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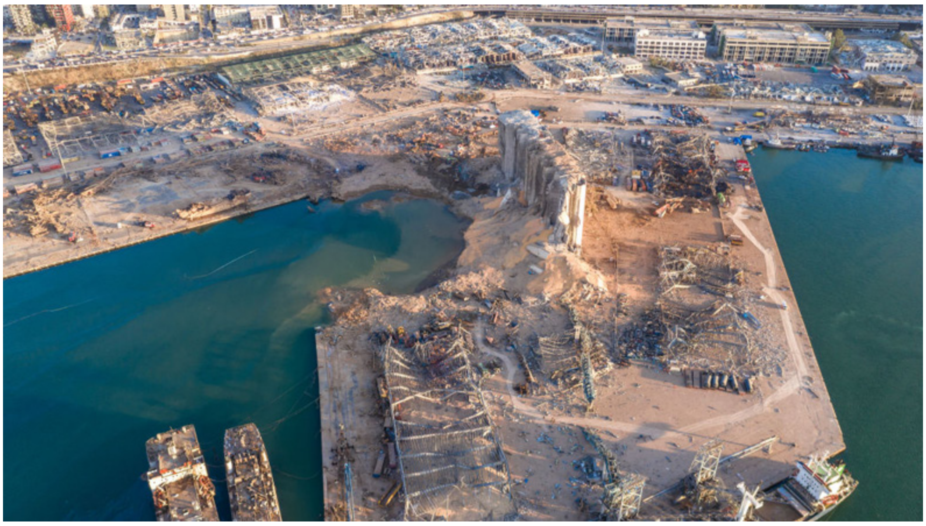
Legal 'grey' zone said to complicate Beirut litigation



THERE IS NO binding international framework for the safe storage of ammonium nitrate on land, a factor that will complicate efforts to determine liability after last week's catastrophic explosion in Beirut, according to a lawyer who has worked on similar cases.

The inevitable flurry of legal action will likely be based heavily on Lebanese domestic law, including provisions for negligence and potentially even manslaughter, he added.

Other experts pointed out that parcels of the chemical — known simply as 'AN' in the commodities industry — are routinely stored in quantities of up to 20,000 tonnes or so, many times greater than the 2,750 tonnes thought to have been responsible for the August 4 blast.

However, that should not cause for concern, as AN is not particularly volatile and is perfectly safe if well kept, they stressed.

Some 55m to 60m tonnes of ammonium nitrate is turned out globally each year, by mixing ammonia and nitric acid, said Julia Meehan, managing editor for fertilisers at ICIS, a global source of commodities intelligence. Current export price out of Russia is $155–$160 per tonne fob Baltic.

It comes in two grades, one for use as fertiliser and one for use in explosives.

Chemically both are the same, but the explosives grade is lower density and more porous, facilitating the absorption of fuel oil to make a compound known as ANFO.

The former Soviet Union, eastern Europe, the UK and France are all manufacturing countries, and buyers can be found across Europe for fertilisers applications, and in many mining countries for explosives applications.

However, its popularity among non-state actors who engage in do-it-yourself bombmaking — not to mention several accidental explosions — has led to a decline in the market for fertiliser grade AN.

There are even bans in place in some jurisdictions, where alternative fertilisers such as urea or calcium ammonium nitrate (known as CAN) are preferred. While these are inferior at the basic job of nourishing plants, they are seen as safer.

“What we have seen over the years is that the market for fertiliser grade ammonium nitrate is declining, primarily because regulations have continuously been tightened,” said a chemicals industry consultant, who asked not to be named.

“A lot of companies have said, we do not want to get involved in this, because of potential for litigation and reputational risk. In the US, a lot of companies have completely pulled out of the AN market and are pushing substitutes.”

He estimates that explosives grade is now the largest element in the global AN trade. And even that is coming under pressure, given the environmental concerns increasingly surrounding open cast mining techniques.

