

Seatrade ASIA WEEK

The voice of Asian shipping

Published from Singapore

30 July 2010

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Seafarer wage hikes hit Asian flags

ITF set to agree higher minimum wage for foreign national seafarers

Coastal trading vessels in Asia flying flags such as Singapore, Malaysia and Japan are set to be hit with hefty increases in crewing costs.

The International Transport Workers Federation's (ITF) congress in Mexico next week is set to push through new benchmark pay rates for foreign nationals serving on national flag ships.

The new pay rates are particularly expected to hit coastal trading vessels on registries such as Singapore, Malaysia, Japan and South Korea. These national flags are heavily reliant on foreign seafarers.

Under a proposal, which is expected to be rubber stamped at the ITF congress, the minimum average pay rate per ship on the Singapore Registry, for example, is expected to jump 17% to \$42,326 from the current International Labour Organisation minimum, with the minimum pay rate set to increase a

hefty 60% by 2014. The 60% increase would bring benchmark pay rates for foreign nationals serving on national flagged ships in line with rates for seafarers serving on flag of convenience vessels.

The new pay rates are unlikely to impact deepsea trading vessels where wage rates are often significantly higher than the minimum levels, but will have serious cost implications for regional trading ships where seafarer wage rates are generally lower. For example, the wage rises could hit trades such as those plied by domestic Malaysian vessels between east and west Malaysia.

An industry source said the new benchmark pay rates were unfair as there would be no differentiation between national flags and flags of convenience. For Singapore, which has very few of its own



nationals serving as seafarers, the increased wage bill for 20,000 ratings for a 17% pay increase could equate to \$1m annually.

He questioned how it was possible for a non-governmental organisation such as ITF to impose minimum pay rates for foreign seafarers on Singapore-flagged vessels when the country's own government itself does not legislate minimum wages for workers onshore.

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Three new shipyards to be developed in Gujarat

State cements position as India's shipbuilding centre



Three new shipyards are set to be developed in India's Gujarat state as it builds its presence in the sector.

The Gujarat state government has approved the implementation of three shipbuilding projects from Dolphin Offshore, Modest Infrastructure and Bombay Marine, collectively worth Rs10.7bn (\$227m). These projects have cemented the state's position as India's main shipbuilding centre.

The Dolphin shipyard will be developed at Jafrabad in Saurashtra, the Bombay Marine

yard will be located at Koliyad on the northern bank of the River Narmada near Dahej, and Modest Infrastructure will build its yard at Nava Ratanpara in the old port of Bhavnagar, about 55 km from Alang, the world's largest shipbreaking yard.

The largest project of the three, by Modest Infrastructure in Bhavnagar, will have an investment outlay of Rs5bn. It has received environmental and coastal regulatory zone clearances, which have to be obtained from the central government.

Land has already been acquired and construction will begin shortly.

Land acquisition is in progress for the Rs4.5bn Dolphin shipbuilding yard proposed at Jafrabad and the Rs1.2bn Bombay Marine project at Koliyad.

"All these private yards will construct small to medium sized vessels at the approved sites," said a spokesperson of the Gujarat Maritime Board (GMB). "They will complement the existing shipyards of ABG at Surat and Dahej, and Pipavav, which turn out larger vessels like panamax bulk carriers."

Meanwhile, the Adani Group is working on expansion plans at its Rs10 billion shipyard in Mundra. Mumbai-based engineering colossus Larsen & Toubro has a shipyard at Hazira where it currently manufactures parts for submarines. This yard, too, is set for a major expansion, with the Defence Ministry requiring quality domestic yards for building warships.

The Gujarat state government has also proposed the setting up of five marine shipbuilding parks. Of these, three projects along the Bhavnagar and Dahej coastline areas are being given priority by GMB. As part of its aim to become a shipbuilding hub the state government has been offering swift environmental and other clearances, and tax holidays for periods ranging from three to seven years.

Becoming uncompetitive

Continued from page 1

The Hong Kong flag is likely to be less affected as being a Special Administrative Region of China Chinese nationals employed on Hong Kong vessels will be counted as local seafarers and not subject to the higher benchmark rates.

It is understood that while Singapore seafarer unions objected to the proposal they were outvoted by other Asian seafarer unions, including powerful blocs from the Philippines and India, both major providers of seafarers. However, a concession to gradually increase the benchmark rate by 60% by 2014 was won late last year, with the entire 60% hike

originally scheduled for 2011.

An industry executive said the stance of these countries' unions was short-sighted as in the longer run higher wages would make Asian seafarers uncompetitive.

"You want an Indian or a Filipino to have the same wage rate as a European?" he asked. "Seafarers should be paid in line with the standard of living of the country they come from." He argued higher minimum pay rates would ultimately benefit European seafarers with owners opting for western seafarers rather than their Asian counterparts if wages were the same.

Both the Singapore Shipping Association (SSA) and Singapore Maritime Officers

Union (SMOU) have in the past publicly spoken out against the raising of minimum wage rates for foreign seafarers on Singapore-flagged vessels. Officials declined to comment when asked by Seatrade Asia Week this time. A closed-door tripartite meeting was held recently between SSA, seafarer unions and the Maritime & Port Authority of Singapore.



