

Admiralty Law & Marine Insurance Update



RVOC 2017



Dennis Nixon, UNOLS Legal Advisor

Outline

- Global Marine Insurance Update
- UNOLS Fleet Insurance Update
- Jones Act and Injuries at Sea
- Public Vessel Act
- Relevant News & Legal Decisions



IUMI



Global marine insurance report

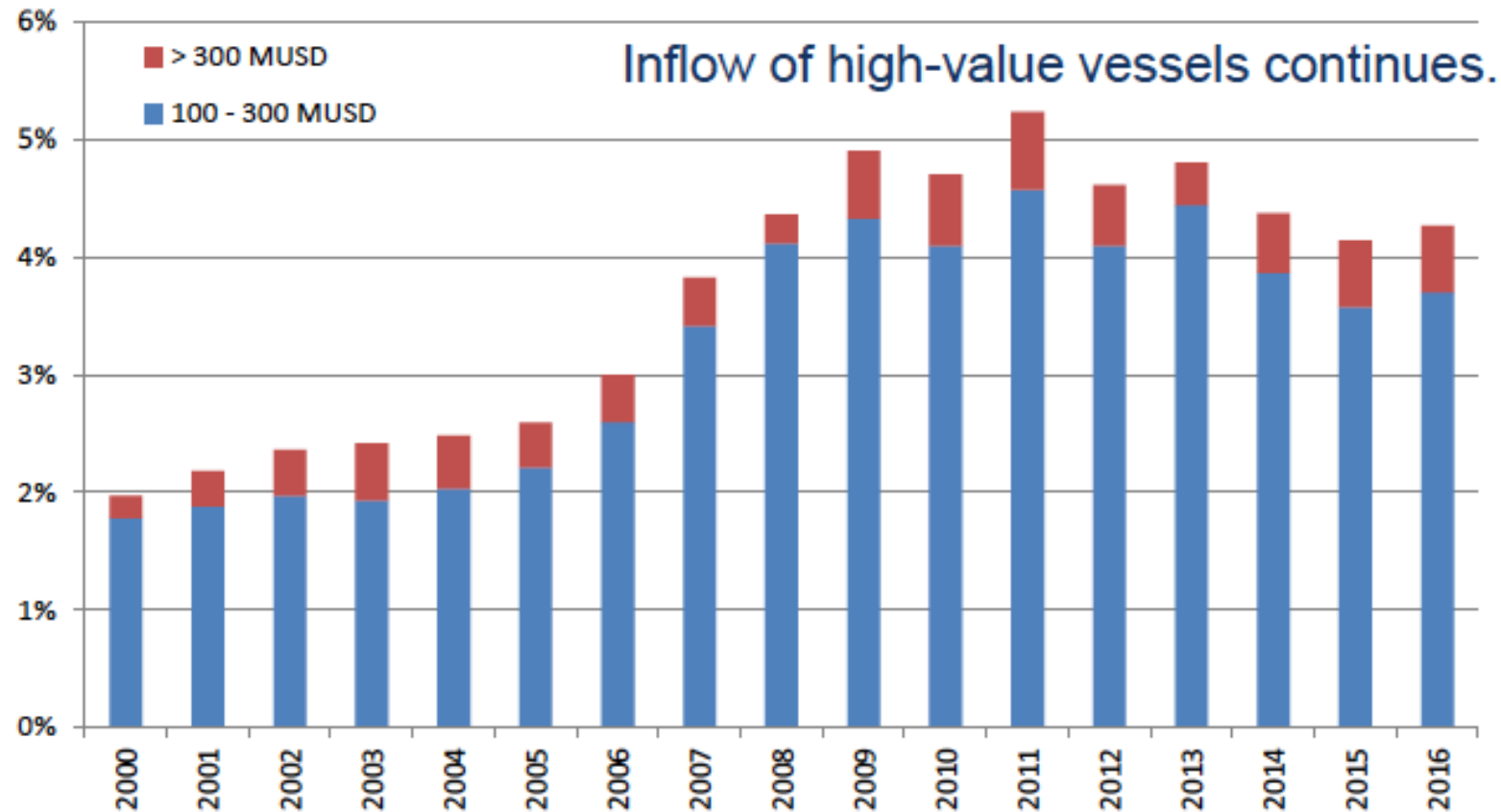
Astrid Seltmann, IUMI F&F vice chairman, Analyst/Actuary @ Cefor, the Nordic Association of Marine Insurers



