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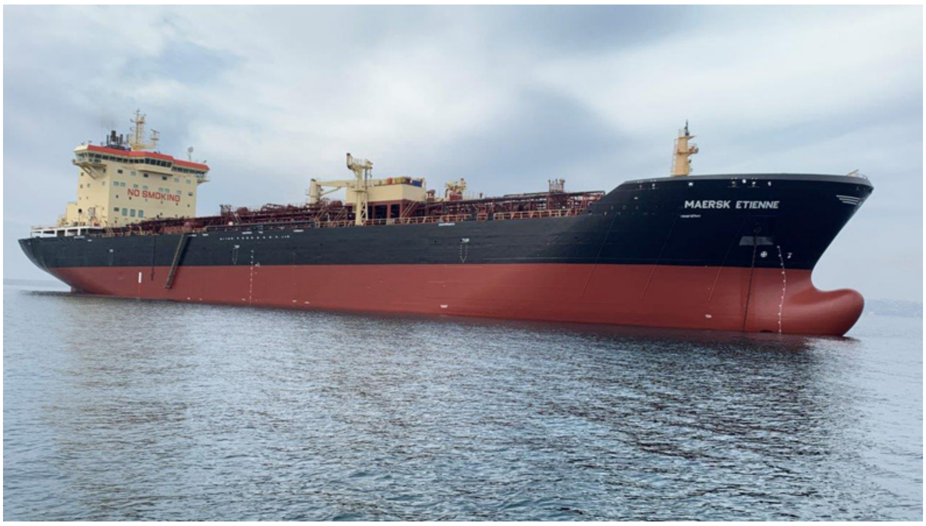
IMO urged to intervene as Maersk Etienne impasse deepens



THE INTERNATIONAL MARITIME Organization is under pressure to intervene on behalf of the crew and 27 migrants who have been stranded on a product tanker in the Mediterranean since August 4.

The Denmark-flagged *Maersk Etienne* is at the centre of a political stand-off, after Malta — which requested the rescue — refused to allow the vessel to dock and claimed the migrants are the responsibility of Denmark.

Three leading international groups are calling for the immediate disembarkation of those on board the *Maersk Etienne*, which remains off the coast of Malta.

The International Chamber of Shipping, the UN High Commission for Refugees, and the International Organisation for Migration have sent a joint letter to the IMO secretary-general Kitack Lim as conditions on board continue to deteriorate.

The organisations say the decision by governments to refuse permission for the ship's master to disembark the migrants and refugees who fled Libya is "in contravention of international law".

The ship's crew have been sharing food, water and blankets with those rescued. However, they are not trained or able to provide medical assistance to those who need it, they continued.

"A commercial vessel is not a safe environment for these vulnerable people and they must be immediately brought to a safe port," the three agencies said.

In the letter, the International Chamber of Shipping said the IMO should urgently step in and "send a clear message that states must ensure that maritime search and rescue incidents are resolved in accordance with the letter and spirit of international law".

The intervention followed comments from Malta's prime minister at the weekend that the migrants were the responsibility of Denmark and not Malta.

However, international law maritime conventions place clear obligations on ships and coastal states to ensure people in distress are rescued and promptly disembarked in a place of safety, according to the letter to the IMO.

"The *Maersk Etienne* fulfilled its responsibilities, but now finds itself in a diplomatic game of pass the parcel," the trio said. "The absence of a clear, safe, and predictable disembarkation mechanism for people rescued in the Mediterranean, continues to pose avoidable risk to life," according to IOM director-general Antonio Vitorino.

"IOM and UNHCR have long called on states to move away from the current ad hoc approach and establish a scheme whereby coastal states take equal responsibility in providing a port of safety, followed by a show of solidarity from other EU member states."

Conditions "are rapidly deteriorating on board, and we can no longer sit by while governments ignore the plight of these people", said Guy Platten, secretary-general of the International Chamber of Shipping.

"This is not the first time that this has happened, and we need governments to live up to their obligations. Time is running out and the responsibility for these people's safety and security rests squarely with government ministers. This is a humanitarian issue, pure and simple."

He said shipping takes its legal and humanitarian obligations to assist people in distress at sea "extremely seriously".

"However, merchant vessels are not designed or equipped for this purpose, and states need to play their part," he added.

Filippo Grandi, UN High Commissioner for Refugees, has described rescue at sea as "a basic humanitarian imperative".

"The vessel *Maersk Etienne* has fulfilled its maritime obligations and prevented further deaths in the Mediterranean," he said.

