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## 1 Les Assureurs Maritimes confrontés aux incertitudes économiques et à la piraterie

Les assureurs maritimes ont tenu leur 67ème congrès annuel à Paris du 18 au 21 septembre 2011.

Confrontée aux deux fléaux des incertitudes économiques et de la piraterie, la profession demeure dans une situation fragile. Après avoir voyagé dans les cinq continents, le **congrès international des assureurs maritimes, IUMI**, a fait escale à Paris du 19 au 21 septembre 2011, 13 ans après sa précédente version. Cette 67ème conférence des assureurs maritimes s'est ouverte sur la présentation des chiffres de **l'assurance maritime mondiale**. Dans son introduction, la présidente du comité en charge des chiffres, Patricia Kern, a mis l'accent sur le lien entre l'économie mondiale et la situation du marché de l'assurance.

### Peut-être des crises pires à venir

Les événements politiques et économiques de ces derniers mois placent le monde dans une période d'incertitude. "La sortie de la crise de l'euro, la baisse de la demande et le risque de surchauffe au Moyen-Orient sont des facteurs à prendre en compte pour les prochaines semaines", a rappelé Patricia Kern. Alors que l'économie mondiale souffre, le marché du transport maritime en ressent les effets. L'arrivée en flotte de nombreux navires et le peu de démolitions ont mené à la surcapacité.

### Des primes d'assurance en hausse grâce à la Chine

Dans ce contexte difficile, le montant annuel mondial des primes continue malgré tout à progresser. Avec 25,3 milliards de dollars, l'assurance maritime a enregistré une progression de son volume. Une hausse qui tient surtout à l'entrée dans ces statistiques des données en provenance de la Chine. À périmètre constant, les primes encaissées progressent de 1,9%. Avec l'entrée de la Chine, la hausse atteint 2,6%.

Source: *Journal Marine marchande* 23/09/2011



## 2 Issues remain overcapacity, rates in a vice and piracy

### Times may change but some things remain the same.

When the International Union of Marine Insurance (IUMI) last met in Paris in 1997, hull-insurance rates were under pressure and underwriters were complaining that fierce competition was driving premiums down even further.

And it is not hugely different this time around, with excess underwriting capacity a key industry concern and hull rates again under pressure.

But the commercial state of the hull market was worse in 1997 with underwriters having conceded year-on-year premium reductions — losing the gains they achieved through the early 1990s. A market feature unchanged this year is underwriters' concern about deductible levels.

Source: *Lloyd's List* 15 September



Joyeux Noël et Meilleurs Vœux, Season's Greetings

## Using armed guards could prejudice P&I insurance cover

**Protection and Indemnity club The Standard has warned suitable insurance must be in place when using private maritime security companies.**

P&I club The Standard said: "Deploying guards does not in itself prejudice club cover, but members must ensure compliance with flag state, other applicable laws and the International Convention for the Safety of Life at Sea."

Properly-trained guards will not only help to defend vessels; they can also offer advice and assistance to the master on how best to harden the vessel and make it a less attractive target to the pirate gangs.

That said, the marine mutual, which is one of the 13 P&I clubs that make up the International Group, said problems could still arise, depending on the clauses within their other insurance contracts. "As any incident can have severe consequences, it is strongly advised that shipowners contact their insurers before contracting with security providers in order to assess the potential impact on their insurance cover," it said.

Source: *Lloyd's List*



### Les régimes d'assurance transport unifiés

Un régime unique d'assurance pour toutes les marchandises transportées par avion, par bateau ou par voies terrestres va être instauré à compter du 1er juillet 2012.

Même régime d'assurance quelque soit le mode de transport de la marchandise, voilà en substance le contenu de [l'ordonnance du 15 juillet 2011 publiée au JO du 16 juillet](#). Le texte met en place un **régime unique d'assurance** pour toutes les marchandises transportées par avion, par bateau ou par voies terrestres. Jusqu'à présent le titre VII du livre 1er du code des assurances réglementait uniquement les contrats d'assurance liés au transport maritime et terrestre. Désormais, il s'applique aux risques aériens, aéronautiques et spatiaux. Par ailleurs, l'ordonnance clarifie les **exclusions de garantie** (guerre civile, émeutes, terrorisme, pirateries, etc.) mentionnées à l'article L 172-16 du code des assurances et rajoute un article L 172-16-1 prévoyant que "*sauf convention contraire, l'assureur ne couvre pas les dommages causés par l'objet assuré à d'autres biens ou personnes*".

