SINGAPORE MARITIME INSTITUTE

Maritime Transformation R&D Roadmap 2030 and Managing Risks

SMF Maritime Knowledge Shipping Series (Session 38)
The Future of Tomorrow - Strategic Changes in Singapore's Maritime Landscape

Dr Sanjay C. Kuttan

Executive Director

Singapore Maritime Institute

6th August 2019

CONTENT

1. Overview: Maritime Singapore

MARITIME SINGAPORE

CONTRIBUTES ABOUT **7%** OF OUR NATION'S GDP

OVER **170,000** EMPLOYEES

MORE THAN **5,000** MARITIME ESTABLISHMENTS

WORLD'S BUSIEST **CONTAINER TRANSHIPMENT** HUB

VESSEL ARRIVAL TONNAGE REACHED **2.79 BILLION GT** IN 2018

36.6 MILLION TEUS OF CONTAINER THROUGHPUT IN 2018

APPROXIMATELY **1,000 SHIPS** IN THE PORT OF SINGAPORE AT ANY ONE TIME

SUPPLIED **49.8 MILLION TONNES** OF BUNKER IN 2018

THE SINGAPORE REGISTRY OF SHIPS (SRS) IS AMONGST THE WORLD'S **TOP 5 LARGEST** SHIP REGISTRIES

SINGAPORE MARITIME INSTITUTE

Agency for Science, Technology and Research
SINGAPORE

MPA
SINGAPORE

EDB singapore

MARITIME INDUSTRY
TECHNOLOGY
GLOBAL NETWORKS

SINGAPORE MARITIME INSTITUTE

started operations since

1 April 2011

Mission, Vision, Values and Expected Outcomes

Mission:
Making a Difference through world-class R&D;
Training & Education; and
Thought Leadership in Policy Formulation

Vision:
A Thriving Maritime Industry Driven by Knowledge and Innovation

Values:
Impact-Driven, Forward Thinking, Team, Integrity

Expected Outcomes:
1)Global Leadership in maritime R&D
2)World-class maritime manpower and talents
3)International Thought Leadership

Building a Singapore Maritime Knowledge Hub

SMI Governing Council (GC) 2019 - 2020





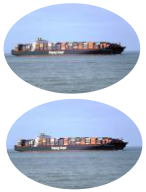



- 8 person GC formed by representatives from Government Agencies, Industry and Institutes of Higher Learning (IHLs)
- GC is the approving authority for SMI's initiatives and programmes.

1. Overview: SMI Technical Advisory Panel

- Dr Song Tiancheng, Deputy Director (Engineering & Project Management), MPA
- Mr Tang Weylin, Deputy Director (Port Systems Development), MPA
- Mr Sieng Tong Ping – Chief Information Security Officer, MPA
- Mr Mark Lim, Principle Trainer (Technical), MPAA (former Deputy Director Shipping, MPA)
- Mr Tan Wee Meng, Chief Technical Officer, Jurong Port
- Mr Alvin Foo, Head Engineering, PSA Corporation
- Mr Raymond Tan, Snr Prog Mgr PO (Unmanned Maritime Systems), DSTA
- Ms Tong Poh Bee, Deputy Director (Maritime Systems), Future Systems and Technology Directorate, MINDEF
- Mr Eugene Goh, (former DHI Environmental Specialist)

- Dr Tan Geok Leng, CEO, AiDA Technologies (previously ED/I2R)
- Mr Chen Chuanyu, Director, Consulting Services, SimPlus
- Mr Andrew Yue, Vice President, Unmanned Maritime Systems, Electronics, ST Engineering
- Dr Aziz Merchant, Executive Director, Keppel Marine and Deepwater Technology, Keppel Offshore & Marine
- Mr Chakib Abi Saab – Chief Technology Officer, OSM Maritime Group
- Dr Khorshed Alam – Chief Operating Officer, Viswa Lab (former VP of DNV-GL)
- Capt George Solomon – Head Global Safety, Security and Environment, APL
- Dr Ryo Kakuta, Deputy General Manager, Fleet Management, Ocean Network Express*
- Er Peter Seow, Member of the Colleague of Fellows of IES, professional Engineer, and Chartered Engineer for Electrical & Marine Engineering
- Mr Simon Neo, Executive Director, SDE International Pte Ltd (former Regional Manager (Asia), IBIA)



* Pending acceptance. List accurate as at 29 July 2019

1. Overview: SMI International Advisory Panel (IAP) 2019-2020

The IAP comprise senior representatives from government agencies, maritime industry in Singapore and also from global leading maritime organisations.

Mr Peter Ho
Senior Advisor
Centre for Strategic Futures

Prof Lui Pao Chuen
Advisor
National Research Foundation

Mr Cheong Chee Hoo
Chief Executive Officer
DSO National Laboratories

Mr Ong Kim Pong
Regional CEO
PSA International

Mr Tan Wee Meng
Chief Technical Officer
Jurong Port Pte Ltd

Mr Andrey Sitkov
Chief Operating Officer
Transas Business Unit,
Wartsila

Mr Simon Kuik
Head of Research &
Development
Sembcorp Marine Ltd

Mr Ying Shaowei
Chief Operating Officer
Datasparks Pte Ltd

Prof Chen Tsuhan
Deputy President
(Research & Technology)
National University of
Singapore

Ms Yngvil Asheim
Managing Director
BW LNG

Dr Pierre C Sames
Group Technology and
Research Director
DNV GL

Mr Toh Ah Cheong
Former Executive Director
Singapore Maritime Institute

Mr Koji Sekimizu
RSIS-MPA Distinguished
Visiting Fellow, S Rajaratnam
School of International Studies