Mr Grandi called on the European Union and its member states to "do their part to complete this life-saving rescue by allowing those rescued to be disembarked, and should also show some solidarity among states, particularly through an effective and predictable relocation mechanism".

One lawyer at a leading London shipping law firm said: "Coastal states are supposed to assist and allow vessels to berth, but this is not prescribed by convention. There is no provision saying which state is to do so."

The rescue by *Maersk Etienne* came a month after the livestock carrier *Talia* was asked by the Maltese coastguard to rescue 52 people at sea, and was then refused permission to dock by both Malta and Italy.

WHAT TO WATCH

Shipping and the law on rescuing migrants

THE obligation to save life wherever possible has been set down in the moral codes of the world's major religions for millennia.

In maritime practice it has been around for centuries, and in the law of the sea for decades.

The issue is back in the spotlight as a result of the political impasse over the vessel *Maersk Etienne*. On August 4 it responded to a request from Malta's search and rescue co-ordination centre to assist a migrant boat carrying 27 people.

Since then, the vessel has been at anchor off Marsaxlokk, with Malta refusing to take them on shore. Prime minister Robert Abela has said responsibility for them rests with Denmark as flag state.

Maersk is declining to discuss the cost, but has confirmed that the ship has been off hire for more than four weeks. The expense of additional provisions is also likely to be substantial.

This is the latest episode in a problem that has grown with the increase in migration across the

Mediterranean, sparked by conflicts in North Africa and the Middle East.

What is the legal position? Is a vessel obliged to assist a migrant boat in difficulties in the first place? According to legal experts, the short answer is yes.

Under article 98 of the United Nations Convention on the Law of the Sea, a master has a duty to "render assistance to any person found at sea in danger of being lost in so far as he can do so without serious danger to the ship, the crew or the passengers".

The master must respond to "information from any source that persons are in distress at sea" and is "bound to proceed with all speed to their assistance" (The International Convention for the Safety of Life at Sea, chapter V regulation 33).

He may only refuse to do so in "special circumstances", which would probably have to go beyond purely commercial reasons.

Neither Unclos nor Solas, the Safety of Life at Sea Convention, specify any sanction for failure to act, according to Marcus Dodds, a master mariner and partner in Watson Farley & Williams..

"The text of these (and other relevant) conventions do not prescribe penalties, they only propose the duties," he said. "It is up to each state party that has transposed such duties into their national law to address what penalties should be imposed and upon whom if those duties are breached."

That leaves the decision about prosecution down to flag states and/or coastal states, according to Clyde & Co partner Stephen Macklin.

"A failure to provide assistance, without reasonable justification — for example, in the event it would put the vessel providing assistance in peril or there were better suited vessels to provide assistance at the site — is punishable by criminal sanction," he said.

"Sanction is enforced either by the vessel's flag state, where the incident is in international waters, or it may be subject to local law were the vessel is in territorial waters."

While all flag states may be equal from a legal standpoint, some are clearly more equal than others, as George Orwell might have put it. In the real world, the prospect of meaningful enforcement by jurisdictions in which the state effectively does not function on land is probably slim.

Once the migrants are on board, there seems to be no binding obligation on any country to accept them on shore. So while Mr Abela appears to be wrong to suggest that the *Maersk Etienne* crisis is Denmark's problem, from a strict legal standpoint, he is probably correct to insist it is not Malta's.

Unclos article 98 simply provides: "Every coastal state shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring states for this purpose."

The Search And Rescue Convention chapter 3.1.9 imposes an obligation on the party responsible for the search and rescue region where the incident occurs to have the primary obligation for assisting in the prompt disembarkation of any persons rescued, said Mr Macklin.

"So, where the rescue takes place in coastal waters, the obligation to arrange disembarkation would be clear and would fall on the coastal state," he said. "However, a rescue outside coastal waters can result in a stalemate, the vessel having effected a rescue continuing on her voyage to her intended destination and the authorities in that location refusing to accept the rescued persons."

A lawyer at a third law firm said: "The closest coastal state should permit the ship to dock and deliver the refugees, but the reality is that many have not done so."

Citing the legal term used to describe the documentary evidence of the negotiation, discussions, and drafting of a final treaty text, he added: "In the travaux préparatoires to one of the conventions, language making it an express obligation was rejected by the states."

In 1981, a resolution of the executive committee of the United Nations High Commissioner for Refugees argued that the duty to accept asylum seekers should fall on the country of the next port of call. But this does not have binding force.

