Crude tanker markets in four charts

by Max Tingyao Lin

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Mid-year outlook: Fleet growth outweighs modest oil demand expansion as rates remain in the doldrums

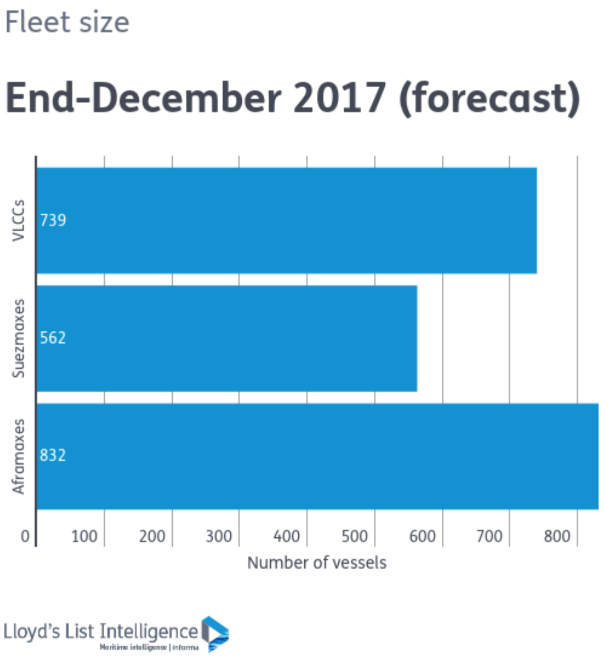
SO, this is what a down cycle looks alike.

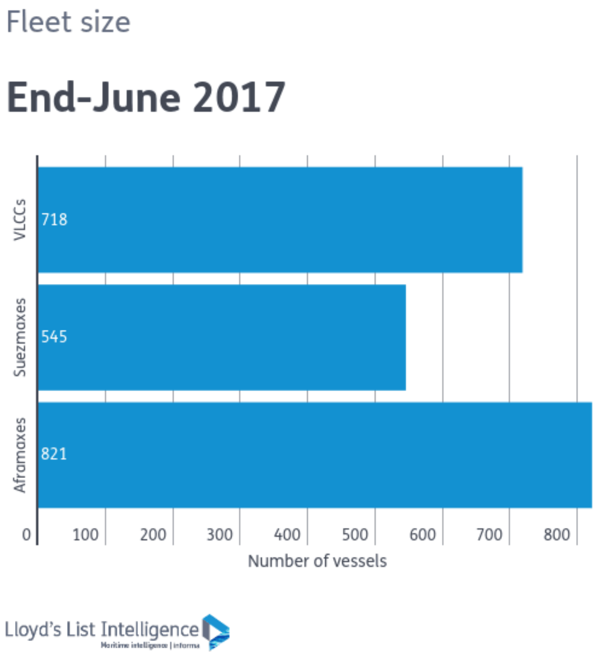
Having been the most profitable among merchant ships for two years, the crude tanker sector is experiencing a sharp downward correction in freight earnings this year.

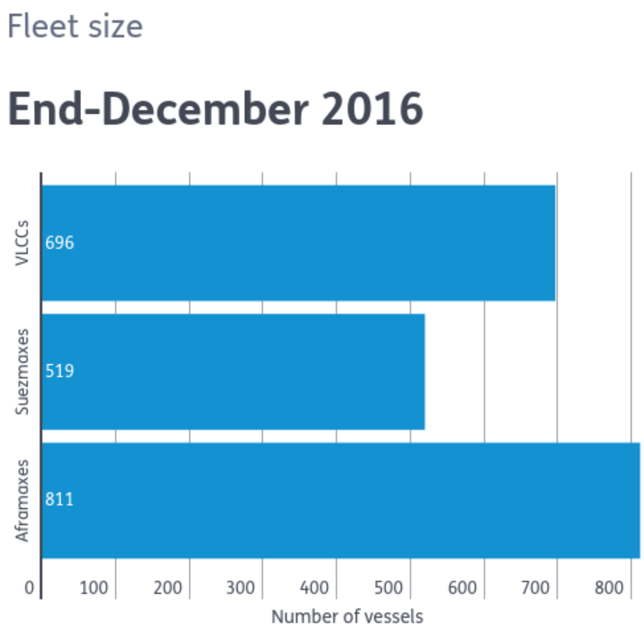
It is true that many still hold the belief that this market downturn will last for only several quarters, nothing like the previous one in 2012-2013, when several tanker giants, such as Frontline, were forced into financial restructuring.

