

The appalling natural disaster of the Earthquake and Tsunami affecting North East Honshu in Japan has added another dimension to the man-made troubles affecting our World.

Amid the current turmoil it is nigh-impossible to predict the short to medium future of the World economies and particularly of the Maritime Markets.

The “stable” feature is that there are upwards of 6.5 billion people on our Globe who need to be occupied and fed which implies a steadily increasing demand for transport particularly shipping.

The unstable features are however many.

- Over supply of ships and shipbuilding capacity,
- The current, apparently growing unrest right across the North Coast of Africa and Middle East.
- Piracy.
- The ‘ecological’ challenge, indicating everything from economic hull designs, to slow steaming, to expensive bunker costs. (LNG?)
- Shortage of crews, including officers.
- “Humanitarian” yet intrusive labour laws.
- The change in the composition of the shipping markets and the unstoppable move to the East.
- The ability of Japan to recover from the Earthquake/Tsunami.

One could go on much longer with this list.

I feel that IMIF’s duty is to continue to press for understanding of the new realities of our changing World and our next series of Buffet luncheons will concentrate on these topics.

Meanwhile we can mull over two recent developments.

- . The Greek Maritime Mission to Beijing which reputedly resulted in a \$5 billion extension of credit by the Chinese Government/Shipbuilders to potential Greek owners and,
- 2. A decision by Private Equity firm Carlyle and others to acquire \$5 billion of shipping assets to “capitalise on increasing demand in the Shipping Centre”, and seeing... “ a compelling opportunity to ensure continuing growth in demand for Shipping Capacity”

I would value a chance to hear the Partners of Carlyle explain their initiatives in more detail at an IMIF buffet lunch.

Jim Davis

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### IMIF new members

We are pleased to advise of the following new members:

<b>Managing Partner, International Registries LLC</b>	Clay Maitland
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**Program Director, Executive MBA in Shipping & Logistics  
(The Blue MBA), Copenhagen Business School (CBS)**

Irene Rosberg

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## **IMIF RELOCATION OF OFFICE**

Those members who from time to time drop in to visit us when in the vicinity of the Baltic Exchange should please note that from now on when they leave the lift instead of turning to the left as usual to enter the IMIF office they should now turn to the right. As agreed between IMIF Chairman Jim Davis and Fairdeal International Ltd's Captain Cecil Smylie, IMIF has relocated across the hallway and is now to be found in part of the suite of offices previously occupied exclusively by Fairdeal International Ltd. Additionally following the retirement of IMIF's Jennifer Wybrew-Bond, Miss Victoria Mott, formerly exclusively part of Cecil's team, will now divide her time equally between both organisations. This should help IMIF, a non-commercial non-profit making organisation, to contain its expenses. IMIF is truly grateful to those loyal members who, in this particularly difficult market, continue to renew their annual IMIF membership subscription, providing IMIF with its essential financial support along with their goodwill. There is no change of postal address and the telephone and fax numbers and the email address remain exactly as they were previously. Those of you who use the 1471 facility when you return to your offices may come across the telephone number 020 3189 2640 in the system. This relates to the IMIF switchboard number 020 7929 6429 as grafted onto the Fairdeal telephone system but you will not be able to use the number on the 3 redial system - you will need to dial the 6429 number as usual to connect with IMIF. Finally IMIF would like to offer its thanks to the Baltic Exchange for facilitating this relocation within the Baltic Exchange premises and in particular offers its heartfelt thanks to Dave Buck and Frank Witcombe, part of Mike Harper's maintenance team for their assistance, well 'above and beyond' the call to duty, in physically relocating IMIF's furniture, files and equipment thus relieving the more "mature" members of both organisations from having to exert themselves 'above and beyond' their ability to do so!

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## **REPORTS**

Thanks to the goodwill and generosity of the many IMIF members who have so kindly agreed to act as hosts, IMIF has for the past twelve years been able to arrange a series of buffet luncheons with guest speakers. Each of those speakers has been renowned for their specialist knowledge on a particular subject. The subject selected has always been of immediate relevance to the current maritime market and open to discussion by IMIF members from all parts of the maritime industries. If you feel that a particular topic should be discussed at one of these luncheons then please do contact the Secretariat on [victoria@imif.org](mailto:victoria@imif.org) and we shall try to arrange for the topic to be incorporated into a future luncheon. Thank you.

