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## Marine insurers failing to reimburse ransom payments



RANSOM PAYMENTS FOR kidnapped seafarers off Nigeria are not being picked up by marine insurers as they were in the Somali piracy crisis of a decade ago, leaving owners trading to the Gulf of Guinea at risk of finding themselves hundreds of thousands of dollars out of pocket, according to a legal expert.

The situation at work — for reasons related to the pirates' modus operandi — is that the payments fall between stools, and are not clearly the responsibility of either P&I, hull or war risk underwriters, said HFW partner Richard Neylon, who has been involved in the resolution of over 100 hijacking and kidnapping cases over the last decade.

He said the legal arguments here are extremely complicated and always admit of exceptions, and that it is only possible to speak in broad brush terms.

In Somalia, pirates tended to hijack a vessel, often including its cargo and its crew, thereby putting property at risk.

Where cargo was involved, general average was usually declared. Where cargo was not involved, the 'sue and labour' clause in many marine policies came into play.

GA contributions are paid by property interests, namely the shipowners and the cargo interests, and in practice their insurers.

Sue and labour clauses provide that insurers must foot the costs of policyholders' efforts to avert or minimise loss, which it is indeed their duty to undertake, with ransoms coming under this heading.

This had the effect of keeping P&I out of the picture.

The question also arose as to which insurer had responsibility for the owner's share of GA in cases of piracy. Historically it has been regarded as an H&M risk, as set down in the Institute Clauses.

But the market responded to the Somali piracy explosion by effectively making it a war risk instead.

Nigerian pirates work on a different business model to their Somali counterparts, frequently snatching crew members to bring about what becomes a land-based kidnap for ransom situation.

Thereafter the vessel heads for a port of refuge, the crew is changed, and any necessary repair work carried out.

"Generally the ship is not at risk," said Mr Neylon. "So, when we go to our Somali model of sue and labour and general average, that all falls away. There is no property at risk. All we have is the crew, stuck in Nigeria."

Hull and machinery underwriters see themselves as responsible for such occurrences as collisions and groundings, and war risk underwriters for the likes of missile attacks. They tend to stress that no property is at risk, and direct assureds to liability underwriters such as P&I clubs, on the grounds that this is a crew risk.

The P&I counter argument is that club clauses typically exclude all war risk. War risk cover includes not only war property cover but a "war P&I" element as well, defined as covering what clubs exclude.

"P&I clubs will say, 'We're a P&I club. We don't pay ransom, we've never paid ransom'. And that's quite right," said Mr Neylon. "But the only reason they didn't pay ransom in Somalia is because it was a property risk. It's not that it's excluded or they don't pay, it's just they say it wasn't their risk. Here there's no property at risk and here they're the crew liability underwriter."

P&I clubs probably would be on the hook if a seafarer were to die in captivity, as that would be regarded as a death claim.

There have been concrete cases of clubs sticking to their guns and asserting that ransom is not an express covered risk. Assureds have the option either to challenge this position or ask the club to treat their claim as a discretionary claim.

War underwriters counter that they only cover what P&I clubs exclude. Piracy per se is a P&I cover and not traditionally regarded as a war P&I risk.

Mr Neylon stressed that this is not delaying the release of captives. Owners are paying up in the first instance and seeking to recoup their outlay by way of indemnity.

The best thing for owners is either to buy specific kidnap and ransom cover — known as K&R in insurance jargon — or turn to a war risk mutual whose policies do include ransom payments.

This may be a demand of either the mortgage bank or the charterer. The other option is "self-insurance", taking any ransom payments on the chin.

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## WHAT TO WATCH:

# Shipbuilders face mixed outlook as newbuild costs soar

NEWBUILDING orders have enjoyed a remarkable rebound so far this year following a market depression in 2020.

The rocketing freight rates, especially in the box shipping market, fleet renewal driven by stricter environmental requirements, and the increasing speculative interest have all boosted the activity.

Statistics compiled by China's shipbuilding association (Cansi) show new orders won by South Korean shipyards jumped 71.6% year on year in the first half of 2021 to 11m cgt, while

their Japanese rivals recorded a 14.3% growth to 1.9m cgt.

The figures are based on Clarksons data, company disclosures and other open source information.

While Cansi has yet to release the results in China, the first five months have already seen its new orders up 53.7% to 11.8m cgt.