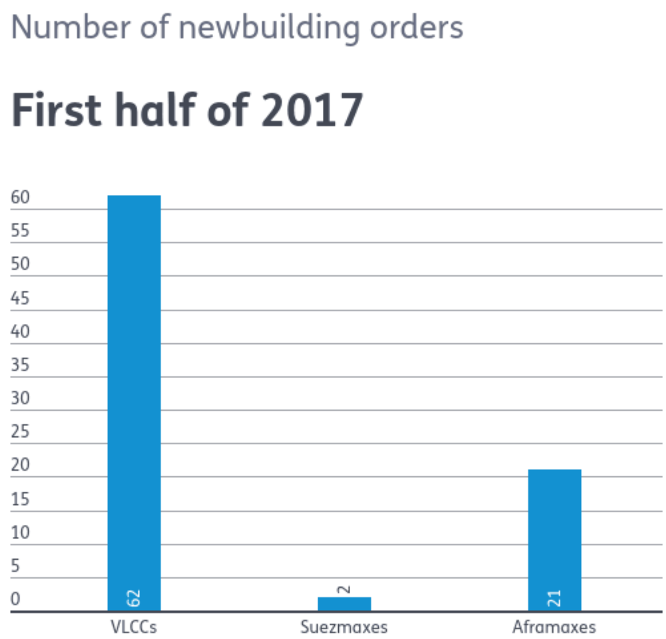
After all, daily earnings, on average, have so far remained above operating costs across all segments in 2017 — and the winter peak demand season is yet to come.

But make no mistake: the oversupply of tonnage is severe and likely will not ease in the coming months.







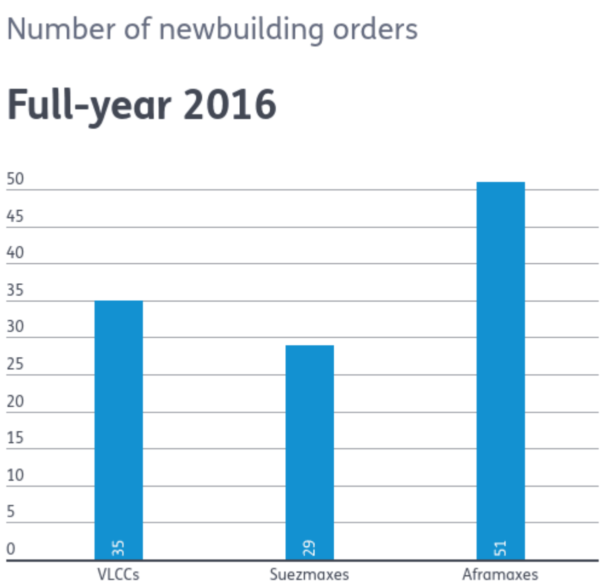


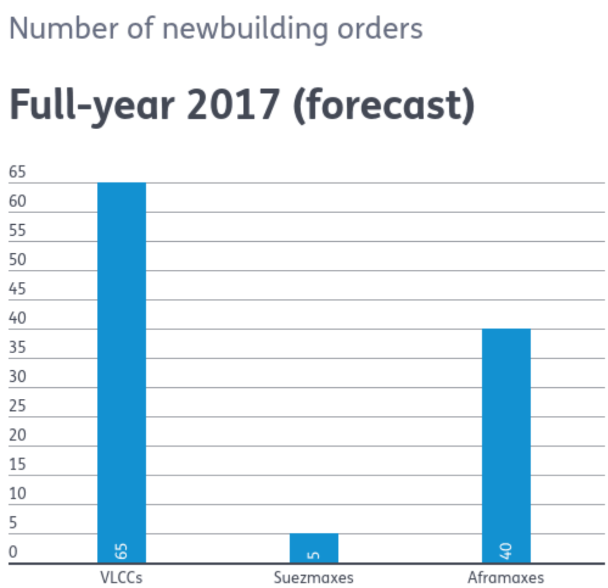
Lloyd's List Intelligence

The global trading fleet of crude carriers continues to expand rapidly, with a large number of newbuilding deliveries and almost non-existent scrapping.

