

Insurance and Legal Issues for the Oceanographic Research Vessel Fleet

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Outline of Presentation

- I. Overview of World Insurance Market
- II. Review of Legal Issues Affecting ORV Operation
- III. Potential for Hold Harmless Agreements in ORV Operations
- IV. Conclusions

Overview of World Insurance Market

Report on Marine Insurance Premium 2003 and 2004

IUMI 2005 Amsterdam Facts & Figures Committee

Tore Forsmo, Managing Director
Astrid Seltmann, Analyst

**The Central Union of Marine Underwriters,
Oslo, Norway**

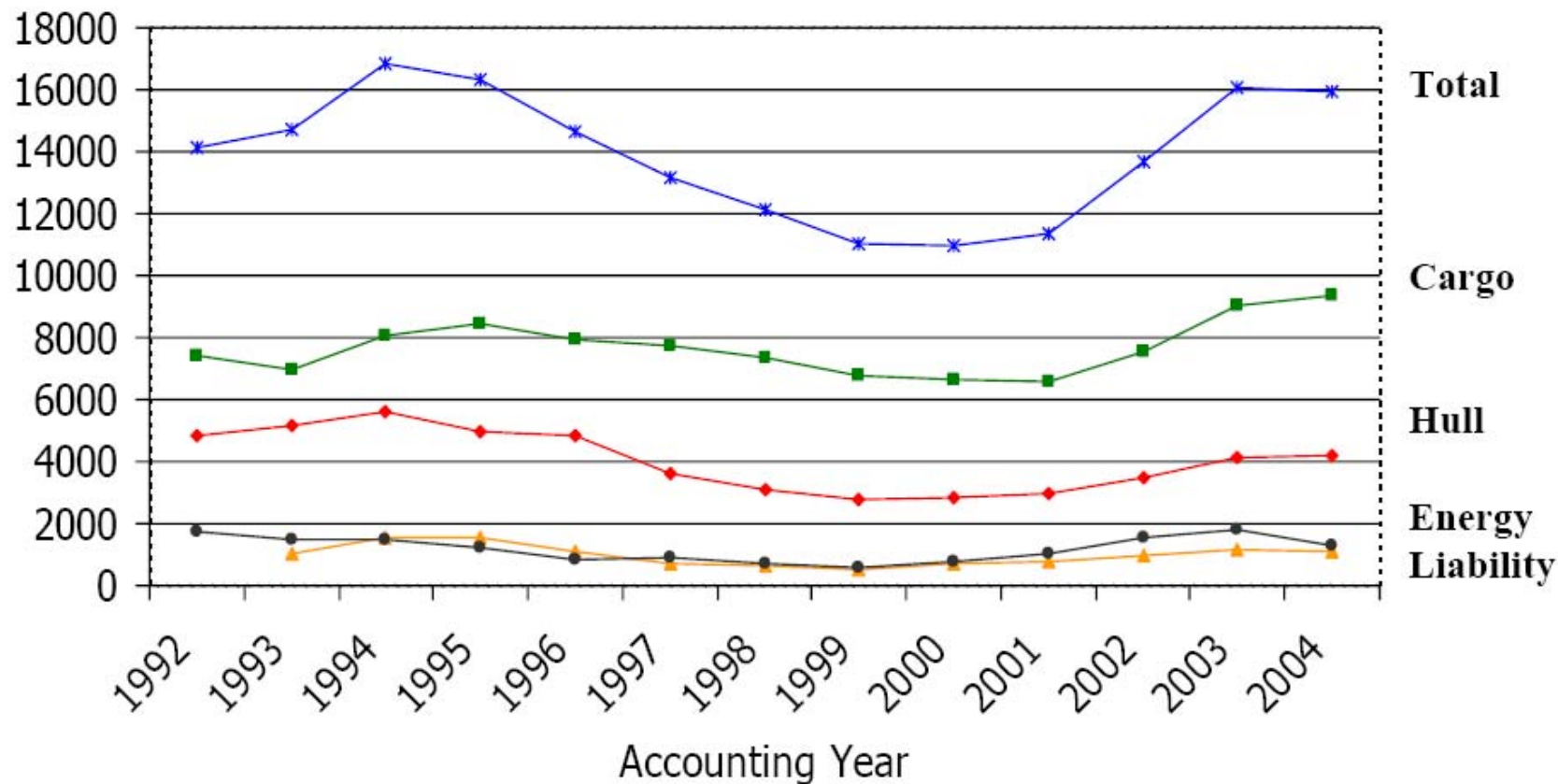
Thanks also to

**Fédération Française des Sociétés d'Assurances (FFSA) and the
International Underwriting Association of London (IUA)**



Global Marine Premium 1992 - 2004

(USD Million), as reported

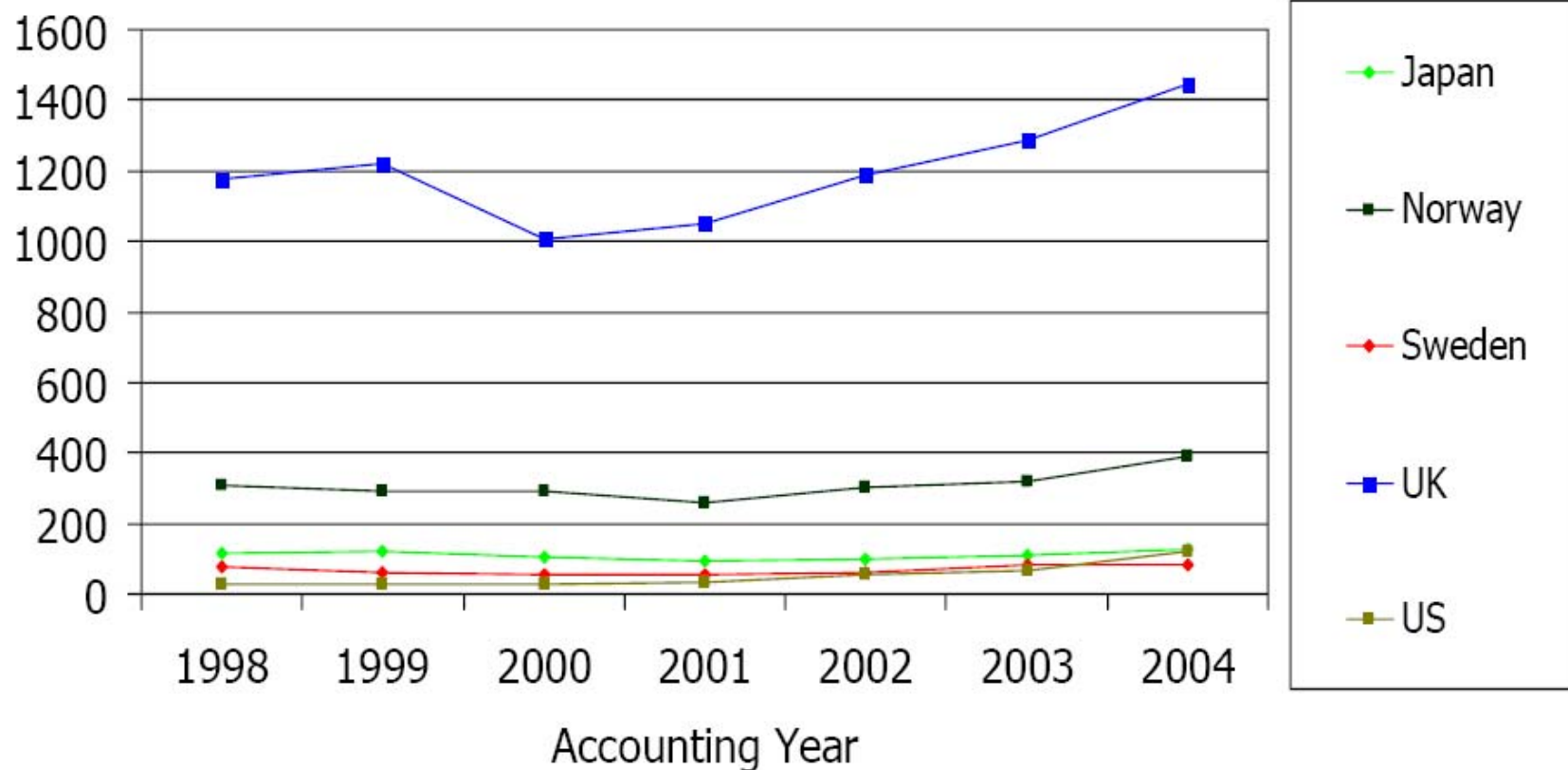


A substantial part of the volume increase since 2001 is due to a weakening of the US\$ against other currencies.