Genova
18-21 September 2016

THE RISK EXPOSURE

PORTFOLIO SHARE OF SHIPS WITH VALUES XS USD 100 MILLION



Source: Cefor Nordic Marine Insurance Statistics as of June 2016



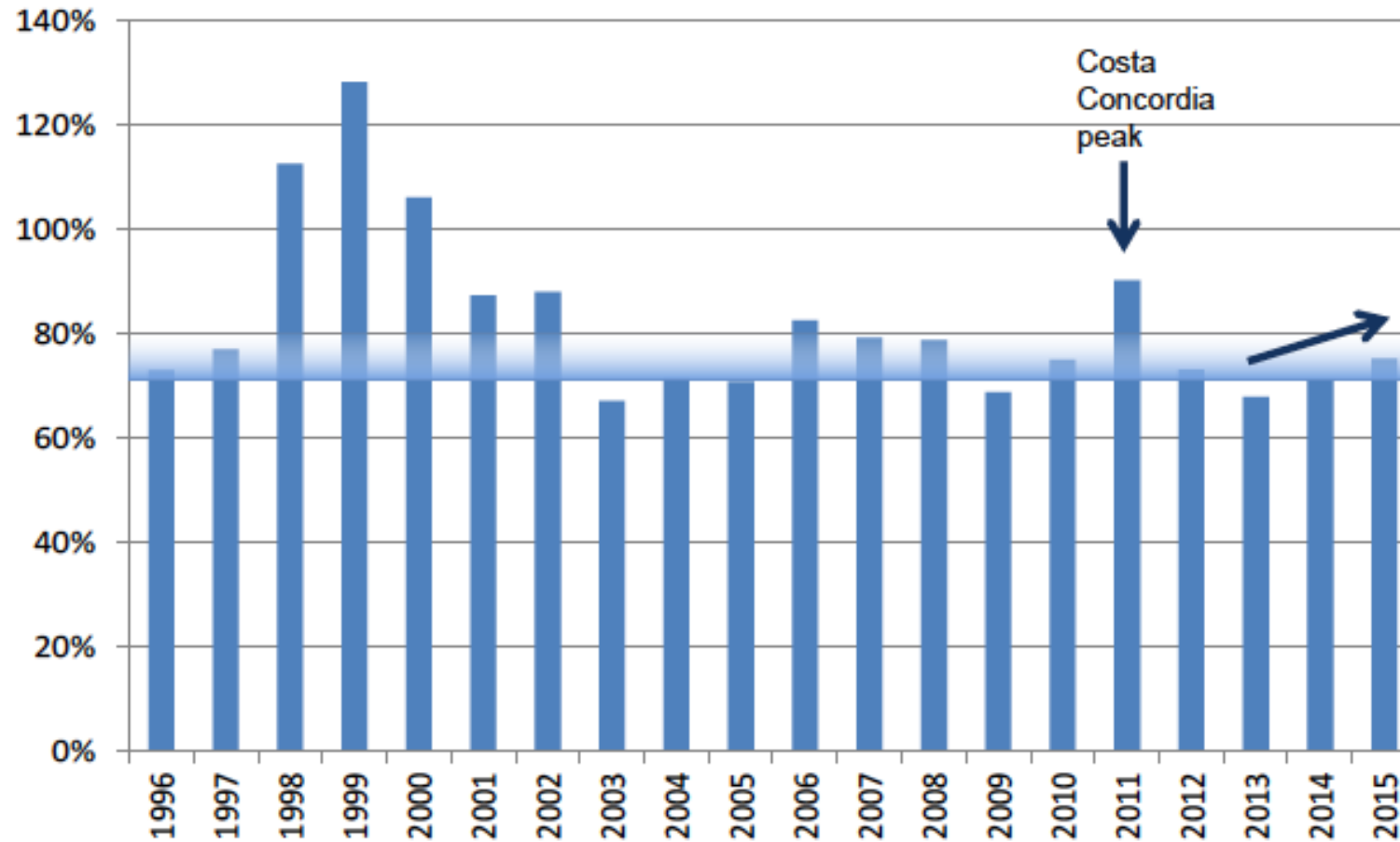
HULL – ULTIMATE LOSS RATIOS*

EUROPE/USA**, UNDERWRITING YEARS 1996 TO 2015



2013/2014 profited by low number of major losses in 2014 – but 2014 deteriorated above average (2015 major losses).

2015: impacted by 2015 major losses and deteriorating premiums.