Usually AN is shipped in bulk, but is sometimes bagged, typically in units of one tonne or of 50kg, in line with customer preference.

Sometimes, when container rates are through the floor, the economics of putting it in boxes stacks up. A small amount is produced as an emulsion, and moving it a job for chemical tankers.

Generally, shipments within Europe are shorthaul, and in the 5,000–10,000 range. Bigger shipments, of up to about 25,000 tonnes are sent to destinations such as Brazil.

“The key thing is, if handled properly and safely, there is not really an issue. Shipments of explosive grades tend to be in smaller lots, partly because of the requirements of the market. If you’re shipping fertiliser, people need it by the tonne.”

The legal framework is something of a grey area, according to a partner with a shipping law firm, who worked on litigation surrounding the explosion at the Chinese port of Tianjin in 2015, where AN was again a culprit.

Where it is shipped in bulk, it is not subject to the International Maritime Dangerous Goods code, which applies to unitised goods only. And of course, the IMDG code itself does not apply on land.

“IMDG is an International Maritime Organization convention, prepared for the purposes of ocean carriage. So, the code is irrelevant for the purpose of assessing whether the warehouse operator has liability,” he added.

In reality, the legal framework a bit of a mess. While there are IMO guidelines on the keeping of cargoes for transhipment purposes, these do not apply to longer-term storage.

“IMDG is a huge document, hundreds of pages in two volumes, lots and lots of appendices dealing with lists and IMO numbers for cargoes. That’s one of the criticisms.

“The recommendations are a very short document, 200-odd pages, very much at the high level. It applies to dangerous goods within the port area… They apply only when you’re keeping the cargo for transit, and they are only guidance. They’re not part of law.”

In short, each individual government develops its own rules on matters such as chemical storage, health and safety standards, gross negligence and manslaughter.

Frequently they are not observed. The rules in China specify that AN should not be stored within one km of residential dwellings; at Tianjin, that did not happen.

So what now? The future of AN is inevitably a hot topic in the world of fertiliser trading right now, said Ms Meehan.

“There is discussion in the industry whether ammonium nitrate can be substituted with calcium ammonium nitrate. Big buyers are getting concerned about security of supply.”

As Lloyd’s List reported last week, others suspect there will be increased reluctance on the part of shipowners to carry AN consignments, although that will mean higher rates for those ready to run the risk.

Increased insurance premiums for the carriage and storage of ammonium nitrate is also a reasonable expectation.

WHAT TO WATCH

Mauritius fears stricken bulker close to breaking up

FEARS are mounting that more unsalvaged oil from the stricken capesize off Mauritius could seep into the ocean.

Already 1,000 tonnes of fuel oil has leaked from the 203,130 dwt *Wakashio*, according to reports.

The vessel, which hit a reef off the east coast of Mauritius on July 25, was en route to Brazil from Singapore. It was not carrying cargo.

The bulker was carrying 3,894 tonnes of low-sulphur fuel oil, 207 tonnes of diesel and 90 tonnes of lubricant oil to make the journey.

Bad weather led to a breach in the starboard tank, which had been holding 1,183 tonnes of fuel oil, while the portside tank contains 1,850 tonnes of LSFO, according to estimates from the International Tanker Owners Pollution Federation.

According to a Reuters report, 500 tonnes has been salvaged.

The incident prompted the Mauritius Prime Minister Pravind Jugnauth to declare a state of environmental emergency. He told reporters there was a risk that the vessel could break up, the Guardian reported.

Although response teams had managed to stem the leak, they were bracing for the worst, he said. “The cracks have grown. The risk of the boat breaking in half still exists.”

High winds are reported to be hampering salvage operations, with forecasts for waves of up to five meters, further derailing salvage and clean-up efforts.

Oil was reported to have come ashore at several locations around the Baie de Grand Port, ITOPF said.

