

An aerial photograph of the University of Rhode Island campus, showing several large academic buildings, parking lots, and surrounding greenery. In the background, Narragansett Bay is visible with a long bridge spanning across it. The text is overlaid on the top half of the image.

# Ship Happens: Admiralty Law and Insurance Update

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2010 RVOC Meeting  
URI Graduate School of Oceanography  
April 20-22, 2010



# Outline

- News from ISOM –Kiel
- Overview of World Insurance Market
- Relevant Vessel Casualties
- Relevant Legal Decisions
- Safety Issues
- Conclusions





# ISOM – Kiel – March 2010

- Highest fatality year (6) in my memory; lengthy discussion of medical evaluations followed
- Major allision with German RV and Greek ferry
- New Chilean RV lost to tsunami hours before launching
- Norwegian gear explosions and weld failures
- British vessels pulled a CTD through a block and trawled up a sunken yacht



# ISOM Continued

- Shipyards can be dangerous:
  - Major fire on RV Yokosuka from welding
  - High pressure washing of multibeam sensors on RV Langseth
  - RV Southern Surveyor had propeller accidentally filled with tallow by well-meaning shipyard workers

# Australian Tallow in the Propeller Incident



Shipyard forced to remove prop and shaft to remove tallow over Christmas break AND pay consequential damages for loss of charter hire



# Overview of the World Insurance Market



# Global Marine Insurance Report 2009

Astrid Seltmann

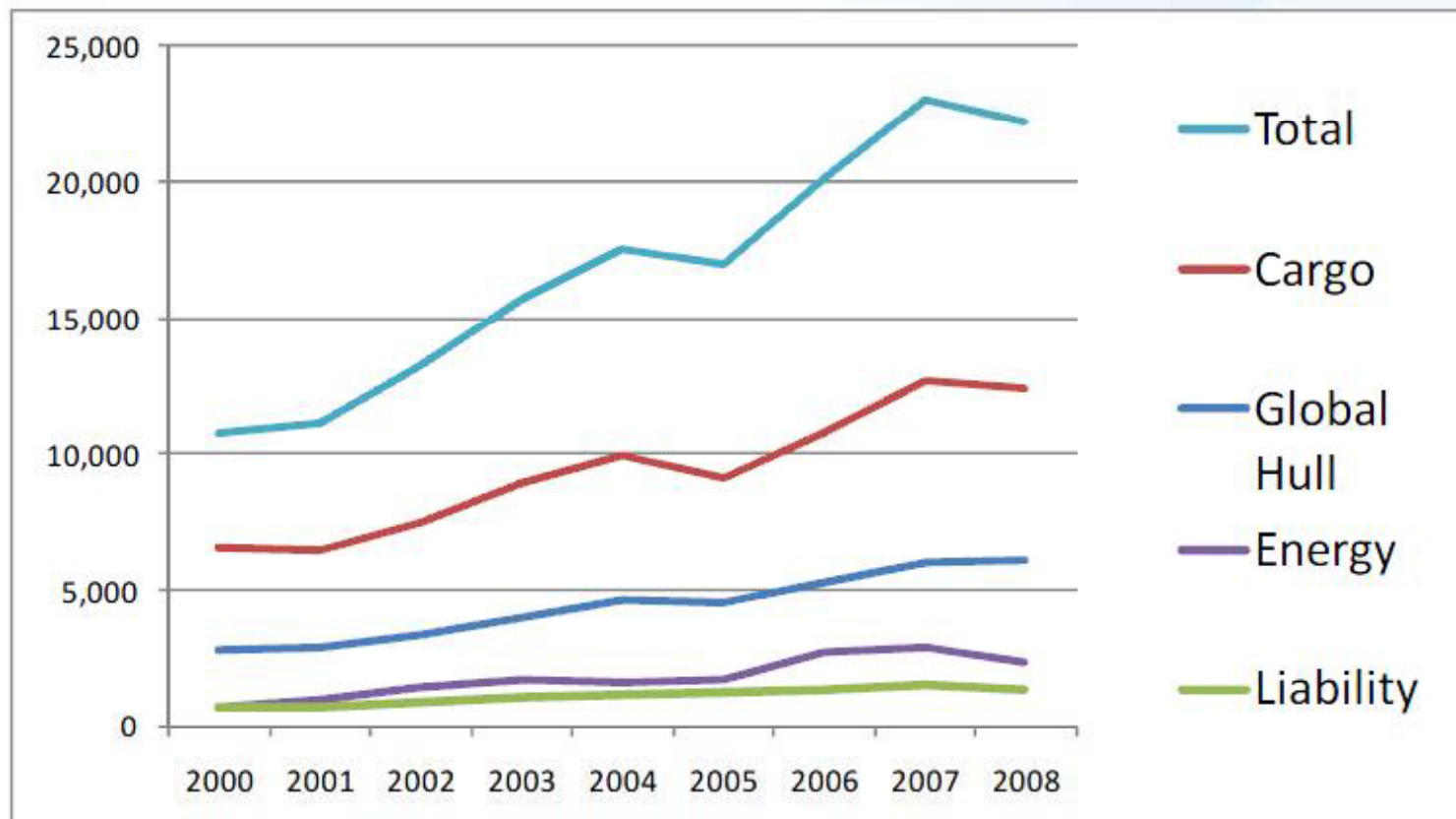
Facts and Figures Committee, Vice Chairman