On a net basis, Lloyd's List Intelligence estimates that 22 very large crude carriers, 26 suezmaxes and 10 aframaxes entered trading in the first half of this year. The second half will see similar growth in the VLCC and aframax segments, though the expansion pace of the suezmax fleet is set to slow down.

Optimists have looked beyond this year and pointed to slowing newbuilding deliveries in 2018. However, with many owners resuming newbuilding orders, there could be another wave of fresh tonnage hitting the water from 2019.





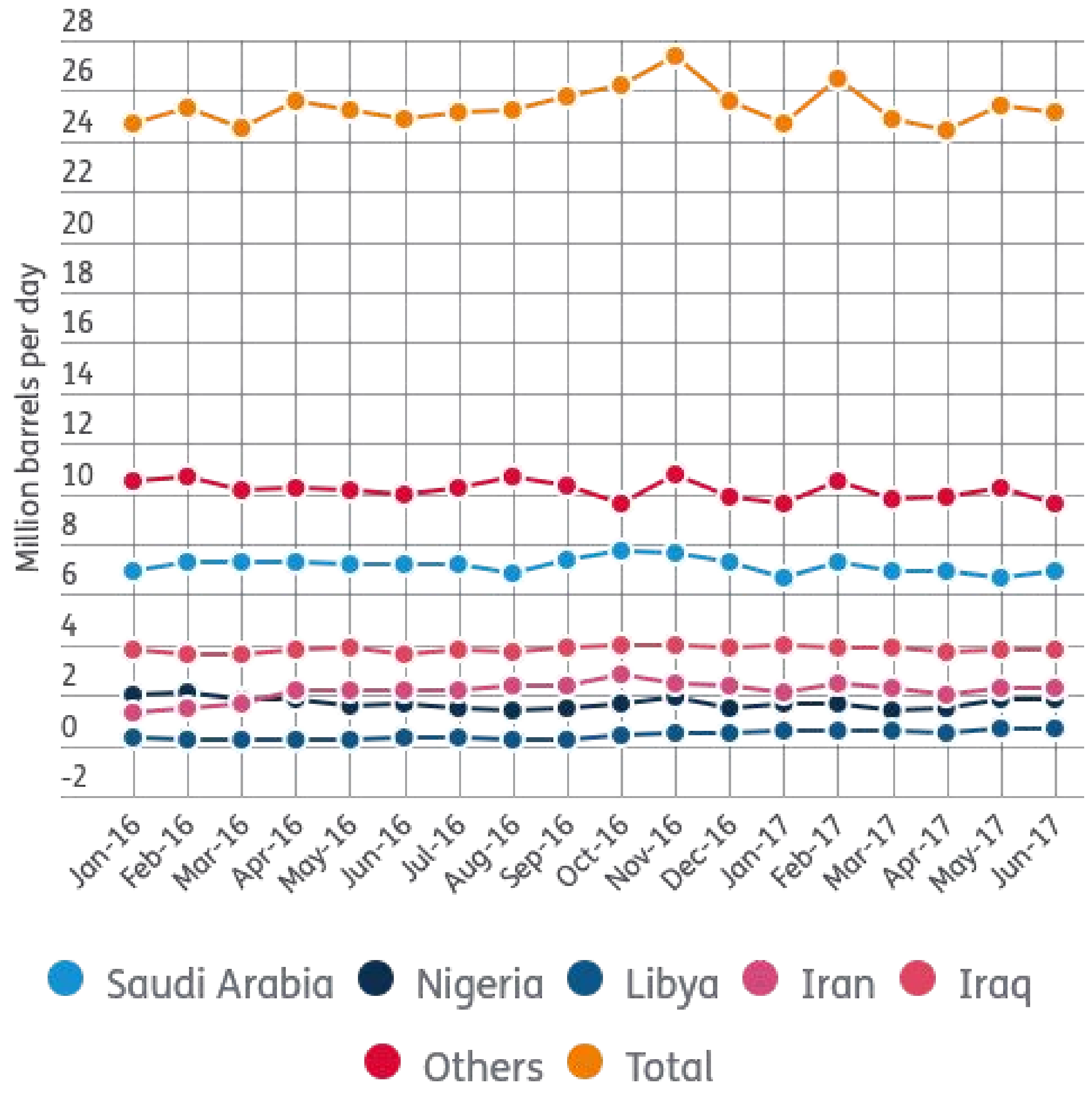
According to LLI's records, a total of 62 VLCC orders were placed between January and June, far exceeding the 35 orders seen in 2015. This was likely because of the resilient earnings performance of this segment.