"This is not to my knowledge anywhere in statute or convention," the lawyer added. "There is no definitive answer, unfortunately."

The European Commission does not have the legal jurisdiction to enter the conflict about which country should accept the 27 migrants that are stuck on board *Maersk Etienne*. Denmark may have to accept the migrants, Danish political parties say, although the minister responsible rejects the notion.

The International Maritime Organization said in an email that it was monitoring the situation.

OPINION

Shipping must stand for social and political tolerance

BUSINESS executives tend to avoid talking about politics publicly unless they have to, *writes Cichen Shen*.

Hong Kong Shipowners Association chairman Bjorn Hojgaard has found it necessary, with the latest fallout from the Sino-US strife turning into yet another turn of the screw for the Asian shipping hub.

The world we live in has become increasingly polarised, warned Mr Hojgaard, who is also the chief executive of locally based Anglo-Eastern, the world's second-largest shipmanager.

"Shipping is built on trade and trade on coexistence," he told a recent Marine Money Hong Kong webinar. "As global nomads in the shipping world, we need to stand up for tolerance for civil discourse and for reason. We must reject being taken hostage by either end of this political spectrum."

The appeal must have come from the depths of the heart.

A former British colony and known for its economic liberalism, the Chinese special administrative region is being dragged down by political turmoil — first the US-China trade war since 2018 and then the domestic social unrest sparked by anti-government movements.

The local economy, including shipping and the port sector, was already hit badly, even before the debilitating coronavirus pandemic.

Now the US is rubbing salt into the wounds. President Donald Trump's administration recently decided to scrap a double tax deal for shipping with Hong Kong, after pledging to punish China for its clampdown on dissidents by implementing the national security law in the city.

While an effective date has yet be specified, the US policy is expected to increase the financial burden for shipping companies on both sides and threaten Hong Kong's prospects as a maritime hub.

Mr Hojgaard's fellow speakers from the local marine community were rather reticent when asked to comment on the impact. But they were unable to shrug off the concerns.

"It could have an impact on operating costs if there is a great tax that we end up having to pay," Michael Fitzgerald, deputy chief financial officer of Orient Overseas Container Line, told the audience.

And passing the extra costs on to cargo owners or charterers will not be a solution for dry bulker operator Pacific Basin, said its chief executive Mats Berglund. "The customer will simply use another ship rather than a Hong Kong ship in the spot market," he pointed out.

He, however, suggested that termination of the tax agreement would not take effect until the beginning of 2021, based on his company's "preliminary analysis".

Does that mean there is still room for Washington and Beijing to renegotiate a deal after the US presidential election? Maybe.

Mr Hojgaard concluded his speech by calling for a commitment "in rejection of nationalism, fascism and radicalism", an advocacy that people in shipping could no agree with more.

The hope is more would listen.

YC Chang, shipowner and PIL founder, dies at 102

CHANG Yun Chung, the Singaporean shipping tycoon who founded Pacific International Lines in 1967 and continued to act as its hands-on executive chairman until 2018, has died. He was 102.

Dubbed ‘the world’s oldest billionaire’ by Forbes, Mr Chang passed away on September 4, his family said.

“With his vision and energy, he turned a small coastal operator with only two ships into the company we are so proud of today,” his son and successor Teo Siong Seng said in a statement to staff. “His tremendous wisdom and steady hands were born of struggle in his youth.”

PIL, based in Singapore, is ranked among the world’s Top 10 container shipping lines by capacity.

Mr Chang, who was also known as Teo Woon Tiong, had made earlier attempts at setting up his own shipping business. He finally succeeded in his 50s, a mark of his unwavering perseverance in the shipping business.

International Chamber of Shipping chairman Esben Poulsson said PIL was among the first to break into the China-Middle East trade and was “doing very well” in the early years since its inception.

Those were the days when PIL was mainly trading using secondhand general cargo carriers.

But Mr Chang did not rest on his laurels.

“He was an early investor in containerships and soon ordered newbuilds — something the company had not done until the 1980s,” Mr Poulsson said.

It was this bold, calculated bet on the then still hazy future of containerised shipping that set PIL apart from its peers active during the Singapore’s nation-building years.

Almost four decades from its first foray into container shipping, PIL finds itself once again back at the crossroads.

The long-standing family-owned shipping business has emerged as an investment target for a subsidiary of Singapore’s sovereign fund, Temasek Holdings.

Temasek’s Heliconia Capital is reviewing equity and loan funding of more than $400m for PIL.