Mystery surrounds dent in MOL tanker Grenades, freak waves, a collision? Confusion reigns in Fujairah

Investigators in the United Arab Emirates (UAE) are looking into whether a Japanese tanker damaged at the mouth of the Persian Gulf was involved in a collision, dismissing earlier theories of grenades or freak waves in this week's most mysterious shipping story.

The ship's owner, Mitsui OSK Lines, said the crew are convinced the incident involved an explosion. The company initially said it suspected the ship had been attacked as it entered the Strait of Hormuz.

Musa Murad, director general of the port of Fujairah, said damage to the ship's hull and interior is being investigated, but that clues point to a crash of some sort. The ship dropped anchor at Fujairah for inspections late Wednesday.

"There was a collision. ... What it is, we don't know. That's why the investigation is going on," he told The Associated Press late Thursday.

Local media reported the previous day that an unusually large swell caused by a tremor damaged the ship.

Wednesday's incident aboard the M. Star VLCC happened shortly after midnight as the ship entered the Strait of Hormuz, heading out of the Gulf.

MOL said earlier the explosion seemed to be caused by "an attack from external sources" while the tanker passed through the western part of the waterway.

"We have not reached a conclusion, but we still suspect the tanker was hit by a blast," Masahiko Hibino, a safety official

with the shipping line, said at a news conference in Tokyo on Thursday.

One of the tanker's 31 crewmembers noticed a flash of light right before the explosion. The explosion occurred at the stern causing cuts to the second officer who was struck with broken glass.

The Marshall Islands-flagged tanker, loaded with 270,000 tonnes of oil, was heading from the petroleum port of Das Island in the UAE to the Japanese port of Chiba. The investigation continues.



Chemoil eyes India and China expansion

Backed by new majority shareholder Glencore, Singapore-listed bunkering company Chemoil is looking to expand its business further in Asia.

With Glencore's existing bunkering business it puts Chemoil in the top five largest bunker suppliers in Singapore the world's largest ship refuelling station.

Glencore bought a 51% shareholding in Chemoil from the family of the company's late founder Robert Chandran at the end of last year.

Adrian Tolson, vice president of sales and marketing for Chemoil, said the company now has two active major shareholders behind it in the shape of Itochu and Glencore.

"We have got the strength of both these companies behind us. We would hope to see things go onward and upward," Tolson told Seatrade Asia Week. He was coy on specifics of what the company has planned for the future although said it had "a few things cooking around Asia".

Chemoil is clearly interested in Asia's major emerging markets. "India remains a significant area of interest. We continue to look to grow in Gujarat and Mundra," he said. Chemoil has a joint venture with Adani Group to supply bunker fuel in the port of Mundra. The joint venture sells around 50,000 to 60,000 tonnes a month in Mundra, which

Tolson described as "a nice volume".

However, for Chemoil to grow its business into other parts in India it would be looking at similar regulations to Mundra where it is located in a bonded freezone. Tolson said India needs to open up similar zones in other areas.

Chemoil is yet to enter the China market but it is clearly a location it has its eye on. He said they would be fools to ignore the centre of global growth, however he stressed the company had to find the right opportunity at the right time.

Tolson added that a presence in China was something the company was actively looking for.

Elman steps back at Noble

Noble Group chairman Richard Elman is stepping back Tobias Brown taking up the role of executive chairman with the Hong Kong commodities giant.

Announcing succession plans that were described as "evolution not revolution" Elman said: "Toby has played a key role in

Noble that stretches back to our management buyout (over 15 years ago). That MBO set the stage to create a pool of equity for Noble which allowed us to enfranchise a key group of managers who drove the company to what it is today."

Also rejoining the company's board of directors is Jamie O'Donnel who will take up

the post of executive vice president. Both Brown and O'Donnel will take up their new positions on September 1.

"All other executive appointments will remain the same within Noble. However, I do anticipate that we will be bringing in more senior talent in the coming months to continue to build on the depth of our management," Elman said.

Elman will remain with Noble as chairman emeritus.

Sayonara TSK

Intra-Asia brand to be folded under wing of parent NYK

Nippon Yusen Kaisha (NYK) has taken the decision to fold its intra-Asia brand, Tokyo Senpaku Kaisha (TSK). All intra-Asia business will shortly fly the NYK flag. The move should be concluded within six months, NYK said in a statement.

“NYK will be offering the services that have been continuously provided by TSK, so for the moment, there will be no impact on day-to-day service arrangements and levels, but we will be making adjustments in due course, and those will be announced accordingly,” the Japanese liner said

Thursday.

NYK is the world’s 12th largest container line, according to French box analysts Alphaliner, with a total of 370,304 slots.

The move mirrors a similar decision taken by Taiwan’s Evergreen to fold its intra-Asia Uniglory brand a decade ago.

“The TSK brand will no longer be used eventually,” confirmed an NYK spokesperson in Tokyo. “This does not mean that NYK Group will weaken intra-Asia services. Rather, we intend to strengthen our business in growing Asia by



integrating with the management of all trades in NYK Group.”