State-owned China State Shipbuilding Corp, which is the world's largest shipbuilding group by assets, said it hit its 2021 annual order target in just six

months, with 18.4m dwt contracted in January to June, exceeding the amount a year ago by almost three fold.

Equity analysts appear optimistic about the outlook of the shipbuilding companies they cover.

CGS-CIMB Securities research analyst Lim Siew Khee noted the hefty orderbook of Singapore-listed Yangzijiang Shipbuilding, the leading privately run Chinese player in the sector.

The company boasted a backlog worth \$7.7bn as of the end of June — higher than the 2008 peak of \$6.9bn — of which \$5.5bn were orders clinched this year. Most of those fresh tonnage are boxships.

“With the Shanghai Containerised Freight Index remaining high at a record level... we think shipping clients could be pressed for slots and will pay to secure the space,” said Ms Lim.

Daewoo Shipbuilding & Marine Engineering, an important South Korean builder, echoed the view.

It told investors that the liner shipping market remained strong because of continued port congestions and customers’ desire for stable supply.

In addition, “containerships require more fossil fuel than other types of ships. In order to overcome this situation, owners will actively consider transitioning to eco-friendly ships”, DSME said.

Meanwhile, the order spree in the dry bulker sector appears on its way as the Baltic Dry Index elevates.

Data from China Newbuilding Price Index, which tracks ship prices at domestic yards based on inputs from 21 broking houses, revealed at least part of the uptrend.

According to its statistics, dry bulker orders placed at Chinese yards in the first half of the year jumped 140% to 12.4m dwt.

Allied Shipbroking noted that the record levels of freight earnings have pushed up owners’ demand for further fleet expansion.

“Given the positive market outlook, buying confidence and the current fundamentals, we expect more [orders] to be announced in the coming weeks, with a notable focus to be given in the smaller size units,” it said.

Nevertheless, yards are being pestered by one big problem: a disappearing margin pared by rising shipbuilding costs, in particular the steel prices.

A senior yard executive said many of the contracts announced in the second quarter of this year were options of the firm orders signed in the first quarter or even earlier. Hence, these were loss-making deals with almost the same ship price yet much costlier ship plates, he added.

“So, we have to increase the prices for new deals, even though that may cut down on some of our business, such as speculative orders.”

The Clarksons Newbuilding Price Index climbed from 126 points at the end of 2020 to 138 points as of mid-June 2021, its highest level since 2014.

The guidance price for very large crude carriers and capesize dry bulkers and 15,500 teu boxships were up by 14%, 26% and 24%, respectively, over the period.

Further upward pressure is expected as iron ore prices continue to surge amid strong demand for the commodity, despite China’s attempts to curb the mark-ups.

As a result, ordering enthusiasm could be tempered in the second half of the year.

Some brokers, however, argue that owners who have or are making a fortune out of the hot market will not stop ordering as they are less sensitive to the high newbuilding prices.

Others pointed out that the uncertainties over new emission-cutting measures and the extra investment in energy-saving devices and fuel technologies on board may help owners keep a cool head.

## ANALYSIS:

# Derivatives dive as market confidence fades

FADING confidence in the fundamentals underpinning the capesize bulker segment saw a dramatic plunge in the value of freight derivatives contracts in the past two days' trading.

Capesize forward freight rates came under pressure on July 5, with July down to \$29,000 per day from \$31,000 per day last week, while August was sold steadily at \$33,000 compared with \$36,000 on July 2, according to Freight Investor Services.

“The index also lost ground, shedding a whopping \$1,333 a day which, for a Monday, was aggressive,” it said in a note.

With physical rates waning and a subsequent decline in volumes of forward freight agreements being traded, reduced volatility in the market has also impacted the number of options swaps being concluded.

The Baltic Exchange capesize index dropped to 3,293 points at the close on July 6, down 20.4% from the week before and around 30.7% lower than a record high of 5,404 points on May 5.

Meanwhile, the battle between otherwise solid dry bulk fundamentals and the rather uninspiring present capesize supply-demand balance has left traders with little ammunition in their effort to predict bottoms and tops of the volatile spot market as traditional intra-asset relationships seem to fail

so far in forecasting any such levels, said Breakwave Advisors.

“Our expectation is for another trip to the low 20,000 mark for capesize rates before a meaningful bottom and subsequent rally to higher levels towards the end of the current month,” it said.

