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MARINE INSURANCE COVERAGE FOR THE SEA CARRIAGE OF OIL AND OTHER ENERGY MATERIALS ON THE NORTHERN SEA ROUTE: MOVING FROM THEORY TO REALITY

WP2: ADMINISTRATIVE MEASURES FOR THE MARINE
TRANSPORTATION IN THE ARCTIC RUSSIA

WP2.4: Marine Risk Management for the Northern Sea Route:
Marine Insurance Coverage for Oil and LNG Tankers.
Final Report

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Marine Insurance Coverage for the Sea Carriage of Oil and Other Energy Materials on the Northern Sea Route: Moving from Theory to Reality

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DELIVERABLE SUMMARY SHEET

Short Description
The principal purpose of ARCOP Sub-Project 2.4 is to provide an assessment on the viability and availability of adequate and appropriate risk coverage for vessels navigating the Northern Sea Route and Russian Barents Sea.

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Marine Insurance Coverage for the Sea Carriage of Oil and other Energy Materials on the Northern Sea Route: Moving from Theory to Reality

Edgar Gold¹ with Peter Wright²

Introduction

1. The principal purpose of ARCOP Sub-Project WP 2.4 during the three-year period 2002-2005 has been to provide an assessment on the availability of adequate and appropriate risk coverage for vessels, especially those carrying potential pollutants and hazardous and noxious substances, navigating the Northern Sea Route and Russian Barents Sea. It is obvious that without adequate and appropriate risk coverage such navigation would not be economically or environmentally viable. This report summarizes the ARCOP Sub-Project WP 2.4 findings based on the research work carried out during this period. In addition, the Report also provides an assessment of the marine insurance industry's interest in developing a sustained system of coverage for this type of risk

2. The starting point for this work were based on some of the questions raised by this aspect of Northern Sea Route navigation that were initially discussed under the International Northern Sea Route Programme (INSROP) during a six-year period, 1993-1998.³ At that stage it was determined that whilst limited Arctic commercial navigation had been taking place for many years in Russian and, to a lesser extent, Canadian Arctic waters, this trade had not resulted in the establishment of clearly discernable marine insurance market patterns, especially in international marine insurance markets. This was due to the fact that existing shipping services had either been very specialized or very limited. Furthermore, until recent times, the more vigorous Russian Arctic shipping sector had its marine insurance coverage underwritten by a variety of state-sponsored schemes that did not permit or were not designed to establish clear actuarial records of the various marine risks involved. In other words, the principal international marine insurance markets did not have access to the information for Arctic waters navigation that is normally required before the various marine risks may be covered. This also meant that risk coverage for existing and planned Arctic waters and Russian Barents Sea navigation, would have to be underwritten on a case-by-case basis. This was a very expensive proposition and resulted, in certain instances, in shipowners or charterers covering a large percentage of the risk themselves.

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³ See: Edgar Gold, John Cantello, and Peter Wright, *Shipping and Marine Insurance on the Northern Sea Route: Conclusions 1993-1998* (Oslo: INSROP Working Paper No. 124, 1999)

Northern Sea Route Navigation Risk Coverage: The Existing Knowledge Base

3. As already indicated, the earlier INSROP research was able to establish a significant knowledge base on almost all aspects of Northern Sea route navigation.⁴ However, there are also distinct and important differences between the work carried out under INSROP and that which has been carried out under ARCOP. INSROP was principally an academic exercise, involving a number of researchers who attempted to provide scientific, environmental, technical, legal and economic data for the Northern Sea Route as transit route as well as an access route to Russian Arctic region resources. On the other hand, ARCOP, which receives its main funding from the European Union, has been developing a practical data base required for actual economic investment in the Russian Arctic/Barents Sea region. Nevertheless, the two projects are quite complementary, with ARCOP building on INSROP, but moving several steps further. It may be correct to state that ARCOP would have had difficulties without its INSROP base that explored the possibility of extended, regular Northern Sea Route navigation and determined that such navigation was indeed possible. ARCOP has accepted the viability of such navigation and has shown how it can actually be further developed as well as implemented in a cost-effective manner. ARCOP Sub-Project WP 2.4 addresses this aspect in terms of marine insurance coverage.

4. The conclusions of the INSROP marine insurance project focussed on responding to a series of specific questions in order to determine if risk coverage for Northern Sea Route navigation were feasible.⁵ These responses provide the knowledge base that existed in this area at the commencement of ARCOP:

- i) It was found that shipowners were reluctant to risk high-value vessels, such as large, new-generation container vessels on the Northern Sea Route. This was due to the fact that such vessels are not generally constructed for navigation in ice. In addition the shipping industry still had to carry out a substantive economic analysis of the overall NSR advantages.
- ii) If year-round navigation on the NSR were not feasible, vessels would have to be re-positioned at least once or twice per year. This has significant cost implications even if feeder services were established. On the other hand, it was found that limited low-value, bulk cargo operations might take place for most of the year—depending on ice conditions.
- iii) If extensive NSR navigation would become feasible, ice-strengthened and/or purpose-built vessels would be required by marine underwriters. However standard, non-strengthened vessels might be able to navigate in the ice-free season.
- iv) Although there appear to be certain time- and cost-saving advantages in using the NSR over the Panama/Suez Canal routes, the exact economic advantages were not known. This is also due to the lack of detailed knowledge related to costs for ice-breaker assistance, ice-pilots, possible delays, cargo damage due to temperature variations, possible ice damage and higher marine insurance costs.

⁴ See: Willy Østreng, ed., *The Natural and Societal Challenges of the Northern Sea Route* (Dordrecht/Boston: Kluwer, 1999)

⁵ See: Douglas Brubaker, "Marine Insurance Related to the Russian Northern Sea Route and Russian Barents Sea". Paper presented to the ARCOP Workshop, Helsinki, 25-27 March 2003.

v) It was also determined that in the short term the existing Russian ice-strengthened merchant fleet was probably capable of meeting initial international charter requirements. However, this had to be seen against the background of the general economic difficulties that exist in Russia. There was little indication of fleet renewal in Russia.

vi) Although single-hull tankers and bulk carriers were in operation to and from Russian Arctic region ports, it was determined that such operations would not last very long, given the increasing International Maritime Organization (IMO) ship construction requirements as well as tightening IMO, EU and Russian environmental regulations.

vii) Questions also remained about the capability and cost of Russia's ice breaker fleet. Russia owns and operates one of the largest and most advanced ice-breaking fleet in the world, and it appears that this fleet would be capable of providing services to any foreseeable NSR navigation. On the other hand, if this fleet seeks full cost-recovery for such services, the economic advantage of the NSR may well be lost. In addition, there were some concerns about the age, maintenance standards, and safety of Russian nuclear-powered ice breakers.

viii) Of particular interest to marine insurers are the additional navigational skills required for vessels operating in ice and also in close proximity to ice-breakers, especially nuclear-powered vessels.

ix) It was found that there appeared to be insufficient interest by cargo exporters and importers in Japan and Europe in the NSR. At that stage it appeared that other trade routes provided cost-effective and reliable alternatives. There was only very limited interest by European and Japanese energy and other mineral resource interests in having access to Russian resource areas. Only Finland, which had strong investments in certain Russian Arctic resource regions, appeared to have a commitment.

x) Finally, it was found that there was only limited commitment by the various levels of Russian government in providing the necessary, reliable services that are required for operating a regular shipping service to and from the Russian Arctic/Barents Sea region. This was due to the general disarray that pervaded government operations in Russia, including overlapping or inadequate jurisdictions, ineffective legislation, and a general shortage of funds.

5. Nevertheless, the overall conclusion of the INSROP marine insurance project in 1998 was that the international marine insurance market would be prepared to underwrite NSR navigational and related risks. In other words, marine underwriters voiced the firm opinion that if shipowners wished to use the NSR, marine insurers would provide the necessary risk coverage.

Northern Sea Route Navigation Risk Coverage: ARCOP Aspects

6. As already indicated, the findings on NSR navigation and its marine insurance coverage when INSROP ended some seven years ago, provided a very helpful starting point for ARCOP. As a result, one of the principal purposes of ARCOP Sub-Project WP 2.4 was to determine what had changed in the next three year period.

Although it will be helpful to refer back to the INSROP conclusions in order to illustrate changed scenarios, it is also necessary to point to the major global aspects that have occurred since 1998 and may have an impact on the development of NSR navigation generally and marine insurance coverage specifically.

7. General Changes

- Firstly, a growing world economy requires ever more natural resources, including energy resources. In July global crude oil prices had reached USD 60/barrel, i.e. the highest level in history.
- Secondly, the world's premier energy-producing region, the Gulf area, is still beset by political instability. A number of other oil producing regions have or are reaching depletion.
- Third, China is expected to become one of the world's largest economies within a decade and will further strengthen its role as a major import and export market.
- Fourth, Russian oil production has significantly increased in recent years, i.e. from 303 million tons in 1996 to 421 million tons in 2003, with exports increasing from 145 million tons to 230 million tons during the same period.⁶
- Fifth, the post 9/11 global security concerns have also focussed on the safety of energy supplies including its transportation aspects.
- Sixth, increasing global, regional and national marine environmental concerns have focussed on the shipping industry and its regulatory regimes that will result in the phasing out of older vessels, including single-hull tankers. This is also directly linked to strengthened liability and compensation regimes for marine pollution.
- Seventh, the world shipping industry, including its ship-construction sector, has been experiencing significant growth and very significantly increased profitability to unprecedented levels.
- Eighth, although still beset by a number of internal, administrative and economic difficulties, the Russian Federation has, nevertheless, demonstrated a willingness and ability to become an integral part of the international commercial system through the stabilization of its legal, banking, regional and national administrative systems, as well as its insurance and shipping sectors.
- Finally, the global marine insurance market, despite regular, serious losses continues to be strengthened by new investment interests, the broadening of its base and ever greater competitiveness. This appears to underline a willingness by the market to accept new risks. As will be discussed below this was fully confirmed in the research under this sub-project.