Prior to talks with Heliconia Capital, PIL was previously identified as a potential takeover target for China’s state-run shipping line Cosco.

The circumstances, however, widely differ between the two deals, given that the broader shipping industry has turned for the worse and PIL has thus been greatly weakened financially, since talk of Cosco’s interest.

Mr Teo, who took over as executive chairman from his father in 2018, is now confronted with the prospect of having to agree to cede family control over PIL in exchange for Heliconia’s lifeline.

When quizzed about rumoured talks with Cosco, Mr Teo has repeatedly held that PIL “is not for sale”.

Many in Singapore’s close-knit shipping community considered his emphatic response as also being aligned with his father’s attachment to the business he founded.

Mr Teo shoulders the burden of steering the empire he inherited through the rest of a severe downturn exacerbated by the unprecedented coronavirus-led disruptions.

This is not one task he has sole authority to make the call on, what with shares in the business divided between him and his siblings.

Still, PIL stands to lean on the legacy of Mr Chang, that his surviving family has built upon, to overcome the headwinds, one veteran held.

“Even in today’s challenged market, PIL benefits from the ‘strong brand’ YC (Chang) established through strong relationships with business partners,” said Mr Poulsson. “The shipping and business community holds SS (Teo) in the same regard.”

Mr Chang is survived by 14 children. The Changs or the Teos hold more than half of PIL’s board seats.

ANALYSIS

World boxship fleet update: Tipping the balance

PEAK season demand for container shipping has vastly outstripped even the most optimistic outlooks of only a couple of months ago.

Now carriers are now facing the challenge of bringing capacity back into the market while maintaining the high rates that their discipline has achieved.

To date, returning capacity has been managed by bringing back vessels that had left to idle for matter of weeks due to a sailing being blanked. Those blankings are now being reversed and the vessels are under way again.

By most estimates, capacity on the transpacific is now higher than it was this time last year, and on the Asia-Europe trade it is only just below where it stood a year ago.

With the worst impact of the pandemic now apparently over, and with container lines set for their most profitable year in a decade, there is a risk that the positive atmosphere may lead lines to drop their guard and look again at their fleet capacity.

One of the oft-cited reasons for the positive response to the crisis by container lines is that the containership orderbook is at historically low levels. Figures from Lloyd's List Intelligence show that at the end of August, the capacity of tonnage on order was 2.4m teu, or just under 11% of the fleet.

According to figures from Clarksons, 2020 containership contracting stands at just 28 units, comprising 174,000 teu, down by a third over the corresponding period last year.

An order for six ships was reported but not yet recorded on the very last day of August, when intra-Asia specialist SITC contracted six 1,8000 teu vessels at Yangzijiang Shipbuilding.

SITC is paying $126m for the newbuildings, which are scheduled to be delivered between April and October 2022, and options are available for a further six vessels.

The newbuildings would enable SITC to "expand its self-owned fleet of container vessels to meet the increase in demand for the company's services," the company said in a statement.

SITC operates 70 trade lanes with a fleet of 86 vessels and a total capacity of 125,403 teu and has recently said it plans to expand its intra-Asia service network.

While the capacity added by these vessels will not bother the main lane trades or carriers, speculation is mounting that Orient Overseas Container Line is considering orders for seven more 23,000 teu containerships, raising the prospect of another investment binge in the sector.

The Cosco Shipping subsidiary aims to combine the newbuildings with the quintet of the same size already on order to form an independent loop on the Asia-Europe trade, sources said.

Hong Kong-based OOCL in March signed a $780m contract to build five 23,000 teu ships at two affiliated yards in China. Those deliveries are scheduled for between the first quarter and the early fourth quarter of 2023.

The new orders, if they come to fruition would help the state-owned giant — which controls the world's third-largest containership fleet — narrow the capacity gap with the leading carrier Maersk and the runner-up Mediterranean Shipping Co.

Deliveries last month included the penultimate vessel in HMM's 12-ship order for 23,000 teu tonnage. *HMM Le Havre* was delivered by Daewoo Shipbuilding & Marine Engineering, following the delivery of *HMM Stockholm* and *HMM Southampton* from Samsung Heavy Industries earlier in the month.

"Later this month, Samsung Heavy Industries will deliver the 23,792 teu *HMM St Petersburg* and therewith complete HMM's megamax newbuilding programme," said analysts at Alphaliner.

