CMI website.
  - Reports from sub-groups on
    - Financial issues
    - Rules X and XI including security documents and processes, treatment of low value cargo
    - Salvage and GA
  - Report of the meeting of the International Subcommittee on GA held at the 2014 Hamburg conference.
- Guideline to IUMI member associations in response to CMI questionnaire was prepared by the IUMI Salvage Forum and circulated 28 May 2013.
- IUMI response to the CMI questionnaire 30 August 2013.
- IUMI Eye article by Ben Browne, September 2015.

### *Timeline / important dates*

- CMI IWG, Dublin, 28 - 29 September 2013 & London, 27 – 28 January 2014.
- Sub-group reports 19 May 2014
- CMI IWG Hamburg, 13 – 14 June 2014.
- Roundtable, Legal & Liability workshop, IUMI conference, Hong Kong, 23 September 2014.
- CMI colloquium Istanbul: 7-9 June 2015.
- CMI conference New York: 3-6 May 2016.

### *IUMI will:*

- Participate in the CMI discussions through direct representation in meetings/working groups and in written consultations as appropriate. Monitor and inform on the progress as relevant.

## **6) Arctic Sailings**

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### *Brief description*

Ice conditions make Arctic sailings a relevant option for more commercial vessels transiting between Europe and Asia and the number of cruise ships in polar waters are on the rise. Ice conditions, the role of class, ship design, remoteness, support networks, availability of icebreakers, SAR, and experience and training of crew are amongst the relevant issues for underwriters in assessing this risk.

In November 2014, the IMO Maritime Safety Committee (MSC) adopted the International Code for Ships Operating in Polar Waters and the associated new SOLAS chapter XIV. The Maritime Environmental Protection Committee (MEPC) adopted the MARPOL amendments in May 2015. Training requirements within the STCW Convention and the Code for officers and crew on board

ships operating in polar waters were approved by MSC 95 in June 2015, in view to adoption by MSC 96 in May 2016.

The Code will enter into force 1 January 2017.

MSC 94 established a Correspondence Group on Operational Limitations in Ice, in which IUMI participates. The CG is instructed to:

1. *“prepare draft guidance on a methodology for determining limitations for operation in ice, and the associated draft MSC circular, for structural risk assessment and inclusion in the ship’s documentation, based on documents MSC 94/3/7 and MSC 94./INF.13, taking into account documents MSC 94/3/18, MSC 94/3/19, MSC 94/3/21, MSC 94/3/22, MSC 94/3/23 and MSC 94/WP.7, annex 3;*
2. *exchange information on experience with operations in ice for the purpose of validating guidance for operation in ice, and*
3. *submit a report to MSC 95.”*

The ice regime methodology, POLARIS, was approved as interim guidelines by MSC 95. Further work is needed, and the Correspondence Group was re-established to refine the system.

Additional performance standards related to Fire safety/protection (Chapter 8) and Life-saving appliances and arrangements (Chapter 9) of the Polar Code are also being considered. The Sub-Committee on Ship Systems and Equipment (SSE) has been instructed to consider the issues and advice MSC 97 on the best way to proceed.

After the development of the Polar Code, there is a consideration for an instrument to address non-Convention vessels operating in polar waters. MSC 95 encouraged Member States and international organizations to submit information on incidents in polar waters to assist in assessing the potential scope of the Polar Code to non-Convention vessels to the next session in May 2016.

A draft Arctic “Best Practice Declaration” consultation document was circulated to industry stakeholders in April 2013. Based on input an updated version was presented to the Arctic Council summit in May 2013.

#### **Relevant authority / organisations and documents**

- **IMO Assembly:** [Resolution A.1024\(26\)](#) - Guidelines for ships operating in Polar waters, 2 December 2009.
- **MARPOL:** New chapter 9 to Annex 1 with a new regulation 43 which prohibits the carriage in bulk as cargo, or carriage and use as fuel, of: crude oils having a density at 15°C higher than 900 kg/m<sup>3</sup>; oils, other than crude oils, having a density at 15°C higher than 900 kg/m<sup>3</sup> or a kinematic viscosity at 50°C higher than 180 mm<sup>2</sup>/s; or bitumen, tar and the emulsions.
- **IMO MEPC & MSC & SDC** with input from other Sub-Committees (HTW, SSE, NCSR)
  - [SDC 1/3/8 \(15.11.2013\)](#) & [SDC 1/3/16 \(29.11.2013\)](#): Determination of equivalent ice class.
  - [MSC93/INF.12](#): Workshop on Safe Ship Operations in the Arctic Ocean, 11 March 2014.
  - [MSC94/3/1](#): Adoption of the International Code for Ships Operating in Polar Waters (Polar Code), note by the Secretariat, 30 July 2014.
  - [MEPC67/WP.14](#): Report of the Polar Code Working Group, 15 October 2014.
  - [HTW2/9](#): Training requirements for officers and crew on board ships operating in polar waters, submitted by the United States, 31 October 2014.

- MEPC68/6/2: Draft Polar Code and adoption of amendments to mandatory instruments, note by the Secretariat, 21 January 2015.
- MSC95/3/7: Report of the Correspondence Group on the Development of guidance on a methodology for determining limitations for operation in ice, submitted by Norway, 6 March 2015.
- MSC95/21/3: Request for data on incidents within polar waters, submitted by Iceland, New Zealand and South Africa, 24 March 2015.
- **Arctic Council** comprising Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden and the U.S. ([www.arctic-council.org](http://www.arctic-council.org)).
- **Arctic “Best Practice Declaration”**. IUMI letter of support 19 April 2013.
- **Arctic information database**: [www.arctis-search.com](http://www.arctis-search.com) (Centre for High North Logistics).
- **ArcticWeb**: [www.arcticweb.com](http://www.arcticweb.com) – provides information on offshore Arctic areas through access to public data sources in the Arctic region.
- **European Commission**: Developing a European Union Policy towards the Arctic Region: progress since 2008 and next steps (JOIN(2012) 19 final), 26 June 2012.
- **U.S. Coast Guard**: Arctic Strategy, May 2013.
- **Swedish conference and workshop** March 2014:  
<http://www.polar.se/en/articles/conference-report-sustainable-arctic-shipping-and-marine-operations>
- **Northern Sea Route Administration**: [http://asmp.morflot.ru/en/celi\\_funktsii/](http://asmp.morflot.ru/en/celi_funktsii/)
- **Marsh**: Arctic shipping: Navigating the risks and opportunities, August 2014
- **Insurance industry**:
  - Lloyd’s / Chatham House: Arctic Opening: Opportunity and Risk in the High North: <http://www.chathamhouse.org/publications/papers/view/182839> - 1 April 2012
  - Cefor: Arctic Sailings Check List: <http://cefor.no/Clauses/Arctic-Sailings-Check-List/> - October 2012
  - Gard: Climate change creates a new trade route – and new risks: <http://www.gard.no/ikbViewer/web/updates/content/20738960/climate-change-creates-a-new-trade-route-and-new-risks> - 26 February 2014
  - The Swedish Club: Ice – Advice for trading in the polar regions: <http://www.eyemag.se/core/main.php?SITEID=98b6c&PROJECTNR=4931> – 2014
- **ABS**: Navigating the Northern Sea Route Advisory: [http://www.eagle.org/eagleExternalPortalWEB/ShowProperty/BEA%20Repository/References/Capability%20Brochures/NSR\\_Advisory\\_January\\_2014](http://www.eagle.org/eagleExternalPortalWEB/ShowProperty/BEA%20Repository/References/Capability%20Brochures/NSR_Advisory_January_2014)
- **US** Bureau of Safety and Environmental Enforcement & Bureau of Ocean Energy Management: Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf, 20 February 2015.

#### *Timeline / important dates*

- Russian Northern Sea Route Administration established 15 March 2013.
- IMO Workshop on Safe Ship operations in the Arctic Ocean: 28 February 2014.
- “Sustainable Arctic Shipping and Marine Operations” conference in London by the Swedish Government on behalf of the Nordic Council of Ministers: 11 March 2014.

- Workshop on “Bridging the Arctic marine risk gap – The need for a cross Arctic Ice Regime – linking ice conditions to ice class requirements” in London 12 March 2014, organized by the Swedish Polar Research Secretariat.
- IUMI PF Workshop 23 September 2014.
- MSC 94: 17-21 November 2014: Adoption Polar Code and SOLAS Chapter XIV.
- MEPC 68: 11-16 May 2015: Adoption MARPOL amendments.
- MSC 95: 3-12 June 2015: Report on operational limitations in ice & approval STCW amendments.
- IUMI PF workshop Berlin, 15 September 2015: Presentation by Michael Kingston (IUMI representative in correspondence group on polar ice regime)
- Polar Code enters into force: 1 January 2017, applying for new ships constructed after that date. Ships constructed before that date will be required to meet the relevant requirements by the first intermediate or renewal survey, whichever occurs first, after 1 January 2017.
- MSC 96: 9-20 May 2016.
- SSE 3: 14-18 March 2016.
- MSC 97: 21-25 November 2016.