BIMCO chief shipping analyst Peter Sand admitted that capes have been the weakest link this first half of the year, with handysizes being the outstanding outlier in the field.

He said that the current and most likely fairly short-lived weakness in the capesize segment is due to the decline in Chinese coal trade.

“Coal imports from China have completely shied away from Australia, new suppliers have been favoured — some in the neighbourhood, while other have been further away: South Africa, Ukraine and the US as well as Canada.”

Looking ahead, with solid demand for the panamax and supramax segments where spot rates remain in the \$30,000 per day territory, the vessel substitutions to capesizes are real, said Breakwave Advisors.

That would provide additional demand for that segment which could potentially offer a higher level of support for the dwindling capesize spot market, it said.

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## MARKETS:

# Contract box freight rates soar in first half

CONTRACT containerised freight rates have witnessed an “astronomical” hike in the first six months of this year and are expected to remain elevated for at least the medium term.

The latest Xeneta Shipping Index shows contract rates rose 39.2% year on year, following a 2.3% increase in June. While the comparable period last year was affected by the onset of the pandemic, the index has risen 37.7% since the end of 2020.

“It can almost be difficult to keep a sense of perspective here,” said Xeneta chief executive Patrik Berglund. “Seen in the context of 2021, a 2.3% gain appears only moderate, but in any other month, in any other year, this is a very strong performance for the carriers.”

Strong demand in the US continued to be the main driver of rates performance.



The index for US imports rose 9.3% last month, the third-largest increase on record, and resulted in the benchmark being 36.9% higher than in June 2020. The index has risen 36% since the end of 2020.

In Europe, however, imports on the XSI declined for the first time in seven months in June after the benchmark fell by 4.2%.

Despite the month-on-month decline, the index is still up 48.1% compared with the same period a year earlier and has risen by 47.1% since last December.

“While imports on the benchmark declined in June, rates in the spot market continue to rise. Port congestion and equipment shortages remain a contributing factor,” Xeneta said.

Mr Berglund warned there was little relief in sight, as carrier efforts to increase their fleets would not bear fruit until 2023-2024.

## Changing Lanes: UK's growing reliance on shortsea shipments to fulfil deepsea duties

UK PORTS remain less connected to the deepsea than to the shortsea market, despite non-European containerised trade representing most of the cargo to and from the country, according to MDS Transmodal data.

During the first quarter of 2021, overall scheduled capacity deployed on container services calling at UK ports equated to an annualised level of more than 28m teu. This is the highest level yet reported in our Containership Databank dating back to the start of 2006, which has grown 54% over this period at a compound annual growth rate of 2.9%.

However, while the capacity deployed on the deepsea routes (intercontinental services) has been growing at a CAGR of 2.6%, the capacity deployed on the shortsea routes (that is services within the North Europe & Mediterranean) has increased by a CAGR of 4%.

Capacity deployed on the shortsea routes has experienced uninterrupted faster growth than that on the deepsea services since 2016, with data for recent quarters suggesting a growing gap between the two markets.

In the first quarter of 2021, while capacity on deepsea routes was substantially flat compared to the previous quarter, capacity deployed on the shortsea routes was up by approximately 20

“Ports in the US are facing new levels of congestion, causing huge delays in shipments and inventory shortages for retailers,” he said.

Shippers were left with the “unpalatable and unsustainable” option combination of deteriorating reliability and climbing spot and contract rates.

“It is exceptionally tough for shippers to navigate the market right now, as the delta between short-term and contract rates continues to grow,” Xeneta said. “Carriers unquestionably have the upper hand and are in a strong position to exploit the budgets of big volume shippers.”

That would be reflected in carriers' results, Mr Berglund said. “We should all brace ourselves for the carriers' and forwarders' second quarter of the year financials. It will be a joyful moment for the sellers, but painful for the rest of the market.”

percentage points over the same period, reaching a new high of 180 points on MDST's Containership Databank.

Comparing the level of capacity on the container services offered between the UK and the European/Mediterranean market in the first quarter of 2021 to the corresponding three-month period of 2016, MDST estimates that overall capacity has increased by around 38%.

The share of capacity deployed by the alliances or their members has increased from 53% to 68% during this five-year period, while capacity offered by their subsidiaries has risen from 18% to 20%.