Mr Jeremy Nixon
Chief Executive Officer
Ocean Network Express

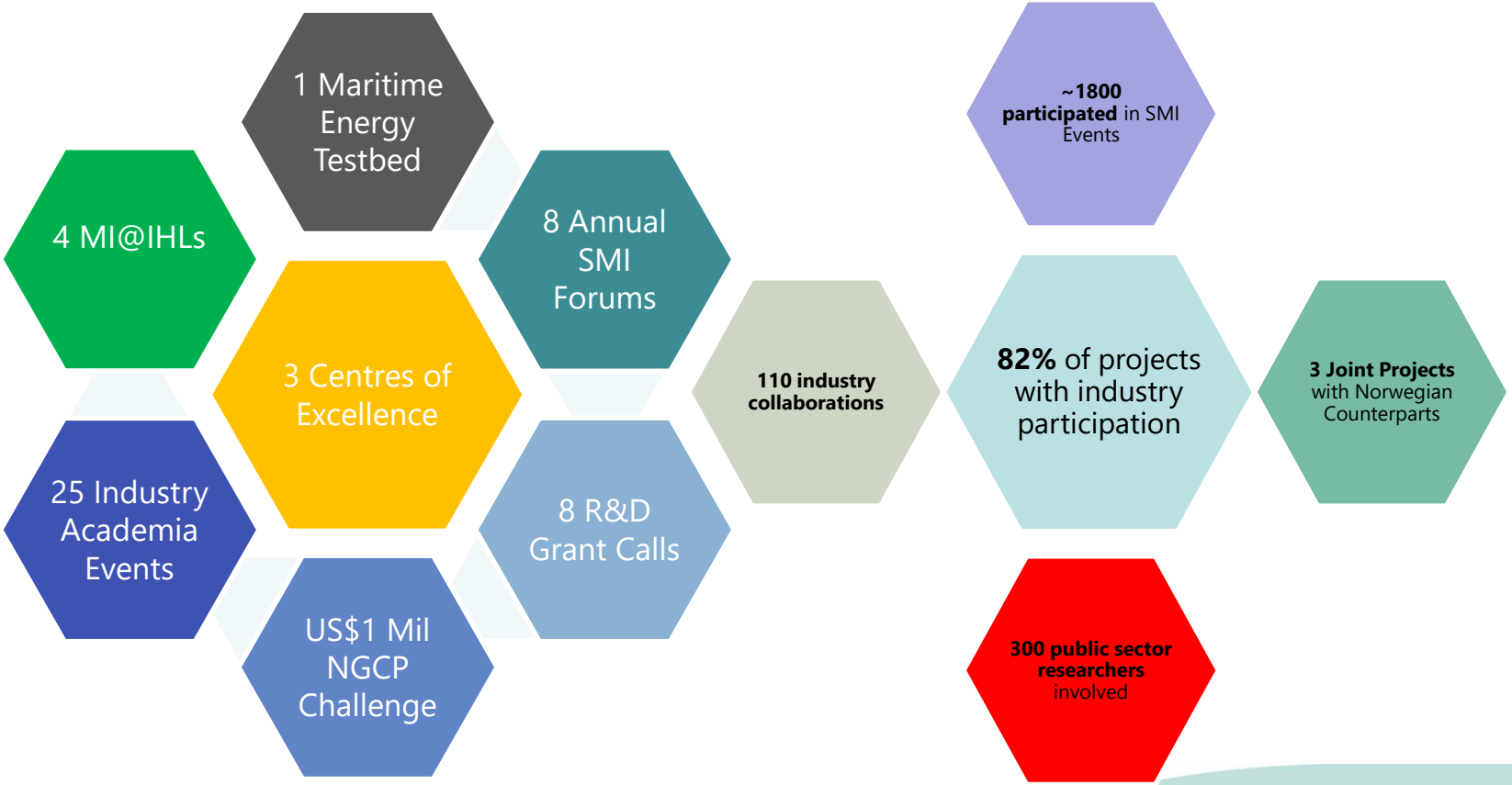
Mr Horst Joachim Schacht
Executive Vice President
Sea Logistics
Kuehne + Nagel

Mr Carl Henrickson
GM, Shipping and Maritime
Technology, Innovation and
Digitalisation, Shell

Mr Howard Fireman
Chief Digital Officer
American Bureau of Shipping

Mr Allard Castelein
President & Chief Executive
Officer
Port of Rotterdam Authority

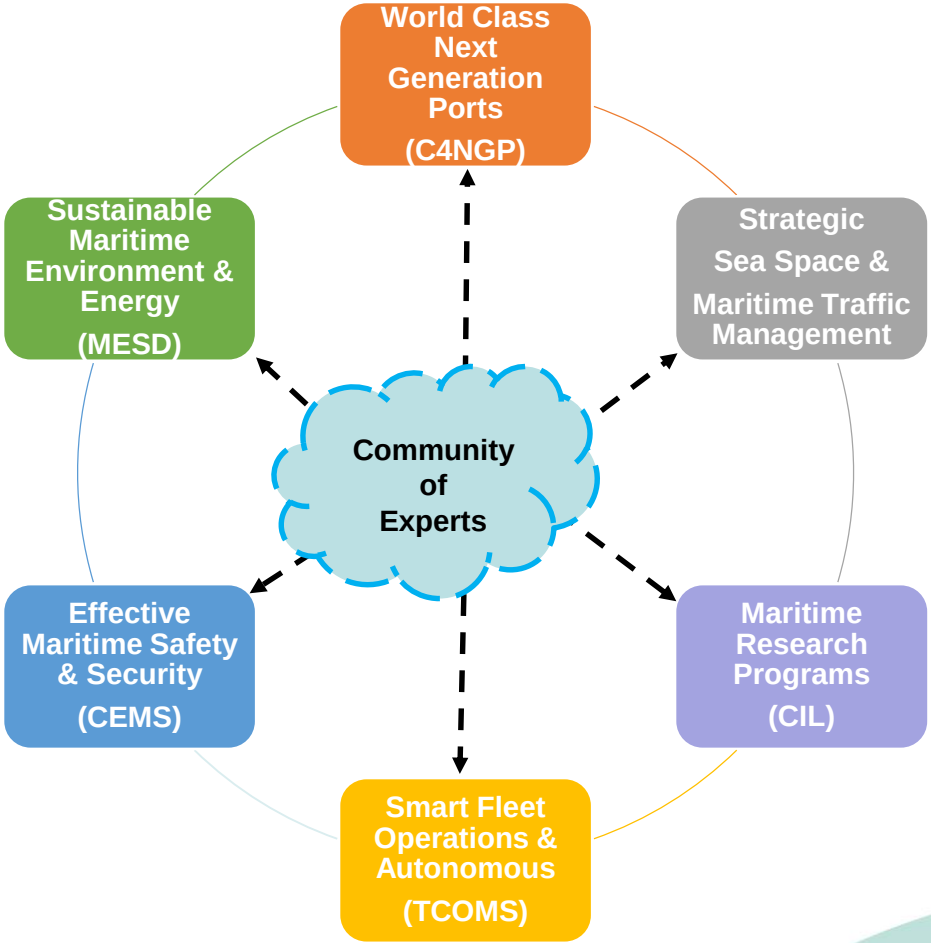
1. Overview: Key performance statistics



1. Overview: Key Initiatives

Strategies	Implementations
 **Development of Maritime Innovation Ecosystem**	• Establish **Centres of Excellence** • Contribute to **Establishing Singapore as a Maritime Standard Bearer** **SP CoE to train next generation 'seafarers'** / **NUS CoE to develop global port simulation & modelling standard** / **MESD to look into needs of future energy for maritime applications** • Strengthen collaboration networks amongst **local and international partners**
 **Accelerate Technology Development and Transfer**	• **Contexualise research proposal with strong industry applications** at the development stage • **Identify promising ongoing projects** for further R&D and **advancement of TRL** • Encourage maritime **technology transfer and commercialisation**
 **Alignment of Efforts with MPA**	• Work with MPA on the integrated **Maritime Singapore Research and Development Roadmap** under the Sea Transport ITM • Establish joint initiatives with MPA to **support its operational research needs** • Support MPA on **non-technical research**