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### **IMIF Buffet Luncheon Wednesday 15 September 2010**

<b>Hosted by</b>	:	Mr Anthony E Julien, International Registries (UK) Ltd, Deputy Commissioner of Maritime Affairs, London Office of the Maritime & Corporate Administrators of the Republic of the Marshall Islands

<b>Guest Speaker</b>	:	Dr Guy E C Maitland, Chairman, North American Marine Environment Protection Association (NAMEPA)
<b>Subject</b>	:	<b>The Maritime Consequences of President Obama* (with apologies to the shade of Lord Keynes)</b>

Jim Davis thanked Tony Julien for hosting this luncheon and then introduced, as guest speaker “the small but perfectly formed” Clay Maitland. Jim and Clay have known each other for many years. As Chairman of the Committee on Admiralty Law, New York City Bar Association from 1982-6 Clay hosted Jim as one of the most popular speakers to address the New York City Admiralty Bar during Clay’s tenure. Addressing the IMIF delegates Clay suggested that after 41 years as a maritime lawyer polite friends looked on him as a sort of “expert”. An “expert” has been described variously as “some b\*\*\*\*rd from out of town” and “someone who got it wrong shortly before anyone else.” By those definitions, Clay said, maybe, I fit the description.

“In contemplating President Obama I am reminded of what Churchill said about the United States: “America can always be counted on to do the right thing, but only after it has exhausted all the other alternatives.” This resembles the Obama administration’s startled reaction to the Deepwater Horizon. We must distinguish between the “maritime consequences” of the Obama Administration and the consequences of the oil gusher itself. They are not quite the same. In fact the “consequences” of which I am speaking aren’t for the most part the active part of the Obama administration. Like that of the UK, there seems to be a lack of governmental awareness of maritime issues. The government is therefore usually reactive when it comes to maritime matters. The hedgehog, as you know, knows one big thing. Insofar as the U.S. has a maritime policy, with “consequences”, that policy, and those consequences, are incidental to one big thing: OIL. As a result of the U.S. consumption of oil, there are definitely consequences. And regardless who leads the U.S. government, those consequences, particularly as they effect the tanker trades, are likely to be lasting. Oil, clearly, is still a powerful force, driving policy forward. It has many consequences, some of them effecting the shipping industry. America’s, and the world’s, remaining untapped oil deposits are to a large degree present in strata beneath the world’s oceans. America’s proven reserves lie largely in two places: the Gulf of Mexico, and off the Northern Arctic coast of Alaska in the Chukchi and Beaufort Seas. All of these require, or affect, movement of cargo by sea. President Obama has had to face two “black swan” crises: 1. The effects of the stock market crash, and the subsequent recession, requiring extensive changes in the way securities markets and banks are regulated; and 2. The Deepwater Horizon oil gusher. Both crises and their aftermath have damaged the administration’s reputation for skilful management. The issues are: 1. The drilling moratorium; 2. The legislative result; 3. The impact on shipping; 4. The protectionist itch; 5. Regulation, good and bad: “I never met a regulation I didn’t like” 6. Hostility to business, including shipping; 7. The decline of corporate social responsibility; and 8. The rise of risk management. They, and their long-term impact affect: 1. Tanker traffic into and out of U.S. waters; 2. The management and regulation of drilling rigs in U.S. waters; 3. The growing importance of measuring “risk”, from theory to fact; 4. How Companies will manage a high-risk profile; 5. Insurance in various ways; 6. The growing importance of international rules and regulations; 7. Supply chain issues; where the oil goes, and how; and 8. The growing effect of national and international politics on shipping, and upon those who act as its spokesman.

Ladies and gentlemen: "Oil spills are back!" What regulations would be desirable? 1. Chapter IX of SOLAS, the International Safety Management Code, is the law of the United Kingdom. The risk management principles of ISO Standard 31000:2009 are now a part of the Code, including the concept of assessment, by the Company concerned, of "...all risks to ...ships, personnel and the environment, and establishment of appropriate safeguards." This clearly opens the door to audit and enforcement of a comprehensive safety management system (SMS) for rigs and ships operating in European and U.S. waters. ISM establishes a formal safety management and assessment framework. Most important, it is a system that lends itself to a documented safety culture, and its effective oversight by government. Regulations implementing the ISM Code's provisions should be promulgated and failure to comply should constitute a violation. 2. Who was in charge? Captain Hung Nguyen, chairing the Coastguard / Interior Department hearings, keeps asking: "Who was the top authority on the rig when it exploded?" That, frankly, is one of the questions that the ISM Code - which is part of SOLAS remember - is supposed to answer. We need regulations to spell out personal responsibility, and that of others. 3. Audit the Safety Management System in place in each company. Oversight is crucial. There must be an outside policeman.