Extending the analysis to the wider intra-European & Mediterranean market, MDST estimates that the share of capacity offered by subsidiary companies (with the holding company part of an alliance) has increased from 9% to 14% during this same timeframe.

On the demand side, however, cargo moved between the UK and the deepsea market has continued to grow at a faster rate than cargo within the intra-European market.

Assessing the supply and demand trends, it would appear that UK cargo to and from the deepsea markets is increasingly moved on shortsea box

services with direct calls between the UK ports and non-European markets increasingly declining.

eastern European road haulage, as drivers' wages are increasing.

It is difficult to name one specific factor behind this development as various events have been (and still are) affecting UK trade flows and the global supply chain more in general. Above others, in the case of the latest trends experienced by UK, they can partly be seen as a reaction to Brexit (to avoid too great an emphasis on the short straits) and partly as a response to the increasing costs in central and

However, considering the longer-term trends, with shipping lines increasing the level of their co-operation through mergers and acquisitions, in addition to the formation of new alliances, it can be assumed that container services within the European market have become increasingly competitive and have gained share at the expense of ro-ro services.

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## IN OTHER NEWS:

### **'Bankrupt' shipowner faces jail for contempt of court**

NOBU Su, a Taiwanese former shipowner and billionaire, is facing a custodial sentence for a third contempt of court offence related to a long-running dispute concerning a minimum of \$54m owed to Greek shipowner Polys Haji-Ioannou.

Mr Su remotely attended a hearing at London's Commercial Court (Queen's Bench division) on July 6 in relation to an application by the Mr Haji-Ioannou-operated Lakatamia Shipping to commit him to prison.

Judge Sir Michael Burton QC adjourned the hearing and ordered Mr Su to appear in court in person on July 7 so he can deliver his verdict on how long he would spend in prison. The maximum sentence that can be imposed is 24 months.

### **One ship is hacked every day on average**

SHIPS are being regularly hacked, at a rate of as many as one a day, an industry audience has heard.

Known cases include an incident in which bunker surveyors were given access to the computers in an engine control room so they could print documents off a USB stick, which introduced a virus to that system.

In another incident, a vessel transiting the Strait of Singapore lost two ecdis networks at the same time on account of a virus and had to fall back on paper charts.

### **CMA CGM launches waste power project**

THE CMA CGM-led Coalition for the Energy of the Future has launched a feasibility study to trial the production of bio-LNG in France.

The project at Marseille-Fos will allow the transformation of household waste from the Aix-Marseille-Provence region into liquefied biomethane. The bio-LNG will then be used for CMA CGM's LNG-powered vessels.

The carrier said bio-LNG made it possible to reduce greenhouse gas emissions by at least 67% compared with very low-sulphur fuel oil from well-to-wake. The tank-to-wake measure (on a ship-wide basis) achieves an 88% reduction in emissions.

### **Seaspan and Zim sign deal for 10 LNG boxships**

SEASPAN has signed a charter and newbuilding deal that will see it providing 10 dual-fuel 7,000 teu vessels with long-term commitments to Israeli carrier Zim.

"We are very pleased to collaborate with Zim on this forward-thinking project which provides advanced designs, competitive pricing and valuable deliveries," said Seaspan chief executive Bing Chen. "We see these modern 7,000 teu to be the natural successor to the ageing global pool of conventional vessels in the 4,000 teu-9,000 teu range, where relatively little fleet renewal has taken place.

"We are experiencing strong customer interest for this vessel size."

### **Euronav acquires tankers with ammonia power potential**

EURONAV, a crude oil tanker owner, is buying three new suezmaxes and one very large crude carrier that would be capable of running on ammonia and liquefied natural gas in the future.

The New York-listed company said it is joining a development programme with Hyundai Heavy Industries and classification societies Lloyd's Register and DNV to "help accelerate the development of dual-fuel ammonia (NH<sub>3</sub>) fitted VLCC and suezmax vessels".

Euronav, which owns and operates more than 70 large tankers, has also agreed new contracts with HHI to build three

suezmaxes for a total \$199.2m, set for delivery in the third quarter of 2023 and the first quarter of 2024.

**CSIC Ltd sustains losses from offshore yard restructuring**

CSIC Ltd, a flagship listed unit of state conglomerate China

Shipbuilding Industry Corp, has revealed the financial impact of the debt restructuring of an offshore platform building subsidiary.