Analyst/Actuary @ Cefor, The Nordic Association of Marine Insurers

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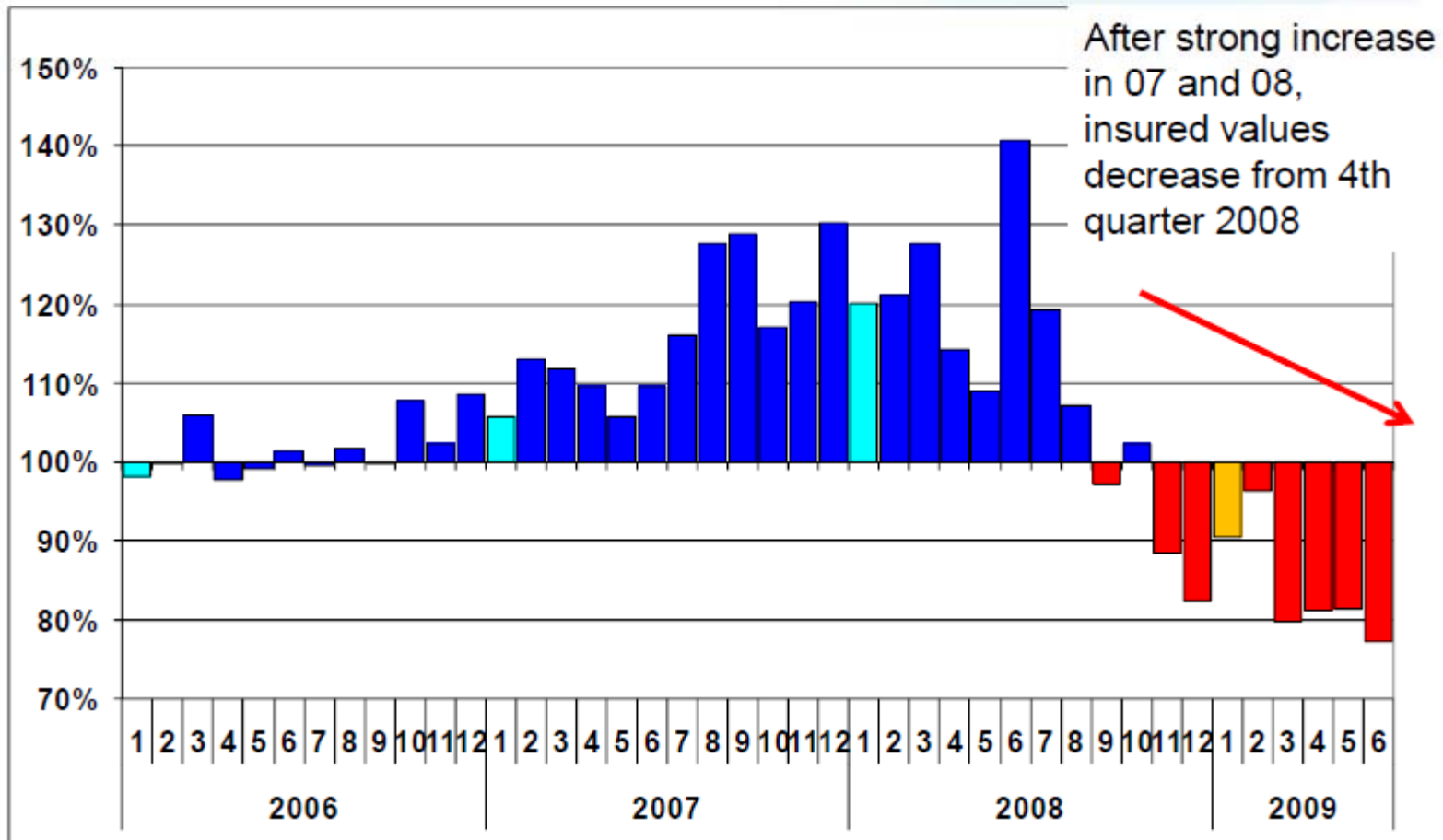