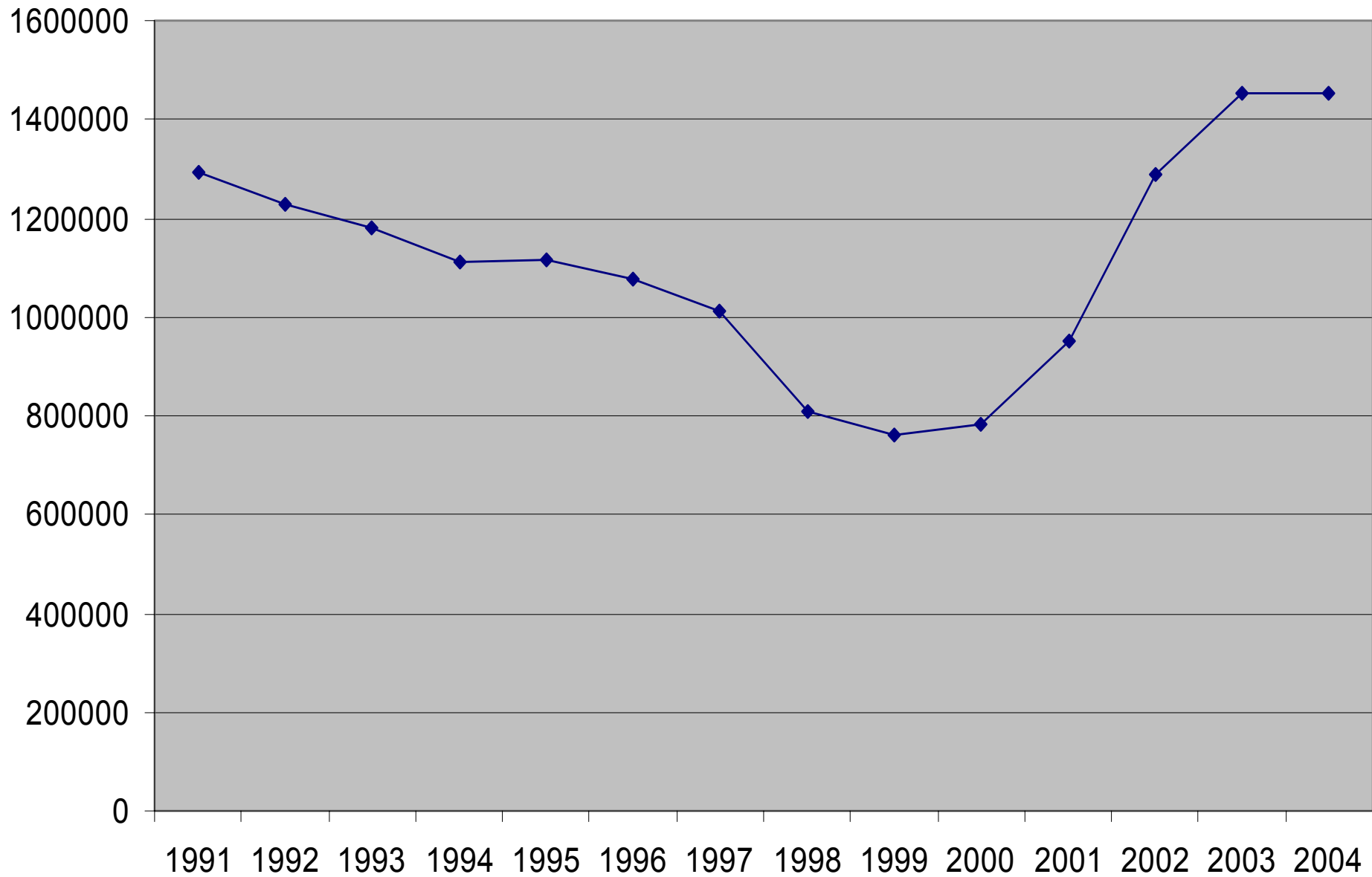
MARINE MUTUAL MARKET SECTOR

Gross Calls (Premium) – Operational location

Per accounting year – USD Million



Insurance Expenditures for U.S Oceanographic Research Fleet



Terrorism insurance update

- Commercial capacity now appears adequate to meet relatively low levels of demand in most markets
- However, most industry observers continue to see commercial capacity as inadequate for catastrophic terrorism exposure
- It seems likely that government involvement in providing backing for commercial schemes and in augmenting excluded coverage will continue to be key aspect of terrorism insurance.

Top 10 Hurricanes Prior to Katrina

<u>Year</u>	<u>Event</u>	<u>Insured Loss</u>
1992	Andrew	\$20.8 billion
2004	Charley	\$7.5 billion
2004	Ivan	\$7.1 billion
1989	Hugo	\$6.4 billion
2004	Frances	\$4.6 billion
2004	Jeanne	\$3.7 billion
1998	Georges	\$3.4 billion
1965	Betsy	\$3.1 billion
1995	Opal	\$2.6 billion
1999	Floyd	\$2.2 billion

Number of Events and Estimated Losses

<u>Year</u>	<u>Number of Events</u>	<u>Insured Losses</u>
2004	5	\$22.9 billion
2003	2	\$1.8 billion
2002	1	\$452 million
2001*	0	\$
2000*	0	\$
1999	5	\$2.6 billion
1998	2	\$3.8 billion
1997	1	\$71 million
1996	3	\$2.3 billion
1995	3	\$4.2 billion

**No wind event met the PCS catastrophe definition*

2004 Catastrophe Losses

- 2004 emerged as the costliest year ever for property insurers (until 2005)
- Property insurers sustained the losses of over USD40bn, even before any from the Asian tsunami
- The third quarter abruptly ended the below average insured natural catastrophe loss trend of the first half

Recent Updates

- Any signs of a softening market are now gone with the wind (Ivan, Katrina and Rita)
- Insured losses from Hurricane Katrina have been estimated at \$60 billion, which would make it the largest loss of its kind
- The impact on insurance markets from the recent earthquake is still too difficult to estimate