**IUMI will:**

- Support the implementation of the mandatory Polar Code at IMO.
- Monitor, inform and educate the IUMI membership.
- Support in principle the Arctic “Best Practice Declaration”.
- Participate in discussions with industry, IMO and coastal states on necessary standards and infrastructure in Polar waters.
- Participate in Correspondence Group on Operational Limitations in Ice.

## 7) EU Recognised Organisations and Mutual Recognition

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**Brief description**

Article 10 of EU Regulation No 391/2009 on common rules and standards for ship inspection and survey organizations states that *“Recognised organisations shall, in appropriate cases, agree on the technical and procedural conditions under which they will mutually recognize the class certificates for materials, equipment and components based on equivalent standards, taking the most demanding and rigorous standards as the reference.”*

The EU Recognised Organisations (ROs) have established procedures and technical requirements for Mutual Recognition (MR), and coordinates its work through an Advisory Board supported by a Technical Committee.

A hierarchy of six safety levels has been agreed between the ROs. Levels I and II include products with no/very low impact on safety and are uncontroversial. Level III products are currently under consideration. The first tier of products was adopted for implementation in 2012 and the next in mid 2013. The third tier was released in July 2014, and the fourth on 1 July 2015. The next tier of

products (Tier 5) is scheduled for release on 1 July 2016. As per September 2015, the EU ROs are offering MR type approval certification for a total of 55 products.

Insurers expect the surveys of safety critical materials, equipment and components to be carried out by the RO classing the vessel. Classification has an important role in ensuring a certain level of safety to the vessel and its equipment, and there is usually a requirement under most individual insurance conditions that the vessel shall be classed with a classification society approved by the insurer before the insurance commences. Should any RO be allowed to certify and approve components and equipment for a vessel at all safety levels and regardless of which society will be responsible for classing the vessels, neither the classification society nor owners or underwriters will really know what quality of vessels they have or what quality of components have gone into them. To allow MR on safety critical materials, equipment and components would undermine the significance of ship classification as a key component of today's safety regime at sea, and is a major cause of concern among underwriters.

There is also a question related to the acceptance of the EU RO regime by third party flag states. The sovereignty of the flag state under which the vessel operates is at the core of international maritime regulations and widely supported by the global marine insurance industry.

The EC shall report to the European Parliament on the status of the implementation of the Regulation based on an independent study from the University of Strathclyde delivered in May 2015. IUMI has given input to the study at the University of Strathclyde directly through interview, questionnaire and workshop participation.

#### *Relevant authority / organisations and documents*

- **European Union** – Article 10.1 of EU Regulation (EC) No 391/2009 of 23 April 2009 on common rules and standards for ship inspection and survey organisations.
- **EU ROs**
  - First report to the EC and Member States – October 2012.
  - Joint report from EU-ROs and SEA Europe workshop, London, 28 May 2014.
  - [www.euromr.org](http://www.euromr.org)
- **IMO** – Proposed Code for Recognized Organisations (RO Code) and related amendments to SOLAS chapter XI-1 and the 1988 Load Lines Protocol, and resolution MEPC.237(65).
- **IUMI**
  - Letter to Commission 30 October 2013 & reply letter 6 December 2013.
  - Response to questionnaire from Strathclyde University 8 December 2014.
- **University of Strathclyde**
  - Study report to the EC 29.05.2015.
  - Workshop report October 2015.

#### *Timeline / important dates*

- Workshop on EC Reg. 391/2009 Article 10.1, London, 28 May 2014.
- RO Code in force from 1 January 2015.
- Technical Review meetings with industry associations: April 2015.
- MR study University of Strathclyde Workshop: 25 September 2015.
- Target release date Tier 5 MR Technical Requirements: 1 July 2016.

- IUMI Conference Berlin, Legal & Liability workshop 15 September 2015: Prof. Dr. Henning Jensen, University of Hamburg & Robert Clyne, ABS.
- EC report to Parliament by 10 November 2015.
- MR Workshop, Glasgow, 25 September 2015.

#### *IUMI will:*

- Recommend that mutual recognition is clearly limited to materials, equipment and components of proven low safety criticality. Scope of the MR should not go beyond further analysis and consideration of Level III products.
- Participate in workshops and consultations as appropriate.

## **8) EU Insurance Block Exemption Regulation (IBER)**

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### *Brief description*

The European Commission has launched a public consultation on the functioning and future of the new Insurance Block Exemption Regulation (IBER) adopted in 2010. The IBER expires in 2017. The IBER allows insurers and reinsurers to benefit from an exemption to the prohibition of anti-competitive arrangements laid down in Article 101(1) of the Treaty on the Functioning of the European Union (TFEU).

The Commission is consulting on how the IBER is being used and on stakeholders' experience in applying it. The Commission is also interested to hear about market developments and views on whether the regulation should be renewed, partially renewed or not renewed at all.

The exemption covers two types of agreements between insurance and reinsurance companies:

- a) Agreements with respect to joint compilations, joint tables and studies; and
- b) Common coverage of certain types of risks (co-insurance or co-reinsurance pools)

In the course of 2015 the Commission is holding bilateral meetings with stakeholders and if necessary will launch additional consultations. In the second half of 2016 the Commission will undertake a public consultation of the policy option chosen.

A tender for two new studies closed in October 2015, with final reports to be submitted by 12 April 2016. The two new lots are as follows:

- Switching of tangible and intangible assets between different insurance products.
- Different forms of cooperation between insurance companies and their respective impact on competition.

### *Relevant authority / organisations and documents*

- **European Union**

- Insurance Block Exemption (IBER), 24 March 2010 (<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010R0267&from=EN>)
- Consultation document, 5 August 2014 ([http://ec.europa.eu/eusurvey/runner/Public\\_Consultation\\_Insurance\\_Block\\_Exemption\\_Regulation](http://ec.europa.eu/eusurvey/runner/Public_Consultation_Insurance_Block_Exemption_Regulation))
- **IUMI**: Consultation input to EC – DG Competition, 14 November 2014.

#### *Timeline / important dates*

- Consultation deadline 4 November 2014.
- Bilateral meetings in the course of 2015.
- Final reports from two new studies to be submitted by 12 April 2016.
- Public consultation of the policy option chosen in second half 2016.
- Current IBER due to expire March 2017.

#### *IUMI will:*

- Recommend that the IBER is renewed for both current exemptions.
- Monitor the IBER review and respond as appropriate.

## 9) Maritime cyber security

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### *Brief description*

The growing reliance of information technology and data in the daily work within the marine and energy sectors increases their exposure to cyber related risks. These risks represent a challenge to underwriters, both in terms of properly understanding the exposures and in tailoring their products to meet client needs.

Techopedia<sup>1</sup> defines cyber attack as deliberate exploitation of computer systems, technology-dependent enterprises and networks. Cyber attacks use malicious code to alter computer code, logic or data, resulting in disruptive consequences that can compromise data and lead to cyber crimes, such as information and identity theft. Cyber attack is also known as a computer network attack (CNA).

A successful cyber attack can have several implications relevant to insurance: Loss of life, personal injury, pollution, loss of property, business interruption, loss of production, loss of data and loss of reputation.

IMO's Maritime Safety Committee (MSC) supported in November 2014 a Canadian / U.S. recommendation to develop voluntary guidelines on maritime cyber security practices. The purpose being to protect and enhance the resiliency of cyber systems supporting the operations of ports, vessels, marine facilities and other elements of the marine transportation system. For the purpose of this proposal, cyber security is defined as measures taken to protect cyber systems, or any data

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<sup>1</sup> <http://www.techopedia.com/definition/24748/cyberattack>

contained therein, against unauthorized access, alteration, control, data loss, and prolonged unplanned outage. Cyber systems are defined as any system or subsystem of hardware and/or software whose purpose is acquiring, processing, storing or communicating information or data, including systems that use that data to control physical processes.

BIMCO, ICS, INTERTANKO and INTERCARGO informed MSC 95 about an ongoing work to develop industry guidelines on maritime security. The guidelines will be progressed during 2015, and the industry group intends to submit finalized guidelines to the next meeting of the Facilitation Committee (FAL 40) and MSC 96 for consideration. MSC 95 asked Member States and international organizations to collaborate on proposals for guidance on maritime cyber security and submit them to the next session.