They are fraught with intense political consequences. They are, by their nature, traumatic. They evoke popular outrage, as nothing else that is maritime in nature can. Our political leaders are frustrated by their inability to "solve" an oil spill. There will be future spills. These will take us by surprise. "Most important": the growing awareness of heightened risk is frightening the "stakeholders" set, who now realize that everyone's on the front line. The Trafigras, the Glencores, the banks, the underwriters, are all in the category of "deep pockets". There is a splendid future, however, for those who are in the business of risk containment: the class societies, some underwriters, and to some extent, the flag state administrations. We must recognize things as they are, not as they once were.

Lessons: Limitation of liability is largely dead in the U.S. Lawyers are not always good advisors in an environmental crisis. BP's weren't. The traditional attitude, that we often see with class, that "the client is always right", should not get in the way of giving the client good, if unpalatable, advice. If you have to tell your client what he doesn't want to hear: do it! The pervasive belief that there is a "shield of secrecy" - example: the PRESTIGE / Coulouthros / "as agents only" fiction - is also largely ineffective when the oil begins to spill. Governments are still largely "babes in the woods" when it comes to the 'technology' of prevention, response and remediation. They need to cooperate more with responsible environmentalists and private industry. Governments can learn from industry. It was, after all, BP who eventually stopped the flow of oil. Industry - frankly needs "management that understands the modern age". Management needs to be politically sensitive to its own vulnerabilities. This is the essence of risk analysis. Risk awareness, management and loss control require 'budgets' that are large enough and flexible enough to cover engineering, research and development. Beancounteritis is a deadly disease. The ISM Code lives! It is national law (Chapter IX of SOLAS). It requires safety management systems, drills, and clearly designated chains of command and responsibility. The BP Board of Directors and its senior management, were ill-prepared to deal with an environmental crisis. One wonders why.

I believe that if you are in a business with a high risk profile you should have at least one director who specializes in major risks. There should be a Risk Management Committee, just as there always is a Finance Committee. The Macondo, or Deepwater Horizon, disaster has given a boost to the regulation of safety - not just of oil production at sea, but also of all kinds of oil transport. There will be tighter and more elaborate requirements in the days to come. Can all these be said to be the 'maritime consequences' of President Obama? Certainly they cannot be said to be his administration's handiwork. They 'did' result from an incident at sea. But his reaction, and that of his administration, must be assessed in light that his is a much 'greener', environmentalist-friendly regime than the

one that preceded it.

It is not possible to predict whether he will be elected to a second term. A Sarah Palin administration - hers is the phrase "Drill, baby, drill" - would surely be less interventionist, but just as dangerous.

The fact remains - when there is a spill, politics becomes the driving force. Politics and oil, when combined, are overwhelming."

These are some of the comments extracted from the discussion that followed. "The Obama moratorium will end" (13 companies have now been issued with permits to resume or commence oil drilling in the Gulf of Mexico, March 2011). "There is oil in Alaska - forget windmills - most of our power will come from fossil fuel first." "Oil comes up in cold water, solidifies and sinks again." "In the UK if the head of a company has a knighthood and a shortened first name then run in the other direction!" "BP was too big to be insured." "The blowout preventer remains have been recovered. ABS classed it. Now the U.S. government has appointed Det Norske Veritas to check what ABS did. Clay - this will take 30-40 years of legal fighting to resolve." "Is it now too risky to trade with America? Clay - There is still big money to be made!"

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### IMIF Buffet Luncheon Monday 25 October 2010

Hosted by	:	Tetsuya Kinshita, Regional Manager, Europe and Africa, ClassNK London
Guest Speaker	:	Richard Schiferli, General Secretary, Paris MOU on Port State Control
Subject	:	<b>The Paris MOU "New Inspection Regime" which comes into effect on 1 January 2011</b>

"Good ship owners have nothing to fear, but everything to gain" when the New Inspection Regime adopted by the Paris Memorandum of Understanding replaces the existing port state control regime in January 2011, said Mr Schiferli. It represents "a quite different approach," which should be welcomed by the best operators, he told the IMIF capacity audience. Normally, 60% of ships inspected are without deficiencies.