“This is in line with our recent centralization of global headquarters and all trade management functions in Singapore, and we believe this move would raise the efficiency of trade management and would enable us to focus on further pursuing the synergies with our logistics and terminal business,” the spokesperson added.

Fix merger now, subsidiaries of CSC Sinotrans plea

Competing units undercut each other

The protracted assimilation of the multiple strands of the Sinotrans Group and China Changjiang National Shipping Co is irritating some parts of the merged firm.

The two Chinese transport giants merged last year, but the actual make up of the new entity has yet to be resolved. Sources at CSC Nanjing Tanker told Seatrade Asia Week that parent Sinotrans CSC Group has vowed to solve the problem of horizontal competition among subsidiaries before the end of this year.

Nanjing Tanker’s focus on international



crude, product, chemical, liquid gas transportation is very similar to Sinotrans’ oil transportation division and has led to situations this year where the two have clashed over price, with one undercutting the other.

Sinotrans CSC Group said in a statement: “According to the plan, subsidiaries’ shareholders will discuss details together and complete the shareholding transfer by the end of this year.”

So lengthy has the merger been between these two disparate transport groups that this May the merged parent took the decision to appoint global consultant McKinsey to smooth the process.

Nanjing Tanker has grown dramatically in recent years and has plans to be a global top 10 tanker player soon. Once its current orderbook finishes delivering it will have a fleet of more than 7m dwt.

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Tata NYK expands fleet in tough times

Joint venture plans further growth

Tata NYK Shipping has been able to expand its fleet size from just one ship in 2007 to 11 today, despite having had a tough 2009-10.

The Singapore-based 50 - 50 joint venture



between Indian private sector steel giant Tata Steel and Japan's Nippon Yusen Kaisha (NYK) has a fleet of 10 bulk carriers chartered in plus one owned supramax. The chartered fleet is a mix of six supramaxes, two panamaxes and two capesizes, to allow the company diversity in terms of cargo-carrying capacity.

The joint venture was in the red last year. Although the revenues were up 40% to Rs3.52bn (\$74.7m), from Rs2.50bn in fiscal year 2008-09, the company suffered a net loss of Rs30.3m compared to a net profit of Rs10.1m in the previous year.

Cargo throughput for the company, which is primarily engaged in transportation of dry bulk and break-bulk cargoes including coal, iron ore, bauxite and steel products, mainly for the Tata Group, was 6.79m tonnes in 2009-10, 52% higher than the 4.48m tonnes

notched in 2008-09, but the freight rates secured were extremely low.

Tata NYK Shipping's profits are expected to improve substantially in 2010-11, following the commissioning of the Rs24bn Dhamra port in Orissa, earlier this month.

The project was developed as a joint venture with engineering giant Larsen & Toubro by Dhamra Port Corp. The project was delayed by nearly a year after it faced stiff opposition from environmentalists.

The first phase comprises two fully mechanised berths of 350 metres each, with a capacity to handle 27m tonnes a year along with a backup facility to undertake imports of coking coal, steam coal, limestone and export of iron ore.

"We will eventually be setting up 13 berths with an aggregate capacity of more than 100m tonnes a year of dry and liquid bulk

cargoes, including containers, along the 18km long seashore," said Hemant Nerurkar, managing director of Tata Steel.

"The berths are designed for draught of 18m, and will be capable of handling capesize vessels of up to 180,000 dwt. We will also build a 6 -km rail track between Dhamra and Bhadrak on the main Howrah-Chennai line, for greater connectivity."

The company plans to increase its fleet size from 11 to 18 vessels, with new investments being planned. The fleet expansion and commissioning of Dhamra port come at a time when Tata Steel has embarked on a major capacity expansion that may increase its dependence on imports for raw material such as coal, iron ore and limestone.

Tata Steel is self-sufficient for 25% of its iron ore requirements. The company plans to secure up to 60% of its raw material requirements by 2015 through various sources, including its joint venture with New Millennium, Canada and LabMag for development of the Direct Shipment Ore (DSO) Project in Canada.

The project, close to the Ivory Coast in Africa, will ship huge quantities of iron ore in the near future. Tata Steel would own up to 80% of the joint venture, in which it has invested C\$300m (\$200m).

MOL and NYK in the black

Lines increase first half profit forecasts

Japan's top shipping companies enjoyed a return to the black in their first quarter results.

Mitsui OSK Lines reported a net profit of Yen20.8bn for the first quarter ended 30 June 2010 compared to a net loss of Yen13bn in the same period a year earlier. Meanwhile, NYK Line reported a net profit of Yen23bn for the first quarter of the year compared to a loss of Yen18.9bn a year earlier.

For MOL both its bulk shipping and containership businesses were in the black. Its bulk shipping business, comprising dry bulk, tankers and car carriers, made a Yen27.9bn profit, while its container shipping business rebounded to report a Yen8.5bn profit in the first quarter of the year. Only its ferry and domestic business was in the red with Yen900m loss.

The picture was a similar for NYK with

both bulk and container shipping reporting profits turning around from losses in the first quarter of the previous year. Its box shipping business made a Yen10.3bn profit in the first quarter while its bulk shipping segment made a Yen22.4bn profit.