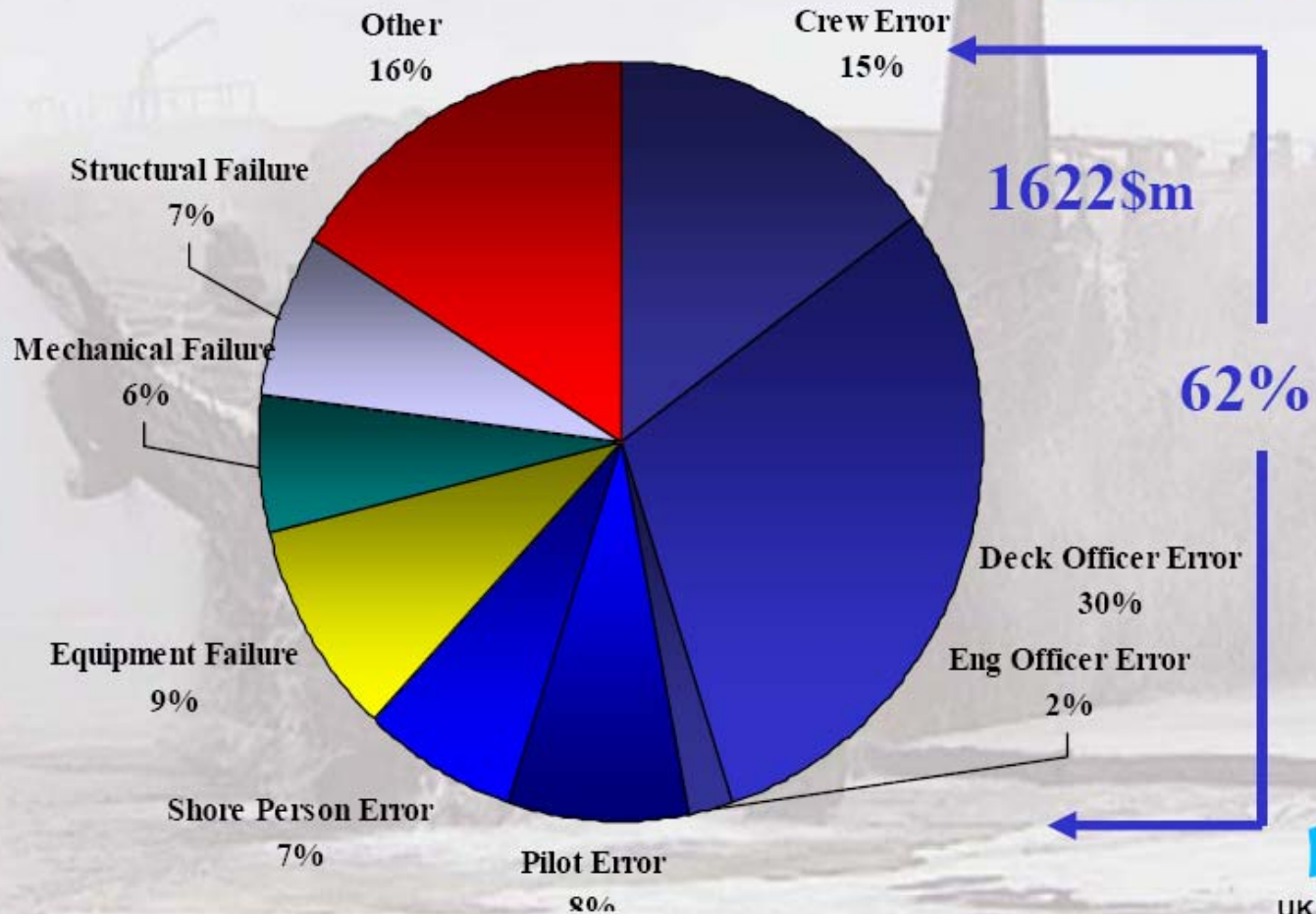
Review of Legal Issues Affecting ORV Operations

- Cause of Losses
- Cases Involving Injuries to Crew Members Aboard Vessels
- Other Legal Issues
 - Criminal Liability
 - Small Vessel Stability
 - Orion and Other Fixed Buoy Systems
 - Marine Mammal Sonar Lawsuit
 - Use of Flotation Devices