Spot VLCC earnings for Middle East-Asia trade on the Baltic Exchange averaged $25,632 per day in the first seven months of this year, down 44.9% from the year-ago period. In comparison, the aframax time charter equivalent was down 54.9% at $10,101 and suezmax TCE down 49.7% at $13,436.

Down the road, the segment could become the victim of its own success if owners keep building. But for now, VLCCs remain an attractive option for many ship investors.

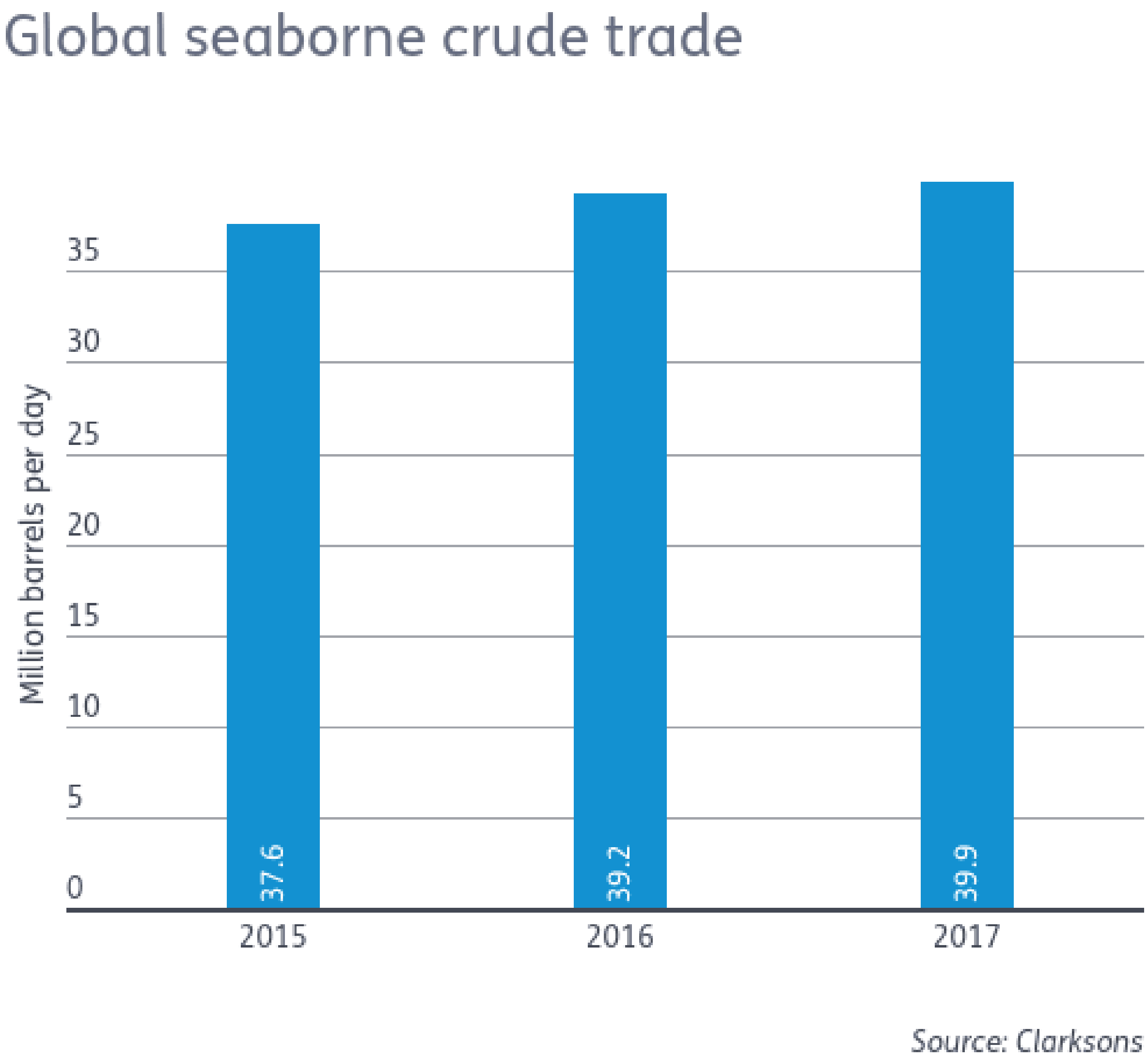
In a large part, this is down to the generally healthy picture of vessel demand. Despite production cuts, the Organisation of the Petroleum Exporting Countries exported 25.2m barrels per day in January to June, up 110,000 bpd from the year-ago level, according to LLI.