The United States Coast Guard released its Cyber Strategy guidance document in June 2015. The document presents the agency's vision for operating in the cyber domain and outlines the agency's goals and objectives for its three stated strategic priorities: defending cyberspace, enabling operations and protecting infrastructure.

To address these risks, the document describes the agency's plan to work with the maritime industry to promote cyber risk awareness and management, and to reduce cybersecurity vulnerabilities for vessels and facilities. This includes plans to develop cybersecurity risk assessment guidance for commercial vessel and facility operators, and to incorporate cybersecurity.

An IACS work group is focusing on developing a new unified requirement on system integration for safety critical shipboard systems. The group is also exploring a possible certification scheme for software providers for essential systems by IACS members. An update of UR E 22, covering on board use and application of programmable electronic systems, is under consideration by a project team due to deliver its proposals in July 2015.

#### e-Navigation

e-Navigation is an IMO initiative defined as "the harmonized collection, integration, exchange, presentation and analysis of maritime information onboard and ashore by electronic means to enhance berth to berth navigation and related services, for safety and security at sea and protection of the environment. To effectively use this as a tool to reduce human error, owners and operators should incorporate e-Navigation Best Practices as an integral part of their Bridge Resource Management (BRM).

#### *Relevant authority / organisations and documents*

- **IMO – Maritime Safety Committee (MSC) & Sub-Committee on Navigation, Communication and Search and Rescue (NCSR):**
  - NCSR1/INF.5: Background information related to the development of e-navigation, submitted by Norway, 28 March 2014.
  - NCSR1/1: Report of the Correspondence Group on e-navigation, submitted by Norway, 28 March 2014.
  - MSC94/4/1: Measures toward enhancing maritime cyber security, submitted by Canada and the United States, 12 September 2014.
  - MSC95/4/1: Industry guidelines on cyber security on board ships, submitted by ICS, BIMCO, INTERTANKO and INTERCARGO, 5 March 2015.

- MSC95/4/2: International Ship and Port Facility Security (ISPS) Code cyber security provisions, submitted by Canada, 18 March 2015.
- MSC95/4/3: Voluntary maritime cybersecurity guidelines, submitted by Canada, 20 March 2015.
- NCSR1/INF.5: Background information related to the development of e-navigation, submitted by Norway, 28 March 2015.
- NCSR1/9: Report of the correspondence Group on e-navigation, submitted by Norway, 28 March 2015.
- MSC95/4/6: Measures to address cyber-related risks, submitted by the United States, 31 March 2015.
- MSC95/INF.19: Cyberphysical relationship in port security – CYSM project, submitted by the European Commission, 14 April 2015.
- **2014 IUMI Conference** – presentation by Markus Wähler, Munich Re.
- **United States:**
  - United States Coast Guard: [www.homeport.uscg.mil](http://www.homeport.uscg.mil) (Cybersecurity left hand side of page).
  - Symantec Web Security Threat Report 2014.
  - NIST Cybersecurity framework: <http://www.nist.gov/cyberframework/>
  - CyberKeel: <http://www.cyberkeel.com/>
  - US Government Accounting Office (GAO): Report on “Maritime Critical Infrastructure protection”, <http://www.gao.gov/assets/670/663828.pdf> , June 2014.
  - Department of Homeland Security, Coast Guard: Guidance on Maritime Cybersecurity Standards, Federal Register/Vol 79, No. 239 12 December 2014 & No. 243, 18 December 2014.
- **European Network and Information Security Agency:**
  - Analyses of cyber security aspects in the maritime sector, November 2011.
- **IACS:**
  - New UR on system integration for safety critical shipboard systems (under consideration)
  - Certification of software providers under consideration.
  - Revised UR E 22 re. on board use and application of programmable electronic systems under consideration.
- **Joint Hull Committee** in conjunction with **Stephenson Harwood**: Cyber risk paper, 2 September 2015

#### *Timeline / important dates*

- IUMI conference Hong Kong, President’s workshop: 24 September 2014.
- MSC 94: 17-21 November 2014
- MSC 95: 3-12 June 2015
- IUMI conference Berlin, President’s workshop: 16 September 2015 – presentations on maritime industries’ draft guidelines and e-navigation followed by a podium discussion.
- E-Navigation conference “Underway 2016”: 2-4 February 2016
- FAL 40: 4-8 April 2016 – port perspective
- MSC 96: 11-20 May 2016 - vessel perspective

*IUMI will:*

- Support the development of voluntary guidelines by BIMCO & al on maritime cybersecurity practices, and provide input as appropriate. Consider co-sponsoring papers to the IMO.
- Monitor the development of e-Navigation through the IMO.

## B. SUPPORT:

### 10) International Trade in Services Agreement (TiSA)

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#### *Brief description*

Multinational marine insurers are affected by a wide range of barriers of doing business abroad; limited movement of data across borders, unfair competition from state-owned enterprises, lack of transparency and need for due process of law, and forced local ownership and discrimination in obtaining business licenses and permits. Some countries also require that import or export shipments have to be insured by a locally registered insurer, while buyers are only allowed to buy insurance coverage for import shipments abroad or on basis CIF. Any agreement which leads to a reduction of the aforesaid restrictions would contribute to enable marine insurers to achieve their full potential.

Since the General Agreement on Trade in Services (GATS) was established by the World Trade Organization (WTO) in 1995, trade in services has evolved dramatically due to technological advances, changing business practices, and deeper global integration. The dynamism and importance of trade in services contrast strongly with the slow pace of multilateral negotiations in this area. When the Doha Development Round of a multilateral trade negotiation reached an impasse, the idea of the Trade in Services Agreement (TiSA) was launched by the U.S. and proposed to a group of WTO members, the so-called Really Good Friends (RGF) group. The group has met regularly since February 2012.

TiSA represents an opportunity to improve and expand trade in services. Major and fundamental barriers to trade in services are addressed. Through the ongoing RGF process, a more liberal approach to cross-border regulation in areas such as marine and energy insurance is suggested. This is strongly supported by IUMI.

Participants in the TiSA include Australia, Canada, Chile, Chinese Taipei (Taiwan), Colombia, Costa Rica, the European Union representing their member states, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Republic of Korea, Switzerland, Turkey, and the United States. The list of participants does not include some prominent trading nations as the so called BRICS-states (Brazil, Russia, India, China and South Africa). However, China confirmed in March 2014 that it would like to participate in the negotiations. If all current countries approve China's participation in the negotiations, the group of 51 countries will account for around 77 % of global trade in services. Uruguay has also expressed an interest, and others may follow.

#### *Relevant authority / organisations and documents*

- **WTO** – General Agreement on Trade in Services (GATS), 1995.
- **Industry position papers:**
  - Insurance Europe, 10 June 2013
  - Global Federation of Insurance Associations (GFIA), 28 November 2013
  - IUMI, 6 November 2014

#### *Timeline / important dates*

- TiSA negotiations, Geneva, 13-18 April 2015.
- Stocktaking exercise planned for July 2015.

**IUMI will:**

- Support the RGF initiative.
- Argue in favor of allowing cross-border trade for marine and energy insurance, reflecting the international character of these services.

## 11) Passenger & Cruise ships' safety in the wake of the "Costa Concordia" casualty

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**Brief description**

Following the "Costa Concordia" casualty 13 January 2012, calls have been made for new/stricter regulations to avoid groundings, rapid capsize and catastrophic loss of buoyancy and stability. A more efficient regulatory framework to further reduce the risk of incidents is welcomed by the marine insurance industry.

The 92<sup>nd</sup> session of the MSC, held in June 2013, considered the casualty report on the "Costa Concordia". How to make progress with the aim to substantially increase the safety level provided by the 2009 IMO sub-division and damage stability regulations for passenger vessels was a key issue for the meeting, and subject to a report of a Working Group in which IUMI participated. Since the capsizing, MSC has adopted amendments to SOLAS chapter II on emergency training and drills, measures aimed at enhancing the safety of passenger ships and interim measures for passengers companies to enhance the safety of passenger ships.

MSC 94 approved a revised action plan for long-term work on passenger ship safety in November 2014. Member Governments are encouraged to submit to MSC 96 justifications for any unplanned outputs to be taken forward as detailed in the plan.