"This, however, does not mean that HMM's container ship orderbook will soon run dry. Further to the 12 megamaxes, the Korean carrier will also receive a fleet of eight 15,000 teu ships from Hyundai Heavy Industries."

If the OOCL orders go ahead, combined with the HMM deliveries and ships on order, these alone would add another 672,000 teu of capacity to the fleet, or 3% of existing capacity.

This also comes as the idle fleet is reducing as container lines bring tonnage back into service. Idle capacity fell back during August to around 5%, compared to the 11% it had reached in May.

"The risk of an oversupplied container market remains high in our view, with active capacity estimated to decrease by only 2% this year, after an estimated 4% points higher idle rate at 7%, following the recent drop to 5%," said Jefferies analyst David Kerstens.

But the move to scrap older tonnage has picked up pace, relieving some of the pressure on supply.

"For the first time since the start of the year, the total capacity of all ships sold for recycling to date has exceeded that of the same point in 2019," analysts at Dynamar said.

"Up to week 35, sixty-four vessels totalling 165,000 teu have been sold for scrap, compared with eighty ships and 159,000 teu for week 35 last year. The full-year 2019 total ended up being 100 ships for 195,500 teu. Scrapping activity started to pick up in week 27 this year, and for as long as the current market situation remains, is not likely to cease."

MARKETS

Sovcomflot and Novatek order 10 LNG carriers

SOVCOMFLOT and gas giant Novatek have ordered 10 icebreaking liquefied natural gas carriers to export cargoes out of Russia's Arctic LNG 2 facility.

The two Russian firms announced the orders through the SMART LNG joint venture for the Russia-flagged, 172,600 cu m Arc7 LNG carriers with Russian shipbuilder Zveda.

They have agreed a lease financing deal with the Russian-state controlled financier VEB.RF for the vessels.

The companies did not disclose the price of the ships or when they are expected to be delivered.

Sovcomflot did not immediately respond to requests for comment.

Arctic LNG 2, which will liquefy gas resources extracted from the Utrenneye field and is scheduled to begin partially operating by the end of 2022, agreed to take the 10 vessels on "long term time charter agreements".

While Sovcomflot and Novatek did not disclose the duration or the terms of these charters, Sovcomflot said that their addition raises the company's contracted future earning and receivables to $20bn. At the end of June the firm had reported a record $12.8bn in future revenues.

The latest deal follows similar ones with Arctic LNG 2 for five other Arc7 LNG carriers agreed in October 2019 and January 2020.

"The construction of 15 state-of-the-art ice-class gas tankers ensures the core formation of the Arctic fleet for the Project that will allow the year round transport of LNG along the Northern Sea Route to the Asian Pacific region, and provide an important stimulus to develop the Russian shipbuilding industry," Novatek said in a statement.

Novatek controls a 60% stake in the Arctic LNG 2, with Total, China National Offshore Oil Corp, China National Petroleum Corp and the Mitsui-Jogmec consortium Japan Arctic LNG each owning 10% in the project.

It will consist of three LNG trains, each capable of yielding up to 6.6m tonnes of LNG per year. Train 1 is set to be up and running by the end of 2022, followed by Train 2 in 2024 and Train 3 in 2026.

Container volumes edge up to recover lost ground

GLOBAL seaborne container volumes continued to climb in July to a level nearly on par with last year, in the clearest sign yet that a trade rebound is in motion following the demand downturn at the hands of the coronavirus backdrop.

The latest figures published by Container Trades Statistics show global container demand was down by just 0.1%, or around 20,000 teu, in July against the past year at 14.8m teu, representing the strongest month of 2020 and the highest tally since last July.

CTS said the figure will be subject to fine tuning in the coming weeks, however, it said that it is clear that "as lockdown restrictions are easing, and economies are re-opening, so demand is steadily improving".

With volumes falling back only slightly, global containerised freight volumes through the first seven months of 2020 of 92.9m teu are down 5.7% on the past year, according to CTS.

The initial outbreak of the coronavirus led to a 3.4% fall in global container volumes during the first quarter of 2020, before a near double-digit percentage drop in the second as the virus spread, and subsequent lockdowns created a seismic shock to the global economy.

"April was by far the worst month, down 13%, but despite improving volumes in May and June the quarter was still down by 9.6% by its close showing just how exposed the carriers have been to the vagaries of the pandemic's impact," commented CTS.

The key driver of global volume growth in July was exports from the Far East, said CTS.

At just under 8.7m teu the latest monthly count was up 10% on June's figures and 2% on the corresponding month of last year.