8. Specific Changes

There are also a number of changes that have taken place in this area since the conclusion of INSROP that can be compared to the points already outlined above:

i) There is still no indication that shipowners are willing to operate high-value vessels, such as new-generation container vessels on the NSR. At this stage, Russian vessels are still chartered for specific, break-bulk or bulk cargo operations. Only certain Finnish shipowners have entered into specific NSR operations that involve the export of Russian energy and other resources from the

⁶ Arild Moe, "Oil Transportation through the Barents Sea". Working Paper 11, Barents Russia 2015, Project, ECON Analysis AS, at p.8

Russian Arctic, Barents Sea region. The vessels involved are insured in the international insurance market

ii) Although there continue to be some year-round NSR operations, mainly involving Russian and Finnish vessels with Russian ice-breaker assistance, most operations are seasonal, i.e. weather and ice condition dependent.

iii) As already indicated, a number of purpose-built Finnish and Russian vessels operate regularly in NSR waters. New vessels are in the building or design stage. However, increased purpose-built vessels construction continues to be dependent upon the development of shore infrastructure, i.e. ports and terminals. This is lagging behind due to lack of international investments.

iv) The advantage of the NSR passage over the Suez/Panama Canal routes has become less relevant for ARCOP as resources from the Russian Arctic/Barents Sea region will not involve transit passage. On the other hand, if Japan and, possibly, the US and China become involved, substantive economic feasibility studies will have to be undertaken.

v) Russia's present Arctic fleet is ageing and will soon no longer be operative. There has been relatively little new construction, although vessels that have been built have been constructed to the highest international standards. Most of the older vessels will not be able to meet international standards when new IMO regulations enter into force.

vi) Although single-hull vessels are not yet precluded from operating on the NSR (or anywhere) their operational viability is strictly time limited. New IMO regulations (strongly supported by the EU) will phase out most single-hull tankers by 2007.

vii) The current status of the Russian ice-breaker fleet is uncertain. Although several new vessels have been constructed, many others are laid up, including most of the larger nuclear-powered vessels. There appears to be insufficient funding for proper maintenance. Furthermore, there continue to be questions of whether ice-breaking should operate on a full cost recovery basis. Some ice-breaking services operate on a specifically negotiated 'private' fee basis.

viii) There is no new evidence that training in ice navigation is offered outside Russia, Finland and, to a limited extent, Canada.

ix) At this stage there appears to be little new evidence that cargo exporters and importers have expressed further interest in the use of the NSR. Furthermore, should Middle East instability affect the Suez Canal route and/or if continued drought conditions or delays in upgrading affect the Panama Canal, this situation may change rapidly. On the other hand, as the ARCOP project is less concerned with actual transit passage, this aspect may not be considered essential at this stage.

x) There is clear evidence of renewed interest by European and North American energy and other natural resource importers in the development of Russian Arctic/Barents Sea resources. Although Finland has been the leader in this thrust, there is also investment interest from other states. Given the general, global energy situation, the major focus is on crude oil and natural gas. However, other mineral resources, such as ores and coal, as well as forestry products, are also of increasing interest.⁷ This has and continues to result in limited infrastructure investment in order to access

⁷ Finland has also developed container ships for the Northern Sea Route. See 'Conclusions' below

these resources. It is not yet clear if Japan, which during the INSROP research period, expressed little interest in Russian resources, has had a change in policy.

xi.) Russian Arctic/Barents Sea administrative policies have been further developed. Much of this is due to a certain amount of de-centralization as well as privatization in areas such as exporting companies, ports, terminals etc. On the other hand, it is less clear if services to shipping, i.e. charting, pilotage, towage, salvage, repair facilities, electronic and other communications systems, are sufficiently developed for increasing NSR navigation. There still appear to be severe budgetary difficulties combined with policies that seek total cost recovery for all services. This will continue to cause concerns for ship operations and, obviously, marine insurers.

9. Marine Insurance Aspects

As already indicated above, at the end of the INSROP research period, it was clear that the global marine insurance industry was willing and able to underwrite NSR navigational and related risks, provided that appropriate and adequate information structures on the risks involved could be presented to underwriters. The risks that require cover are: hull and machinery risks; cargo risks; third-party liability (protection & indemnity) risks; and a number of miscellaneous risks.⁸

10. Nevertheless, in its early stages this sub-project faced a basic difficulty similar to that experienced during the INSROP phase. This was due to the fact that the marine insurance industry is generally unwilling to provide information on risk coverage based on hypothetical or theoretical questions. Marine insurance is a practical industry that responds quickly and positively to real risks. In other words, if marine underwriters are presented with a factual situation, i.e. full information on a named vessel, information on the route to be taken, the cargo to be carried, the duration of the voyage, and such other information that a prudent insurer may require, it is certain that a realistic insurance rate would be quoted by the insurers or insurance broker(s) involved. However, when ARCOP commenced it was not in position to provide this type of information and this sub-project was forced to operate in a 'theoretical vacuum' until sufficient practical information was available from other ARCOP research sectors and elsewhere.

New Directions for NSR Navigation: ARCOP Phase I

11. New Technical Developments for NSR Navigation

One of the first, new indications that NSR navigation was moving from theory to reality was the publication of *Guidelines for Ships Operating in Arctic Ice-covered Waters* by the IMO at the end of 2002.⁹ These guidelines were developed by the IMO's Maritime Safety and Marine Environment Protection Committees in recognition of the need for recommendatory provisions applicable to ships operating in Arctic ice-covered waters, in addition to the mandatory and recommendatory provisions already contained in existing IMO instruments,¹⁰ as well as other approved guidelines.¹¹ These IMO Guidelines are designed to set out the technical requirements for ships operating under Arctic conditions in a systematic way. The four parts of the guidelines cover:

⁸ See: Edgar Gold, *Gard Handbook on P&I Insurance*, 5th Ed. (Arendal: Gard A.S.)

⁹ IMO Doc: MSC/Circ.1056-MEPC/Circ.399 of 23 December 2002

¹⁰ Such as the SOLAS, MARPOL, STCW, and LL Conventions as well as the ISM Code

¹¹ Such as the IACS 'Unified Requirements for Polar Class Ships'

Part A: Construction Provisions

- Structures
- Subdivision and Stability
- Accommodation and Escape Measures
- Directional Control Systems
- Anchoring and Towing Arrangements
- Main Machinery
- Auxiliary Machinery Systems
- Electrical Installations

Part B: Equipment

- Fire Safety
- Life-Saving Appliances and Survival Arrangements
- Navigational Equipment

Part C: Operational

- Operational Guidelines
- Crewing
- Emergency Equipment

Part D: Environmental Protection and Damage Control

- Environmental Protection and Damage Control

If such guidelines are implemented by the ship construction industry, as well as ship operations-- and there is already evidence that they are--, they will also greatly assist marine insurers in their decision-making.

12. During ARCOP's first research phase there was significant emphasis on further developing the practical, technical knowledge base required so that NSR navigation could become more widely accepted and commercially feasible. During the first ARCOP workshop, held in Helsinki in March 2003,¹² which addressed 'Legal and Administrative Issues, Industry Needs, and Technology and Environment', a number of specific aspects related to NSR development were thoroughly covered and set the scene for the whole project, which was keenly followed by the EU. These included:

- Review of Russian Arctic Oil and Gas Reserves
- The Importance of Direct Marine Transportation
- The Role of Marine Transportation in Russian Energy Exports
- The Experience with Regular NSR Traffic
- Loading Systems
- Integrated Transportation Systems

¹² ARCOP, *ARCOP Workshops 1-3*, (Helsinki: ARCOP, 2003)

- Ice Service Capability in Russia
- Satellite Navigation Assistance
- Traffic Management Systems
- Training Requirements
- Oil Spill Management
- International Marine Transportation Agreements

Even at this early stage it had already become apparent that ARCOP was focussing more specifically on the technical and economic feasibility of transporting Russian Arctic region energy resources at a time when Russia was keenly interested in joining the global commercial sphere as a major energy provider.

13. The London Marine Insurance Market: Phase I

During the ARCOP sub-project's first research visit to the London marine insurance market in November 2003, it was confirmed that marine insurers continue to be very positive about covering risks that may arise out of Arctic/NSR/Barents Sea navigation. London continues to be the principal global marine insurance centre and it is likely that when regular NSR navigation develops that the risks involved will be underwritten in this market. Research contacts involved:

- i) Marine Insurance Underwriters: Meetings were held with several major underwriters who all expressed considerable interest in ARCOP and the future of Arctic navigation. One of these is a major German underwriter with wide experience in the European marine insurance market. Another company was already writing significant Russian business, through its Moscow office. Discussions were held not only on hull and machinery risks, but also on cargo insurance, business interruption coverage, war risks, terrorism, and protection and Indemnity (P&I) coverage.
- ii) Marine Insurance Brokers: Meetings with several principal brokers also revealed not only keen interest in what ARCOP was developing, but also significant and expanding experience in the Russian market. Some brokers have been handling cargo insurance involving the Russian Arctic for over a decade and expressed great optimism on further development.
- iii) Joint Hull Committee: A meeting was held with the Secretary of the Joint Hull Committee, who is also a Special Advisor to the International Underwriting Association (IUA). This group works with both Lloyd's and company insurers and, as a result, has an extensive grasp on the market's interests and capacities. There was very positive reaction to NSR planning.
- iv) The Salvage Association: Marine insurers rely on recommendations on risks made by the Salvage Association. Such recommendations are based on extensive technical research related to proposed risks. This meeting revealed that the Association had considerable interest in environmental matters as well as fleet technology. When regular NSR navigation is further developed it is likely that the Salvage Association will undertake specific studies in the area.
- v) Marine Reinsurance Representatives: Meetings were also held with several major reinsurers. It goes without saying that without reinsurance there would be no viable marine insurance. The rein-

urers contacted all have significant experience in the shipping sector and requested to be kept up-to-date on NSR developments.

vi) Joint Cargo Committee: Meetings with representatives of cargo marine insurance interests at Lloyd's also confirmed interest in NSR development. This market has extensive experience in dealing with Russian aspects.

vii) International Chamber of Shipping (ICS): As the principal representative body of shipowning interests the ICS requested to be kept informed of the progress of ARCOP's research. It was also suggested that contacts be made with the Oil Companies International Marine Forum (OCIMF) and the International Association of Independent Tanker Owners (INTERTANKO).

viii) Protection and Indemnity Underwriters (P&I Clubs): A meeting was held with the world's largest P&I club, which has extensive experience in Russian operations through its Russian fleet memberships and Arctic operations. It was confirmed that the leading P&I clubs would be able to provide liability coverage for any member involved in Arctic/NSR/Barents Sea operations. However, it was also made clear that more information on Russian services to NSR shipping, the environmental risks involved, as well Russian legislative development, was needed.

ix) Maritime Law Firms: London is the base for most of the major maritime law firms with a global/Russian client base. As a result, contact was made with several firms in order to report on ARCOP and NSR developments. No major impediments to NSR development was seen, although the uncertainty of the Russian administrative and legal system, as well as the possibility of environmental claims was raised. It was also confirmed that the 'new' Russia was now much more commercially oriented with reliable, experienced members of the local shipping industry who were more attuned to 'Western' requirements.

These London marine insurance market contacts reconfirmed that NSR navigation was not only of continued interest to mariner insurers, but that recent developments had increased such interest. However, once again, the market awaited more specific information on which to base actual risk coverage decisions.