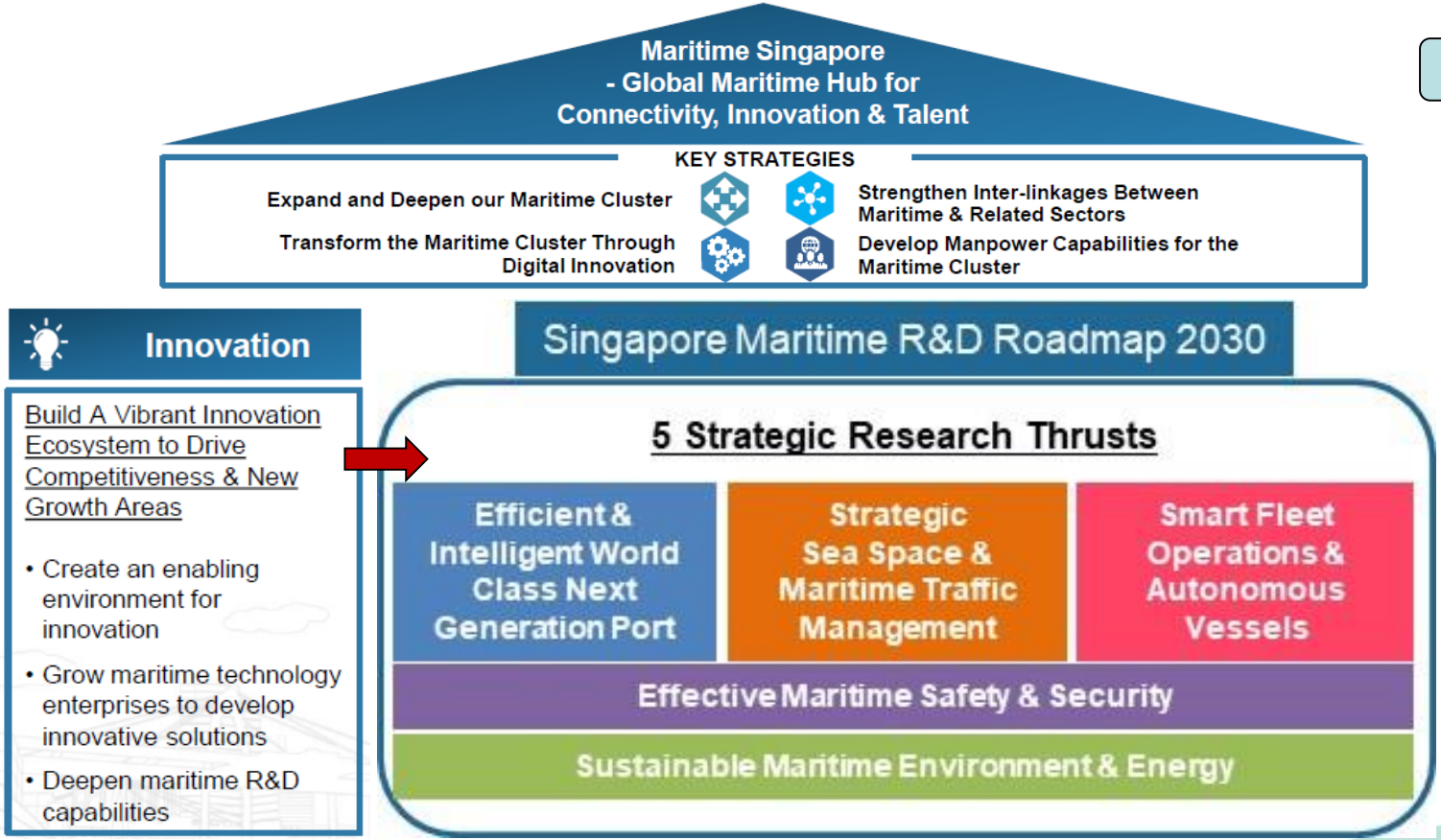
1. Overview: Creating a National Collaborative Network of Maritime R&D Assets



Community of Experts (CoE)

- SMI Technology Advisory Panel
- SMI Maritime Research Professorship and Experts
- Researchers in IHLs
- Industry Experts

1. Overview: Enabling the National Maritime R&D Roadmap 2030



Sea Transport ITM

The Singapore Maritime Research & Development (R&D) Roadmap 2030 is developed to support the implementation of the Innovation Pillar under the Sea Transport Industry Transformation Map (ITM).

SINGAPORE

R&D ROADMAP 2030

MARITIME TRANSFORMATION

SINGAPORE MARITIME INSTITUTE

MPA SINGAPORE

2. Maritime R&D Roadmap

- Refreshed 2013 Singapore Maritime R&D Roadmap 2025
- 5 Strategic Research Thrusts for the Singapore Maritime R&D Roadmap 2030

THRUST 1

Efficient & Intelligent World Class Next Generation Port

THRUST 2

Strategic Sea Space & Maritime Traffic Management

THRUST 3

Smart Fleet Operations & Autonomous Vessels

THRUST 4

Effective Maritime Safety & Security

THRUST 5

Sustainable Maritime Environment & Energy

The Roadmap is driven by three national-level initiatives

- Sea Transport Industry Transformation Map (ITM)
- International Maritime Centre (IMC) 2030
- Next Generation Port (NGP) 2030

Sea Transport Industry Transformation Map (ITM)

Strategies

- Strengthen Connectivity and Inter-Linkages;
- Drive Growth through Productivity Enhancements and Innovation; and
- Develop a Future-Ready Maritime Workforce.

Towards building a vibrant innovation ecosystem to drive competitiveness and new growth areas, Singapore embarks on a 3-pronged approach to:

i. Deepen maritime research and development (R&D) capabilities;

ii. Grow maritime start-ups and technology enterprises; and

iii. Create an enabling environment for innovation.

International Maritime Centre (IMC) 2030

Vision

Maritime Singapore – Global Maritime Hub for Connectivity, Innovation and Talent

Strategies

1) Expand and deepen the maritime cluster
2) Strengthen inter-linkages and network effects
3) Develop a vibrant maritime innovation ecosystem and promote digitalisation
4) Develop a multi-skilled maritime workforce with a global mindset
5) Establish Singapore as a global maritime standard bearer

Next Generation Port (NGP) 2030

Mission

To guide the overall master planning and development of the Port of Singapore.

Strategies

- Optimal and Effective Management of Port Waters
- Improve Security and Safety
- Enhance Port Users Experience
- Improve Sustainability and Environment Protection

There are 4 key external drivers

- Socio-Economic and Geopolitical Changes
- Technological Advancements
- Safety and Security Threats, Environmental Sustainability
- Resource Constraints

Socio-Economic and Geopolitical Changes

- Industry Cyclical Challenges
- Development of Regional (ASEAN) Ports
- Emergence of Alternate Trade Routes
- Increase in Port and IMC Competition
- Fewer Mega Transshipment Hubs
- Shift in Production and Consumption Bases

Technological Advancements

- Emergence of Non-traditional Players Transforming Maritime Industry
- Push for Integrated Services to Provide Seamless End-to-End Services
- Emergence of New Business Models
- Autonomous Systems Feasible for Industrial Applications
- Autonomous Vessels Gaining Momentum
- Deployment of Electric Merchant Ships for Near-Sea Shipping

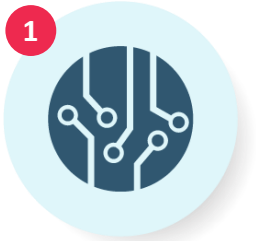
Safety and Security Threats, Environmental Sustainability

- Increased Cyber and Terror Threats
- Carbon Tax Enforcement (Market-based Measures for Fuel)
- Commencement of IMO Regulations
- Change in Future Fuel Mix
- Targets for Greenhouse Gas Reduction from International Shipping

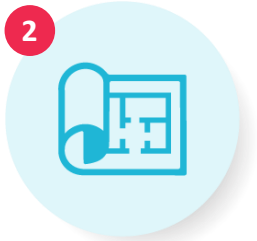
Resource Constraints

- Manpower Constraints
- Competition for Talent
- Sea and Land Space Constraints
- Ageing Population

8 key areas of industry capabilities to shift the impact needle in our transformational efforts