The Paris MoU, which aims at eliminating the operation of sub-standard ships through a harmonised system of port state control, consists of 27 maritime administrations and covers the European coastal states and the North Atlantic basin. It was first signed in 1982 by 14 countries, since when membership of the European Union has expanded considerably.

Mr Schiferli, who has been running the Paris MOU operation for just over 20 years, recalled: "When I started, you just put your car in the port, looked for ships, and said 'Captain, here I am, I would like to see your ship.' We had no proper information database, we had no targeting, so the work was well worthwhile but not very professional."

Mr Schiferli recognised that the maritime industry has been critical about ships being "over-inspected." Attending an Intertanko conference recently, he was surprised to learn how many times tanker companies were surveyed by the oil majors.

Now, the new inspection system moved towards a regional commitment, rather than a national commitment, and "we will share the number of ships across the region." The MoU is changing its target of inspecting 25% of individual ships calling at each member state to a shared commitment for full coverage of all ships visiting ports

and anchorages. All ship types will be covered, and inspections linked to company behaviour, by means of a Company Performance Indicator.

The Target Factor will be replaced by the Ship Risk Profile, which will range from Low Risk Ships (LRS) to High Risk Ships (HRS). Vessels in the middle will be denoted Standard Risk Ships (SRS).

The MoU has established a formula which takes into consideration the deficiencies and detentions of a company's fleet in the last 36 months, and compares it to the average of all vessels inspected in the MoU. The companies will be ranked very low, low, medium and high. Any Refusal of Access (Ban) will have a negative impact on the ranking of a company, which will be subject to more in-depth and frequent inspections.

Further factors can trigger an additional inspection, for example: a report by another MoU member state, collision, grounding, illegal discharge, unsafe manoeuvring, class suspended or withdrawn, and ship not on database.

Mr Schiferli said he had written to the Secretary-General of the IMO inviting him to inform member states of the new criteria, and that flags needed to report that they had completed the Voluntary IMO Member State Audit Scheme. As the MoU receives such confirmations, it will publish the names of the flags on its website. The IMO audit scheme is intended to provide states with an objective assessment of how effectively they administer and implement the mandatory instruments of the IMO.

The Ship Risk Profile is the most important part of the exercise, said Mr Schiferli. A list will be published on the MoU website of states which meet the flag criteria for a low risk ship (white list plus IMO Audit). A state must have the resources available to inspect ships.

"We want to focus on the high risk ships and leave the low risk ships alone," said Mr Schiferli. High risk ships will continue to be visited every six months, standard risk ships every 10 to 12 months – half as often as at present – and low risk ships at intervals of 24 to 36 months, an inspection period of four to six months longer than at present. After 36 months, a ship must be inspected.

In regard to low risk ships, type and age will have no influence if for instance the flag is on the white list and has successfully implemented the IMO audit; the company is deemed of high performance; historical factors over 36 month period are favourable: less than five deficiencies are noted in each inspection; and there are no detentions. It will take three to four hours at most to inspect low risk and standard risk ships, as at present. High risk ships that accumulate more than five points on a penalty matrix will get an extended inspection. Expanded inspections for ships older than 12 years, including dry bulk carriers, tankers, gas carriers, chemical carriers and passenger ships, whatever their record, will take place. This is the result of political rather than technical considerations, and based on a sophisticated matrix.

Inspections will extend to anchorages, to catch up with ships that try to escape port state control by staying off the quay.

In reply to questions, Mr Schiferli said that the MoU had never had much contact with underwriters, but acknowledged they were very important "because they are part of what is the chain of responsibility within the maritime business. I know that underwriters look at the [MOU] website and look at ships and the information is useful for calculating the insurance risk." As part of efforts to increase co-operation, Carien Droppers, deputy to Mr Schiferli, gave a detailed presentation to the 2010 conference in Zurich of the International Union of Marine Insurance, during the loss prevention workshop. The Powerpoint presentation is on the IUMI website, together with a webcast.

Mr Schiferli said that the worst tonnage was operating in the southern part of the Mediterranean and the Black Sea, and he forecast that after January 1, there will be a substantial amount of ships, mostly small and general cargo vessels, which will be banned from the region.

A member of the audience worried that the reference to flag states being on black or white lists threatened to open a Pandora's Box of problems, and was making some people increasingly nervous about the new regime. Vetting the companies, recognised organisations and flag states, meant that when owners wanted to buy or sell ships, in addition to all the checking of the past, people would ask for a certificate that the vessel was not black listed with the Paris MoU.