Nagashiki Shipping, the Japanese owner of the 2007-built, Panama-flagged bulker said that the tanker MT Elise was safely positioned alongside the grounded vessel, with the transfer of fuel oil underway through a hose connection. A second tanker remains on standby.

Containers of fuel oil have also been removed by helicopter.

“The primary focus at this time is reducing the effects of the spill and protecting the environment,” it said, adding that attempts are being made to secure the vessel.

A further salvage tug arrived in the Port of St Louis, with additional personnel and specialist salvage equipment.

Mitsui OSK Lines, charterer of the vessel, said at the weekend it was sending a team of six to assist, while ITOPF said a technical manager and adviser were preparing to leave, with scheduled arrival on Wednesday.

HMM to sell stake in ex-Hanjin terminal to CMA CGM

SOUTH Korean carrier HMM has agreed to sell a 50% stake minus one share in its wholly owned Total Terminal International Algeciras in southern Spain to French rival CMA CGM.

Upon the completion of the deal, the Seoul-based line will own 50% plus one share of the terminal via its special purpose company HT Algeciras and remain as the largest stakeholder, according to a release.

The financial details including the price of the sale were not disclosed.

“HMM expects a great synergy effect based on strategic co-operation with CMA CGM, in terms of enhancing profitability and operational capabilities by securing additional cargoes,” said the release.

Located in the port of Algeciras Bay, TTI Algeciras is the first semi-automatic terminal in southern Europe and the Mediterranean area. It started operations in May 2010, with a designed capacity to handle 1.8m teu each year and accommodate ultra large containerships.

HMM acquired the terminal in 2017 from bankrupt compatriot shipping line Hanjin Shipping, which was awarded the concession in July 2008 under a 30-year lease with an option for five more years.

"TTI Algeciras has a great geographical advantage to play an integral role as a transhipment hub located at the centre of containerised cargo flow on main trade lanes," said an HMM official. "We believe TTI Algeciras will take centre stage in the Gibraltar area as it has a high potential for future growth and development.

The deal is still subject to regulatory approvals. It is expected to be completed in the fourth quarter of 2020, when joint operations will begin.

OPINION

Shippers have a duty to speak up for stranded seafarers

CARGO owners in the container trades have a quite different relationship with shipowners and operators than those in the bulk markets, *writes Janet Porter*.

In the latter, whole ships are chartered, while beneficial cargo owners and freight forwarders in the box trades buy slots for their containers rather than hire the whole vessel.

That may be one explanation why shippers of containerised freight have been reluctant to get involved in the crew repatriation crisis that has left thousands of seafarers stuck at sea because of coronavirus-related disembarkation and travel restrictions.

They may also think that the big global container lines are in a better position to organise crew changes, with their strong local connections at key hub ports where crew changes would take place, and financial resources to organise flights for homebound and incoming personnel.

In truth, neither cargo interests in the bulk nor containerised trades emerge well from this emergency, seemingly concluding that crewing matters are not their responsibility. Their argument appears to be that they are simply the customers, and that it is up to shipowners, operators, managers, and crewing agents to find a solution.

And so, in normal times, it should be, but these are not normal times and those turning their back on the men and women at sea who make sure the global economy and international trade continue to function should think again. For they are the ones who could make a difference.

That is particularly true in the container trades, effectively the retail side of the industry, where the merchandise shipped is sold in shops, supermarkets and department stores all over the world. A few words from a high street brand name could be all that is needed.

So why is that not happening?

Those who understand the inner workings of the container trades point out that the more distant contractual relationship between shipper and shipowner than in the bulk business could be one reason, while shippers are often reluctant to get involved in politics for any number of reasons.

In the US, it may be concern about a backlash when drawing attention to the high volume of imports from China at a time of such strained relations between Washington and Beijing.

Yet cargo owners are more than happy to promote their environmental credentials when explaining to their customers — the general public — what actions they are taking to reduce transport-related pollution. So they do take a direct interest in the ocean carriers they use beyond schedule reliability and freight rates.

