



BIMCO

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3

Extensive coverage of Dubai AGM
and BIMCO Shipping Awards

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shipping champion
sector for Greece

New BIMCO Clauses: War Risk and Piracy,
eBills and Cargo Residues Disposal

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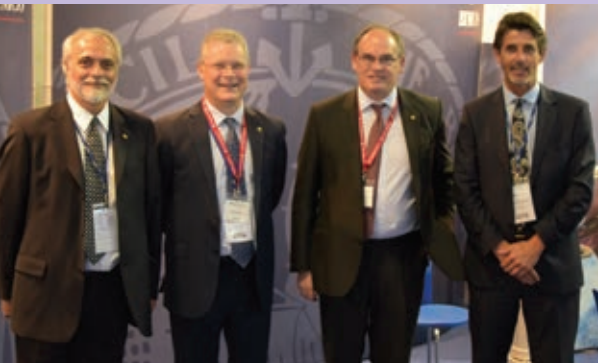
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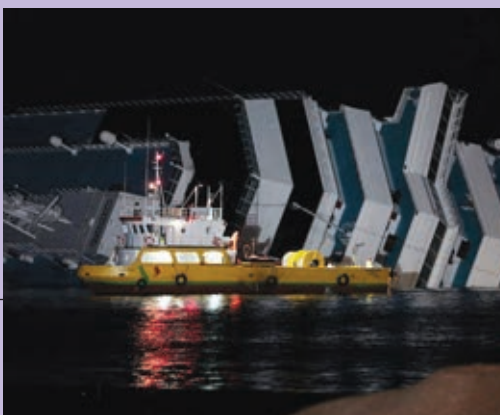
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BIMCO breaks new ground in Dubai

It is a tradition that BIMCO visits many different cities to hold its AGM, Board and committee meetings – and also these days its annual conference – *Perspectives in Shipping*.

But this year's conference was far from traditional – it featured an innovative and ground-breaking session exploring the pressure, fall out and legal implications of decisions made by ship owners in the aftermath of a maritime casualty.

A full report of the conference follows in this issue, but it was a rare sight to see delegates so completely engaged during a day-long conference – and still avidly discussing the outcome of the sessions the next day.

Proud maritime tradition

Dubai itself has a long tradition of maritime trade going back 7,000 years which remains fundamental to the economy of the emirates today. President John Denholm refers to Dubai as “one of the shipping capitals of the world”, and the importance of maritime trade for the region was made very clear by the patronage of BIMCO's events by His Highness Sheikh Hamdan Bin Mohammed Bin Rashid Al Maktoum, Crown Prince of Dubai and Chairman of the Executive Council.



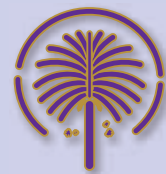
BIMCO Secretary General Angus Frew.

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Dubai has a long tradition of maritime trade going back 7,000 years which remains fundamental to the economy of the emirates today.

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Dubai was, therefore, the ideal setting for some of BIMCO's most important events of the year. The conference was opened on 29 April by our President, John Denholm, and His Excellency Sultan Ahmed Bin Sulayem, the Chairman of DP World, who spoke to delegates about Dubai's maritime history and economy.

Full reports on the conference are contained in this *Bulletin* – including our technical session with the latest data and statistics on ballast water management and future fuels and our session to PMSCs on ISO28007 accreditation. There are also reports from the latest Board of Directors meeting and the Documentary Committee meeting.

First-ever BIMCO shipping awards

This issue will introduce BIMCO's first-ever set of awards for the shipping industry, with winners announced at a glittering ceremony during our Gala Dinner in Dubai. The awards were created to celebrate and highlight shipping companies and individuals who have excelled in areas reflecting BIMCO's global activities.

The judging panel was headed by BIMCO's President John Denholm, who was joined by Jamal Majid Bin Thaniah, Vice Chairman



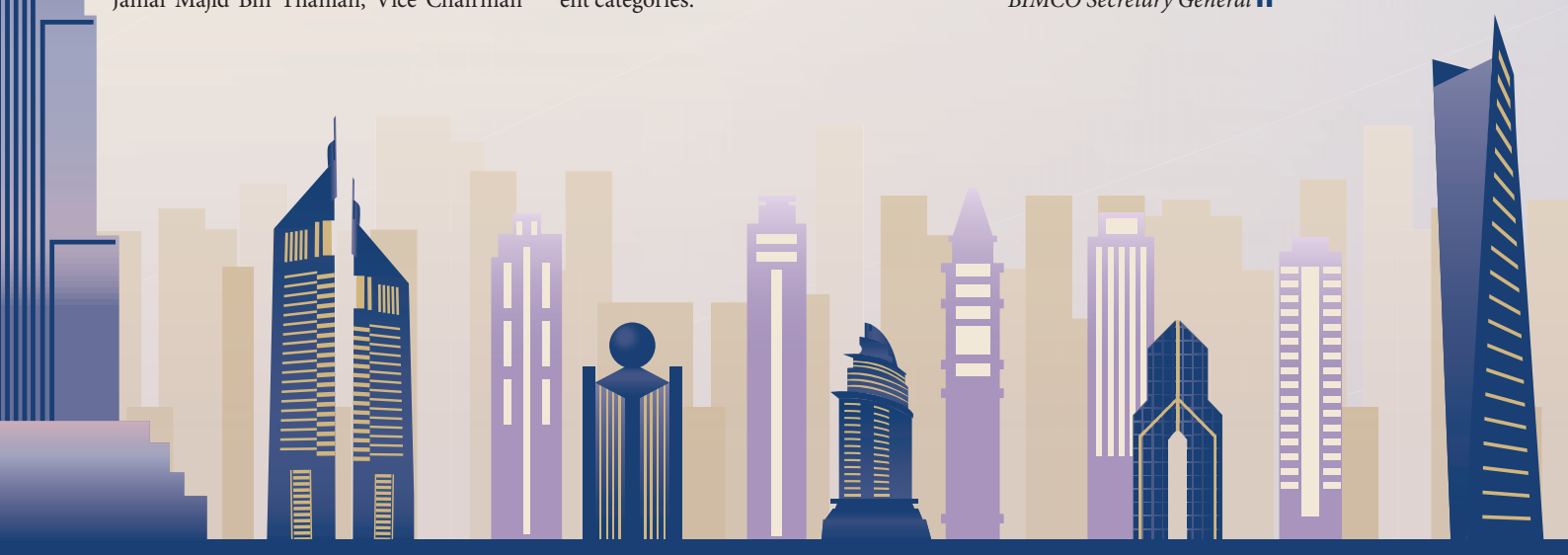
His Excellency Sultan Ahmed Bin Sulayem, the Chairman of DP World, with BIMCO President John Denholm.

of DP World, and Captain Jitendra Misra, Managing Director of Emarat Maritime and Director of BIMCO, Philippe Louis-Dreyfus, President of Louis Dreyfus Armateurs and President Designate of BIMCO alongside myself. It was a difficult task to choose between some truly inspiring nominations.

The awards recognised individuals and companies worthy of recognition for their contribution to the industry – in five different categories.

A particular mention goes to the Saverys family, who were collective winners of the BIMCO President's Award, recognised for their tireless commitment to their shipping businesses – providing excellent value both in good times and bad. Full details of the award winners and sponsors are available in this issue – and we look forward to our next set of awards in 2015.

*Angus Frew
BIMCO Secretary General* ■■





BIMCO's interactive "Double Jeopardy" – trial by media, trial by law

Aiming to bring a very different type of event into their annual conference, BIMCO presented *"Double Jeopardy" – Trial by Media, Trial by Law*, simulating a marine casualty and arbitration, to delegates at the Jumeirah Beach Hotel, Dubai.

A professional, innovative and creative production not only gave a realistic portrayal of the events following a maritime casualty but also enabled the audience to participate with well posed questions by way of interactive voting meters.

Based on a true event, this realistic account of a maritime casualty was narrated by Lindsay East, Consultant, Reed Smith, London. The incident took place in June 2010, the vessel being owned by a small company, Minimus Marine (Shipowners) Ltd., and its charterers, Magna Charterer SA, who were based in Luxembourg, and the transport arm of a large and well known multinational company.

The vessel *Idle Star*, having loaded with sugar in Thailand and heading to the discharge port, had grounded on a river bed on the West Coast of the United States in an area of natural beauty. While there were no human casualties, there was a significant bunker spill and with a fast flowing river the environmental implications to wildlife and the local community were huge.



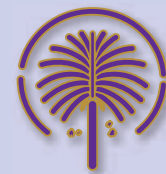
BIMCO simulated a marine casualty and arbitration to delegates at the Jumeirah Beach Hotel, Dubai.

As the story unfolded, the owner representative, played by John Tsatsas from London and the charterer representative played by Han van Blanken from Rotterdam, portrayed each stage from the initial Captain's call. With the initial limited information, the chain of events were shown to unfold

as the owner and charterer were both made aware of the situation and sought advice.

Advising the known facts

The first action was for the owner to inform their P&I Club, and of course, for the charterers to do the same, advising the known



The owner representative was played by John Tsatsas from London.

facts and establishing the re-floating and clean-up operation. At this early stage the question was raised about whether there was a media consultant to act as spokesperson, but regrettably in this instance, neither had secured the services of such a consultant, which was an early cause for concern.

The next conversations were with respective lawyers, and subsequently this involved talks with classification societies and hull and machinery insurers. The recreation of this casualty demonstrated how the process evolved as more information became available, giving an overview of the practicalities. Expert advice to the owner and charterer was provided by video clips of real practitioners in conversation with the two stage actors.

A high-profile casualty incident

As the facts became clearer and details of the pollution and the question of safe port emerged, it was fast becoming a high-profile casualty incident. The need for a media consultant grew ever more important as local environmentalists and businesses came forward to demand action and com-

pensation and there were no clear statements or information stream available from the incident.

Following the grounding, the dispute between the owners and charterers centred on whether the destination port was “safe”. The river leading to the lightening point where the vessel was to lighten prior to com-

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As the facts became clearer and details of the pollution and the question of safe port emerged, it was fast becoming a high-profile casualty incident.

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pleting her voyage to the discharge port was known to be subject to changing depths and varying conditions. The wide mouth of the river narrowed considerably when proceeding upstream, with a strong current of 6 knots. The arrival draft of the vessel at Buoy No. 7, where lightening was to take place, was of critical importance and needed to be calculated carefully taking into account the latest information on conditions from the local authority.

The vessel proceeded upriver towards the lightening point despite the Master’s reservations about the uncertain conditions upriver following recent heavy rainfall. The charterers had informed the owners that they had used the port on many occasions and that there had been only one very minor grounding incident in the past two years. As the vessel manoeuvred into position at the lightening point it struck an uncharted underwater obstruction which caused the vessel to ground and tore a hole in one of the bunker tanks, spilling bunker fuel into the fast flowing river. But who was liable for the grounding and spill – the owners for proceeding upriver voyage despite the concerns voiced by the Master or the charterers for warranting a “safe port” and placing commercial pressure on the owners to have the cargo delivered by an agreed date?

“Would you have allowed a ship of yours to proceed up river in these circumstances? The audience was asked and 60% of the audience said yes

Both blaming each other

With neither the owner or charterer accepting liability and indeed blaming each other, this session would focus on two areas; media and how if not handled correctly, incidents can become a media and public relations nightmare, and arbitration, examining the legalities of the charter agreement



and how this would be dealt with by an arbitration tribunal.

The morning session focused on “Trial by Media” and with neither party having any crisis management or PR in place, the simulated public backlash of the environmentalists, shrimp farmers and the local community as pollution grew, quickly escalated without an appropriate, measured response.

Julian Bray, TradeWinds Editor-in-chief, portrayed the media, keen for a story, and clearly supporting the affected parties who were keen for compensation while John Tsatsas as the owner and Han van Blanken as the Charterer, showed a deteriorating relationship of confusion and blame, a lack of unity and information handling merely fuelling the media frenzy.

“Should anyone involved in the incident apologise publicly for the accident and the pollution?” When asked, 62% of the audience said yes.

It’s a tough question to answer, as saying sorry may appear to be admitting liability so therefore is discouraged. However, saying nothing may be perceived as uncaring, incurring the wrath of the general public and media. With increased public interest there is a major media focus on the incident, with the parties’ public image, along with that of shipping, being seen in a very negative spotlight. Both parties appear equally blamed, with the ship owner seen as totally incompetent and the charterers seen as more worried about their worldwide reputation and financials rather than making any meaningful attempt to provide help or assistance to claimants.

“Would you have allowed a ship of yours to proceed up river in these circumstances?” the audience was asked again at the end of the session. Now only 47% of the audience said yes – many changing their opinion from earlier in the day.

Spiralling out of control

Summarising the morning, Julian Bray



Julian Bray, TradeWinds Editor-in-chief, portrayed the media.

offered his thoughts from a media perspective “This shows how a relatively benign situation can spiral out of control and even well prepared people can get tripped up by the media. In this instance its far easier to ‘have a go’ at the small ship owner rather than the big charterer and as ship owners you need to be aware that in situations like this, the general media will pull at very choice and sensitive areas such as the tax, domicile and flag.”

He added; “I do think you need to get trained and ready for crisis response – seek training, seek crisis management advice and make sure you get the right sort of PR”

Julian ended giving his thoughts on the three “must-dos” in crisis management:

- Know the issue – get inside and outside the issue straight away and get your facts together. If you don’t know your facts you will not be able to control things.
- Provide just enough information – slow the story down and don’t put out too much information too quickly – not all the facts should be passed on
- Be honest – the truth may be tough to



BIMCO President John Denholm (left) and former BIMCO President, Robert Lorenz-Meyer (right).



Maritime arbitrators Jude Benny, Singapore (left) and Bruce Harris, London (right).



London barrister Nevil Phillips.

swallow but if you can develop strategies for making it more palatable but don't change the facts. If you don't know the answer just say so.

"Always remember, in a crisis you only get one opportunity to get things right – take the time, do the work, and ensure you get every step right." He concluded.

Trial by Law

The afternoon session "Trial by Law" consisted of a panel of three maritime arbitrators, presided by Jude Benny, from Singapore (SCMA), Bruce Harris from London (LMAA) and Jack Warfield from New York (SMA).

The owner sought an indemnity from the charterer and the case was to ascertain

- Whether the port was unsafe;
- Whether the charterer was in breach of the agreement by ordering the ship to go there;
- Whether that caused the loss.

The classic English law definition of "safe

port", from *"The Eastern City"* [1958] 2 *Lloyd's Rep.* 127, p 131, is "...a port will not be safe unless, in the relevant period of time, a particular ship can reach it, use it and return from it without, in the absence of some abnormal occurrence, being exposed to danger which cannot be avoided by good navigation and seamanship..."

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Always remember, in a crisis you only get one opportunity to get things right – take the time, do the work, and ensure you get every step right.

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Chirag Karia, a QC from London, counsel for the owner, put forward a strong case after witness testimonies that the owner had expressed concerns to the charterer which has gone unresolved. There had been correspondence regarding the variable depth of the river and that there were uncharted obstructions. The charterer had been asked to arrange lightening at the mouth of the river or provide a hold harmless agreement to indemnify the owner from any losses should there be a problem.

The charterer told the owner that it would take too long to arrange lightening facilities at the anchorage in the mouth of the river but was confident there would be no issue with the voyage, however did not confirm any hold harmless agreement which the owner assumed from their conversations. He argued that by sending the vessel to its destination the charterers were sending the vessel to an unsafe port and the owners had been commercially pressured to continue.

Nevil Phillips, a barrister from London, counsel for the charterer, argued the defence





Fellow arbitrator, James J. Warfield, New York.

with regard to whether the port was safe at the time of nomination and that the owners had a responsibility to ensure the vessel was laden appropriately to ensure safe passage. The owners should have reduced the cargo and taken further action to avoid such an incident and the Master was negligent in not doing so, causing the vessel to ground. Ultimately it was the owner's decision to continue with the voyage with the known risks and any negligence by the Master obliterates any question of safety.

The arbitrators retire

The arbitrators retired to consider their findings, each from the perspective of their own jurisdictions, and the audience were able to vote on their own judgment, 70% finding in favour of the owner. On returning the arbitrators, gave three separate judgments.

Bruce Harris said "In this instance, there is really one question to be asked; effectively what caused this incident – was it something we could label as being 'unsafety of the port' or was it a failing on the part of the Master, Master's negligence in other words, and I take the view that this does have to be looked at, taking into account the fact that when the discharging port was nominated the cargo had not been loaded. Yes, the charterers had

the responsibility of loading, but the amount of cargo that was to be loaded was a matter for the master, bearing in mind his responsibility to ensure that the ship was seaworthy, which would include ensuring the ship could get to discharging without going aground. Had he done at that stage a proper calculation taking into account an adequate margin for squat and for under keel clearance at the very least this incident would not have happened. Therefore, I conclude the cause of the accident was the Master's negligence and the port was not unsafe. I conclude in favour of the charterer."

"I agree fully with Mr. Harris", fellow arbitrator, James J. Warfield added. "There was no breach of the safe port warranty in my view. The Master should have done a berth to berth comprehensive passage plan which, as Mr. Harris said, would have taken into account under keel clearance [and] squat, which his calculation was wrong to begin with. The Master had sufficient information prior to loading to make these calculations and the other thing, which, since it was a time charter, there wasn't any commercial pressure on the Master to maximise the loading for revenue, as a time charter the revenue would have been the same so I don't see why he did that other than it was poor seamanship and faulty navigation and therefore the owners claim fails."

Jude Benny summing up took a slightly different view "Firstly dealing with the issue of the safe port, I have come to the conclusion that the dangers that were present here were not as such that they could not have been avoided by good navigation and seamanship. I think there were sufficient red light warnings and more should have been expected of the Master and with ordinary and good seamanship this incident could have been avoided and therefore, I am driven to conclude that on this point that I have to find in favour of the charterers."

However, after reviewing whether there was concession on the assurance that was given with respect to the hold harmless agreement he added "Weighing all the evidence before me there was a hold harmless agreement and so on that basis, I have to find in the overall context of the arguments today in favour of the owners. However given that you had succeeded on one aspect and failed on others I will only award one third of the costs and not full costs."

To end the day, there was a lively question and answer session to close the session and attendees found the day both enlightening and informative. The new style of interactive session proved highly popular with attendees and the final vote was to definitely repeat such an event next time. ■■



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Looking ahead versus being ahead

BIMCO's second session at its Dubai conference shows ship owners' thinking on future fuels and adopting technology is not yet united.

The second major track at BIMCO's Dubai conference explored the latest thinking from ship owners affected by upcoming regulatory requirements alongside sharp insight from industry experts on the latest technical developments that shipping can use to adapt and comply.

As the session closed, a division in the approach of ship owners to the adoption of new technology became clear – both technology to meet regulations and to adapt to future fuels.

Ballast water management

The first part of the session focused on ballast water management, hearing first the latest developments and case studies from Wärtsilä, Alfa Laval and ClassNK, who have been responsible for the development of systems for ballast water management on a range of ships globally – also very acute insight from Ince & Co. on crucial contractual issues that owners should be aware of.

The technical speakers highlighted that the critical decisions for ship owners in this area were not just which type of system they should choose, but when to invest and implement the system. It's clear that during the last ten years since the adoption of the Ballast Water Management Convention

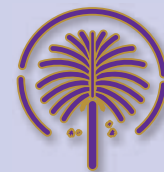


Fionna Gavin from Ince & Co. gave clear insight to ship owners about the contractual issues that may arise with upcoming regulatory requirement.

by the International Maritime Organization (IMO), development of the treatment systems has been rapid – and that flexibility was a byword – flexibility both in terms of the capacity that can be provided and in terms of the space the system can fit into, which is crucial for retrofits. The choice of system depends on the type of ship, its operation and the route of its voyages – and that expert advice on this area was readily available from leading suppliers.

However, the question of US Coast Guard

(USCG) type-approval remained a clear reason for ship owners to wait a little longer before investing. No ballast water management system has yet been type-approved by the USCG – they have only assigned products to the level of an alternate management system (AMS) system. As one speaker pointed out, any AMS installed now might have to be removed if it does not obtain final USCG type-approval. Speakers seemed to expect that most owners will therefore wait to benefit from further development and invest in a fully approved system.



The second part of the conference focused on future fuels and the delegates heard from experts from Wärtsilä, Alfa Laval and DNV-GI.

Fionna Gavin from Ince & Co. gave clear insight to ship owners about the contractual issues that may arise with upcoming regulatory requirements. Mrs. Gavin stated that many shipbuilding contracts were not detailed enough in this area, requiring only that a BWM system compliant with current regulations is installed – not considering the differences in the system that might be required depending on the proposed usage and route of the new ship.

She also identified an important issue for the trading limits of time charters – for example the decision of when to invest in a ballast water management system – to do so before being certain of its efficiency and USCG approval or to wait and take the risk that trade will then be limited when the ship is no longer in compliance with regulations.

The example of the past case of the *Elli* and the *Frixos* (*The “Elli” and The “Frixos”* [2008] EWCA Civ. 584; 23 May 2008) shared with delegates illustrated this problem very clearly. A time charter stated that the ships were to be in every way fit to carry crude and/or dirty petroleum products – and to

be in every way fit for service when the ships were delivered. These stipulations were met, but the charter was still running with 18 months left when MARPOL was amended, leaving the ships no longer in compliance for carrying that type of cargo and not eligible for an extension.

The charterers then found it difficult to

obtain contracts and were forced to do less lucrative work and in time withheld from the owners part of the hire that would have been calculated based on the profits from their intended type of contracts.

The owners then claimed that part of the hire, arguing that the charterers were contractually obliged to “restore” the ships, taking any steps necessary to carry dirty crude under the new regulations. The charterers won the case, claiming that the change in regulation meant that a major refit was required to carry dirty crude – and therefore it was not a case of “restoring” the vessel to that condition. Despite an appeal from the owners, the High Court held that the vessel should be physically and legally fit when returned to charter, leaving the owner liable. Significantly, no judgement has yet overruled this and so the session concluded with a warning that ship owners should not assume that if a ship has been delivered under time charter, they will not need to invest to move it into future compliance.

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Ship owners should not assume that if a ship has been delivered under time charter, they will not need to invest to move it into future compliance.

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Future fuels

The second part of the session focused on



Mark Penfold from ABS concluded that scrubbers and LNG were the most viable for the future, but that it was still too early to come out on one side or the other.

the viability of future fuels, with a wealth of information from DNV-GL, MAN Diesel & Turbo, Clean Marine Technology, ABS, RINA, and again from Wärtsilä and Alfa Laval on the pros and cons of LNG, ship electrification, HFO, MGO and bio-fuels – ranging from available supply, cost, potential future regulation and financing

for future fuels. All the speakers seemed to agree that uncertainty was the only certainty for the future in terms of which fuel would become most prominent.

Ole Groene from MAN Diesel identified key questions from ship owners about fuel as being focused on:

- How to improve efficiency (applies to all)
- Whether to use fuels without sulphur or remove it from the exhaust
- Whether to meet NOx Tier III by using selective catalytic reduction (SCR) or exhaust gas recirculation (EGR)
- How to tackle cold corrosion
- Whether new technologies can be retrofitted to existing ships.

Mr. Groene demonstrated a wealth of research and development that MAN Diesel have undertaken to explore each avenue, no one fuel or technology appeared to dominate in terms of research or adoption by the industry. However, he predicted that despite SOx and NOx limitations, heavy fuel will not go away and diesel engines will prevail.

Christos Chryssakis from DNV-GL quoted 60 ships currently in operation using LNG as fuel with the main con being a lack of bunkering infrastructure. However, he also cited feasibility studies being carried out in South East Asia and more LNG bunker facilities being developed in the North Sea and North America.

Stefano Bertilone from RINA stated that there was as yet no market for LNG as a marine fuel and highlighted the depth of investment it would require before we could see a new LNG-fuelled fleet, retrofit of the existing fleet and – as Chryssakis mentioned – the right logistical infrastructure to get the fuel out to ships.

Mr. Bertilone also highlighted the great difference in price for LNG in different countries as being from 3 to 19 USD/MMBtu – although estimated that the difference between US and Asian gas is set to drop by more than 60% by 2020.

Mr. Chryssakis from DNV-GL suggested there were many pros for ship electrification and renewables – pure or hybrid – though he suggested this option was mostly on viable for short sea shipping as the routes would provide more frequent opportunities for ships to recharge.

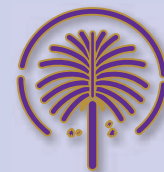
The production for biofuels was highlighted as a concern by speakers during the session, with a suggestion that its use in shipping needs further investigation. Christos Chryssakis highlighted the issue of long-term storage – and specifically the space required to grow enough crops to produce the fuel – for example estimating that 50 metric tonnes of biodiesel would require crops covering an area the size of Greece.

There were strong pros mentioned on the carbon efficiency side for nuclear propulsion, but the risk of deliberate misuse (such

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Scrubbers and LNG seem to be the most viable for the future, but it is still too early to come out on one side or the other.

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The closing ship owner panel discussion, chaired by Julian Bray, showed clearly that there is still a perpetuation of the “wait and see” mentality.

as terrorism) and the issue of disposal of nuclear waste still loomed large.

Steven Jiang from Alfa Laval focused on the SOx Emission Control Areas and the future availability of low-sulphur fuel, concluding that a predicted future shortage of distillates fuel, due to competition with road fuel and its high price – would force the industry to look to selected alternatives:

- MGO – which would increase fuel costs by 50-60%
- LNG – more uncertain and a complex retrofit or
- Sulphur scrubber and use HFO

Jiang concluded that the scrubber was the best option as the technology is known and at a more advanced stage of development.

Conclusion

Towards the end of the session it was clear from experts and ship owners alike that, as yet in this field, uncertainty is the only certainty. Mark Penfold from ABS concluded that scrubbers and LNG were the most viable for the future, but that it was still too early to come out on one side or the other. There were some other predictions on the most likely scenarios for future short and deep sea fuel sources.

For short sea, Mr. Chryssakis from DNV-GL predicted that LNG could prevail in Norway and North America, methanol in Sweden, biodiesel from various feed stocks would be used and also electricity. For deep sea, globally available fuels would prevail: oil-based fuels (low sulphur) and a growing use of LNG.

The need to build and invest in infrastructure for using different fuels – and in the on board technology showed clearly that a mar-

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There is still a perpetuation of the ‘wait and see’ mentality, with only a minority committed to a future with LNG or other alternative fuels.

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ket is growing to offer finance for the future fuel markets themselves. Alastair Pettigrew from Clean Marine Energy spoke to delegates about ongoing research into the cost vs payback for HFO, MGO and scrubbers – and the provision of third party finance for ship owners implementing the use of a different fuel for their ships.

The closing ship owner panel discussion, chaired by Julian Bray, showed clearly that there is still a perpetuation of the “wait and see” mentality, with only a minority committed to a future with LNG or other alternative fuels. It was clear that that some ship owners are still holding back waiting for the results of earlier-adopters using new fuel technology – and also talk of fighting against regulations on the grounds of being too far ahead of existing technology. There was a unanimous view among owners that measures such as slow steaming – and a change in on-board culture – could reduce consumption and save an increasing amount of energy.

It was a session rich with information – the presentations of the speakers at Track 2 are available at www.bimco.org and on request from gw@bimco.org. (GW) ■



Winners of the first-ever BIMCO Awards

On 29 April, BIMCO announced the winners of their first-ever set of awards for the shipping industry, following its annual conference *Perspectives in Shipping* and its AGM, which both took place in Dubai.

The awards were created to celebrate and highlight shipping companies and individuals who have excelled in areas reflecting BIMCO's global activities.

The judging panel was headed by BIMCO's President John Denholm, who was joined by Jamal Majid Bin Thaniah, Vice Chairman of DP World, and Captain Jitendra Misra, Managing Director of Emarat Mar-

itime and Director of BIMCO, Philippe Louis-Dreyfus, President of Louis Dreyfus Armateurs and President Designate of BIMCO and Angus Frew, Secretary General & CEO of BIMCO.

The winners

The BIMCO Regional Shipping Personality of the Year, sponsored by ClassNK

This award was for an individual who has made an exceptional personal contribution

to the industry in the Middle East over the last 12 months. The judges decided on two joint winners, announced by Mr. Noboru Ueda, Chairman and President of ClassNK: HE Sultan Ahmed Bin Sulayem, Chairman of DP World (accepted by his representative) HE Dr Ali Obaid Al-Yabhouni, CEO Adnatco & NGSCO, Chairman of the UAE Shipping Association and UAE Governor for OPEC.



HE Sultan Ahmed bin Sulayem.



Winners of the BIMCO Regional Personality of the Year 2014. With Chairman of sponsor ClassNK, joint winner HE Dr. Ali Obaid Al-Yabhouni, CEO Adnatco & NGSCO, Chairman of the UAE Shipping Association and UAE Governor for OPEC, and a representative of HE Sultan Ahmed bin Sulayem, Chairman of DP World, with BIMCO President John Denholm.



BIMCO Award winners 2014, Dubai.



Winner of BIMCO Award for Shipping Company of the Year, Pacific Basin Shipping, sponsored and presented by Mr. Tariq Al Junaidi, Acting CEO of sponsor, Oman Shipping. With BIMCO President John Denholm.

The BIMCO Shipping Company of the Year, sponsored by Oman Shipping

For a company which has demonstrated innovative customer service, business profitability and solid service reliability.

The winner is Pacific Basin Shipping Ltd., as announced by Mr. Tariq Al Junaidi, Acting CEO of Oman Shipping.



The BIMCO Education & Training Award, sponsored by the Islamic P&I Club

For a company which has invested in new facilities, courses, delivered growth in number of students and/or graduates and demonstrated innovative teaching methods.

The winner is Thome Ship Management, announced by Mr. Javad Mosadeghi, CEO of Islamic P&I Club.



Winner of the BIMCO Education and Training Award 2014, Carsten Brix Ostenfeldt on behalf of Thome Shipping Management, with Mr. Javad Mosadeghi, CEO of Islamic P&I Club, sponsors.

The BIMCO President's Award

Presented by BIMCO President John Denholm, this award honours an individual or a company who has made a significant contribution to shipping and the maritime industry. The President in fact gave the award to the Saverys family, and said:

“This family took control of a traditional shipping company with liner and bulk shipping interests in 1991. Almost immediately thereafter they started to sell the liner business and the peripheral businesses and in 1995 set up a tanker business.

In 2003 they demerged and floated their Gas Shipping business. This business alone today has a value of around USD 1 billion. The following year in 2004 they demerged

and floated the tanker business. This business today also has a value of around USD 1 billion.

More recently the family started a container ship owning business and the original company they took control of – which is now focused on dry bulk trades – currently has a value of around USD 900 million.

The Saverys family have created extraordinary value in the good times and have maintained it through the downturn and it is for this reason I have chosen them to receive the President's award. The family is of course led by Marc (with close support from his sister Virginie) and his brother Nicolas Saverys and their companies are CMB, Euronav, Exmar, and Delphis.”



Francis Sarre accepts the BIMCO President's Award for the Saverys Family.



Winner of the BIMCO Cairns-Hansen award, John Tsatsas (2nd left). With Karel Stes from Exmar and Francis Sarre from CMB, and BIMCO President John Denholm.

The BIMCO Cairns-Hansen Award,

sponsored by CMB, Bocimar, Exmar & Delphis This award is named after two of BIMCO's founding fathers, whose vision was to create standard forms of charter party, the basic principle that underpins BIMCO's documentary activities today. It recognises the best publication on maritime contractual issues and/or the most prolific user of BIMCO forms in the past 12 months.

The winner is John Tsatsas, announced by Karel Stes from Exmar and Francis Sarre from CMB. ■■



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Key discussion from the Board of Directors meeting in Dubai

The Board of Directors met at the Jumeirah Beach Hotel in Dubai on 30 April 2014. A summary of the discussion follows.

Marine Committee matters

Mr. Philip Embiricos, Chairman of the Marine Committee, reported to the meeting that the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC) had decided

on a proposal from the Russian Federation to postpone the entry into force date of the NO_x Tier III emissions limit in designated Emission Control Areas (ECA) by 5 years.

The proposal had initially received consid-

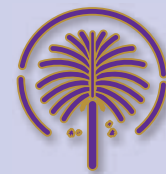
erable backing from IMO member states. Together with the World Shipping Council, BIMCO had submitted a paper to MEPC emphasising the risk of unilateral action in the North American ECA, should the committee decide for blanket postponement. The paper also supported a compromise to postpone the entry into force for new ECAs only.



The Marine Committee has launched a study into the applicability and feasibility of scrubbers. (Photo: Envitech)

Following a constructive process, with active participation by industry and member states, the MEPC adopted – by consensus – a revised MARPOL Annex VI Regulation 13.5 on NO_x Tier III that keeps the 1 January 2016 date for already-designated ECAs (North America and US Caribbean) and leaves the date of application to new ECAs to correspond to the date of their adoption. This revision will effectively remove uncertainty for industry and potential new ECA states with regard to retroactive modification to existing ships.

With the US having adopted and enforced mandatory regulations requiring ballast water treatment systems to be retrofitted to ships within the coming 5 years, the IMO Ballast Water Convention is losing its importance for global shipping. BIMCO's



The Board continued discussions on the possible development by BIMCO of a standard ship financing agreement.

focus is now to ensure that treatment systems type-approved by the US Coast Guard are installed – or at least commercially available – before the IMO Ballast Water Convention comes into force. This is to avoid members installing systems that meet IMO guidelines but fall short of the US Coast-guard requirements for type-approval.

Sulphur limits under MARPOL Annex VI are approaching a milestone. By 1 January 2015, the maximum sulphur in fuels used within ECA's must be 0.1% – down from 1.0% today. Effectively, this means use of Marine Gas Oil at a much higher price compared to today's Heavy Fuel Oil, or retrofitting ships' engines with exhaust gas scrubbers.