What of the quality regime and rewards, with Europe moving to a QUALEUROSHIP27 system in line with the QUALSHIP 21 rewards in the United States? Mr Schiferli admitted that insufficient staff resources meant there would be no paper certificate, but the systems were similar.

Another point raised by the questioner was that when a vessel is detained, in order to release it the Paris MoU will need a certificate or notice from the flag state so that the vessel can sail once the problems have been corrected... but what happens if the flag state is on the black list? What credibility would such a certificate have for the MoU?

A further concern was the aim of longer periods without inspections, which could mean difficulty complying with the quota and might increase the random element.

Mr Schiferli replied: "There is nothing to be nervous about, and it is not a Pandora's Box. Some flag states are making more progress because there are more incentives to be on the white list." The amount of ships detained might appear high in numbers, but it was low in percentage terms; 5% of inspections in 2009 resulted in a detention. "Most of the shipping industry is very responsible. We would like to reward them," and increasing the inspection period from six months was a considerable reward. "But we have to make it more difficult for the bad guys because they make for a bad environment for responsible shipping."

He summed up the new regime: "It is a significant step. Perhaps now you will get rid of most of the remaining substandard shipping in our region." He hoped that other regions would see this as worthwhile and the focused approach would be extended globally.

In that context, the IMIF chairman Jim Davis raised the danger of creating two-tier shipping, with the banned ships driven to an area free of MOU restraints.

Asked about the possibility of appeal against port state decisions, Mr Schiferli said that the MoU had a review panel, and in a few cases findings had been deleted from the record. In every inspection regime there were of course margins of error, but the number of errors compared to the number of inspections over a 12 month period, was very small.

Mr Davis thanked Mr Schiferli for what he said was a brilliant exposition, and underlined that feedback from insurers and others would be important for the operation of the regime. He warmly thanked Mr Kinoshita and his colleagues from ClassNK for their support for the occasion.

IMIF would like to thank James Brewer, NUJ, for his detailed coverage of this luncheon.

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### **IMIF Buffet Luncheon Wednesday 24 November 2010**

<b>Hosted by</b>	:	Mr Jeremy Penn, Chief Executive, The Baltic Exchange
<b>Guest Speaker</b>	:	Dr Philippe Boisson, Communication Director & Legal Adviser, Bureau Veritas, Marine Division

<b>Subject</b>	:	<b>The Deepwater Horizon Disaster - its possible Consequences for the Shipping Industry</b>
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Host Jeremy Penn was unavoidably called away but as IMIF Chairman Jim Davis was happy to advise The Baltic Exchange was instead very ably represented by Company Secretary Duncan Bain. Jim explained that he had attended a Bureau Veritas meeting in Paris where Philippe Boisson had presented a paper on the possible consequences of the Deepwater Horizon Disaster which Jim felt to be so significant as to warrant a wider audience, hence the invitation to present it in London to IMIF members.