Furthermore, the plight of seafarers is not so much a political issue as a humanitarian one.

These big global companies have the ear of politicians and decision-makers in the way that most shipowners do not.

But if they are reluctant to speak out on an individual basis, then shipper associations and councils, which have never been shy in the past about taking a stand, should start lobbying for action.

First, though, it may be up to container lines, which have close relations with their customers even if on a different basis than in the wet and dry bulk trades, to ask beneficial cargo owners and forwarders to back industry-wide efforts to find a solution.

It is hard to see what there is to lose, but easy to recognise what there is to gain.

Seafarers who are unable to get home at the end of their contracts, and several hundred thousand more who are out of work because they have no means of joining ships, are the lifeblood of an industry that keeps trade flowing.

They are the ones who make sure vital supplies, from food, medicines, and personal protective equipment, to everyday consumer goods such as laptops, clothing, and pharmaceuticals, arrive in the shops.

Ships' crews do not have much of a voice on the world stage, but those whose cargo is moved by sea are far more likely to be heard.

This is not somebody else's problem, it is everyone's problem.

Only a vaccine holds the key to maritime's virtual lockdown

SHIPPING thrives on its networking — physically meeting, greeting, and catching up. So when shall we meet again? *writes Richard Clayton*.

The coronavirus pandemic has wiped out this year's programme of conferences and exhibitions. Instead, we became energised by the online, virtual replacements.

Now, after less than six months, the shortcomings of Zoom and Webex and their cousins have become apparent. We learn best interactively; staring at a screen for hours on end is no way to grow.

So what are the prospects for 2021? Will we be able to settle down to the normal conference schedule next spring?

The scientists are cautious. They tell us that, despite unprecedented international collaboration between pharmaceutical companies, universities and scientific institutions, a vaccine to counter the coronavirus crisis is unlikely to be widely available until late 2021.

Professor Luke O'Neill, an immunologist at Trinity College Dublin and chair of the immunity and infection panel at the European Research Council, said a vaccination programme is the only solution to the pandemic. There are currently more than 170 vaccines under development, four of which are out ahead.

"We can't directly answer the question 'when will we get a vaccine'," he told a Marine Insurer webinar. "If we are lucky and everything goes to plan, we are talking about Q1 next year."

Frontline health workers, the old and vulnerable will be the first to be vaccinated.

"These vaccinations will take three to six months," said Prof O'Neill. "If all goes well there will be widespread use of the vaccine by the end of next year."

Asked about a second wave of the virus, Alanna Shaikh, Principal Consultant at Tomorrow Global, a policy research and institutional strategy firm, said it's more likely there will be a series of waves than a specific second wave. She believes there will be a "cycle of tightening up, seeing the virus slow, loosening restrictions, and watching the virus circulate again".

She said lockdowns would never end the pandemic. "They can only slow the spread of the virus."

Ms Shaikh said there has been more data gathered about this virus than any other disease, so much data that medics are using artificial intelligence to analyse it.

"Lockdown is psychologically and economically difficult, and there are many consequences. On the other hand, it's what stops the virus. There is a decision to be made about the balance between stopping the virus and the harm that decision makes to people's lives."

Prof O'Neill agreed. "This virus won't go away. There will be vaccinations for the next 10 or 20 years."

Assuming that conferences will not be allowed to reconvene until it's safe to do so — and it won't be safe until the disease is under control — and again assuming the pandemic won't be under control until there is widespread vaccination, shipping is unlikely to meet again until 2022.

In the meantime, watch out for the evolution of the digital conference. There's still a way to go.

MARKETS

Clarksons confident of global shipping recovery

CLARKSONS, one of the world's largest shipbrokers, said it remains confident the global shipping industry can bounce back from the coronavirus slump.