The Marine Committee has launched a study into the applicability and feasibility of scrubbers on various ship types and sizes. The study is important because of the global sulphur limits that may well apply from 1 January 2020 of not more than 0.5%. There is a recognition that this requirement will largely result in the use of some kind of distillate fuel oil – at a very high price. This will make alternatives especially relevant for all ship owners. It then raises the question of whether alternatives are available for all.

The greenhouse gas discussion at IMO and regionally in Brussels has changed its focus from market-based measures to data collection. The European Commission has published its new draft Regulation on Mon-

itoring, Reporting and Verification (MRV) and the MEPC has established a correspondence group which is discussing how a system for data collection could be designed.

BIMCO is supporting collection of data on CO₂ emissions from ships, but is cautioning against the collection of activity data that can be used to rate ships on operational efficiency. The jury is still out on how and when a final piece of regulation will emerge.

Documentary issues

Standard ship financing agreement

The Board continued discussions on the possible development by BIMCO of a standard ship financing agreement. The overall aim would be for such an agreement to





offer lenders and borrowers a comprehensive, well-known and to the extent possible, shorter and simpler standard, which could replace the many individually drafted and often long-winded agreements developed independently by banks, typically on the basis of general formats. This, in turn, would have the potential of facilitating the provision of ship financing, increasing predictability and reducing cost.

The Secretariat informed the Board about the research undertaken so far, notably with respect to discussions with ship financing banks, shipping companies, and lawyers. A number of banks with large ship financing portfolios have expressed a clear interest in the project, while others are still considering the matter.

The Board expressed arguments for and against the development of a standard agreement. It was agreed that if BIMCO could produce a balanced standard ship financing agreement this would be in the interest of the ship owning community. The Secretariat was therefore tasked with carrying out further, wider research on the project and to report back to the Board at its meeting in November 2014.

Maritime Security Committee matters
Capt. Dirk Fry, Chairman of the Maritime Security Committee, then reported to the meeting. Since the last meeting of the committee in March 2014 in London, the issue of piracy in Somalia remained high on the list of priorities.

The navies' continued presence until 2016, however, was appreciated and would go some way to ensuring continued protection



The issue of piracy in Somalia remains high on the list of priorities.

for international shipping. Of concern was that there had also been piracy incidents in the Straits of Malacca once again and the situation was deteriorating.

The revision of Best Management Practices (BMP) 4 was under discussion and it was not yet decided whether to update, or create a BMP 5. A global BMP document was the preferred option. However, agreement could not be found at present.

In connection to the Gulf of Guinea it was felt necessary to "encourage" the littoral states to become more aware of their responsibilities and to take greater action to reduce the dangers of piracy attacks in the area. A letter had been written to the IMO Secretary General asking him to reinforce this through the UN Secretary General. Activities from within the Gulf of Guinea had unfortunately been seen to be spilling down as far as Angola. Urgent action was deemed necessary in this matter.

The Chairman of the Security Committee could report that a Maritime Trade Information Centre (MTISC) had been set up in Ghana with the assistance of the Oil Companies International Marine Forum (OCIMF). BIMCO was still awaiting further feedback from OCIMF to get a better idea of the situation and when it would become fully operational.

The ISO PAS 28007 and the employment of armed guards (which had intensive BIMCO input) had now reached the stage that armed guards could be certified under this ISO instrument to regularise and better control their way of working.

A total of over 30 PMSCs had now been audited, making them eligible for Associate Membership of BIMCO.

Next meeting

The next meeting of the Board of Directors will be 10 November 2014, in Rotterdam. ■■



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PIL's S.S. Teo with Iain Wilson,
LR's Regional Marine Manager, Asia

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Documentary Committee meets in Dubai

Mr. Karel Stes, Chairman, welcomed BIMCO President, Mr. John Denholm, together with more than forty ship owner members and club representatives to the Documentary Committee meeting held in Dubai on 30 April. One new contract and two new clauses were adopted and approved for publication.

SERVICECON

The first item on a full agenda was the adoption of the SERVICECON liner shipping service agreement. This is a liner-based contract where carriers agree to offer a fixed freight rate and provide space in return for a guaranteed number of containers to be moved by shippers over a given period.

The Global Shippers' Forum (GSF) has worked with BIMCO to develop the agreement and will assist in its promotion among small to medium size shippers. Subject to minor fine-tuning, the new contract will be published shortly.

HME Cargo Residues Disposal Clause for Voyage Charter Parties

The clause has been developed in response to the special circumstances of cargoes which are "harmful to the marine environment" (HME) where residues must be disposed of in accordance with MARPOL Annex V requirements. Normally, under a voyage charter, cargo residue and disposal would be for owners' account. However, the current absence of a definitive list of HME substances, with determination often dependent on the accuracy of cargo declarations or subjective decisions by offi-

cial, coupled with the lack of port reception facilities, leaves owners exposed to unexpected costs and liabilities. The clause will apply where cargo is held to contain HME properties when charterers will become liable to owners for all extra costs connected with the removal and disposal of residues and/or hold washing water (see article in the Shipping Law section of this Bulletin for the full clause text).

Electronic Bills of Lading

In the same way that electronic banking has become an accepted part of everyday commercial life, charterers have been pressing owners to agree to the use of electronic bills of lading. The concept has many advantages, not the least of which is the faster transmission of information which in turn will help to reduce the number of occasions when cargo arrives before the documentation.

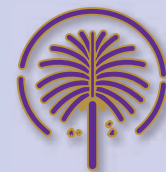
In response to the growing use of potentially problematic market-driven provisions, a clause has been developed by a sub-committee comprising representatives of owners, charterers, electronic systems providers and P&I interests. The provision will take effect where charterers, who are liable for any subscription or user fees, require use of

electronic bills of lading, waybills or delivery orders in accordance with the paperless trading systems approved by the International Group of P&I Clubs. This important new provision will be published shortly with an invitation for users to share their experience so that developing trends and needs can be monitored (see article in the Shipping Law section of this Bulletin for the clause text).

NYPE 93 revision

Progress was reported on continuing discussions between BIMCO, ASBA and the Singapore Maritime Foundation (SMF) to update and improve the current form to take account of changes in commercial practice and court decisions since the last revision in 1993. Many specialist clauses developed over the last twenty years are being incorporated as standard including vessel and cargo security and slow steaming together with the latest war and piracy provisions.

The Documentary Committee agreed that the current draft is sufficiently close to completion to be released publicly as a "consultation" draft for industry feedback. A series of seminars introducing and explaining the new edition of NYPE are to be held in the US, Europe and Asia in the coming months.



Asian Gypsy Moth Clause

In response to restrictions imposed by a number of states to prevent infestation by the Asian Gypsy Moth during designated high risk periods, the revised draft NYPE 93 incorporates a new clause to apportion liability and the costs of fumigation, where required, between owners and charterers. Consideration is now being given as to whether the provision can be issued as a stand-alone clause for use in other documents or whether further refinement is required. A recommendation will be made at the November meeting.

Contracts under development

ROPAXTIME

A report was made on the development of a new Standard Ro/Ro Passenger Vessel Time Charter Party. This is an important niche document where specialist issues include the need to distinguish between owners' and charterers' crew together with passenger needs and amenities such as cabins, furnishings and public spaces.

LNGVOY

A new voyage charter party is being developed for the carriage of liquid natural gas, which is currently mainly carried under long-term time charters and, increasingly, spot charters. The consequences on usual voyage charter party principles of using cargo "boil off" as fuel as opposed to the owners providing and paying for conventional bunkers is one of a number of challenging issues facing the drafters of this specialised charter party.

Standard Bunker Contract

In order to encourage the contract's usage

worldwide, bunker interests in Singapore have been invited to comment on the current revision of the Standard Bunker Contract. A positive response has been received and the draft is now being examined by a BIMCO sub-committee to consider modifications required to take account of mandatory provisions in Singapore. Proposals are awaited.

Specialist Clauses

Work is close to completion on a new Bunker Non-Lien Clause to protect owners against attempts by bunker interests to arrest a vessel in the event of charterers' default on payment for fuel supplied for their account.

A sub-committee has been working on the development of a new Ship to Ship Transfer Clause for Voyage Charter Parties. However, when examining the issues, it became clear that this was not simply a matter of adjusting the existing time charter party provision but called for consideration of a number of complex issues. Work is continuing with a view to presenting a draft for consideration in November.

A new regulatory package covering requirements for carrier codes and financial bonds was published earlier this year by the CBSA (Canada Border Services Agency). However, a number of questions have yet to be resolved concerning the application process and arrangements but once the issues have been clarified, the North American Advance Cargo Declaration Clauses will be updated.

A sub-committee comprising representa-



DC Chairman, Karel Stes.

tives of owners, charterers and P&I interests, has been appointed to develop an anti-bribery and corruption clause for charter parties. The first meeting will take place in the early Summer.

Full work schedule

In addition to matters already in progress, plans are also in hand to revise SUPPLYTIME 2005 and SLOTHIRE, review BIMCO bills of lading to incorporate the up to date Himalaya Clause and work with FONASBA on a revision of their liner documentation. New projects have also been identified for development over the medium term including a set of Definitions of Standard Shipping and Freight Terms, Shipmanagers' Newbuilding Supervision Contract, Cold Cargoes Clause, Fumigation Clause and Sanctions Clause for Voyage Charters.

Next meeting

The next meeting will take place in Copenhagen on Friday 7 November 2014. ■■





PMSC Workshop in Dubai

During its annual conference in Dubai, BIMCO ran an ISO PAS 28007 workshop specifically for Private Maritime Security Companies (PMSCs) based in Dubai and locally and other interested parties.

The workshop ran in parallel with the programme for the BIMCO annual conference “Perspectives in Shipping 2014 - Protecting and Developing Your Business” at the Jumeirah Beach Hotel on 29 April 2014.

Workshop attendees were invited to attend the opening of the conference and then break out to attend the workshop. The workshop was run by Giles Noakes, Chief Maritime Security Officer of BIMCO, and a member of the original drafting team of ISO PAS 28007. He was supported by Tony Chattin, Managing Director of MSS Global, the specialist certification body, who was able to pass on his valuable auditing experience to date.

A level playing field essential

The workshop was attended by some 20 PMSCs operating in the region and some ship owners and managers interested in finding out more. Some were already qualified or in the process of qualification and others wanted to acquire more knowledge of the certification process in order to continue to market competitively with their peers. They were able to find out why it is so important that there is one common standard and why BIMCO endorses the need for the highest of standards and a “level playing field” that ensures the safety and security of its members crews, vessels and cargo.

During the workshop, Andrew Varney, MD of Port2Port Maritime Security, the first



Giles Noakes

successful PMSC to join BIMCO, was able to give a short presentation on his company's experiences and pass on valuable lessons learnt.

Associate Membership of BIMCO now possible

Now that The UK Accreditation Service (UKAS) has accredited certification bodies – auditors – those companies who have been audited and certified under the trial scheme are eligible to become Associate Members of BIMCO after further simple but thorough due diligence checks.

BIMCO recognises the crucial importance of the acceptance of a single global standard for companies offering security services on-board ships. In May, at the International Maritime Organization's (IMO) Maritime Security Committee, we advocated



Tony Chattin

that only one common standard is acceptable – one audited by an accredited independent third party auditor – namely ISO 28007. It was agreed that the MSC Circulars providing guidance to ship owners and flag states (MSC Circs 1405 and 1406) should be amended to reflect this standard and encourage both parties to use companies that are certified to the standard.

PMSCs wishing to join BIMCO must commit to ISO 28007 implementation and certification before starting the application process for membership. Once certified, they will also be vetted using an internal process before being approved. Companies that are successful will then be added to BIMCO's “white list” of PMSCs which all BIMCO members can access to find the BIMCO-approved providers of maritime security services. ■

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Dubai AGM social events





A vibrant mix of shipping professionals attended the BIMCO meetings in Dubai...





...Dubai was the ideal setting for some of BIMCO's most important events of the year.

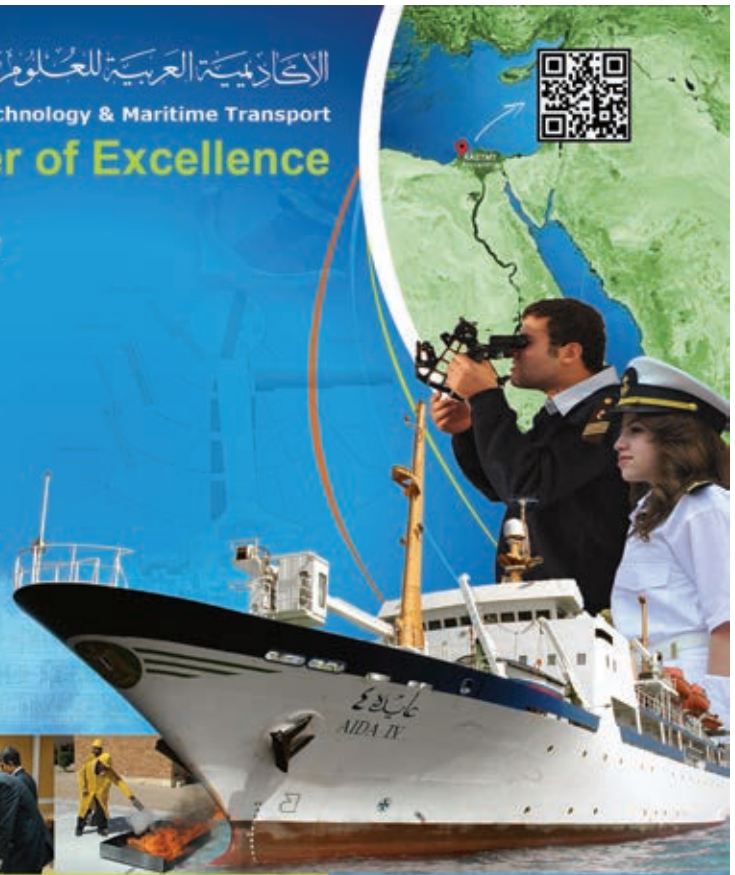




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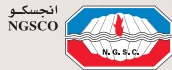
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BIMCO co-sponsors networking event in Shanghai

On 7 May 2014, BIMCO co-sponsored the 4th Young Professionals in Shipping Network (YPSN) PRC networking event held along the Bund in Shanghai, overlooking the famous Huangpo River.

YPSN PRC is a social networking organisation aiming at bringing together like-minded people from the shipping industry to meet and network in a relaxed environment. Although not exclusively, it is aimed at people at junior to mid-level, the idea being that the connections they make now will remain and be of value as they progress in their respective careers.

YPSN PRC was founded in 2012. Today, the organisers are Natasha Lippens of Marentas, Benson Cui of Drewry and Wei Zhuang of BIMCO. Following two very successful events in Shanghai in 2013 and a first Beijing event in January of this year, this was the fourth YPSN PRC event.

Similar aims

BIMCO is happy to support such an organ-

isation, particularly as the aims adopted by YPSN coincide with BIMCO's traditional focus on young professionals, aiming to support events where peers may enjoy building friendships, promoting cultural exchange, enhancing knowledge of the business/industry and developing future business opportunities.

During the Bund network, over two hundred guests attended from a variety of shipping sectors. These included, but were not limited to, brokers, owners & ship management, logistics, finance, legal, P&I, manufactures and ship building.

Increased attendances

YPSN was very pleased to note that while still rather a new organisation, not only was the number of guests attending increasing with every event but in addition, the vari-



ety of represented shipping sectors was also increasing. This helps make YPSN PRC events very relevant to all the diverse sectors working together within the industry.

With this encouraging increase in numbers, the organisers pledge to continue to pursue the YPSN goals previously mentioned, aiming to keep these events relevant for young shipping professionals and managing the increased numbers of attendees so that networking and meeting each other in a relaxed and friendly forum continues to be beneficial.

Further information

Further information on YPSN PRC and photographs of this recent BIMCO co-sponsored event may be viewed on www.ypsnprc.com. If you wish you to contact YPSN PRC or to become a member please e-mail: ypsn.prc@gmail.com directly. Membership is free for professionals working within the shipping industry. ■■



Welcome to BIMCO!

BIMCO would like to extend a warm welcome to the following new members, admitted during the period from 1 April 2014 to 31 May 2014.

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Baku, Azerbaijan Republic
 Shanghai, China
 Copenhagen, Denmark
 Athens, Greece
 Beirut, Lebanon
 Sandvika, Norway
 Singapore
 Singapore
 Singapore
 Aberdeen, United Kingdom

Caspian Marine Services Ltd.
 AMC Shipping Co. Limited
 Viking Supply Ships
 LMZ Shipping S.A.
 Adelmars Shipping Lines Sarl
 Technip Norge AS
 Masterbulk Pte. Ltd.
 Technip Singapore Pte. Ltd.
 Winning Alliance (S) Pte. Ltd.
 Technip UK Limited

Broker Members

Shanghai, China
 Copenhagen, Denmark
 Bremen, Germany

 Genoa, Italy
 Rotterdam, The Netherlands
 Singapore
 Istanbul, Turkey
 London, United Kingdom

Far East Horizon Shipping Consulting Limited
 Casos Shipping ApS
 Panalpina Welttransport (Deutschland) GmbH -
 Panprojects Division
 Enrico Scolaro Shipbrokers S.r.l.
 Odin Marine Europe B.V.
 M3 Marine (Offshore Brokers) Pte. Ltd.
 Orebulk Denizcilik Ve Gemi Isletmeciligi
 Newport Shipping UK LLP

Club Members

Shanghai, China

Michael Else & Company (HK) Ltd,
 Shanghai Representative Office

Agency Members

San Lorenzo, Honduras
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 Aalesund, Norway
 Dammam, Saudi Arabia
 Colombo, Sri Lanka

Transportes Maritimos del Pacifico
 Al-Masar Aliraqi Co. L.L.C
 Tyrholm & Farstad AS
 Al Maweed Marine Services
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 Corsham, United Kingdom
 London, United Kingdom
 Manchester, United Kingdom
 Milton Keynes, United Kingdom
 Poole, United Kingdom

FURUNO European Branch Office
 Ambrey Risk Limited
 Black Pearl Maritime Security Management
 Ocean Protection Services Ltd.
 Port2Port Maritime Security Limited
 Jeanius Consulting Ltd.
 Neptune Maritime Security Ltd.

SALEFORM 2012 goes to China

As an essential part of the international shipping industry, Sale and Purchase (S&P) has always been an area which attracts great attention. S&P transactions play a key role in the international shipping market, together with newbuilding, demolition and chartering activities.

In recent years, Chinese ship owners have been increasingly active in the S&P market. According to the China Shipowners' Association, overall global S&P transactions in 2013 totalled USD 28.448 billion. Of these, Greek ship owners led the world, spending USD 7.278 billion to purchase 360 ships. Chinese ship owners are the second-largest players, having spent USD 1.531 billion buying 117 ships.

With this in mind, BIMCO brought the tried and tested international sales agreement SALEFORM 2012 to China and more than 80 attendees packed the Shanghai Seminar held on 1 April 2014, whilst over 40 participated in a seminar in Hong Kong on 3 April 2014.

A wide spectrum of players

The audience represented a wide spectrum of industry players, from ship owners, managers, brokers and bankers to shipping leasing institutions, lawyers and classification societies. The purpose of these two seminars was to cater for the ever-growing S&P market in the Far East, where increasingly large numbers of SALEFORM 2012 inquiries are generated.

The seminars provided a unique opportunity for participants to meet and interact with the members of the BIMCO sub-committee heavily involved in the SALEFORM 2012 project, as well as with Philip Yang, the



SALEFORM 2012 seminar in Shanghai.

Vice Chairman of BIMCO's Documentary Committee and Søren Larsen, BIMCO's Deputy Secretary General.

The audience was advised of the rationale behind the revision, shown where amendments had been made and how these had been achieved. It was explained that SALEFORM 2012 incorporates many of the most commonly used amendments that the industry itself has applied to SALEFORM 1993. However, the revision avoids being overly prescriptive, favouring instead clarity and flexibility.

Thanks to the co-organisers

BIMCO would like to thank the co-organisers, China Shipowners' Association (CSA)

and Hong Kong Shipowners' Association (HKSOA). Ning Dewei, Deputy Secretary General of CSA and Arthur Bowring, Managing Director of HKSOA delivered the welcome speeches in Shanghai and Hong Kong, respectively.

The seminars were chaired by Søren Larsen, who drew on the expertise of Francis Sarre (CMB NV, Antwerp), who is chairman of the revision sub-committee, Christoph Bruhn (Bruhn Shipbrokers GmbH, Hamburg) and Matt Hannaford (CDG, London). Phillip Yang then shared his in-depth knowledge of SALEFORM 2012 from an outside user's perspective. As usual, there were lively discussions centred around Clauses 2, 13 and 18. The highly engaged audience did not pass up the opportunity to make their comments and ask many pertinent questions.



SALEFORM 2012 seminar in Hong Kong.

In his closing remarks, Søren Larsen stated that "The very positive comments received during these seminars confirms BIMCO's firm belief that SALEFORM 2012 successfully reflects the needs of the industry. From the encouraging response we have received from users we are confident that this much improved new edition will further cement SALEFORM's position as the globally recognised standard contract for the international sale and purchase of ships". ■■



BIMCO Intervention works!

In late November 2013, at the request of one of our owner members, we approached a charterer who had failed to honour an Arbitration Award issued a few months earlier in the total amount of USD 122,000 and urged him to arrange for payment of the awarded amount. The charterer responded immediately, advising that the parties had resumed discussions regarding payment. BIMCO had to follow up in mid-February and caution the charterer that a Notice to Members would be issued should he continue to disregard the said Award. Payment was effected on 26 February.

Also in late November 2013, acting on behalf of an owner member of BIMCO, we approached a charterer who nearly one year after completion of the voyage had not paid incurred demurrage in the amount of USD 188,000 and suggested that payment should be expedited. As we did not receive any response, we followed up and finally reported the default in a BIMCO Notice to Members in early February 2014. Shortly afterwards, the charterer contacted the Secretariat and informed us of his intention to settle the matter. The parties resumed negotiations and on 10 March 2014, the owner confirmed receipt of the agreed amount of USD 168,000.

In late January 2014, at the request of one of our agency members, we approached an owner who had left a balance on disbursements in the amount of USD 14,500 outstanding and suggested that he arranged remittance of the said amount. Having received no reply, we followed up in late February, cautioning the owner that a Notice to Members would be issued should he continue to disregard the agent's demand for payment. This prompted an immediate response. A minor point in the disbursements was clarified and on 7 March our agency member confirmed receipt of the amount due.

In late February, acting on behalf of one of our owner members, we approached a charterer who had withheld USD 10,300 from a final payment and urged him to arrange for the remittance of the said amount. Four weeks later, the owner confirmed receipt of that sum.

On 26 February, acting on behalf of an owner member of BIMCO, we approached a charterer who had left balance hire in the amount of USD 20,000 outstanding and enquired as to the reasons for the delay in payment. One week later, our member confirmed receipt of the said amount.

On 11 March, at the request of one of our owner members, we approached a charterer who had failed to pay balance freight in the amount of USD 330,000 and urged him to effect payment. Our intervention prompted the charterer to resume discussions with the owner, resulting in the amount being paid on 18 March as agreed.

Over the last five years, BIMCO has assisted members in collecting an average of USD 5.9 million p.a.

Further information

Read more about this service here:

https://www.bimco.org/en/About/Company_information/Intervention.aspx

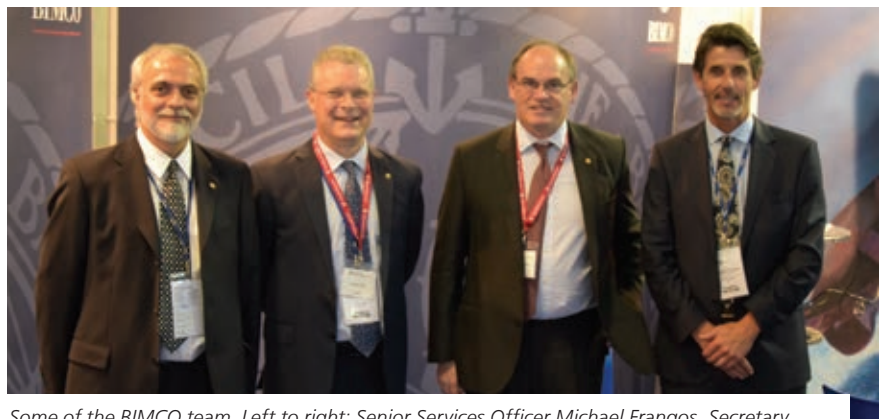
Posidonia 2014: shipping champion sector for Greece

Shipping is a “champion sector” for Greece, says its Prime Minister as giant trade show Posidonia begins. BIMCO reports from the ground at Posidonia 2014.

Despite the unusually cloudy weather, Posidonia 2014 opened with the usual buzz and fanfare, with a strong message from Greek Prime Minister Antonis Samaris that shipping is one of two “champion sectors” pulling the country out of recent financial difficulties – the other “champion” being tourism.

Greece expects to receive a record 20 million visitors this year, while Posidonia 2014 broke its previous attendance record with more than 1,870 exhibitors from 93 countries, which would appear to support his claim.

Samaris continued by saying that the Greek-operated fleet represents some 15% of world commerce, and in the past 10 years Greek owners have built more than 2,500 ocean-going ships, mainly in Asian shipyards – concluding that Greece is “the most stable country in a unstable region.”



Some of the BIMCO team. Left to right: Senior Services Officer Michael Frangos, Secretary General Angus Frew, President John Denholm, Chief External Relations Officer Graeme Brown.

TradeWinds Shipowners Forum

The first full day of the event saw the TradeWinds Shipowners Forum, with BIMCO President John Denholm moderating the first session – a business briefing. This was a fast-paced and concise session with strong opinions and debate on the flow

of private equity, the status of public markets, niche lenders and alternative sources.

The biggest challenges in chartering, newbuilding and second hand activity also came under scrutiny. Euronav CEO Paddy Rodgers noted at Posidonia that the large tanker market at the end of 2013 was very positive but warned that if crude tanker owners embark on a newbuilding ordering spree they could kill the market for 10 – 15 years: “What we all have to understand is if you build too many ships you kill everybody, you don’t just kill yourself. There is no inter-competitive advantage if you oversupply the market this is a lesson that was taught in the 70s that people tend to forget.

“If anybody thinks this is a boom and gets carried away, and builds 100 ships because they are better than everyone else’s ships, you’re all earning nothing for the next 10 – 15 years, and this will be what has always been – a great market for capital destruction.”

A sneak preview

Elsewhere at Posidonia, the BIMCO stand received a steady flow of visitors – many of





The BIMCO stand received a steady flow of visitors.

our Greek members and those interested in the latest developments at BIMCO.

BIMCO's stand offered visitors to Posidonia a sneak preview of the latest development in IDEA•2 – our industry-leading tool for shipping documents – prior to its launch later in the year.

IDEA•2 will soon allow the much-anticipated ability for both contracting parties to edit the same document online. Any amendments, deletions or additional wording by either party are clearly shown in different colours during the negotiation process. The system provides a full audit trail of all changes to the documents. This new feature will significantly reduce the amount of time taken to prepare charter parties and other agreements and increase accuracy.

PMSC accreditation

Visitors to the stand were also able to speak to Giles Noakes, BIMCO's Chief Maritime Security Officer, about ISO PAS 28007 accreditation for Private Maritime Security Companies (PMSCs) based in Greece and other PMSCs based elsewhere but in the region. Giles Noakes spoke to visitors on the importance of one common standard for PMSC accreditation and why BIMCO thinks this will contribute to the safety and security of crews, vessels and cargo.

Young professionals event

Tuesday night saw BIMCO join with Young Shipping Professionals International – and other sponsors – to host an event targeted at young professionals at a venue in nearby Glyfada. The event was attended by over 600 people, and lucky winners of BIMCO's competition went away with free places on our eLearning courses – presented by President John Denholm.



Visitors to the stand were also able to speak to Giles Noakes, BIMCO's Chief Maritime Security Officer.



See you at Posidonia 2016! (GW) ■■

Supporting the human element

The discussion about robot ships seem to be gaining traction, with the practicalities of operating ships remotely being discussed in a number of different places. The presence of the European Commission and the powerful brand name of Rolls-Royce being involved in the debate notwithstanding, there is probably a very long journey ahead before any of the technology translates into the regular use of unmanned craft.

The apparent reluctance of many people to consider working afloat and the existence of technology that would make it practically possible to control ships remotely are the apparent drivers of this debate, which of course also makes an attractive feature for the media!

But before jumping to conclusions about the inevitability of the development, it is perhaps worth considering the political and practical hurdles that will have to be surmounted before such a ship can proceed to sea.

It is also worth recalling that earlier experiments in Japan during the 1980s, which culminated in the trans-Pacific voyage of an unmanned bulk carrier (accompanied by a “control” vessel), were then discontinued. This was not because there was any problem with the telemetry employed, all of it working according to plan after a substantial development period by a number of Japanese agencies. The project was concluded largely because the problem of Japanese reluctance to go to sea was “solved” by the employment of foreign seafarers who were prepared to work afloat at an affordable cost. The principal problem which the remote-controlled ship project had been designed to answer had been thus effectively eliminated.

Piracy and lawlessness

Today, the promoters of any “robot” ships will have to cope with the very practical problems of piracy and lawlessness, which might be considered rather more pro-

nounced than was the case in the 1980s. The need for legal changes to permit unmanned ships to proceed without being declared “derelict” remains an obstacle which would require to be overcome.

However, the probable antipathy of coastal states to large unmanned ships passing through their waters would be almost certain to excite environmental and other protests, which would translate into media attention and political prohibitions. And while it may, in time, be possible to reach some sort of accommodation and the provision of all sorts of regulatory precautions which might make limited remote operations possible, there are practical issues which will need to be addressed.

How, for instance, will emergencies – the unexpected incidents which cause human beings to intervene to save the day – be dealt with? It is not difficult to anticipate the development costs of ships and their equipment designed to cope with all foreseeable difficulties spiralling into the stratosphere. The question would surely arise as to whether it was worth pressing ahead with such a quest, at such a cost.

One would be cautious about suggesting that such a major development might not happen in the near, or mid-term future, (this industry having a long history of technical surprises and innovative thinking). But if one of the main drivers for unmanned ships is regarded as the reluctance of 21st century people from developed nations to go to sea, then maybe the industry should be taking a more radical and adventurous

view of the sea life and discovering what it would take to overcome this reluctance.

Studying employment practices

There is no shortage of evidence about which aspects of life aboard ship that modern seafarers find attractive, and those which they do not. Furthermore, within the industry, there are plenty of ship owners and operators who find that they are able to attract, and moreover retain, skilled and well-motivated seafarers who regard their careers as satisfying and progressive. Perhaps there is a need to study the employment practices of these operators to discover what it is that they are doing right and what differentiates them from those operators who report difficulties in manning their ships with quality seafarers.

Money, or indeed the lack of it, is inevitably at the root of the problem; not so much the level of wages, but the poor rewards that have afflicted an industry operating in an over-competitive environment. Seafarers would like to see more generous manning, after a long period of crew reductions which many will suggest have left ships scraping along on the very minimum acceptable levels. But in an era which has seen the “users” of ships become accustomed to exceedingly cheap transport in most sectors, the difficulties of levering up freight rates in order to pay for a more liberal crewing regime can easily be imagined.

There are probably things which can be done in the shape of better living conditions aboard ship, especially when building costs are low and shipyard competition

sharp. Seafarers of a certain age will suggest that there has been little improvement in this area for many years and in many respects accommodation in older ships is often more generous than that of the present, where the shipbuilder has tended to pare down levels to what he thinks an owner will just about tolerate!

Loneliness of the Internet generation

“Connectivity” is an area which commentators home in on when considering reluctance to take up a life afloat. Some, however, suggest that this is largely *en route* to reasonable solution, with the costs of communication reducing. Perhaps more of an

issue is the “loneliness of the Internet generation” with a lack of the social dimension aboard exceedingly lean-manned ships, notably those made up of crews not sharing a common language or culture. In such surroundings, the 24/7 regime becomes bleak; divided between work (which in the case of watchkeeping officers may well be alone) quick meals in a sparsely populated mess-room and hours spent either asleep or on the personal computer, behind a closed cabin door.

Actually recognising the reality of this somewhat grim existence goes a long way towards doing something about it, with the

provision of a more socially pleasant regime, the avoidance of crews barely able to communicate with each other and encouragement and training of those officers able to influence the “climate” aboard. Here again, the need is to seek out those who are doing it right and to learn from their experiences.

Robot ships, on the other hand, might be considered a “counsel of despair”. The sea career offers travel, decent reward packages, early responsibility and an interesting and challenging life. It should be both attractive as an end in itself and as a pathway into other rewarding marine industry occupations. ■

Visibility matters

“This House believes that the shipping industry is invisible. If so, whose fault is it?” The annual debates held by the UK branch of WISTA – Women’s International Shipping and Trading Association – have acquired a reputation for plain speaking, and the recent evening revolving about the invisibility of shipping was no exception.

While the topic is one that is regularly touched on in industry circles around the world, it is always worth reminding ourselves about our “profile” and how the general public regards the unseen agency which keeps the lights on and starvation at bay.

While invisibility is a matter less open to controversy, with most agreeing that shipping – like the public utilities, which are only noticed when the lights go out – are shamelessly taken for granted, blame for this is rather harder to establish.

High security fences, ports banishing ships to the far reaches of estuaries, the availability of great public figures who are prepared to make a noise in favour of the industry, the fragmentation of an industry largely composed of smallish companies have all

been seen as contributors to shipping’s low radar signature.