"Watertight doors maintenance" was added to the long-term action plan in November 2014. MSC 95 approved, in principle, in June 2015 draft amendments to SOLAS II-1/22 to clarify when watertight doors may be opened during a voyage with a view to approval at MSC 96, in conjunction with the approval of draft amendments for SOLAS Chapter II-1 on subdivision and damage stability regulations. MSC 95 also approved, in principle, the draft "Guidance for watertight doors on passenger ships which may be opened during navigation" with a view to approval at MSC 97, in conjunction with the adoption of the draft amendments to SOLAS regulation II-1/22. A new planned output on watertight doors closure control (revision of SOLAS regulations II-1/13 and II/13-1) was included in the 2016-17 biennial agenda for the Sub-committee on Ship Design and Construction (SSD), with a target completion year 2017.

Due to the "Nordic Atlantic" fire just before New Year 2014 and the fire on the "Sorrento" in April 2015, IMO is also increasing its focus on evacuation and the safety of ro-ro vessels. MSC 95 highlighted the need for an international response, through the IMO, to evaluate the casualty reports from the marine accident investigations and take action, as appropriate, to enhance the current safety regime for ro-ro passengers. This is strongly supported by marine underwriters.

### Relevant authority / organisations and documents

- **IMO – Maritime Safety Committee (MSC) & Sub-Committee on Ship Design and Construction (SDC)**
  - MSC.1/Circ. 1380: Guidance for watertight doors on passenger ships which may be opened during navigation, 10 December 2010.
  - MSC 90/INF.19: “Proposals for the implementation of short-term additional safety measures on board passenger ships”, submitted by Italy, 19 May 2012.
  - Resolution MSC.336(90): “Measures aimed at enhancing the safety of passenger ships, adopted 25 May 2012.
  - Italian casualty report “Costa Concordia” MSC 92/INF.6  
Italian paper MSC 92/6/3, dated 18th March 2013, made some preliminary recommendations concerning stability issues, vital equipment and electrical distribution, emergency power generation, operational matters, evacuation analysis, search and rescue.
  - MSC 92/WP.8: Report from WG1, 19 June 2013.
  - Resolution MSC.350(92): Amendments to SOLAS chapter III on emergency training and drills, adopted 21 June 2013.
  - MSC.1/Circ.1446/Rev.2: Recommended interim measures for passenger ship companies, 13 August 2013.
  - MSC93/6/1: “Preliminary recommendations arising from the Costa Concordia marine casualty investigation”, submitted by Italy, 11 February 2014.
  - MSC93/6/6: “Damage stability of cruise passenger ships”, submitted by CLIA, 11 March 2014.
  - MSC93/6/7: “Measures to enhance survivability after flooding, submitted by CLIA, 11 March 2014.
  - MSC93/WP.6/Rev.1: Report of the working group, 23 May 2014.
  - MSC94/6/3: Maintenance of watertight doors, submitted by Italy, 12 September 2014.
  - SDC2/16: Revision of conditions under which passenger ship watertight doors may be opened during navigation and development of amendments to SOLAS regulation II-1/22 and MSC.1/Circ. 1380, submitted by Canada and the United States, 14 November 2014.
  - MSC94/6/1: “Revised long-term action plan on passenger ship safety”, submitted by the Secretariat, 15 January 2015.
  - MSC95/INF.4: Proposals to improve passenger ship survivability after damage (incl. watertight doors), submitted by the European Commission, 27 March 2015.
  - MSC95/10/3: Consideration of proposed amendments to the SOLAS chapter II-1 subdivision and damage stability regulations – Application date, submitted by the United Kingdom, 30 March 2015.
  - MSC95/10/1: Consideration of proposed amendments to SOLAS chapter II-1 subdivision and damage stability regulations, submitted by the United States, 31 March 2015.
  - SDC3/3/1: Amendments to SOLAS regulations II-1/6 and II-1/8-1 – outcome of MSC 95, note by the Secretariat, 8 October 2015.

**Timeline / important dates**

- Italian “Costa Concordia” casualty investigation report dated 14 May 2013.
- MSC 92: 12-21 June 2013
- MSC 94: 17 – 21 November 2014.
- MSC 95: 3-12 June 2015.
- SDC 3: 18-22 January 2016.
- SSE 3: 14-18 March 2016.
- MSC 96: 11-20 May 2016.
- MSC 97: 21-25 November 2016.

**IUMI will:**

- Endorse all measures improving passenger ship safety in the aftermath of the “Costa Concordia” casualty and incidents with ro-ro passenger ships, provided they are in line with IACS recommendations/opinions.

## **12) International Maritime Solid Bulk Cargoes (IMSBC) Code<sup>2</sup>**

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**Brief description**

Due to a number of catastrophic total losses of bulk carriers, including tragic loss of lives, and near misses due to liquefaction of certain bulk cargoes with excessive and/or unduly high moisture content, several maritime organisations, IUMI included, have taken an active position in the development of a more efficient regulation through the IMO.

MSC adopted in June 2015 an individual schedule for iron ore fines and amended appendix 2 of the IMSBC Code for the inclusion of “Modified Proctor/Fagerberg test procedure for iron ore fines”; intended to determine the transportable moisture limit (TML) for iron ore fines. A guidance was also adopted along with the amendments.

Member Governments are invited to take into account the voluntary application date of 1 January 2016, pending the mandatory entry into force date of 1 January 2017. Brazil and Australia gave in January 2014 early effect to the new schedule, and all ships flying the Antigua and Barbuda flag are required to comply as of 1 July 2014. Member States, inter-governmental organizations and non-governmental organizations in consultative status with IMO are encouraged to make available to the Organization detailed technical information on incidents or casualties resulting from liquefaction.

Following the tragic sinking of “Bulk Jupiter” with the loss of 18 lives in January 2015, the Bahamas Maritime Authority has concluded through its marine safety investigation that loss of stability through bauxite liquefaction was the most likely cause. IMO’s sub-committee on Carriage of Containers and Cargoes (CCC) agreed in September 2015 to prepare a circular, as an interim measure, containing safety awareness information on the transport of this cargo. Furthermore, a

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<sup>2</sup> Item previously named «Liquefaction» - renamed September 2014

correspondence group was established to evaluate the properties of bauxite and its potential risk of liquefaction, with a view that deliberations would contribute to the amendment of the individual schedule for bauxite. The Correspondence Group shall submit a report to CCC 3 in September 2016.

#### *Relevant authority / organisations and documents*

- **International Maritime Organization (IMO)**
  - MSC 89/7/4: “Measures to improve safe transportation of solid bulk cargo that may liquefy”, submitted by China, 2 March 2011.
  - MSC 89/7/7: “Dangerous goods, solid cargoes and containers”, submitted by INTERCARGO and BIMCO, 22 March 2011.
  - DSC 16/4/95: “Amendments to IMO’s IMSBC Code, including evaluation of properties of Solid Bulk Cargoes”, submitted by INTERCARGO, BIMCO, IGP&I and IUMI, 15 July 2011.
  - MSC90/12/3: Bulk carrier casualties caused by cargo liquefaction, submitted by INTERCARGO, ICS, BIMCO, IGP&I and IUMI, 27 March 2012.
  - DSC 17/WP.5: “Report of the Working Group: Amendment 02-13 to the IMSBC Code and supplements”, 20 September 2012.
  - DSC.1/Circ.66/Rev.1: “Carriage of iron ore fines that may liquefy”, 25 October 2012.
  - MSC.1/Circ. 1452 on early implementation of amendment 02-13 to the IMSBC Code, approved by MSC 92.
  - MSC.1/Circ. 1453 containing the Guidelines for the submission of information and completion of the format for the properties of cargoes not listed in the IMBSC Code and their conditions of carriage in the IMBSC Code, approved by MSC 92.
  - MSC93/17 “Implementation of the IMSBC Code”, submitted by INTERCARGO and IACS, 17 October 2013.
  - DSC.1/Circ.71 “Early implementation of draft amendments to the IMBSC Code related to the carriage and testing of iron ore fines”, 15 November 2013.
  - MSC.1/Circ. 1454/Rev. 1 containing the Guidelines for developing and approving procedures for sampling, testing and controlling the moisture content for solid bulk cargoes that may liquefy, approved by MSC 95, June 2015.
  - CCC 2/5/16: “Safe transport of bauxite in bulk”, submitted by Bahamas, 7 July 2015.
  - CCC 2/5/21: “Evaluation of properties of solid bulk cargoes, transport of bauxite”, submitted by Australia, Brazil, China, Malaysia, the Marshall Islands and BIMCO, 10 July 2015.
  - CCC 2/5/22: “Correspondence Group on the evaluation of properties of bauxite”, submitted by Australia, Brazil, China, Malaysia, the Marshall Islands and BIMCO, 10 July 2015.
- **Lloyd’s Register in conjunction with Intercargo and UK P&I Club**: IMSBC Code pocket guide, 13 May 2014.
- **DNV GL**: Guideline on Bulk Cargo Liquefaction, 21 October 2015.

