

News

Environment

Coalition bids to modify US ballast water Bill

Shipping alliance makes case for IMO standard to Senate subcommittee, writes **Rajesh Joshi** in New York

A COALITION of shipping organisations will testify before a US Senate subcommittee in Washington today in the hope of influencing a pending ballast water statute that proposes treatment standards 100 times more stringent than those contained in the International Maritime Organization's treaty.

The Ballast Water Coalition is to appear before the National Ocean Policy Subcommittee of the Senate Commerce Committee, which is holding a hearing on the Ballast Water Management Act of 2005.

The Bill is being mooted by, among others, Democratic senator Daniel Inouye from Hawaii, and Republican Senator Ted Stevens from Alaska.

The Bill has aroused sharp global interest, because it proposes water treatment standards 100 times more

stringent than those proposed in the IMO treaty.

The treaty, which was adopted in 2004 but has not yet been ratified either by the US or by the required number of signatory nations, would require ships constructed in 2009 or later to discharge less than 10 organisms per cubic metre of ballast water. Ships constructed prior to 2009 would need to upgrade their onboard systems to meet this standard by 2016 at the latest.

The coalition comprises organisations such as the World Shipping Council, the Chamber of Shipping, Intertanko, the American Association of Port Authorities, Great Lakes associations and other bodies. The group is said to represent 95% of merchant tonnage trading into the US.

Kathy Metcalf, maritime affairs

director of the Chamber of Shipping, is to represent the coalition before the subcommittee. She told Lloyd's List her testimony would take a constructive approach.

Ms Metcalf will tell the subcommittee that the coalition supports enactment of a US federal legislation that would serve as the benchmark.

However, the coalition would also encourage the backers of the Bill to stick with the numerical standard contained in the IMO treaty. The numerical value of the standard is less important than assuring the existence of a robust and flexible appraisal of whether such technology is currently available, Ms Metcalf said.

No technology has yet been proven to meet the IMO standard, although some manufacturers are stating that they will be ready with it in the near

future. Nutech O3 is one such firm. Its executive vice-president and general counsel Joel Mandelman will also testify today, assuring backers of the Bill that an ozone-based system being developed by Nutech O3 would be ready in time for any new law.

Based on the experience of developing the prototype, Mr Mandelman will suggest to the subcommittee that the final draft of the Bill hasten the retrofitting requirements on ships currently in service.

If existing ships are allowed to continue in trade as provided in the IMO treaty they could be discharging untreated ballast water for a couple of decades, Mr Mandelman said.

The coalition will also ask the subcommittee to harden the pre-emption language in the final draft. **Feature — Page 5**

Eurasia boss leads debate with views on compliance

By David Osler

EURASIA Shipmanagement boss Rajaiah Bajpae has called on oil companies to disregard compliance issues when assessing tankers.

The demand will have greater resonance on account of his standing as president of the International Ship Managers' Association.

But a senior official of the body that developed the present assessment scheme has hit back, describing Mr Bajpae's position as "bizarre".

The Eurasia chief told an industry audience that key performance indicators included in the oil industry's Tanker Management Self Assessment should be limited to performance rather than process and compliance issues.

Speaking at the Tanker Operator conference in Oslo, he insisted: "The exhaustive compliance orientation of the key performance indicators built into the present form of TMSA should be limited to a simplistic performance orientation."

The demand was coupled with strong support for the scheme.

Eurasia had already implemented TMSA aboard its tankers, he went on.

"Any system which enables oil companies to make an informed vetting decision by taking a self-regulatory approach to

tanker safety and encouraging improvement by rewarding those who take the time and spend the money required to run a tip-top tanker outfit can only be a good one," he argued.

"Wide adoption of the scheme is the key to putting the tiny minority of substandard operators out of business."

Mr Bajpae said the system was not in itself revolutionary.

It instead codified many leading companies' standard practices and recognised that a charterer could not vet a vessel just by sending the inspectors on board for a day.

Eurasia has already implemented 11 of the 12 elements of the scheme at various levels.

TMSA was introduced by Oil Companies International Marine Forum in November last year.

OCLMF director Paul Markides said he found Mr Bajpae's stance "surprising" and even "bizarre".