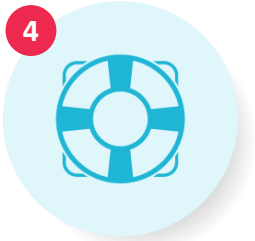


Digitalisation



Planning and Optimisation

Autonomous Operations



Maritime Safety

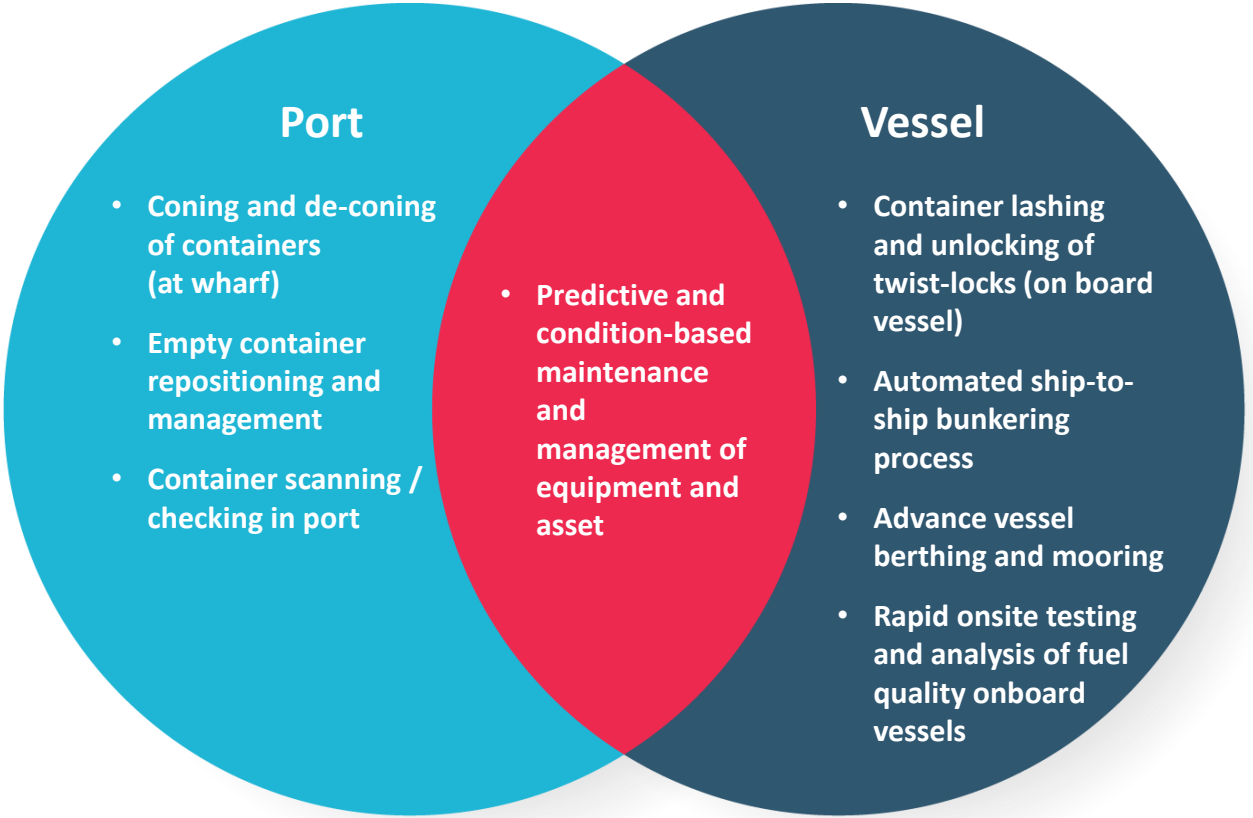
Port Security

Maritime Cybersecurity

Maritime Energy Efficiency

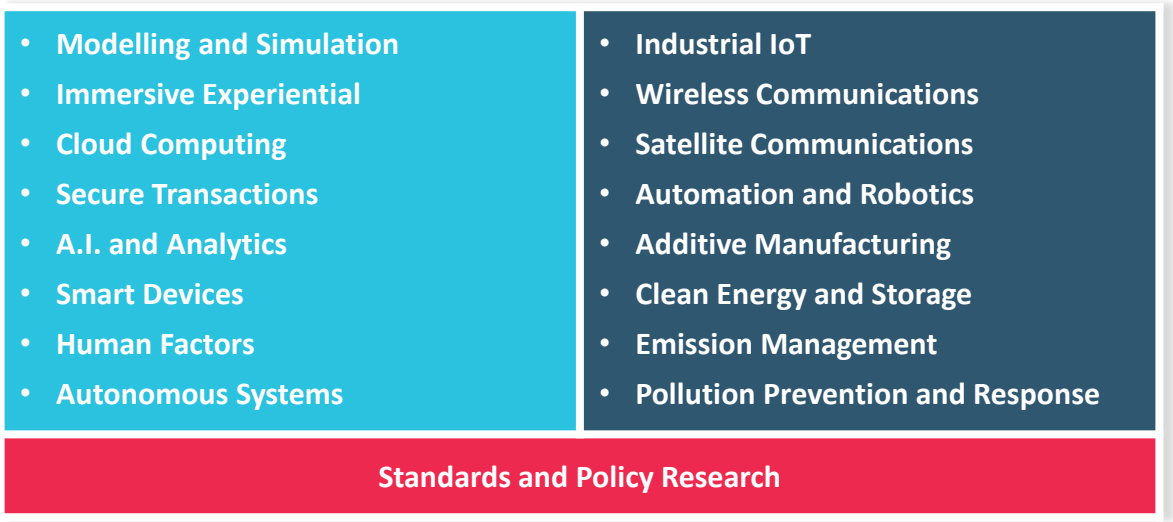
Marine Environment Management

8 key industry challenges that are essential for the maritime industry to address