Opec oil exports



Get a global picture of the seaborne oil trade with our Analysis of Petroleum Exports (APEX) service. Our detailed vessel movement intelligence will help you avoid risks and make the most of opportunities.

Saudi Arabia, Opec's top oil-exporting nation, indeed kept to its promise to reduce oil oversupply and cut exports by 320,000 bpd. But this was surpassed by the increase of 370,000 bpd in exports by Libya, the Opec member exempted by the supply-cut deal between the cartel and its Russia-led allies.
To some extent, Opec is keeping its exports at a certain level to meet still-healthy demand from oil-consuming nations. So, although inventories of oil stocks are drawing down due to a reduction in production, tanker demand is supported by expanding seaborne oil trade.



The risk for the rest of the year lies in China, even though it is overtaking the US as the world's largest crude importer. Customs data shows Chinese oil imports rose by 13.8% year on year in January to June. But the large refining capacity scheduled to be offline due to maintenance, coupled with potentially lower import quotas, could dent the country's overseas purchases in the coming months.

This double whammy is something that optimists betting on a swift recovery later this year should take heed of, despite the years of high crude imports into China the trade has enjoyed.

Rising capital demands behind OOIL sale, says Tung

by Cichen Shen

OOIL chairman unveils a $53.6m first-half profit and expands on the logic behind the line's decision to find a buyer

Tung: The acquisition offer provides an opportunity for OOIL to tap into Cosco Shipping's competitive strengths.

ORIENT Overseas (International) Ltd posted a net profit of $53.6m for the first half of 2017, largely reversing the net loss of $56.7m during the same period last year.

Operating profit in the six months reached $109.6m, against the year-ago operating loss of $18.6m.

The return to profit, on the back of an improved market conditions, should serve as welcome news for China Cosco Shipping Group and Shanghai International Port Group, which have made a $6.3bn offer to acquire up to 100% of the equity of the Hong Kong-listed shipping firm.

As of end-June, the book value of OOIL's total equity amounted to $4.6bn, with a healthy net debt-to-equity ratio of 0.41.

OOIL chairman CC Tung elaborated in the earnings statement on the attributes that helped the company become successful, including highly skilled employees, a strong customer base, its information technology system, focus on cost efficiency and a robust balance sheet.

But despite the fact that the shipping line had also achieved scale benefits for years — through joining alliances and deploying "right, often the largest, vessels in each trade lane" — it was becoming increasingly expensive to stay competitive in today's industry, he said.

"[As] the industry consolidates at speed, with the largest players now having millions of [teu] in carrying capacity, the capital base necessary to operate successfully, and to establish a place among the leading industry participants, is becoming increasingly sizeable."

The acquisition offer provides an opportunity for OOIL to tap into Cosco Shipping's competitive strengths, including its size and scale, capital base, growing fleet and extensive port investments, leading to a win-win situation.

"This would create a combined group that would have a very strong chance of maintaining and building a status as one of the very best performers in an industry now entering a new phase." Mr Tung added.