14. Russian Marine Insurance Capability: Phase I

Although INSROP had already identified the existence of a fairly active Russian marine insurance market, it also found that this market was fragmented, under-funded, somewhat disorganized, and covered by inadequate legislation. The ARCOP sub-project needed to determine if this aspect had changed and if such changes would permit Russian marine insurance to be considered as a viable partner in NSR development. The initial study on this was carried out by experts from the Central Marine Research and Design Institute (CNIIMF) in St. Petersburg.¹³ Although this review identified a number of continuing problems in the Russian marine insurance sector it also focussed on a number of aspects that appear to indicate that Russian marine insurance was being significantly restructured. As a result, it appeared likely that Russian marine insurance may eventually become an accepted part of the international marine underwriting sector. This study also revealed that an

¹³ Anatoly Schelkanov and Vladimir Vasilyev, "The Russian Practice of Insurance of Marine Risks in Operating Icebreaker Fleet and Transportation of Oil Cargoes along the Northern Sea Route (NSR)" ARCOP WP2 & WP2.4, 2004. (See Attachment I).

analysis of statistical data for NSR navigational accidents for a 28-year period, found the level of accidents to be comparable to marine accidents occurring worldwide. Furthermore, it was also found that there very few oil spills and that major ice damage to vessels was basically confined to the most ice-infested parts of the eastern NSR region.

15. The CNIIMF study (see Attachment I) provided information on:

- General Features on the Russian Marine Insurance Market
- The Existing Marine Insurance Regulatory Base
- Marine Insurance Risks for the Russian Icebreaker Fleet
- Marine Insurance Coverage for Tankers
- Liability Coverage for Oil Spills

16. ARCOP Phase I Conclusion

Although ARCOP was not specifically divided into phases, this sub-project considered that its first phase ended in mid-2004 when ARCOP Workshop 4 on 'Technology and Environment' was held in Brussels.¹⁴ This workshop confirmed that regular transportation of Russian Arctic energy resources via the NSR was indeed moving closer to reality. The workshop, which addressed two major sectors: 'Integrated Transportation Systems for Arctic Oil and Gas' and 'Environmental Protection and Management System for the Arctic', confirmed its technical and practical aspects through a series of reports that addressed:

- Design of Cargo Vessels for the Arctic
- Assistance to large Tankers in Ice
- Traffic Management Systems for Arctic Navigation
- Training for Arctic Navigation
- Environmental Protection for Oil Transportation and Terminals
- Oil Spill Response
- Arctic Ice Information
- Environmental Risk Analysis
- The Characteristics of Shipping and Navigation in Arctic Waters
- Social Impact Assessment

17. The information contained in the ARCOP Workshop 4 reports was of direct relevance to NSR risk coverage as it would provide marine underwriters with the necessary, practical information that would assist in risk assessment. It also illustrated that systems which addressed underwriting concerns, such as: ice information, oil spill response, vessel traffic services, training, shipping characteristics, and vessel design, were either available or in the process of being put in place in the Russian Arctic region. However, for marine insurers the question that remained was whether

¹⁴ ARCOP, *ARCOP Workshop 4: Technology and Environment* (Helsinki: ARCOP, 2004)

ARCOP could place a real, or at least hypothetically real, risk before the marine insurance market. That question would be answered in the sub-project's next and final phase.

New Directions for NSR Navigation: The Final ARCOP Phase

18. Further Technical and Practical Developments for NSR Navigation

The final phase of this sub-project's work commenced with ARCOP Workshop 5, held in Helsinki in September 2004.¹⁵ This workshop further confirmed the growing practical data base developed by ARCOP, which would be of specific assistance to marine insurers in assessing NSR risks. Reports covered subjects such as:

- Consistency of NSR Regulations with other national and International Rules
- Harmonisation of Ice Class Rules (IACS Polar Rules)
- Russian Classification Society Ship Propulsion Requirements
- Equivalency Problems between Ice Navigation Rules
- Helsinki Commission Safe Winter navigation Requirements
- Immigration and Customs Procedures

Sub-Project WP 4.2 also presented an update of its work at this Workshop.¹⁶ This presentation confirmed that the London marine insurance market continued to be keenly interested in NSR navigation risk coverage. However, the presentation also focussed on the difficulties that marine insurers continued to have in providing realistic premium cost information without more detailed information on the ships and cargoes that required to be covered.

19. During the various meetings with marine insurers the sub-project's researchers were frequently asked whether there was sufficient industry interest in the utilization of the NSR. As indicated above, this was an aspect that could not be clearly confirmed during the INSROP project. However, it became much clearer during this ARCOP phase that there was indeed significant industry interest in using the NSR to transport Russian energy resources to Western ports and markets. This was confirmed by ARCOP Workshop 6, which specifically address industry interests, in St. Petersburg in October 2004.¹⁷ Specific workshop reports covered:

- Future Prospects of Oil Transport on the NSR
- The Benefits of Marine Transportation
- The Development of Russian Arctic Oil and Gas Fields
- The Future Prospects of LNG Transport on the NSR
- The Use of the NSR as a 'Through Passage'
- Russian Exports via the NSR

¹⁵ ARCOP, *Workshop 5: Legal and Administrative Issues of Arctic Transportation* (Helsinki: ARCOP, 2005)

¹⁶ Edgar Gold, "Marine Insurance Coverage for Oil and LNG Tankers on the Northern Sea Route: An Update on Insurance market Interest", *Workshop 5*, see note 13 above, at 47

¹⁷ ARCOP, *Workshop 6: Industry Interests in the Northern Sea Route* (Helsinki: ARCOP, 2005)

- Marine Transportation servicing Russian Arctic Regions

20. Russian Marine Insurance Capability and Capacity: Phase II

During this phase a new study covering Russian marine insurance capability and capacity was also submitted for this sub-project. This study had been undertaken by specialist colleagues at the Arctic and Antarctic Research Institute (AARI) in St. Petersburg.¹⁸ (See Attachment II) This paper addressed:

- The Regulation of Russian Insurance and Marine Insurance
- The Russian Federal Insurance Surveillance Service
- The Insurance of the Oil and Gas Industry in Russia
- The Russian Marine Insurance Market
- Russian Marine Insurance and Northern Sea Route Navigation

Although this study, once again, referred to some of the difficulties the Russian legal system generally and the insurance system specifically was still experiencing, it provided a very positive update on the progress that had been made. It was shown that Russian marine insurance was already closely coordinated with major Western insurers, especially in the reinsurance sector. Furthermore, Russian private sector industrial expansion had also contributed to a much stronger financial base for Russian insurance companies. As a result, it was suggested that Russian marine insurers may be quite capable in extending their capacity and capability beyond the specialized Russian markets in the near future. This may have to be considered in NSR transportation planning.

21. The London Marine Insurance Market: Phase II

In May 2005 this sub-project finally received more detailed information on the possible vessels that might be designed for NSR energy transportation. This was presented in an ARCOP paper that provided advanced, modified designs, including performance levels for six different types of ice-breaking, double-hull tankers of 60,000 DWT, 90,000 DWT and 120,000 DWT, designed for either specific NSR or NSR and world wide trading.¹⁹ In addition, another ARCOP report also outlined the geographical areas from and through which transportation would take place.²⁰ This was exactly the kind of information that would be needed to permit marine insurers to make underwriting decisions. As a result, some of this information was forwarded on to the sub-project's contacts in the London marine insurance market.

22. As a result of this progress a meeting was arranged in London in May 2005 with senior members of the London underwriting market in order to provide further briefings on ARCOP progress and to solicit input from underwriters. This meeting was held under the auspices of the International Underwriting Association (IUA) and chaired by the IUA Secretary. The meeting was attended by seven senior London marine insurance market specialists representing:

¹⁸ Vladimir Smirnov and Igor Stepanov, "The Law and Practice of Marine Insurance in Russia" ARCOP Research Paper for Sub-Project WP2.4 (2005) (See Attachment II)

¹⁹ Kimmo Juurmaa et al, "Outline Specifications, General Arrangements and Lines Plans of the Tankers" ARCOP Paper D3.2.1 (2005)

- Lloyd's Market Association
- Württembergische Versicherung AG
- Atrium Underwriting PLC
- Markel International Underwriting
- GE Frankona Reinsurance Ltd
- Miller Insurance Services Ltd
- Lloyd's Joint Hull Committee

This group not only represented the top levels of the London marine insurance market but also consisted of the chairman and members of the very critical 'Joint Hull Navigating Limits Sub-Committee' of the Joint Hull Committee of the Institute of London Underwriters. As can be seen from its Terms of Reference, this Sub-Committee has considerable influence on underwriting decisions involving new navigational risks. (See Attachment III)

23. The IUA meeting involved a full report on ARCOP's work by the WP2.4 project leader and then extensive discussion on all aspects of marine insurance for NSR navigation. It was apparent that all members of the group had significant experience in risks aspects of Russian shipping, cargo insurance as well as liability coverage. It quickly became very clear that the group saw no impediments in marine insurance coverage as envisaged under the ARCOP projects. In fact, it was emphasized that in a very competitive marine insurance market it was quite likely that underwriters would compete for this type of new business. This type of competition would also ensure that insurance rates could be kept to reasonable limits, although without a specific risk to consider, no premium estimates could be given. It was suggested that, based on the planned ships, as outlined in the above ARCOP paper, a series of hypothetical voyages could be developed, which would include more of the specific information required for the placing of a risk. This could lead to at least a rough estimate of premium costs. This was to be carried out in the final phase of the sub-project.

24. Hypothetical Scenarios for NSR Voyages

As suggested during the London IUA meeting, a series of hypothetical scenarios were subsequently drafted. It was hoped that this information, which would be as realistic as possible, could lead to more specific premium cost information when placed before marine underwriters. The voyage scenarios were as follows:

EXAMPLE I

Voyage Date: February 2006

Voyage Information: From Pechorskaye More (purpose-built loading facility in Siberia Barents Sea
Region of Northern Russia)
To Rotterdam, Netherlands

Vessel: 'Siberian Voyager'

Built: 2005, Aker Finnyards Inc, Helsinki, Finland

²⁰ ARCOP WP3.1 "Design Basis for the Transportation System"

Type: Ice-breaking, double-hull, crude oil tanker

Tonnage: 60,000 DWT

Insured Value: USD 81.6 million (Building Cost)

Classification: DNV. +1A1 Tanker for Oil; Bow Loading SPM; ICE-10; EO; F-AMC;
CCO; DYNPOS-AUTR; NAUT-AW; VCS-2; CLEAN;
DAT(-40°C); PLUS-1; COAT-1; CSA-2; OPP-F.