Improved performances have seen profit outlooks for the first half of the year ended 30 September being upped. MOL is forecasting a net profit of Yen42bn for the first half of the year, up 31.3% from its previous forecast. NYK is forecasting a first half net profit Yen36bn, up from Yen15bn previously.

Round the region

Profits up for Mercator



Mercator Lines (Singapore) reported a 30% jump in net profits to \$13.1m for the first quarter of the year. The Singapore-listed arm of Indian shipowner Mercator also reported a 10% increase in revenues to \$39m for the first quarter ended 30 June.

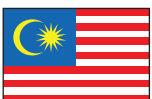
“Our strategy of having a large portion of our capacity on long term business has shielded the group from a volatile business environment and has helped us achieve consistent growth,” said Shalabh Mittal, managing director and ceo of Mercator Lines. “While the dry bulk market has been weak in the last two months, the long term fundamentals of the dry bulk shipping industry are intact,” he added.

Shanghai welcomes foreign shipbrokers



Foreign-owned shipbroking enterprises will soon be able to get business licenses in Shanghai, the first time for such companies on the Chinese mainland. Nine companies have undergone inspection by the authorities, and will complete registration soon, officials said. The government believes shipbroking companies are vital for Shanghai to develop into an international shipping centre.

MMHE listing set to go



MISC is to sell 25.5% of its shipyard arm Malaysia Marine and Heavy Engineering (MMHE) in an initial public offering (IPO) by the end of this year. The share issue of 208m shares will be split between 146m shares, or a 9.12% stake, offered to institutional investors and 262m shares, or 16.38%, as a public offering.

MISC said the listing would allow it to,

“accelerate the growth of its offshore and heavy engineering divisions”. Proceeds from the listing will be used to help fund a RM2.7bn yard optimization programme of MMHE’s yard in Pasir Gudang, investment in operations in Turkmenistan and to pay expenses for the listing.

Kruez IPO oversubscribed



The Singapore initial public offering by subsea solutions provider Kruez Holdings was 5.7 times oversubscribed. The subsea solutions unit of Swiber Holdings received applications for 426m shares for its offering of 80m shares. The listing on Singapore’s second board Catalist raised S\$19.2m for Kruez.

“This marks the beginning of a new phase for Kreuz Holdings. We plan to expand our range of services through the acquisition of new operating assets,” said Kurush Contractor, executive director and ceo of Kreuz.

U-Ming opts for Longxue



China’s CSSC Guangzhou Longxue Shipbuilding has signed a contract with Taiwanese U-Ming Marine Transport Corp to build two units of 82,000 dwt bulk carriers. No price was indicated. The past three months has seen an incredible number of these ship types, so called kamsarmaxes ordered, predominantly at Chinese yards.

Agility enters feeder shipping



Logistics provider Agility has entered the feeder shipping market in Australia. Agility Logistics has formed a joint venture with Transworld Marine Express to offer a container shipping service between Tasmania and Melbourne. The joint venture will deploy a 516 teu vessel Tassie Bridge on the three

times a week service planned to start in August. Agility said a second vessel may be added later in the year depending on customer demand.

“This is a major step for Agility in Australia to meet growing demand from our customers for a reliable scheduled service across the Bass Strait connecting Melbourne and Bell Bay, Tasmania,” said Mark Turnbull, ceo for Australasia and North Asia for Agility.

Maersk ups Hong Kong flagged fleet



Danish shipping giant AP Moller-Maersk is strengthening its presence in Hong Kong by more than doubling its Hong Kong-registered fleet from 17 to 39 ships. Maersk Shipping Hong Kong managing director Dipak Dash told local media one of the reasons for choosing Hong Kong was that ships flying the Bauhinia flag paid preferential dues at mainland ports.

Flagging the ships in Hong Kong will also give the company other financial and economic benefits, including the ability to take advantage of the city’s low tax base and tax not being withheld on interest payments.

Wenchong delivers record dredger



Guangzhou Wenchong Shipyard has built the largest Trail Suction Hopper Dredger (TSHD) in China to date. Wenchong delivered an 85-meter depth TSHD, namely MV Tongcheng, to compatriot CCCC Tianjin Dredging Company Limited.

The LOA of the dredger reaches 162.3m, with 28.5m in breadth and 15m in depth. The tank capacity comes up to 18,000 cu m, able to shift 26,100 tonnes of mud. The dredger is fitted with double propellers, double drag heads and a self-propelling system. The ship will be operated in Chinese coastal ports for dredging and reclamation.

Living like a king

When it comes to seafarer wages there is no doubt that the men and women who operate the industry's global fleet deserve to be fairly compensated. After all, at the top end of the scale they are in charge of assets that can be worth \$100m or more and cargoes of similar value.

However, it is also a fact seafarers come from a wide diversity of national backgrounds and paying everyone the same rate regardless of where they are from does not really make sense.

The trend towards global outsourcing, which has so boosted container shipping, has been fueled by cost differentials between countries, of which wages are a very much a major component. As much as western factory workers might have liked it

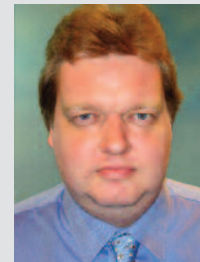
to be the case there was no global body, governmental or union, with the power to set standard minimum pay rates the world over. If there had been China would never have become the factory of the world to drive the global economy in the way that it has over the last decade.