#### *Timeline / important dates*

- Schedule in effect in Australia and Brazil from January 2014.
- Schedule in effect for Antigua and Barbuda flagged vessels from 1 July 2014.
- MSC 95: 3-12 June 2015.

- CCC 2: 14-18 September 2015.
- MSC 96: 11-20 May 2016.
- CCC 3: 5-9 September 2016.
- Expected date of entry into force for IMSBC amendments (03-13) regarding the individual schedule for iron ore and the new test procedure for iron ore fines: 1 January 2017.  
Voluntary application date 1 January 2016.

*IUMI will:*

- Support industry initiatives as appropriate for a more efficient regulation.
- Monitor and inform the membership in consultation with INTERCARGO, ICS, BIMCO & IGP&I.

### 13) Container ship safety

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*Brief description*

The increasing size of container ships and recent incidents contribute to the high awareness and importance placed by insurers on several issues related to the safety of these ships. Also based on ongoing IMO discussions, the following issues are currently targeted by IUMI:

- Container weight and contents
- Packing of cargo transport units
- Flexitanks
- Construction / structural safety

Container weight & contents

The weight and contents of a container have to be known if it is to be transported safely, and misdeclaration of a container's weight and its contents is a recurring safety problem. This applies equally to road, rail, and brown and blue water transport.

It is reported that approximately 20% of containers in transportation are misdeclared and/or overweight. Due to the increasing growth of international trade, the number of containers stacked on top of each other is continually growing. When loaded, overweight containers can cause injury to dock workers and damage containers stored underneath during transportation. Containers that are misdeclared can cause equipment or chassis damage when it reaches the port. Due to incorrect stowage, when the container is believed to be a different weight, an overweight container can alter the balance of the vessel and impair the vessel's stability.

Following deliberations, the IMO agreed in 2014 on a compromise solution allowing two methods to verify the containers' weights: Weighing the boxes before they are loaded or calculating overall weight through addition of the weights of the constituent parts of a loaded container. The SOLAS amendments were adopted by MSC 94 in November 2014, and will take effect on 1 July 2016. Guidelines regarding the verified gross mass of a container carrying cargo were circulated to Member Governments in June 2014. Industry organisations have developed guidance for the implementation of the new regulation. While welcoming this new requirement, IUMI remains concerned that with

the compromise solution misdeclaration may still occur. Consequently, the application of the new SOLAS amendment should be carefully monitored and new action taken if necessary.

The U.S. Congress passed a statute in 2007 that required 100% scanning of US-bound containers by 2012. The deadline has been extended twice, and the current deadline is now 2016.

In 2014, the U.S. Coast Guard inspected 22,797 containers carrying dangerous goods, and the National Cargo Bureau inspected 25,358 units. 8 % were found with deficiencies, of which placarding and marking composed the main category.

#### CTU Code

The International Maritime Organization (IMO), the International Labour Organization (ILO) and the United Nations Economic Commission for Europe (UNECE) jointly developed the non-mandatory Code of Practice for Packing of Cargo Transport Units (CTU Code).

Within the CTU Code, comprehensive information and references on all aspects of loading and securing of cargo in containers and other intermodal transport are provided, taking account of the requirements of all sea and land transport modes. The intention is to assist the industry, employers' and workers' organizations as well as Governments in ensuring the safe stowage of cargo in containers. According to the IMO, the CTU Code "could also be used as a reference base for national regulations and could become a model for internationally harmonized legislation in this field, should such requirements arise". IUMI is in favour of such a development.

#### Structural safety

Following the losses of "*Napoli*" and "*MOL Comfort*", the use of high tensile steel and structural damages has become another concern for insurers related to the safety of container vessels. Several reviews were undertaken due to the "*MOL Comfort*" loss:

- Two months after the "*MOL Comfort*" casualty, in August 2013, Japan's Ministry of Land, Infrastructure, Transport and Tourism established the Committee on Large Container Ship Safety to ensure the safety of large container vessels. The Committee delivered its final report in March 2015, recommending that classification requirements for large container ship structural strength should be amended. IACS will carefully examine this report.
- A ClassNK investigation report on structural safety of large container ships was released in September 2014. The report suggests that the casualty could be due to a ship-specific issue related to the lateral load and compressive stress by vertical bending.
- IACS launched at the beginning of 2014 an expert group on structural safety of container ships, which carried out a post "*MOL Comfort*" review. This work resulted in the development of two new IACS Unified Requirements (URs):
  - UR S11A – longitudinal strength standard for containers hips.
  - URS 34 – functional requirements for direct analysis by Finite Element Method of container ships, including a set of loading conditions.

#### Firefighting system on container vessels

It is noted that insufficient firefighting capacity on board large container vessels poses a challenge

that is only increasing with larger vessels. Liner ships transport approximately 60 percent of the value of seaborne trade or more than 33 percent of the volume<sup>3</sup>, and these figures are still increasing.

Based on a 2008 impact assessment, the MSC approved in June 2013 new requirements for fire protection of on-deck cargo areas. The amended SOLAS regulation II-2/10 requirements will only apply to new ships constructed on or after 1 January 2016. In addition to all other fire protection arrangements as per existing regulations, ships designed to carry five or more tiers of containers on or above the weather deck shall from then on also be provided with mobile water monitors and at least one water mist lance. While supported by IUMI, this compromise solution is insufficient, and will only be mandatory for new vessels. Hence, further improvements are necessary to combat container fires on existing vessels.

#### **Relevant authority / organisations and documents**

- **IMO - Maritime Safety Committee (MSC) and Sub-Committees on Dangerous Goods, Solid Cargoes and Containers (DSC), Sub-Committee on Fire Protection (FP) & on Carriage of Cargoes and Containers (CCC)**
  - DSC 17/WP.3: Report of the Working Group on Container Safety, submitted 20 September 2012, including draft amendment to SOLAS Regulation VI/2.
  - FP 56/23 Annex 4 & 5: Report to the MSC, including recommendations on Suppression of fire and Guidelines for mobile water monitors, 31 January 2013.
  - MSC 92/8/2: Draft IMO Guidelines for the design, performance, testing and approval of mobile water monitors used for the protection of on-deck cargo areas designed to carry 5 or more tiers of containers on or above the weather deck, submitted by Denmark and Norway, 23 April 2013.
  - CCC1/INF.2: Investigation on the fire and explosion on board the MSC Flaminia, submitted by Germany, 3 June 2014.
  - MSC.1/Circ. 1475: Guidelines regarding the verified gross mass of a container carrying cargo, 9 June 2014.
  - MSC94/INF.9: Industry concerns regarding the verified gross mass of containers, submitted by ITF and Nautical Institute, 12 September 2014.
  - MSC.1/Circ. 1497: IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units (CTU Code), 16 December 2014.
  - MSC.1/Circ. 1498: Informative material related to the CTU Code, 16 December 2014.
- **IUMI:**
  - Loss Prevention workshop London, 18 September 2013, Presentation of possible firefighting solution by Uwe-Peter Schieder, GDV.
- **Committee on large Container Ship Safety** (Japan): Interim Report “*MOL Comfort*”, 17 December 2013 – Final Report March 2015.
- **ClassNK** Investigation Report on Structural Safety of Large Container Ships, 30 September 2014.
- **European Chemical Industry Council (CEFIC), European Association for Forwarding Transport, Logistics and Customs Services (CLEAT), the European Shippers’ Council (ESC) & the Global Shippers’ Forum (GSF)**: Industry guidance for the implementation of SOLAS

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<sup>3</sup> Source: World Shipping Council

chapter VI, regulation 2 and the associated IMO Guidelines regarding verified gross mass of a container carrying cargo, April 2015.

- **IACS**, Sub-working group on structural safety of large container ships: Unified Requirements that set out minimum scope for hull girder strength analysis; UR S11A and UR S34, adopted 1 June 2015.
- **World Shipping Council**: Guidelines for improving safety and implementing the SOLAS container weight verification requirements, 1 July 2015.