Owner: Pechora Sea Oil International Inc., Helsinki/St.Petersburg

Flag: Finland

Type of Cargo: 50,000 tons of Eastern Pechora Crude Oil

Value of Cargo: USD 14.4 million (@ USD 48/barrel)

EXAMPLE II

Voyage Date: June 2006

Voyage Information: From: Naryan Mar (purpose-built oil-loading facility on Pechora River,
Barents Sea, Northern Russia)
To: Hamburg, Germany

Vessel: 'Pechora Eagle'

Built: 2005, Aker Finnyards Inc, Helsinki, Finland

Type: Ice-breaking, Double-Acting, Double-Hulled Crude Oil Tanker, intended especially for
Barents Sea operations but also for world-wide operation

Tonnage: 90,000 DWT

Insured Value: USD 81.6 million (Building Cost)

Classification: BV. +1A1 Tanker for Oil; Bow Loading SPM; ICE-10; EO; F-AMC;
CCO; DYNPROS-AUTR; NAUT-AW; VCS-2; CLEAN;
DAT(-40°C); PLUS-1; COAT-1; CSA-2; OPP-F.

Owner: Pechora Oil International Inc., Limassol, Cyprus; Operator: Pechora Oil Management
Co., Murmansk, Russia

Flag: Cyprus

Type of Cargo: 75,000 tons of Western Pechora Crude Oil

Value of Cargo: USD 97.3 million (@ USD 48.00/barrel)

EXAMPLE III

Voyage Date: September 2006

Voyage Information: From: Naryan Mar (purpose-built oil-loading facility on Pechora River, Barents Sea, Northern Russia)
To: Genoa, Italy

Vessel: 'President Putin'

Built: 2005, Aker Finnyards, Helsinki, Finland

Type: Ice-breaking, Double-Acting, Double-Hulled Crude Oil Tanker, intended especially for Barents Sea operations but also for world-wide operation

Tonnage: DWT 120,000

Insured Value: USD 105.5 million (Building Cost)

Classification: RR. +1A1 Tanker for Oil; Bow Loading SPM; ICE-10; EO; F-AMC; CCO; DYNPROS-AUTR; NAUT-AW; VCS-2; CLEAN; DAT(-40°C); PLUS-1; COAT-1; CSA-2; OPP-F.

Owner: Pechora Oil Joint Venture Capital Inc., Moscow

Flag: Russian

Type of Cargo: 100, 000 tons of Western Pechora Crude Oil

Value of Cargo: USD 28.8 million (@ USD 48.00/barrel)

25. Estimated Insurance Costs for Hypothetical Voyage Scenarios

It should be noted that the information contained in this section may be commercially sensitive and has been supplied by marine underwriters on the condition that it is only to be utilized for ARCOP's academic purposes. It is not to be released to third parties, such as vessel or cargo owners or charterers.

i) Hull and Machinery (H&M) Coverage

H&M coverage will be subject to Institute Warranties prevailing at the time of placement. It should also be noted that underwriters would utilize third party expertise, such as the Salvage Association, and commission a full appraisal of the intended operation assessing such aspects as the proposed operating routes and associated hazards, crew requirements, safe operating weather windows and port facilities. The recommendations arising from this appraisal are likely to be incorporated within the insuring conditions.

EXAMPLE I

2005 built double-hull oil tanker "Siberian Voyager"

60,000 DWT

Value: USD 81.6 million

DNV Class & Finnish Flag

Annual H&M rate: 0.45% Premium USD 367.200.

Deductible USD150,000

Additional Ice Deductible USD 100,000

Standard Conditions: ITCH, 3/4ths RDC, CRO

EXAMPLE II

2005 built double-hull crude oil tanker "Pechora Eagle"

90,000 DWT

Value: USD 81.6 million

BV Class & Cypriot Flag

Annual H&M rate: 0.475% Premium USD 387,600.

Deductible USD 200,000

Additional Ice Deductible USD 150,000

Standard Conditions: ITCH, 3/4ths RDC, CRO

EXAMPLE III

2005 built double-hull crude oil tanker "President Putin"

120,000 DWT

Value: USD 105.5 million

RR Class & Russian Flag

Annual H&M rate: 0.55% Premium USD 580,250.

Deductible USD 250,000

Additional Ice Deductible USD 200,000

Standard Conditions: ITCH. 3/4ths RDC, CRO

ii) Cargo Insurance

Institute Bulk Oil Clauses

EXAMPLE I Assume value USD 15,000,000 rate @ 0.05% = USD 7,500.
Assume value USD 21,000,000 rate @ 0.05% = USD10,500.

EXAMPLE II Assume value USD 25,000,000 rate @ 0.0375% = USD 9,375.
Assume value USD 32,000,000 rate @ 0.0375% = USD12,000.

EXAMPLE III Assume value USD 33,000,000 rate @ 0.0375% = USD 12,375.
Assume value USD 42,000,000 rate @ 0.0375% = USD15,750.

It is difficult at this stage to establish whether or not it is possible to obtain full guaranteed outturn cover without knowing if any surveyors will be available at the loading terminal. Therefore prices are indicated on the basis of Bulk Oil Clauses (inclusive of War / SRCC etc) and on an individual voyage basis. With significant cargo volumes prices would likely be considerably lower.

iii) Charterers Liabilities

On the basis of:

60,000 DWT tanker with a GT of approximately 40,000

Coverage: For damage to Hull / Protection and Indemnity including Pollution but excluding Cargo with a limit of USD 250,000,000.

Deductible: USD 25,000, but USD 250,000 in respect of pollution.

Premium: Approximately USD 75,000.

Basis 12 months time charter with Owners having their own P&I coverage, using a standard charter party.

Conclusions

26. This part of ARCOP has confirmed that marine insurance coverage for the sea carriage of oil and other energy materials on the Northern Sea Route has indeed moved from theory to reality. It has been shown that marine underwriters are willing to assume the risks involved provided that sufficient support for the vessels operating on this route is assured. It has also been illustrated that initially marine insurance costs, although higher than for operations on 'normal' routes, can be held within reasonable limits. However, operations have to 'prove' themselves as insurers will, as always, adopt a cautious attitude when new routes and operations are involved. In other words, if there are few claims the rates will decrease and the reverse is obviously also the case. It has also been shown that there is some capacity in the Russian marine insurance market. However, as the two Russian research papers illustrate, (Attachments I and II) it remains to be seen whether this capacity can be brought to bear on the requirements of this very specialized sector.

27. Of specific concern for liability underwriters is the question of environmental damage in these sensitive Arctic regions. The concern is somewhat exacerbated by the questions that have recently arisen from the differences between the international marine pollution regime as represented by the IMO and that put forward by the EU. It is hoped that these differences will be resolved in the near future as they place an additional burden on ship operations from Russian Arctic ports to EU member states. For example, tankers carrying oil from Russian terminals are now required to adhere to certain EU requirements in addition to the international (IMO) regime to which Russia is a party. Furthermore, if such cargoes would also be transported to US ports, the US regime would also have to be followed. At this stage compliance with both EU and IMO requirements do not appear to have any onerous cost implications. This has also been made easier by the positive attitude adopted by shipping in the region in complying with Norwegian requirements in the Barents Sea as well as by navigating more than 50 nautical miles from the coast line.

28. Although this part of ARCOP addressed the sea carriage of oil and other energy materials on the Northern Sea Route, other cargoes are also being moved or about to be moved. In December 2005 the Finnish shipbuilder Aker Finnyards launched and named the first ice-class container ship, the *Norilsk Nickel*. This vessel, equipped with diesel and electric-powered propulsion machinery, was built for MMC Norilsk Nickel for its transportation needs on the Northern Sea Route. The vessel is unique in design and is capable of moving stern first in heavy ice conditions. It is also designed to operate for most of the year without icebreaker assistance. The 14,500 DWT vessel is expected to be delivered in February 2006 and will then undergo ice trials in real winter conditions

in March 2006. The company intends to build five similar vessels by mid-2008 at a cost of EUR 70 million each.²¹

29. The Northern Sea Route has indeed moved from its theoretical ideas, as developed by INSROP, to the realities developed under ARCOP. At this stage, the 'total' Northern Sea Route idea that envisages a new navigational route from the Far East to Europe is still on hold as it has been overtaken by the transportation of resources from the Russian Arctic to world markets. However, the 'total' route is alive and well and has most recently been brought forward again in Canada. Canadian scientists believe that global warming could open up the Northwest Passage to year-round cargo shipping by 2050, and resources in Canada's Beaufort Sea such as oil and natural gas could be exploited.²² Such a year-round opening would reduce the voyage from London to Tokyo to 16,000 km, compared to 21,000 km via Suez and 23,000 via the Panama Canal. Given that the development of the Russian Northern Sea Route is so much further advanced, it is likely that this route will become more fully utilized far earlier than the Northwest Passage.

²¹ Press Report: "Unique Ice-Class Boxship Launched". *Psi Daily Maritime Clippings*, 2005:263, 12 December 2005

²² Press Report: "Canadian Challenger takes on Washington". *The Weekend Australian*, 24 December 2005, at 10

Attachment I

**CENTRAL MARINE RESEARCH AND DESIGN INSTITUTE
(CNIIMF)**



**The Russian Practice of Insurance of Marine Risks
in the Operation of Icebreaker Fleets and
Transportation of Oil Cargoes
on the Northern Sea Route (NSR)**

- WP2: Administrative measures for the transportation system in the Arctic Russian region
- WP2.4: Risk Management for NSR Navigation: Marine Insurance Coverage for Oil and LNG Tankers

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Introduction

This study has been undertaken under the ARCOP WP 2.4 “Risk Management for NSR Navigation: Marine Insurance Coverage for Oil and LNG Tankers” Project

In this work the following topics are presented:

- General features of the Russian market of marine risk insurance.
- The existing normative and legal base.
- The practice of marine risk insurance in operation of icebreaker fleet.
- The practice of marine risk insurance in transportation of oil cargoes by tankers.

The principal problem discussed in this paper relates to the practices and procedures for marine risks as applied by insurance companies. In addition, the study also reflects the discussions on the practice of marine insurance for Arctic operations with the Murmansk Shipping Company – the major icebreaker operator on the Northern Sea Route.

1. General Features of the Russian Marine Risk Insurance Market

The Russian marine risk insurance market is currently in a formative stage due to a number of specific aspects in the history of the development of Russian insurance. In the former USSR there was no necessity for the development of an advanced insurance system, despite the fact that the USSR was one of the leading shipping countries in the world. A state-owned company was faced with very limited material liability in case of an accident. The value of lost assets was excluded from the balance of the company and its charter capital was simply reduced by the amount lost. In other words, the company would pay only for necessary repairs and there was little need to insure its ships. However, the reconstruction of the Soviet economy after 1990 not only resulted in the increased demand for insurance due to changed relations between companies and the state, but also initiated the availability of a competitive insurance sector resulting from the establishment of a decentralized insurance market.