Yet when it comes to seafarers global union, the International Transport Workers' Federation (ITF), it does indeed have the power to set global minimum pay rates. The latest example is set to be for foreign seafarers serving on national flag vessels, which will in particular hit registries like Singapore.

A global minimum wage may sound laudable, but does it actually make sense? The same salary that would give a European seafarer a distinctly average lifestyle

enables his Filipino counterpart to live like a king. An AB rating from the Philippines quite possibly earns more than his local bank manager does.

Seafarers do deserve good salaries for doing a job that takes them away from their loved ones and their home for extended periods. However, at the same time it does not make sense for salaries to be too far apart from their compatriots at home. A balance between the two factors has to be struck, but global minimum wages are not the way to achieve it.



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The voice of Asian shipping

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Building trust

Marcus Hand looks at how First Ship Lease Trust plans to move forward after charter defaults and a failed lease transaction

Of Singapore's three listed shipping trust First Ship Lease (FSL) Trust had seemingly enjoyed the most success. A diversified fleet strategy and consistent growth until the global financial crisis saw the trust very much on an even keel even as times got tougher.



By contrast Rickmers Maritime, which went on the growth path wholly focused on container shipping, found itself unable to fund a substantial portion of its planned acquisitions including four 13,100 teu newbuildings to be chartered to Maersk Line. After a long period of uncertainty a proposal to bail out the trust by sponsors Rickmers Group was put on the table with the newbuildings remaining with the sponsor

rather than with the trust.

Pacific Shipping Trust (PST) offered stability however, very little in the way of growth with its fleet remaining largely constant and mainly from its sponsor Pacific International Lines. There were some question

marks last year over vessels leased to South American container line CSAV. Expansion is now finally taking place with the acquisition of a pair of capesize newbuildings to be delivered next year.

In April this year FSL Trust looked set to return to the fleet growth trail with a acquisition and lease deal. However, over

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the last three months things have gone a bit awry for FSL Trust. The planned acquisition deal fell through and one of its charterers, Groda Shipping and Transportation defaulted on the charter of two product carriers, the Nika 1 and Verona 1.

The latter proved to be the unfortunate “highlight” of FSL Trust’s second quarter financial results released earlier this week. “What then ensued was frankly rather unpleasant,” Philip Clausius, ceo of FSL Trust Management told a conference call on its second quarter results.

Following the renegeing on the charters by Groda the vessels were arrested in China and Japan by Daxin Petroleum for alleged unpaid bunker bills. The vessels have since been released and FSL Trust now says Daxin and the charterers are affiliated companies. Last week the trust filed a writ against Daxin in the Singapore high court.

Clausius said the trust was not in a position to give any further details on the case.

The charters that FSL Trust had with Groda were not like those it has with its seven other shipowning clients and less watertight in terms of recourse.

“The difference between the Groda deal and the other seven clients we have, in the other seven cases we have in place what we call full corporate recourse via guarantees to the holding companies,” he said.

In terms of risk mitigation what FSL had with Groda, which it describes as “not being a substantive entity”, was a \$6m guarantee on the charters.

“If we could do it all over again we would not do it that way. We made an underwriting mistake,” Clausius admits.

Quizzed over Indonesian charterer Berlian Laju Tankers, which has substantial debt obligations stemming from its \$750m acquisition of Chembulk Tankers prior to the onset of the global financial crisis the trust expressed its confidence in its ability “I do



“Our business model has not changed and we are a company focused on long term leasing.” Philip Clausius, ceo of FSL Trust.

believe this company has significant financial flexibility and proved this since the start of the crisis. We happen to know the family behind BLT very well and have a great degree of confidence in them,” he says.

For the Nika 1 and Verona 1 the near term plan is to trade the vessels on the spot market, breaking with the trust’s long term bareboat charter policy. The Verona 1 has already been renamed FSL Singapore and is trading spot while the Nika 1 is currently in drydock in China before it is traded spot under the name FSL Hamburg.

“The immediate job ahead will be to stabilise these two ships and reintroduce them to the open market,” he says. The trust expects the third quarter to be a transition period for the two vessels. Clausius notes charterers are often wary to charter recently arrested vessels for fear of re-arrest or other complications.

The decision to trade the vessels on spot is reaction to the current low rates for product tankers, which the trust says mean it makes no sense to lock the vessels in on long term charters.

“Our business model has not changed and we are a company focused on long term leasing. However, if you do get redelivery of vessels you have to be opportunistic and adjust your chartering strategy to

prevailing market circumstances,” he says.

Looking forward FSL Trust plans to continue expanding on its sale and leaseback model with long term bareboat charters.

After its first quarter results this year the trust was confident of closing a new transaction funding by \$28m it raised last year in a rights issue, however the deal has since fallen through. “We were rather unfortunate there we had an agreement with a company but lost the assets this particular company wanted to acquire,” Clausius says. “Our efforts to find alternative assets are unchanged and we fully intend to deploy the \$28m raised in new acquisition. This is one of our highest priorities.”

