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Accident prevention

CONTAINER lines have been so bruised by their encounters with the European Commission over the past decade or so, with recent dawn raids a clear reminder that Brussels is still keeping a close eye on them, that they are loathe to talk about any issue, however worthy. But regulators should have no concerns about a joint initiative by five of the world's biggest ocean carriers that should help to both save lives and protect the environment.

Shipping containers is a dangerous business, and

occasionally something goes wrong. Often, that is because the cargo has been poorly stowed, or the line has been given the wrong weight. Without accurate information about what is inside a container, accidents are likely to happen.

Depending on how serious the incident is, the flag state, port state control or insurer may conduct an investigation, but that is a lengthy process and the findings are unlikely to be widely disseminated.

Yet those on the front line require that information in order to take preventative action to try and make sure something similar does not happen again. The industry also needs to be able to plot trends to see, for example, whether certain cargo types need to be reclassified as hazardous.

Now, for the first time, such intelligence may soon be readily available in an easy format. Maersk Line, Mediterranean Shipping Co, CMA CGM, Evergreen and Hapag-Lloyd have formed the Cargo Incident Notification System Network, which will compile information provided by the lines on all cargo-related accidents or near-misses.

After several months of trials, Cinsnet is about to be opened up to the whole industry and may even be

extended to the non-container sector eventually if there is sufficient demand.

Marine insurers welcome the initiative, as they acknowledge their own data does not give a complete picture of cargo-related risks. Shippers, too, should see this as a positive step although some may come to realise that much of the fault is theirs. Regulators should regard Cinsnet as a perfect example of how lines can co-operate for the benefit of the wider world.

Plausible deniability

THE first reaction of responsible citizens when confronted with the latest Wikileaks leak is, of course, to read with relish. The whistle-blowing website colours in the blanks about what you always imagined happens between diplomats, but could never prove: gossip, self-justification, mendacity, and, more shocking, the occasional exercise of good judgement.

A recent leak of a US diplomatic cable from Italy provides insight into how governments perpetrate arguably necessary lies in the difficult circumstances

of freeing hostages. Italy insists it paid no ransom to free the Italy-flagged *Buccaneer* and its crew of 16 after it was seized by pirates in the Gulf of Aden in August 2009. Doing so would be in violation of Italian law. But the diplomatic cable summarised a conversation between a US charge d'affaires and the Italian deputy head of the nation's Ministry for Foreign Affairs Crisis Unit that described a "three-pillar approach" to negotiations that included a pledge of \$18.5m to "Somali institutions and to the peace process" to be paid to Somalia's Transitional Federal Government.

Pirates claim they were paid \$5.7m in ransom directly from Italy, which Italy furiously denies. But the cable reveals meetings by Italian representatives with the TPF Prime Minister Omar Sharmarke led to an intervention by the TPF that "made the release happen".

It is reasonable to assume some ransom was paid. It may have come in the form of a quid pro quo action by the TPF following the pledge, and, maybe, just maybe some of that "peace process" money found its way to pirates. No government, of course, could or should ever admit to paying ransom. Mendacity has its uses if lives are saved. ■

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Industry Viewpoint



STEPHEN ASKINS

Ransoms: the moral maze revisited

Playing the waiting game to get 'prices' down is more costly financially as well as ethically

THE harrowing images posted on YouTube of the interview with the crew of the *Leopard* shows men on the edge, beaten down by the protracted uncertainties of a prolonged hijacking and exposed to a threat of cholera and malnutrition guarded by menacing young men.

Images that were juxtaposed with those of starving Somali children trapped in their own nightmare of a more extreme threat of starvation and famine. Both are a reminder that suffering in that part of the world is almost universal.

Torture and mistreatment of crew has been the subject of recent press articles and comment and it again brings into focus the moral dilemma facing the industry and owners in particular, where payment of a ransom remains the only (safe) way to free a captured crew.

As the demands and inflated expectations of the pirates increase, there are ships held where the value of ship and cargo is below the ransom "market rate". Those owners find they have very little in their negotiation armoury but time.

In those cases the negotiation is a deeply frustrating grind often taking many months. But the evidence suggests that the torture and serious mistreatment of crew (done as part of a deliberate campaign to intimidate the negotiation process) is generally limited to those cases where the negotiations are protracted.

The *Iceberg* (a ro-ro vessel hijacked in March 2010 in the Indian Ocean) is the starkest example, where loss of life among the crew has been reported and one can only imagine the sense of helplessness on board. For those ships there is no safety net.

The aim of any negotiation must be to free the crew, ship and cargo within a reasonable time and at a reasonable sum of money but always with regard to securing an outcome which allows the vessel to get to a port of refuge without requiring salvage or indeed sinking as was the case with *Suez*.

But despite the efforts of organisations like Save our Seafarers, whose aims to bring the suffering of the crew to a wider audience cannot be faulted, there has been no debate or analysis of the negotiation process itself.

An approach based on an assumption that shipowners owe each other a moral duty to pay as little as possible (as was suggested recently by an experienced negotiator) must have a different outcome from one which would put the early release of the crew as the priority.