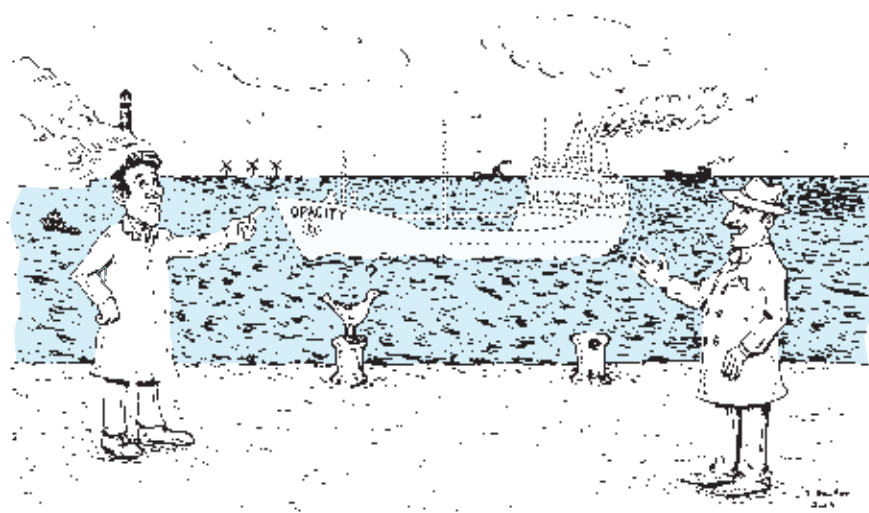
The fact that in many countries it is mostly undertaken by foreign interests and that publicly owned enterprises are still in a distinct minority also contribute.

WISTA UK is trying to influence this lack of public awareness by launching its “Come by Ship” campaign, informing surprised members of the public that ships, rather than aircraft were the agency which brought all sorts of household goods to them from the furthest corners of the earth. We wish them well with this campaign.

Promoting more visibility

It is possible to promote a little more visibility. In the annual Hamburg Hafengeburtstag, held in May, more than 1 million people turned out on a rainy day to see ships and shipping in the harbour, with parades of historic ships, dancing harbour tugs and as a backdrop, the daily work of a big modern port proceeding.

And in the port of Southampton on the same weekend, the gathering of three Cunard Queens produced big crowds to look at famous ships, demonstrating, as they did in Hamburg, that if there is something visible, people will learn that it is there. ■



“We like to keep a low profile – it is our new stealth ship design!”

Ongoing IMO shipping issues

BIMCO participated in the 66th session of the International Maritime Organization (IMO's) Committee on Marine Environment Protection (MEPC 66), held from 31 March to 4 April 2014 in London.

The following article provides members with an update on the most important decisions made at the meeting.

Study on fuel availability

At present, the sulphur content of fuel oil used on board ships is required to be a maximum of 3.50% outside an Emission Control Area (ECA), falling to 0.50% on and after 1 January 2020. Depending on the outcome of a review as to the availability of compliant fuel oil, which is due to be completed by 2018, this requirement could be deferred to 1 January 2025.

In a BIMCO co-sponsored submission, we expressed concern that the availability study might be completed prematurely. In BIMCO's view, the focus should be on the development of the methodology and how the study should be carried out.

MEPC 66 agreed to start the development of a scope and time plan for an early review study on the availability of 0.50% sulphur compliant fuel. The review will have to consider the supply and demand of low-sulphur fuel on a global scale and identify possible implications to ships operating outside Emission Control Areas (ECAs) when changing to fuel with a maximum of 0.50% sulphur content.

Ballast water management

The MEPC granted basic approval to four, and final approval to two, ballast water management systems that make use of active substances.

Regarding the status of the of the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention), it was noted that the number of contracting govern-

ments was currently 38, representing 30.4% of the world's merchant fleet tonnage. As readers may remember, 35% is necessary to meet the entry into force requirements.

MEPC 66 further decided to explore the possibility of conducting a study on the implementation of the ballast water performance standard described in regulation D-2 in an attempt to address concerns raised by industry. The terms of reference included proposals to amend Guidelines (G8).

The MEPC approved BWM-related guidance, including Guidance on entry or re-entry of ships into exclusive operation within water under the jurisdiction of a single party.

NOx Tier III

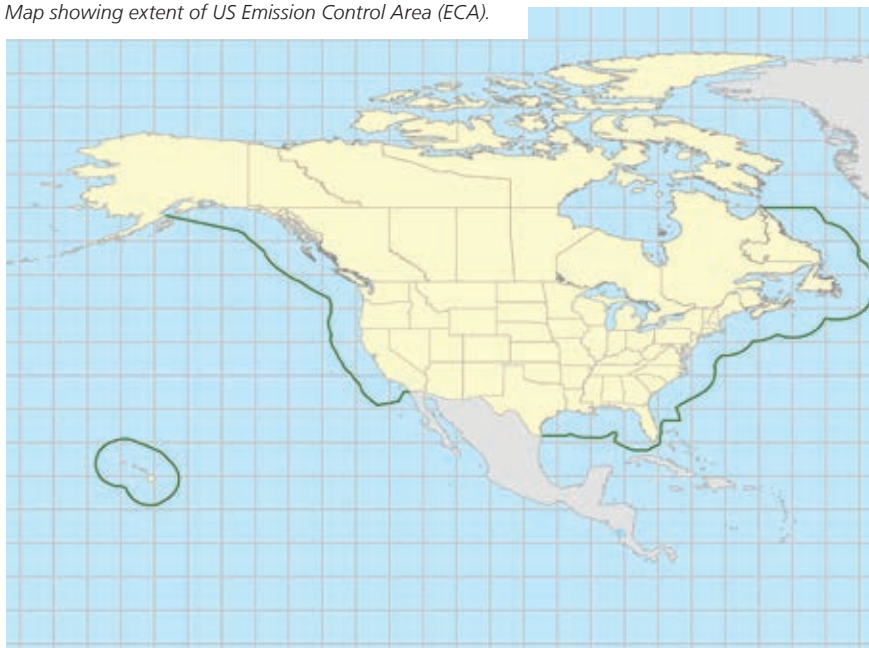
The MEPC 66 adopted amendments to MARPOL Annex VI, regulation 13, on Nitrogen Oxides (NOx), concerning the date for the implementation of Tier III standards within ECAs.

At MEPC 65, a proposal was approved to postpone the effective date of applying the NOx Tier III limit to new ships operating in the designated emission control areas.

The amendments will provide for the Tier III NOx standards to be applied to marine diesel engines on board a ship constructed on or after 1 January 2016 operating in the North American Emission Control Area or the US Caribbean Sea Emission Control Area, the two only existing areas designated for the control of NOx emissions.

In addition, the Tier III requirements will apply to installed marine diesel engines in future Tier III NOx control emission control areas. In such areas, Tier III will apply to ships constructed on or after the date of adoption by the MEPC of such an emission control area, or a later date, as may be

Map showing extent of US Emission Control Area (ECA).



specified in the amendment designating the NOx Tier III emission control area.

NOx control requirements apply to marine diesel engines of over 130 kW output power and different levels (Tiers) of control apply based on the ship's construction date. Tier II controls required for marine diesel engines installed on ships constructed on or after 1 January 2011 apply outside emission control areas designated for NOx control. The amendments to MARPOL Annex VI are expected to enter into force on 1 September 2015.

Fuel consumption

MEPC 66 discussed a number of submissions relating to proposals to establish a framework for the collection and reporting of data on the fuel consumption of ships.

The committee agreed to establish a correspondence group (CG), to consider the development of a data collection system for ships, including identification of the core elements of such a system. BIMCO will participate in this work.

Underwater noise

The MEPC approved Guidelines for the reduction of underwater noise from commercial shipping to address adverse impacts on marine life, thus recognising that underwater noise radiating from commercial ships may have both short- and long-term negative consequences on marine life.

Oil tanker stability

MEPC 66 agreed that oil tankers should be fitted with a stability instrument capable of verifying compliance with intact and damage stability requirements. The requirements have to be approved by the flag administration, taking into consideration the performance standards of Part B, Chapter 4, of the International Code on Intact Stability, 2008 (2008 IS Code), as amended.

The carriage requirement for a stability instrument applies to both new and existing ships, with a grace period for existing ships. The mandatory carriage requirements enters into force on 1 January 2016.



MEPC 66 further decided to explore the possibility of conducting a study on the implementation of the ballast water performance standard. (Photo: Wärtsilä)

Energy Efficiency Design Index

The important work of updating and amending the Guidelines on the method of how to calculate the attained Energy Efficiency Design Index (EEDI) for new ships was finalized during the meeting. Amendments to MARPOL Annex VI concerning the extension of the application of the EEDI to the following ship types were prepared:

- LNG carriers;
- Ro/Ro cargo ships;
- Ro/Ro passenger ships;
- Cruise passenger ships with non-conventional propulsion; and
- Ships with ice-breaking capability.

The amendments are expected to enter into force on 1 September 2015.

Based on this, the BIMCO EEDI calculator has been updated. The related 2012 Guidelines on Survey and Certification of the

EEDI will be amended at the next session of MECP (October 2014).

Shipboard incinerators

The 2014 Standard Specification for Shipboard Incinerators Standard (2014 Standard) covers the design, manufacture, performance, operation and testing of incinerators intended to incinerate garbage and other shipboard wastes generated during the ship's normal service. The 2014 Standard was updated and amended for e.g. passenger and cruise ships to cover for their operation in more sensitive coastal areas. The specification applied to incinerator plants with capacities up to 4,000 kW per unit.

It was agreed that the 2014 Standard should supersede the existing resolution MEPC 76(40) on shipboard incinerators, as this would be applicable for incinerators already installed. (AFS) ■

IMO Legal Committee – 101st session

The 101st session of the International Maritime Organization's (IMO) Legal Committee took place from 28 April to 2 May in London.

BIMCO was represented at the meeting which, amongst other things, discussed matters relating to the 2010 Hazardous and Noxious Substances by Sea (HNS) Convention, places of refuge, and fair treatment of seafarers.

2010 HNS Convention

With respect to the 2010 HNS Convention, which has eight signatories but no contracting states, the committee endorsed a proposal to reconstitute the HNS Correspondence Group in order to maintain momentum as regards efforts to promote entry into force of the Convention, facilitate co-ordination and dialogue between states, and assist the International Oil Pollution Compensation (IOPC) Funds in its task to facilitate the entry into force.

With the 2007 Nairobi Wreck Removal Convention coming into force in April 2015, the 2010 HNS Convention, as also mentioned at the meeting, is the remaining gap in the international liability and compensation regime. The Correspondence Group will report at the next session of the committee.

Discussions in relation to implementation of the 2010 HNS Convention also took place based on a submission dealing with the question of whether states party to the Convention can provide in their domestic law that ship owners from states not party to the Convention have unlimited liability and thus no possibility to limit liability on the basis of the relevant articles in the Convention.

The committee clarified the position by underscoring the principle of shared liability, which must be respected, and agreed that states party to the Convention cannot in their domestic law distinguish between ship owners from states which are party and those which are not. Therefore, ship owners from states that are not party to the Convention can limit their liability in states which are party to it. Consequently, all ships are to enjoy the benefits of the Convention.

Places of refuge

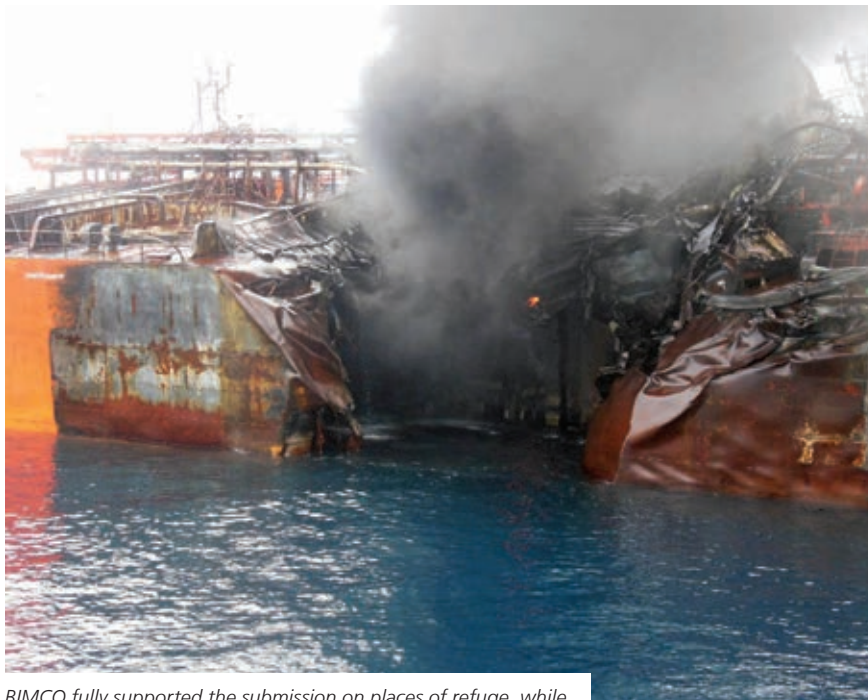
The committee discussed the issue of places of refuge, based on a submission made by the International Chamber of Shipping, the International Group of P&I Clubs, the International Union of Marine Insurance, and the International Salvors' Union. The submission referred to the relevant IMO guidelines, resolutions and liability and compensation conventions, and highlighted the importance of early and decisive intervention in situations involving ships in need of assistance.

The submission encouraged the committee to "reinforce its message that the Guidelines should be given due regard when states are asked to provide a place of refuge to a ship in distress or in need of assistance" and promoted ratification of IMO liability and compensation conventions, including the 2007 Nairobi Wreck Removal Convention.

BIMCO fully supported the submission, while referring also to the recent incident of the *Maritime Maisie*, which underlines the continued need to promote the effective implementation of the IMO guidelines etc. The committee encouraged effective implementation of the Guidelines on places of refuge and concluded that the issue is relevant in the context of the existing framework of

The meeting discussed matters relating to the 2010 Hazardous and Noxious Substances by Sea (HNS) Convention.





BIMCO fully supported the submission on places of refuge, while referring also to the recent incident of the Maritime Maisie.

international liability and compensation conventions, the ratification of which will bring into effect the provisions concerning liability and compensation for pollution prevention measures, clean-up operations and wreck removal, including in situations where damage or losses occur following a state's decision to grant a place of refuge to a ship in need of assistance.

Fair treatment of seafarers

A report was made by the Seafarers' Rights International (SRI) on its recent questionnaire to IMO member states dealing with the implementation of the 2006 Guidelines on fair treatment of seafarers in the event of a maritime accident.

Thirty-nine IMO member states had responded to the questionnaire. Seventeen of these replied that they had already passed either all or some of the principles of the guidelines into their domestic laws; 13 that their existing laws already adequately protect the rights of seafarers; 12 specifically requested the provision of model legislation by the IMO regarding passing of the Guidelines into their law; and 4 specifically requested the provision of information by the IMO regarding the meaning of the Guidelines.

The SRI proposed to analyse the replies received and report back to the committee at its next session. This was supported by the committee, which also encouraged more states to respond to the questionnaire and stressed the potential of the IMO's Integrated Technical Co-operation Programme (ITCP) to assist states with the implementation of the Guidelines.

Other issues

The committee also discussed piracy,

where information was provided about the outcome of the latest meeting of Working Group 2 on legal issues of the Contact Group on Piracy off the Coast of Somalia (CGPCS) in November 2013, and the decision that the Working Group should be renamed Legal Forum of the CGPCS and convene on an *ad hoc* basis.

The committee expressed its support for the Legal Forum. Amongst interventions made, the continued importance of addressing the piracy problem and the need for continued military presence were noted.

The status of conventions and other treaty instruments emanating from the committee, a standing item on the Legal Committee's agenda, was considered and the committee encouraged states to work towards achieving effective and uniform implementation of relevant IMO instruments, keeping in mind also the 2014 World Maritime Day theme "IMO conventions: effective implementation".

With respect to liability and compensation issues connected with trans-boundary pollution damage from offshore oil exploration and exploitation activities, the committee recalled the importance of exchanging information and reminded states to send examples of existing bilateral and regional agreements to the secretariat accordingly, while encouraging inter-sessional co-operation amongst stakeholders.

The ILO informed the Legal Committee

about developments in connection with the entry into force of the Maritime Labour Convention (MLC) 2006, including the outcome of the first meeting of the Special Tripartite Committee in April, which had agreed amendments to the Code of MLC 2006 concerning financial security for crew members/seafarers and their dependants with regard to compensation in cases of personal injury, death and abandonment.

The proposed amendments will be transmitted for approval by the International Labour Conference in June 2014. If approved, the amendments will be notified, for consideration, to ILO member states that have ratified the MLC 2006 and could enter into force in two and a half years.

The Legal Committee also agreed to a proposal to extend the scope of the Guidelines for accepting documentation from insurance companies, financial security providers and P&I Clubs adopted in respect of the Bunkers Convention to the Civil Liability Convention, the 2010 HNS Convention, and the 2007 Nairobi Wreck Removal Convention certificates.

In the margins of the Legal Committee meeting, a special event took place to celebrate the 25th anniversary of the IMO International Maritime Law Institute based in Malta. (CHO) ■■

Redefining risk

Just look around – in life as much as in the maritime world, the nature and scale of risk would appear to be changing.

What do we mean by “risk”? A dictionary reveals that it is “to expose to hazard”, “the chance of loss or injury”, but also to “venture”. We live today in a risk-averse society, where calumny awaits anyone who has strayed outside without his hard hat and something heavy has fallen on him.

A school teacher by the seaside has to undertake a formal risk assessment when he or she takes the class to the beach to look in rock pools, even though it is the safest beach on the coast. A pension provider is required to formally discover the level of risk a client is prepared to take with investments. Fear of hazard is just part of the climate our times and we cannot be remotely surprised when we see such attitudes exported afloat, when the most mundane task will require a risk assessment to be undertaken.

Far too careless?

It might be suggested that we have been far too careless with lives and limbs in the past and there is truth in this. The oldest among us are of a generation who never wore any personal protective clothing, didn't bother with lifejackets when in boats or lifelines when working aloft. It is not something to be proud of – it was just what was done. It might be said that we didn't know any better or understand the error of our ways.

But at the same time, competent seamen understood something about risk mitigation in that they looked before they leapt, kept one hand for the ship and one for themselves and understood the meaning of caution and prudence. They knew not to stand in a bight, sit on the rail, or enter an enclosed space that might not be gas free. They did not do silly things, because they

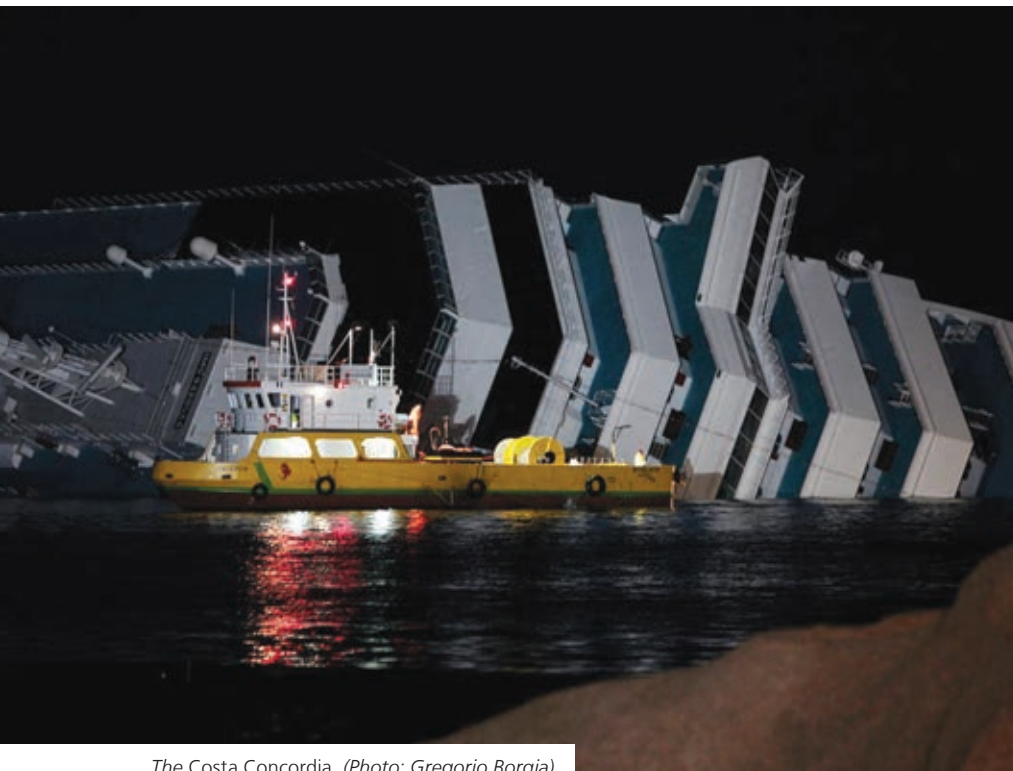
had been trained not to, not because it was prohibited in some gigantic rule book or by regulations. Competence was knowing that ships could be hazardous places and that an understanding of this fact was drummed into all from day one of an apprenticeship.

One extreme to another

It could be argued that in our contemporary horror of any sort of risk, we have gone from one extreme to the other and we have attempted to make safety management an arm of the bureaucracy rather than something founded upon common sense and seamanship. But it is difficult to argue with statistics around enhanced safety and the reduction in casualties and personal accidents, although paradoxically the cost of the both has soared. There were fewer than one hundred total losses last year, and that is something the industry could be rather proud of rather than constantly beating ourselves up over some sort of decline in safety. Surely it says something about the professionalism of those operating ships.

There is another way of looking at risk with its alternative and more positive definition of a “venture” and we ought to remind ourselves that an “adventure” was the ancient and accurate term for a sea voyage. The merchants of Phoenicia and Athens, who financed voyages 500 years before Christ, knew all about the risky nature of their investment and demanded a massive return on their investment in the event that their adventure was concluded profitably and their ship came safely home.

Sadly, we have given up using the word “adventure” to describe a sea voyage, which leads many people to believe that the risk which once accompanied such a venture has been completely eliminated and is quite unacceptable anyway. This belief, which has been firmly ingrained in 21st century society, goes alongside the assumption that if there is an accident in a supposedly risk-free



The Costa Concordia. (Photo: Gregorio Borgia)



The MV Rena aground on the Astrolabe Reef. (Photo: NZ Defence Force)

operation which goes wrong, this is quite intolerable, so somebody must be to blame and needs to be punished, preferably by criminal sanctions.

But every shipping person knows that risk is an accompaniment to every sea voyage and that every floating body, even lying securely alongside the quay, is to a greater or lesser extent at risk. It can never entirely be eliminated in a dynamic, hostile and sometimes a very violent environment, where the conduct of the ship is subject to human experience and judgement. From the abortive first voyage of the “unsinkable” *Titanic*, to the interrupted passage of the 8,000 TEU *MOL Comfort* and the horror of the Korean ferry disaster, man has constantly been reminded of both the element of the unexpected one can meet at sea and his inability to eliminate the frightfulness of what failure – for whatever reason – may throw at him.

Looking on the bright side

But we constantly try to look on the bright side and to make light of risk in our faith of technology, whether it is the confidence we gain from the sheer size of ships to the precision of their performance, from their enormously powerful machinery to the sophistication of their navigation equipment. We publish schedules that pay no heed whatsoever to the vagaries of the weather, the fact that a ship can get held up by head winds and seas or really ought to slow in fog. There were sometimes cruel jokes about shipbrokers – mocking them for their supposed belief that a 15 knot ship steams 360 miles a day and runs on rails like a tram. It is no longer very funny, because everyone who might employ that 15 knot ship (apart from the people who sail in her) believes the same and will see the owner in court if their expectation is not realised!

But while our fear of risk and the need for its

mitigation has in many respects grown tremendously, it could be argued we are asking people who operate ships to do more and more risky things with them.

Nobody, fifty years ago, would have even dreamed to ask the Master of a big ship to bring her into port with 18 inches of water under the keel. And yet, within just a few years, we were asking people to do exactly this with fully laden VLCCs. Masters of colossal cruise ships, with thousands of passengers embarked, are encouraged to get as close to the shore to afford their passengers a bit of visual excitement, in a calculated risk that leaves very little leeway if something goes wrong.

Commercially acceptable risks?

So somebody between then and now has decided that even though risk-taking is intolerable and hazards must be eliminated by absolute precision in navigation, and more and more regulation, some risks are deemed commercially acceptable.

Somebody has decided that it is perfectly safe to operate big, complicated ships, with just a fraction of the crew that was deemed necessary in far smaller ships a long time ago. Did a group of professionals sit around a table and conducted a full risk assessment of sailing without a radio officer on a ship packed full of electronics, giving all the Purser/Chief Steward’s work to the Master, and assess whether it was hazardous to ask the Master to keep a watch and watch with the Mate on a ship operating a tight schedule in highly congested waters? If there was anything resembling a cost-benefit analysis undertaken, it was probably more likely that the conversation revolved entirely around the savings per annum which could be realised by the elimination of each post aboard ship.

In our risk-averse society, we don’t seem to

have any compunction about pushing ship designs to their very limit, cheerfully commissioning naval architects to always build the biggest ship that can possibly fit into whatever situation is needed – the “max” – Panamax, Supramax, Kamsarmax etc. The industry would rather not be forced to operate ships that have little reserve power in them, returning, with the “eco-ships” of today to the underpowered “low-powered steamer” of the interwar years, designed for fuel economy as the absolute priority, and which could be driven onto a lee shore by storms. But now we are being driven by the new absolute priority of minimising emissions, which largely means restricting power.

Inherent vulnerabilities

Certain types of ships have always had inherent vulnerabilities, but we don’t help ourselves when we refuse to look at the realities of these. We don’t really know what might be in containers, or how much they weigh, but it doesn’t stop the designers piling more and more on deck, or shutting their eyes about what will happen when the boxes manifested as “household goods” turns out to be fireworks and explode, taking half of the ship with them.

We don’t really know, apart from the information given us by computer modelling, how we will evacuate 5,000 people, half of them elderly and disabled, from a very large cruise ship on fire. Then we are constantly surprised by untoward events, that nobody seems to have even considered, like blackouts in embarrassing places, balconies catching fire, or containers being found to be three times the manifested weight.

Masters and pilots point to the way in which they are expected to squeeze bigger and bigger ship envelopes into ports where there is only just room to swing, or only just enough water under the keel, with disapproving



The granddaddy of them all so far, the Deepwater Horizon. (Photo: US Coast Guard)

noises being made because an extra tug was requested. So while we are more risk-averse than we ever have been – witness the thickness of our safety manuals – we are prepared to take bigger risks than ever before.

Increasingly unrealistic expectations

It is also fair to say that the expectations of those people directing the conduct of ships from ashore are becoming ever more unrealistic. Think of the charterers, people down the logistics chain, the terminal operators, all of whom have been sold the idea of a perfect out-turn, precise delivery, timely arrival, an obliging Master, who will accede to any change in the stowage or loading plan.

So to reprise, we are risk-averse, intolerant of accident, we know better than the Master and we expect him to do riskier things with his ship. We have demoted experience, we have forgotten about prudence, we accept that some designs are more vulnerable than others, but society also thinks it perfectly fair that those who make errors of judgement, or who might be overtaken by events, should be subject to criminal sanctions.

Considering the consequences

The realities of risk surely ought to require everyone concerned with the operation of ships – not just the Master – to consider what the consequences of their decisions might be if it all goes badly wrong.

We can rationalise with our statistics that comfort us with the rarity of accidents, and look with approval at those triangles which weigh the frequency of accident with their severity. But we also need to think about lives lost and the colossal insured values and attendant costs.

There may be fewer than 100 serious losses racked up in 2013, but these will include the costs of the *Costa Concordia* – USD 2 billion and still counting, the USD 1 billion of loss conservatively estimated after the *MOL Comfort* took her full load to the bottom of the Indian Ocean, the USD 600 million costs of removing the *Rena* from the NZ coast. Look at the potential for even the world's biggest companies being wiped out by some decision-making subsequently judged to be in error. The Macondo spill – which could cost BP USD 56 billion, is the granddaddy of them all – so far – but gives a lot of encouragement to the lawyers!

It might be concluded that all of this is a reason to return to some old-fashioned values in which prudence, seamanship, expertise and professionalism might be accorded rather more respect than they are today. Maybe we will only get there if instead of thinking we can reduce our exposure to hazard by endless regulation and persecuting those who make mistakes, we acknowledge some of these realities. ■■



Michael Grey

Editor's Note: The above article is based on extracts of a paper given at the Annual General Assembly of the International Federation of Shipmasters' Associations in Haugesund, Norway, in June 2014.

Michael Grey is BIMCO's Correspondent in London. He is a former Editor of Lloyd's List and a regular contributor to many maritime publications.

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When is a port or berth safe – how should this information be available and reviewed?

In BIMCO Bulletin No. 1/2014 two articles were published, one entitled *Time to revisit the definition of a “safe port”?* and the other *Live testing of new AVANTI port information software*. The linking element between both these articles is the safe port or berth issue.

The first article detailed the lack of a port safety code specifying the operating criteria for a port – such as airports have – to make it a safe port or berth, the second was about AVANTI, an on-line web-based application providing validated nautical information for port users – providing what was asked for in the first article: admission policies per ship type and per section of the port.

In the end, both articles are about the issue of under what circumstances a port or berth is safe to use, and how to provide this information – and local knowledge is critical. But how do we make this local knowledge available to visitors in an international format? Beyond that, apparently, it's not obvious that every port applies this in a uniform way.

Port information

The need for information how and when the berth can be used in a safe manner was clear – but how to resolve this? This kind of information was never shared before with shipping and many topics were not defined or had units of measurement. Nor do existing publications provide guidelines in that respect. Even the most basic information, depths, are not clear to all parties. For example, issues such as minimum controlled depth, dredging regimes, over-dredging etc. are topics that lead to discussions.

And shipping needs a solution that works from port to port, not per port. For this reason, an international solution was found: IHMA (International Harbour Masters Association), UKHO (United King-

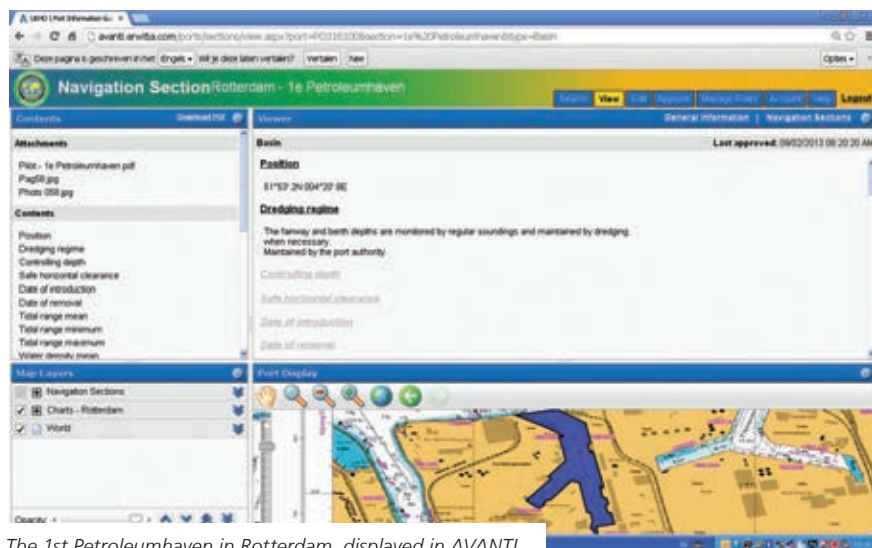
dom Hydrographic Office) and the marine industry developed AVANTI, to display the aforementioned information.

AVANTI stands for Access to Validated Nautical Information. Per section/berth of the port, the system allows the Harbour Master to have guidelines in place per ship type for maximum wind, current, etc. for safe use of the port or berth. This is in fact the admission policy, published in a structured, univocal manner. And that the information related to admission policies is provided via the Harbour Master seems to be logical. He/she has an admission policy in place as a risk mitigating measure in the port area, based on local experience.

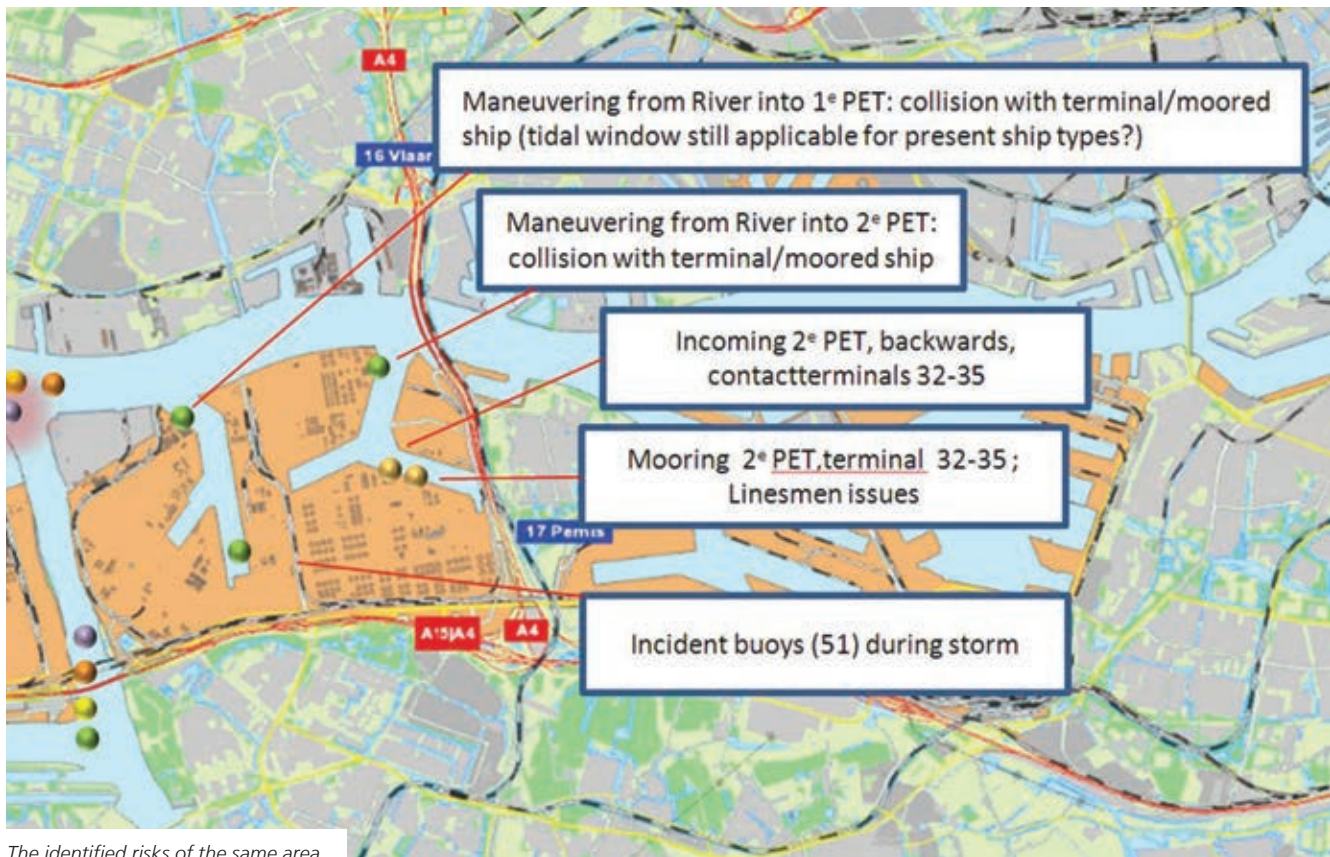
In the first article, the author raised the issue of Captains and Harbour Masters both being under commercial pressure to use the port or berth under conditions that are beyond the safety limits.