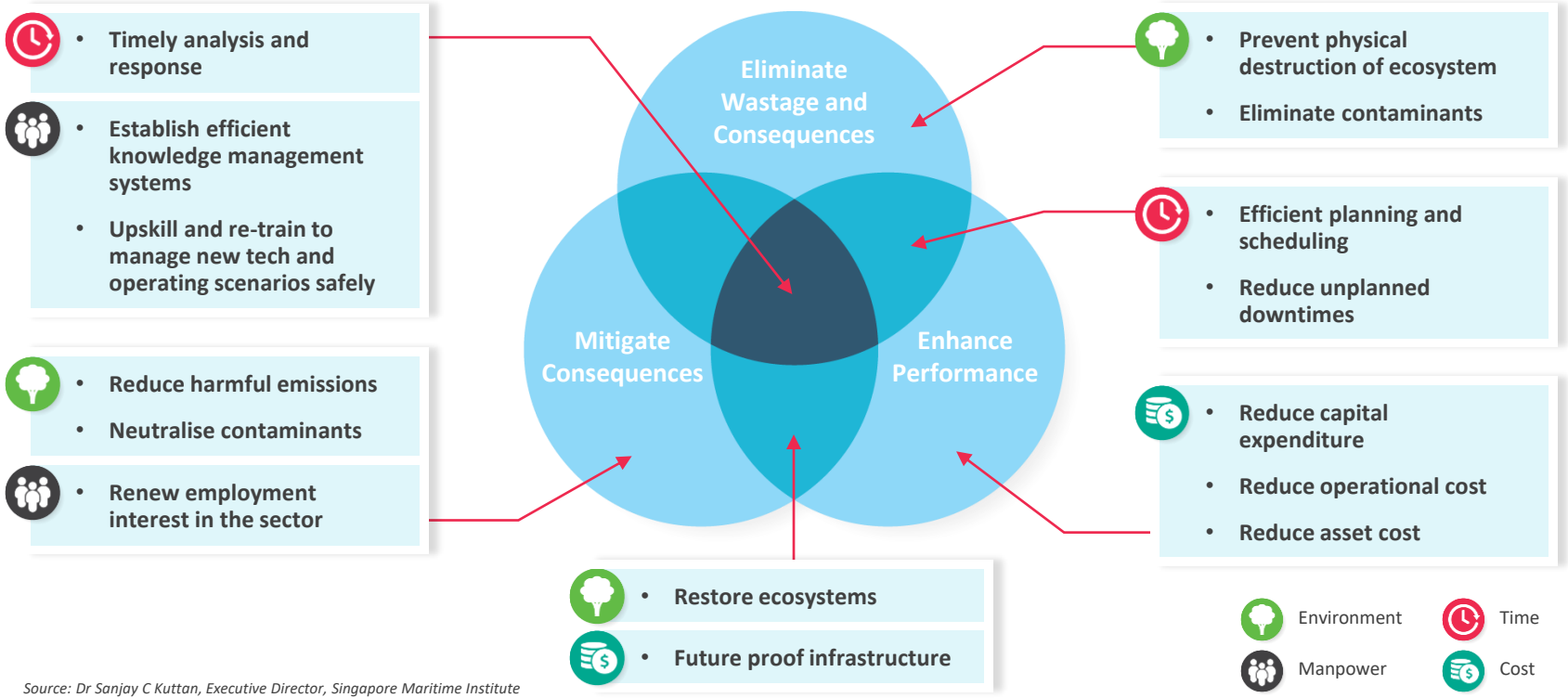


The enabling technologies across the 5 research thrusts

- 5 core thematic focus on “Digitalisation, Intelligence, Connectivity, Efficiency and Sustainability” encapsulating the enabling technologies



R&D outcomes must deliver impact



Source: Dr Sanjay C Kuttan, Executive Director, Singapore Maritime Institute

R&D deliverables must address 7 key questions to enable an effective Maritime Transformation

1. How do we **enhance current assets** and processes to achieve desired outcomes?

2. What new technologies, business models and systems do we need to develop that will give **breakthrough performance** outcomes (not incremental)?

3. How do we **integrate existing and new assets** and processes effectively and not compromise safety and reliability?

4. What **information and insights** do we need on a real time basis to ensure higher performance efficiency and efficacy for both operations and services?

5. How do we **maximise the synergies** across enhanced systems, for greater system-of-system performance?

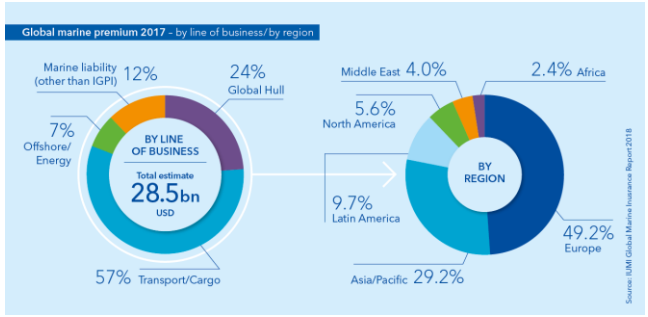
6. What are the **new regulatory, legal frameworks and standards** do we need to ensure compliance for safety, security and system integrity?

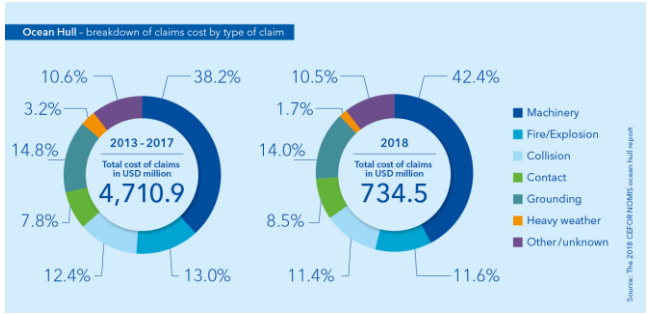
7. How do we engage, excite, enable and employ a **new generation of maritime workers** in a sustained way?

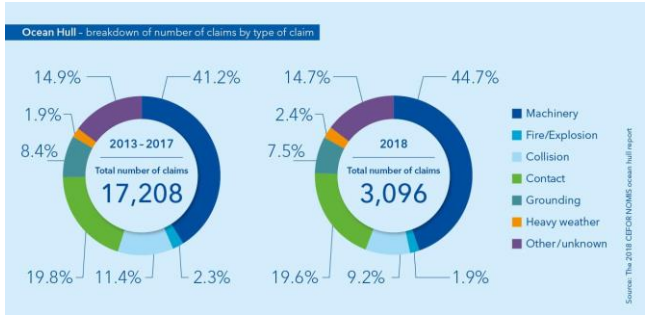
Source: Dr Sanjay C Kuttan, Executive Director, Singapore Maritime Institute

3. Managing Risk through R&D

3. Managing Risk through R&D







The enabling technologies and capabilities to provide higher level of risk management

Enabling technologies and capabilities

- Modelling and Simulation
- Immersive Experiential
- Cloud Computing
- Secure Transactions
- A.I. and Analytics
- Smart Devices
- Human Factors
- Autonomous Systems

- Industrial IoT
- Wireless Communications
- Satellite Communications
- Automation and Robotics
- Additive Manufacturing
- Clean Energy and Storage
- Emission Management
- Pollution Prevention and Response

Standards and Policy Research

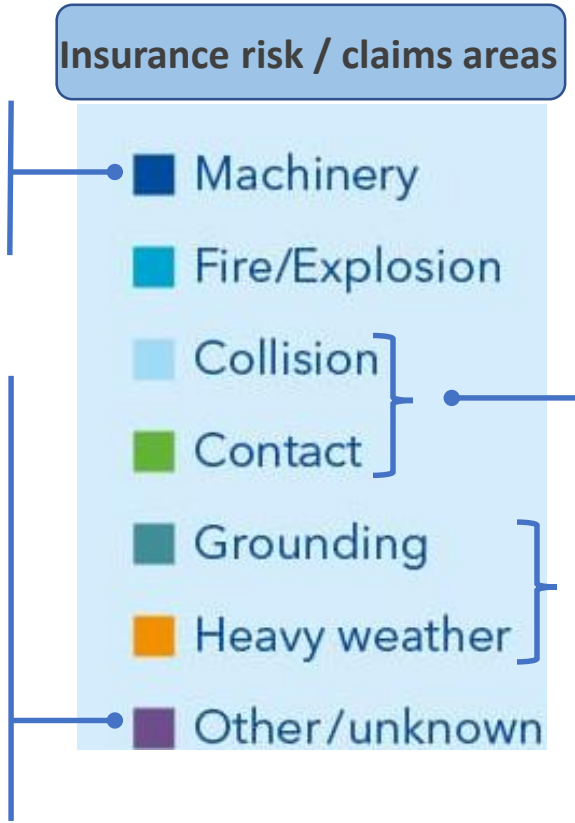
IoT enabled data driven system of system level solutions

Insurance risk / claims areas

Key solutions and methodologies to address major risks / claims areas

- The use of AI/ML algorithms for
  - Predictive maintenance
  - Early fault detection

- Automation solutions for Personnel safety
  - Remote piloting
  - Automooring
- Welding and structural integrity
- Cyber security training
  - Prevention, detection, response



- The use of AI/ML algorithms for hot spot predictions
- Autonomous Vessel COLREG based algorithms

- The use of improved seafarers navigational training with access to data driven decision making services
- Design improvements using cyber-physical systems