"While no doubt helped by the rebound in production in China, the world's second-largest economy and the first to get going again after the shutdown, this has fed into higher demand on the major east-west trades suggesting that a stronger peak season is under way," said CTS.

The emergence of an unprecedented peak season on the transpacific trade has lifted freight rates to all-time highs in recent weeks.

The latest figures from CTS show that volume demand in July was showing signs of strengthening exports to North America from the Far East.

Eastbound transpacific volumes of 1.94m teu in July were up 18% on June and, more significantly, represented an 11% increase on its year ago monthly figure. Last week, figures released by the US Census Department also pointed to a rebound in the country's container throughput, with imports and exports up sharply through its gateways.

Meanwhile, on the Far East-Europe trade lane there too was annual volume highs in July.

Volumes hit 1.52m teu on the route, as rise of 9% on June and up above its monthly total last year for the first time in 2020.

The Far East-Europe trade has though been one of the worst hit by the pandemic, with volumes through the first seven months of the year still down 10% on 2019 levels at 8.8m teu, according to CTS figures.

The marked improvement in July figures is expected to be repeated in August with carriers reporting a definitive uptick in business in the third quarter.

Following the publication of its second-quarter results last week, French carrier CMA CGM even said that it even expects volumes carried in the second half of 2020 to improve over last year.

Nevertheless, there is still as air of caution as to whether this positive sentiment will continue through to the end of the year, with the risk of a second wave of the virus still apparent.

But Denmark-based consultancy SeaIntelligence this week also raised concerns over whether the trend of consumption that has emerged during the pandemic will continue, an aspect that would see the complete decoupling between container demand development and the overall development in the global macro economy, that is "more worrisome", it said.

"Overall consumption is in decline due to the recession — but for now, this is counteracted by people shifting consumption from services into physical goods," it said.

"Once given the opportunity, it appears highly likely that the spending will revert back to services, when bars, restaurants, travel, events, etc re-open for business."

Although SeaIntelligence admitted that timing is difficult to ascertain, given that US importers appear to favour the faster west coast routing over the east coast, "this does give an indication that the current strength could have a relatively short lifespan".

If this rings true and is indeed a temporary phenomenon, SeaIntelligence said we should anticipate a correction in container volumes, at some point in the near-to-medium term.

IN OTHER NEWS

Fire on board VLCC off Sri Lanka under control

THE fire on board the very large crude carrier off Sri Lanka's coast has been brought under control, according to a Lloyd's List Intelligence casualty report.

The Sri Lanka Navy along with the Indian Coast Guard and other stakeholders were able to bring the fire on *New Diamond* under control at around 0300 hrs on Sunday, 79 hours after the fire was first reported.

Although the fire has now been completely doused, there is a possibility of a re-emergence of the blaze owing to the high temperatures inside the ship and heating of the ship's iron plates, the Sri Lankan Navy said.

Golden Ocean hires Avance Gas finance head

GOLDEN Ocean, the dry bulk unit owned by billionaire John Fredriksen, has hired Peder Simonsen as chief financial officer.

Mr Simonsen held a similar role at Avance Gas, where he was also serving as interim chief executive following the departure of head Ulrik Andersen to lead Golden Ocean in April this year.

"I hope to help the company build upon its strong track record of success at a time when the dry bulk market has turned the corner and should benefit from recovering demand and a swift slowdown in fleet growth," Mr Simonsen said. "The company has a well-managed balance sheet, which we expect to enhance further in the coming year."

Gulf Navigation appoints new board of directors

GULF Navigation Holding, a Dubai-based shipping company, has appointed a new board of directors.

The new appointments support the company's "relentless efforts for a new start in the maritime sector" after the peak of the impact of the coronavirus pandemic, which greatly affected the global markets, is over, it said in a statement.

Shareholders and investors count on the new board members and their extensive experience to help the company regain its leading position in the United Arab Emirates and across the region, it added.

DB Schenker targets Damco customers with 'stability package'

GLOBAL logistics service provider DB Schenker is targeting rival Damco's customers following the announcement by the latter's parent group that is it to discontinue the brand and combine its and less-than-container-load offering with logistics and services products.

AP Moller-Maersk said the move would "complement its end-to-end offering" and introduce "a more simplified and customer-centric global ocean and logistics organisation."

It added it would "not pursue the ocean FCL multi-carrier product (NVOCC)" currently offered by Damco as a general offering, instead offering customers capacity and solutions within the Maersk group.

Classified notices follow