While not giving any indication on where its next acquisition might lie the trust repeated its view that it sees more potential for the tanker sector than for dry bulk.

“We are significantly more upbeat on the market fundamentals on tankers than we are on dry bulk. We continue to believe the dry bulk sector is hopelessly overbuilt with about 60% of the existing fleet on order today,” he states.

By contrast the tanker sector only has around 26% to 27% of the current fleet on order. It was noted that over the last four to six weeks the performances of the bulk and tanker markets had crossed and this was something the trust expected to continue.

Customary or trade allowance for bulk liquids

We have recently had to revisit the question of whether English law recognises the so-called "trade allowance" in liquid bulk carriage.

The specific question posed to us was, under which circumstances a master can refuse to sign a bill of lading as presented for the shore figures when these differ from the ship's figures.

Charterers argued that the master should sign the bills of lading as presented as long as the ship/shore difference was no more than the customary 0.5 % allowed in the trade.

This figure of 0.5 % is commonly referred to as the 'customary allowance' or 'trade allowance'. Usually, this is no more than a paper shortage resulting from inaccurate measurements, since measuring liquids in bulk on ships is notoriously imprecise. Invariably, the shore tank readings and the ship's ullaging results will differ somewhat.

As a matter of law, under the so-called "de minimis" rule, the master could not refuse to sign bills if the ship/shore differences were negligible. What is negligible is a question of fact and circumstance – for example, if the difference is significant in dollar terms, it is probably not negligible.

In the context of accurately describing the cargo in the bill of lading, it seems that the question is whether or not the difference is "within the margin of error which it is not commercially practicable to avoid" (see *The Vrontados* [1965] 2 QB 430) and therefore "without commercial significance" (see *Glengate v Norwich Union* [1995] 1 Lloyd's Rep. 278). More recently, it has been said that something is de minimis if it is "obvious that it could make no possible difference to either party", see *The Robin* [2002] 1 Lloyd's Rep. 295. In other words, to be negligible the differences must be so small that business men, and therefore lawyers, will ignore them, see *Ronaasen v Arcos* (1933) 45 Ll.L.Rep. 33.

Under the charter terms, the starting point is the master's obligation to sign bills of lading "as presented" which in some form will be a term of most charterparties.



Although this has a wide effect, it does not mean that the master has to sign any bill of lading of whatever description the charterer chooses to present. There is an implied requirement that a bill of lading has to represent goods actually

“What is negligible is a question of fact and circumstance – for example, if the difference is significant in dollar terms, it is probably not negligible.” Dirk Janssen, partner Stephenson Harwood.

shipped and should not contain a description of the goods which is known to be incorrect, see *The Nogar Marin* [1988] 1 Lloyd's Rep. 412. The master will generally be under no duty to sign a bill of lading which contains factual inaccuracies as to the quantity of the cargo, see *The Boukadoura* [1989] 1 Lloyd's Rep. 393. In *The Boukadoura*, charterers presented bills for a certain quantity of oil which the master maintained (correctly as it turned out) was greater than the quantity actually shipped. It was held that the master was entitled to refuse to sign the bills as presented and that the owners could recover from the charterers the losses incurred as a result of delay due to the master's – lawful – refusal.

The master should not sign bills of lading that he knows to be inaccurate, merely because charterers have agreed to indemnify owners against any irregularity in return for signing bills as presented. Signing

bills of lading for quantities known to be incorrect is tantamount to fraud and any indemnity would then be unenforceable under English law, even where the charterers knew of the inaccuracy, see *The Nogar Marin*.

In *The Boukadoura*, the charter terms provided for the master to sign bills of lading as presented and for the charterers to indemnify owners against all consequences which may arise from irregularities in papers supplied by the charterers or their agents. The master was held not obliged to sign the bills as directed by the charterers, notwithstanding the express provision of an indemnity for signing bills in such circumstances. It was held that the inaccuracy in the bill as to the quantity loaded was an irregularity within the meaning of the indemnity clause, entitling the owners to recover their losses.

What then of the common argument that the practice in the trade is to tolerate differences up to 0.5 % in liquid bulk cargo quantity? As mentioned, this is based on the common belief that there is no claim for shortage if the loss is within the 'customary' or 'trade allowance' of 0.5 %. However, English law is clear on this issue: Unless an express allowance for inevitable losses during transit or for unavoidable measurement differences is incorporated into the charterparty, English courts will require any argument that there is a custom in the trade allowing such losses to be proven by expert evidence.

Some arbitrators may have been more forgiving in the past but as a matter of law, there is no automatic allowance due to inevitable differences in measurement. The case on point is *The Ypatianna* [1987] 2 Lloyd's Rep. 286, which makes it quite clear that any customary or trade allowance would have to be proven on the facts. In the absence of a trade or measurement allowance clause in the charter, the decision in *The Ypatianna* does not allow English arbitrators to find a customary tolerance of 0.5 % on every tanker voyage or for parties

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Washington votes today on tough post-Deepwater Horizon legislation

Owners wary of being scapegoated

Tanker owners and managers in Asia are on edge about the likely sweeping and severe retributions US lawmakers take out in the wake of the BP spill in the Gulf of Mexico that occurred on April 20. The departure this week of BP ceo Tony Hayward has done little to reduce the rhetoric from Washington.