# Global Marine Premiums by line of business, 2000 - 2008 (USD Million), as reported





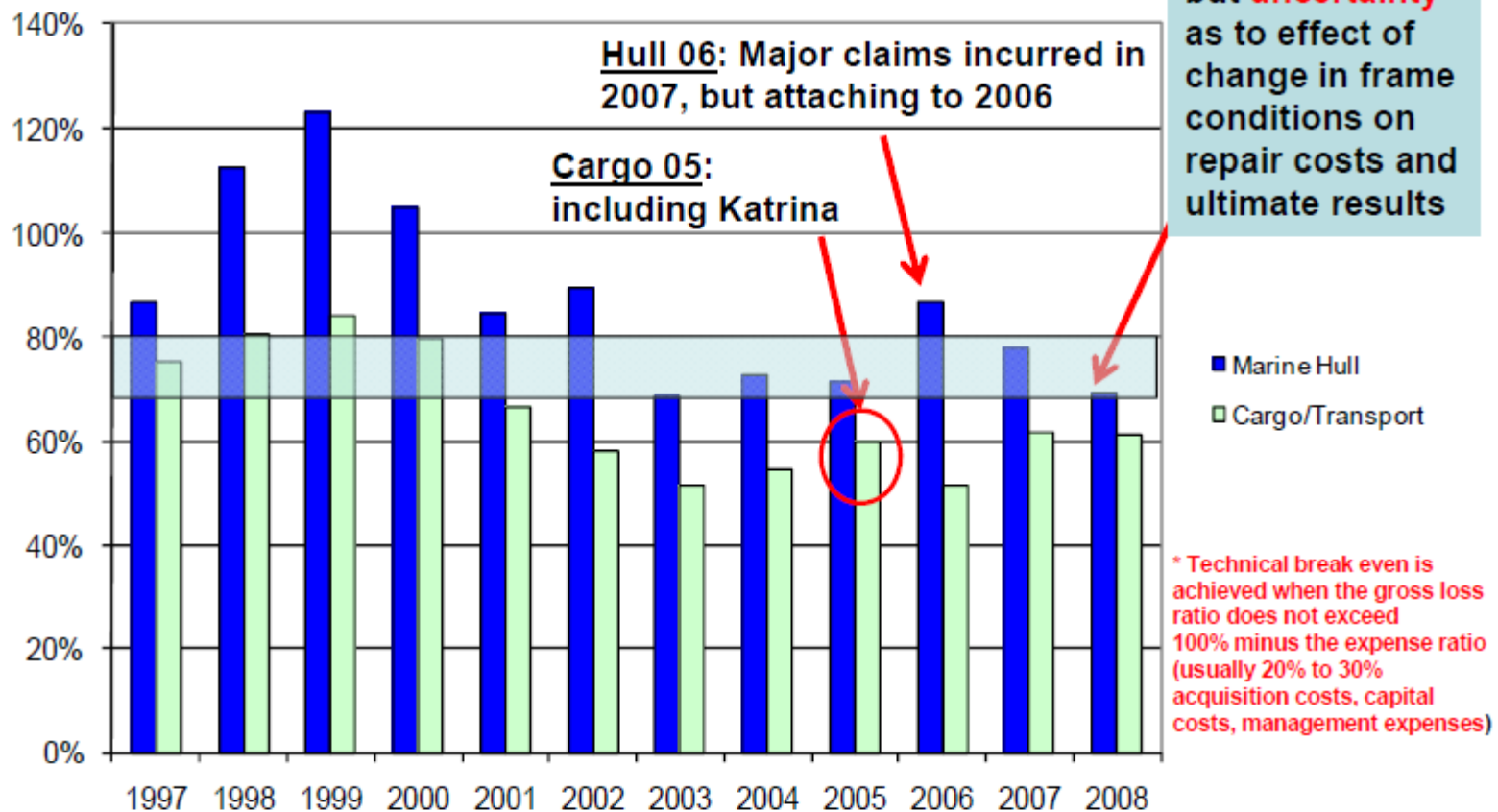
# Renewed Hull vessel values – Change in insured values, renewals by month (= insured value on renewal / insured value previous year)