SINGAPORE

R&D ROADMAP 2030

MARITIME TRANSFORMATION

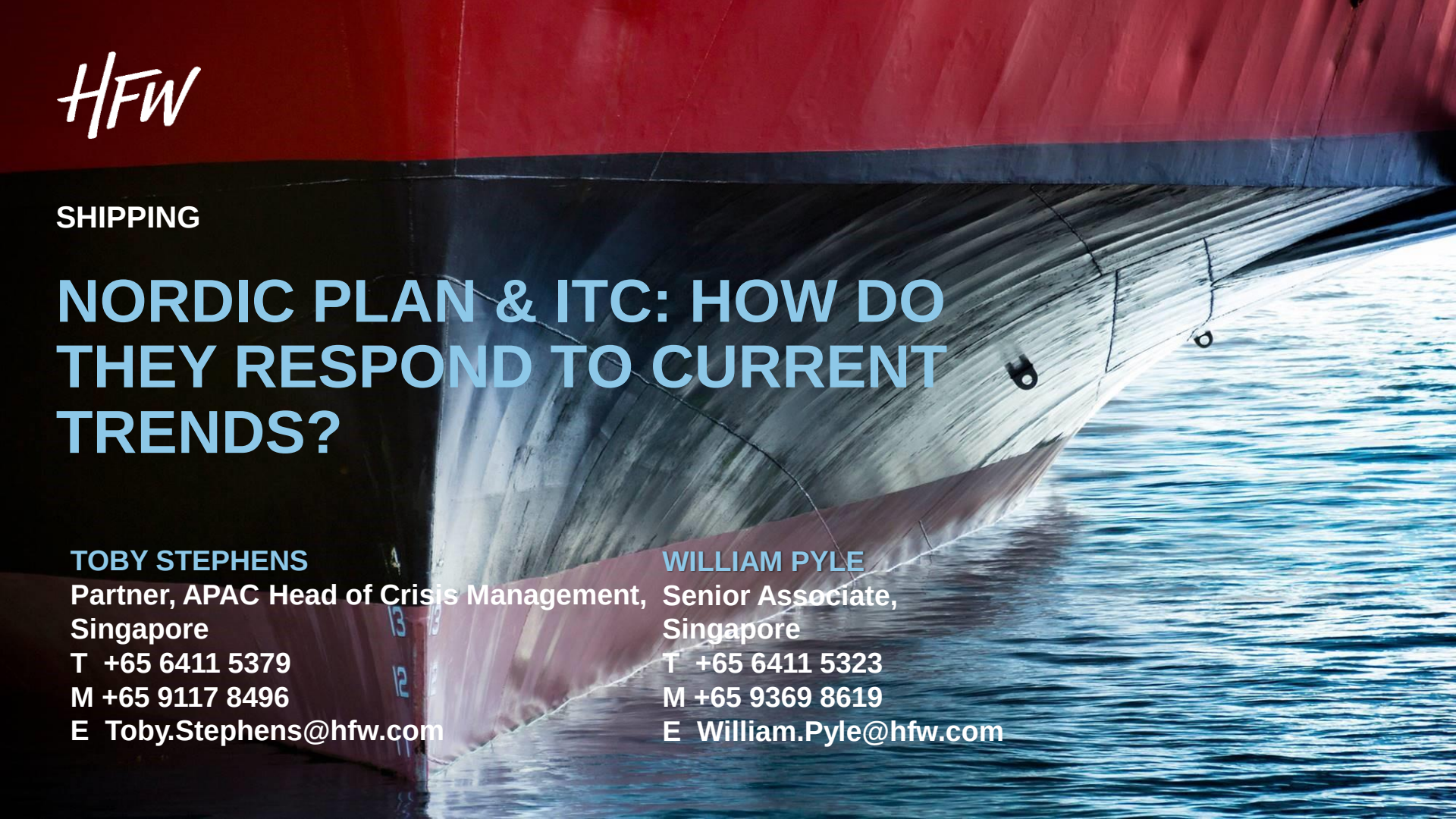
Contact

Drop us an email:

smi@maritimeinstitute.sg

SHIPPING

NORDIC PLAN & ITC: HOW DO THEY RESPOND TO CURRENT TRENDS?



TOBY STEPHENS
Partner, APAC Head of Crisis Management, Singapore
T +65 6411 5379
M +65 9117 8496
E Toby.Stephens@hfw.com

WILLIAM PYLE
Senior Associate, Singapore
T +65 6411 5323
M +65 9369 8619
E William.Pyle@hfw.com

OVERVIEW

The Nordic Marine Insurance Plan ("NMIP"):

- Cover is all risks subject to the specific exceptions stated in cl. 2-8
- Chapter 12 governing damage under a H&M insurance contains some detailed exclusions
- The insurer has the burden of proving that an exception applies

Institute Time Causes (Hulls) ("ITC"):

- ITC is based on the named peril principle (cl. 6 & 7 and MIA 1906 s.55)
- The insured has the burden of proving that the loss falls within one of the named perils

Both sets of clauses will be subject to standard market exclusions.

Norwegian Law and Conditions

- Norwegian Insurance Contracts Act 1989 ("**ICA 1989**") generally applicable to all types of insurance governed by Norwegian law
  - not mandatory (except injured parties' right of direct action and payment under the contract of insurance in the event the insured is insolvent)

- Starting point: full freedom of contract save for some mandatory provisions in the ICA 1989 and general rules on unfair or unreasonable contract terms (Norwegian Contracts Act s.36)

- NMIP does not contain a general exclusion of the ICA 1989, but contains several provisions deviating from the ICA 1989

- In matters not regulated by the NMIP, or where the NMIP is ambiguous, the ICA 1989 is an important legal source as an expression of Norwegian background law on insurance

English Law

- Marine Insurance Act 1906
- Insurance Act 2015
  - Warranties
  - Fair presentation of risk
- Institute Time Clauses (Hulls) 1983 – still most commonly used
- The experience of the English Court and centuries of Jurisprudence

Recent Cases:

- BRILLIANTE VIRTUOSO
- ATLANTIK CONFIDENCE
- DC MERWESTONE

- Assured must prove case on the balance of probabilities
- Insurers will not always have access to “direct evidence”
- Court will look at matters of “cumulative suspicion”
- “Improbability defence” may not be sufficient

FRUADULENT CLAIMS
NORWEGIAN LAW / NORDIC PLAN

Norwegian Law and Conditions:

- Fraud is expressly dealt with in NMIP with respect to disclosure obligations and settlement of claims
- Any exemption from liability must be in accordance with general principles of insurance law: burden of proof etc

- NMIP CL. 3-2:
  - If there is fraudulent failure to fulfil the duty of disclosure in connection with the entering into the contract of insurance, the contract us not binding on the insurer

- NMIP Cl. 3-32:
  - If the insurance event is caused with intent, the insured has no claim against the insurer (and if caused through gross negligence, the insurer's liability may be reduced)

Norwegian Law and Conditions:

- NMIP cl. 5-1: Obligation to provide the insurer with such information and documentation as are available to him and required by the insurer for the purpose of settling the claim
- If the insured has committed fraud in connection with the presentation of the claim, the insurer is free from liability (may also cancel other insurances)
- If the insured intentionally or though gross negligence fails to fulfil his duties in connection with the presentation of the claim, the insurer is only liable to the extent he would have been liable if the insured had fulfilled his duty to correctly present the claim
- Burden of proof is with the insurer and considerations similar to the English Law

English law:

- The Insurance Act 2015 has changed the duty
- Burden upon the assured
- The duty to disclose all material matters has changed to a “fair presentation of risk”
- Disclosure given must be reasonably clear and accessible (no ‘data dumping’)
- Duty on the insurer to make further enquiries

- Norwegian Law and Conditions

- Duty of disclosure is on the person “effecting the insurance”
- Pre-contractual disclosure obligation
  - Must disclose all circumstances that are material to the insurer when deciding whether and on what conditions to accept the insurance (cl. 3-1)
- Fraudulent failure to fulfil his duty of disclosure
  - The contract of insurance is not binding and the insurer may cancel other insurance contracts with the insured with 14 days' notice (cl. 3-2)