Senate majority leader Harry Reid introduced the Democrats' oil spill and energy package on Wednesday, which included many controversial provisions that had been withdrawn the previous week.

Key worry for shipowners in Reid's submission was a repeal of most of the Limitation of Liability Act while making far greater damages recoverable under the Death on the High Seas Act and the Jones Act for death or injury to seafarers. Far more pertinently, Reid slipped in an additional worry for owners, namely unlimited punitive damages in maritime cases. The draft will be voted on today.

Ten shipping bodies banded together to send Reid an urgent letter suggesting he adopt the Republican standpoint, making the Senate Bill only applicable to offshore drilling incidents.

An email poll carried out by Seatrade Asia

Week among owners and managers in Asia left little doubt that shipping will be targeted by US lawmakers. Fumed one respondent, Wallem's Rob Grool: "Trust the Americans to find scapegoats... and simply forget that while they have tightened/amended/magnified demands on shipping several times since OPA 90 was implemented, they have not once updated/amended/tightened OPA 90 for offshore drilling rigs. It is anybody's guess what they will do and how they will lump in shipping for good measure."

The International Chamber of Shipping (ICS) has pointed out that OPA 90 has worked well for 20 years and that it has been revised as recently as 2009.

"The writing is on the wall that OPA 90 will be rewritten, but it is hoped that Congress will take a surgical approach, rather than treat shipping and offshore as the same entity, especially when it comes to lifting the cap on liability," opined Carleen Lyden-Kluss, executive director of the North American Marine Environment Protection Association (NAMEPA). "As many have said, removing the cap entirely will make it impossible to insure risk."

Quite so, chimed in P&I Club Skuld in a



recent circular. "The Deepwater Horizon incident arose in the course of exploration activity and not from the carriage of oil," Skuld wrote.

"Shipowner's and their P&I Clubs will inevitably get caught in the political fall out," the club warned.

"It is inevitable that OPA 90 will be amended and it is likely that existing limitation limits for ships will be increased. The fear from the perspective of shipowners and Clubs is that limits will be removed altogether. Unlimited liability would threaten a shipowners' survival if exposed to claims that exceed insurable amounts," it added.

Signing bills of lading

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to argue that there is such an automatic allowance.

In addition, the consensus in the case commentaries on the *The Ypatianna* appears to be that there is no general acceptance or agreement of any particular figure for tanker charters. This area of the law remains uncertain and I would not recommend trying to rely on any customary

allowance in the trade.

Therefore, as a matter of English law, where the charter terms do not expressly oblige the master to sign bills of lading as presented by charterers regardless of ship/shore measurement differences, the master is within his rights to refuse to sign bills of lading for inaccurate quantities of cargo, even where the ship/shore difference is less than 0.5 %.

However, if for example a charterparty

provides that "bills are to be issued as per shore measurements and marked clean on board", the master could not refuse to sign the bills, even if there is a material difference in the quantities. His right at law not to sign factually inaccurate bills as explained above will then have been given up by the agreed terms of the charterparty.

Charterers who wish to avoid delays at the load port due to measurement differences would be well advised to include such a term in their charter fixtures.

Contributed by Dirk Janssen, Partner, Stephenson Harwood

Mixed views on dry bulk outlook

Chinese iron ore import volumes fall four months running

Both Mitsui OSK Lines and K Line are forecasting a recovery in dry bulk markets in the latter part of the year, but some other owners are not so sure.

The market for large dry bulk carriers remained depressed this week. "Overall the market is best summarized in two words; uncertainty and lack of cargoes. Furthermore, we are entering the holiday season in the east and less activity is expected," Fearnelys commented in their weekly report.

Japanese shipowners MOL and K Line expect the market will pick up later in the year with an upswing in demand for iron ore and steel.

"Although the market is in a short-term adjustment phase centered on large carriers, the market for steel products has turned up,

and demand for the transport of raw materials for iron and steel is expected to recover," K Line said in its first quarter results.

MOL said that despite the current erosion in the capesize market, European economic woes and lower freight rates due to the slack season, it expects a rebound in the dry bulk market supported by demand from emerging countries.

Bangkok-based handy specialist Precious Shipping was less upbeat pointing to a decline in Chinese iron ore imports. Precious Shipping managing director Khalid Hashim noted Chinese iron ore imports had declined for four consecutive months. In the first half of the year China imported 309m tonnes of iron ore, on an annual basis this would see China import 618m tonnes this year, down from 628m tonnes in 2009.



"This will be the first year that we would witness a decline in iron ore imports into China since 1998 and will come at a time when stockpiles of iron ore at Chinese ports have reached all time highs. This can only spell bad news in general for the dry bulk market but more specifically for the capesize and panamax size ships that are involved mainly in the iron ore and coal trades," Hashim said.