Source: Cefor, The Nordic Association of Marine Insurers

# Marine Hull and Cargo/Transport Gross\* Ultimate Loss Ratio

U/W Years 1997 to 2008





# Impact of the Worldwide Recession on Marine Insurance

Dieter Berg, Munich Re

14 September 2009

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# Economic Situation and uncertain Outlook



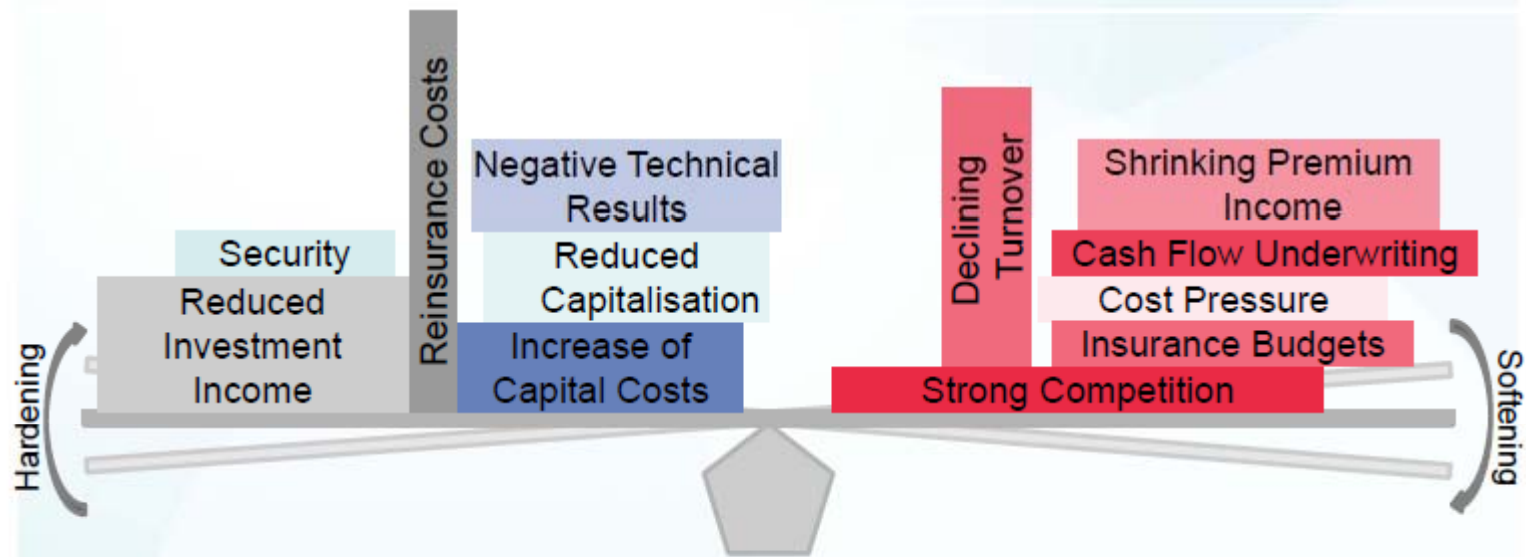
Munich RE



# Consequences of the Recession on the Insurance Cycle



Munich RE



Trend still unclear and fluctuating



# The Future of the Market

- UK P&I Club levied a 5% general increase for all classes of business for the 2010 policy year.
- Negotiations will be critical
- “There is no real reason to overreact at this point”
- “...shipowners need not, as previously anticipated, brace themselves for a dramatic rise in rates, with increases to edge up by 2.5-7.5% next year [2010].”



# Piracy and Insurance

- Premiums prohibitive in areas subject to piracy
- Insurers dismiss piracy premium discounts when security measures employed





# Relevant Vessel Casualties Affecting Research Vessels

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# Casualties: Pathfinder



- 136 foot tug boat
- Scouting for ice along Prince William Sound's oil shipping lanes near Valdez, Alaska
- Grounded on Bligh Reef, Dec. 23, 2009



# Casualties: Pathfinder

- After the grounding, diesel fuel sheens of 1 mile and 3 miles spread across the waters on 2 separate occasions
- Dumbest marine casualty of the year!