#### *Timeline / important dates & decisions*

- **CTU Code:**
  - Revision process 2011-2013 by group of experts.
  - Endorsed by
    - the Inland Transport Committee of the UNECE, at its seventy-sixth session, 25 to 27 February 2014,
    - the IMO Maritime Safety Committee, at its ninety-third session, 14 to 23 May 2014, and
    - the Governing Body of ILO, at its 322nd session, 30 October to 13 November 2014.
- Loss Prevention workshop, IUMI conference, Hong Kong, 24 September 2014.
- MSC 94: 17-21 November 2014.
- IACS Council 11 December 2014: Firefighting mentioned by several industry stakeholders and further measures considered.
- Final report Committee on large Container Ship Safety (Japan): March 2015.
- 100% scanning of all US-bound containers by 2016.
- Entry into force of amended FSS Code & SOLAS regulation II-2/10: 1 January 2016.
- SOLAS requirements regarding verified gross mass of a container carrying cargo (SOLAS regulation VI/2) expected to enter into force 1 July 2016.

#### *IUMI will:*

- Support measures that improve the monitoring of containers and their weight/contents.
- Support internationally harmonized legislation and national regulations based on the CTU Code.
- Support the approved SOLAS amendments concerning container weight verification, although primarily favoring mandatory weighing of all boxes prior to loading over the compromise solution.
- Monitor and support measures to ensure the structural safety of large container ships.
- Consider further action to install necessary firefighting measures in discussions with other interested parties and class in particular.

## C. MONITOR & INFORM:

### 14) EC Offshore Safety Regulation

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#### *Brief description*

The EC proposed in October 2011 a Regulation on the safety of offshore oil and gas prospecting, exploration and production activities aiming amongst others to extend the scope of the Environmental Liability Directive (ELD) to include “all waters under the jurisdiction of the Member States” and mandating financial security. A study was commissioned on *liability security schemes for offshore environmental risks*, drafted by the University of Maastricht.

Joint industry efforts have been made to prevent some of the more controversial suggestions of the Regulation and explain the practical implications – and impracticability – of extending the ELD due to:

- most likely an inability to quantify the damages in a longer term, and
- scale of potential loss and selectivity by insurers.

In October 2012, the Industry, Research and Energy Committee (ITRE) of the European Parliament voted in favour of transforming the proposal from a Regulation to a Directive. The Directive was formally adopted in June 2013.

Article 4 of the new Directive states that evidence of provisions to cover potential liabilities shall be included in the application for a licence.

With reference to financial security, the Directive states that:

*“(63) Operators should ensure they have access to sufficient physical, human and financial resources to prevent major accidents and limit the consequences of such accidents. However, as no existing financial security instruments, including risk pooling arrangements, can accommodate all possible consequences of major accidents, the Commission should undertake further analysis and studies of the appropriate measures to ensure an adequately robust liability regime for damages relating to offshore oil and gas operations, requirements on financial capacity including availability of appropriated financial security instruments or other arrangements. This may include an examination of the feasibility of a mutual compensation scheme. The Commission should submit a report to the European Parliament and to the Council on its findings, accompanied if appropriate, by proposals.”*

Following up on these requests, two studies have been completed on civil liability, financial security and compensation claims for offshore oil and gas activities. The reports were published by the Commission in October 2013 and August 2014. IUMI was consulted as part of these studies, explaining the practical implications, limitations and how the market functions from an offshore energy insurance perspective.

A report on the Commission’s assessment of the effectiveness of the liability regimes in the EU in respect of the damage caused by offshore oil and gas operations was submitted in September 2015. The report concludes that a broadening of liability provisions through EU legislation does not appear

appropriate at this juncture. In the event new national laws fail to improve the availability of financial security instruments and put in place procedures for ensuring prompt and adequate handling of compensation claims, the Commission informs that it will reassess whether and what further EU action could achieve these objectives.

#### *Relevant authority / organisations and documents*

- **European Commission**
  - Proposed EC Regulation 27 October 2011.
  - University of Maastricht – Civil liability, financial security and compensation claims for offshore oil and gas activities, 22 October 2013.
  - BioIS study – Civil liability, financial security and compensation claims for offshore oil and gas activities in the EEA, 14 August 2014.
  - COM(2015) 422 final – Report from the EC to the EP and Council on liability, compensation and financial security for offshore oil and gas operations pursuant to Article 39 of Directive 2013/30/EU, 14 September 2015.
- **European Parliament** – Environment, Public Health and Food Safety Committee (ENVI) & Industry, Research and Energy Committee (ITRE).
  - Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC.
- **Position papers – industry:**
  - Insurance Europe: 2012.
  - Norwegian maritime/oil & gas industries: 30 January 2012.
  - UK maritime industry: 18 April 2012.
  - IUMI: 24 September 2012.
  - ECSA comments to EC study on civil liability for offshore and gas activities, 2 October 2014

#### *Timeline / important dates*

- Directive 2013/30/EU shall apply through national laws/regulations by 19 July 2016 for new installations, and no later than 19 July 2018 for existing.

#### *IUMI will:*

- Monitor and comment on Commission report as appropriate.

## **15) Sanctions**

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### *Brief description*

International sanctions as a tool for countries to take action against others for political reasons influence the global maritime industry on a daily basis.

While sanctions are nothing new, recent developments have demonstrated the need for marine insurers to keep up to date with new sanction regimes and how to comply with them.

Several markets have issued optional sanctions clauses to comply with these new regimes. In addition, proper due diligence is recommended from individual insurers.

### Iran

Council Regulation (EU) No 1263/2012 of 21 December 2012, amending Regulation (EU) No 267/2012, provides for additional restrictive measures against Iran. This includes a ban on providing, directly or indirectly, insurance and reinsurance in respect of transport of natural gas originating in Iran into the Union.

*The Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRA)* tightens up on previously legitimate trades to Iran, as it is thought that any US connection would be enough to invalidate most business. There are also additional sanction provisions contained in the National Defense Authorization Act for Fiscal Year 2013 (“NDAA 2013”). These sanctions are not restricted to “US persons”, but are designed to have extraterritorial effect. Additionally, NDAA 2013 provides for sanctions with respect to any person who “knowingly” provides underwriting services, insurance or reinsurance for any activity that gives rise to sanctions.

*The Iran Freedom and Counter-Proliferation Act of 2012 (IFCA)* was signed into US law on 2 January 2012. Effective as of 1 July 2013, the IFCA will impose a number of sanctions that will directly affect also non-US shipowners/operators that call on Iran, including a ban on providing insurance or reinsurance on these activities. In particular, the IFCA targets the Iranian energy, shipbuilding, shipping, and ports sectors, requiring the President to block all Iranian entities in these sectors.

As of 20 January, the US and the EU have provided for a *temporary suspension of sanctions on Iran* petrochemical exports, including insurance and other associated services. The sanctions relief follows up the agreement reached between China, France, Germany, the Russian Federation, the United Kingdom and the U.S. (P5), supported by the High Representative of the European Union for Foreign Affairs and Security Policy (+1), and Iran on 24 November 2013. In return for Iran halting the progress of its nuclear program, the six partners + EU would commit to provide Iran with a limited, targeted, and reversible sanctions relief for a six-month period. The suspension has since been extended; last on 14 July 2015 until further notice. However, with the continuing restrictions and caveats, the marginal relief remains largely unworkable from an insurer standpoint.

The suspension of sanctions does not reinstate, or make permissible, the transport and related insurance activities of oil and petroleum cargoes that are not destined for the US National Defence Authorization Act (NDAA) waived countries. The NDAA countries are currently: China, India, Japan, Republic of Korea, Taiwan and Turkey.

Additionally, on 2 February 2014 OFAC published a list of foreign individuals and entities determined to have violated, attempted to violate, conspired to violate, or caused a violation of US sanctions on Syria or Iran. It also lists foreign persons who have facilitated deceptive transactions for or on behalf of persons subject to US sanctions. Collectively, such individuals and companies are called “Foreign Sanctions Evaders” or “FSEs.” Transactions by US persons or within the United States involving FSEs are prohibited.

On 14 July 2015, the P5 + 1 and Iran reached a Joint Comprehensive Plan of Action (JCPOA) to ensure that Iran’s nuclear program will be exclusively peaceful. Beginning on Adoption Day, which was 18

October 2015, JCPOA participants started taking the steps necessary to implement their JCPOA commitments. Upon verification that Iran has taken the nuclear related measures set forth in the JCPOA, the United States and European Union will provide Iran with phased sanctions relief. Until further notice, all sanctions remain in effect.

### Cuba

Cuba presents the marine insurance industry with a unique problem in that the United States stands as the only country which currently targets Cuba with a comprehensive sanctions program. The position is further complicated as in 1996 the EU adopted its own legislation which required that all EU persons were not to give effect to the US legislation.