2015 Hull acquisition cost % as reported by some countries: 12%-18%

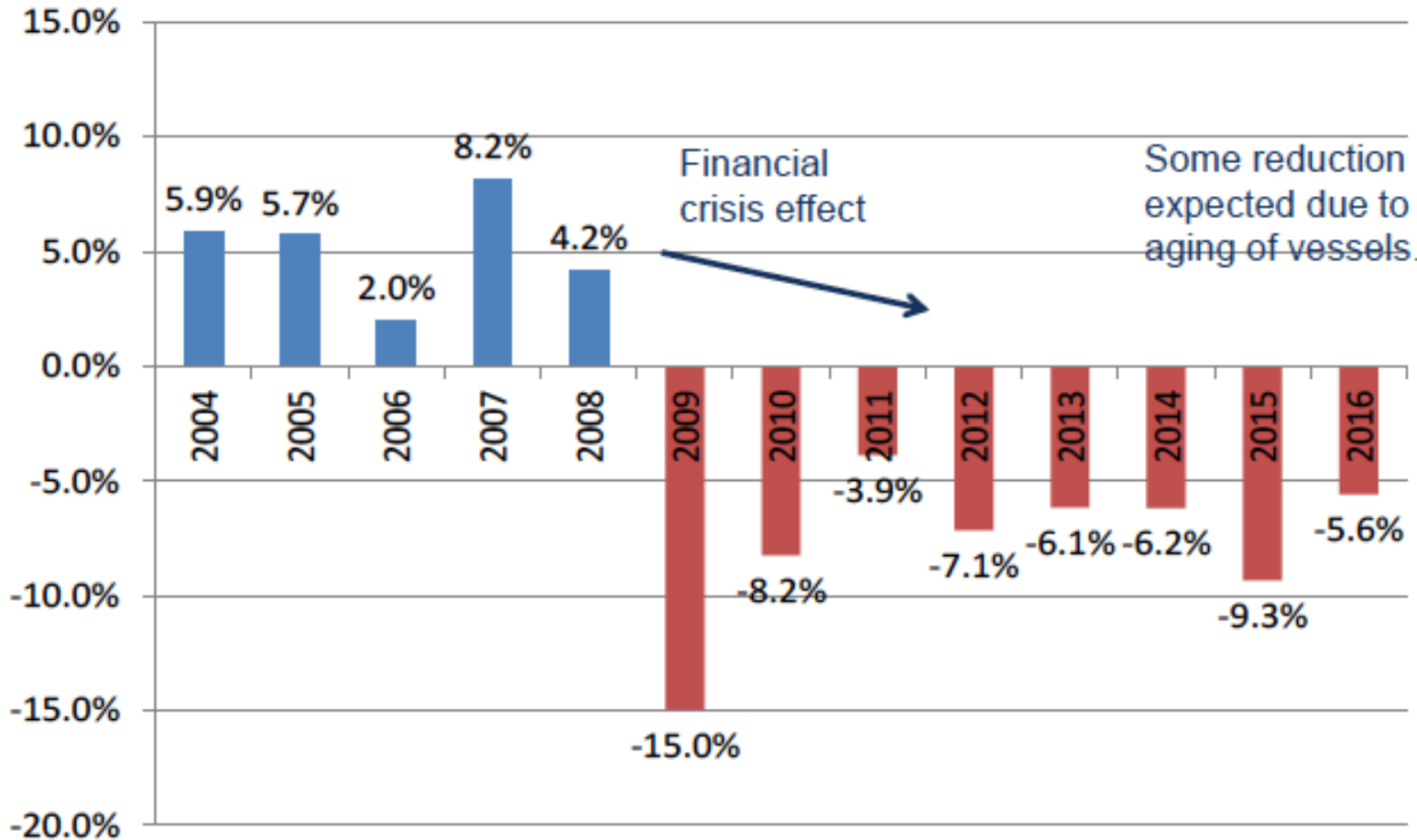


* Technical break even: gross loss ratio does not exceed 100% minus the expense ratio (acquisition cost, capital cost, management expenses)