So how can we check that the limiting conditions are still correct? Shouldn't they be updated for the increasing size of ships? Or for changed meteorological conditions? Or have they indeed been stretched due to commercial pressures?

This needs to be reviewed on a regular bases. In the port of Rotterdam, a Safety Evaluation Board, consisting of nautical experts (Harbour Masters, pilots and others), also evaluates – among other aspects such as incident analyses and risk assessment results – the admission policies as stated in AVANTI. Based on experi-



The 1st Petroleumhaven in Rotterdam, displayed in AVANTI.



The identified risks of the same area.

ence, near-miss reports and assessments, the admission policy per section and per ship type is reviewed, and when necessary, amended. The board has been embedded in a newly-developed quality and safety management system and the assessments produce the Port Risk Assessment.

Both the definition of a “safe port”, as well as the notification in AVANTI were considered, and there is a clear relation between the two. Charterers are interested in the way safety is being managed and defined in ports. Ships will only be directed to ports which can be considered as “safe”. Risk is not only static, but might vary, depending on circumstances and especially weather.

Ports feel the need for transparency on risk and invest in safety in several ways. The Port of Rotterdam Authority aspires to be a front-runner in safety and efficiency. In order to address the needs of charterers and ship owners, the Harbour Master of Rotterdam provides nautical information via AVANTI and assessments on the admission policies as stated in AVANTI via a Port Quality and Safety Management system, with the Port Risk Assessment as an essential element of this system. This way of addressing risk is not unique in itself, but the co-operation with stakeholders and the embedding of the risk assessment in a qual-

ity management system provides the port with real added value and control of risks.

Port Risk Assessment

Admission policies and Risk Management are the core business of a Harbour Master. In fact, admission policy is a sort of risk management – but often not clear, univocal, or transparent to the users of the port.

The structure of assessing risk, taking risk control measures and reviewing the risk in order to check the effects of measures is nothing new. We see this pattern in day to day operations on board ships and in vessel traffic services from ashore. The registration of accidents, incidents and near misses is also nothing new, although there is room for improvement here. Not only within the port of Rotterdam Authority, but also within the whole maritime industry, relatively few near miss reports are being registered and the number of accidents are rather low, which makes it difficult to draw conclusions based on statistics. The new element in risk management for the Port of Rotterdam is that quality management is being combined with safety management. Since 2013, a Port Quality Safety Management (QSM) has been developed.

It was not legislation like the UK’s Port Marine Safety Code which drove the Port

of Rotterdam Authority down this road, but the ambition to improve things. The goal is not to be certified *per se*, but to establish actual improvements and to lower risk if necessary. One of the pillars of the system is the Port Risk Assessment, which combines quantitative and qualitative risk analyses and which is embedded in the quality structures of QSM.

Inspired by the guidelines of the UK’s Port Marine Safety Code and the implementation of this Code by the Port of London Authority and Associated British Ports (ABP), in 2010 Rotterdam started to develop ideas for this system. The European framework program MarNIS provided room for research and development and the Port of Rotterdam Authority co-operated with the European Harbour Masters, European Pilots and ABP in particular. The Harbour Master of Rotterdam wanted to adopt the Port Risk Assessment within a framework of quality management. After all, if your core business is safety, your quality management system will equal a safety management system.

Besides the Policy Statement and a Quality management organisation, the Port QSM consists of three groups of activities: “playing by the rules”, “check” and “improve”. A quality manager is appointed to imple-



The Port of Rotterdam Authority aspires to be a front-runner in safety and efficiency.

ment the system and to develop it. A group of internal auditors is being trained and 5 designated persons (nautical safety and efficiency, enforcement, environmental risks, security and calamity abatement) are responsible for audits, surveys and risk assessments. Besides these appointments, a Safety Evaluation Board has been being formed to advise the Harbour Master on safety management, including admission policy, following the outcome of analyses of incidents, port risk assessments and audits.

The added value of the Rotterdam Port Risk Assessment

Co-operation between internal and external stakeholders is essential for the success of the scheme. VTS operators, pilots, patrol vessel Masters, linesmen, tug Masters, barge skippers, pilotage exemption certificate holders, terminal managers, sea port police and bridge and lock operators share their experience and knowledge, which provides valuable information for the risk assessment itself, and also gives new insights and mutual understanding.

The Port Risk Assessment is based on the ratio of the Formal Safety Assessment, including the hazard identification, operability study (consultation) and hazard analyses. The quality cycle of plan-do-check-act is applied to the assessment. The method is mainly based on the expert opinions being objectified by the structure. Every port section is being analysed by a core team of Rotterdam pilots and experts from the Harbour Master's department at the Port of Rotterdam Authority. Characteristic hazards are assessed, taking into account frequency of occurrence and effects (in terms of people,

property, the environment and port business) and balanced between the most likely and the worst-case scenario.

At present, the method is rather transparent and primarily based on expert judgment. The idea of a "black box" should be avoided and quantitative data should only be applied if this is complete, unambiguous and clear for the users. Nevertheless, the quantitative pillar of Port Risk Assessment is still an area for further development.

Talking about risk assessment often leads to response such as "we already did that once". But risk assessments should be carried out again and again, preferably approaching risk from different angles and perspectives. Port Risk Assessment is kept alive by embedding it into the Port QSM (and the interaction with the Safety Evaluation Board) and the role of the Designated Person to safeguard the follow up of risk con-

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Mr. Verkiel started working for the Port of Rotterdam Authority in 2002 as a project manager and has been an advisor in strategy and policy development to the Harbour Master since 2012. He is manager of the Port Risk Assessment scheme described in this article.

trols. Together with the close co-operation between Harbour Master and pilots, the system is already functioning in a successful and innovative way. Other Dutch ports have already shown an interest and it will be even better if more ports follow this approach and share experience and data.

Safe Ports

So when is a port safe? First of all the user should have access to local information under which conditions the port can be used in a safe manner. Second, those conditions should be evaluated, ensuring they are still correct, by a risk-based system. This combination is essential in the current developments within the Port of Rotterdam Authority in this context. It supports our ambition to be a front-runner in safety and efficiency. After all, a safe port is a good port. A good port is a competitive port. ■■



Ben van Scherpenzeel

Editor's Note: Ben van Scherpenzeel, Director Nautical Developments, Policy and Plans at the Port of Rotterdam, has spent 15 years at sea (3 years on tankers and reefers and 12 years on cruise vessels). He joined the Port of Rotterdam Authority in 2004. His present responsibilities are nautical studies related to the extension of the port of Rotterdam and existing harbour basins and leading projects such as Traffic Separation Scheme adjustments, mooring configurations and the provision of port and terminal information.

On the Horizon...



DATE	VENUE	EVENT	CONTACT
2-3 Jul. 2014	Shanghai	Offshore Wind China 2014	Wei Zhuang: zw@bimco.org
3-4 Jul. 2014	Shanghai	6th Asia Ship Recycling & SNP Summit	Wei Zhuang: zw@bimco.org
14-18 Jul. 2014	London	IMO Sub-Committee on Implementation of IMO Instruments (III)	Aron Sørensen: afs@bimco.org
11-15 Aug. 2014	Singapore	22nd IAHR International Symposium on Ice	Thomas Timlen: tt@bimco.org
20 Aug.-5 Nov. 2014	eLearning	eLearning Course: Time Charter Parties	Mette Juul Madsen: mem@bimco.org
29 Aug. 2014	Copenhagen	ClassNK: Danish Technical Committee	Lars Robert Pedersen: lrp@bimco.org
2 Sep. 2014	Hong Kong	BIMCO Seminar/Presentation to HK members – President speaking	Michael Lund: mlu@bimco.org
8-9 Sep. 2014	Bahrain	SHADE (Shared Awareness and Deconfliction)	Giles Noakes: gno@bimco.org
8-12 Sep. 2014	London	IMO Sub-Committee on Carriage of Cargoes and Containers (CCC)	Ai-Cheng Foo-Nielsen: acfn@bimco.org
15-19 Sep. 2014	London	IMO Editorial and Technical Group (IMSBC Code)	Ai-Cheng Foo Nielsen: acfn@bimco.org
16-17 Sep. 2014	Oslo	DNV-GL: Nordic Ship Safety Committee	Lars Robert Pedersen: lrp@bimco.org
18-19 Sep. 2014	Singapore	Using SUPPLYTIME Seminar	Peter Grube: pg@bimco.org
21-23 Sep. 2014	Amsterdam	Dry Bulk Europe	Peter Sand: ps@bimco.org
22-26 Sep. 2014	London	Facilitation Committee (FAL 39)	Giles Noakes: gno@bimco.org
24 Sep.-10 Dec. 2014	eLearning	eLearning Course: Bills of Lading	Mette Juul Madsen: mem@bimco.org
1-2 Oct. 2014	London	Ship Efficiency: The Event	Lars Robert Pedersen: lrp@bimco.org
1-3 Oct. 2014	Geneva	BIMCO Masterclass Workshop: Voyage Chartering	Miaojia Liu: mjli@bimco.org
6-10 Oct. 2014	Copenhagen	Danish Maritime Days	Karin Petersen: kp@bimco.org
6-11 Oct. 2014	Gothenburg	FONASBA	Søren Larsen: sl@bimco.org
7 Oct. 2014	Copenhagen	BIMCO Maritime Security Committee/BIMCO Marine Committee Meetings	Elizabeth Ahlefeldt: eal@bimco.org
8 Oct. 2014-28 Jan. 2015	eLearning	eLearning Course: Dry Cargo Laytime and Demurrage	Mette Juul Madsen: mem@bimco.org
13-17 Oct. 2014	London	IMO Marine Environment Protection Committee	Aron Sørensen: afs@bimco.org
14-17 Oct. 2014	Singapore	SIBCON 2014 (SBC)	Grant Hunter: gh@bimco.org
15-17 Oct. 2014	Singapore	BIMCO Masterclass Workshop: Bills of Lading	Peter Grube: pg@bimco.org
16-18 Oct. 2014	Dalian	BIT Oceans Conference	Lars Robert Pedersen: lrp@bimco.org
20-24 Oct. 2014	London	International Oil Pollution Compensation (IOPC) Funds	Christian Hoppe: cho@bimco.org
23-24 Oct. 2014	Aberdeen	BIMCO Seminar: Using SUPPLYTIME	Peter Grube: pg@bimco.org
30 Oct. 2014	Singapore	Asia Pacific Marine & Offshore Conference	Thomas Timlen: tt@bimco.org
30-31 Oct. 2014	Shanghai	Tripartite	Lars Robert Pedersen: lrp@bimco.org
7 Nov. 2014	Copenhagen	BIMCO Documentary Committee Meeting	Doris Larsen: dla@bimco.org
9-10 Nov. 2014	Rotterdam	Executive Committee/Board of Directors Meeting/Presentation to Dutch Members	Karin Petersen: kp@bimco.org
12 Nov. 2014-25 Feb. 2015	eLearning	eLearning Course: Tanker Chartering, Laytime and Demurrage	Mette Juul Madsen: mem@bimco.org
17 Nov. 2014	Singapore	BIMCO HEAVYLIFT Contracts Workshop	Thomas Timlen: tt@bimco.org
17-21 Nov. 2014	London	IMO Maritime Safety Committee	Aron Sørensen: afs@bimco.org
19-21 Nov. 2014	Genoa	BIMCO Seminar: Trading and Carrying Goods	Peter Grube: pg@bimco.org
20 Nov. 2014	Athens	14th NAVIGATOR 2014: The Greek Decision Makers Forum	Michael Lund: mlu@bimco.org
24-26 Nov. 2014	Hong Kong	BIMCO Masterclass Workshop: Time Chartering	Peter Grube: pg@bimco.org
25-26 Nov. 2014	Stavanger	Gas Fuelled Ships 2014	Lars Robert Pedersen: lrp@bimco.org
3-5 Dec. 2014	Antwerp	BIMCO Masterclass Workshop: Bills of Lading	Peter Grube: pg@bimco.org

Growing complexity in environmental issues linked with international shipping

In 1997, a new annex was added to the International Convention for the Prevention of Pollution from Ships (MARPOL). The Regulations for the Prevention of Air Pollution from Ships (Annex VI) seek to minimize airborne emissions from ships (SO_x, NO_x, ODS, VOC) and their contribution to local and global air pollution and environmental problems.

Annex VI entered into force on 19 May 2005 and a revised Annex VI, with significantly tightened emissions limits, was adopted in October 2008 and entered into force on 1 July 2010.

Under the revised MARPOL Annex VI, the global sulphur cap is reduced initially to 3.50% (from the current 4.50%), effective from 1 January 2012; then progressively to 0.50 %, effective from 1 January 2020, subject to a feasibility review to be completed no later than 2018. The limits applicable in Emission Control Areas (ECAs) for SO_x and particulate matter were reduced to 1.00%, beginning on 1 July 2010 (from the original 1.50%); being further reduced to 0.10 %, effective from 1 January 2015.

MARPOL defines certain sea areas as “special areas” in which, for technical reasons relating to their oceanographic and ecolog-

ical condition and to their sea traffic, the adoption of special mandatory methods for the prevention of sea pollution is required. Under the Convention, these special areas are provided with a higher level of protection than other areas of the sea. (see Table)

Most ships which operate both outside and inside these ECAs will therefore operate on different fuel oils in order to comply with the respective limits. In such cases, prior to entry into the ECA, it is required to have fully changed over to using the ECA-compliant fuel oil, (Regulation 14.6), and to have on board implemented written procedures as to how this is to be undertaken. Similarly, the change-over from using the ECA compliant fuel oil is not to commence until after exiting the ECA. At each change-over it is required that the quantities of the ECA-compliant fuel oils on board are recorded, together with the date, time and position of the ship when either completing the

change-over prior to entry or commencing change-over after exit from such areas. These records are to be made in a logbook as prescribed by the ship's flag state. In the absence of any specific requirement in this regard, the record could be made, for example, in the ship's Annex I Oil Record Book.

The first level of control in this respect is therefore on the actual sulphur content of the fuel oils as bunkered. This value is to be stated by the fuel oil supplier on the bunker delivery note and hence this, together with other related aspects, is directly linked to the fuel oil quality requirements as covered under Regulation 18. Thereafter, in respect of ECA compliant fuel oils, the ship's crew must ensure that through avoiding loading into otherwise part-filled storage, settling or service tanks, or in the course of transfer operations, such fuel oils do not become mixed with other, higher sulphur content fuel oils so that the fuel oil actually used within an ECA exceeds the applicable limit.

Consequently, Regulation 14 provides both the limit values and the means to comply. However, there are other means by which equivalent levels of SO_x and particulate matter emission control, both outside and inside ECA, could be achieved. These may be divided into methods termed primary (in which the formation of the pollutant is avoided) or secondary (in which the pollutant is formed but subsequently removed to some degree prior to discharge of the exhaust gas stream to the atmosphere).

Annex VI: Prevention of air pollution by ships (Emission Control Areas)			
Baltic Sea (SO _x)	26 September 1997	19 May 2005	19 May 2006
North Sea (SO _x)	22 July 2005	22 November 2006	22 November 2007
North American (SO _x , and NO _x and PM)	26 March 2010	1 August 2011	1 August 2012
United States Caribbean Sea ECA (SO _x , NO _x and PM)	26 July 2011	1 January 2013	1 January 2014



A scrubber being installed. (Photo: Wärtsilä)

Regulation 4.1 allows for the application of such methods subject to approval by the Administration. In approving such equivalents, an Administration should take into account any relevant guidelines. As of October 2010 there are no guidelines in respect of any primary methods (which could encompass, for example, on board blending of liquid fuel oils or dual fuel (gas/liquid) use).

In terms of secondary control methods, guidelines (MEPC.184(59)) have been adopted for exhaust gas cleaning systems which operate by water, washing the exhaust gas stream prior to discharge in the atmosphere. In using such arrangements there would be no constraint on the sulphur content of the fuel oils as bunkered, other than that given the system's certification. So much, then, for the texts of the Convention.

Low sulphur fuels

In order to comply with the ECA-requirements, the bunker companies need to use dedicated tanks for the storage and delivery of the low sulphur fuels. If the logistical chain doesn't follow strict rules for keeping low sulphur fuel separate from HFO, the first instance of contamination can occur.

After pumping the low sulphur fuels in the service tank when the vessel is approaching the ECA, a second instance of contamination may occur due to the use of HFO during the voyage. In principle, the mixture will slowly become 100% low sulphur fuel. In order to meet the fuel requirements for

ECA's, classification societies have worked out guidelines for fuel changes.

The problem that could occur manifests itself at the moment of inspection by a port state control inspector. If a port state control inspector takes a sample of the fuel oil in order to monitor the sulphur content, the S value can be influenced by the previous high sulphur HFO. This could be a possible explanation for the large number of complaints occurring during the first year of the introduction of 1% S fuel in ECAs. Many of these complaints were dropped after further investigation, but in many cases, shipping lines have used the lab results to obtaining a rebate on the bunker price, due to the fact that the S value of the lab analysis was worse than the sulphur content mentioned on the bunker delivery note.

Exhaust gas cleaning systems (scrubbers)

As an alternative to the use of expensive low sulphur fuel of 0.1%, a shipping line can opt for the purchase of HFO in combination with an exhaust gas cleaning system. I don't want to go into detail on the technicalities of such systems, but would limit myself to some comments.

Based on the performance of the system, the manufacturer will hand over a certificate with test results that allows a shipping line to buy that type of HFO which, in combination with the system, will meet the ECA-requirements. But:

1. There is no obligation to install a continuous monitoring system that will register the use of the system. However, devices that register the operation of a scrubber which are used in shore installations are not that expensive. If there is no registration device, the use of the scrubber has to be proven via the consumption of chemicals.
2. Most exhaust gas cleaning systems discharge a slurry and/or bleed off effluent. The IMO guidelines stipulate a number of values to be met, but monitoring the values is rather difficult and depends on mathematical models.
3. The discharge of slurry and bleed off water from a so-called open loop scrubber is left to the flag state. The flag state may or may not permit automatic discharge.
4. In principle, the member state in whose waters the vessel is operating is not directly involved in the procedures. But most member states have strict goals that have to be met concerning the quality of the surface water. If only a few vessels are equipped with scrubbers, due to the dilution in water, the discharge of slurry and bleed off water will have no significant impact on the water quality.

But due to the substantial price difference between low and high sulphur fuels, the use of scrubbers could pick up very rapidly, especially when the 0.5% sulphur content becomes mandatory worldwide.

Based on analysis, it has been found that the



Due to the substantial price difference between low and high sulphur fuels, the use of scrubbers could pick up very rapidly. (Photo: Wärtsilä)

effluent of scrubbers is rather acid, with a pH of 3-4. Low pH discharges have resulted in some pollutants such as TBT, which are actually neutralised in the harbour sediments, being released in the water column.

As a result, the environmental authorities in these ports might prohibit the use of scrubber systems with an automatic discharge into the surface water. At present, it is not clear to me in what way the “innocent” and “pro-active” shipping lines that have already installed such systems will be allowed to enter these ports. In principle, the shipping line has invested in a system that complies with international maritime legislation, but is this point of view also binding for environmental laws?

The confusion concerning the environmental impact of scrubbers in shallow and harbour waters is a sword of Damocles hanging over the rapid development of the use of scrubbers, in particular the so called open loop systems. Hybrid, or closed loop systems, where the effluent can be stored on board, will overcome this handicap.

In regard to other environmental issues (such as invasive species in ballast water) we see a less uniform approach. In the Ballast Water Management Convention adopted by IMO but not yet in force, the standard that has to be met by the ballast water treatment system is a minimum standard. Every member state can put forward stricter parameters.

In principle, the standard can differ from country to country and even between states

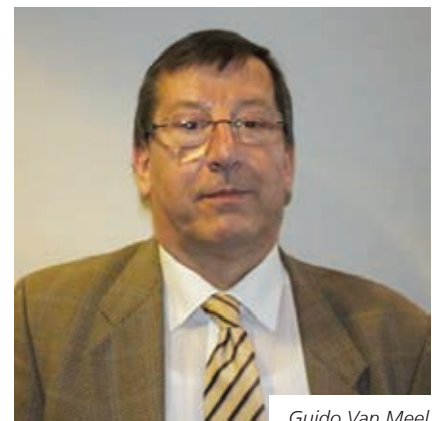
of the same country, in such way as to make it extremely difficult for shipping lines to opt for the right system/technology. Of course, every shipping line can decide to go for the highest performance system, but that will impact the operating cost of the system.

Need for more transparency

I believe that vessels which are equipped with certain devices (exhaust gas cleaning systems, ballast water treatment systems) should demonstrate their compliance through a continuous registration system. Such monitoring systems will ease inspections.

Similar to the conventions governing the transport of bulk commodities by inland navigation, seagoing vessels that are not engaged in a dedicated trade should receive a “cleaning certificate” from an authorised (waste) contractor after the discharge of dry or liquid bulk commodities. The cleaning cost, which is part of the charter party, has to be paid by the charterer.

Depending on the toxicity of the product transported or the use of a cleaning agent, the cleaning standard might differ. In inland navigation we speak about “broom swept clean”, “wash clean” and for certain type of products such as liquids and gaseous commodities “gas free”. The cleaning certificate should be kept on board (for six months), similar to a waste delivery note for the disposal of certain types of waste. If a vessel needs a more in depth cleaning, for example for the transport of china clay, the cleaning even goes as far as the removal of small metal residues, rust etc. ■



Guido Van Meel

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Editor's Note: Guido Van Meel has been Secretary General of EUROSHORE since 2009. Euroshore is a non-profit making association of port reception facility providers that promotes global, sustainable waste handling for seagoing vessels and river barges. Its members strive towards a professional and adequate service with respect for all relevant legislation and with respect for the life-cycle of the products in question.



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Training excellence – instructional design strategy

Competence needs are met by STCW certificates of competency (COCs), issued by authorities. Traditionally, crew holding COCs are certified to safely operate ships within their applicable rank. Recent challenges posed by tougher regulations, technical advancements, automation, crew cultural diversity, attrition and fatigue, point to the need for complex task related management skills.

Senior ranks are expected to display leadership skills in emergency situations and to perform routine tasks effectively through team work, goal-setting and morale building. To perform a job effectively, individuals need to feel that they have the appropriate training, equipment and resources. They need to be adequately informed and valued.

Company training strategies are a reflection of their specific training needs and may differ in the delivery methods. The unchanging ultimate goal is to conduct safe operations, with zero incidents. This requires synergy between shore and ship arms, with dedicated employees supported by continuous training. This article analyses various strategies and paths to create effective training interventions through instructional design strategies.

Behaviours, both individual and organisational, are common to accidents, and training is one intervention that can be used to moderate and reduce the severity of these to potentially enhance shipping safety.

Instructional design models and strategy

One of the most influential and pervasive theories underlying instructional design is by eminent scholar Robert Gagne, and proposes an outcome-referenced, internal and external conditions-based paradigm of instructional design ID. He defines “states possessed by the learner such as prior knowledge as internal conditions” and “instructional supports that are designed to promote learning as external conditions”.

Learning outcomes are categorised to judge not only acquired capability (for defined tasks), but also external conditions that sup-

port learning (instructional tools) through feedback. Consideration of the nature of learning tasks and conditions needed for support is essential for creating outcome-referenced models of ID. It must cater to different learner states, i.e., varying levels of prior internal knowledge. Crews from various seafaring countries possess different levels of prior knowledge based on their culture, education and training background. It is essential to consider this internal knowledge level when developing effective training tools.

The influence of an outcome-referenced, conditions-based, perspective can be found in the task analysis, assessment and evaluation procedures used to develop instructional strategy. Design of strategy requires clearly articulated goals of instruction for each category of learning outcome. The next step is to categorise goals for outcome and to further select effective strategies consistent with the cognitive processing demands of the learning task. Purely outcome-based learning, commonly used in maritime industry, is based on the nature and source of learning goals, not *how* learning is facilitated, or what conditions are required for appealing, effective and efficient instructions. The only assessment element is involved at macro level, i.e., the final marks awarded. The learning outcome or holistic effect on performance is totally disregarded.

In contrast, outcome-referenced condition-based theories and models of instruction are fundamentally concerned with ways to facilitate learning. Here, content is only the context. Alternative contents may serve to



Engine-room simulator, Manila.

facilitate the achievement of a learning goal. This allows performance improvement models to connect workplace outcomes and goals to specific interventions, intended to close the gaps between existing and desired levels of performance. Appropriate specific strategy can be linked to each learning outcome in the maritime context.

Alternative training views

Four alternative views to outcome-referenced condition-based learning are learner-centred, experience-centred, activity-centred and content-centred. Experience-centred learning outcomes are useful for development of non-technical skills, such as crew resource management (CRM), through simulating various predictable emergency scenarios, i.e., bridge team management (BTM), bridge resource management (BRM) and engine resource management (ERM). This helps to build a memory database of predictable emergency response situations. Activity-centred learning is congruent with good instruction and should facilitate the goals of learning. This helps to develop practical skill sets through on job training (OJT).

Learning hierarchy theory proposes that “achievement of each super ordinate skill depends on the internal condition of having learnt the subordinate skill”, i.e., personal background basic knowledge is essential in acquisition of next level of defined skills sets. In the maritime context this means that training is to be planned in incremental steps for each rank.

Technical and non – technical skills

Technical skills needed for navigation and engineering operations are traditionally imparted through organised training systems. Instructions may be designed from an integrated approach, determining the intentions of learning and selecting the activities and experiences that would best facilitate the learning goal. This can be based on the outcome referenced, internal and external conditions based paradigm of instructional design ID, referred earlier.

Non-technical skills or CRM are an additional set of competencies, used integrally with technical skills. CRM refers to a set of defined cognitive and social skills, e.g., communication, teamwork, situational awareness (SA), leadership, assertiveness,



Main engine mock-up at KMLA Manila.

decision making and workload management through prioritisation.

Situational awareness is defined as the perception of elements in environment, the comprehension of their meaning, and projecting their impact on the future events. Projection gives us the ability to use information from the existing environment to predict an outcome. This information empowers crew to intervene by taking preemptive corrective action to avoid or moderate the severity of incidents.

Communication is a core skill central to effective and safe performance in high risk industries. It affects team SA, team work and effective decisions. Effective communications is imperative for synergy between bridge, deck and engine room teams. Cultural diversity on vessels presents fresh challenges to effective communications.

IMO states “safe shipping requires safety culture” and recognises the need to enhance non-technical skills, through Manila 2010 amendments to STCW. The maritime industry has introduced this as BTM/BRM/ERM, with the aim of developing non-technical skills by simulating predictable emergency situations in ship operations, based on company experience and feedback.

The structure and content of any CRM course, whether post incident analysis or preventative in design, should reflect the learning needs of the crew member. A structured learning environment would

impose set procedures and rules, while an unstructured one would allow the learner to implement their own solutions to the evolving emergency.

This is the distinction between emergency preparedness and crisis management. An emergency is a situation outside normal operating parameters, where corrective decisions and actions are based on documented procedures, e.g., man overboard, steering failure, etc. Both on board and shore training is effective. A crisis differs in that successful decisions and actions may not be based on documented procedures. Predefined responses may have conflicting requirements. Creative and flexible decisions and actions are required. This distinction between an emergency and a crisis has a significant impact on training tools. Emergency response training may be standardised by following pre-prescribed procedures and drills. Crisis management training is a complex subject where human psychology and behavioural elements are involved.

CRM training requires further research and study in theoretical understanding of nature of shared situational awareness and mental models of real world maritime models, as follows:

1. Identify a set of behavioural markers to assess non-technical skills of crisis management.
2. Role of organisational factors in safe operations, in recognition of operator training limitations to prevent recurrence of incidents.

Competency management

Training tools for deck and engineering staff may differ between companies, but commonly focus on enhancing competency standards. A competency is a set of defined behaviours that provide a structured guide enabling the identification, evaluation and development of the behaviours in individual employees. Some scholars define “competence” as a combination of practical and theoretical knowledge, cognitive skills, behaviour and values used to improve performance.

Competencies include *all* the related knowledge, skills, abilities and attributes that form a person’s job scope. The context-specific qualities can be correlated with superior job performance. This can be used as a standard to measure job performance and to develop, recruit, and hire employees. Identifying employee competencies can contribute to improved organisational performance and can be linked to an organisation’s human resource system.

Competencies can distinguish and differentiate companies with differing organisational culture. Competencies can provide a structured model that can be used to integrate management practices on board and ashore. Competencies may align their recruiting, performance management, training development and reward practices to reinforce key behaviours valued by the organisation.

Safety climate and safety culture

A safety climate is a current snapshot of selected safety culture aspects, at that particular time. Safety culture and safety climate arise out of management values and practices, as a result of policies and decisions at top level. Safety climate factors potentially contribute to accidents and must be carefully studied in accident causation situations to fully address and reduce the level of incidents in the maritime industry. It reflects the seafarers’ attitude or perceptions of safety. Consistent procedures and systems represent patterns, which reinforce and prioritise safety over competing goals. Safety climate measures could be used as a predictive safety performance indicator.

A seafarers’ level of knowledge, performance and motivation are the mediating variables between safety climate and

safety performance. Suitably conceived and designed training interventions can play an important role in reducing accidents, by improving crew safety performance.

The majority of the work done in this area has focused on human factors and intervention at individual level. The impact of organisational factors that mediate relationships between organisational climate and crew behaviour and the relation to outcomes such as accident data, may lead us to the underlying causes. The results may provide useful feedback information for organisational improvement.

K-line training initiatives and measures

The Japanese culture of continuous improvement and quest for perfection, guides K line’s training with the unique initiatives stated below:

1. K line Maritime Academies KLMAAs, are functioning in each crew sourcing country. Cadets are inducted, trained and coached comprehensively in maritime and engineering studies.
2. Cadet training takes place on dedicated commercial ships organised for each crew nationality. Senior dedicated Officers and Engineers train small groups of cadets, usually 4 to 8, through theoretical studies, practical and operational skills, during routine ship operations.
3. Experienced, dedicated deck and engine auditors and training superintendents ATSIs conduct coaching and on job training during short trips of 7-14 days.
4. On job training at national maritime academy workshops is done with various engine room machinery, including main engine, and automation mock ups, for developing and reinforcing practical skill sets.
5. CRM training at various in-house, advanced simulators at K line Maritime Academies.
6. There is a pre-joining briefing, familiarisation and promotion training, for newly promoted senior crew members, at the various management companies of K line.

Continuous improvement in safety culture is sought by top management through far-reaching measures and initiatives.



Kirti Vardhan Gupta

CMS, currently under trials, is based on the generic model of our partner Seagull, and is made company-specific by a dedicated CMS team. The K line CMS incorporates all the related knowledge, skills, abilities, and attributes that form a person’s job scope. This is proposed for use as a standard to measure job performance and to develop, recruit, and hire employees in the future. ■■

Editor’s Note: Kirti Vardhan Gupta graduated from the Directorate of Marine Engineering Training, India, in 1976. He served with Scindia Steam before moving to Sea Containers in 1979. Mr. Gupta has served ashore in container and passenger shipping companies since 2001. In 2005, he was an instructor at a ship management company training Institute in India.

Mr. Gupta returned to sea in 2007, serving on very large container ships as Chief Engineer. He joined K line ship management company KLSM, Singapore in 2008, as sailing Chief Engineer and subsequently joined the Singapore office of KLSM in 2010 as Audit and Training Superintendent, ATSI. This provided a unique platform to interact and train various floating staff, during commercial voyages.

Mr. Gupta was selected in 2013 as part of the Competency Management System (CMS) team to assist in the development of the engineering section. Comprehensive CMS trials were successfully completed in early 2014.

JOHN B. LACSON FOUNDATION MARITIME UNIVERSITY: An Anchor of Maritime Education

By JP Libo-on, June 2014

Anchored in the heart of Iloilo City, Philippines is the John B. Lacson Foundation Maritime University (JBLFMU), the leading maritime institution in the country and a major supplier of world-class seafarers.

The institution holds the distinction as the only maritime university in the Philippines, spanning three campuses offering marine-related courses such as marine engineering, marine transport, cruise ship and hotel and restaurant management and customs. It also boasts of one highly reputable training center.

For the past 66 years, JBLFMU has been an innovative leader in the development of maritime education. It has made unprecedented strides in maritime education, being one of the founding members and a focal point of the Global On Board Training Center (GOBTC) and the only member from the Philippines of the International Association of Maritime Universities (IAMU).

Its innovative vision is propagated through a Media Production Office that handles its tri-media content, providing a wider reach to the general public.

JBLFMU's commitment to excellence pioneered efforts such as the only maritime graduate school in the region and the first and only maritime high school.