It expects its broking division to remain robust through the second half of the year, after a 35% increase in underlying profits in the first six months of 2020, driven by "standout performances" in the tanker and gas divisions, the London-based company said in a statement.

It also expects a return to profitability in its finance unit following cost-cutting initiatives and improved profits from its support services, while its offshore business made "great headway" in the renewables market.

Clarksons noted how the world was increasingly looking at cleaner tonnage, with 23% of the current orderbook slated for alternative fuel use compared with only 3% of the existing fleet.

Coronavirus has worsened investor sentiment, it said, with many projects postponed. However, it expects a "catch-up effect" with more activity in the second half of the year.

But it refrained from issuing full-year guidance because of uncertainty related to the "speed and shape" of global trade recovery, combined with geopolitical sensitivities and ever-changing exchange rates.

The company reported an 8.8% rise in first half of the year profits before tax of £20.9m ($27.3m) compared with the same period a year earlier.

"Given the impact of Covid-19 on global GDP and short-term trade shock, we anticipate some impact on activity in the second half of 2020, with each of the markets at different stages of reaction/rebalancing and the impact of logistical delays, storage, increased scrapping, layup and docking also having an effect on localised demand and supply balances," it said.

"GDP growth, spurred by the raft of global financial stimulus packages being rapidly rolled out by governments around the world, together with an end to the pandemic, will create the foundations for a sustained recovery," the company added.

IN OTHER NEWS

IMO to hold all meetings online for rest of year

THE International Maritime Organization has issued a revised schedule of meetings, which will be held virtually, starting in September.

The meetings were postponed from earlier in the year due to the coronavirus pandemic.

The first scheduled meeting, to be held from September 16-18, will be extraordinary sessions of all committees to discuss procedural matters, the London-based IMO said in a statement.

Safe Bulkers launches ATM equity offering

SAFE Bulkers, the Cyprus and Greece-based owner of dry bulk carriers, may look at acquiring one or more additional vessels with the proceeds of a new fundraiser for up to $23.5m.

The Nasdaq-listed owner has filed a prospectus supplement with the market regulators under which it can sell shares in the company "from time to time" through DNB Markets, its appointed sales agent.

The timing of share sales through the at-the-market or ATM offering would depend on a variety of factors, the company said.

CSSC Shipping signs leaseback deal for Goldwin-linked product tankers

CSSC (Hong Kong) Shipping has agreed a sale and leaseback deal for two product/chemical tankers linked with shipowner Goldwin Shipping.

The Hong Kong-listed shipyard-backed lessor will buy the 55,600 dwt pair for a total of nearly $71m and then bareboat charter them for 10 years to the original owner for $78.1m, according to an exchange filing.

The first vessel, owned by a company called Ray Fount Shipping, was delivered in June 2020 and sold at a slightly lower price. The second, owned by Ray Delight Shipping, will be handed over this month.

Temasek pulls out of Keppel bailout deal

SINGAPORE sovereign wealth fund Temasek Holdings said it will not proceed with its conditional offer to take a controlling 51% stake in battered conglomerate Keppel Corp.

Keppel last month reported a S$537m ($391m) first half of the year loss because of S$930m of impairments, which are mainly related to Keppel Offshore & Marine's stranded assets, receivables, stocks and share of impairment provisions from its Floatel unit.

Temasek subsidiary Kyanite Investment Holdings announced on Monday, a public holiday in Singapore, that it is "announcing today that the partial offer will not proceed".

Dock workers resume strike at Montreal

DOCKWORKERS at the port of Montreal have launched an indefinite strike as part of a dispute concerning work schedules.

The Canadian Union of Public Employees Local 375, which represents 1,125 dockworkers, announced the strike last week as part of a dispute with employers over a lack of a collective agreement.

Ships have been rerouted for the past two weeks after two four-day strikes, the Canadian Broadcasting Corporation reported. It said containers with medical suppliers would be allowed to pass through the port.

Classified notices follow