** Data: Belgium, France, Germany, Italy, Spain (until 2007), UK, USA

CHANGE IN VALUES ON RENEWAL

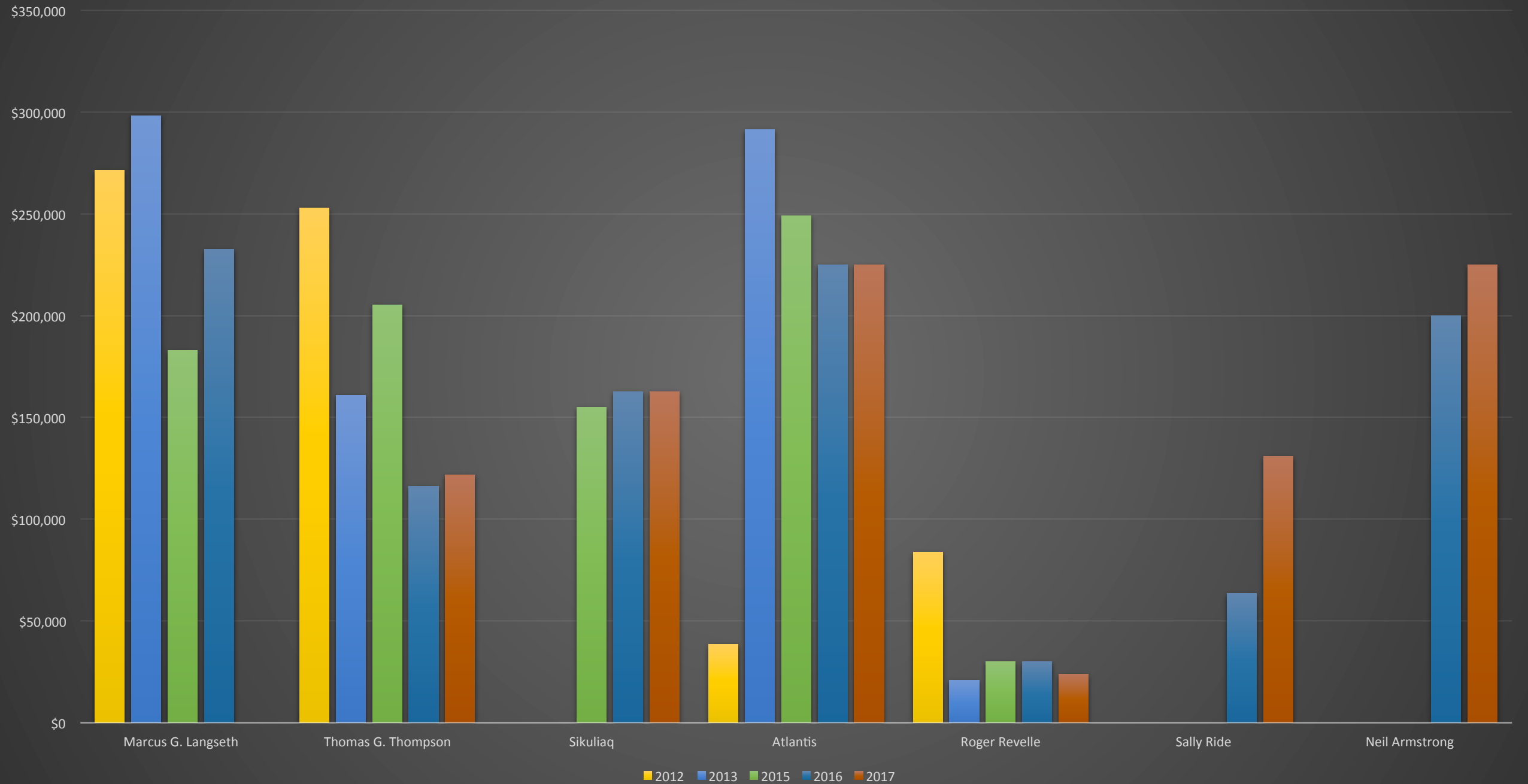