Deepwater Horizon was an ultra-deepwater dynamically positioned, semi-submersible drilling rig able to operate in waters up to 8000 ft (2400 m) with a tonnage of 32588 tonnes built by Hyundai Heavy Industry in 2001, owned and operated by Transocean, leased to BP through September 2013, under the Marshall Islands Flag, MODU Code USCG; Class & Certification (SOLAS, LL, MARPOL, Tonnage): ABS -ISM Code: DNV. The rig was in the final phases of drilling a well 50 miles offshore of Louisiana in which casing is cemented in place reinforcing the well. On April 20 2010 an explosion occurred on the rig and she caught fire. An apparent equipment failure (blowout preventer) at the wellhead released oil and natural gas. The explosion and fire killed 11 of the crew and the rig sank on April 22. As Philippe advised the resulting oil spill is the worst oil environmental disaster in the US. The magnitude of the spill is difficult to estimate. Figures quoted are 5 million barrels released by the Macondo Wells; 4.2 million barrels pouring into the Gulf of Mexico covering an area of 75,000 square kilometres. The surface slick threatened the ecosystems and the economy of the entire Gulf Coast region with 32 National Wildlife Refuges potentially affected. Concerns were raised about the environmental impact of dispersants used. Crude oil has been washing into estuaries and onto beaches in Louisiana, Mississippi, Alabama, Florida and Texas. A massive US response to the oil spill involved 40,000 people and 7000 vessels. In order to coordinate the federal response to the spill the National Incident Commander established the Deepwater Integrated Services Team (IST) comprising 18 federal agencies including the USCG and DOJ. Termination of the damaged well was achieved on 19 September 2010. BOEM has confirmed that the cementing operation was successful; that the well has been permanently sealed with cement plugs and that pressure tests verify the integrity of the plugs. A large number of claims and class actions have been filed, many claims expected to be met from the fund set up under OPA. In November 2010 over 320 lawsuits had been filed mainly against BP (Drilling operator) and its subsidiaries; Transocean (Drilling contractor); Cameron (BOP manufacturer); Halliburton (who completed cementation of the final production well.) On 22 April the USCG and MMS launched an investigation into possible causes of the explosion. On 11 May 2011 the National Academy of Engineering was requested to conduct an independent investigation to determine the root causes of the disaster. On 21 May the President established the National Commission. There have now been a dozen oversight and investigative congressional hearings. Attention has focused on the cementing procedure and the blowout preventer. Significant problems have been identified with the blowout preventer and just hours before the explosion a BP representative overruled Transocean employees and insisted on displacing protective drilling mud with seawater. BP carried out an internal investigation and on 8 September found that no one single factor had caused the Macondo well tragedy, rather a sequence of failures involving a number of different parties led to the explosion and fire. The National Academy of Engineering (NAE) and the National Research Council (NRC) issued an interim report (16 November 2010) stating that the current practice of on-the-job training supplemented with limited short courses is not consistent with other safety-critical industries such as nuclear power and chemical manufacturing. In response to the explosion the DOI declared a

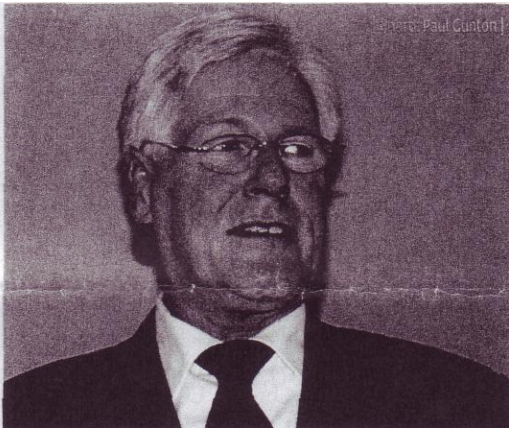


moratorium on deepwater drilling, extended for 6 months on May 27 2010 with an immediate halt to drilling operations on 33 permitted wells. On 12 October 2010 the DOI conditionally authorized the resumption of oil and gas drilling - under specific conditions. There are new US offshore safety regulations which Philippe listed in detail. They are many and mandatory. On the Federal regulatory framework revision is under progress of OCSLA (Outer Continental Shelf Lands Act); NEPA (National Environmental Policy Act); and OSHA (Occupational Safety and Health Act). On the inspection regime reorganisation of MMS takes effect on June 21 2010 - MMS is renamed The Bureau of Ocean Energy Management, Regulation and Enforcement. BOEMRE is the US Federal agency responsible for overseeing the safe and environmentally responsible development of energy and mineral resources on the outer continental shelf. There is also a noticeable impact on the prevention safety regime in Europe. On 7 October the European Parliament adopted a Resolution on EU action on oil exploration and extraction in Europe. The Resolution calls on the Commission to bring forward legislation "to ensure that uniformly high safety standards apply across all EU oil platforms and drilling operations by EU and third countries". It also calls on the Commission and Member States to work with the IMO to strengthen international safety and control rules and standards. NB - there is no call for a moratorium. Deepwater Horizon's impact on the liability and compensation regime in the US is considerable. Many bills have been introduced in the House of Representatives and in the Senate asking for a revision of existing laws particularly concerning the Oil Pollution Act of 1990 (OPA), The Death on the High Seas Act (DOHSA) and the Limitation of Liability Act (LOLA). Possible changes are Limits of Liability in damage claims, Damage awards in death on the high seas, Punitive damages, Limits of Liability for oil pollution and Oil spill response plans. HR.3534 (July 2010) retains current limits of liability but requires the USCG to review the limits of liability every three years. S.3663 increases the limits of liability for single hull tankers from USD 3000 per grt with a maximum of USD22million to USD3300 with a maximum of USD 93.6 million but makes no changes to limits for double hull tankers. Oil spill response plans will now need to include a risk analysis of all critical systems and will be in violation of regulations if an element of the response plan fails to perform as planned. The Limitation of Liability Act of 1851 allows the vessel owner or bareboat charterer to limit its liability to the value of the vessel after the accident. HR.5503 would repeal certain provisions of LOLA exposing ship owners to unlimited liability in damage claims not related to oil pollution. At the IMO Legal Committee meeting of November 2010 Indonesia has proposed to develop an international regime addressing liability and compensation in case of transboundary oil pollution damage caused by offshore activities. Many views were expressed in favour of exploring the proposal further.