He maintained: "TMSA was developed over a long period of time and deliberately designed to help ship operators drive their continuous improvement programmes in terms of their management systems."

"Therefore, process and compliance issues are key contributors to overall performance."

Tanzanian detention saga rolls on

TANZANIA'S high court has again postponed a decision on the future of a Vietnamese-owned ship that has been held in Dar es Salaam for around 11 months, writes *David Osler*.

The owner claims the ship is being detained on account of a commercial dispute to which it has no connection.

Seven of the crew of 12 have since been repatriated, although five remain on board.

A trial was due to have taken place on Friday last week.

But it was instead postponed *sine die*, without any reason being given for the decision, says Pham Ngoc Son, vice chief executive of Saigon Sea Shipping Company.

Can Gio (2,175 dwt, built 1984) is a Honduran flag general cargo ship.

The vessel was detained by court order on arrival in Dar es Salaam on July 27 last year.

It has been held ever since pending settlement of a 1999 contract dispute between Tanzanian company Mohammed Enterprises and the Vietnamese concern Thanh Hoa.

At issue is the alleged non-delivery by Thanh Hoa of 6,000 tonnes of rice and a number of husing machines.

The ostensible legal justification appears to be that the Vietnamese state has a stake in both Thanh Hoa and Saigon Sea Shipping.

The issue has generated diplomatic tensions between the two third world nations.

In particular, the Vietnamese government has been angered by the decision to name Vietnam as a defendant in the legal action.

SCI's record profits bid retiring chief farewell

By Shirish Nadkarni in Mumbai

NATIONAL carrier Shipping Corporation of India has seen a 126.5% increase in net profit for the year to March 31, passing Rs10bn (\$230m) profit or the first time in its history.

The state-run shipowner's aggregate income for 2004-05 was Rs36.46bn, a 21.6% improvement on the 2003-04 figure of Rs29.99bn. Net profit stood at Rs14.20bn compared with Rs6.27bn.

However, its board's recommendation of a 30% final dividend, over and above the 40% interim paid out earlier, disappointed the stock markets, which had expected the total dividend to touch three figures.

The Rs10 face value share, which opened trading on Monday at Rs160.50 on the Bombay Stock Exchange, scaled a peak of Rs163.5 shortly after noon before falling to Rs154 by the close.

Shipping analysts considered the results to be a suitable send-off for long-serving chairman and managing director Prabhakar Kumar Srivastava, who retires in August.

"Our results, and especially our profitability, are the best ever, but it is obvious the stock market had discounted the results in the lead-up period," said Mr Srivastava.

The company had an outstanding fourth quarter from January to March, during which it reported a post-tax profit of Rs6.11bn, compared with Rs2.57bn in the corresponding quarter a year earlier. This represented 43% of the annual net profit.

The bottom line was boosted by a substantial fall in taxation thanks to the first year of a tonnage-based tax of roughly 2% in lieu of the crippling corporate tax of 30% levied earlier.



Neptune Okeanis: can transport up to 2,000 vehicles or 1,750 lane metres of trailers and a further 1,000 vehicles.

Neptune Okeanis makes its debut at Fincantieri's Palermo yard

By Christopher Mayer

NEPTUNE Lines' 27,000 tons gross car carrier *Neptune Okeanis*, constructed in just 16 months, has made its public debut at Fincantieri's Palermo shipyard.

Launched in February this year, the *Neptune Okeanis* is the first of two vessels ordered by Neptune Lines in October, 2003.

The sistership, *Neptune Thelisis*, is nearing completion at Palermo and is due to be launched at the end of July and delivered later this year. Both vessels are under Det Norske Veritas class.

At 27,000 gross tonnes, the *Neptune Okeanis* has a maximum length of 165 m, breadth of 26.2 m, height to upper deck of 14.3 m and a draught of 6.65 m.

The carrier can transport up to 2,000 vehicles or, alternatively, 1,750 lane metres of

trailers and approximately 1,000 vehicles.

Both vessels are equipped with two Wärtsilä 6L46C engines capable of providing total power of 12,600 kW and a service speed of 20.5 knots.

Flanked at the ceremony by Enrico La Loggia, minister for regional affairs, and shipowner Nikos Travlos, Fincantieri, chief executive Giuseppe Bono said the orders for the two vessels had been won against stiff competition.