= VALUE ON RENEWAL / VALUE PREVIOUS UW YEAR FOR SAME VESSELS



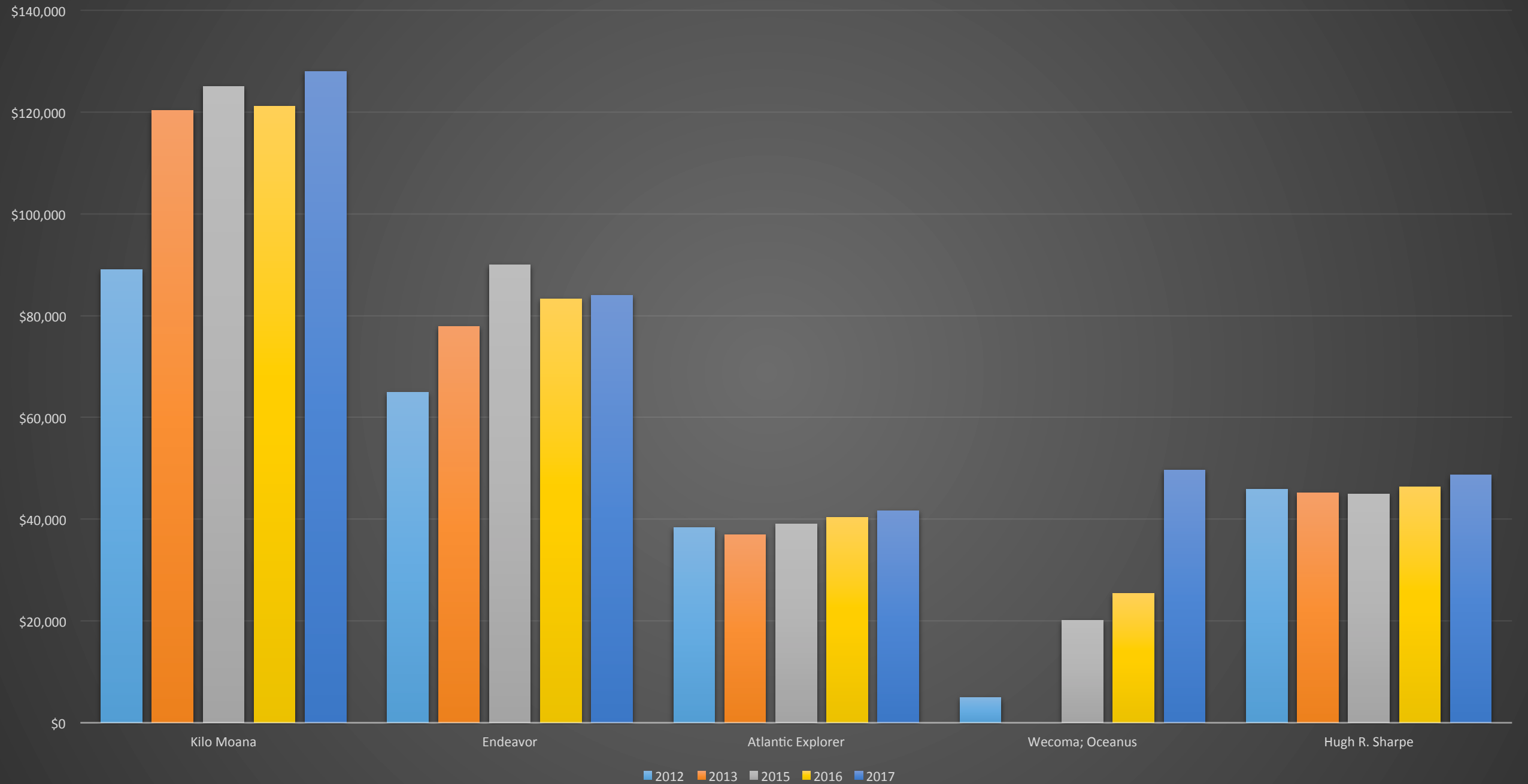
Source: Cefor Nordic Marine Insurance Statistics as of June 2016