Before the collapse of the Soviet Union the marine insurance of national operators was basically performed by the Ingosstrakh (Foreign State Insurance) company. The currency share of the insurance portfolio was traditionally reinsured with Lloyd’s syndicates and with European companies in England, Switzerland, Germany, France, Sweden and Italy.

The collapse of the USSR and formation of independent states resulted in the division of the previously substantial common national shipping fleet into relatively small shipping companies. According to the regulation of joint-stock companies, the owners of each shipping company have to take responsibility for maintenance, operational conditions, fleet renewal, and insurance. This responsibility was initially undertaken with some state support from the state, which has now been discontinued. Unlike hull and machinery insurance of ships, which is not compulsory, shipowners who operate vessels internationally in the commercial cargo or passenger trade, or for scientific research must also insure any liabilities that arise from such operations.

Since Russia has evolved in to market economy state, a number of large, medium-size and small insurance companies, offering insurance of marine risks, have emerged. As a result, with the abolition of the state insurance market, Russian ship owners now have the ability to choose between

the former state monopoly insurer Ingosstrakh and these newly established marine insurance companies. However, due to a lack of confidence in the financial viability of Russian insurance companies, many Russian shipowners have attempted to enter their liability risks directly with foreign liability insurers and mutual protection and indemnity clubs. This practice conflicts with the existing Russian insurance legislation, which obliges shipowners to insure their liability risks (as well as hull and machinery risks) in Russian insurance companies.

The Russian marine insurance market also faced a problem caused by unfair competition amongst Russian insurance companies. In order to obtain the largest most well-funded clients, some insurers offered substantial 'privileges', such as, reduced premium, rates, low franchise levels, and even the partial repayment of insurance premiums. However if a company obtains clients under such terms, it inevitably faced difficulties when reinsuring such risks, as the reinsurer will demand changing the original insurance terms regarding very low premium rates. In such cases, the insurance company will be forced to carry the whole risk itself. This is a very difficult problem as it is unlikely that any Russian insurance company would be capable of satisfying a major claim without reliable reinsurance protection. This will either result in bankruptcy of the insurance company or result in unnecessary prolonged legal proceedings in the hope that inflation will reduce the real loss.

In addition to the financial problems faced by the Russian marine insurance market, there are also some technical and organizational difficulties. The first is the absence of any complete or reliable data and statistics on marine cases handled by Russian insurance companies. Without this type of information any analysis of the current market and trends of its development for the future is virtually possible. Furthermore, there is no institution in Russia, comparable to the Institute of London Underwriters that could combine and unify Russian marine insurers, their practices, tariffs, marine insurance provisions and development. Such a body is needed in order to ensure that Russian marine insurers could provide acceptable hull and machinery and liability coverage for shipowners.

The final problem is that the majority of Russian insurance companies, engaged in marine insurance, neither possesses sufficient experience, nor professionally trained specialists. This is, of course, due the fact that the Russian insurance market is relatively new, as well as the lack of educational institutions offering adequate insurance training and knowledge.

In summary, it can be concluded that the development of the Russian marine insurance market for Russian shipping:

- is now at the stage of early development;
- it is faced with a number of serious problems, that can be solved by various measures that must be taken at the state level, as well as by the marine insurance industry itself.

2. The Existing Regulatory Legal Base

For insurance of marine risks during transportation of oil cargo along the NSR, with use of nuclear icebreakers and tankers, the following documents form the legal regulatory base of the Russian Federation:

- RF Civil Code, Chapter 48. Insurance.
- The Law of RF On Organizing of Insurance Procedures in RF as of November 27, 1992, No. 4015-1.

- The Code of Merchant Shipping of RF as of 30.04.1999, No. 81-F.L., Chapter XV. Marine Insurance Contract.
- The Federal Law On Use of Nuclear Energy as of 21.11.95 No. 170-F.L.
- Insurance procedures (standard) for civil liability of organizations operating dangerous industrial objects, for causing damage to life, health or property of third parties and to the environment, as a result of an accident at a dangerous industrial object (introduced by the letter of the State Technical Surveillance of the RF as of 23.04.1998 No. 01-17/116 in compliance with the Federal Law as of June 21, 1997 No. 116-F.L. On Industrial Safety of Dangerous Industrial Objects).
- Rules for issuing and checking up of insurance certificates or other financial securities of civil liability for damage caused by oil pollution (introduced by the Order of the Ministry of Transport of the RF as of November, 25, 2002 No. 147 in compliance with Article VII of the International Convention of Civil Liability for Oil Pollution Damage, 1992 and with Articles 323 and 324 of the Code of Merchant Shipping of the RF).
- Rules for ship insurance made public by insurance companies.

3. The Practice of Insurance Risks Related to the Operation of Icebreaker Fleets

At this stage the escort services of ships operating on the NSR on a round-the-year basis is provided by state-owned nuclear icebreakers, operated by the Murmansk Shipping Company under a contract on trustee management. According to the contract, the company insures against the following possible risks:

- Icebreaker fleet vessels' hulls, engines and equipment (Hull & Machinery ships);
- Civil liability of operating organizations related to the use of nuclear power.

3.1. Hull and Machinery Insurance of Ships

The basic coverage requirements for hull and machinery risks for Russian insurers are contained in the Code of Merchant Shipping of the RF. An insurance contract for hull and machinery coverage is usually based on one of the following terms: "Liability for total loss and damage of the ship" – the list of terms almost completely reproduces the terms of the Clauses of the Institute of London Underwriters 280. According to these terms, the following events shall be subject to compensation:

- a) the loss by damage as a result of actual or constructive total loss of a ship because of fire, lightning, storm, whirlwind and other natural disasters, shipwreck, grounding of a ship, collision of ships with each other or with some immobile or floating subjects (ice included), or because of capsizing or sinking of a ship and as a result of accidents during loading or discharge or while accepting fuel, after explosion aboard the ship or outside, explosion of boilers, the breakage of shafts, because of a latent defect of hull, machinery and boilers, as a result of carelessness and mistake of the master, engineer or other crew members or the pilot;
- b) ship damage loss as a result of measures taken for saving or extinguishing a fire;
- c) loss of ship missing;

- d) loss, contributions and general average expenses;
- e) losses subject to compensation by the owner to that of another ship after collision of ships;
- f) all necessary and reasonable expenses on ship salvage, on reducing loss and fixing its volume if it is compensated on the terms of insurance.

On these terms ship damage loss is compensated using franchise, i.e. loss is not subject to compensation if it did not amount to certain per cent of insured sum. Loss caused by damage is compensated without any franchise only when it was caused by a shipwreck, a collision with another ship, grounding, a fire or an explosion on board a ship as well as in case of a general average. Total loss of a ship is compensated without any deductible.

Total loss of a ship means considerable structural failure excluding any technical possibility of its repair, or ship sinking when its recovery is impossible or unreasonable as well as its lifting.

A ship is considered missing when it has not been heard from for 3 months and, if news could be delayed because of hostilities, - during 6 months.

When insurance is carried out on the terms "Ship damage liability only", the following are subject to compensation:

- a) expenses on elimination of damage of a hull, superstructures, (deck) houses, ship spaces, its machinery and boilers – refrigerating installations, mechanisms, equipment, systems, devices and rigging – for the same reasons as in case of insurance "with total ship loss and damage liability";
- b) loss, contributions and expenses in case of general average;
- c) all necessary and reasonable expenses on ship salvage, on reducing loss and fixing its volume if this loss is compensated on the terms of insurance.

When insurance is carried out on the terms "Only with total ship loss, expenses on salvage included", loss caused by actual constructive total loss, by missing ship loss and by all necessary and reasonable expenses on ship salvage, on reducing loss and on fixing its volume are compensated if this loss is compensated on the terms of insurance. Insurance on these terms is identical to that in accordance with the Institute of London Underwriters clause 289.

When insurance is provided out on the terms "With liability only for total ship loss", the actual or total constructive loss or ship missing loss will be compensated. There are no analogies to these terms in the international marine insurance market and are the most limited provisions in terms of insurer's liability.

The losses occurring due to the following factors are not subject to compensation:

- a) intentional or gross negligence of an insured, a beneficiary or their representatives;
- b) lack of seaworthiness (i.e. unreliability or lack of fitness of ship for sea voyages, absence of necessary outfit and equipment, lack of the necessary number of crew members required and/or their proper qualification, as well as undertaking the voyage without the necessary shipping documents;

- c) fair wear and tear of ship, its parts and fittings;
- d) any type of hostilities or war events and their consequences, injuries and destruction by mines or torpedoes, bombs and other weapon; pirate activities and civil war, social disturbances and strikes, confiscation, requisition, arrest or elimination of ship at the request of war or civil authorities etc.

The insured sum is agreed under the insurance policy by the parties to the agreement. This sum is based on the standard insurance cost of icebreakers taking into account their technical condition and age. Franchise costs are similarly agreed on. The insurance premium is set by the insurer, depending on the insured sum and insurance tariff with its increasing or decreasing coefficients taking into account the extent of insurance risks that are applicable. In accordance with the planned operation of icebreakers, an insurance contract is concluded for an agreed voyage or time period. The insurance policy is concluded on the basis of a written application of an insured, with full disclosure of the rights and duties of the parties. When an insured accident occurs, the claims procedures between insurer and insured are governed by the rules of insurance and the corresponding marine Codes and are compulsory. If the insured and/or the insured's representative do not fulfil their duties, the insurer has the right to have the policy voided.

3.2. Civil Liability Insurance for Operators of Nuclear Powered Ships

Operators of nuclear powered vessels require insurance coverage for civil liability for loss and damage caused by radiation affecting to life, the property of individuals (injured party) during vessel operations. This insurance coverage is effective providing that it:

- it occurs as a result of damage done to the injured party, as a result of a radiation accident that took place on the insured party's vessel or premises using atomic energy during the period of the insurance contract validity;
- there is a cause-and-effect dependence of causing damage to the injured party and the events occurring, while the insured executed permitted activities in the area of atomic energy use;
- is due to an accident that has occurred, i.e. sudden and unforeseen damage or destruction of the atomic energy source.

Damage to life, health and/or the property of several injured parties as a result of one accident shall be considered a single insured accident. Actual damage to life, health or property of individuals, who have not concluded any contract with the insured (according to which they would have fulfilled their duties), as well as damage done to property of legal persons shall be subject to compensation.

The principal insurer and co-insurers shall not be obliged to compensate the loss (damage) done by radiation influence to the injured party in cases of:

- Circumstances of irresistible force (earthquake, hurricane).
- Hostilities, war conflicts, civil war or uprising.
- Intent of the Injured Party (individual).