Enfin, pour renforcer la protection des droits de l'assuré (même s'il est souvent un client professionnel), l'article L 173-23 est complété pour le maritime, en instaurant un droit d'action directe à l'encontre de l'assureur, de responsabilité civile. Ces nouvelles dispositions s'appliqueront aux contrats conclus ou renouvelés à compter du **1er juillet 2012**. Un rapport au président de la République sur cette ordonnance est également publié au JO du 16 juillet 2011.

Source: <http://www.argusdelassurance.com/reglementation/les-regimes-d-assurance-transport-unifies.50902> - Le 18 juillet 2011

## The International Geneva Convention on the Arrest of Ships 1999 (the "1999 Convention") came into force in Spain and nine other countries on 14 September 2011

The 1999 Convention has also come into force in the following countries: Albania, Algeria, Benin, Bulgaria, Ecuador, Estonia, Latvia, Liberia and the Syrian Arab Republic. The 1952 Arrest Convention remains the dominant convention and is in force in seventy-seven other countries.

The main feature of the 1999 Convention is that it increases the types of claim that can give rise to the right of arrest of a sea-going vessel. The additional types of claim for which arrest is permitted under the 1999 Convention (but not the 1952 Convention) include the following:

- Unpaid insurance premiums (including P&I calls), commissions, brokerages and agency fees.
- Damage, or threat of damage, to the environment (including the clean-up costs and reasonable steps taken to avoid damage);
- Wreck removal;
- Provisions, bunkers and equipment (including containers) which are supplied for the ship's operation or maintenance (these not being specifically provided for in the 1952 Convention);
- Port, canal and pilotage dues (affirming that the 1999 Convention applies to vessels that navigate inland waterways and not just sea-going vessels);
- Disputes arising from a contract for sale of a ship.

## INSURANCE MARKET

## Renewal discussions

**Insurance and reinsurance specialists converge in Baden-Baden to begin their 'renewal season' discussions in earnest and in preparation for January 1, when deals between primary insurers and their reinsurers come to fruition.**

The reinsurance market was standing up to unprecedented catastrophe losses in the first half of the year, particularly from the earthquakes in Japan and New Zealand – as well as continuing uncertainty in the capital markets, a flat economy and sustained low interest rates suppressing investment returns. Pricing is still soft: There are as many competitive reinsurers in the game as there are those who are sticking to technical rates.

### New challenges

Lloyd's Performance Management Director Tom Bolt made a graphic description of the dangers facing all companies: "The industry traditionally provided cover against the 'four horsemen of the apocalypse' – pestilence, war, famine and death," he said. "Now the industry is confronted by new challenges."

Bolt believes low interest rates, tough economic conditions, the prospect of inflationary pressure and the uncertainty created by new European solvency

regulations have combined to make this the most challenging time for the industry he's witnessed since starting in 1985.

Earlier this year Bolt asked energy underwriters to track their aggregate exposures as losses continue to develop from the Deepwater Horizon oil spill in the Gulf of Mexico. Now he wants the market to be aware of the possible fall-out from the financial crisis spreading deeper into professional liability classes of business.

He also said in Baden-Baden that catastrophe reinsurance underwriters should be aware that the full loss picture from earthquakes earlier this year has not yet emerged.

### Proceed with caution

Contingent business interruption losses from underlying insureds or developing structural damage to infrastructure could amplify cat losses, he cautioned: "The industry is not underreserved - but I'm not sure that this intermediate tail of cat losses is always being included in the calculations when people are making pricing decisions on prospective business."

*Source: Wed 02 Nov 2011 –Lloyd's list*

## Outside players flooding market

**Attractive returns and even Europe's Solvency II regime are aggravating the overcapacity problem by encouraging new players to diversify into hull cover.**

Overcapacity has long been one of the key issues in the hull-insurance market and may be getting worse. Although pessimism about the state of this market is never in short supply when underwriters get together, there is nevertheless a constant flow of new entrants drawn to the business.