- Norwegian Law and Conditions

- Other cases of failure to fulfil the duty of disclosure:
  - The contract is not binding if the insurer would not have written the risk, had full disclosure been given (Cl. 3-3)
  - If the insurance would have been concluded on different terms, the insurer is only liable to the extent that the loss is not attributable to circumstances the insured failed to disclose (Cl. 3-3)
- Burden of proof is on the Insurer

- English Law
- s.60 of the Marine Insurance Act 1906:
  - *"there is a constructive total loss where the subject matter insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed its value when the expenditure had been incurred"*
- Variety of recent changes / clarification of the MIA 1906:
  - Assured need not choose cheapest yard
  - *"large margin"* allowed if damage cannot be assessed
  - 10% contingency now seems standard
  - Pre NOA costs count towards CTL

Norwegian Law and Conditions

- NMIP Cl. 11-3 refers to “condemnation” (equivalent to CTL)
- Condemnation if the ship has suffered casualty damage and the costs of repair will amount to at least:
  - 80% of the insurable value, or
  - 80% of the value of the ship after repairs (if such value of the ship is higher than the insurable value)
- Insurable value is normally the sum insured as stated in the policy, but NMIP has a mechanism for ensuring the correct insurable value if the assured has given a misleading value
- Using the higher of the two protects against:
  - Easy access to total loss by using a low value
  - Claim for condemnation in a poor market, then receiving a higher insurable value

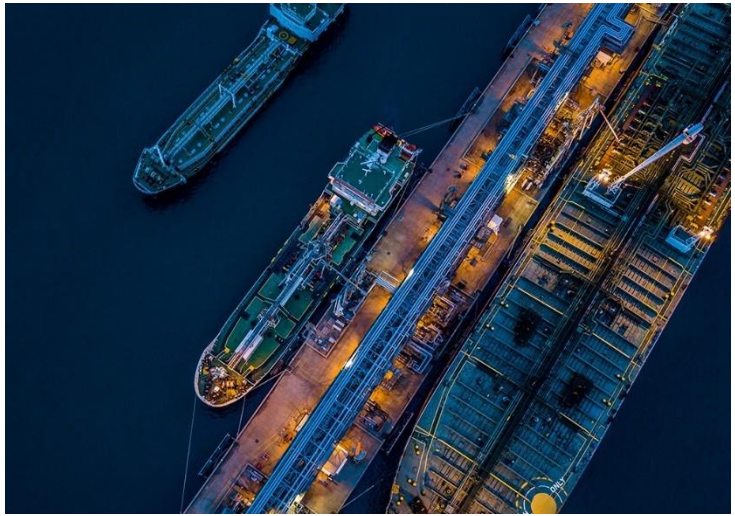
SCENARIO 1

SCENARIO 1

“CHEMICAL BOOM" arrived at Da Nang, Vietnam on 1 June 2018 with a cargo of soya oil. The vessel was detained and four navy guards were put on board. Two reasons were given by the Vietnamese authorities:

1. An unarmed foreign security advisor was onboard the vessel
2. The cargo was contaminated

Both these allegations were unfounded. Still, the detainment lasts for 14 months. The Owners present their claim for total loss compensation from both war risks and marine risks insurers.



ITC Hulls and ITC War and Strikes

- ITC Hull expressly excludes:
  - *23.2 capture seizure arrest restraint or detainment (barratry and piracy excepted), and the consequences thereof or any attempt thereat.*

- ITC War and Strikes bring this cover back in at 1.1 to 1.6:
  - *1.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power*
  - *1.2 capture seizure arrest restraint or detainment, and the consequences thereof or any attempt thereat*
  - *1.5 any terrorist or any person acting maliciously or from a political motive*
  - *1.6 confiscation or expropriation*

- It then goes on to deem a CTL if those events last more than 12 months (clause 3).

- ITC Hulls and ITC War and Strikes
  - BUT ITC War and Strikes excludes:
    - *4.1.5 arrest restraint detainment confiscation or expropriation under quarantine regulations or by reason of infringement of any customs or trading regulations*
    - *4.1.6 the operation of ordinary judicial process, failure to provide security or to pay any fine or penalty or any financial cause*
  - Requires analysis of proximate cause
    - What if there are two causes, one insured and the other excluded? The exclusion prevails: *THE MISS JAY JAY [1987] 1 Lloyd's Rep 32*
    - Need advice on what has actually happened under Vietnamese law – is this just Vietnam's slow process, or is it something more. Feels more likely that exclusion applies.

- ITC Hulls and ITC War and Strikes

  - B ATLANTIC [2018] UKSC 26:-
    - There the dispute was whether a detention in Venezuela due to drugs on the hull fell within Clause 1.5 of ITC War and Strikes: “loss of or damage to the Vessel caused by…any person acting maliciously”.
    - The Court had to decide whether the Clause 4.1.5 exclusion applied.
    - Held that Clause 4.1.5 applied AND no cover under Clause 1.5 because drug smugglers did not intend malice to the Owner.

Clause 1.2 Peril	Meaning
Capture	requires an enemy or belligerent
Seizure	Includes act of taking forcible possession by a lawful authority or overpowering force
Arrest	on or behalf of the ruling power of country, legally or illegally, with or without force
Restraint	
Detainment	

Clause 4.1.5 / 4.1.6 Exclusions	Meaning
Customs Regulations	broad meaning to include all laws in force whatever their form dealing with customs.
Trading Regulations	regulations to do with sale/import of goods, carriage or goods etc.
Ordinary Judicial Process	Ordinary administration of justice e.g. arrest Does not include confiscation by an extraordinary military tribunal or a vessel seized by customs officials

- Marine: «all perils», NP 2019 cl 2-8
  - State interventions will then as a starting point be a marine risk, Cl 2-8 (1)
  - Exclusion for interventions by «own State power», Cl 2-8 (2) b
  - Exclusion for war perils, Cl 2-8 (2) a
  - Exclusion for insolvency or lack of liquidity of the assured or the operation of ordinary legal process to enforce payment of any fine, penalty, debt or right to security unrelated to a claim or liability covered by the insurance, Cl 2-8 (2) d

- War risks: «named perils», NP 2019 Cl 2-9
  - Interventions by foreign state powers, Cl 2-9 (1) b

  «Capture at sea, confiscation, expropriation and other similar interventions»...

  «Provided any such intervention is made for the furtherance of an overriding national or supranational political objective»
  - Elaborated in the Commentary to the NP 2019

- Marine:
  - Physical repairs, NP 2019 Chapter 12
  - Total loss, cl 11-1 «without there being any prospect of it being recovered …»
  - LoH, separate insurance, time lost for repairs
- War:
  - Total loss, Cl 15-11 <<If the assured has been deprived of the vessel by an intervention by a foreign State power, for which the insurer is liable under Cl. 2-9, the assured may claim for a total loss if the vessel has not been released within six months from the day the intervention took place.>>
  - <<If the assured has brought a claim for a total loss and the time-limits stipulated have expired, it is irrelevant for the assured's claim that the vessel is released at a later time.>>
  - LoH cover for time lost by detention, NP Cl 15-16 and 15-17
- Increased frequency of long detentions
  - Nigeria, Venezuela, Oman, Algeria, etc...

- As a starting point clearly a marine peril – detention by a foreign state power
- But could it be a war peril?
  - Overriding political objective?
  - Typical for war or times of crisis?
  - Probably not a war peril
- Strikingly different criteria for total loss
  - Marine: No prospect of recovery…
  - War: 6 months, even if the vessel is released later, NP 2019 Cl 15-11 (4)
- Conclusion: The distinction war/marine is very crucial to a TLO claim in detention cases

SCENARIO 2

SCENARIO 2

“CARINA” operates with the benefit of scrubbers. The scrubbers sustain damage preventing operations in accordance with IMO 2020 regulations. The owners have LOH insurance.