# Casualties: Well Servicer

- April 2009- seafarer was working on top of a diving bell when the winch rendered. The cursor fell, resulting in the man's death.
- The MAIB investigation concluded that project management of the cursor modifications lacked direction, focus and effective monitoring at various management levels. Safety culture aboard backfired; role of ISM Code in crew behavior



# Casualties: F/V Seaflower

- July, 2008. Walvis Bay, Namibia. The ship was deballasting prior to drydocking, but added weight to the foredeck in order to change the trim. Unsuccessfully.





# Casualties: F/V Seaflower

- It took on a dramatic list due to loss of stability. The crew tried to transfer some fuel to the other side, which resulted in the ship capsizing.
- She sank three hours before she was due for docking.



# Casualties: JDS Kurama and the M/V Carina Star

- Oct. 28, 2009-  
Kanmon Strait, a  
choke point in SE  
Japan. The JDS  
Kurama, a Japanese  
destroyer with a crew  
of 360, was involved  
in a collision with the  
7400 ton South  
Korean cargo ship the  
Carina Star



# Casualties: JDS Kurama and the M/V Carina Star

- The JDS Kurama was laden with explosives and explosions set the ship aflame. The fire raged for over an hour, and the ship was damaged severely. The ship had been the pride of the Japanese Navy





# Casualties: JDS Kurama and the M/V Carina Star

- JDS Kurama had severe bow damage and 3 injuries. Carina Star had starboard hull damage and cargo loss, but no injuries were reported.



# Casualties: Eurovoyager

- Nov. '08- Man trapped in a hydraulically operated steel watertight door . Treated for crush injuries.
- Door's rate of closure was almost 3x faster than allowed on board newer vessels.
- The door was in 'remote' and closed automatically as soon as its operating handle was released.
- There was no indication at the door to show that remote operation was selected.
- On board procedures for the operation of watertight doors were poorly promulgated and were not monitored or enforced.
- Many of the doors were routinely left open at sea; Captain placed system in remote because safety inspector was on board!







# Relevant Legal Decisions

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# Major Legal Cases

- Atlantic Sounding Co., Inc., v. Edgar L. Townsend, Supreme Court of the US (2009)
- The crew member (Townsend) hurt his arm and shoulder while working on the owner's tugboat. The owner allegedly told Townsend that he would not provide maintenance and cure.
- Supreme Court held that punitive damages were available for willful and wanton disregard of the maintenance and cure obligation as a matter of maritime law. The Jones Act did not eliminate preexisting remedies available to seamen for the common-law cause of action based on the right to maintenance and cure.



# Major Legal Cases

- Kuebel v. Louisiana Dept. of Fisheries, Louisiana Court of Appeals (2009)
- Biologist sustained injury working aboard a research vessel, and filed suit under the Jones Act
- Trial court found the vessel unseaworthy because of lack of equipment to pull in seine nets
- Appeals court did not contest unseaworthiness finding, but held sole remedy was La. Workers Compensation under the Eleventh Amendment to the U.S. Constitution

# Major Legal Cases

- Cap Anamur
  - Can you go to jail for aiding stranded refugees at sea?



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# Cap Anamur Arrest

- Ship rescued 37 refugees from sinking boat in the Med
- Italy refused permission to dock for three weeks with the vessel anchored offshore
- Vessel was eventually allowed to land and the refugees were deported
- Captain and first officer were charged with aiding illegal immigration and served time in jail before trial
- Officers were eventually freed, but the ship was seized by Italian authorities as evidence, and later sold



# Major Legal Cases

## Fireboat 08-448B

- Halifax Regional Municipality's Fire and Emergency Services, Nova Scotia, were training on the fireboat . A series of practice runs were initiated. The vessel capsized.
- Current ISO standards are based on an average mass of 75 kg per person. Statistics, however, show that the average mass of Canadian males 20 years of age and over is 81.5 kg. The average mass of the eight persons on board the vessel was 94.5 kg.
- Vessels continue to be assessed against unrealistic operating conditions.
- What measurements are you using?



# Major Legal Cases

## R/V Bay Hydro 2

- March 31, 2009: survey vessel . An employee was preparing to test the installation of an Uninterruptible Power Source.
- To save money, the crew installed it.
- When the system was energized, the employee was shocked.
- The boat rocked and he grabbed onto a server rack, completing the electrical circuit, discharging 110VAC.
- Lesson: don't take shortcuts when it could endanger your crew.