He declined to reveal the contract price for the vessels but revealed that €22m (\$28.7m) had been invested in the Palermo yard during the past three years in improving and upgrading plant technology.

Mr Bono continued: "Fincantieri is a united body, working as a single shipyard,

and is increasingly seen as such both within the company and by outsiders.

"Palermo has an important position in this context and plays an active part in integrated production among the company's various shipyards, enabling us to contain construction time scales and optimise our resources.

"Palermo shipyard has a twofold industrial mission — ship construction and repair and conversion. We have pinpointed shiprepair and conversion as a further area of development and we intend, through international agreements, to establish our presence in this sector in the Caribbean and in north Europe.

"Palermo shipyard, thanks to its position, its experience and its facilities, will have a key role within a network which will enable us to pro-

vide owners with a full service which goes beyond the construction of the ship."

In a tribute to Enzo Viola and three workers who were involved recently in an accident on board, Mr Bono insisted: "I would like to assure you that our commitment in the field of safety is firm and strong."

"We have started new initiatives and will continue to propose others without hesitation."

"I would like to acknowledge that the trade union has co-operated in establishing a loyal, positive dialogue which has enabled us to improve working conditions and environment, pursuing our drive towards achieving greater efficiency in the construction process, a must if we are to remain competitive in the international market."

Sokhna plans expansion to become Red Sea hub

THE Egyptian port of Sokhna is working on ambitious plans to boost its container throughput from the current 250,000 a year to 4m per annum by 2020, writes *David Osler*.

If the strategy succeeds, the port will be catapulted from its current obscurity to the international big league, becoming a major hub port for the Red Sea and East Africa as a whole.

Only open since 2002, the site on which Sokhna stands — about 40km south of Suez and 130 km east of Cairo — was until seven years ago still part of the surrounding barren desert.

But the only private sector-managed port in Egypt has grown rapidly thanks to its proximity to the 9,000 hectare Suez Special Economic Zone.

As well as containers, the port also handles liquid and bulk cargo, break-bulk and general cargos.

If the Egyptian economy continues to grow at its current high rate and the liberalisation of trade gathers pace, cargo volumes are expected to rise from the 20m tonnes projected for this year to 90m tonnes by 2020.

Other facilities being planned for Sokhna include a container terminal, a fertilis-

er terminal, a general cargo/ro-ro terminal and a bulk terminal.

An agribulk terminal and a liquid bulk terminal with a double jetty are planned for 2005, with an ammonia export terminal, a liquids tank farm and a livestock terminal due in the near future.

Around 2010, two new basins will be built to accommodate the expansion of liquid bulk facilities and the agribulk terminal, along with newly constructed terminals for dry bulk, containers and general cargo.

See **Red Sea Ports and Shipping supplement**

OTAL triumphs in latest round of legal wrangle amid spiralling costs

By Roger Pearson

OT AFRICA Line has triumphed at London's Court of Appeal in the latest round of an international legal wrangle that has seen legal costs spiral to a scale out of any proportion to the C\$30,000 (US\$23,900) sum at the centre of the case.

The Appeal Court backed a ruling by High Court judge Mr Justice Langley that OTAL's legal battle with Magic Sportswear Corp, Blue Banana and their insurers — in which they claimed that a cargo sent from Magic Sportswear to Blue Banana on OTAL's vessel *Mathilde Marsk* in February 2002 was short delivered — should be fought out in the English courts, rather than in Canada.

Mr Justice Langley ruled last November that the parties should abide by a term of their agreement setting the English courts as the exclusive jurisdiction for disputes, and backed an anti-suit injunction in favour of OTAL, which effectively puts an end to the Canadian proceedings.

On Monday, that decision won the backing of Lords Justices Laws, Rix and Longmore.

Lord Justice Longmore said: "It is to be hoped that the Canadian courts will not see this decision as an interference of any kind, even if the cargo-insurers or their lawyers

were to choose to catalogue it that way."

Ruling that the agreement between the parties to litigate in England should be abided by, he continued: "Freedom of contract is usually much valued in all common law systems. The maintenance of the principle that parties should be free to choose the courts where their disputes are to be resolved must be of paramount importance and cannot be reduced to a mere legal aspiration."