FIS bulk FFA prices 30 July

Capesize	Average 4 Timecharter Routes 172,000mt dwt
Jul-10	16,250
Aug-10	20,375
Q3 10	21,000
Q4 10	28,250
Cal 11	26,125
Panamax	Average 4 Timecharter Routes 74,000mt dwt
Jul-10	17,875
Aug-10	24,000
Q3 10	22,375
Q4 10	25,625
Cal 11	20,750
Supramax	Average 6 Timecharter Routes 52,000mt dwt
Jul-10	18,875
Aug-10	20,000
Q3 10	19,750
Q4 10	22,250
Cal 11	17,750
Handysize	Average 6 Timecharter Routes 28,000mt dwt
Jul-10	14,750
Aug-10	14,750
Q3 10	14,850
Q4 10	16,000
Cal 11	13,375

* All prices are basis midprice between best bid and offer 1300 London Time

** All prices are indications of current market level

*** Contract routes are as per the current Baltic route definitions

Not the end of the world?

A much more positive tone this week on freight and iron ore swaps, buoyed by unexpectedly good physical market news. Having less than two weeks ago seen the dry market written off (and the Baltic Dry Index with it), the futures market has seen short term volatility return, though not necessarily with a wholly convincing tone.

Capesizes began the week in the doldrums with little support nearby. But the market bounced on Tuesday, bringing Q4 above \$27,000, with August and September well bid up to \$22,000. There were further gains as the week progressed, albeit more modest despite a positive index.

Another push from the physical as the week drew on brought a fresh wave of buying interest and as we close in on August there is a solid premium on paper to spot. Talk of better fronthaul rates is keeping the nearby periods firm.

The panamax curve likewise remained stable and supported with interest on the bid side with offers marginally higher as the week opened. The stronger feel on capesizes saw the curve gain further support and offers retreat.

Rates stayed in narrow range with Q4 \$23,625-\$24,000 then \$24,000 to \$24,650 and Cal11 to a year high at \$20,400. But strong interest kept the momentum up with August and September trading \$24,500 to \$25,500, Q4 from \$25,000 to \$26,200. As on capesizes, buyers are backing off a touch at these levels but the overall trend seems firm.

Supramaxes showed slightly less conviction with the nearby starting the week softer with the deferred stable and a flatter tone overall. August - September was given at \$20,000 but there was support on the Q4 at \$22,750 and Cal11 at \$18,000.

Contributed by FIS: www.freightinvestor.com

Grand opening in Shanghai



More than 100 guests turned out for the grand opening of the Castrol China Technology Centre on Wednesday in Shanghai.

The opening ceremony at Pudong Jinqiao Science Park was graced by Zhu Jiajun (pictured), deputy governor of Shanghai as well as Mike Johnson, chief executive lubricants for Castrol, and Chen Liming, president of BP China. Guests included representatives from automotive companies and equipment manufacturers.

“We welcome Castrol in choosing Pudong Jinqiao as its base in China. It will play a leading role in the development of China’s lubricants industry,” said Zhu. “We welcome leading global brands like Castrol to Pudong New District, which contribute to the development of our area.”

Naming West Callisto



Top officials from Indonesia’s energy industry were in Singapore last weekend for the naming of the Seadrill jack-up rig West Callisto. The rig named at Keppel FELS was sponsored by Poespawardhani Priyono, wife of R. Priyono, chairman of BPMIGAS, Indonesia’s upstream oil and gas supervisory agency.

The West Callisto is expected to start a nine-month drilling contract for Premier Oil in Indonesia in the third quarter of the year.

“The successful construction of West Callisto is another strong testimony of the teamwork between our companies. Keppel FELS looks forward to continue supporting our valued customer Seadrill with growing its market leadership in premium rigs,” said Wong Kok Seng, executive director of Keppel FELS.

China Shipping takes delivery of the nation’s largest tanker



China Shipping Development took delivery of the Xin Yong Yang from Guangzhou Longxue Shipyard on 26 July, becoming the largest tanker in China.

The VLCC Xin Yong Yang is a 309,200 dwt very large crude carrier (VLCC). China Shipping Development now owns 10 VLCCs totaling 2.98m dwt and has two more sister ships to come from Longxue. The Xin Yong

Yang is a totally Chinese designed affair. Many other yards, principally Dalian Shipbuilding Industry Co and Bohai Shipbuilding, have since developed even larger designs of up to 320,000 dwt.

Events

10th International Dry Bulk Review

2 – 3 August
 Sheraton Towers, Singapore
 Contact: IBC Asia
 Website: www.ibt-asia.com

Seafarers Crew Management

27 – 28 September
 Singapore
 Contact: Asia Business Forum
 Website: www.abf-asia.com

Marine Money Asia Week Forum

28 – 29 September
 Singapore
 Contact: Marine Money
 Website: www.marinemoney.com

6th Asia Maritime & Logistics Conference and Exhibition

10 – 12 October
 Putra World Trade Centre, Kuala Lumpur
 Contact: Lloyd’s List DCN events
 Website: www.asiamaritimelogistics.com

Seatrade China Awards

13 October
 Shangri-La, Dalian
 Contact: Seatrade Singapore
 Website: www.seatradechinaawards.com

16th Singapore International Bunkering Conference and Exhibition

27 – 29 October
 Resorts World, Sentosa, Singapore
 Contact: IBC Asia
 Website: www.sibconsingapore.com

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