Despite the restoration of full diplomatic ties between the U.S. and Cuba for the first time in more than fifty years, it is unlikely that there will be full repeal of the economic embargo. However, there are updated regulations liberalizing trade between the U.S. and Cuba, including a new general license authorizing foreign vessels to enter the United States after engaging in certain trade in Cuba, removing the previous 180-day restriction for ships leaving Cuba.

### Russia-Ukraine

Due to the crisis in Ukraine, both the U.S. and the EU have announced sanctions targeting individuals and entities in Russia. Several additions have been made since March 2014 when the EU and US first imposed travel bans and asset freezes on several officials from Russia and Ukraine after Crimea's referendum to join Russia.

Following the downing of Malaysian Airlines Flight MH17 in Donetsk with the tragic loss of so many lives, both the US and EU announced on 29 July 2014 new restrictive measures against Russia:

OFAC imposed prohibitions on three Russian financial institutions and one state-owned defense technology firm (United Shipbuilding Corporation). These new targets come in addition to the restrictive measures on "US-Person" dealings in new debt or new equity of two Russian banks (Gazprombank OAO and VEB) and in new debt of two Russian energy companies (OAO Novatek and Rosneft) that were announced on 16 July.

The EU agreed on a package that will "limit access to EU capital markets for Russian State-owned financial institutions, impose an embargo on trade in arms, establish an export ban for dual use goods for military end users, and curtail Russian access to sensitive technologies particularly in the field of the oil sector".

As of 15 July, all Crimean ports have been officially closed. The Ukrainian Government informed of this closure and the situation in their territorial sea and exclusive economic zone in the Black Sea and Sea of Azov and the Kerch Strait in a communication to the IMO on 21 July 2014.

On 19 December 2014, the US President imposed comprehensive sanctions against the Crimean peninsula. All US persons are prohibited from any and all direct and indirect dealings involving the Crimean peninsula, its residents, businesses, goods, towns, or ports.

Through a Council decision 18 December 2014, the European Union made similar amendments to further restrict investment in Crimea and Sevastopol. All services in the sectors of transport, oil and gas and maritime shall be prohibited in the area.

### Relevant authority / organisations and documents

- **IMO**
  - Circular letter No.3477: Communication from the Government of Ukraine, 12 July 2014.
- **US – OFAC**
  - CISADA – The Comprehensive Iran Sanctions, Accountability, and Divestment Act, 1 July 2010.
  - ITRA - Iran Threat Reduction and Syria Human Rights Act of 2012, 1 August 2012.
  - National Defense Authorization Act for Fiscal Year 2013 (“NDAA 2013”).
  - IFCA – The Iran Freedom and Counter-Proliferation Act of 2012, 2 January 2012.
  - 31 CFR Part 515 – Cuban Assets Control Regulation.
  - Guidance to temporary sanctions relief, 20 January 2014 & 25 November 2014: [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/guidance\\_ext\\_11252004.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/guidance_ext_11252004.pdf)
  - Presidential Executive Order 13685: Blocking property of certain persons and prohibiting certain transactions with respect to the Crimea Region of Ukraine, 19 December 2014.
  - <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>
  - Ukraine-related sanctions: <http://www.treasury.gov/resource-center/sanctions/programs/pages/ukraine.aspx>
  - FAQs: [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa\\_ext\\_faq\\_11252014.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_ext_faq_11252014.pdf)
  - Cuban Assets Control Regulations, Federal Register Vol. 80, No. 11, 16 January 2015.
- **EU**
  - EU Council decision 35/2012 concerning restrictive measures against Iran, 23 January 2012.
  - EU Council Regulation no. 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation no 961/2010.
  - EU Council Regulation no. 1263/2012 of 21 December 2012 amending Regulation no. 267/2012 concerning restrictive measures against Iran.
  - EU Council Regulation 2013/0452 of 20 January 2014 giving limited sanctions relief.
  - EU Council Regulation 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine.
  - [http://eeas.europa.eu/cfsp/sanctions/index\\_en.htm](http://eeas.europa.eu/cfsp/sanctions/index_en.htm)
  - <https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>
  - <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>
  - EU Council Regulation 692/2014 of 23 June 2014 and 825/2014 of 30 July 2014 concerning restrictions on the import into the Union of goods originating in Crimea and Sevastopol.
  - Background note Ukraine sanctions, 29 July 2014.
  - Council conclusions on Ukraine, 22 July 2014 & Statement on the agreed additional restrictive measures against Russia, 29 July 2014.

- Council decision 2014/829/CFSP amending Decision 2010/413/CFSP concerning restrictive measures against Iran: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2014\\_338\\_R\\_0001&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_338_R_0001&from=EN)
- Council decision 2014/933/CFSP concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol, 18 December 2014.
- **Joint Plan of Action – Iran:** [http://eeas.europa.eu/statements/docs/2013/131124\\_03\\_en.pdf](http://eeas.europa.eu/statements/docs/2013/131124_03_en.pdf)
- **Joint Comprehensive Plan of Action (JCPOA) – Iran,** 14 July 2015.
- IUMI Eye article by Dieter Schwampe: LMA 3100 Sanctions Clause inconsistent with German law, December 2014.

#### *Timeline / Important dates*

- New EU Sanctions regime vs. Iran in effect as of 1 July 2012. Amendments came into force on 22 December 2012.
- New US Sanctions regime vs. Iran and Syria signed into law 1 August 2012.
- IFCA – The Iran Freedom and Counter-Proliferation Act of 2012 came into force as of 1 July 2013.
- IUMI conference London, 15-18 September 2013, presenting updates on sanctions currently in force.
- Temporary Iran sanctions relief extended 14 July 2015 until further notice.

#### *IUMI will:*

- Monitor and inform its membership of any new developments; especially concerning Iran and Syria, the situation in Ukraine, and measures directed towards the (marine) insurance industry.

## **16) Ballast water**

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### *Brief description*

#### BWM Convention

The 2004 Ballast Water Management (BWM) Convention is expected to soon enter into force.

Very few of the type-approved ballast water management systems have been fitted, and there is a concern insurers will have to pay for failed new and relatively complex technologies without a proven track record. As an example, the majority of the current type-approved ballast water treatment technologies make use of Active Substances. These substances may, depending on the substance, concentration, variation of operating conditions and exposure duration, have an adverse effect on ballast tank coatings, ballast piping system, and anodes within the tank.

Concerns have also been raised concerning the *Guidelines for approval of ballast water management systems (G8)*, which are not sufficient to ensure that a given system will work in compliance with the discharge standard once installed on board and operated in the actual maritime environment (ref. MEPC 64/2/18). MEPC 65 approved in May 2013 BMW related guidance, including Guidance

concerning ballast water sampling and analysis for trial use and a BMW Circular on clarification of “major conversion”.

Many Flag State Administrations have expressed serious concerns as to the costs and/or benefits of these newly-available unproven technologies, which are relatively untested and subject to scientific doubts. The difficulties of drafting and implementing a global marine environment convention in advance of readily available scientific evidence and considered support is much commented on in MEPC.

Due to the many industry concerns, MEPC 66 requested the Secretariat to explore the possibility of conducting a study on the implementation of the ballast water performance standard described in regulation D-2 of the BWM Convention. Draft plan and terms of reference will be considered by MEPC 67 in October 2014.

ICS, co-sponsored by IUMI and several other industry associations, presented their main concerns in a paper to MEPC 67 in July 2014: the lack of robustness of the current guidelines for approval of ballast water management systems (G8), the criteria to be used for sampling and analysis of ballast water during Port State control inspections and the subsequent actions that may be taken should any minor deviation be indicated. The document proposes a draft MEPC resolution which, if adopted, will deliver the necessary assurances to allow stakeholders to move forward with confidence in the Convention. MEPC 67 resolved to start immediate work on a revision of the G8 type-approval guidelines through a correspondence group reporting to MEPC 68 in May 2015. The committee also agreed that owners that has invested in first generation treatment system should not be penalized if the equipment is operated and maintained correctly. Furthermore, new Port state control guidelines were adopted to reflect a fair and pragmatic approach to inspection.

#### U.S. ballast water discharge standards

The U.S. Coast Guard Ballast Water Discharge Rule creates compliance requirements for Vessels sailing in U.S. Waters by requiring the use of an approved ballast water management method. Under certain circumstances, the Coast Guard will grant vessel operators an extension to comply with the requirements.

The U.S. Environmental Protection Agency (EPA) also regulates ballast water discharges under the Vessel General Permit (2013 VGP) program, which regulates all discharges from commercial vessels greater than 79 feet in length and with respect to ballast water discharges all commercial vessels. The Ballast water standards under the Coast Guard and EPA standards are similar but not identical, and there are also multiple U.S. state law requirements. The EPA ballast water treatment standards will be reassessed prior to 2018, which may result in even stricter standards. There is currently legislation pending in the U.S. Senate to establish a single federal framework for the regulation of ballast water and other vessel discharges.