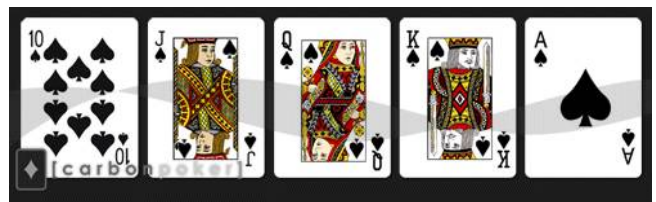
International Union of Marine Insurance (IUMI) Ocean Hull Committee chairman Peter McIntosh fears Europe's new Solvency II regulatory regime may even be contributing to the problem.

Solvency II rewards diversification of insurance portfolios and marine is one of the easier and superficially more attractive areas for a typical property-casualty insurance company to expand into.

Hull insurance in particular is usually written on a subscription basis where a large number of underwriters will take a percentage share of a risk and there is an extensive broker network to distribute the business.

IUMI president Ole Wikborg says there is currently more than enough capacity but that does not appear to be stopping the influx. "There is more than sufficient capacity if only because the value of the objects we insure has gone down.

*Source: Lloyd's List - Published, 15 Sep 11*



## Salvage industry would fail to cope with major casualty

**Without greater investment, the current salvage system will be unable to cope with a mega containership casualty.**

Salvage experts have warned of the dire consequences that could result if ship design and technology continues to evolve but leaves the salvage trailing in its wake.

“History demonstrates — sometimes tragically — that advances in ship design and construction can seem fine at the concept, construction and even sea trial stage, but present real problems when the ships enter full service. However, casualty response lags behind advances in ship design and construction.”

There are ultra post panamax ships with 12,000 teu-15,000 teu capacity. The Emma Maersk is just shy of 400 m long and 56 m beam. Maersk has reportedly ten 18,000 teu container-ships on order. These ships are over 150,000 dwt and perhaps the equivalent in height of a 20-storey building.



It is not unrealistic, with average container values, to think of a combined hull and cargo value of \$750m, possibly more, he argued.

“And it is not just container-ships — there is also (at least at the concept stage)

a Chinamax 600,000 dwt bulker, roughly twice the size of the current largest bulker. The size of ports and channels may impose some practical limits on how big ships can get, although deeper channels can be dredged, offshore hubs can be constructed and new container terminals built.”

Development adviser at the International Salvage Union John Noble agreed the lack of investment in salvage was a huge industry problem of which everyone was aware.

Source: *Lloyd's list* Tuesday 25 October 2011

## Iranian Sanctions

Executive Order 13590

With effect from 21 November 2011, the US has widened the range of activities and persons against which sanctions can be imposed. EO 13590 is aimed at non-US persons that provide support to Iran's energy and petrochemical sectors. It goes further than CISADA, which targeted investment in Iran and the importation into Iran, or Iran's ability to import or produce Refined Petroleum Products (RPP), including a prohibition on shipping and insurance services in relation to those activities.

With respect to shipment or transportation of oil or petroleum from Iran, the State Department has informally indicated that “develop” does not include the transportation of petroleum resources from Iran by ship.

Source: *Steamship P&I club “Risk Alert”* 30- December 2011. For further information: *Steamship Insurance Management Services Ltd* [loss.prevention@simsl.com](mailto:loss.prevention@simsl.com)

## **CAP-MARINE devient agent pour la France de la compagnie NIPPONKOA**

Au 1<sup>er</sup> janvier 2012, Cap-Marine Assurances devient agent pour la France de NIPPONKOA, assureur japonais de première qualité noté AA- par l'agence de notation Standard & Poor's, avec une capacité de souscription de 30 millions d'Euros.

Cette représentation a pour vocation d'assurer les sociétés japonaises installées en France pour leurs risques industriels, responsabilité et transport.

Plus d'informations sur NIPPONKOA sur leur site [www.nipponkoa.co.jp/english](http://www.nipponkoa.co.jp/english)



## **CAP-MARINE becomes agent for France of Insurer NIPPONKOA**

As from the 1st January 2012, Cap-Marine Assurances becomes agent for France of Insurer NIPPONKOA rated AA- by Standard & Poor's, with subscription capacity of 30 millions of Euros.

This representation aims at insuring Japanese companies installed in France against industrial risks, civil liability, and transport.

Find more on NIPPONKOA website [www.nipponkoa.co.jp/english](http://www.nipponkoa.co.jp/english)