What are their options?

1. Repair the scrubber and claim for the delay under the LOH insurance.
2. Reduce the hire paid by Charterers in return for Charterers agreeing to stem low sulphur fuel and claim the shortfall from LOH insurance.
3. Swap out the bunkers for low sulphur fuel and claim the lost time, costs of swapping and increased cost of low sulphur fuel from LOH insurance.

- Loss of time usually excluded from H&M policy Institute Time Clauses
- Nearest clauses are ABS Loss of Charter Hire Insurance 1.10.83
- The loss of time must be caused by an insured peril. See *Cepheus Shipping Corp v Guardian Royal Exchange Assurance Plc (The Capricorn) [1995] 1 Lloyd's Rep. 622*.
  - Option 1: Loss of hire resulting from damage to the scrubbers caused by a peril of the sea is covered under ABS
  - Options 2 and 3 – what is the proximate cause of the loss of time?
    - Choosing not to repair the scrubber
    - Reduces hire
    - Commercial decision proximate cause of reduced hire? Not a fortuity: causing a greater loss under LOH policy.

      Clause 12: "*The Assured shall effect, or cause to be effected, all repairs (temporary or permanent) with due diligence and dispatch. Underwriters to have the right to require the Assured to incur any expense which would reduce Underwriters' liability under this insurance provided such expense is for Underwriters' account.*"
    - Analyse the financial outcome of all three options on each insurer?

- Loss of time not covered by the ordinary Hull Insurance

- Loss of time may be covered under the LoH insurance, but only to the extent it results from *"damage"* to the vessel caused by a marine peril which is recoverable under the conditions of the NP, cf. NP Cl. 16-1 and Cl. 2-8, i.e.:
  - Recoverable as particular average in accordance with Chapter 12; or
  - Recoverable under hull insurance by virtue of the general average rules in Clause 4-8.

- The term "damage" means first and foremost "physical damage" to the vessel, but excluding costs etc. arising as a result of wear and tear, inadequate maintenance etc. or damage arising as a result of error in design or faulty material (unless the part in question had been approved by Class)

- Option1: Loss of time due to repair of damage to the scrubbers is covered under Clause 16.1

- Option 2: Reduced charter rate may be recoverable as the LoH insurance covers both loss due to the vessel being *"wholly or partially"* deprived of income, but insured must demonstrate that the loss is a consequence of the damage, i.e. that he was "forced" to reduce the charter rate as a result of the damage and would have been able to maintain the original charter rate had the damage not occurred.

- Option 3:
  - Loss of time may be recoverable under NP Cl. 16-1
  - Extra costs incurred in order to save time *may* be recoverable under NP Cl. 16-11, covering extra costs incurred *"in connection with extraordinary measures taken to avert or minimise loss of time covered by the insurance".*
    - *NP Cl. 16-11 is an extension of the ordinary "sue and labour" provision in NP Cl. 4-7, but specifically aimed at measures to save time (and do not cover costs recoverable from the hull insurer)*
    - *Only extraordinary measures over and above such measures as the insured is obliged to take under its duty to avert or minimise loss in NP Cl. 3-30 may be covered (extraordinary measures v. increased voyage expenses)*

SCENARIO 3

SCENARIO 3

“LUCKY SAILOR” arrives at a port with her port hawse pipe empty. The local authorities demand a search for the lost anchor. The anchor has a value of

(a) USD 50,000

(b) USD 100,000

The deductible under the H&M policy is USD 80,000. Search costs are USD 50,000.

What is covered under the H&M policy and under the P&I entry?

NORDIC
SCENARIO 3

- Starting points: H&M covers values, P&I covers liabilities
- NP 2019 Cl 2-8 "all perils"
- Limited cover for liabilities in NP 2019 Chapter 13
- If the anchor (equipment) belongs to an assured
  - NP 2019 Cl 10-1 (2), total loss, repairs, etc
  - Covered by H&M, subject to deductible
- If the anchor (equipment) belongs to a third party
  - Liability excluded by NP 2019 Cl 13-1 (2) h
  - Not covered by H&M, probably covered by P&I

- If the anchor (equipment) belongs to the assured
  - Costs of measures to minimize loss, NP 2019 Cl 4-7, 4-12, covered by H&M
  - Apportionment according to practice (Commentary on Cl 4-12)
  - Is the anchor (equipment) a total loss?
  - «Wreck removal» costs must be covered by P&I
- If the anchor (equipment) belongs to a third party
  - Liability not covered by H&M, NP 2019 Cl 13-1 (2) h
  - Sue and labour not covered by H&M, NP 2019 Cl 4-7, 4-12
  - Must be covered by P&I

ITC
SCENARIO 3

- H&M
  - The anchor is likely to be part of the property insured under the H&M policy
  - ITC is a named perils regime. The assured must show the operation of a named peril: 6.1.1
  - The burden then switches to the insurer to show the operation of an exclusion.
  - The assured is entitled to claim for the lost anchor subject to the application of the deductible.
  - There is no H&M sue & labour –
    - the loss has been incurred and is not been *minimised or averted.*
    - the recovery costs are not minimising an insured peril, but a liability.
- P&I
  - The assured is facing an obligation to the local authorities or a liability
  - Most IG Clubs would cover the cost of recovery lost property

    3.11.2 *Liabilities resulting from the actual or attempted raising, removal or destruction of the wreck of the ship, cargo or any other property on board*
- Challenge
  - Who has the benefit of the anchor it recovered with a residual value?

NORDIC PLAN & ITC: HOW DO THEY RESPOND TO CURRENT TRENDS

ANY QUESTIONS ?

NORDIC PLAN & ITC: HOW DO THEY RESPOND TO CURRENT TRENDS

SPEAKER BIOGRAPHY

TOBY STEPHENS

Toby is Head of the Shipping, Offshore & Logistics team in Singapore and also leads HFW's Global Crisis Management team in Asia Pacific. Toby specialises in risk and crisis management/emergency response in the marine and energy sectors. Toby's work involves managing major marine and energy disasters which are often complex, involving a number of inter-related actions in a number of jurisdictions. Toby is also recognised for insurance coverage and other marine and energy related commercial and contractual disputes.

Toby advises organisations on their risk management, including contractual and regulatory liabilities, crisis management systems, organisational resilience and crisis preparedness. Toby lectures regularly on the subject, both in the UK and internationally and he has been admitted as a Technical Specialist of the Institute of Risk Management (SIRM).

Toby joined HFW as a solicitor in 2001 and became a partner in HFW's Admiralty and Crisis Management Team in 2007. He has practical experience of working as a marine surveyor in Houston. He has also acted as head of the legal team at a leading Lloyd's syndicate dealing with marine, energy and war risks.

SPEAKER BIOGRAPHY

WILLIAM PYLE

William is a Senior Associate in HFW's Singapore Office. He has a broad practice in shipping and international trade and advises a range of clients including P&I clubs, shipowners, charterers, insurers and banks. William handles contractual disputes, including those arising out of charterparties and bills of lading and also deals with marine casualties such as collisions, groundings and fires at sea.

William has been based in Singapore since 2013 and joined HFW from another International Shipping Firm. William has also worked on Secondment with an International Group P&I Club in Asia.

William is Qualified in England And Wales.

NORDIC PLAN & ITC:

HOW DO THEY RESPOND TO CURRENT TRENDS?