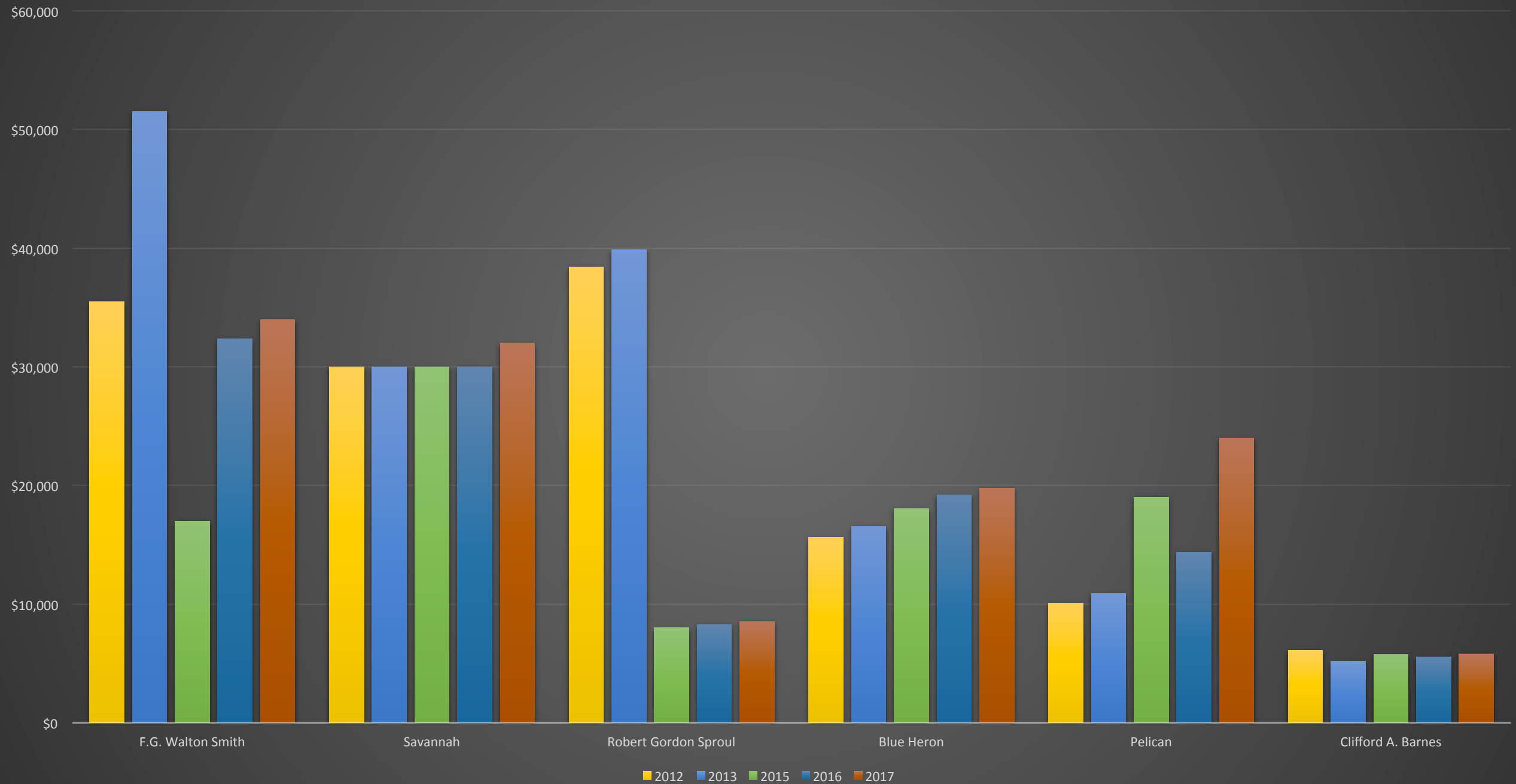
UNOLS Insurance Global/Ocean



UNOLS Insurance Ocean/Intermediate/Regional



UNOLS Insurance Coastal / Local



Jones Act and Injuries at Sea

- Scientists or crew under the ORVA
- Temporal requirement for crew
- Blessed Trinity of seamen's remedies:
 - Maintenance and Cure
 - Jones Act
 - Doctrine of Unseaworthiness



Public Vessel Act

- Limited waiver of sovereign immunity (1925)
- Public vessels not defined in great detail
- Would provide several advantages for UNOLS fleet
- Federal agencies have historically resisted claiming public vessel status because of potential clearance issues
- Perhaps the time to ask the question again to determine costs and benefits of restructuring charter party and cooperative agreements