- Breach of the requirements of the instruction on systems and equipment exploitation by personnel of the insured as well as the breach of regulatory requirements.

In addition, the following shall not be subject to compensation:

- The damage done to the property of individuals and legal persons that was located on the industrial area of the insured, and was designed to ensure the maintenance of institutions involved in atomic energy use.
- Damage to any property owned or managed by the insured party.
- Loss of life or personal injury and of the insured's officials operating the institution involved in atomic energy use.
- Damage to the environment (nature).
- Mental health and morale damages.
- Compensatory damages and loss because of missed benefits.

The territory covered by this insurance policy is that of the RF, including the NSR area.

The insurance agreement also contains the following points:

- The volume of insured sum for all the insured accidents;
- The limits of liability on the risk "Doing damage to the life and health of the Third Parties (as to one person, in all – as to one insured accident and in all – as to all the insured accidents);
- The limits of liability on the risk " Doing damage to the property of the Third Parties (as to one individual, in all – as to one insured accident and in all – as to all the insured accidents).
- The following points are agreed to by the parties:
- The insurance premium and the terms of its payment.
- Deductible franchise as to every insured accident.
- The final (concluding) sections of the agreement state:
- The effective period of the policy.
- The rights and duties of the parties.
- The terms of contract termination.
- The terms for claims and litigation.
- Any special terms. Here it is usually pointed out that any co-insurers are jointly responsible to the insured and/or the injured party (the beneficiaries) for the payment of the total liability sum as set out in the policy.

4. The Practice of Marine Insurance for Oil Cargo Shipping

The analysis of statistical data on accidents with tankers carrying liquid hydrocarbons from Arctic deposits shows that the most important factor for risk assessment relates to ice conditions that result in damage to the hulls of ships. However, during Arctic operation in Arctic of 12 tankers of the Samotlor type (from 1975) and 5 Astrakhan type (from 2000), with the LU5 ice category, indicates that there were no oil spills ships' hulls damaged by ice during this period. Although the majority of serious ice damage (up to 70% in 1983) occurred at the eastern part of the NSR, mostly in the East-Siberian and Chukotka seas, the analysis of statistical data for the 28 year period indicates that the number of accidents on the NSR is comparable to the global average. Accident risks for tankers of the LU5 ice category are minimized due to the escort services provided by powerful icebreakers as well as strengthened hulls and increased engine capacities. Such factors need to be taken into consideration in the calculation of insurance tariffs for tankers navigating the NSR.

4.1. Insurance of Liability for Oil Pollution Damage

Article 320 of the RF Code of Merchant Shipping establishes the level of financial liability for pollution (US\$4,2 million – for ships carrying less than 5,000 tons of oil, and up to US\$84 million – for ships carrying more than 5,000 tons). This liability cannot be covered by any single Russian insurance company. As a rule, the limit of insurance payment from a company's own funds does not exceed US\$350,000. For this reason the Russian P&I Pool was founded. Currently 13 large insurance companies are members of this pool which is managed by Zeller Associates GmbH, of Moscow-Hamburg.

The limit of self-retention of the Pool is US\$1 million; the maximum coverage limit – US\$25 million. These amounts are sufficient for coverage of owners of small and mid-sized ships. The liability of the Russian Pool in excess of its self-retention up to \$25 million is secured by a reinsurance contract with three well-known international reinsurance companies: Munich-Re (34%); Hannover-Re (33%), and Alpina (33%). For potential clients who need liability limits exceeding US\$25 million, there is the possibility place such limits with these reinsurance companies or in P&I Clubs, operating with fixed rates.

4.2. The International Oil Pollution Compensation Fund

The multistage scheme of compensation of damage resulting from oil spillage also includes the International Oil Pollution Compensation Fund (IOPCF). The purpose of this Fund is, firstly, to provide maximum compensation for pollution damage to claimants, and secondly, transfer a part of the costs of compensation from ship owners to the Fund. The Fund is formed from contributions of recipients of oil, transported by sea involving the parties to the 'International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (FUND 1971)' as amended. Russia is also a party to FUND 1971 as declared by the Federal Law as of January 2, 2000. No.26-Φ3.

Under FUND 1971 the general limit of compensation for a single incident amounts up to US\$135 million, and the maximum sum of compensation is US\$203 million. However, these limits were considered to be insufficient as actual amounts of compensation claims for oil spills from large tankers in the last 15–20 were significantly higher. For example, in the grounding of the very large tanker of *Exxon Valdez* in March 1989 in Prince William Bay in Alaska some 100,000 ton of oil

were spilled. The damage claims exceeded well over US\$1 billion. The company paid \$1.2 billion in penalties but only the first US\$400 million were covered by insurance.

The spill of 19,000 tons of oil from Russian tanker *Nakhodka* in January 1997 in the Japan Sea was another example. The cleaning of the environment cost US\$19 million. The total claimed sum at the beginning of 1999 amounted to US\$250 million, but the FUND 1971 convention limit the tanker was only US\$180 million.

As a result, it has become evident that not all claims could be covered by existing liability insurance and new discussions to revise the FUND 1971 convention are under way.

4.3. International Pools of Mutual Insurance

In response to the inadequacy of existing international oil pollution for catastrophic oil spills a number of international P&I Pools were formed. The majority of Western mutual insurance clubs of mutual insurance currently are united into pools of mutual insurance with the purpose of accessing sufficient financial reserves for covering catastrophic consequences of oil spillages at sea (Catastrophe Reserve Funds). These funds are able to compensate very significant damages-- from US\$12 million up to US\$1.25 billion.

As a result, there are currently two types of oil spill liability insurance for ship owners available:

- 1) Insurance of risks of oil pollution in P&I Clubs;
- 2) Insurance of risks of oil pollution in Pools of Mutual Insurance Clubs.

4.3. Conclusion

It has been estimated by a number of foreign specialists that the levels of marine risks on the NSR has been over-estimated at levels varying from a minimum of 15% to a maximum 300% when compared with the other global marine risk levels. This significant over-estimation is a result of the lack of reliable data on the actually low number of accidents that do occur on the NSR, as well as the ice conditions on the route, and the measures taken by the Russian authorities to ensure the safety of navigation and prevention of pollution. As already indicated, during 9 years of operating LU5 (UL) ice class tankers in the Arctic, no oil spills occurred. This has to be taken into account in calculating marine insurance premiums for ships navigating the NSR as an the objective evaluation of marine risks.

Due to the high potential risks of marine pollution and subsequent damage to the marine environment from large tankers, as well as the problem of adequate damage compensation, the following principles are required to be observed for NSR operations:

- Any vessel operating on the NSR must be under the flag of a state that is party to the FUND 1971 Convention and its amendments and protocols. This would allow access to oil pollution damage compensation ranging from US\$135 million to US\$203,0 million;
- Any vessel operating on the NSR must also be entered in to The International Pool of Clubs of Mutual Insurance, allowing damage compensation ranging from US\$12 million to US\$1.25 billion;

Finally, the legal principles established under the US Oil Pollution Act 1990 (OPA-90) adopted after the *Exxon Valdez* accident, should also be taken into consideration for NSR navigation. According to this legislation, only modern, double hulled tankers are to be admitted in to American ports. Such vessels are also required to have a 'Certificate of Financial Responsibility (COFR) that indicates that security of US\$1 billion is available for compensation for potential pollution damage.

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Attachment II

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ARCOP WP2.4

The Law and Practice of Marine Insurance in Russia

Vladimir Smirnov and Valery Stepanov

Introduction

At the present time, the national marine policy of the Russian Federation consists of maintaining a national fleet, as well as the coastal-port infrastructure levels that would ensure the economic independence and national safety of the state, decrease transport costs, and increase national and international trade and transportation.²³

The legal requirement to insure ships and cargoes from hazards at sea has been in effect in Russia since 1846.²⁴ The 1846 Law regulates insurance transactions, contracts, agreements and partnerships for individuals, societies and companies and is applicable equally to national and foreign entities.

At present Russia's State Register of Insurers includes more than 1,400 insurance organizations, associations and companies. Russian insurance companies are combined into 73 non-commercial organizations/associations of insurers indicating a high level of insurance market development in the country.

The market of traditional property and liability insurance covering different risks in the Russian Federation is comprised of several main segments:

- Insurance of "international" risks and carrier and cargo liability;
- Insurance of large projects, including projects with participation of foreign investment;
- Insurance of risks arising from medium and small business and private activities.

The further expansion of the presence of foreign insurers in Russia is not likely to significantly influence the first two market segments as such activities are generally already controlled by foreign insurers or indirectly via the re-insurance markets. In addition, as a considerable number of Russian insurance companies do not have sufficient financial capability for adequate risk coverage, they have to re-insure such risks abroad. For operations in the first two market segments, Russian companies often fully transfer their insurance liability abroad.²⁵

1. The Regulation of Russian Insurance and Marine Insurance

In Russia insurance as an economic category or a system of economic relations is regulated in accordance with standards that do not comprise a single legislative area. At this time the regulatory area governing Russian insurance consists of three legislative enactments that are not hierarchically interconnected:

- Federal Law of the RF No. 4015-1 of 27 November 1992 "On the Organization of Insurance Business in the Russian Federation,"²⁶ together with the regulatory powers of the national insurance inspectorate;

²³ Marine doctrine of the Russian Federation for the period up to 2020. Approved by the President of the Russian Federation on 27 July 2001. Pr-1387

²⁴ Law of 5 July 1946

²⁵ Russia's accession to WTO: issues of insurance services. "Financial Business" No.5, p.10-23

²⁶ Vedomosti SND and VC RF", 14.01.1993, No 2, article 56

- Civil Code of the Russian Federation (Part II) of 26.01.1996 No. 14-FZ (edition of 23.12.2003),²⁷ regulating the relations of parties to insurance agreements;
- Special normative acts on separate types of insurance including the "Code of Commercial Shipping of the Russian Federation" of 30.04.1999 No. 81-FZ²⁸ (edition of 30.06.2003, with amendments of 06.04.2004).

In addition, issues arising from the taxation of insurance activities are regulated by the Tax Code of the Russian Federation (Part II) of 05.08.2000 No. 117-FZ²⁹ (edition of 22.08.2004).

Under Russian legislation, dispute resolution, such as mediation on behalf of foreign insurers is permitted. The Federal Law of 25 November 1996, No. 135-FZ ratified the "Agreement on Partnership and Cooperation establishing a Partnership between the Russian Federation, on the one hand and the European Community and its States, on the other hand." This Agreement is part of Russian legislation and has priority over Federal Law provisions.³⁰ In compliance with article 36 of this Agreement, Russia has established a regime of "favoured nations for all states that are parties to the Agreement. This covers the trans-boundary provision of insurance for risks connected with maritime transport, commercial air transportation, space launches and freight. This includes insurance providing full or partial risks that may arise out of the transportation of passengers, exported or imported goods, as well as the means of transport and the liabilities that may occur.