Reported ransoms have broken the \$10m mark. The trite argument is that paying too much (or indeed anything) simply encourages other attacks.

It is hard to disagree that the attractions of such "easy" money must be overwhelming to a large number of feckless and unemployed Somali youths although the lack of risk (in terms of arrest and prosecution) perhaps plays an equal role in their decision-making.

Ransoms are going up anyway and assuming the inflationary cycle is



Drawn-out process: a ransom package is dropped on to the deck of *Sirius Star* in January 2009, eight weeks after its capture by Somali hijackers. AP

impossible to break it is inevitable more ships will find themselves in the maritime equivalent of negative equity where the market rate for the ransom exceeds the insured value of the property captured.

I have calculated that the rolling average for the ransoms paid for the last six ships released is well over \$4.5m even if we discount the reported amounts paid on the oil-carrying *Irene SL* and *Zirku*.

The equivalent rolling average for duration is 150 days (down from the shocking 220 days in February 2011).

The same average but calculated for ships hijacked this year alone, is about half at 80 days, but the reported ransoms suggest that the quick release comes at a premium, with owners paying an increased price. On the upside there were no reports of badly treated crew on those ships.

The cost issue throws up another dilemma and indeed conflict at the centre of this which is that the burden of indemnifying owners for the ransom and ancillary costs falls exclusively on the property underwriters.

But they have no interest in time and

Underwriters have no interest in time and the process is such that the longer the hijacking the more chance of securing a lower price

indeed the process is such that in general terms the longer the hijacking the more chance of securing a lower price. The stakeholder bearing the risk of time plays no part and nor of course do the insurers of the crew against whom the threats are made.

At the moment the costs of release falls to be determined under the Rules of General Average. But the dilemmas alluded to here beg the question as to whether GA is flexible enough to balance the benefits in this situation. Should and can other interests contribute and if so how?

The parameters of that debate cannot be expounded fully here and in simplistic terms shortening the duration means an increase in price and someone has to pay, but profits need to be made and it was ever thus. But assume the ransoms paid last year were around \$90m. The overall losses to all stakeholders through loss of hire, delay and cargo loss was probably around \$350m.

An increase in ransoms would easily be outweighed by the overall savings caused by shorter hijackings. Shorter hijackings would reduce significantly the suffering to the crew. So as shipping braces itself for the end of the summer lull these issues remain.

Perhaps we should simply steel ourselves against the YouTube campaign and dismiss it as a tactic by the pirates to test our resolve. Yet the suffering of the crew is genuine and a debate on funding of ransoms and the conduct of negotiations is in the opinion of this writer overdue. ■ Stephen Askins is a partner at Ince & Co LLP www.lloydslist.com/piracy

Maritime Blogspot

Chinese train tragedy's message for shipping

ABOUT once a month, I take a high-speed train between the Chinese cities of Shenzhen, just across the border from Hong Kong, and Guangzhou, the country's third largest city.

While not quite up to the standards of Japan's shinkansen, the Shenzhen-Guangzhou train is still light years ahead of the creaky inter-city trains of my native Ireland.

But a horrific accident on Saturday, July 23, which killed at least 40 people and injured hundreds more, has raised serious questions about the quality of China's high-speed network.

Using foreign technology, China has managed to propel its rail network to a level that is, ostensibly, as sophisticated as developed nations'. But beneath the veneer of top class hardware could lurk a murky world of corner cutting, poorly trained operators and glitchy software, all exacerbated by pervasive corruption.

It could take a tragedy like the Wenzhou train accident to breathe sense into Chinese officials who, intoxicated by their country's metamorphosis from a society of poor farmers to rich industrialists, think China invincible.

The country has made no secret of its desire to ascend rapidly to the top of the shipbuilding world. By some measures it already has. Despite projections that around 40% of its shipyards are technically bankrupt suggesting consolidation of its shipbuilding industry is in order, Chinese yards, both state and privately owned, continue to add shipbuilding capacity, which must find a market.

Little wonder then that foreign shipowners are flocking to China to order lower cost vessels that — we are assured — meet the tough requirements of foreign classification societies.

I can hear the class societies rise in protest already at even the faintest hint that their practices in China are less stringent than elsewhere. Yet some of these societies also certify signalling and other engineering systems deployed by China's railway operators.

Thankfully, there has been no major accident linked to safety with Chinese ships. But while some shipowners swear by Chinese ships, few seafarers would choose to work on one over a Japanese or South Korean vessel. This is simply because seafarers see on a daily basis that corners have been cut.

This is not to say shipowners should not buy vessels in China. Nor that class societies should stop certifying Chinese vessels. No, the shipping industry's relationship with China has become too entangled for that.

It is to say, however, that there is value in reflecting on the Wenzhou tragedy if only to remind ourselves that sometimes the pace of development can be too fast. Sometimes our desire to be part of a boom is so strong that we fail to ask: what happens if it all goes horribly wrong? ■

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