The U.S. ballast water discharge standards are consistent with those contained in the International Maritime Organization’s 2004 Ballast Water Convention.

### *Relevant authority / organisations and documents*

- **IMO – Marine Environment Protection Committee:**
  - The International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM Convention).
  - MEPC 64/2/18: Challenges to effective implementation of the BWM Convention, submitted by Liberia, the Marshall Islands, Panama, BIMCO, INTERTANKO, CLIA, INTERCARGO, InterManager, IPTA, NACE and WSC, 27 July 2012.
  - MEPC67/2/6: Measures to be taken to facilitate entry into force of the International Convention for the Control and management of Ships' Ballast Water and Sediments, submitted by ICS, IUMI, BIMCO, INTERTANKO, CLIA, INTERCARGO, InterManager, IPTA, IMCA, INTERFERRY, ITF, the Nautical Institute and WSC, 11 July 2014.
  - MEPC67/2/5: Proposed plan for a study on the implementation of the ballast water performance standard described in regulation D-2 of the BWM Convention, submitted by the Secretariat, 11 July 2014.
  - MEPC67/2/11: Compromise measures towards a fair, practical and protective BMW Convention implementation, submitted by Canada, 8 August 2014.
  - MEPC67/WP.11: Report of the Ballast Water Review Group, 16 October 2014.
  - MEPC68/2/16: Measures to be taken to facilitate entry into force of the BWM Convention, submitted by ICS, BIMCO, IUMI, CLIA, INTERCARGO, InterManager, IMCA, INTERFERRY, ITF, Nautical institute, 12 March 2015.
- **U.S. Environmental Protection Agency:** 2013 Vessel General Permit.
- **United States Senate:** Senate Bill S. 1611
- **U.S. Coast Guard:** 33 CFR part 151, 46 CFR part 162
- **GloBal TestNet:** Formal group of organizations involved in testing for the certification of BWS. Aims to facilitate increased standardization and harmonization of test procedures and information exchange.

### *Timeline/Important Dates*

- U.S. Coast Guard BWM Regulations into force June 2012; applicable for
  - Newbuilds keel laid after December 2013
  - Existing vessels – first scheduled dry-dock after 2014/16
- MEPC 65, 13 – 17 May 2013: Approved a draft IMO Assembly resolution on the application of regulation B-3 of the BMW Convention to ease and facilitate implementation.
- MEPC 66: 31 March – 4 April 2014.
- MEPC 67: 13-17 October 2014.
- New U.S. Vessel General Permit into force from 19 December 2013, for fishing vessels from 18 December 2014.
- MEPC 68: 11-15 May 2015.
- BWM Convention: Entry into force 12 months after ratification by 30 States, representing not less than 35 per cent of world merchant shipping tonnage. Pending final confirmation, possible entry into force date is from 24 November 2016.
- U.S. EPA ballast water treatment standards to be reassessed prior to 2018.

**IUMI will:**

- Monitor implementation of new U.S. Vessel General Permit and performance of approved technologies.
- Monitor implementation of BWM Convention and performance of approved technologies.

## 17) Maritime Security / Piracy

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**Brief description**

Best Management Practice (BMP) 4, use of private armed security guards, UN and IMO guidelines, national regulations, legality of payment of ransoms, and ISO rules for the use of force are some of the issues still very much on the international maritime security agenda. Due to developments, the Indian Ocean High Risk Area was reduced on 1 December 2015 in an amendment to BMP4.

While the situation created by Somalia based pirates has improved, an escalation of incidents is noted in the Gulf of Guinea.

IUMI has had an active and direct influence on the drafting of the current IMO Guidelines, which have the force of public international law where incorporated by contract or by national law and/or by international maritime custom and practice.

A move from UK and US sources to push underwriters to mandate and / or incentivize BMP is not possible due to; a) the nature of BMP, not being an underwriting document and b) being full of subjectivities and c) European and U.S. competition laws.

**Relevant authority / organisations and documents**

- **International Maritime Organization (IMO)**
  - Global Integrated Shipping Information System (GISIS): Recent reported incidents of piracy & armed robbery: <http://gisis.imo.org>
  - MSC Circular 1405/Rev.2 (as amended): “Revised interim guidance to shipowners, ship operators and ship masters on the use of privately contracted armed security personnel on board ships in the High Risk Area”, released 25 May 2012.
  - MSC 92/INF.14: “International model set of rules for Rules for use of Force” (RuF), submitted by Marshall islands, ICS, ISO and BIMCO, 9 April 2014.  
Also used as input to ISO TC 8.
  - MSC95/WP.8: “Piracy and armed robbery against ships”, revised recommendations to Governments on prevention and suppression of piracy and revised recommendations to Flag states on the use of privately armed security personnel, Report of the working group, 9 June 2015.
  - UK documents to MSC
    - MSC 90/20/4: “UK policy on the use of privately contracted armed security personnel”, 21 February 2012.
    - MSC 90/INF. 12: “The use of privately contracted armed security personnel (PCASP) on board United Kingdom-registered ships in exceptional

- circumstances for the purposes of defending against acts of piracy”, 9 May 2012.
- MSC 90/INF. 13: “Accreditation of private security companies in the maritime domain allowing the deployment of privately contracted armed security personnel onboard United Kingdom-registered ships in exceptional circumstances for the purposes of defending against acts of piracy”, 9 May 2012.
  - MSC93/16/3: ISO PAS 28007 Further development and industry concerns, submitted by the Marshall Islands and BIMCO, 11 March 2014.
  - MSC 94/INF.5: Draft guidelines and standards regarding the use of PCASP on board merchant vessels developed by the United Nations Interregional Crime and Justice Research Institute (UNICRI), submitted by Italy, 15 August 2014.
- **Contact Group on Piracy off the Coast of Somalia (CGPCS)**, formed by 24 States and five regional and international organizations on 14 January 2009. Operates through five working groups:
    - Working Group 1, convened by UK with the support of IMO: addresses activities related to military and operational coordination and information-sharing and the establishment of a regional coordination centre.
    - Working Group 2, convened by Denmark with the support of UNODC: addresses judicial aspects.
    - Working Group 3, convened by the U.S. with the support of IMO: addresses the strengthening of shipping self-awareness and other capabilities.
    - Working Group 4, convened by Egypt: addresses the issue of improving diplomatic and public information.
    - Working Group 5, convened by Italy: addresses illegal financial flows.
  - **International Organization for Standardization (ISO)**  
ISO/PSA 28007:2012 *Ships and marine technology – Guidelines for Private Maritime Security Companies (PMSC) providing privately contracted armed security personnel (PCASP) on board ships (and pro forma contract)* published 14 March 2013.
  - **Best Management Practices (BMP4)**
    - Guidelines for Owners, Operators and Masters for Protection Against Piracy in the Gulf of Guinea Region.
  - **BIMCO’s GUARDCON contract**
    - Special Circular No. 1 – 20 February 2014 on recommended amendments to GUARDCON for use off West Africa.
    - IGP&I GUARDCON West Africa – IG clubs’ version including the recommended amendments in Circular 1, April 2014.
  - **European Union** – Gulf of Guinea strategy, 17 March 2014.
  - **International Maritime Bureau – Piracy Reporting Centre:**  
<https://www.icc-ccs.org/piracy-reporting-centre>
  - **Maritime Trade Information Sharing Centre – Gulf of Guinea (MTISC-GOG):**  
[www.mtisc-gog.org](http://www.mtisc-gog.org).

*Timeline / important dates*

- ISO/PSA 28807:2012: Published 14 March 2013.
- IUMI conference 15-18 September 2013, focusing on the new situation in the Gulf of Guinea.
- NATO mandate extended until 2016.
- BMP4 boundaries of the High Risk Area in the Indian Ocean altered 1 December 2015.
- EU to review naval deployment in the Indian Ocean 2016.

*IUMI will:*

- Continue monitoring and inform IUMI membership of any developments.
- Strongly support implementation of BMP4 and consider amendments and/or more suitably adapted versions for new areas/threats as and when appropriate.
- Recommend Governments to implement IOS PAS 28007 as the sole standard when determining rules for the use of force.
- Endorse guidelines issued by BIMCO and ICS for vessels and crews.
- Strongly recommend Governments not to withdraw current counter-piracy operations through naval task forces and other means of support off the Horn of Africa.