Main Cause Value

2616\$m

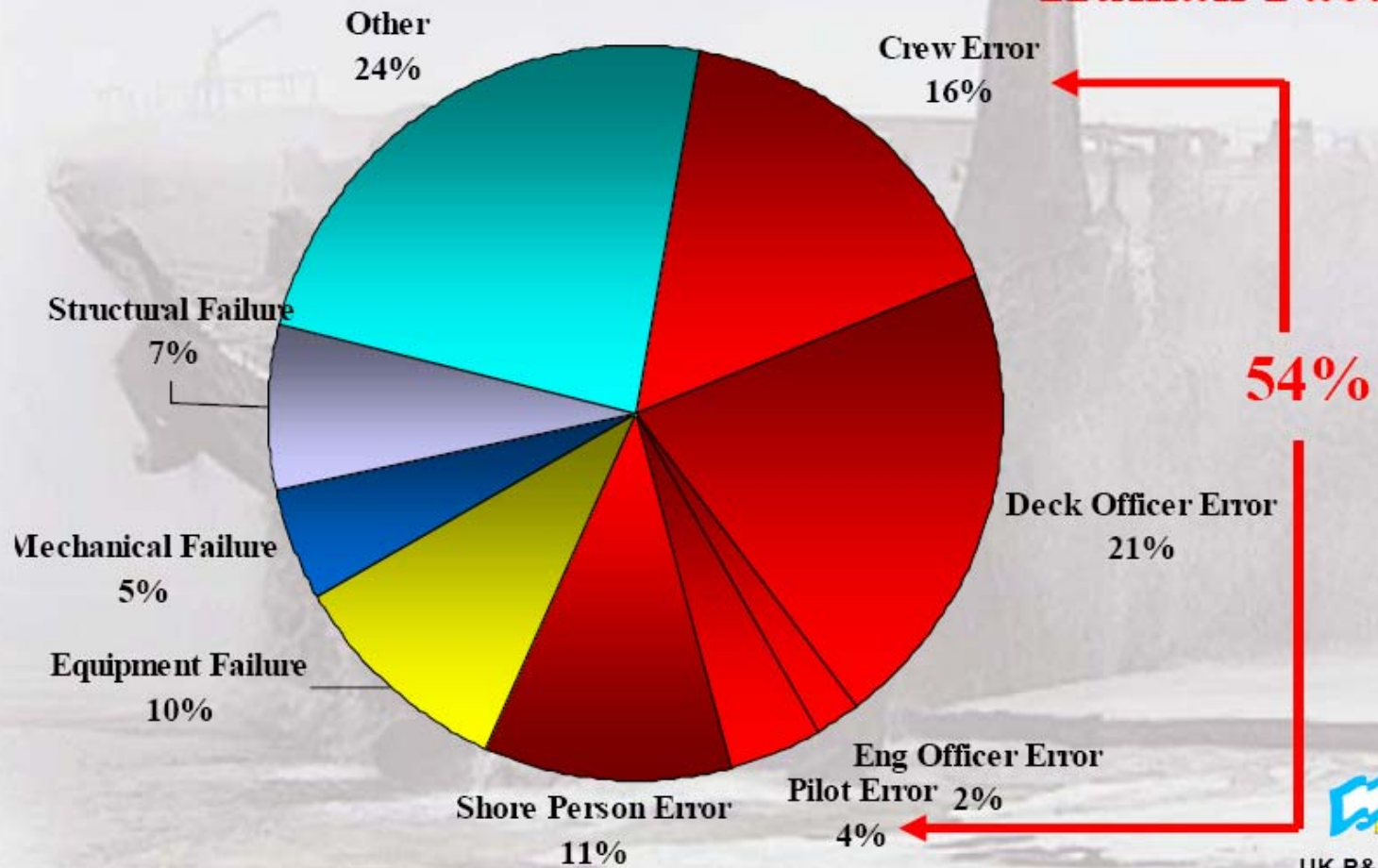
Human Factor



UK P&I CLUB

Main Cause Number

6091



UK P&I CLUB

*Justine Johnson v. Arctic
Storm. Inc., et al.*

Court: United States District Court, Western
District of Washington (Seattle), January 13,
2003

Facts: Justine Johnson was injured while
descending a ladder on a vessel chartered by
NOAA

- Johnson's hands and feet were greasy from completing a previous task and he was descending the ladder face forward
- Johnson sought compensations under the doctrine of unseaworthiness and the Jones Act

*Justine Johnson v. Arctic
Storm, Inc., et al. (continued)*

Issue: Was the vessel unseaworthy because of the condition of the ladder and was the owner negligent because his employees did not maintain the ladder or provide “ladder training”?