Recent Maritime Accidents and Sinkings



Aurora Australis Grounded in Antarctica



Aurora Australis

Seaman Falls from Accommodation Ladder



One Dead, Three Injured in Lifeboat Drill



Explosion Kills Cruise Ship Crewmember in Port Chalmers



Captain Found Asleep in Baltimore Cruise Crash



Florida Man Pays \$1M to USCG after False Search



Captain Charged with Drunkenness after Near Miss



22 School Children Rescued from Sinking Chesapeake Bay Education Vessel



Sinking of *El Faro* and the Limited Liability Act



Tour boat Sinking Highlights Problems with Evacuation Regulations



Historic *R/V Hero* Sinks in Washington State



Automated Technology News



Automation and Maritime Accident Concerns



Drone Applications in the Maritime Industry



Proposal for Global Oceanographic ASV Fleet



Rolls Royce: Automated Shipping by 2020



China Returns Seized U.S. Underwater Drone



Vessel News



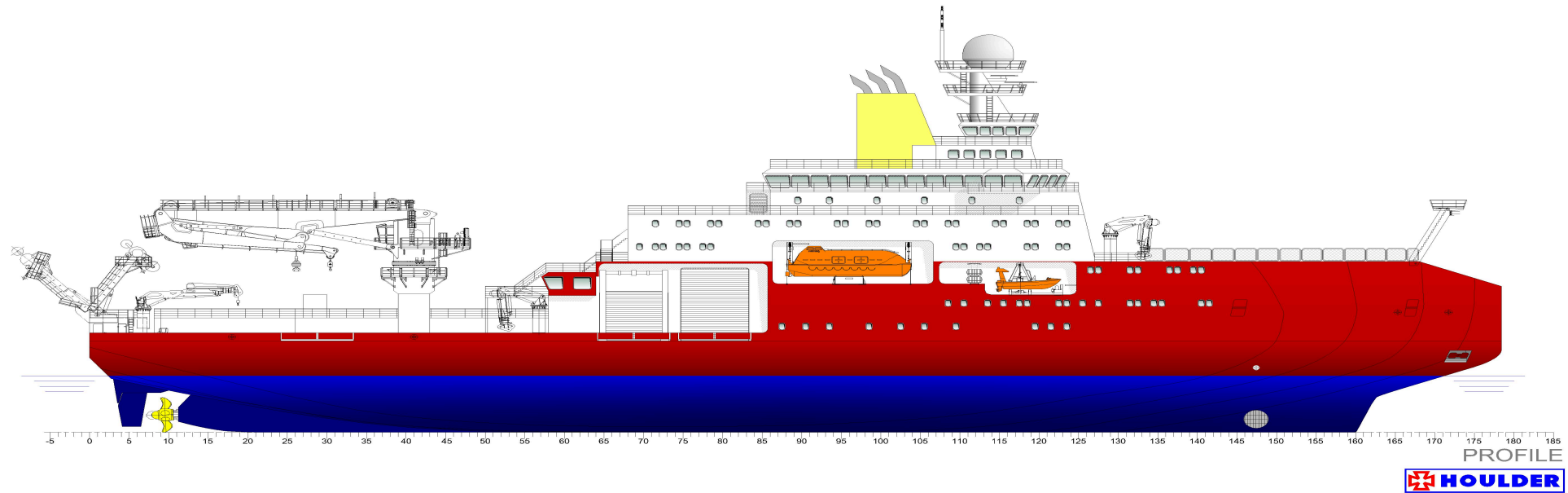
US Navy Transfers *Knorr* to Mexico



New Research Vessel for Bangladesh



China's New Polar Research Vessel under Construction



New Norwegian Research Vessel Sets Sail under UN Flag



New Fisheries Research Vessel Ordered for Germany



Report: Russian Spy Ship off Delaware



Royal Navy Chases Spanish R/V away from Gibraltar



R/V Polarstern Will Drift with Arctic Sea Ice in 2019-20 for Experimental Expedition