Its unique corporate structure as a foundation ensures strong industry linkages hereby providing students and graduates with sure-fire opportunities like scholarships and priority selection in job openings with maritime companies.

JBLFMU. An anchor of maritime education. A beacon in the maritime profession.

For more information on JBLFMU, visit: www.jblfmu.edu.ph

The Marine Institute

The School of Maritime Studies at the Marine Institute of Memorial University provides internationally-recognized education and training for the design, operation and management of ships for the worldwide offshore and marine industries.

Our centres are home to unmatched simulation technology and leading offshore safety and emergency response programs, complete with industry-driven expertise to meet the ever-increasing demands for safety and highly-skilled personnel.



Centre for Marine Simulation



Offshore Safety and Survival Centre



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Vietnamese crew resources – new horizons

In the last few years, shipping has been going through a rough patch, with all sectors not doing equally well. With lower margins and less cash in hand, owners are looking to reduce operating expenses as much as possible.

One of the biggest items of expense in running ships is manning costs – including, but not limited to, crew salaries and other related costs. It is, however, important to strike a balance between reducing this cost and maintaining the standard of crew, since the flip side of possibly sustaining damage due to sub-standard, ill-trained crew, can be dangerous and financially devastating.

Therefore, there is always a risk involved when new manning sources are introduced into the market, but then change has been a constant factor. There was a time when ships were being operated by Europeans, but with the growth and development of the European countries, sea-going jobs began to lack prestige and this has created an avenue and opportunity for people in Asian countries to fill these gaps.

Attempting to meet demand

Of late, a large amount of the shipboard labour force has been dominated by Filipino seafarers, who were originally much cheaper to hire than other nationalities. However, due to demand far exceeding supply, there has been a sharp increase in their wages and benefits. Moreover, in the light of the new developments taking place with regard to EMSA audit of Philippine training centres and decisions about their acceptance by EU flags still being pending, the need to look for an alternative source of manning has become pressing.

Many owners and ship managers have rounded up seafarers from various South East Asian countries in a desperate attempt to meet demand and man their vessels at a cheaper level, but so far, none of the alternatives has been a real success story – for various reasons. One nation whose human

resources in shipping have not been fully capitalised on is Vietnam.

Capitalising on Vietnam

Vietnam is the eastern-most country of Indo China peninsula in South East Asia, with a population of about 90 million people. The country has been going through a remarkable growth period in the last 10 years, with a growth rate second only to China in Asia. Vietnam has achieved this success through hard work and the willingness of the people to see their country develop and prosper.

Vietnam has mostly relied on the strength of its abundant and low cost labour force, a highly educated young generation, inexpensive operation costs, and many other incentives which have signalled the government's warm welcome to investors and its determination to integrate into the global market.

Structured maritime training in Vietnam started way back in 1956, when Haiphong Maritime University (presently known as Vietnam Maritime University [Vimaru]) was established to develop a quality work force for the shipping industry.

For a long time, the graduates passing out from this university were largely catering to the demand of local shipping companies, such as Petrolimex, Vinalines and many other smaller companies. With the acute shortage of seafarers in the market in early 1990s, foreign ship owners and managers saw the large workforce in Vietnam as a means to fulfil the demand on their ships.

The first principal who experimented with them and put them on board their ships was Inlaco Japan. The programme that they started about 20 years back has been



VIMARU Training Centre – auxiliary engine generator simulator panel.



VIMARU Campus.

quite successful for them and presently they employ about 1,000 seafarers from Vietnam for their own ships as well as for other ship managers.

Other Japanese Ship Owners such as NYK, MOL and Nissho Shipping also found this an attractive proposition and started hiring crew from Vietnam during the late 1990s and early 2000s. Apart from the Japanese, some Korean, Taiwan Province of China, and lately even Chinese principals have employed Vietnamese crew on their ships.

Apart from hiring crew members from Vietnam, Japanese ship owners have also contributed the other way by collaborating with Vietnam Maritime University and providing the required infrastructure and facilities for good quality training. A huge investment was made in terms of various simulators and other training facilities, estimated at about USD 5 million according to some sources in VIMARU.

Increasing the seagoing workforce

Support from local as well as foreign principals during the boom years of 1990s and 2000s encouraged the Vietnamese Government to increase the sea-going workforce by opening/transforming colleges for educating students in this field. A few vocational schools were renamed as maritime colleges during 2007 during the peak shipping boom and the curriculum has been revised to cater primarily for shipping-related courses. There are now six major maritime institutes in Vietnam

- Vietnam Maritime University (Vimaru)

- HCM City University of Transport (UT-HCMC)
- Maritime College No. 1 in Haiphong
- Maritime College No. 2 in Ho Chi Minh
- Hai Phong Polytechnics Vocational College.
- Duyen Hai Vocational College.

Amongst these, VIMARU and UT-HCMC have been granted the status of Universities and apart from conducting regular courses for sea going staff, they also conduct several other courses related to ship building and ship commercial operation. The average intake of students in VIMARU and UT-

HCMC is about 2,500 per year and out of this, only about 1,000 students are trained to be officers. These institutes also have a maritime training wing that caters to the requirement of post-sea training, simulator training and conducting MOT examinations. Various different simulators and excellent training facilities are a feature of these institutes.

The other institutes mentioned above concentrate on providing training for ratings and together the number of students, add up to make the total maritime graduates passing out every year from Vietnam



VIMARU Training Centre – boiler simulator.



VIMARU Training Centre – GMDSS control console – modern working equipment.

to around 5,000. Vietnam has been in the IMO's STCW white list since December 2000 for their quality training and education system for seafarers. VIMARU has been recognized as a full member of the International Association of Maritime Universities (IAMU) among other 45 members all over the world. Vietnam Maritime Administration has signed agreement on mutual recognition of STCW certificates with 20 countries and territories. DNV and Norway's Marintek have also spotted the potential of the country and to enhance competency and capacity within Vietnam's maritime, offshore and shipbuilding sector, entered into a collaboration with VIMARU and VINASHIN in 2010.

With the support from both local as well as some foreign principals mostly from Japan, Korea, Taiwan Province of China, and also some owners from Singapore, the seafaring community had grown to about 40,000 people in 2009 during the peak of the shipping boom. Out of this, about 5,000 seafarers were working in foreign-going vessels, while the remaining are still serving and manning the local shipping industry.

The downsizing threat

However, the number has declined since then due to the considerable downsizing of the domestic as well as the international fleet over the last few years. The sudden reduction in the requirements for Vietnamese seafarers has left many of the students unable to find a job afloat. This has resulted in a decline in interest in shipping by young people and hence, at present all the maritime institutes are being under-utilized. Since the unemployment rate in Vietnam is only about 1.9%,

with the majority of people able to find jobs in industry, construction and the services sector, people are afraid to go into shipping at the moment and have started to prefer other industries, even though the salaries are not comparable.

There is no doubt that it is in the interests of ship owners to continue to support and encourage shipping in Vietnam, which can be mutually beneficial for owners as well as the local community. From the ship owners' point of view, the main advantages are better educated, more professional, hardworking, well-disciplined crew at a salary level almost at 60% of the salary and expense that they would pay to a Filipino complement. From the Vietnamese seafarers' point of view, the salary that shipboard jobs would pay is much higher than that from a shore-based industry, and if there is greater stability and demand of seafarers, more and more people would be interested in joining ships as crew members.

Language barriers and training standards

The biggest challenges in bringing more and more seafarers in to the world shipping arena are the language barriers and training to international standards. More and more youngsters are learning English in schools, as well as in the many private English institutions that have mushroomed in the towns. But the level of English communication expected by the International shipping community is not really being met. One way round these issues is being taken by some Japanese ship owners, who have chosen to develop their own tailor-made training programmes and courses supervised by

themselves for their own chosen cadets. This system is working well and some of the large ship owners like NYK Lines, MOL, Nissho Shipping, Nippon Steel Shipping Co. Ltd., Sugahara Kisen, NS United Kaiun Kisen Co. are already employing a small number of seafarers from Vietnam to man their vessels with mixed nationality and also some ships manned completely by Vietnamese seafarers.

If others join in and contribute towards the training and employment of people from Vietnam, there is a lot of scope for cultivating good seafarers and reduce operating expenses. Otherwise, we run the risk of losing qualified professionals to non-maritime industries. Every crisis produces an opportunity, and the EMSA audit and economic downturn might be the one that ship owners need to capitalise on for a better long-term manning solution. ■■



Vinay Gupta

Editor's Note: Vinay Gupta is the Managing Director of Union Marine Management services (UMMS) based in Singapore who visited Vietnam to study the prospect of employing Vietnamese crew on their managed vessels. At the moment, UMMS manages a fleet of 19 ocean-going bulk carriers and 3 PCTCs owned by Japanese and Singaporean ship owners. E mail: vinay@unimarships.com Website: www.unimarships.com

Letter to the Editor

Dear Sirs,

We are a company active in the chemical tanker trade and have started experiencing more and more “Voyage Orders” sent by Charterers a few days after fixture recap or charter party signing.

Once the Vessel is fixed on a voyage charter on agreed relevant C/P terms with the voyage charterers, some of the Charterers are sending us “voyage orders” prior to vessels arrival to load port which are very complicated and in contrast with Charter Party terms, and touching on several things such as demurrage claims, presentation of NOR etc.; many of them in excess of the terms of the Charter Party. A part of a Voyage Order is given below as example:

“Each day Master is to cable to...

AA) Position at 0800 GMT;
BB) Distance to go;
CC) Speed made good previous 24 hours;
DD) General average speed over the voyage;
EE) ETA next port;
FF) Weather conditions;
GG) Temperature of each cargo tank

In all messages sent to charterers, please mention the other parties in copy.

Any change in ETA exceeding 3 hours to be advised immediately. ETA to be indicated in local time.

Should Master fail to comply with the above, charterers cannot be held responsible for demurrage.

General instructions

Master upon arrival at load or discharge port(s) has to ask for free pratique and it must be mentioned in vessels time sheet, the time when the Master asked for free pratique, whether berthed or not berthed. If free pratique is not granted promptly upon arrival, Master immediately to protest in writing by tlx/cable to port authorities and owns to attach such protest to their demurrage if any.

Master to issue letters of protest for any delays at disport.

Vessel to proceed and arrive at loadport with minimum clean segregated ballast. Master is responsible for ensuring that all cargo tanks, lines and pumps are well drained and suitably clean to load intended cargo at inspector’s satisfaction.

Unfortunately, this puts a question mark on the validity of the charter party terms and Charterers try to squeeze in more terms to be included in the charter party after the fixture is completed and we have no choice but to enter into negotiations again for the contract governing the voyage or laytime calculation. Despite extensive research, we could not find definitive information regarding the legal position of these voyage orders, or whether Owners have to follow them or not.

Kind regards (BIMCO member)

Please advise if slop tanks are free for cargo loading if any slop is intended to be kept on board during this voyage it should be kept segregated from the cargo.

In case terminal nominated quantity differs with charterers orders, Master is not to load without first contacting charterers.

The vessel is to load to meet the international loadline restrictions of all the disports in the c/p, unless contrary orders given by charterers (see quantity under loadorders).

If any deadfreight at last loading port, Master to issue detailed deadfreight statement in metric tons advising applicable deadweight at loading, the deadweight available for cargo after all deductions and resulting deadfreight with reason.

During the voyage no cargo shall be transferred between vessel’s tanks without the consent from charterers. In the event of cargo transfer for emergency reasons, prior consent of charterers is not required, however master shall inform charterers.

Any order coming directly from shippers/consignees/brokers/agents must not be accepted by the Master before having received agreement from charterers or their agents.

If the ship/shore difference is above 0.3 pct loss after applying the vef then Master is to contact charterers operational contact immediately for authorisation to sign the bills of lading

1/ Port log (local time to be used)”

The drive towards sustainable shipping



As one of the world’s reputable flag registries, the Singapore Registry of Ships is not only recognised for its large, quality fleet, but also its efficient administration that works in close partnership with its ship owners and operators.

In its drive to promote sustainable shipping, the Singapore Flag is the first registry to provide incentives to encourage its ship owners and operators to adopt clean and green technologies and practices.

Transition of the SRS

The Singapore Registry of Ships (SRS) was established a year after Singapore’s independence in 1966, at a time when the shipping industry was supplying a steady pipeline of seafaring jobs to a new nation.

Besides serving as a national registry for owners in Singapore to register their ships for international trade, one other key responsibility of the SRS was to regulate the employment of Singaporean seafarers on board Singapore ships. The Marine Department under the former Ministry of Communications and Information Technology (MINCOM) used to manage the registry until the establishment of the Maritime and Port Authority of Singapore (MPA) in 1996, which then took over the administration.

Over the years, the Singapore Flag has grown from strength to strength to become the preferred choice for many quality ship owners and operators. In the last five years alone, the fleet’s tonnage has increased significantly from about 45 million GT in 2009 to more than 75 million GT today. The registry is now the fifth largest in the world, with one of the youngest quality fleets.

The registry’s strong growth is also a catalyst for the growth of Singapore as an international maritime centre, with the entrenchment of ship-owning activities in Singapore and the development of the maritime ancillary services sector. All these

Figure 1: Three-year rolling average detention ratio under Tokyo MoU. In 2012, Singapore Flag was ranked 5th out of 31 White List Flags.

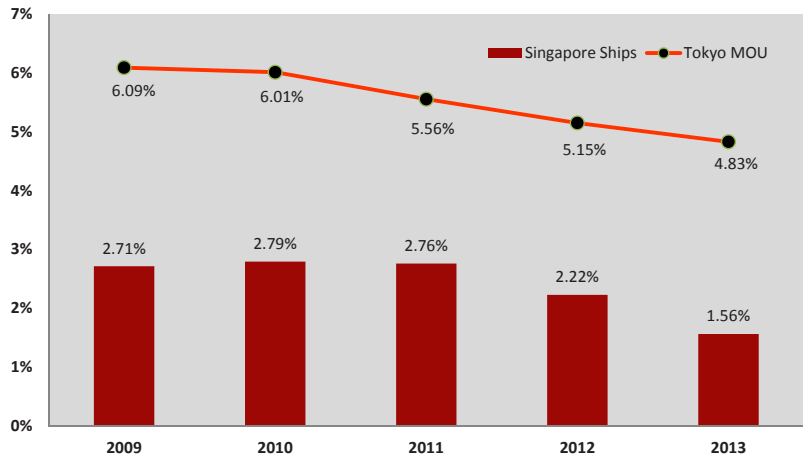
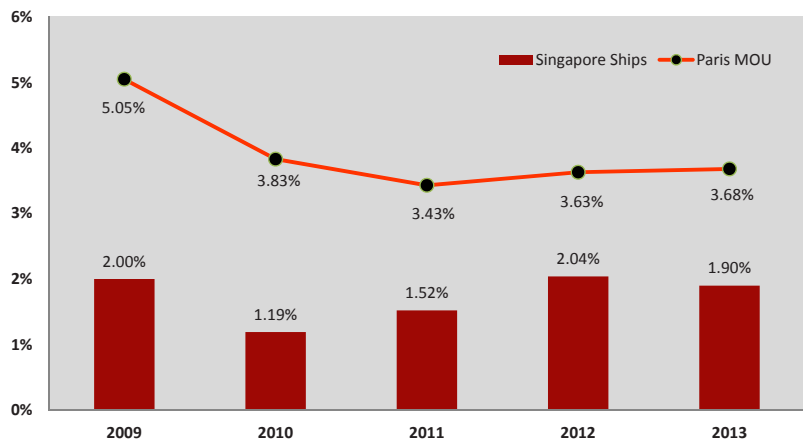


Figure 2: Three-year rolling average detention ratio under Paris MoU. In 2012, Singapore Flag was ranked 16th out of 45 White List Flags.





Panel discussion at the SRS Forum on Responsible Shipping.

would not have been possible without the confidence, commitment and support of the shipping community.

A mark of quality

As a major flag registry, MPA continually works to maintain high standards as a quality flag. There is a dedicated flag state control unit that actively monitors, identifies and works with ship owners and operators to improve the safety and environmental standards to ensure a quality Singapore fleet. In its efforts to maintain good relations and actively engage with ship owners, MPA conducts regular forums such as the Maritime Forum and workshops etc. to keep the maritime community updated of regulatory developments at the International Maritime Organization (IMO).

The registry has been able to consistently maintain its good PSC performance, especially during the last two years. The total number of Singapore ships detained worldwide annually has significantly dropped by 44%, from 68 detentions in 2011 to 38 detentions in 2013. The inaugural issue of the SRS e-bulletin was launched in April this year to enlarge the registry's communication channels to reach out to its partners on its performance and regulatory updates.

Sustainable shipping

The global shipping industry is currently faced with a pressing need to strike a balance between economic growth and marine environment protection. One of the key challenges is to come up with effective,

practical and achievable solutions while still promoting sustainable industry growth. As a responsible party, the Singapore Flag is keen to play its part and strongly supports international measures developed and implemented through the IMO to address the environmental challenges.

However, MPA recognises that even as the Singapore Flag aligns its mandatory requirements with international conventions, many maritime companies can, and in fact do, go beyond the minimum mandated requirements when it comes to environmental sustainability. MPA is ready to work in close partnership with these companies to make shipping even more envi-

ronmentally-friendly to benefit the future development and sustainability of the industry.

In 2011, MPA launched the Green Ship Programme to encourage ship owners and operators to voluntarily do more to support a sustainable maritime transportation system. This Programme is part of the SGD 100-million Maritime Singapore Green Initiative (MSGI) and seeks to encourage Singapore ships to reduce CO₂ and SOx emissions. Qualifying ships that adopt energy efficient ship designs exceeding IMO's Energy Efficiency Design Index and/or adopt approved SOx scrubber technology exceeding IMO's emission require-



MPA Chief Executive, Mr. Andrew Tan, speaking at the launch of the MPA Sustainability Office.



Yao Yikai

ments can enjoy discounts on the Initial Registration Fees and Annual Tonnage Tax. Since its inception, there has been a very good response and the registry currently has more than 140 green ships.

Owners and operators looking to develop and adopt the latest green technologies for their Singapore ships can also tap on the Green Technology Programme, which is another component of the MSGI. MPA is prepared to co-fund up to 50% of qualifying costs to facilitate the development and adoption of green technological solutions. MPA hopes that more owners and operators can participate in the programmes as part of their corporate social responsibility efforts and commitment to cleaner and greener shipping.

Close Partnership

MPA works in close partnership with its ship owners and operators to publicise sustainable efforts in the maritime industry. In December 2013, MPA organised a Forum on “Responsible Shipping” for owners and

operators of Singapore ships to exchange views and insights on the challenges faced by various stakeholders in ensuring safe, secure and efficient global shipping activities. More than 200 senior maritime executives attended the Forum, where participants talked about what “responsible shipping” means to the industry and how ship owners, operators and the Flag Administration can play a role in this.

During the Forum, MPA shared about the Singapore Flag’s performance and provided an update on the MSGI. Ship owners and operators were invited to share on their companies’ green shipping practices. Neptune Orient Lines presented on various initiatives that the company has undertaken to develop a clean and green fleet, while BW Maritime shared its experience with the installation of ballast water management systems on board its ships.

The classification society, DNV-GL, also provided an overview on the future clean fuel landscape. In conjunction with the Forum, 20 more maritime companies came together to sign the Maritime Singapore Green Pledge to signify their commitment towards promoting clean and green shipping in Singapore. They joined the 40 companies that have already signed the Green Pledge so far.

MPA has not been resting on its laurels. The MPA Sustainability Office was established

in April this year to promote a culture of good practices in governance, resource management and environment sustainability within MPA and the wider maritime industry in Singapore. This new office seeks to better co-ordinate and drive MPA’s overall sustainability efforts.

Owners and operators can expect more targeted engagements to create greater awareness on sustainable shipping. Leading lights on clean and green shipping practices will be invited to share insights through workshops and seminars. The Singapore Flag is committed in its drive towards a sustainable global maritime transportation system and welcomes all its ship owners and operators to embark on this journey together. ■■

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Editor’s Note: Yao Yikai heads the Registry Department at MPA, where he currently assists the Registrar of Ships in overseeing the strategic direction, growth and promotion of the Singapore Registry of Ships.

Yikai and his team work closely with ship owners and operators, and the wider maritime industry to facilitate the growth of their maritime business in Singapore. MPA actively promotes and encourages clean and green shipping practices for Singapore ships and these efforts and initiatives are coordinated by the Registry Department.

Prior to heading the Registry Department, Yikai worked in MPA’s Port Policy Division as well as the Sea Transport Division in the Ministry of Transport where he participated in the formulation of various maritime policies and strategies. Yikai read Economics and Naval Architecture and Marine Engineering at the University of Michigan, Ann Arbor, USA on an MPA scholarship.



The MSGI official logo. More than 140 ships have since qualified for the MSGI’s Green Ship Programme.



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Bridging the gap

For many years, it has been good practice for ship owners to devise navigation and communications specifications themselves using the staff available in the office, typically from the project and nautical departments.

This way, the process of setting the specification stays the same inside the company and it eases the job. At the same time, it is possible to keep the project secret from others until it is ready to be announced. There are many good reasons for maintaining this routine when planning newbuildings and preparing the specifications for them.

However, there could be money to be saved in involving manufacturers in the process at an early stage. Manufacturers are familiar with the current and upcoming technology and the solutions to potential problems. This means that they can offer valuable

information about new products which may be launched during the building of the vessel(s), allowing the ship owner perhaps to upgrade the navigation and communication systems during the project.

In many cases, the contract between ship owner and shipyard is signed 2-4 years before delivery of the vessel and this is sometimes an eternity when it comes to the lifetime of equipment. Manufacturers often introduce new generation equipment every 5-8 years and it is not always done in a synchronised way.

Creating a specification for the navigation

and communications equipment requires a good understanding of all the equipment involved and up-to-date knowledge of the systems on the market, what features they offer and what synergies can be achieved by combining different systems in the solution. On top of this, the navigation solutions have to comply with flag state requirements and classification rules, of which none is necessarily identical. It may be difficult to keep up with the technological developments and features and functionalities along with rules and regulations. The project people often have to cover not only navigation and communication systems, but also the rest of the vessel and its machinery.



The New Voyager bridge system from FURUNO.



Marine radar system FAR 2817 from FURUNO.

Experts in their fields

The manufacturers have the advantage of being experts in their fields, they know the current requirements from IMO, flag states and classification in relation to their products and they know what the systems can offer, how they can be combined in different ways to obtain different performances and what is in the pipeline of new products, which may become relevant during the ship building period.



FURUNO's FEA 2017 ECDIS system, designed to comply with the latest standards and regulations set by IMO, IHO, and IEC.

Through sparring between the manufacturers and ship owners when devising new-building specifications, it is possible to create the best possible concept to match the vessel type, size and operation and to make it as cost-efficient as possible. By having a direct dialogue, it is possible to exchange ideas and solutions to provide the necessary controls and display of information on each workstation to achieve an efficient operation of the vessel independent if the ship is underway or berthing.

Backup systems and redundancy can be planned into the design and sometimes utilised during normal operation to avoid investing in backup systems, which are kept inoperative until a failure in the main system occurs that requires the backup system to take over. The resilience and system safety acquired may prove valuable in a case of emergency. By sharing the knowledge of the equipment that the manufacturers have and the ship operation and navigation experience that the ship owners have, it is possible to create a better and more cost efficient solution.

Actual wishes and needs

Another advantage of involving one or more manufacturers in the early specification process is that the specification may reflect the actual wishes and needs of the ship owner much better. When presenting the specification to the shipyard, no stone has been left unturned, all aspects have been considered and the risk of having to modify the scope of supply in the middle of the new building process – often with additional costs for changing drawings, altering cable installations, etc. at the shipyard – may be avoided.

The challenge of sparring with the manufacturers is to keep the specification generic to allow multiple manufacturers to quote their solutions to the shipyard. This generates a healthy competition amongst them, giving reasonable prices to the shipyard and in the second tier, the ship owner. This can be accomplished by using two or more manufacturers or by keeping the knowledge and competencies of the project people in the office up to date, allowing them to evaluate the information received from the manufacturer to filter out the type-specif-ics unless they are the wishes of the owner.



Mads Friis Sørensen

By sharing information and working together on projects, both manufacturers and ship owners may benefit, because sharing and discussing ideas and needs may lead to improved products and features from the manufacturers. They are brought much closer to the end-users and get a better understanding of how the navigation is performed and how the ship's electronics may assist the navigator in his daily tasks and support the navigator in cases of emergencies. The ship owner has the advantage of getting his shore-based staff updated on technology and system solutions and he may achieve better and more efficient navigation and communication solutions in his future fleet. ■■

Editor's Note: Mads Friis Sørensen holds a B.Sc.e.e. Degree in engineering from Copenhagen University College of Engineering. From 1992-1994 he taught in the electronic engineering department of Frederiksberg Technical School. From 1994-1996 he was a support engineer at B&K Medical AIS. He then moved to Thrane & Thrane's department for INMARSAT-C Land Earth Stations and DSC coastal radio stations, where he worked from 1996-1998.

From 1998-2005 he was project leader at maritime engineering system manufacturer FURUNO's European Branch Office, concentrating on integrated bridge systems and the sale and systems design of ECDIS. From 2005 to the present, Mads has been Branch Manager at FURUNO's European Branch Office dealing with maritime training and simulators.

The value of volunteers in sea safety

Twenty years ago there was a double tragedy off the coast of South West Cornwall, when two fishermen drowned just off the shore when their boat capsized. There was nobody looking out to sea at that time and their plight went unnoticed.

It seemed particularly sad that the casualty occurred just below what had been a Coastguard lookout on the Lizard which had been abandoned some years earlier, as part of a policy change that saw the end of manned lookouts around the UK coast.

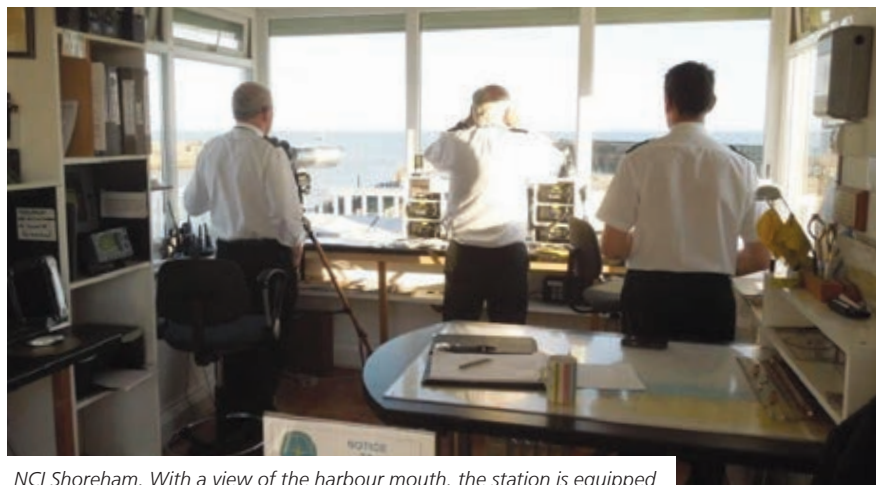
Local people, who of course knew the victims, decided that such an accident ought to be eminently preventable and raised funds to re-open the lookout at Bass Point, manning it with unpaid volunteers. From this small local initiative was born the UK's National Coastwatch Institution, which in this 20th anniversary year has opened its 50th station, in a network that provides eyes on the sea around the coast of England and Wales.

Trained to the highest standards

Twenty years on and the NCI remains a volunteer force, except that there are now more than two thousand of them. Last year, they participated in 290 live incidents, spent 219,116 hours on duty. All are trained to the highest standards, set by HM Coastguard, with the ongoing training focusing on "spotting, plotting and reporting", this being reinforced by regular exercises, with efficiency of each station annually assessed.

Each station meets its own day to day costs and contributes to national expenditure of the charity, which has a board of trustees, national executive officers, while each station has a station manager and a local committee. All in this uniformed service are volunteers and the only paid assistance consists of 12 hours per week of one person's time as an administrative assistant at the single small office.

The lookouts themselves represent largely what is available in each location. Some are



NCI Shoreham. With a view of the harbour mouth, the station is equipped with radar and AIS, high performance optical aids and VHF radio.

old Coastguard Stations brought back into use, but caravans, portable buildings, and other coastal structures affording good visibility have been pressed into use. They will be generally equipped with powerful optics, radar, AIS along with VHF radios to provide a listening watch. They will liaise with all the local emergency services, such as Coastguard, RNLI, police and all those who might be involved with search and rescue services.

Local enthusiasm and community goodwill

It is of course local enthusiasm harnessing local fundraising and general community goodwill that goes a long way to sustain this useful and growing service. The station operated in the Sussex port of Shoreham on Sea might be seen as a good example of the service which the NCI offers. Shoreham is at the mouth of the River Adur and has a busy short sea commercial trade, heavily supplemented by a large fishing fleet of beam and pair trawlers based in the port. It is also a sailing centre and supports a brisk maritime leisure sector, with jet skiers and wind

surfers pursuing their hobby year round, with the beaches to East and West of the harbour mouth popular in the season with holiday-makers.

NCI Shoreham became operational in 2008, moving into a lookout tower which had been built to house a searchlight detachment in WWII, but had been boarded up and derelict for many years, almost buried in shingle. It is an ideal location for a lookout, with a good view to seaward and up and down the coast with a sea horizon from its elevated position of around five nautical miles. It also affords a useful view to "landward" over the port waters, up the river Adur and towards the lock, which gives access to the enclosed harbour.

Liaising with everyone

It is the mixture of commercial and leisure users, explains Station Manager Barrie Turner, which represents the local risk situation to which the station must respond. He has 64 volunteers available, two of whom will be on watch at a time, during day-

light hours, throughout the year. Most, he explains, are retired or semi-retired, people “from every walk of life” ranging from former seafarers to doctors, school teachers and tradesmen. Training for newcomers will probably last around 3 months, averaging one watch per week, so that the trainees experience the full sequence of weather and tides, before they are assessed.

“We liaise with everyone” says Shoreham’s Station Manager, from the Port of Shoreham Authority and its harbourmaster, to the emergency services and the Worthing beach office along the coast to the West, which runs patrols along the shore. “We report on what we see, to the correct agency, we never do more” he says as he explains the procedures of the SCI. Mr. Turner also points out that the fact there is a manned lookout keeping watch over the whole area does tend to make leisure boat users behave rather more responsibly. An “increased presence” produces a whole range of benefits.

The station will normally report an incident to Solent Coastguard, whose responsibility it is to initiate the appropriate action. The UK Coastguard is currently being reorganised and changes in this co-ordination procedure are anticipated. The station keeps a simultaneous listening watch on five VHF radios installed, the current regulations enabling the NCI to respond to emergency services but not to initiate a call. Thus if the lifeboat was launched, the station could provide the coxswain with positioning advice if requested, such as providing a bearing for the boat to run down towards a casualty. The station also keeps in touch with its nearest opposite numbers at NCI Newhaven some 25 miles to the east, useful for the exchange of weather information.

A year-round business

Watching over leisure activities, which would once have been confined to the Summer months, has become a year-round business, with windsurfers, body surfers and jet skiers putting to sea in really quite frightening Winter weather. Indeed, in January this year, NCI Shoreham itself was involved in a rescue operation after a jet-ski rider was seriously injured.

There is no doubt that this service save lives, but also provides a great deal of valu-



NCI Shoreham became operational in 2008, moving into a lookout tower which had been built to house a searchlight detachment in WWII.

able reassurance to those who spend time in coastal waters or on the coasts of England and Wales. The fact that there is “somebody there”, with eyes on the sea is important, for marine safety and law enforcement.

The extreme weather that lashed the coasts of northern Europe this last Winter caused a number of challenges to the Institute, with watchkeepers in their exposed lookouts seeing the weather at its worst for many years. A number of lookouts were damaged and one on the Dorset coast was completely destroyed by hurricane force winds.

The next stage of development

With fifty stations opened and operational the NCI is now planning the next stage of its development. Expansion into Scotland and the Isle of Man are aims, while it is hoped to maintain the present rate of growth of stations at between two or three per annum, these being positioned where they will provide the maximum benefit for search and rescue. There are, unsurprisingly, financial challenges, as there is often a substantial cost in the commissioning of new facilities, while existing stations will require to be refurbished as required. The Institution has largely depended on local initiatives to fund its activities, but it believes that it needs to develop along commercial lines and elevate its fundraising along with its profile by forging relationships with companies and organisations that share its values.

By 2024 – thirty years after it was established – the NCI would hopefully have expanded into an organisation of 4,500 volunteers in 90 stations, backed up by 1,000 auxiliary members whose prime role would be to help with fundraising.



Michael Grey

NCI today provides an important social role. There is no substitute for sharp eyes on the sea that can spot the flare from a dismasted yacht, a fishing boat with engine failure, the capsized craft, the swimmer in trouble, the child swept out to sea on an airbed, or the approaching tide about to cut off the fishermen. Those sharp eyes and local knowledge, professional procedures and the best possible training have made this young organisation a significant element in sea safety, wherever it is available. ■

Editor’s Note: Michael Grey is BIMCO’s Correspondent in London. He is a former Editor of Lloyd’s List and a regular contributor to many maritime publications.

New books

Forty years of containers

Maersk Line was a relatively late entrant to the container trade, beginning its operations in 1973, but has grown in forty years to be a dominant force in global logistics.

It has been a company which has tended to keep its cards close to its corporate chest – even the capacity of new ships were a closely guarded secret, and has pursued a markedly independent line in a sector which has been dominated by consortia, slot-sharing arrangements, conferences and co-operation.

But nobody in shipping can argue that Maersk Line has not been successful in becoming the most recognisable of the “brands” which haul around world freight. How has this been achieved?

A fascinating insight into this extraordinary company has now been made available with the publication by the Cambridge University Press of *Creating Global Opportunities – Maersk Line in Containerisation 1973-2013*. Written by two long serving Maersk employees Chris Jephson and Henning Morgen, this is a book which can be read at several different levels.