Holding: There was no proof that the vessel was unseaworthy before Johnson touched the ladder and a vessel owner has no duty to train workers in obvious tasks

Kathleen K. Fisheries, INC., et al. v. Gerald R. Blake

Court: United States District Court, Western District of Washington (Seattle), December 2, 2003

Facts: Gerald Blake was employed by Kathleen K. Fisheries

- While Blake was ashore, he became intoxicated and was injured
- Blake asked for summary judgment on his rights to maintenance and cure

Kathleen K. Fisheries, INC., et al. v. Gerald R. Blake
(continued)

Issue: Were Mr. Blake's actions the result of KKF's negligence and unseaworthiness?

Holding: Mr. Blake's injuries were the result of his own actions and had nothing to do with KKF's negligence or unseaworthiness

Rickey Brown v. Parker Drilling Offshore Corporation

Court: United States Court of Appeals, Fifth Circuit, January 5, 2005

Facts: Rickey Brown applied to work for Parker Drilling on August 15, 2000

- Brown claimed he had no previous back or neck medical issues, which was not true
- Brown re-injured his back while on the job and sought compensation

Rickey Brown v. Parker Drilling Offshore Corporation
(continued)

Issue: Is Brown entitled to compensation?

Holding: Brown is not entitled to compensation because:

- Brown intended to conceal his medical condition
- The non-disclosed facts were material to the employers decision to hire Brown
- There was a connection between the non-disclosed facts and the injury

Paul Sobieski, et al. Ispat Inland, Inc., et al.

Court: United States Court of Appeals for the Seventh Circuit, June 29, 2005

Facts: Paul Sobieski was injured on a vessel when another crew member twisted his neck “chiropractor style” as a joke

- This joke lead to further injuries that prevented Sobieski from working
- Sobieski filed complaints against employer under unseaworthiness and Jones Act negligence

Paul Sobieski, et al. Ispat Inland, Inc., et al. (continued)

Issue: Was employer vicariously and/or directly liable for a crew members actions?

Holding: Employer was not liable because the crew member was not acting to further the ships business and could not have been aware of the crewmembers neck-cracking hobby

Other Legal Issues

- Proposal to the International Maritime Organization by the German Government
 - Calls for a full ban on alcohol on ferries and hazardous material carriers
 - Calls for a maximum of 50 milliliters of alcohol per liter of blood for mariner sailing all other ships

Criminal Liability

- Illegal Waste Discharge
 - Fisher's Island Ferry (Sewage)
 - Operations Manager Mark Easter pleaded guilty on September 30th to discharging raw sewage into the Thames River and Long Island Sound
 - MV/MSC Elena (Oil)
 - Chief Engineer Mani Singh was indicted on October 6th in connection with the use a “magic pipe” used to discharge sludge and oil contaminated waste overboard

Small Vessel Stability

- Lake Champlain Ferry Capsize
- Baltimore Harbor Ferry Capsize
- Review of Coast Guard Stability Requirements?

Orion and Other Fixed Buoy Systems

- Permitting
- Admiralty Law
- Law of the Sea Issues

Use of Flotation Devices

- Evolving standard in the industry?
- Recent loss of crew member on Chouest vessel headed to Antarctic
- Three URI students lost in small boat capsized near Bay Campus Pier; change in URI policy
- Point Club investment in inflatable PFDs
- Is it time for a policy decision by RVOC?

Conclusions

- Expect further instability in insurance markets because of natural disasters and depleted financial reserves
- Legal issues remain complex because of new technology and human factors
- Our safety standards must keep pace with evolving industry practices

A photograph of a vast blue ocean under a cloudy sky. A faint rainbow is visible in the upper left quadrant. The text "Any Questions?" is overlaid in the center in a white, sans-serif font.

Any Questions?