He also rejected attempts by Magic Sportswear and Blue Banana to stay proceedings against them issued by OTAL, in which the ship-owner seeks damages on the basis that the short delivery claim was false.

Magic Sportswear, Blue Banana and their insurers had argued that, in order to save duplication of argument and costs, the High Court should stay the English proceedings and allow proceedings to go ahead exclusively in Canada, where similar proceedings have continued simultaneously.

However, Mr Justice Langley held that there had been a failure to show the "exceptional justification" required for an English court to stay proceedings in this country when the agreement between the parties stipulated England as the exclusive jurisdiction to

resolve disputes between them.

The legal battle was first launched in Canada, where Delaware-based Magic Sportswear and Liberian corporation Blue Banana made a C\$30,000 claim against UK-based OTAL, before OTAL brought its counter-claim for damages in the English courts.

Mr Justice Langley said in November 2004: "These proceedings concern a principal sum of 30,000 Canadian dollars. They have given rise to a scale of litigation out of all proportion to the sum concerned."

There are parallel actions in Canada and in this court. The litigation shows few signs of abating.

"The plain fact is that these parties do consider the issues to be of such general importance that the underlying dispute has become of relative significance."

The legal costs will now be significantly higher still, following the Appeal Court decision. *O.T. Africa Line Ltd v Magic Sportswear Corp and ors — Court of Appeal — 13 June 2005 — before Laws, Rix and Longmore LJJ — James Collins (instructed by Stephenson Harwood) appeared for the claimant — Michael McParland (instructed by Clyde & Co) appeared for the defendants.*

LetterToTheEditor

Clementine Maersk master deserves praise for humanitarian actions

From H Hesse

SIR, I refer to the recent rescue of 27 persons adrift in a small boat in the Mediterranean by the Danish-flag container ship *Clementine Maersk* and to the subsequent, rather unbalanced articles in certain British newspapers. In this context, I would wish to congratulate Lloyd's List for the balanced and unbiased way it has reported on the matter.

On behalf of the International Maritime Organization, I would like to express my appreciation to the master of the *Clementine Maersk*, who acted in the best tradition of the sea throughout, when unfortunately other masters of passing ships had apparently ignored their

international humanitarian obligations.

The basic facts of the incident were that these 27 human beings were persons in distress at sea and the master of *Clementine Maersk* rescued them, in accordance with the long-standing custom of the sea and his legal obligations to do so under Chapter V of the International Convention for the Safety of Life at Sea, 1974.

Under SOLAS, masters of ships at sea are obliged to assist persons in distress at sea and the report indicating that apparently some ships chose to ignore this, is therefore disturbing.

On rescuing the persons in distress, the master of

Clementine Maersk assessed the situation and the apparent condition of the rescued persons and decided, as is his right, and indeed occurs frequently, if he is satisfied that the medical and health condition of the persons rescued is stable and he is able to cater for their humanitarian needs on board of his ship, to proceed to the next scheduled port, which was Felixstowe.

The fact that, subsequent to the rescue, the persons rescued decided to seek asylum is irrelevant to the rescue and brings in other international conventions.

In fact, IMO is working closely with the UNHCR and other relevant UN agencies to safeguard the integrity of

the international search and rescue regime so as to offer support and guidance to ships' masters who come to the aid of refugees and asylum seekers in difficulty at sea.

Last year, IMO's Maritime Safety Committee adopted amendments to SOLAS and to the International Convention on Maritime Search and Rescue (SAR), 1979 to help ensure that persons in distress are assisted, while minimising the inconvenience to assisting ships and ensuring the continued integrity of the search and rescue services.

The amendments are expected to come into force in 2006, while the associated guidelines are already applicable. Upon entry into force,

the amendments will require governments to co-ordinate and co-operate so as to ensure that masters of ships that rescue persons in distress at sea are permitted to disembark them with minimal further deviation from the ship's planned itinerary.

As UNHCR have stated, the master of *Clementine Maersk* should be praised for his actions.

H Hesse
Senior Deputy Director
Sub-Division for Operational Safety, Security and Human Element
Maritime Safety Division
IMO
4 Albert Embankment
London SE1 7SR