Research & Regulation News



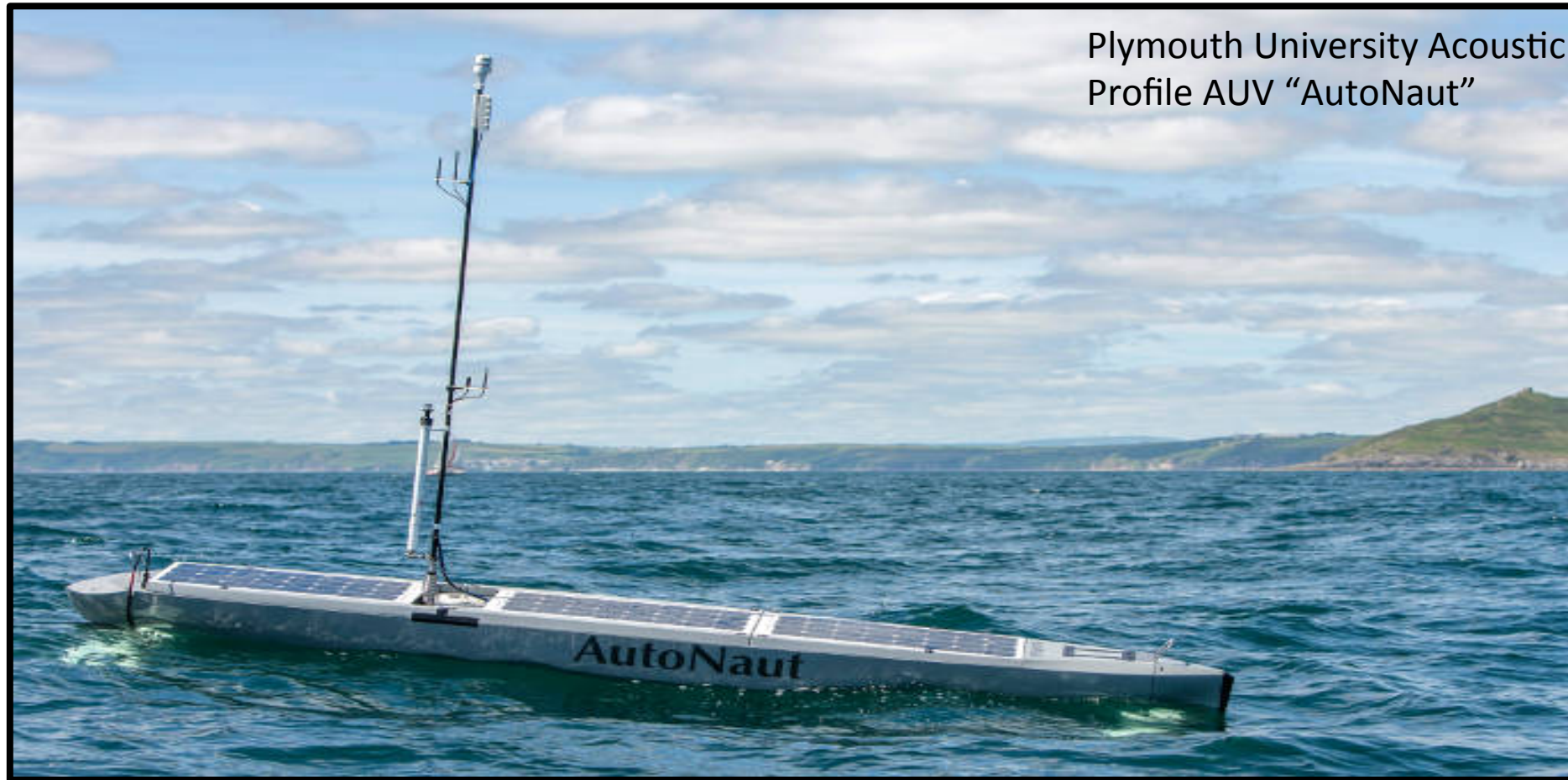
Update on Ballast Water Management



Advocates Condemn Norwegian Whale Hunt Quota



New Research on Ships and Subsurface Noise



U.S. Customs to Close Jones Act Loophole



**Christmas Tree
vertical drilling
equipment**

Punitive Damages and the Jones Act



Relevant Legal Decisions

Jefferson v. Weeks Marine, Inc.

- Plaintiff Jefferson worked for Weeks Marine as a deckhand and was later transferred to marine yard position
- Jefferson suffered injury moving debris from a dock to a vessel
- Claim filed under Jones Act for compensation related to “maritime nature” of work
- Court noted seaman status changes with assignment of specific duties, denied Jones Act claim



Relevant Legal Decisions

Institute of Cetacean Research v. Sea Shepherd Society

- ICR filed lawsuit against Sea Shepherd and activist Paul Watson for harassment of permitted whale research vessels
- Related to specific events in 2013 involving dangerous behavior and collision with Japanese vessel
- Preliminary injunction included \$2.5 million in damages related to collision damages as well as restraint requirements



Relevant Legal Decisions

United States v. Citgo Asphalt Refining Co.

- In 2004, oil tanker *MT Athos* struck an abandoned ship anchor while coming to port in Delaware River
- Striking led to spill of approximately 264,000 gallons of crude oil
- Legal issue in question focused on responsibility of charter provision for safe berth
- No credible evidence showed poor navigation or seamanship. Negligence claims held against wharf owner, award of \$55 million



Relevant Legal Decisions

Mohammed Soliman v. Maersk Line Ltd.

- Soliman was injured while tossing a heavy bag into port garbage disposal, tearing his rotator cuff
- Claims filed against employer Maersk under the Jones Act seek compensation for loss of employment
- Nature of Jones Act demands that causation be judged under a reduced standard in regard to employer negligence
- Maersk breached duty of care by failing to conduct a risk assessment of its garbage disposal procedures



Relevant Legal Decisions

Nanquin v. Elevating Boats, LLC

- A shipyard crane failed during ‘test-block’ operation, Nanquin escaped crane house but broke both feet and suffered severe hernia in crash
- Nanquin filed instant Jones Act suit alleging that Elevating Boats was negligent in construction/maintenance of crane, EBI countered claims regarding seaman status
- ‘Two-pronged’ test to determine seaman status (contribution to vessel function & connection to vessel in navigation)
- Jury concluded Nanquin was a seaman under Jones Act, entitled to compensation



Conclusions