Insurance activities in Russia are also subject to licensing in compliance with article 32 of the Federal Law.³¹

In order to provide more efficient development of insurance services and protect the rights and interests of insurers, insureds and the state, the Federal Insurance Surveillance Service of the Russian Federation (Rosstrakhnadzor) was formed in 1992.³² Prior to August 1996, Rosstrakhnadzor was an independent authority within the national executive system. At the present time, the Federal Insurance Surveillance Service (Rosstrakhnadzor) is supervised by the Ministry of Finance of the Russian Federation (Minfin of Russia)³³.

The Federal Insurance Surveillance Service exercises jurisdiction and control in the following areas:³⁴

²⁷ Code of laws of the RF, 29.01.1996, No 5, article 410

²⁸ Code of laws of the RF, 03.05.1999, No 18, article 2207

²⁹ Code of laws of the RF ", 07.08.2000, No 32, article 3340

³⁰ on the basis of P. 4 article 15 of the RF Constitution

³¹ The order of licensing is determined by the Order of Rosstrakhnadzor of 19.05.1994 No. 02-02/08 (edition of 17.06.1994) "On the Adoption of the new Edition of the "Terms of licensing of Insurance activity in the Territory of the Russian Federation." Bulletin of the normative acts of the ministries and agencies of the RF, No. 11, 1994

³² Decree of the President of the Russian Federation of 10 February 1992 No. 133 "On the state insurance surveillance of the Russian Federation"

³³ Decree of the President of the Russian Federation of 20 May 2004 No. 649 "Issues of the structure of the federal bodies of the executive power"(Ed. The Decrees of the RF President of 28.07.2004 No. 976, of 13.09.2004 No. 1168)

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- Compliance with insurance legislation by all interested parties;
 - Compliance by interested parties to insurance agreements with respect to decisions relating to the withdrawal of insurance licenses, termination of activity or liquidation;
 - Verification of reports submitted by parties interested in insurance activities;
 - Provision of full information by insurers of their financial stability and capacity with respect to insurance reserves, the composition and structure of assets, funds received for the coverage of insurance reserves, quotas for reinsurance, including information on the proportion between the funds under the control of the insurer and accepted liabilities;
 - Information on any bank guarantees by insurers;
 - Observance by insurers of Russian legislative requirements covering criminal activities, such as the 'laundering' of funds, illegal revenues or revenues involving terrorist activities;
 - Decisions for issuing or refusing the issue, cancellation, restriction, suspension, renewal, or withdrawal of insurance licences, except for the insurance actuaries;
 - Certification of insurance actuaries;
 - Registration of all insurers and insurance associations;
 - Keeping a national data base for the receipt, processing and analysis of all reporting documents and other evidence provided by the various insurance interests;
 - The issue of orders in compliance with national legislation to the various insurance interests in case of infringements of insurance legislation;
 - Court applications for claims related to liquidation and termination of any insurance activity;
 - Proposals for the improvement and development of insurance legislation and practice;
 - Calculation of the proportion of foreign capital participation in the authorized capital stock of national insurance companies including: the issue of permits for increasing the size of the authorized capital stock of national insurance with funds from foreign investors; entering into agreements with foreign investors for the purchase of shares in the authorized capital stock of insurance companies; entering into agreements with foreign insurers, re-insurers, brokers and other entities planning to undertake insurance activities in Russia, including the establishment of subsidiaries;
 - Consent for the changing of insurers under providing compulsory coverage for civil liability arising out of the operation of transport vehicles;
 - Publication of information materials on: law-enforcement practice; terms of reference of the Service: the national register of insurers and insurance associations; information on suspension, restriction, renewal or withdrawal of insurance licenses;
 - Receipt and management of federal budget funds allocated for maintaining the Service and carrying out its required functions;
 - Protection of evidence and preserving its confidentiality;

- Enabling the access of all persons making applications for consideration of claims, including responses and decisions on claims and other matters as required under national legislation;
- Organization of professional training, re-training and upgrading of Service staff;
- Organization of a national data base including the filing, storing, recording and archiving of all documents received by the Service;
- Cooperation, as required with foreign agencies and organizations with similar aims;
- Representation of the Russian Federation and its insurance interests in international insurance organizations and agencies;
- Participation in the development and implementation of international cooperative programs, the preparation of draft international legislative enactments and international agreements of interest to the Russian Federation on the issues of insurance surveillance;
- Responsibility for entering agreements on behalf of the state for goods and services related to the Service's terms of reference, including the provision of research activities;
- Provision of any other functions within the Service's legislated activities as may be required under the laws and regulations of the Russian Federation.

In addition, the Federal Insurance Surveillance Service may also:

- organize the necessary studies, tests, expert examinations, analyses and assessments, including scientific studies, on the subject of insurance surveillance and inspection;
- inquire and receive evidence required for its decision-making on the various issues within its jurisdiction;
- provide explanations to legal entities and individual persons on the various issues within its jurisdiction;
- exercise control over its regional offices as required;
- become involved in research and work carried out by other organizations, scientists and specialists in respect of activities within its jurisdiction;
- apply restrictive, preventive and cautionary measures as envisaged under national legislation, in order to ensure that any negative consequences that may arise from regulatory infringements are minimized;
- create advisory and expert bodies, such as councils, commissions, groups and boards, in order to assist in the established sphere of activity.

2. The Insurance of the Oil and Gas Industry in Russia

A sufficiently stable group of insurers operating in the in the oil and gas sector has been formed in Russia. This is the Insurance Group "SOGAZ", the insurance companies "Progress-Garant" and Neftepolis, the insurance society "Surgutneftegaz", the JSC "Kapital Strakhovaniye" underwriting group and several others.

“**SOGAZ**” represents the integrated insurance business of the “Gazprom” system, was established in early 2003. This insurance group mainly specializes in providing to enterprises and organizations with complete insurance protection, including the insurance of property, liability and personnel. The group is considered to be one of the most stable Russian insurers, as confirmed by the highest reliability rating of ‘A++’ assigned by the rating agency “Expert RA”. The Company cooperates solely with leading global re-insurers such as Munich Re, Swiss Re, SCOR and Lloyd’s of London. At present “SOGAZ” has 62 subsidiaries and 47 divisions. This insurance group participates with the All-Russia Union of Insurers (VSS), the Association of Insurers of the Fuel-Energy Complex of the Russian Federation (ASTEK), the Union of Russian Ship Owners (SOROSS), as well as with the Russian P&I Pool. “SOGAZ” provides insurance coverage for all types of cargoes shipped by all types of transport including sea and river transport.

The Insurance Company “Neftepolis” was set up in 1999 by the state oil company “Rosneft” with the aim to provide insurance protection of its of oil producing and oil processing branches located in 18 regions of Russia – from Sakhalin to Murmansk. The authorized capital stock of the company comprises 250 million Rubles. The company holds licenses for 60 types of insurance.

The Insurance Society “Surgutneftegaz” was formed in Surgut in December 1996. During this time, the Company occupied one of the leading positions in the market of insurance services. The authorized capital stock as of 1 January 2001 was 235.9 million Rubles. Since 29 August 2003, this capitalization has more than tripled and comprises to-date 760 million Rubles. At present the Company has 10 subsidiaries and divisions in large cities in Russia.

The JSC “Kapital Strakhovaniye” Underwriting Group is a universal insurer with excellent credibility. The company works with corporate clients as well as individual persons. It was set up in 1992 and was formerly called the “LUKOIL” Insurance Company. Its main objective is the insurance of risks related to the activity of the “LUKOIL” Oil Company.

The Insurance Company “Progress-Garant” (prior to 18 September 2000 named “YUKOS-Garant”) was created on 7 December 1994 by the “YUKOS” Oil Company for the purpose of protecting its financial interests.

The Restricted Liability Society (OOO) Insurance Company “Soglasie” (prior to June 2002 named IC “Interros - Soglasie”) was formed in September 1993. At the present time the Company has 37 subsidiaries and 4 branch establishments and provides insurance protection for its clients’ property interests practically in the entire territory of the Russian Federation. For the last few years, this company has frequently been successful in the tendering process for the rights to provide insurance of production and transportation of oil products.

The OOO Insurance Company “Euro-Strakhovaniye” provides insurance coverage for the refining and transportation of oil and gas and other refinery products. Insured risks cover damage or loss of oil and gas regardless of the transportation method (by water transport, tank-wagons or tank-trucks, trunk gas pipelines, oil pipelines and oil products pipelines). The insurance tariffs comprise 0.6 % to 1.7 % of value. The increasing (1-5) or decreasing (0.2-1) coefficients are applied to the tariffs depending on the insured risks, transportation type, degree of risk, etc.

The Insurance Group “Spasskiye Vorota” is interested in participating in the activity for insurance of sea shipping of oil products from the Pechora Sea area to Europe. The Insurance Group offers full insurance coverage for cargoes shipped by different transport modes in Russia and

abroad. The company's license allows it to provide 75 types of insurance. The Group's network of subsidiaries covers the largest Russian towns and is constantly expanding. The paid authorized capital stock of the Company comprises 393.725 million Rubles and the Group's insurance reserves are in excess of 600 million Rubles. The insurance risks underwritten by the Company cover:

- a) liability for all risks;
- b) liability for a partial losses;
- c) liability for total loss.

The cargo insurance rules applied by this Company enable it to provide insurance coverage for all risks. These rules are basically close to the Cargo Clauses of the Institute of London Insurers (ICC-82) which have gained wide global acceptance.

The Company provides insurance coverage for single shipments or for all shipments during a specific time period under a General Policy. Such a General Policy covers all shipments nominated by the insured and accepted for insurance. In order to insure cargo under the General Policy, it is sufficient to fax an application in the established form to the Company. Premium payments under the General Policy are arranged between the insured and the Company. For example, payment at the end of each month for the actual volume of insured cargo shipped is possible. The tariff for the insurance of cargos dispatched by different transport types comprises 0.2-1 %. In order to determine the exact tariff, precise information on the risks, type of cargo, type of transport, regularity of shipping, cargo cost on average for one shipment (insurance sum), the route and the presence of guards is necessary. In addition, the relevant revenue can be insured at the rate of 10% of the cost of cargo. For insurance of valuable cargoes the Company requires the services of the security and survey companies that will be required to protect the cargo and supervise its stowage and packing.

The re-insurance protection of the Company is provided by a number of well-known known re-insurance groups with global reputations, such as: including: Munich Re, General & Cologne Re, Swiss Re, Everest Re, Lloyd's insurance and re-insurance brokers and other lead national and foreign insurance and re-insurance companies.