The Shanghai-listed company said it will lose its equity interests in Dalian Shipbuilding

Industry Offshore, which has become insolvent and can only recover part of its debt claims.

CSIC Ltd held a 51% stake in Dalian Offshore via its wholly owned subsidiary yard, Dalian Shipbuilding Industry Co.

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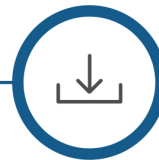
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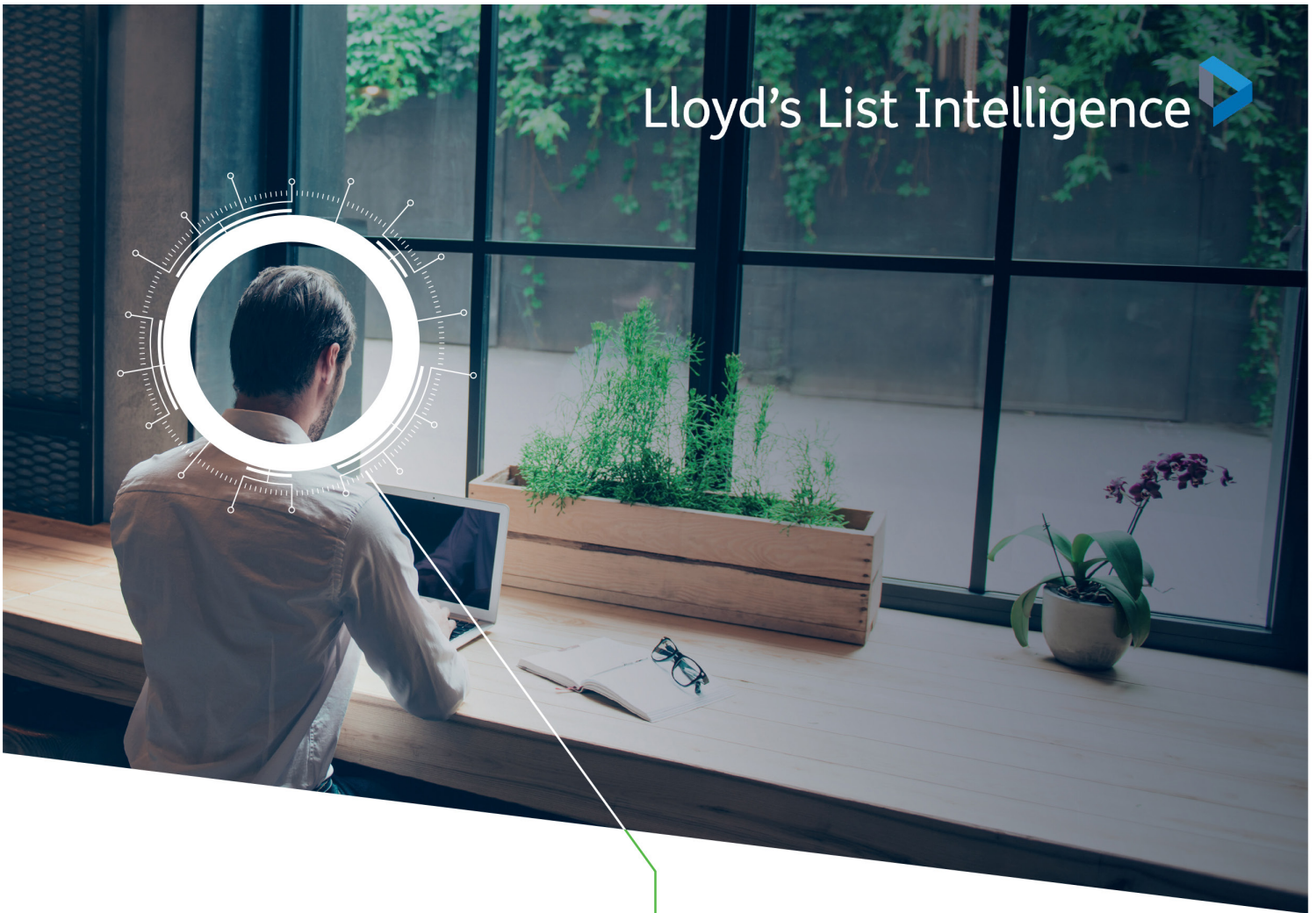
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