

# Maritime Risk International

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P&I, claims management and loss prevention

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## The rise of the giants

Exploring the risk of the mega-ships

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## IN BRIEF

### Confidence rising

Overall confidence levels in the shipping industry rose to their highest level for more than three years in the three-month period to November 2013, according to the latest Shipping Confidence Survey from accountant and shipping adviser Moore Stephens. Concern persists on over-tonnaging, operating costs and the cost of regulation. In November 2013, the average confidence level expressed by respondents was 6.1 on a scale of 1 (low) to 10 (high), compared to the 5.9 recorded in August 2013. This is the highest figure since the 6.2 recorded in August 2010.

### American Club upbeat

The American Club will ask members for a 10% general increase in the 2014/15 year in all classes (mutual and fixed-premium) for both P&I and FD&D. The directors concluded, as last year, a general lack of pricing power combined with mounting external overheads, notably those associated with pooling, will continue to affect the cost of P&I cover going forward. They said "There are signs the outlook for shipping will improve in the foreseeable future. Real improvement could start to emerge later in the year and into the early stages of 2015. At the same time, however, attritional exposures will likely maintain an upward trend, the size and volatility of large claims will be unlikely to reduce and the investment climate will remain uncertain."

### New cover

The Strike Club has expanded its range of fixed-premium insurance covers to help time-charterers if and when they suffer the loss of booked profit as a result of the total loss (TL) or constructive total loss (CTL) of a chartered ship. The cover insures the financial loss time-charterers would incur when charters are cancelled following TLs or CTLs, by insuring the total expected profit between hire receivable and hire payable. The club managers explained it could be beneficial to time-charterers when freight markets make a recovery and is being introduced ahead of an anticipated upturn.

## Plans develop for Arctic sailing

Underwriters at the Lloyd's of London insurance market would not be surprised to see proposals for cruise ships transiting Arctic routes to travel in pairs, the Lloyd's Market Association (LMA) said.

The reducing extent of the area permanently under ice is of great commercial interest and an increase in the number of vessels using Arctic shipping routes will inevitably focus Lloyd's underwriters' minds on the safety issues.

In particular, the market has concerns that the rate at which maritime traffic is increasing in Arctic waters is outstripping policymakers' ability to create a legislative framework in the high north. The International Maritime Organisation is making slow progress with its Polar Code and none on its 1974 instrument dealing with liabilities for oil pollution from exploration and exploitation of seabed mineral resources. In the meantime, industry has to improvise.

A recent Royal United Services Institute conference, *Poles Apart*, highlighted growing interest in the region together with the differences between north and south. Attendees were also advised that Asian countries were very concerned by the threat of rising waters from ice-melt and classified it above defence as a strategic priority.

Both polar areas are tourist attractions, but the south has seen more activity. In late 2007, more than 150 passengers and crew had to be rescued after the sinking of the *M/S Explorer*, which was holed by ice near the South Shetland Islands. More recently, an international operation had to be mounted off northern Antarctica to rescue passengers from the ice-bound research vessel *Akademik Shokalskiy*.

Opting to sail across the north of Russia can reduce the transit times for charters by over a week. 60 vessels were reported as using the trans-Arctic route in 2013, up from 46 in 2012 but this number was only a fraction of the 325 transit licenses granted. Of those 60 transits, 20 took place in October.

However, the risks to shipping in Arctic waters remain extreme. Satellite navigation does not function properly and there is a lack of rescue infrastructure should a ship encounter problems. Accurate marine charts are almost impossible to obtain but the market frequently receives intelligence about vessels with inadequate ice-class operating around the fringes of the Arctic ice sheet. Insurers believe they can cover voyages in the high north but will need to be satisfied about the vessel's adequacy, and risk mitigation preparations. **MRV**

## Standard Club supports limitation case in the Court of Appeal

The Standard Club has supported a case to the UK Court of Appeal to provide shipowners with a choice in respect of establishing a limitation fund. The case follows the loss of the cargo ship *MV Atlantik Confidence*, which sank off Oman with a cargo of steel products following a catastrophic engine room fire in April 2013.

The Standard Club is seeking to establish a limitation fund to secure potential P&I claims by way of a letter of undertaking (LOU) pursuant to the 1976 Limitation Convention. The Club and Kairos Shipping requested permission to the Commercial High Court of London to establish the fund by way of an LOU. The request was denied by the Commercial High Court, but the Club and Kairos Shipping have appealed this decision to the UK Court of Appeal.

Mehtab Kassam, claims executive, Standard Club said "Making large payments into court has become customary in cases of this nature, but there is nothing in the 1976 Limitation Convention which requires a limitation fund to be put up in cash. Letters of undertaking are widely accepted around the world as being good security and we believe the assumption that cash is necessary should be challenged to reflect modern market practice."

• *Kairos Shipping Ltd and The Standard Club Europe Ltd v Enka & Co LLC and others* was heard in the Court of Appeal on 4 December with the decision expected in early 2014. **MRV**