Conclusion 1. The total liability could amount to between \$60 and \$100 billion by the conclusion of the disaster. On 16 June BP agreed to create a \$20 billion spill response fund - the fund to be used for natural resource damages, state and local response cost and individual compensation but not to be used for fines or penalties - with the aim of minimizing lawsuits against BP. BP reported that 23,000 individual claims have already been filed of which 9,000 had been settled.

Philippe Boisson's other conclusion (2) was that Deepwater Horizon is a major event which will change the rules of the game. Life in shipping will never be the same again due to the trend of US litigation even over-ruling OPA 90 where at least negligence had to be demonstrated. Changes to safety regulation post- Deepwater Horizon will affect many people: there are approximately 2,600 oil rigs in the US Gulf with the majority insured and classed. Philippe stressed that the US requirement for a BP deposit of \$20 billion for cleanup in advance is unprecedented. Shipowners will need to spend more to avoid casualty / oil spill in the USA - and to have sufficient insurance cover. Philippe then took questions from the delegates using his slides to provide detailed answers. He finished by emphasising that from now on all interested parties - including class - are at risk! On that sombre note Jim Davis

thanked host Duncan Bain and Philippe Boisson for their support at this luncheon commenting that there was a great deal to think about....

<b>Press Cuttings</b>	
<b>TradeWinds</b>	25 November 2010
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<b>Paris MoU to reward owner virtue</b>	
<b>Vessels operated by quality owners under quality flags will undergo fewer port state inspections</b>	
	<p>Virtue among shipowners is to be officially rewarded from the start of next year when the new inspection regime of the Paris MoU port state control organisation is due to come into force.</p> <p>Ships operating under flags associated with strong safety records, and by owners with recognised high safety management standards, will be eligible for a new 'low risk' status that could free them from having to undergo port state inspections for up to three years.</p>
<p>They could be inspected after two years, but inspection is only mandatory after three years under the new regime, compared with an estimated average six-monthly vessel inspection rate under the existing system.</p>	
<p>To qualify as low risk, vessels will need to be under flags on the Paris MoU's White List and which have successfully completed an IMO voluntary member state audit scheme. In addition, they will need to be operated by a company that is recognised as a high-quality operator by the Paris MoU and at least one member state and to have suffered no detentions or registered more than five deficiencies per inspection during the preceding 36 months.</p>	
<p>The list of qualifying criteria looks daunting, but Paris MoU general secretary Richard Schiferli told Fairplay that he estimated that 10-20%, of the 50,000 ships calling at ports in the organisation's region of operation could qualify as low risk as soon as the scheme comes into force on 1 January 2011. Four flags - Denmark, Germany, Spain and the UK - already meet the organisation's flag criteria for low-risk ships.</p>	

Schiferli said the new regime was a response to the increasing burden of inspections borne by the shipping industry as a result of the growth in membership of the Paris MoU from the original 14 countries in 1982 to 27 today.

To meet the current target of inspecting 25% of ships calling at their ports annually, members were carrying out inspections without always taking account of ships' safety records, which "is not a good thing," Schiferli said. "This is not what port state control is about."

The new regime would abolish the 25% rule, he said, and, by reducing the number of inspections of high-quality ships, provide for more frequent and thorough inspections of potential problem vessels.

### **Better targeting**

Schiferli had previously told industry representatives in London that the changes would lead to better targeting for inspections. Speaking to the International Maritime Industries Forum (IMIF), he explained that a points-based system would be used to select ships for inspection, with all highrisk ships receiving expanded inspections. At present, there are limitations on which ships can be given such inspections. Similarly, all ships will face potential banning orders; at present, only certain types of ship can be banned.

"It will be a tougher regime for those who operate on the margins," Schiferli told the IMIF, predicting that a number of general cargo ships will be banned once the regime comes into force. On the other hand, "a lot of good ships will find a more relaxed approach", he said.