A guide to business strategy

It is a historical account of the development and growth of one company’s record in the container trades, viewed against a background of world trade, economic developments and technical advances that have made the story possible. It is also a business book, which can become an important guide to the way strategy can be devised and how businesses can be developed to advantage in a fast-changing commercial world. There are few such volumes about the shipping industry in particular available to assist the student. But it also provides an insight into one of the most singular shipping companies, which has been run by only two individuals during a period of 100 years, something that makes this Copenhagen based giant unique.

To succeed in a shipping world which has experienced such extraordinary changes over the life of Maersk Line is itself quite

remarkable, along a road paved with memorials to lines which are no longer operational. There is a revealing list of no fewer than 37 established shipping companies which left the trans-Atlantic trade between 1982 and 1992, most of which had disappeared completely. The facility of a well-resourced parent, the will to succeed, and unusual flexibility and adaptability would appear to be just some of the clues to the way Maersk Line has succeeded where so many others failed, or succumbed to acquisition.

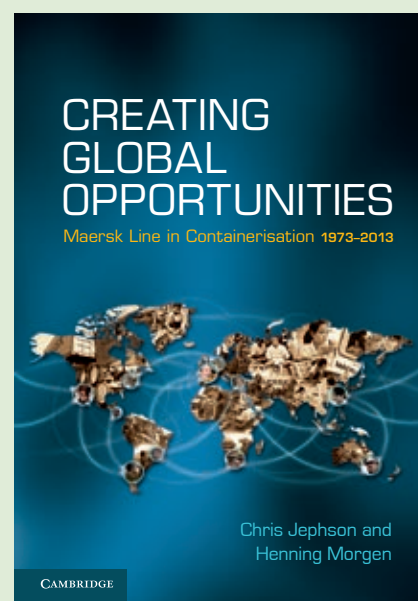
A well-researched chronicle

The book is also a well-researched chronicle of global logistics and a record of how this determined company moved from a simple sea carrier in the liner trades to become a major logistics force, operating its own terminals, and with a network of offices providing quality services from its customers. It is also a fascinating account of how this company has dealt with all that adverse circumstances such as slumps and fuel price hikes, trade developments and regulatory pressures could throw at it, during a period that has not been notable for high returns on investments.

The book is rich in statistical information and data provided by the Economist Intelligence Unit, Containerisation International and Lloyd’s Register. There is an ongoing chronology of world events that shows how the line was faring throughout the period under review, which graphically illustrates such world events as the opening up of China and the fall of Soviet communism. It perfectly demonstrates the way in which the world in which shipping exists has changed over four decades. The book is also accompanied by a website which enables the student to dig deeper into the available information which is supplemental to that enclosed between the covers of the book.

Emphasising strong corporate culture

What can such a book, effectively a “com-



pany history” teach us in the wider shipping world about how its experiences might be “imported” into other enterprises? It emphasises the value of a strong corporate culture, driven from the very top. It might be tempting to suggest that a company not beholden to armies of shareholders and forced to expose itself to the peering eyes of the financial press might enjoy certain inbuilt advantages. It is a company that has managed to adjust quickly to changed circumstances, to take advantage of speedy decision-making and to demonstrate both pragmatism and flexibility in its worldwide operations.

“It is clear that despite the risks and concerns, the opportunities for the future have never been greater” conclude the authors, “and that the role of low-cost, reliable container transport as a facilitator of the development of world trade remains a cornerstone of globalisation”. They have showed the reader how and why this is true.

Creating Global Opportunities Maersk Line in Containerisation 1973-2013 by Chris Jephson and Henning Morgen is published by the Cambridge University Press ISBN 978-1-107-03781-6 (Hardback). ■■



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Oil-Future-Based Prices Connected to ICE and Market Indications

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Updated every 30 sec. <input type="checkbox"/> - Connected Price - Alert	Genoa (IT) Oil-Future-Based Prices LSFO < 1,0 %	624.75	-		951.75	May 02
		696.75	-			

Comparison Chart for Genoa between Market Indications and Oil-Future-Based Prices for Fuel Oil 380cSt HSFO and MGO:DMA

380cSt HSFO
1 year



MGO:DMA
1 year



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Macro Economics

Global GDP growth gaining traction, but China remains the wild card

Global economy

The recovery in the advanced economies continues to strengthen as fiscal consolidation is slowing down and investors are less worried about the debt situation. We have seen this with several southern European nations now being able to tap into the financial markets once again at interest rate levels signalling improved health.

After the setback in 1Q 2014, the US appears back on track “pulling the world” boasting the strongest recovery amongst the nations which were hit the hardest by the financial crisis. The strongest European nations move forward fast, whereas the southern-most nations need to keep walking, as much work still needs to be done, despite the return of positive GDP growth rates.

Emerging and developing economies are doing well and growing solidly, supported by increased import demand from advanced economies. They are, however, not sheltered by the effects stemming from the “normalisation” of interest rates and quantitative easing in e.g. the US, where capital outflows have now become smaller or even reversed.

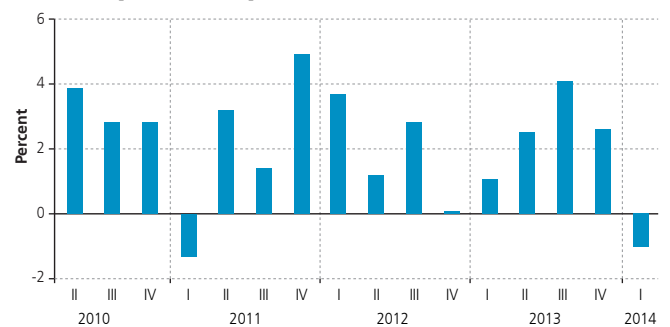
US

For the first time since 2011, the US economy has suffered the first setback on its road to recovery. In its “second” estimate, the Bureau of Economic Analysis estimate a decreased in the US economy at an annual rate of 1% during the first three months of 2014, down from an estimated growth of 0.1% in the “first” estimate.

There are strong indications that the economy is still on the right track and this quarter was just a bump in the road. Personal consumption increased by 3.1%, a small improvement from the first estimate. Another source of optimism is the job market, where the number of Americans applying for unemployment benefits is the lowest since 2007. The number of initial jobless claims in the week ending May 31 was 312,000; 8,000 more than the week before, but the level has now come down to where it was pre-crisis in 2007.

The US flash services PMI went from 55.0 in April to 58.4 in May, indicating that the service sector is expanding at an accelerated pace. The manufacturing

Quarter-to-Quarter Growth in Real GDP



Real GDP growth is measured at seasonally adjusted annual rates.

Source: BIMCO, U.S. Bureau of Economic Analysis

PMI also increased from 55.4 to 56.4, lifting the composite PMI for May to 58.6, the highest rate of output growth since April 2010.

The FED continues to trim its economic stimulus and its monthly bond purchases are currently around USD 45 billion, down USD 10 billion from two months ago.

Asia

In India, the landslide election victory of the favoured pro-business candidate, Mr. Modi, is hoped to be the turnaround the Indian Economy needs. Two years ago, the growth rate in India was around 8%. In the first quarter of 2014, the economy grew by 4.6%, just as it did in the previous one. In developed economies this would be considered very good, but not in a developing economy like India.

Following five months of deteriorating business conditions in the manufacturing sector in China, a corner was turned, as the Purchasing Managers' Index (PMI) improved in April from 48.0 to 48.1, and built on that strength to go higher in May (49.4). While the overall index is still not in expansionary territory above 50, the “New export orders” sub-index made a jump into the positive zone to reach 53.4, a 4-year high.



Source: Wulffmorgenthaler



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Discounts often apply to BIMCO members attending conferences where BIMCO is on the podium?



PETER SAND
BIMCO Chief Shipping Analyst

The overall cooling of the real estate market (which is red-hot in e.g. Shanghai) continues on the back of previous restrictions made to do just that. However, the pace of it is now being gently balanced, with exemptions given on purchasing and financing as the overall economy is losing steam faster than expected by central authorities. A smoothly running real estate market is vital for the Chinese economy and the utmost care must be taken while cooling it slowly down.

In Japan, the sales tax increase (from 5% to 8%) has slowed down economic activity as expected. This also led the IMF to lower its growth forecast for Japan, citing the tax hike as one of the main reasons. The Japanese economy, now projected to grow by 1.4% this year as compared to the 1.7% expected earlier this year, is still waiting to be lifted fundamentally by the implementation of structural changes to the economy by PM Abe.

EU

Inflation dropped unexpectedly in May to 0.5% from 0.7% in April, putting pressure on the European Central Bank (ECB) to take action. On 5 June, they did just that by introducing an unprecedented negative interest rate on deposits to encourage lending. Going forward, further liquidity injections could be applied too, as ECB President Mario Draghi warns of the risk of a negative price spiral.

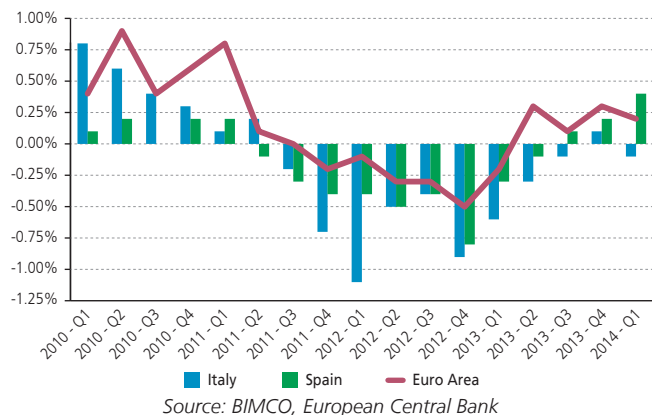
Why is deflation so bad? According to the IMF because it is both a symptom (when you see deflation, you know the economy is depressed and you should do something about it) and a cause of economic ill-health (e.g. the dynamics of debt becomes worse). It risks becoming a bad negative loop where deflation slows down demand leading to more deflation. In short, it must be avoided.

This is opposed by the positive development in Spain, where an increase in household and government spending contributed to a growth of 0.4% in GDP during Q1 over the previous quarter. The Spanish economy is now growing twice as fast as the Euro region average. Rating agency Standard and Poor's has revised its 2014-2016 growth projection for the Spanish economy from 1.2% to 1.6% and subsequently upgraded its rating from a BBB- to BBB. This is quite an achievement for an economy which has been in recession since 2011.

While Germany stays firmly in the driving seat for growth in the Euro area, France remains a major drag on the region's revival, according to Markit. Another downturn in French GDP is possible if business conditions continue

on the current path. As regards job creation, the pattern is the same, highlighting the ongoing challenges for Europe.

GDP Growth Rate from Previous Quarter
2010-2014



Outlook

The European Commission forecasts real GDP growth in 2014 of 1.2% in the Euro Zone, moving up to 1.7% in 2015. For the EU as such, growth is seen somewhat higher. Bearing in mind that the EU went through a double-dip, the current optimism is centered on a more balanced growth picture. This includes even the most vulnerable member states.

The entire shipping world is closely following economic developments in China, as everyone tries to imagine the form and magnitude of China's future shipping demand.

- Will it continue to fuel the dry bulk market?
- Will the negative effects from pollution mean a slowdown in energy imports?
- Will private domestic consumption mean more goods on the backhaul legs in container shipping?

Only time will tell, but can any other economy become more dominant than China's one right now? It is hard to imagine.

Some of the negative effects that were a drag on the US economy in Q1 are likely to boost it during Q2; in other words, BIMCO expects the US to be "back on track". ■■

Global seaborne trade is dependent on global growth, thus it is vital if general shipping demand is to go forward that a smooth transition from a sustained recovery to normalized demand become successful. The article was finalised on 10 June 2014. Read about the impact on shipping on the following pages...

Dry Bulk Shipping

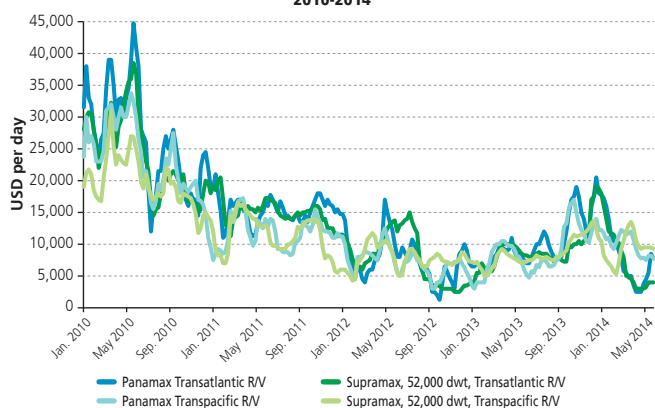
The pressure is easing in the Atlantic, but overall improvement is quite slow for now

Demand

South American grain exports finally got under way. The lower export figures from April being only on a par with 2012 illustrates the delayed take-off in shipments. Brazil has been the major exporter during Q2, while Argentina delivered more steadily throughout Q2 and Q3. Ship broking company SSY expects a combined 35.8 million tons (mt) of soya exports in Q2, with 30.8 mt in Q3. The strength of the current upturn depends on Asia's appetite, as all growth stems from that region.

The Atlantic basin has been awash with ships during most of 2014, putting downward pressure on freight rates for Panamax and Supramax ships in particular. Freight rates for a trans-Atlantic round-voyage, which were hitting a three-year high by mid-December 2013 (USD 20,500 per day), subsequently experienced four straight months of losses to hit USD 2,500 per day for Panamaxes. Since mid-April, Panamaxes have tripled earnings on the back of demand, finally meeting expectations. Supramax ships are still in the doldrums, failing to follow suit with big brother so far.

Tripcharter Rates for Supramax and Panamax
2010-2014



The optimism built up in H2-2013 has all but evaporated. BIMCO still expects stronger earnings as we enter into H2-2014, but the world fleet is capable of catering to a much higher level of demand than it does today. This is what makes the road forward full of air pockets, with owners and operators trying to hit the optimum speed in a quest to utilise their ships better.

H1-2013 was a low and flat freight rate environment, so in that sense so much more has happened in 2014. Normally, volatility is good for operators, but when the past two months have been flat, there is only some comfort in knowing that the year-to-date BDI average is up by 51% (end-May). Below the surface, Capesize earnings are up by 158% to USD 14,504 per day, Panamaxes up by 22% (to USD 9,208 per day), Supramaxes up by 28% (to USD 10,906 per day) and Handysizes up by 26% (to USD 9,181 per day).

Supply

The dry bulk fleet has grown by another 121 ships in the past two months (0.9% in DWT). The expansion has been easy in the Capesize segment, with only 10 new deliveries, as compared to roughly 30 new ships flowing into each of the other three sub-segments. For the full year, our estimates have been slightly upwardly adjusted, now to reach 52 million DWT of newbuilt deliveries, meaning that the fleet will grow by 5.3% (up from 49 million DWT).

Order-book activity has been slowing down since January. The order book now holds 1,989 ships (163.4 million DWT) for future delivery and is still heavy on the Panamax side.

One hundred and nine ships had left the fleet by the end of May 2014, equal to 6.6 million DWT. During the first five months of 2013 no less than 12.2 million DWT left the fleet. BIMCO remains firm on the forecast of 14 million DWT to be sold for demolition for the full year, significantly down from last years' 22.2 million DWT. Demolished tonnage is only marginally younger on average this year. With expectations of improved markets just around the corner, BIMCO forecasts lower levels of demolition for the coming years as well.

The Handysize fleet started to grow again in April, following nine successive months of contraction. The total Handysize fleet remains shy of the record 89.17 million DWT fleet size in 1985, currently at 87.8 million DWT. BIMCO forecasts the Handysize fleet to grow slowly and thus remain South of the record size in 2014 and potentially in 2015 too.

In opposition to this is the Panamax segment, which with little hesitation, sets a new fleet size record every day. Currently growing at 8.7% on a year-on-year basis, standing at 191 million DWT at the end of May, the 200 million DWT fleet size threshold is likely to be reached before year-end.



QUICK FACTS

10 June

Total fleet size (change since 1 January)

DWT million: 739.03 (+2.3%)

Rate indices (change since 4 April)

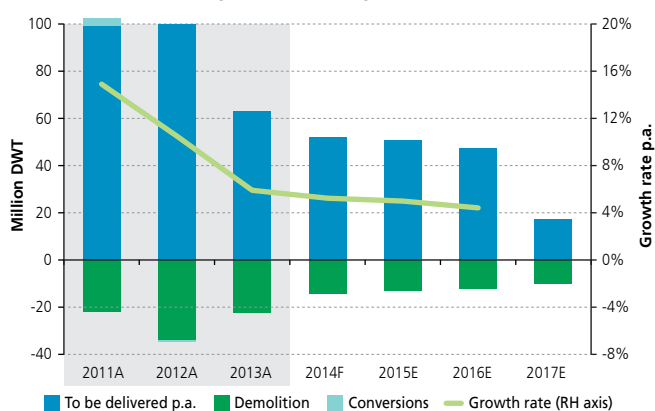
BDI: 1004 (-17%)

BCI: 1903 (-17%) • BPI: 699 (-15%)

BSI: 787 (-22%) • BHSI: 475 (-21%)

Latest update on Baltic Indices available at www.bimco.org

Dry Bulk Supply Growth



Source: BIMCO, CRSL

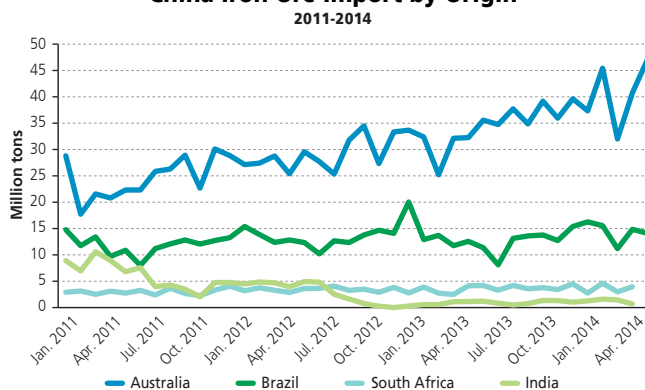
A is actual. F is forecast. E is estimate which will change if new orders are placed. The supply growth for 2014-2017 contains existing orders only and is estimated under the assumptions that the scheduled deliveries fall short by 10% due to various reasons and 30% of the remaining vessels on order are delayed/postponed.

Outlook

A trend has been developing over some years now and going forward, more of the same is expected. This trend is a continued Asia-biased dry bulk market, where China is completely dominant, dwarfing the slow but steady Indian import growth, while the rest of the world only grows imports slowly. Moreover, the trend in commodities became increasingly focused on coal and iron ore trades that are taking an even larger share of the pie going forward. This trend favours the larger bulkers.

As the big mines in Australia and Brazil have scaled up iron ore output significantly in 2014 and will do so in the coming two years, the price of the commodity has been under pressure. Such a development should benefit international trading at the expense of China's higher-cost, domestically-produced iron ore of poorer quality. Is that what is happening? Yes and no. China has increased its iron ore imports significantly (up by 21% in the first four months of 2014 from a year on) as good merchants buy at the right price, but domestic production keeps up (so far) despite the obvious cost pressure. They are doing so at a very steady level seen during the past 5 years. Conclusion: Don't expect China to become

China Iron Ore Import by Origin



Source: BIMCO, China Customs

100% reliant on imports while enjoying the lower market price. The current iron ore price is around USD 90 per ton, down from 130-140 per ton in H2-2013.

We cannot expect freight rates to react significantly to increased demand before China starts taking more iron ore from Brazil, most likely during the second half of the year.

To sum up, our forecast for June/July: BIMCO believes that the level of Capesize TC average rates will stay around USD 12,000-22,000 per day. Panamax TC average rates will feel the supply pressure and stay around USD 4,000-9,000 per day. For the Supramax segment, BIMCO forecasts freight rates in the USD 7,000-12,000 per day interval, whereas Handysize freight rates are expected around USD 6,000-8,500 per day. ■■

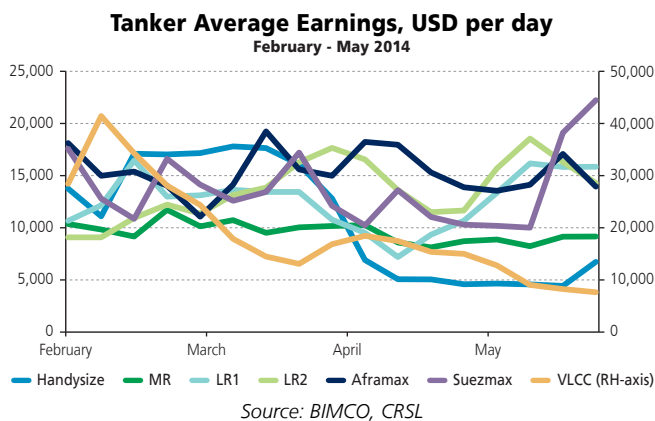
More shipping market analysis on www.bimco.org

Tanker Shipping

Strong demolition prices and volume supports an uneventful market looking forward

Demand

As expected, Q2 has turned out to be less “action-packed” than Q1. For all tanker segments, rates have side-stepped, with a few noticeable exceptions. Handysize product tankers lost steam unexpectedly and fell to USD 5,000 per day, whereas in the final weeks of May, Suezmaxes firmed to reach USD 22,000 per day. Finally, VLCCs disappointed – slipping below the USD 10,000 per day mark to end seven significant months with average earnings at USD 30,081 per day from October to the end of April.



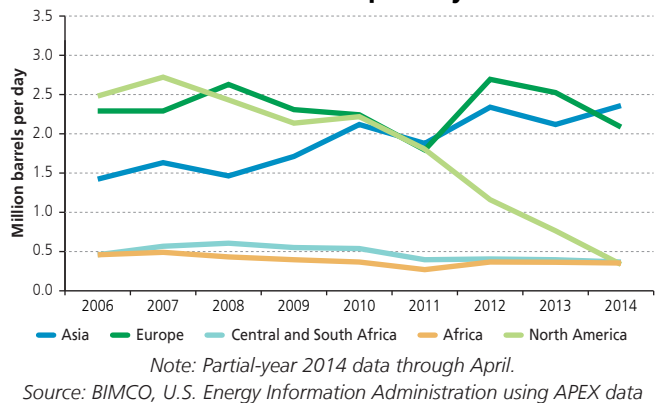
The tripling of gasoline imports, primarily into the US East Coast during April and May as they prepared for the “driving season”, once again failed to change fortunes in the Handysize/MR segment. Perhaps this once so important season is no longer relevant, with quickly changing trades originating from the export of US oil products.

The export of crude oil from Africa is at the epicentre of the crude oil tanker markets, partly due to the lack of Libyan supply and partly due to lack of US demand. Longer hauls from West Africa to Europe that have stepped in to bridge the gap that has opened up by the loss of short-haul cross-Mediterranean crude oil shipments have been positive for the market. On the other hand, the loss of US demand has been significant, with a sharp decline since 2010.

For Asian demand, the only way is up. So far in 2014, crude oil exports from Africa are up by more than 200,000 barrels per day (bbl./day) compared to 2010 levels, approx. 10%, according to EIA. Higher oil demand and China’s quest to diversify its sources of supply have made this trade lane more important. During January-April 2014, China has moved to the top of the list of African crude oil importers, taking 22% of all, equal to 1.2 million bbl./day. The above developments translated into a dynamic and positive crude oil tanker market earlier in the year. Going forward, the development on these trades will decide the prosperity of the market.

China expanded its refinery capacity by 0.9m bbl./day last year and EIA expects capacity expansion of 0.5m bbl./day this year.

Seaborne African Crude Exports by Destination

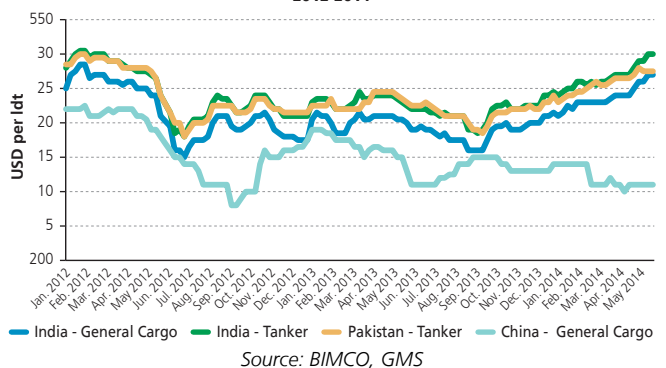


Supply

Demolition prices have been on the rise since late last year and recently reached the same high levels seen in the beginning of 2012. In two of the major demolition markets, India and Pakistan, the positive development started around October 2013 after a year of more or less *status quo*. In China, also a large market for demolition, development has been the opposite, with slowly declining prices since the beginning of 2013.

In India, the Rupee has traded below INR 60 against the US Dollar for some weeks now, fuelling the end-buyers’ desire to fill their pots. The strengthening of the Rupee follows the election of the pro-business candidate Mr. Narendra Modi, which has sparked even more optimism in the market. Even tankers, which normally go to Pakistan, are being cleaned now to

Demolition Prices

2012-2014


QUICK FACTS

10 June

Fleet sizes (change since 1 January)

Crude (DWT million): 374.49 (-0.1%)

Product (DWT million): 129.13 (+1.0%)

Rate indices (change since 4 April)

BDTI: 636 (-9%) • BCTI: 528 (-12%)

Latest update on Baltic Indices available at www.bimco.org

comply with the safety restrictions at India's ship recycling yards. This goes on as owners aim to take advantage of the substantial premiums on offer in India, where the price tag right now is USD 500 per LDT. A steady flow of ships to be demolished has meant a firming market so far this year.

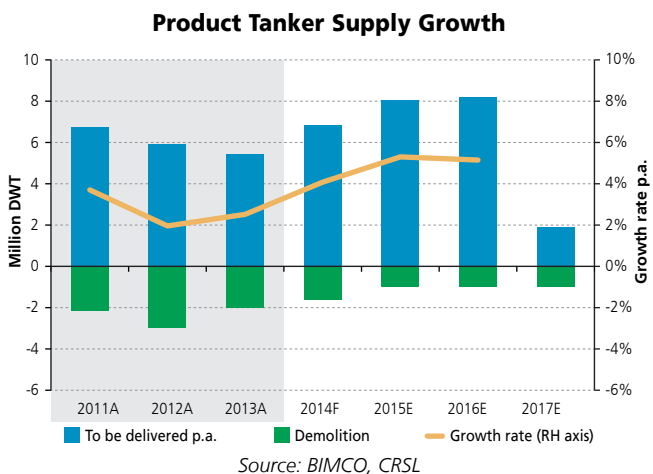
The delivery of 38 product tankers has contributed to a product tanker fleet growth of 0.9% for the first 5 months of 2014. Twenty-nine of these were MR tankers – all but one South Korean-built. Seventeen product tankers of 645,000 DWT have been demolished, of which none were MR tankers. 2014 is surely "the year of the MR".

Contributing to the filling of the vacant 2016 slots at the yards have been the 41 new product tanker orders (2.6 million DWT) signed in the first five months of 2014. During the same period last year, as many as 127 units of 8.4 million DWT were ordered; quite a cooling of the once red-hot market. There is a clear sign from freight rates that hesitate to pick up as well as a feeling that most of the upside in this segment may already have been captured by the orders placed last year at lower newbuilding prices.

Fleet growth in the crude oil tanker segment has now slowed on a year-to-date basis by -0.1%. Contributing to this on the demolition side has been the sale of five early 90s built VLCCs for demolition.

Outlook

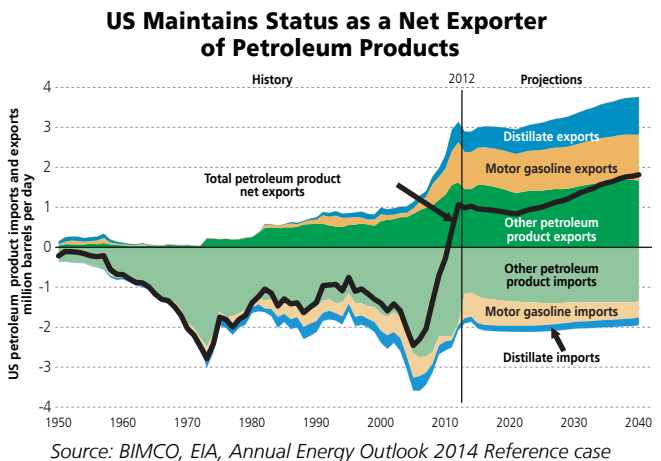
As the freight market still fails to deliver, the ordering of new MR ships has also fallen off a bit. Newbuilding prices have hardly moved in 2014, with the



A is actual. F is forecast. E is estimate which will change if new orders are placed. The supply growth for 2014-2017 contains existing orders only and is estimated under the assumptions that the scheduled deliveries fall short by 10% due to various reasons and 25% of the remaining vessels on order are delayed/postponed.

price for a South Korean-built MR currently at USD 37 million as compared to a Chinese build quoted at USD 34 million.

All eyes are on US oil production and oil product exports these days, but have the biggest changes arrived already, with only minor adjustments to follow? According to the EIA, that could very well be the case for the oil product trades. The most recent outlook to 2040 shows oil product imports will be flat and oil product exports holding the current level before increasing in 2020. The future may already have arrived.



As regards the US crude oil net import situation going forward, the gap will narrow further in the coming years, according to EIA. Moreover, EIA expects an unchanged level of imports from 2016-2040 at around 5 million barrels (mb) per day – quite a change from 2004-2007 where the US net imports of crude oil peaked at 10 mb per day.

For June/July, BIMCO expects earnings for all the three crude oil tanker segments to stay in the region of USD 10,000-20,000 per day.

In the product tanker segment, BIMCO expects earnings on benchmark routes from AG to Japan for LR1s to soften a bit, but stay around USD 7,500-14,000 per day, with LR2s earning a bit more at USD 10,000-18,000 per day. Handysize rates are set to improve from the recent bad performance to around USD 5,000-12,500 per day, with MR average rates expected to remain firm in the interval of USD 8,000-12,000 per day. ■■

More shipping market analysis on www.bimco.org

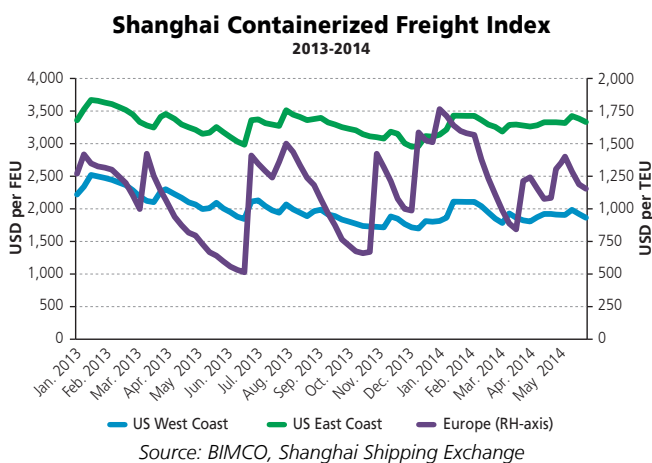
Container Shipping

High level of business adjustments ongoing as the industry intensifies the hunt for profitability

Demand

During the past eighteen months, a couple of trends seem clear in the freight market for container shipping. Primarily, the demand for imported containerised goods in Europe and US is going up, reflecting the clearly improved economic development. Secondly, the vessels become larger and larger as the quest to lower unit costs is high on the agenda everywhere. Thirdly, the major freight rate volatility is mostly on European-bound containers.

The very stable freight rate conditions on the trans-Pacific trade lane from Shanghai to the US West coast is developed on the back of firm demand. BIMCO data on inbound loaded containers for the period of January-April shows demand growth at 3.8%, as compared to 3.0% during the same period last year. Average freight rates, however, have not been able to improve; they are down by 16% from USD 2,296 per FEU in 2013 to USD 1933 per FEU in 2014.



Turning to the volatile battle-ground on the Far East to Europe trade lane, where the ultra-large containerships are fighting for turf, the growing demand (and the strict focus on the supply side) has been able to deliver higher freight rates. For the first five months of 2014, the freight rate from Shanghai to Europe has improved by 21% compared to last year, according to the Shanghai Shipping Exchange.

Demand for second-hand tonnage seems to be going slightly down from the 197 deals done last year. Eighty-four deals have been done so far in 2014 and the current appetite does not seem to be overwhelming. What is overwhelming though is the number of

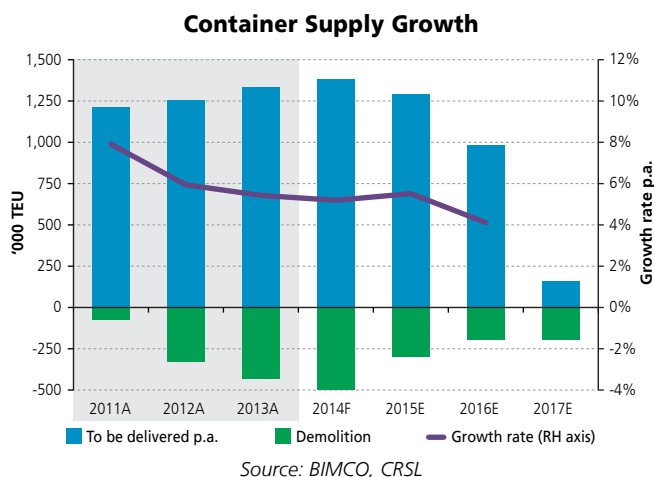
German sellers – 50 ships out of the 84 ships. While Greece tops the buyer's list with 17 ships, Norway is second, taking 14 ships. This continues the trend from 2013, where 120 ships out of the 197 sales had a German seller involved in the deal.

It remains important to recognise that the market is not completely awash with ships labelled for sale and deals are done carefully to avoid a fire-sale that could drive asset values sharply down, not just on ships for sale, but for the entire fleet.

Supply

In terms of both newbuilt deliveries and demolition of tonnage, 2014 is running quite fast. Whereas the delivery side has only been slightly faster than expected, the pace of demolition has been close to double that of the anticipated speed. Thus, BIMCO updates the outlook for volumes set for demolition during the full year of 2014 to 500,000 TEU (the previous estimate was 290,000 TEU) to reflect the challenges created by oversupply and ongoing cascading. The estimates for future years have likewise been adjusted.