# Major Legal Cases

## Marcus G. Langseth

- August, 2009. Living Oceans Society and the Canadian Parks and Wilderness Society sued Columbia Univ. and the Canadian Ministries of Fisheries and Oceans and Foreign Affairs, seeking a court order preventing the government from issuing a clearance to researchers. The research vessel was scheduled to start seismic testing in the Endeavour Hydrothermal Vents MPA. The area is a habitat for whales and other marine life.
- A new, less invasive procedure was adopted, and the lawsuit was dismissed.





# Major Legal Cases

## M/V Theotokos

- A Greek citizen, Panagiotis Lekkas, captain of the bulk cargo ship, pleaded guilty to 4 felony counts in federal court in New Orleans for violating anti-pollution laws, ship safety laws and obstructing a U.S. Coast Guard investigation. Lekkas, who was the highest ranking officer, pleaded guilty to 1 count of violating the Act to Prevent Pollution from Ships, 1 count of obstruction of justice and 2 counts of violating the Ports and Waterways Safety Act.
- A Philippine citizen, Charles P. Posas, the 2nd highest officer onboard, pleaded guilty to 2 felony counts of lying to the Coast Guard and violating recordkeeping laws aimed at reducing the risk of marine invasive species. Posas is the 1st individual ever charged under the anti-invasive species law. Posas pleaded guilty to 1 count of false statement and 1 count of violating the Nonindigenous Aquatic Nuisance and Prevention Control Act.



# Major Legal Cases

- George Wood, York Crown Court
  - Aug. 23, 2009, drank twice the legal limit, ran his trawler, the Honeybourne III, aground near Filey, Yorkshire.







# Safety Issues

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# Mooring Reports

- Deaths and injuries during mooring operations are increasing
- UK P&I Club estimates it has spent more than \$34 million settling related insurance claims in the past 20 years.
- 14% of the accidents result in death
- Most occur during the handling of ropes and wires



# Safety Issues

- Fatigue
  - \$5.3 million joint research project underway to better understand seafarer fatigue
- Complacency
  - MAIB has reported that “complacency continues to be a recurring safety issue in accidents investigated by the MAIB. Ship-owners should recognize the risks posed by complacency and ensure that their vessels operate with effective bridge teams at all times”.
- The Chinese collier on the Great Barrier Reef a perfect example

# Keeping the Fleet Safe

## Lifeboat testing

- Schat-Harding lifeboats. During a deployment test, lifeboats were filled with a water bag so that it was at 1.1 rated load. Cracks were found after the test. Another boat's attachment ripped loose from the boat and it fell into the water.
- Preliminary results from a port state control inspection campaign have shown that 1/5 ships inspected had lifeboat drill-related deficiencies, many of them serious enough to warrant the ship being detained. 1/8 drills was found to be unsatisfactory by the inspectors and 1/8 ships checked did not have the correct procedures or instructions to safely launch its lifeboats.



# Keeping the Fleet Safe

## Personal Locator Beacons

- Most operate at a frequency of 121.5 or 406. Some require base units, antennas and alert units, while others are just composed of alert units.
- On average, for a 10 man crew, a system would cost around \$5000.
- There are differences in *activation* – some must be performed manually while others sound as soon as the unit hits the water. Some systems immediately relay location coordinates to the base system onboard. The highly advanced models automatically contact search and rescue.
- A major factor that should be addressed before purchasing a PLB system is *who will be performing the rescue*. If you'd prefer to rely on crew performed rescues, many systems are outfitted with alarms that sound on board. Others make crew performed rescues difficult, as the unit contacts SAR directly, and not the ship.







# Piracy Update

- New Technologies and techniques to fight piracy
  - Lasers, sound, and vomit inducers
  - Automatic distress calls
  - Seafarer training
- Updates on piracy trends; they really should learn to recognize naval vessels before attacking
- Kenya is no longer willing to try pirates in their courts; backlog is too great. Not many other volunteers.



# Conclusions

- Insurance
  - The market is flat as a result of the economic recession and a decline in fleet casualties
- Casualties
  - Despite increased regulations, training, and better equipment, the human element still results in casualties – but how much worse would it be if we didn't try?
  - The development of policy and technology will continue to improve the potential for a safer working environment for seafarers, but risk will always remain

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# Questions?