3. The Russian Marine Insurance Market.

Russian insurers face difficulties in accessing the international marine insurance market, especially for cargo risks coverage. As a result, only risks for domestic shipments are principally underwritten by Russian companies although practically all exported and imported cargos carried to and from Russia are insured. However, it has been suggested that Russian insurers are more competent than their foreign counterparts in the area of insurance for cargos connected with the Russian interests or transported within Russia, since they may have a clearer knowledge of the various interests and capabilities involved in the national marine transportation system.³⁵ Nevertheless, Russian insurance companies are planning their concerted entry into the international marine insurance market at an early stage. For example, the financial company "NIKoil", which adopted a complex program of development for the period up to 2008, plans to enter the international marine insurance market by 2008.

³⁵ As expressed by A. Ushakov, Head of the Administration of Marine Risks Insurance of the IC "Progress-Garant" Insurance group.

The Association of the Russian Insurance Brokers numbers has a membership of 38 insurance brokerage companies based in seven Russian centres. The Association's membership includes the leading Russian insurance brokers as well as the Russian subsidiaries of the largest international insurance brokers, such as "Marsh", "HIS Lambert", and "Jardine". The Association also accomplished significant work in preparing and submitting proposals on regulation of activity of insurance brokers for the Draft Federal Law (FZ) "On introducing Changes and Amendments to the FZ 'On Organization of the Insurance Business in the RF' in the part of the FZ articles referring to. In May 2004, the 'First All-Russia Conference of Insurance Brokers' was held in Moscow. The Conference was organized by the Association of Insurance Brokers. In September 2004, a conference "Marine Insurance in Russia" was held in Vladivostok. International attendance included many of the leading marine insurers and brokers: Zeller Associates (Hamburg), British Marine (London), Willis (London), Marsh (New York). In addition, representatives from two of the largest re-insurance societies in the world: Swiss Re (Zurich) and Munich Re (Munich) shared their valuable international experience at these gatherings.

The strongest Russian marine insurance companies are VESStA, VSK, "Ingosstrakh", "Investflot" and PSK Companies. The leading position in the Russian marine insurance market is held by "Ingosstrakh" which has more than 50 years of experience in the sector as well as a wide network of correspondents over the world. The fleet insured by "Ingosstrakh", numbers more than 2000 ships, including vessels registered in Norway, Germany and Greece.³⁶ For example in 2002, the Company paid out USD 11.5 million for liability insurance for hull and machinery losses and USD 8.4 million for liability claims of ship owners. In the first half of 2003, marine insurance premium payments to "Ingosstrakh" amounted to USD 16.5 million.

The principal marine risks accepted by Russian insurers are today standardized. These are – ship loss and damage, expenditures for salvage and general average, prevention and minimization of possible damage, and liability of the ship owner for cargo, collisions, etc. The premium tariffs vary significantly (from 0.4% to 3.5% of the ship hull cost) and depend primarily on the ship type and other operational matters. The shipowner's deductible can range from USD 5,000 to USD 100,000 and above per ship. One other hand, the insurer's maximum liability can be very high. For "Ingosstrakh" the ultimate insurance limit is USD 500 million.

Liability for damage to the marine environment from vessels is also covered under Russian marine liability insurance. However, at the present time, a new draft Federal Law "On Compulsory Ecological Insurance"³⁷ is in process of being developed. This legislation envisages the development of ecological audits, which is a key factor for determining the environmental risks arising from ship operations as well as the quantification of damage to facilities and amenities from ship-source pollution.

³⁶ Information received from Igor Sidorkin (Deputy Head of the Administration of Insurance of Ships and Liability of Ship Owners) "Ingostrakh"

³⁷ Recommendations of Parliament hearings "On ecological Insurance in the Russian Federation", 6 June 2002, "Oil, Gas and Law" No.4, p.3-4

4. Russian Marine Insurance and Northern Sea Route Navigation

Several insurance companies, such as "Spasskiye Vorota" and "Rosgosstrakh – North-West" have expressed their interest in participating in the risk coverage for navigation in ice-infested waters. The "Rosgosstrakh–North-West" Company, which is a part of the of "Rosgosstrakh" Group of Companies was in 2004 given the highest rank (A++) in the financial stability rating. "Rosgosstrakh – North-West" has already accumulated significant experience in this type of insurance, including the assessment and quotation of risks, regulation of losses and payment of claims. For the past six years this company has been the principal insurer of property (piers, coast-protection structures, navigation marks, floating craft, port structures) as well as the fleet of the Marine Administration of the St. Petersburg port. This includes hull and machinery and liability insurance for the icebreakers *Kapitan Sorokin*, *Kapitan Izmailov*, *Semen Dezhnev*, *Ivan Kruzenshtern*, *Kapitan Zarubin*, *Yermak*, the ferry *Georh Ots*, the pilot vessels *Sankt-Peterburg* and *Lotsman Fedorov* as well as a number of service crew boats. In addition, this Company has also experience in insuring offshore oil and gas production facilities and covered the transportation of a drilling rig from Vyborg to Mexico in 1999.

More specifically the "Rosgosstrakh – North-West" Insurance Company provides coverage for maritime losses arising from:

- Loss of or damage to ship, machinery and auxiliary equipment;
- Unlawful act of third parties;
- General accident;
- Collision with other vessels and fixed and floating objects;
- Salvage and Rescue claims;
- Surveyor's costs.

The liability of ship owners to third parties (protection & indemnity) is also covered:

- Liability for collision with other vessels;
- Liability for cargo damage;
- Liability for property on board the insured ship;
- Liability for damage to fixed and floating objects;
- Liability for towing agreements;
- Liability for wreck removal;
- Liability for environmental pollution;
- Liability for personal injury and death.

The Company also provides cargo insurance on the following terms:

- Liability for all risks;
- Liability for total loss and damages;
- Liability for total loss of cargo only.

These terms may be supplemented by other risks for the navigation period taking into account the specific features of some cargoes (such as pollutants). The advantages of this type of insurance coverage by "Rosgosstrakh-North-West":

- Individualized service for each client;
- The stable financial situation of the Company due to the efficient utilization of its resources as well as external support and backing of its parent company JSC "Rosgosstrakh" (with its the total authorized capital in excess of 3 billion Rubles with participation of the state – which provides additional reliability);
- The largest re-insurance capacity of the parent company JSC "Rosgosstrakh";
- In the Russian insurance market, the share of "Rosgosstrakh" in these insurance agreements consists of 20% ;
- A unique system of specialized centres regulating losses;
- Guaranteed payments for complex insurance claims.

The close cooperation with the state ensures reliable protection for the interests of individuals and legal entities. As a result, this significantly reduces the costs arising from claims arising from accidents, catastrophes and natural disasters. It also ensures additional available income at the local level in the form of taxes. Such funds can also finance measures for the prevention of accidents, loss or damage of property.

During the period 2005-2006 the Government of the Russian Federation is permitting foreign vessels to call at a number of Arctic ports and terminals points.³⁸ Such cargo vessels will be required to enter and leave Russian territory at established marine entry and departure points in the ports that are open for the call of foreign ships.³⁹

The Insurance Company "Yugoriya" has been able to win the tender competition for the insurance of the delivery of goods to the territory of the Khanty-Mansi autonomous district. The following insurance coverage is available:

- Any type of cargo transported by different types of transport;
- Freight and other expenses for the delivery of cargo to the destination point;
- Responsibility for the cargo at the points of loading, transshipment, unloading and intermediate storage.

³⁸ Amderma, Anabar, Beliy, Beliy Nos, Vaigach, Varandey, Viktoriya, Vilkitsky, Vitino, Geiberg, Golomyanny, Dikson, Dudinka, Indigirka, Iondoyakha, Isachenko, Karataikh, Koida, Kolguyev, Kolyma, Leskin, Maliy Taimyr, Minin, Peschany, Ponoj, Pravdy, Russky, Ruch'i, Solnechnaya Bukhta, Sredniy, Sopochnaya Karga, Sterligova, Talata-Khard, Tiksi, Uyedineniya, Ust'-Kara, Khatanga, Cheluskin, Sjoina and Yana.

³⁹ Anadyr', Billings, Vankarem, Inchoun, Kamenny, Konergino, Lavrentiy, Lorino, Neshkan, Novoye Chaplino, Novy Port, Nutepel'men, Nunligran, Pevek, Sabetta, Seyakha, Sireniki, Tambey, Uelen, Uelkal', Kharasavey, Cape Schmidt, Egvekinot, Enmelen, Enurmino, Yamburg, Yanrakyyno

The insurance coverage can be varied to cover:

- Liability for all risks;
- Liability for an individual accident;
- Liability for all damages with the exception of wreck removal.

Cargo can be insured for the period of its transportation "from door-to-door," including all reloading, transshipment and temporary warehouse storage, or for any part of the transport process as required by the insured. The cargo insurance cost can include both the value of the transported goods as well as the costs connected with its transshipment and any anticipated cost increase. The premium may be paid in Russian or foreign currency in accordance with legislative requirements.

The term of insurance is established as agreed by the Parties depending on the real shipment time. The cargo insurance agreement can be concluded in the form of the Policy of Cargo Insurance for a single transportation or a General Policy of Cargo Insurance for systematic transportation.

Insurance tariffs are set individually and depend on the transportation route, type of transport, type of cargo itself and other factors connected with the transportation conditions. The tariffs comprise 0.1 to 1.5% of the cost of cargo. Acceptance of the 'General Policy' provides a discount of up to 20% of the payment. For permanent or regular clients, the company offers decrease of tariffs of 10-20%.

Conclusion

Although Russia has a long history of providing risk coverage for all commercial and other activities, the recent changes in the state's structure have resulted in significant changes in commercial matters generally, and in insurance matters specifically. As a result, Russian insurance is presently in a stage of significant re-development and is very likely to take its place as an important insurance market in the not-too-distant future. As a major energy producer the Russian Federation has already established a strong insurance market in this very specialized area. This is also the case for marine insurance which is already well developed at the national level and co-operates closely with the major international markets. It remains to be seen if Russian marine insurers will also expand their interests in the merging Northern Sea Route marine transportation area. This is quite likely, given Russia's long experience in Arctic marine transportation and navigation.

Attachment III

Joint Hull Navigating Limits Sub-Committee

Terms of Reference

Acting under the authority of the Joint Hull Committee, the role of this sub-committee is to:

Monitor climatic conditions in those areas specified in the International Navigating Conditions 1/11/03

Interpret and disseminate information as considered appropriate

Identify organisations, associations and / or individuals that may be sources of information of use to underwriters and to establish and maintain regular communication with such parties

If necessary, make recommendations regarding amendments to International Navigating Conditions 1/11/03

Provide regular updates to Joint Hull