A profile of the demolished ships in 2014 reveal the following: 3,013 TEU built in the middle of 1992 and demolished in India (83%). This is a very significant increase in ship size from 2013, where the



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QUICK FACTS

6 June

Total fleet size (change since 1 January)

TEU million: 17,527.18 (+2.4%)

Rate Index (change since 4 April)

CCFI: 1109.03 (+4%) • SCFI: 1088.41 (+2%)

standard ship sold for demolition had this profile: 2,241 TEU, built in early 1990, but still dismantled in India (62%).

In 2013, 14 ships above 4,000 TEU were demolished, none of them larger than 5,000 TEU. In 2014 year-to-date, 35 ships above 4,000 TEU have been demolished already, this includes seven sister ships built in 1996-1998 above 5,000 TEU. Today, just 4% of the container ships (in TEU) are 20 years of age or older; 73% of the ships (in TEU) no more than 10 years of age. This profile theoretically leaves little room for massive demolition potential, but the reality appears quite different.

BIMCO continues to expect the container shipping industry to steer itself along the lines of the “new normal”, where a demand growth of 5-6% must be matched by an equivalent supply growth. There will be no more double-digit growth figures as in the past decades. For 2014, the fleet is expected to grow by 5.2% – a low level not seen for 15 years.

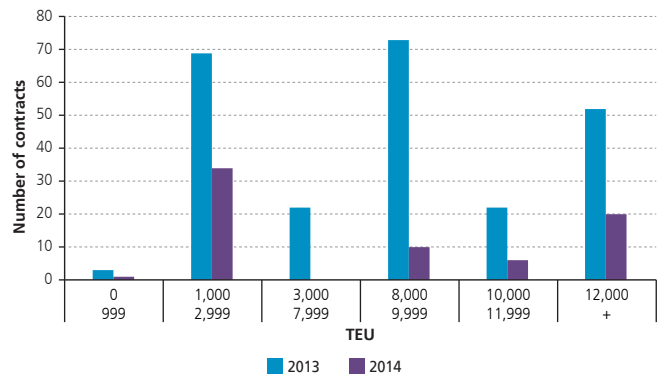
The low level of new contracts being signed at the shipyards is another indicator of a hard-hit industry that focuses fiercely on cutting unit costs, optimising networks and prepare for a slow-steaming future. Little more than 500,000 TEU has been contracted, valued at USD 4.8 billion.

No ships have been contracted within the range of 2,500-9,400 TEU in 2014. Being a window into the future, contracting activity signals an extreme focus on hub and spoke networks, as well as a flight from “mid-sized” ships, with 87% of demolished tonnage been in this size-range too.

Outlook

Going forward, the financial health of the owners and operators in the container industry will attract increasing attention. With direct consolidation being absent, the troubled industry is likely to seek new ways to improve earnings at a point where it is necessary to bring back profitability beyond the level of survival. Owners also need to invest in the future if they want to be a part of that; not just

Container Contracts



Source: BIMCO, CRSL

in ships, but also in ports, in partnerships and in optimising existing networks to fit the current – and not least future – demands of customers.

The financial health of the shipping banks also remains in focus. Many ship owners continue to find it difficult to obtain the credit and financing needed to run and grow a smooth business as margins go higher and availability seems to tighten for the non-giants and those with weaker balance sheets. Make no mistake though, it is unlikely that there will be money “missing” in the industry – it just comes at a higher price and perhaps with unfamiliar strings attached, different to what used to be industry standard.

The delay in the Panama Canal expansion is not doing the business any good either. It simply prohibits operators from deploying more efficient and cost-effective tonnage on a route that sorely needs it. As a result, the traffic via the Panama Canal to service the US East Coast has seen increased competition from the Suez Canal and the +8,000 TEU ships. Taking advantage of economies of scale by employing a larger ship and being able to fill her up has turned the once straight-forward thinking in route planning on its head. The heightening of the Bayonne Bridge in New York will be completed in 2016, further strengthening competition. ■

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Shipping confidence reaches new heights

This commentary on current shipping matters is supplied by Moore Stephens, the leading accountant and shipping industry adviser. Moore Stephens LLP is a member firm of Moore Stephens International Limited, with 667 offices of independent member firms in 105 countries.

Former US president James Madison claimed that the circulation of confidence is better than the circulation of money. On the evidence of the quarterly Moore Stephens Shipping Confidence Survey, it would seem that the circulation of both within the industry is looking increasingly healthy.

The most recent survey, covering the three months to February 2014, revealed that the average confidence level expressed by respondents in the markets in which they operate was 6.5 on a scale of 1 (low) to 10 (high), the highest figure since the 6.8 recorded when the survey was launched in May 2008.

Up on all levels

All categories of respondent to the survey reported improved levels of confidence compared to the previous survey. Confi-

dence on the part of owners was up from 6.2 to 6.6, while the rating for charterers (up from 5.7 to 6.5) was the highest in the life of the survey. The rating for managers was up from 6.1 to 6.4, while that for brokers was up to 6.4 from the previous level of 5.6. Geographically, confidence was up in Asia (from 5.9 to 6.4), in Europe (from 6.1 to 6.4), and in North America (from 6.6 to 7.1).

The likelihood of respondents making a major investment or significant development over the next twelve months was unchanged on the previous survey, on a scale of 1 to 10, at 5.8, which remains the highest figure since the rating of 6.0 recorded in August 2010. The figure for owners was slightly down on last time, from 6.0 to 5.9, as was the case with managers (from 6.1 to 6.0) and charterers (6.4 to 6.3). But the figure for brokers was up from 4.6 to 5.4.

Fifty per cent of charterers (up from 45% last time) rated the likelihood of making a new investment over the next twelve months at 7.0 out of 10.0 or higher. The numbers of owners and managers of like mind were 46% and 44% respectively, down on the corresponding figures of 48% and 51% last time. Geographically, expectation levels of major investments were unchanged in both Asia and Europe, at 5.7 and 5.8 respectively, but down in North America from 5.8 to 5.1.

Demand trends, competition and finance costs

Demand trends, competition and finance costs once again featured as the top three factors cited by respondents overall as those likely to influence performance most significantly over the coming twelve months. The overall number for demand trends was down by two percentage points to 21% while, for the third quarter in succession, competition was unchanged at 19%. Meanwhile, the number of respondents citing finance costs rose from 15% to 16%. Tonnage supply (unchanged at 13%) featured in fourth place, while operating costs (up from 9% to 11%) supplanted fuel costs (down one percentage point to 9%) in fifth place.

Demand trends remained the number one performance-affecting factor for owners, albeit down by 3 percentage points to 22%. Finance costs, up one percentage point to 18% were in second place, followed by competition at 17% which displaced tonnage supply at 16% in the top three. For managers, meanwhile, competition remained in first place, although down 3 percentage points to 19%. Operating costs, at 16%, assumed second place from demand trends and finance costs (15%), unchanged and up

Average confidence



Source: Moore Stephens, Shipping Confidence Survey March 2014

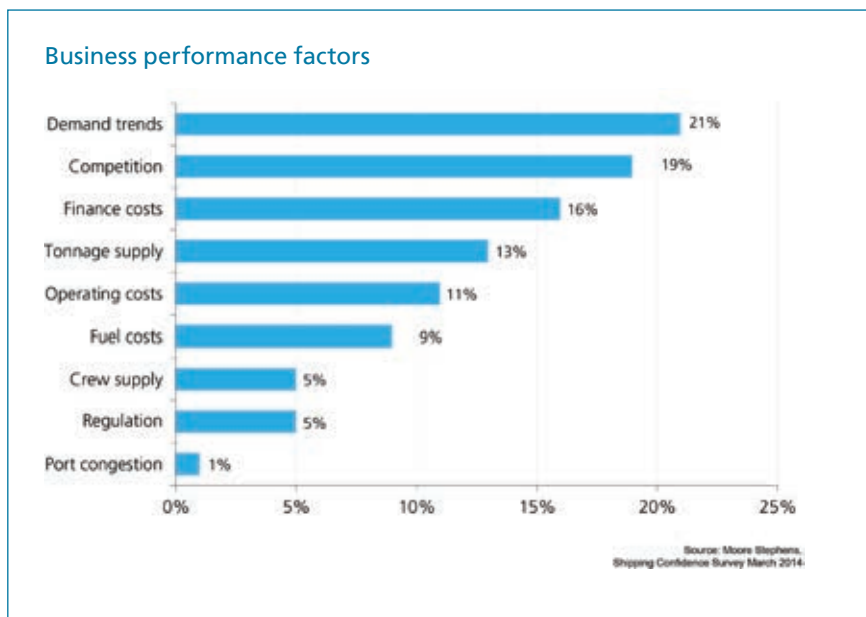
one percentage point respectively on last time. For charterers, demand trends, while down by 4 percentage points to 22%, featured in first place, ahead of tonnage supply (up from 16% to 19%) and fuel costs (18%).

Geographically, demand trends were the most significant factor for respondents in Asia (although down from 24% to 20%), Europe (unchanged at 22%) and North America (down 11 percentage points to 24%). Competition was the second most significant performance-affecting factor in Asia (up one percentage point to 20%), Europe (unchanged at 18%) and North America (down from 24% to 23%). Operating costs, finance costs and fuel costs featured in third place in Asia, Europe and North America respectively.

There was a one percentage-point increase (from 40% to 41%) in the number of respondents overall who expected finance costs to increase over the next twelve months. The number of respondents expecting finance costs to come down, meanwhile, fell by 3 percentage points to 6%, equal to the lowest figure recorded in this regard in the life of the survey. Owners were the only main category to record a fall in the numbers of respondents expecting higher finance costs (down from 41% to 38%). The figure for brokers was up from 36% to 39%, for managers from 40% to 42%, and for charterers from 28% to 35%.

The number of respondents in Asia anticipating an increase in the cost of finance fell by one percentage point to 48%, while in Europe the numbers were up from 35% to 37%. In North America, meanwhile, the numbers anticipating higher finance costs fell from 33% to 29%.

Among other things, the survey also confirmed the extent to which private equity is helping to fill the gap created by a comparative paucity of more traditional bank finance. It has been clear for some time that shipping is heading for a multi-billion-dollar funding gap, and it is that gap which private equity is now starting to fill.



Freight market expectations

Turning to the freight markets, there was an unchanged expectation of higher rates in the tanker trades, but a higher level of optimism with regard to rate increases in the dry bulk and container ship sectors.

The number of respondents overall who expressed an expectation of higher rates in the tanker sector over the next twelve months was static at 43%, which remains the highest figure since May 2011. Charterers led the way, with 50% anticipating higher rates, as opposed to 36% last time. Managers' expectations in this regard were up by 6 percentage points to 43%. Owners' expectations of higher rates were down by 10 percentage points from last time to 42%. Meanwhile, 36% of brokers (as opposed to 40% last time) thought that tanker rates were likely to go up over the coming year.

Geographically, the prospects for increased tanker rates were deemed higher this time by respondents in Europe (up from 40% to 43%). But they were lower in Asia (down from 46% to 43%) and in North America, where there was a 62 percentage-point fall to 21%.

In the dry bulk sector, meanwhile, there was a 2 percentage-point increase, to 58%, in the overall numbers of those anticipating rate increases. This is the highest figure recorded in the life of the survey to date. Charterers, up by 29 percentage points to a survey high of 76%, led the way, followed by owners, up one percentage point to 59%, another all-time high. The expectations of managers, however, suffered a 3 percentage-point fall to 57%.

Expectations of higher dry bulk rates over the next twelve months were down in Asia (from 63% to 49%) and in North America (from 64% to 47%). But they were up in Europe by 9 percentage points to 64%.

In the container ship market, meanwhile, the number of respondents expecting rates to increase over the coming twelve months was up by 4 percentage points to 34%. Charterers, up from 30% to 50%, led the way in this regard. Owners' expectations were also up, by 4 percentage points on last time to 34%, while optimism in this regard on the part of brokers rose from 29% to 36%, and that of managers from 30% to 33%. Geographically, expectations of improved container ship rates were up by 2 percentage points in Asia to 38%, and by 4 percentage points in Europe to 31%. But they were down in North America, from 44% to 27%.

Six years is a long time in shipping. Indeed, based on empirical evidence, it is long enough to qualify as a cycle in what is an historically cyclical industry. It is perhaps too soon to say that we have reached the end of the most recent downward cycle, but it seems that the worst may be over. The outlook in all the major freight markets is brighter than at any time in recent memory, and some of the volatility has been taken out of the global economic and political crises which have characterised the passage of the past few years. That is good for trade and good for shipping, although recent events in Ukraine demonstrate the extent to which exogenous factors can impact on the shipping industry. ■■

Ongoing Chinese shipping issues

Ongoing report on Hong Kong's ECA plan

Back in 2012, Hong Kong initiated a unilateral plan to set up an Emission Control Area (ECA) in the region of the Chinese Pearl River Delta. This long-awaited ECA would be the first in Asia and the third in the world. Since it is designed to cover the whole Pearl River Delta rather than just Hong Kong itself, logically, the local government has to co-ordinate this complex scheme with their Beijing peers. However, it has not materialised yet despite the Hong Kong Governors' efforts to lobby central government to press the green button.

On 16 January 2013, in his maiden policy address the Chief Executive of Hong Kong, CY Leung, pledged to introduce "green transport" in the city by introducing a number of environmental protection measures. Leung stressed the importance of improving air quality through both roadside and ocean shipping. "The emissions of berthed ocean-going vessels accounted for about 40% of their total emissions within Hong Kong waters," Leung warned. He further stated that Hong Kong was "stepping up our efforts with the Guangdong Provincial Government in exploring the feasibility of requiring ocean-going vessels to switch to low-sulphur diesel while berthing in Pearl River Delta ports."

Although Leung's green shipping policy was welcomed by some neighbouring stakeholders, little progress was achieved from Beijing. Some sources suggest that there are three challenges hampering the setting up of this regional ECA. Firstly, the issue is whether bunker suppliers are able to and would like to supply low-sulphur bunkers.

The second issue is regarding ship owners' attitude towards the green bunker move. Thirdly, an evaluation of the impact of the

ECA on competitiveness of ports within the Pearl River Delta is required.

Regarding the first issue, oil imports and crude refining within the PRC are controlled by three major state-owned oil companies, i.e. Petro China, Sinopec and CNOOC and marine bunker supply is dominated, if not monopolised by CHIMBUSCO, a joint venture owned by Petro China and COSCO. It seems that more time is needed for these bunker suppliers to switch to low-sulphur supply.

With respect to the ship owner's attitude, it seems that owners, especially owners of mainland coastal vessels, may be reluctant to accept the fuel cost increase which would result from the establishing of the ECA. According to estimates made by the Hong Kong environmental department, fuel costs would rise by HKD 0.93 HK per litre if vessels use bunkers containing 0.005% sulphur instead of burning bunkers containing 0.5% sulphur.

Regarding the cost increase, the Hong Kong environmental department has argued that costs will decrease with the increased use of low-sulphur bunkers through economies of scale, and the FOB Singapore price difference between the two bunkers was only HKD 0.02 per litre. However, due to the oil industry being tightly controlled by Chinese state-owned companies, mainland vessel owners can hardly enjoy the economies of scale brought about by importing cheaper Singaporean product. Thus, within a short time, it can be expected that mainland owners might not be willing to pay the green bill.

Thirdly, the fuel cost rise may put ports within the Pearl River Delta at a disadvantage and may also damage the competitiveness of corporations using these

ports. Industries may be tempted to move to places outside the ECA and thus damage local employment.

Despite the obstacles in its path, on 16 January 2014 the Hong Kong Government vowed to mandate oceangoing vessels' switch to low-sulphur fuel when berthing at Hong Kong from 2015 (inspired by IMO's procedure for ECA) and Hong Kong became the first Asian port to take such an initiative. However, this initiative will bear little fruit if the mainland does not take steps at the same time.

Indonesian ban impacts Chinese nickel ore and bauxite imports

Indonesia's ban on the export of unprocessed minerals has been in force for more than four months, which has significantly cut off the flow of nickel ore and bauxite to China.

The impact on the nickel price has already been vast. On the London Metal Exchange (LME), three-month metal has staged a spectacular rally up and through the USD 20,000 per tonne level. Some of the short-term speculative froth has since blown off, but at a current rate of USD 19,750, the price is still up more than 40% on the start of the year. The bullish betting is that it is only a matter of time before Chinese nickel pig-iron (NPI) capacity starts closing, lifting the country's requirement for higher imports of refined metal.

The effect on the aluminium market has been more muted, so far at least, although the bullish implications were neatly summed up as "Indonesia bauxite ban set to boost aluminium". Nevertheless, it is evident that Chinese importers are attempting to tap alternative sources of supply.

Ferro nickel impact

In terms of import changes down the nickel



value-add chain, the real impact of the Indonesian ban has so far been on ferro nickel rather than refined metal. China's ferro nickel imports more than doubled to 105,000 tonnes in January-April. In terms of country of origin, the stand-out was New Caledonia, imports jumping to 19,400 tonnes from 3,400 tonnes in the same period last year. This may of course partly reflect improved supply, given the start-up of Glencore's Koniombo project. Sharp increases in imports from Japan and Brazil have also taken place, while Chinese importers appear to have tapped a new source in the form of Myanmar. Imports of ferro nickel from that country were 5,172 tonnes in April, bringing the year-to-date total to 6,269 tonnes.

There has not yet been any noticeable change of trend in China's demand for refined metal. Indeed, imports dropped 14% over the first four months of this year and, factoring in a continued strong export flow, net imports fell by a sharper 35% to 34,600 tonnes. This pattern is to be expected, since it makes more sense for China's stainless mills to source lower-value ferro nickel replacement units for lost ore. That said, nickel's bull story will gain more traction when refined metal import patterns start changing.

Bauxite: the search is on

China's imports of Indonesian bauxite were precisely zero in April, leading to a 29% drop in total imports to 14.5 million tonnes over January-April. Imports from the two most obvious replacement sources, Australia and India, have yet to react. Those from Australia were pretty much unchanged in the first four months of the year, while those from India fell sharply to 335,000 tonnes from 2.3 million tonnes last year. But it is clear that Chinese importers are looking elsewhere as well for alternative supplies, particularly West Africa and the Caribbean.

New names on this year's roster of origin countries include Ghana, complementing Guinea, which first appeared as a significant source of bauxite supply last year, and the Dominican Republic. This greater geographical diversity of sourcing is already starting to affect bauxite prices. Analysts at AZ China, for example, note that the imported bauxite price jumped over 10% month-on-month in March due to higher freight costs, a trend worth watching in terms of flow-through to aluminium costs.

Alumina impact

As with nickel, however, the real impact of the Indonesian ban is evident in another intermediate product, alumina in this case, rather than on refined metal imports. Alumina imports rose by 53% to 2.1 million tonnes in January-April. Australia accounted for 1.6 million tonnes of that total, with imports rising by 17%. As with bauxite, however, the really interesting development is the diversification of supplier.

Imports from Vietnam, for example, were 144,000 tonnes in the first four months of this year, already exceeding total imports last year. China also received its first shipments from Jamaica since April 2012, while imports from India, an existing supplier, have exploded from 64,000 tonnes last year to 182,000 tonnes so far this year.

It's true that net imports of primary aluminium have risen strongly this year relative to last, but at 154,000 tonnes, they are miniscule relative to the size of the Chinese market and far from extraordinary by historical standards. This year's tally, for example, is less than that in the same period of 2012. The overall impression is that the Indonesian ban is going to be a slow burn in the aluminium market, mitigated by the existence of alternative supplies of bauxite and alumina.

The bullish impetus will come from rising production costs, another headwind for the Chinese smelter sector, large parts of which are already loss-making.

SSEFC move forward with freight derivatives

Shanghai Shipping Freight Exchange (SSEFC), China's first freight derivatives exchange, is looking to expand the range of country-specific commodity products by launching a dry bulk commodity forward freight contract this June.

SSEFC was set up in 2013 under the auspices of the Shanghai Shipping Exchange and the June product launch will become China's first dry bulk commodity freight derivative. The contract will provide an alternative way for global market participants to hedge their freight exposure to the China-related shipping routes.

So far, SSEFC has developed three freight derivatives products. The first is a physically settled coal forward freight contract (specifically for coal rather than the general dry bulk product that is due to be launched) designed for the domestic shipping line between Qinhuangdao and Shanghai. There are also two cash-settled products: an international container forward freight contract settled against the Shanghai Containerized Freight Index (SCFI) and a coal contract settled against the China Coastal Bulk (Coal) Freight Index (CBCFI). (WZ) ■

Editor's Note: This report has been produced in co-operation with Reuters and Hellenic Shipping



BIMCO

Industry and governments addressing safety and security

The first half of the year concluded with a joint industry-government initiative reaching its conclusion whilst regional ship owners continued to grapple with ongoing challenges.

Pamphlet launched to raise awareness amongst Straits users

On 20 May, a pamphlet entitled *Safe Passage: The Straits of Singapore and Malacca* was officially launched in connection with the International Maritime Organization's (IMO) Maritime Safety Committee in London.

The pamphlet is the result of an initiative pursued within the Co-operative Mechanism (CM), a framework established in 2007 in which the littoral states of Indonesia, Malaysia and Singapore and users of the Straits of Malacca and Singapore pool their respective resources and expertise in an effort to enhance navigational safety and protection of the marine environment.

The Safe Passage pamphlet was first proposed by BIMCO in 2012 as a means to raise awareness amongst users of the Straits regarding unique navigational considerations and the importance of adhering to International the Regulations for Preventing Collisions at Sea (COLREGs). Subsequently, work was conducted within a correspondence group co-chaired by the Maritime and Port Authority of Singapore and BIMCO, leading up to the approval of the pamphlet's content in October 2013.

Topics covered within the pamphlet include references to collision prevention measures such as COLREGs, night signals for crossing traffic, local rules for ships transiting the Straits, considerations to bear in mind with regard to anchoring

and climactic effects on navigation such as haze conditions and heavy rain. In order to ensure wide dissemination amongst seafarers, the pamphlet will be available free of charge as a PDF download from the Co-operative Mechanism website and BIMCO's website.

Since its inception in 2007, the CM has coordinated many projects focused on maintenance of navigational aids, improving navigational safety via the removal of shipwrecks, and similar activities. Beginning in 2010, the shipping organizations BIMCO, INTERTANKO and ICS proposed industry-led projects such as the establishment of a directory of port reception facilities available to ships transiting the Straits and an analysis of maritime incidents as a means to identify causes behind such events. With the completion of the earlier projects, the Safe Passage pamphlet represents the third industry-led initiative aimed at supporting the goals of the CM.

The Co-operative Mechanism on Safety of Navigation and Environmental Protection in the Straits of Malacca and Singapore was officially launched during the Singapore-IMO Meeting in September 2007 in Singapore. The launch was a culmination of a series of three meetings organised under the IMO's "Protection of Vital Shipping Lanes" initiative. The meetings recognised the strategic importance of the Straits for regional and global seaborne trade and economy, and the need to ensure that they remain safe and open to shipping at all times.

The establishment of the CM represented a historic breakthrough and landmark achievement in co-operation between States bordering a strait used for international navigation and user States, as well as other interested stakeholders, under Article 43 of United Nations Convention on the Law of the Sea (UNCLOS). The CM re-affirms that sovereignty and primary responsibility over navigational safety and environmental protection in the Straits lies with the littoral States. It also recognises the interests of user States and stakeholders and the role they could play in respect of the Straits, and that such co-operation should be on a voluntary basis.

Asia Shipowners Forum – Places of Refuge and BWM high on agenda

BIMCO joined Round Table associations and other stakeholders at the 23rd Annual meeting of the Asian Shipowners' Forum held in Otsu, Japan on 20 May 2014 where the issues of places of refuge and ballast water management were amongst the top concerns of the gathered delegations.

Ballast Water Management (BWM) Convention

Thirty nine States representing 30.25% (4.75% short of the tonnage threshold) of world shipping tonnage had ratified the Ballast Water Management Convention but unfortunately not all the available ballast water treatment systems approved by IMO consistently reach a level that meets the D2 discharge performance standard. The ASF is therefore wary that ship own-



Image by Craig Mayhew and Robert Simmon, NASA GSFC

ers may be at risk of having to replace fitted equipment if the systems are subsequently found to be unsuitable. To this end, the ASF strongly supports the proposed review of the approval and performance standards at the IMO.

While maintaining that the IMO is the rightful forum to develop international regulations and strongly discouraging countries or regions from taking unilateral actions, the ASF is extremely concerned about the very severe insurance implications that could arise due to the different BWM legislation being enforced in the United States under the US Environmental Protection Agency (EPA) and the United States Coast Guard (USCG). For this reason, the ASF is pleased to hear of Senate Bill S.2094, which would bring conflicting regulations into one national standard.

Places of Refuge

The ASF thanked the Government and the local authorities of the Republic of Korea for their assistance in granting a place of refuge for *Maritime Maisie*, the chemical tanker severely damaged by collision and fire.

The ASF recognises that this was not an easy decision, and for this reason, urges all Governments, including those in Asia:

- To consider adopting the IMO Place of Refuge Guidelines and IMO Maritime Assistance Services (MAS) Guidelines as a matter of urgency;
- To consider adopting similar measures to those prescribed in the EU Vessel Traffic Monitoring Directive;
- To work with their respective ship owners associations, Recognised Organisations and other stakeholders to develop practical and implementable emergency plans for ships seeking to enter

the places of refuge, and to designate appropriate places of refuge even if the names of these places are not published;

- To consider introducing channels of improved cooperation and communication between States, as well as with competent authorities and the parties involved in an incident, in order to facilitate decision making, and;
- To ratify and bring into force as soon as possible the liability and compensation Conventions agreed at the IMO.

Piracy and armed robbery against ships

The ASF expressed serious concern over the increasing number of attacks on ships in the Gulf of Guinea. In this regard, the ASF urges governments to support IMO Resolution A.1069 (28) which addresses this problem.

The ASF also noted that the number of pirate attacks off the coast of Somalia has decreased as a result of joint efforts by the industry and international bodies. Nevertheless, the ASF urged ship owners to remain vigilant and sustain their efforts in safeguarding the safety and well-being of the seafarers and ships.

The ASF strongly urges the wider dissemination of the Interim Guidelines on measures relating to the welfare of seafarers and their families affected by piracy off the coast of Somalia that have been developed by Working Group 3 of the Contact Group for Piracy off the Coast of Somalia (CGPCS WG3).

Canal tolls

The Shipping Economics Review Committee (SERC) expressed its grave concern over the Suez Canal's continuing unilateral and hasty increases in tolls and surcharges, the latest of which was implemented on 1 May

2014, and the possibility of a further Panama Canal toll increase through the use of new toll structures to be applied from around January 2016. Mr. Yasumi Kudo, Chairman of the SERC, said, "The Canal Authorities, as competent and responsible administrators of public infrastructure of global trade, should seriously listen to the voices of canal users and governments of interested countries in order to ensure the stability, transparency, and predictability of toll pricing policies."

Ship recycling

While welcoming a balanced text of the EU Ship Recycling regulation, Dr. Frank F. H. Lu, Chairman of Ship Recycling Committee (SRC), emphasised that "Any regulation should not be developed as alternative standardisation which undermines the Hong Kong Convention, in order to ensure sufficient capacity of safe and environment-friendly ship recycling yards in several countries."

ASF Chairmanship

Mr. Youn-Jae Lee, Chairman of Korea Shipowners' Association, has been elected as the Chairman of the 24th ASF. Mr. Ma Zehua, Chairman of China Shipowners' Association, has been elected as the Vice-Chairman of the 24th ASF. Their terms of office begin from 21 May 2014 until the next ASF Annual General Meeting to be held in Korea.

ASF Secretary General Mr. Yuichi Sonoda will complete his term of office on 30 June 2014. Mr. Kwang-Ho Shin has been appointed as the next ASF Secretary General and his term of office will begin from 1 July 2014. (TT) ■■

Ongoing EU shipping issues



The recent elections to the European Parliament have resulted in a more EU-sceptical European Parliament. (Photo: European Parliament)

A time of change in Brussels

The recent elections to the European Parliament have resulted in a more EU-sceptical European Parliament. The European Council (the government) has been impacted by this, as some of the main political parties in the EU suffered huge electoral defeats. This will probably impact the policy development in the coming years, including the working programme for the new Commission that will be appointed this Autumn.

How this is going to affect shipping is difficult to say, but it will certainly slow down everything for the rest of the year and could have a more general impact on the regulatory pace in the EU, where many politicians will be looking for a leaner and more focused EU.

EU MRV legislation proposal – latest developments

At its Plenary session that took place on 16 April, the European Parliament (EP) adopted its position report on the EU Commission legislative proposal for a CO₂ shipping emissions monitoring, reporting and verification (MRV) Regulation.

The EP ultimately rejected both the extension of the scope of the regulation to ships above 400 GT and the inclusion of NO_x emissions, thus aligning its position with the Commission's proposal of solely monitoring CO₂ emissions from ships of 5,000 GT or above. Debated elements such as cargo carried and transport work, as well as the publication of those data, are also out of the EP proposal. BIMCO welcomes this development in the EP.

While maintaining the possibility of the establishment of a potential EU MRV system, the resultant vote in the EP plenary also eases the way towards a global solution on CO₂ emissions from shipping. As far as the expected developments are concerned, once the Council adopts its own position on the Commission proposal, negotiations between the Council and the new Parliament can commence, probably in Autumn 2014. This will buy the International Maritime Organization (IMO) some time to further develop a global data collection system for fuel consumption on ships, on which promising developments took place during the last IMO MEPC meeting earlier this month.

ESSF – latest developments

The European Sustainable Shipping Forum (ESSF) was established last September with the aim of assessing the compliance requirement of the MARPOL Annex VI 0.1% sulphur content in marine fuel (as translated into EU Law through the Sulphur Directive), which is due to enter into force as from 1 January 2015 in the Sulphur Emission Control Areas (SECAs).

The Forum is chaired by the Commission and operates with a Plenary session and six non-permanent Technical Subgroups on (i) the use of scrubbing technology, (ii) the use of marine LNG as alternative fuel, (iii) research and innovation, (iv) the evaluation of available financing opportunities, (v) the implementation of the Sulphur Directive, and (vi) the competitiveness subgroup.

The first two rounds of meetings of the technical subgroups have already been completed. The next ESSF Plenary session that will take place on 26 June 2014 will provide clarification on the Commission and member states' intentions. The Euro-



pean shipping industry is deeply involved in this process. BIMCO e.g. participates in the group focusing on the use of scrubbers.

Clean air package – new policy package to clean up Europe’s air

On 18 December 2013, the European Commission announced a package of measures, “The Clean Air Policy Package”, which aims at updating existing legislation and further reducing harmful emissions from industry, traffic, energy plants and agriculture, with a view to reducing their impact on human health and the environment. The package adopted has a number of components, including the revision of the National Emission Ceilings Directive (NECD), with stricter national emission ceilings for the six main pollutants.

Through the revision of the NECD, the Commission is attempting to incentivize reduction of NO_x and SO₂ emissions as well as the emission of particulate matters (PM_{2.5}) from shipping. The Directive had hitherto established a national ceiling for emissions at national level. Under the revised Directive, member states will be allowed to partly offset (20%) – from land-based sources emissions – the emission reductions achieved by international maritime traffic that occur in the member states’ territorial seas, exclusive economic zones or in pollution control zones. European ship owners are elaborating a position paper on the NECD revision in view of the forthcoming EU legislative procedure.

Deployment of alternative fuels directive

The European Commission adopted a proposal on 21 January 2013 on the deployment of alternative fuels infrastructure aiming at encouraging the widespread commercial uptake of alternative fuels and ensuring the putting in place of alternative fuel

infrastructure and the implementation of common technical specifications for this infrastructure in the EU.

The trilogue process between Commission, European Parliament and Council has ended and a compromise agreement was reached on the 2025 deadline for a sufficient number of LNG refuelling points. This, unfortunately, means that the deadline for alternative fuels infrastructure will not coincide with the 2020 IMO global limit of 0.5% sulphur content in marine bunker fuels. The agreement was adopted by the EP Plenary on 15 April. A core network of LNG refuelling points at maritime and inland ports should be available at least by the end of 2025 and 2030 respectively. LNG refuelling points include, *inter alia*, LNG terminals, tanks, mobile containers, bunker vessels and barges.

EU ports policy – latest developments

MEP Knut Fleckenstein, the rapporteur on

the European Commission’s proposal for a Regulation on Market access to port services and financial transparency of ports, announced on 13 March that the legislative procedure for this particular file will be suspended. At the 2014 ESPO Conference, which took place 15-16 May in Gothenburg, Mr. Fleckenstein confirmed that he wants to keep pilotage out of port services regulation.

Whether or not the legislative procedure is re-launched will depend on the new European Parliament, which follows on from the European elections in May. (MLU) ■■

Editor’s Note: This report has been produced in co-operation with the European Community Shipowners’ Associations (ECSA).



Reducing marine sulphur emissions. A modern scrubber system. (Photo: Wärtsilä Corporation)

Ongoing US shipping issues

US Ballast Water Rules and extensions

The very uncertain situation regarding US Ballast rules unfortunately continues to prevail, as the US Coast Guard (USCG) and the US Environmental Protection Agency (EPA) appear not to have found a way forward on the extension issue.

The short version of the extension issue is that the USCG is approving extensions that US EPA does not fully accept. The situation appears to reflect the current legal situation, where US EPA is unlikely to be able to move further.

The USCG extensions are important as they create the necessary flexibility for owners

now that US type-approved equipment is not yet available (the standard being stricter than the International Maritime Organization (IMO) standard). But the EPA has stated that while it will take a USCG extension into account, it will not be legally bound by it.

This means that a ship which is compliant with the USCG rules would not be compliant with the EPA rules. This is a highly unsatisfactory situation for ship owners and is creating a range of concerns.

These concerns includes the risk for citizen suits, the EPA can change the rules anytime and the definitions used are very unclear.

Actually, the only real fix of the problem is probably an initiative by the US Congress to align the two set of regulations that are currently existing in the US on ballast water as the bill S 2094 in US Congress (see details of the proposal in BIMCO Bulletin 2/2014). Unfortunately, not much is happening on S 2094 in the US Congress.

The shipping coalition makes regular visits to the Hill and discusses with staff and in some cases Senators, but it is not really moving. Hopefully it will start to move and the shipping coalition will keep up their efforts, but getting this out of the committee and to the floor for a vote will require some juggling of other issues pending before the Senate, which probably have much more political impact than the ballast water issue.

Another critical element in the US implementation is the test of the ballast water systems to get approved systems on the market. The ballast water system testing is still ongoing and is expected to be finalised in 2015.

The US situation is very special, and to assist members in preparing themselves for the US situation, on 28 May 2014 BIMCO hosted a ballast water webinar for members. The webinar highlighted the main elements of the on-going implementation of the US ballast water rules as well as provided last-minute updates and status of the situation in the US. Presentation and Q&A was given by President Jon Stewart from International Maritime Technology Consultants Inc. A recording of the webinar is available on the BIMCO website. Go to "Members Webdialog" and look for "previous webinars".

PREP Guidelines

Proposed Revisions to the National Preparedness and Response Exercise Program (PREP) Guidelines



PREP: Members of the Coast Guard Cutter Healy use an oil skimming system during a simulated oil spill response exercise in the Arctic Ocean. (Photo: Coast Guard Alaska)



Four Federal Agencies (Bureau of Safety and Environmental Enforcement (BSEE), USCG, EPA and Pipeline and Hazardous Materials Safety Administration) are involved in the National Preparedness and Response Exercise Program. This programme includes responses to oil spills from ships and the like.

The agencies recently released proposed changes to the PREP guidelines. The US Chamber of Shipping (CSA) was asked to review the docket. In review, they were surprised at the lack of comments and submitted a comment noting the docket had been originally published by the USCG two years ago and the current docket is published by BSEE. It turns out the agency did not place a number of comments into the docket until the last day for comments.

CSA noted that the number of comments was much lower than the hundreds commenting on the initial iteration. After discussion with other organisations and noting the degree of concern contained in the comments to the docket from companies, it is clear there is concern among various sections of the maritime industry that some of the proposed changes are unwieldy and unworkable at best and represent an unjustified expenditure of resources with little benefit regarding spill response readiness.

CSA discussed their concerns with other maritime interests such as responders and salvors among others. CSA contacted BSEE asking that they should schedule a public meeting so there would be an opportunity for open dialogue. This suggestion was not received favourably as there are four government agencies involved and the co-ordination among them precluded a reasonable timing of a meeting.

After discussion, a number of organisations have agreed to hold a public meeting to which the government agencies will be invited. The public meeting will involve a number of interested maritime industry parties and a transcript of the meeting will be made available to the government agencies concerned. The meeting is scheduled for 19 June 2014 in Washington. The short time-frame is dictated by the uncertain timeline in which the federal agencies will finalise the changes to the PREP guidelines.

Occupational Safety and Health Regulations Petition for USCG Rulemaking on Occupational Safety and Health Regulations by the National Mariners Association

On 8 May 2014, the USCG published a Notice in the Federal Register requesting comments on a petition for rulemaking. A copy of the docket, including the Federal Register request for comments and the lengthy petition, can be accessed at www.regulations.gov and entering the docket number *USCG-2014-0014* in the search box.

In brief, the USCG received the petition last November from the National Mariners Association (NMA). In reviewing the NMA website, it can be seen that they are an organisation of “limited tonnage” Masters. Their mission is to promote the safety and health of mariners. Their petition is 360 pages.

After a cursory review it seems to contain information referring not only to the specifics regarding safety and health but also the complicated matter of federal jurisdiction over personnel and workplaces. Without going into details, we recognise the Occupational Safety and Health Administration

has responsibility under the Occupational Safety and Health Act for **all** (our emphasis) US workplaces. Under the OSH Act, OSHA may cede authority to another government agency that is asserting authority to cover safety and health although OSHA retains the formal obligation. OSHA and USCG have a Memorandum of Understanding wherein OSHA recognises USCG activity regarding inspected vessels.

While the petition on the surface speaks to “limited tonnage”, any petition regarding the authority of USCG over safety and health has a good chance of involving inspected vessels. It is uncertain at this time what, if any, impact this initiative may have on non-US flag vessels with non-US crews in US waters or on US positions taken in international fora e.g. IMO and ILO.

Further complications are the recent USCG determinations regarding the gap analysis between US law and practice and the requirements of the ILO Maritime Labour Convention (MLC). The “voluntary” MLC certificates currently on board US flag ships on international voyages are predicated in large part on the USCG’s review of what US law covers and what it does not, including the safety and health sections of the ILO MLC.

We will provide updates on this initiative as new information becomes available, including the consequences for international shipping. (MLU) ■■

Editor’s Note: This report has been produced in co-operation with the Chamber of Shipping of America (CSA).

Certainty in an uncertain world – BIMCO War Risk and Piracy Clauses

In an uncertain world, war and piracy are ever-present risks in maritime trade. Without adequate contractual protection, a ship owner or operator may be exposed to unexpected costs or face danger in fulfilment of charter party obligations.

War clauses have been available for many years. However, over time, the concept of war has changed and events now often escalate without any identifiable beginning or tensions may erupt through factional fighting or localised actions.

At the same time, the international community today is much more likely to co-operate through the United Nations and other organisations to try to ease a situation with possible implications for trading and navigation.

In recognition of the need for up to date provisions BIMCO has recently updated its specialist war and piracy clauses. The provisions set out the allocation of respective party rights, responsibilities and liabilities in response to threatened or actual hostilities or attack by pirates with separate clauses for time and voyage charters.

Scope of BIMCO provisions

The new clauses cover the practical, regulatory and legal issues of war and piracy. In broad terms, the CONWARTIME Clause for time charter parties sets out a comprehensive list of events including war, civil war, terrorism and blockade, falling within the definition of “War Risks” and provides that, under certain circumstances, an Owner may refuse to navigate in an area exposed to such risks. If, however, the vessel proceeds, the clause sets out charterers’ obligations to reimburse owners for certain additional costs while owners have liberty to comply with any national or supranational legislative requirements, may discharge cargo other than at the contractual

destination when carriage might expose the vessel to detention or disembark crew who might be interned or imprisoned.

The parallel VOYWAR Clause addresses the position under a voyage charter where an owner may under some circumstances cancel the contract or refuse to load or continue to or through an area subject to risk. However, if the vessel proceeds, charterers will be liable for any additional insurance premium imposed by the owners’ insurers. If an alternative longer route is taken to avoid danger, charterers will be liable for pro rata additional freight.

Piracy is a defined risk included in the two war clauses. However, a specialist set of three Piracy clauses offers a comprehensive regime specific to the risks. The starting point in the time charter provision is that owners may refuse to go to an area of danger although, as we shall see later, the threat must be real and significant. However, where a vessel under a time charter proceeds to or through an area of danger, the owners may take a range of preventative measures including re-routing, proceeding in convoy, engaging security personnel and deploying on-board equipment designed to repel attacks with the costs recoverable from the charterers. Charterers are also responsible for owners’ additional insurance costs. In the event of seizure, the vessel remains on-hire throughout the period of detention but charterers’ obligation to pay hire ceases from the 91st day and does not resume until release.

A clause for consecutive voyages/contracts of affreightment covers long term agree-

ments. If the risk of attack is deemed too high, owners may take an alternative route with an in-built formula for adjusting extra freight. If, nevertheless, the vessel proceeds on the customary route, charterers pay half the costs of preventative measures to secure the vessel together with half the costs of additional insurance cover. If the vessel is seized, the cost is shared with charterers paying the equivalent of half demurrage for the time lost.

Unlike the other two Piracy Clauses, which apply whether a risk existed at the time of entering the contract or thereafter, the voyage charter version is predicated on party awareness of the existence of any risk at the time of fixing (and probably reflected in the freight rate). The clause therefore provides that an alternative route or preventative measures can be taken where the danger occurs or increases after fixing but owners will be responsible for all resulting additional costs.

Clauses updated

As with all BIMCO standard clauses, the content is monitored to ensure that account is taken of changes in market practices and decisions in the courts. Following a recent review the war clauses, last reviewed in 2004, and piracy provisions issued in 2009, have been updated and reissued as 2013 versions of CONWARTIME, VOYWAR and the three Piracy Clauses.

A significant change follows the decision in *The Triton Lark* (2012) (1 Lloyd’s Rep 457) where the court questioned the meaning of “may be” and “likely to be” for determining

the existence of risk of attack by pirates and when owners have the right to refuse to proceed. The case related to piracy under the CONWARTIME Clause but the same test was also applied in the 2009 Piracy provisions.

In order to remove any uncertainty about the applicable criteria, the test in both the war and piracy provisions has been amended and is now based on whether an area is dangerous. The level of danger will necessarily be high and the mere existence of a threat is unlikely to justify a refusal to go to a particular area. However, a stated criterion obviates the requirement for complex analysis of the degree of risk and likelihood of occurrence.

The *Paiwan Wisdom*

A change to CONWARTIME brings the mechanism triggering the provision into line with the Piracy Clause. It had previously been understood that CONWARTIME took effect only where an identified risk arose after the charter had been concluded and had not therefore been contemplated by the parties. However, the High Court took a different view and in the recent case of *The Paiwan Wisdom (2012) (2 Lloyd's Rep 416)* held that this was not, in fact, the position. In order to remove any doubt, the revised clause has been brought into line with the piracy provision to apply whether the risk existed at the time of entering into the charter party or occurred subsequently.

High profile events over recent years have tended to focus on piracy in the Gulf of Aden and Indian Ocean. It is, of course, a much wider problem and often takes the form of attacks within territorial waters which, while not technically piracy under international law, are treated as such for insurance purposes. The definition of piracy in the War Risk Clauses has therefore been expanded to include "violent robbery and/or capture/seizure", thus bringing it into line with the term used in the Piracy Clauses.



Troops from the EU Naval Force warship FS Aconit intercepting suspected pirates off Somalia.

Insurance issues

Arrangements for insurance have been stated more clearly. Under CONWARTIME, charterers are liable for any additional premium (beyond owners' ordinary war risk insurance cover) when a vessel is navigating in an area of enhanced risk and are also responsible for the cost of any additional insurances reasonably required by owners. This might include War Loss of Hire and/or maritime Kidnap & Ransom (K&R) cover when the clause is used in relation to piracy risks.

The clauses previously included a liberty for owners to comply with war risk underwriters' "orders, directions or recommendations". This was not strictly correct as insurers have no authority to give orders or instructions about routing or navigation. Insurers might, however, require an assured to comply with reporting arrangements such as UKMTO or follow "Best Management Practice". In order to reflect the position more accurately, the provisions have been revised to give owners liberty to comply with requirements "under the terms of the Vessel's insurance(s)."

Seizure, refurbishment and hire

As noted elsewhere, under the Piracy Time Charter Clause, hire ceases to be payable on the 91st day of detention by pirates. This has attracted some controversy but the rationale is that it represents a balance between party interests and that each can insure against any resulting losses. The principle therefore remains unchanged. Nevertheless, as already explained, as part of the

allocation of party risk, owners can recover from charterers the cost of any additional insurances they require and this expressly includes War Loss of Hire. Moreover, the 90 day period is an illustrative figure and can be negotiated according to specific party needs and contractual requirements.

A vessel on release from detention is likely to require repairs to make good damage and deterioration during the period of seizure. This was not previously covered and any time for refurbishment could be expected to be an off-hire event. The updated Piracy Time Charter Party Clause now addresses the situation through the inclusion of an express provision holding charterers liable for hire or, if after redelivery, the equivalent of charter party hire for time lost for repairs.

Availability of Clauses

A number of other amendments and improvements have been made. Full details are set out in Special Circulars ("Revised Piracy Clauses" and "Revised War Risk Clauses") which can be downloaded from the Chartering section of the BIMCO website (www.bimco.org).

It is hoped that the revised clauses, with their added certainty about previously arguable issues and greater clarity in terms of requirements and parties' respective obligations, will quickly be taken up by market users. In the meantime, BIMCO will continue to monitor market needs so that the implications of change can be taken into account in any future review. (GH) ■■

Electronic Bills of Lading Clause for Charter Parties

For many years, BIMCO has fully supported the concept of electronic bills of lading as a means of providing a more efficient and secure method of dealing with bills of lading, waybills and delivery orders.

As of 2010, liabilities arising in respect of carriage of cargo under electronic (paperless) systems are now covered by P&I Clubs provided that the system had been approved by the International Group of P&I Clubs (IG). Systems administered by Bolero International Ltd (Bolero) and Electronic Shipping Solutions (essDOCS) are two such systems currently approved by the IG.

Increasing use of electronic documentation, particularly in the dry cargo sector where it is actively promoted by a number of major charterers, has resulted in a growing user demand from owners and charterers alike for BIMCO to develop a specialist provision. In response to this demand, BIMCO brought together a group of charterers and owners to develop a new clause for charter parties that specifically addresses the use of electronic bills of lading (paperless trading) systems.

Bills of lading produced in electronic format are designed to replicate the purposes and processes (such as endorsements or reservations) of their paper equivalent so as to offer “functional equivalence”. Electronic bills can, if required by parties in the trading chain, be replaced by paper bills of lading at any point. In practical terms, while electronic bill of lading systems do not entirely eliminate the problem of cargoes arriving at discharge ports before bills of lading, their use should result in a significant reduction in the number, and associated risks, of LOIs voluntarily issued by owners.

BIMCO is grateful to the valuable contribution and co-operation of owners and charterers and other industry representatives who assisted in the development of the Elec-



Systems administered by Bolero International Ltd. (Bolero) and Electronic Shipping Solutions (essDOCS) are currently approved by the IG.

tronic Bills of Lading Clause. Owners were represented by Cetrappa, Klaveness and Hadley Shipping while charterers were represented by Cargill, BHP Billiton and Rio Tinto. Additional assistance was provided by the UK P&I Club and electronic systems providers, essDOCS and Bolero.

Content

The provisions of the Electronic Bills of Lading Clause are set out in three paragraphs.

Sub-clause (a) provides that the decision to use bills of lading, waybills and delivery orders in an electronic format is in the charterers’ option and that their use will be in the same manner under the charter party as their paper equivalent. It should be noted that it’s possible that a charterer may elect to use more than one system during the period of a charter party. The words “issued, signed and transmitted in electronic form” describe the process of paperless trading. The closing phrase “with the same effect as their paper equivalent” establishes the equal status of electronic and paper documents.

Note: It is important that charterers, their sub-charterers and others in a charter party chain fully understand the need to sign-up to the chosen system or systems if they want to benefit from paperless trading procedures. They cannot participate without registration.

Sub-clause (b) requires the owners to subscribe to and use the charterers’ chosen electronic bill of lading “platform”. The choice of systems is conditional upon them having been approved by the International Group. At present neither of the two approved solution providers, Bolero and essDOCS, charges owners to register for or use their system. Both systems are accessed via a web browser in much the same manner as commonly used electronic banking systems and do not require the purchase of or use of special hardware or software. However, just in case fees or charges are introduced in the future, Sub-clause (b) provides for the costs to subscribe to and/or use these systems to be for the charterers’ account. The registration process establishes a contractual relationship with the system provider for user authorisation and data access essential to

the functioning of electronic documentation procedures.

Note: Owners do not need to advise their P&I Clubs prior to using an electronic paperless trading system if the system is already approved by the International Group.

Sub-clause (c) provides an indemnity for any “additional” liabilities that are not the result of the owners’ negligence. While Clubs provide the same degree and scope of cover to paper and approved systems of paperless trading, the indemnity is provided in response to owner concerns that unanticipated liabilities might nevertheless arise with electronic systems. However, these “additional” liabilities are not readily identifiable as those involved in the use of electronic bills of lading have concluded that the use of such systems will not result in unanticipated liabilities arising.

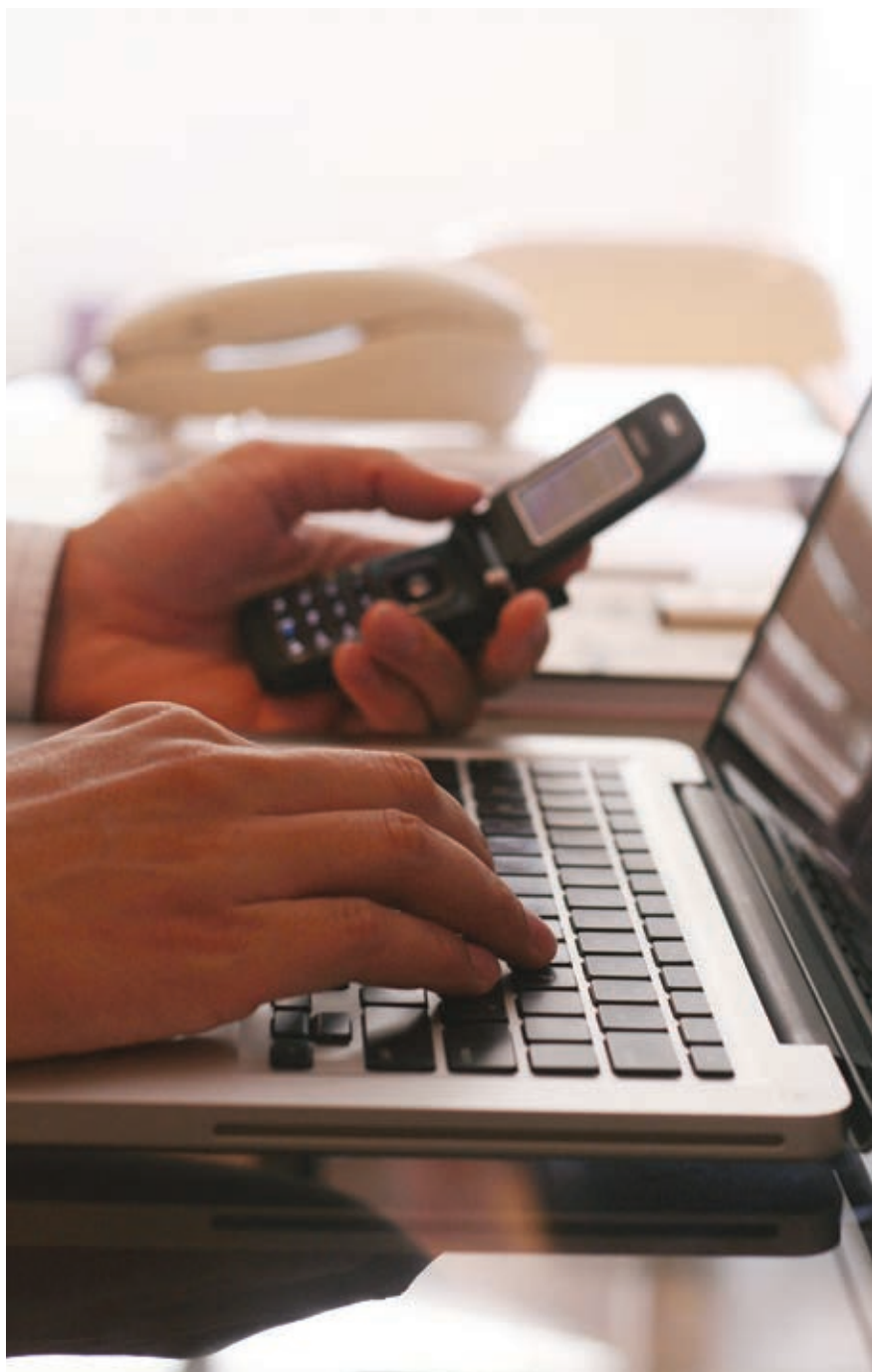
It should be noted that Club cover applies to all normal P&I liabilities when using an International Group approved system. However, risks for the use of computer systems, such as viruses, “hacking”, or theft of information are not of a traditional P&I nature and any party wishing to protect against such risks must seek cover in the commercial markets.

Frequently Asked Questions

BIMCO has compiled a list of FAQs that answer many of the questions frequently raised by members about the use of electronic bills of lading. Please visit the Chartering section of the BIMCO website for details or follow this link: https://www.bimco.org/Chartering/Bills_of_Lading/Electronic_Bills_of_Lading_FAQs.aspx

Availability

The full text of the Electronic Bills of Lading Clause for Charter Parties is set out below and can be downloaded free of charge from the Chartering/Clauses section of the BIMCO website (www.bimco.org). Users of



the IDEA•2 contract editing system, which contains digital copies of all the widely used BIMCO standard contracts, can add the new Clause to their agreements by using the Clause Manager. (GH) ■

BIMCO Electronic Bills of Lading Clause

- (a) At the Charterers’ option, bills of lading, waybills and delivery orders referred to in this Charter Party shall be issued, signed and transmitted in electronic form with the same effect as their paper equivalent.
- (b) For the purpose of Sub-clause (a) the

Owners shall subscribe to and use Electronic (Paperless) Trading Systems as directed by the Charterers, provided such systems are approved by the International Group of P&I Clubs. Any fees incurred in subscribing to or for using such systems shall be for the Charterers’ account.

- (c) The Charterers agree to hold the Owners harmless in respect of any additional liability arising from the use of the systems referred to in Sub-clause (b), to the extent that such liability does not arise from Owners’ negligence.

HME Cargo Residues Disposal Clause for Voyage Charter Parties

Amendments to MARPOL Annex V covering the disposal of cargo residues and hold washing water containing materials that may be “harmful to the marine environment” (HME), took effect in January 2013.

In July 2013, a revised version of the BIMCO Hold Cleaning/Residue Disposal Clause for Time Charter Parties was issued (see Special Circular No. 6 – 18 July 2013) holding charterers responsible for the costs and time of removal and disposal of HME cargo residues and hold washing water.

Under a voyage charter party, cargo residue removal and disposal would normally be for owners’ account. However, there is at present no definitive list of HME substances, leaving determination to be made subjectively by reference to listed criteria. In turn, this relies on the accuracy and integrity of shipper declarations or decisions made by port or other officials. This, in itself, is an unsatisfactory situation and when coupled with the lack of suitable cargo reception facilities in many ports, exposes owners to the risk of unexpected additional costs which might not be easily recovered from a counterparty.

In order to address the circumstances set out above, a new Clause has been developed. Under this provision, the normal position is reversed so that charterers are responsible for additional costs incurred in connection with the removal and disposal of HME cargo residues and/or hold washing water.

Content

The provisions are contained in three sentences. The first sentence sets out the key elements of the Clause covering the trig-

gering mechanism and charterers’ resulting responsibilities and liabilities.

Specifically, the Clause applies whenever a cargo is held to contain HME properties. It does not address the problematic question of which party is responsible for determining the HME nature of a particular cargo, but takes effect regardless of whether a declaration has been made by cargo interests or regulatory authorities. Where the provision is triggered, charterers are responsible for all extra costs and time and/or losses associated with the storage, removal and disposal of HME cargo related residues and/or hold washing water.

In this context, “extra costs” means those over and above the costs of cleaning, washing or sweeping holds which are ordinarily incurred by owners on completion of cargo discharge (and included in the voyage freight) together with any losses sustained by owners such as reduced cargo intake on a subsequent voyage where, due to inadequate reception facilities at the discharge port, residues or water have to be stored on-board for later disposal.

The second sentence states that any extra time used in connection with disposal is to be compensated in an amount equivalent to the charter party demurrage rate.

In accordance with the third and final sentence, storage, removal and disposal of cargo residues or hold washing water must

always be in accordance with MARPOL Annex V or other applicable rules. As noted above, this might mean that residues have to be carried beyond the contractual discharging port. In such event, consideration should be given to the implications under any subsequent or separate fixture of deviation for disposal or reduced cargo intake.

Availability

The full text of the HME Cargo Residues Disposal Clause for Voyage Charter Parties is set out below and can be downloaded free of charge from the Chartering/Clauses section of the BIMCO website (www.bimco.org). Users of the IDEA•2 contract editing system, which contains digital copies of all the widely used BIMCO standard contracts, can add the new Clause to their agreements by using the Clause Manager. (GH) ■

BIMCO HME Cargo Residues Disposal Clause for Voyage Charter Parties

If the cargo is harmful to the marine environment (HME) in accordance with MARPOL Annex V, the Charterers shall be responsible for all extra costs and time and/or losses incurred by the Owners associated with the storage, removal and disposal of HME cargo related residues and/or hold washing water. Compensation for such extra time shall be in an amount equivalent to the rate of demurrage stipulated in the charter party. Storage, removal and disposal shall always be in accordance with MARPOL Annex V or other applicable rules.






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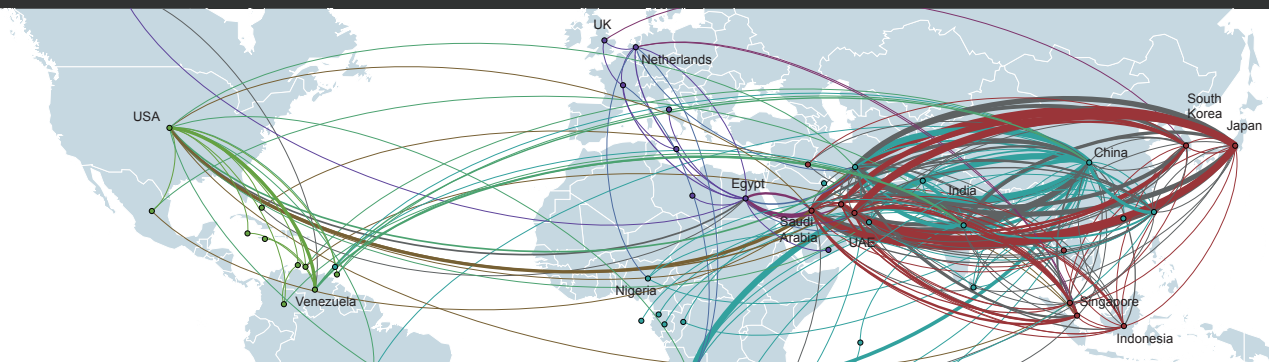
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Pirates steal cargo – Transit loss?

Charter party – Vessel carrying cargo of premium motor spirit from Abidjan to Lagos – Vessel seized by pirates off Benin – Pirates transferring cargo from vessel – Whether transferred cargo constituted “in-transit loss” – Whether owners strictly liable for lost cargo. *Trafigura Beheer BV v Navigazione Montanari SpA (The Valle di Cordoba)* – QBD (Comm. Ct.) (Andrew Smith J) [2014] EWHC 129 (Comm.) – 30 January 2014.

By a fixture recap dated 4 November 2010 the vessel *Valle di Cordoba* was chartered by the claimant charterers from the defendant owners on the BPVOY3 form for the carriage of a cargo of premium motor spirit.

The charter party incorporated the Trafigura Chartering Clauses, clause 4 of which (the ITL clause) was headed “In-transit loss clause”, and provided:

*“In addition to any other rights which Charterers may have, Owners will be responsible for the full amount of any in-transit loss if in-transit loss exceeds ~~0.3%~~ **0.5%** and Charterers shall have the right to ~~deduct from freight claim~~ an amount equal to the FOB port of loading value of such lost cargo plus freight and insurance due with respect thereto. In-transit loss is defined as the difference between net vessel volumes after loading at the loading port and before unloading at the discharge port.”*

[Amendments to the printed clause shown in bold.]

Clause 46 of the standard BPVOY3 form provided:

“The provisions of Article III (other than Rule 8), IV, IV bis and VIII of the Schedule to the Carriage of Goods by Sea Act, 1971 of the United Kingdom shall apply to this Charter and shall be deemed to be inserted in extenso herein. This Charter shall be deemed to be a contract for the carriage of goods by sea to which the said Arti-

cles apply, and Owners shall be entitled to the protection of the said Articles in respect of any claim made hereunder.

Charterers shall not, unless otherwise in this Charter expressly provided, be responsible for any loss or damage or delay or failure in performance hereunder arising or resulting from Act of God, act of war, seizure under legal process, quarantine restrictions, labour disputes, strikes, riots, civil commotions, arrest or restraint of princes, rulers or people.”

On 14 December 2010 the vessel loaded a cargo of premium motor spirit at Abidjan, Cote d’Ivoire for passage to Lagos, Nigeria for discharge. Having tendered notice of readiness offshore Lagos on 16 December 2010 the master sailed to a position off Cotonou, Benin to await orders. On 24 December 2010 the vessel was attacked by a group of about 15 armed men (the pirates). The pirates took control of the vessel, and on 26 December 2010 they arranged for an STS transfer of some 5,300 mt of the cargo (the transferred cargo) to an unknown lightering vessel, which then departed with the transferred cargo. On 27 December 2010 the vessel was released by the pirates. Subsequently, the vessel discharged the remaining cargo.

The charterers brought a claim against the owners under the ITL clause, seeking to recover the fob port of loading value of any proven difference between the net vessel volumes after loading at the loading port and the net vessel volumes before unload-

ing at the discharge port, plus freight and insurance.

On the hearing of preliminary issues the charterers contended that the transferred cargo constituted “in-transit loss” within the meaning of the clause, and that the ITL imposed strict liability on the owners in respect of such transferred cargo.

Held, that on the true construction of the ITL clause the transferred cargo was not, and did not occasion, “in-transit loss”. The clause was concerned with loss that was incidental to the carriage of oil products, and did not extend to losses such as those that occurred in the present case because of the action of the pirates.

If, contrary to the court’s view, the loss of the transferred cargo was “in-transit loss”, on the true construction of the charter party the liability on the owners under the ITL clause was subject to the exceptions in clause 46 (*The Olympic Brilliance* [1981] 2 Lloyd’s Rep. 176 considered). ■■

Editor’s Note: The above is a summary of a London judgment which appeared in Lloyd’s Maritime Law Newsletter No. 893 of 21 February 2014, and which is reproduced by kind permission of the publishers, Informa Law.

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Freight payment within 5 banking days, but always BBB

Readers may recall the “Worth Knowing” article entitled “Freight payment ‘within 3 banking days but in any event before breaking bulk’”, which appeared in BIMCO Bulletin No. 5/2011, and which can also be found in the Chartering Section in the members’ area of BIMCO’s website.

So far as BIMCO is concerned, provisions such as the one quoted above oblige the charterers to pay the freight within the number of agreed banking days rather than “before breaking bulk”.

This issue was one of the points in dispute in London Arbitration 8/14. Typewritten clause 26. The charterers’ argument that time was not of the essence in relation to their obligation to pay the 95% freight was ridiculous.

Typewritten clause 26 of the charter provided:

“Freight payments: 95% payable 5 banking days after completion of loading/signing/releasing Bills of Lading marked ‘Freight payable as per C/P’ after receipt of signed/stamped freight invoice on owners’ official letterhead but always before breaking bulk discountless and non-returnable ship and or cargo lost or not lost. Balance 5% freight payable along with demurrage/despatch which to be settled within 60 days after agreement of Sof.”

The owners claimed for the 5% balance of freight. The charterers argued that because no “signed/stamped freight invoice” was sent to them, there was no obligation on them to pay the balance of freight. They said that the receipt of such an invoice was a condition precedent to the starting of time counting for the payment of the balance of freight. There was also a suggestion that there was no liability upon them because there had been no “agreement of Sof”.

That a charterer should be able to avoid liability for freight on the basis of such technical arguments was a proposition that required very careful examination, freight being of fundamental importance in a voy-

age charter since it was, in effect, the remuneration payable to the owners for the carriage of the cargo.

As to the “condition precedent” argument in relation to the “signed/stamped freight invoice”, in the absence of a clear provision to the effect that the requirement was such a condition, it could not possibly have been one. Words to the effect that the charterers’ liability to pay the balance of freight would only arise provided that the relevant invoice was given to them, or would not arise unless it was given, would be required. Absent any such words, there was simply no basis for arguing for a condition precedent. The charterers’ only remedy would lie in a claim for damages for breach of the obligation to provide a compliant invoice, but they could not show any such loss. In fact, they were provided, and in timely fashion, with an invoice on the owners’ official letterhead. That was sufficient.

Similar considerations applied to the charterers’ argument in relation to the statement of facts. If the charterers’ position were correct, it would be open to charterers generally, under wording such as used in the present charter, simply to refuse to agree a statement of facts and thus never to have any liability to pay a balance of freight. Little could be more absurd. A statement of facts was in effect agreed when it was signed by those whose task it was to sign it, i.e. (normally) the local agents and the Master, and sometimes the shippers or receivers. Although there was no date on the statement of facts it was right to infer that it would have been drawn up and signed on the date of the completion of the final survey, i.e. 25 September 2010. On that basis the charterers’ liability to pay the 5% balance of freight arose on 24 November 2010.

The charterers had sought to argue that they had no obligation to pay any freight until discharging started, i.e. until “breaking bulk”. It was a little difficult to know what meaning to give to the phrase “but always before breaking bulk” in clause 26, unless it meant – as the owners suggested – that they were not obliged to commence discharging until freight had been paid.

If the phrase were to be given the meaning the charterers would ascribe to it, it would make redundant many other provisions in the same clause. And those provisions were of fundamental importance. The first was the requirement that 95% of the freight be paid within five banking days after the completion of loading, etc. The second was that such advance payment of freight should be “non-returnable ship and or cargo lost or not lost”. If the owners’ interpretation of the phrase “always before breaking bulk” was not correct, then that phrase was in conflict with the two provisions just mentioned and, in the light of their fundamental nature, it had to give way to them and be ignored. The charterers’ argument that time was not of the essence in relation to their obligation to pay the 95% freight was ridiculous.

Accordingly, the owners’ claim for the balance of freight succeeded. ■■

Editor’s Note: The above is an extract from a London Arbitration Award (No. 8/14) which appeared in Lloyd’s Maritime Law Newsletter No. 896 of 4 April 2014 and which is reproduced by the kind permission of the publishers, Informa Law.



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