Improved market conditions

Market fundamentals had also strengthened, he said.

Economic data and sentiment had improved in many large economies, such as Europe and the US, during the first half, while vessel supply had slowed due to high scrapping volume and muted ordering activities.

The steady improvement in the supply demand balance “is a significant shift, and if it holds, then the industry will at least have the chance to start to absorb some of the excess capacity that exists”, OOCL said in the interim results.
As a result, the company container shipping unit, Orient Overseas Container Line, saw liftings increase by 7% year on year to 3.1m teu, while load factors rose 1.1% to 85.6%., and revenue per teu increased by 7% to $842.
Leading the recovery was the Asia-Europe trade, where OOCL’s liftings rose 22%, with revenue per teu up by 21%.
“The significant volume improvement will also be driven partly by the basis effect (comparing to a weak first half of 2016), but also from the new importance of financial robustness to our customers,” OOIL said.
Liftings on the transpacific trade moved up by 23%, yet revenue per teu slid 2%.
The growth in volume was in part attributed to additional carrying capacity — both through the company’s own fleet expansion and the increased scale from the Ocean Alliance.
“We also appear to be benefiting from a focus on financial robustness coming from our customers, many of whom are seeking to manage their risk by allocating higher volumes to carriers with stronger balance sheets,” OOIL added.
The company’s intra-Asia and Australasia businesses sustained a 5% fall in volume yet an 8% rise in revenue per teu. OOIL said that trade between North China, Japan and Korea had decelerated, whereas Taiwan and certain parts of Southeast Asia were faring better.
Transatlantic trade saw lifting rise by 8%, driven by the improving US economy and the relatively strong US dollar.
Total revenue between January and June grew about 13% to $2.9bn, but the bottom line was practically offset by a 64% increase in bunker cost, with average bunker prices surging to $306 per tonne from $186 in the year-ago period. Despite the surplus recorded by the company as a whole, its core business, container shipping and logistics, still reported a net loss of $20.9m. But the loss was narrower than the net loss of $109.1m seen during the first half of 2016. Net profit from other segments jumped 42% to $74.5m, which include a combined gain of $48.9m from OOIL’s property investments — $27.7m from the New York Wall Street Plaza and $21.2m from the Beijing Oriental Plaza.

Dalian box terminals to merge operations

by Wei Zhe Tan @ShipShape2003 WeiZhe.Tan@informa.com

Single entity tbe responsible for the businesses of Dalian Port Container Terminal and Dalian International Container Terminal.

DALIAN's port authorities have decided to consolidate Dalian Container Terminal (DCT), Dalian Port Container (DPCT) and Dalian International Container Terminal (DICT) into one single entity as they seek to reduce operating costs and boost efficiency.
Cosco Shipping Ports and its subsidiaries Cosco Ports (Dalian), China Shipping Ports Development, and China Shipping Terminal Development inked the merger deal with Dalian Port Container Development, (DPCD) Singapore Dalian Port Investment, PSA China, NYK and the aforementioned box terminals.
DCT handles seven berths in Dayaowan at the port with DPCD and Singapore Dalian Port currently holding 51% and 49% stakes respectively.
DPCT operates five berths in Dayaowan with DPCD, PSA China, Cosco Ports (Dalian) holding stakes of 55%, 25%, and 20% respectively.
DICT handles two berths in Dayaowan with DPCD, China Shipping Terminal Development, NYK and China Shipping Ports Development holding 40%, 30%, 20% and 10% stakes respectively.
Under the merger terms, DICT and DPCT will be deregistered as legal entities and have all their assets, businesses, credit and debt taken over by remaining entity DCT.
As such the previous shareholders of the deregistered entities will be given shareholdings in DCT with DPCD holding a 48.2% stake, Singapore Dalian Port having a 20.8% stake, PSA China holding a 5.3% stake, Cosco Ports (Dalian) a 4.4% shareholding, China Shipping Terminal Development an 11% stake and China Shipping Ports Development a 6.9% stake.

The restructured DCT will then have a registered capital of Yuan3.5bn ($517.8m).
“The company believes that the merger will allow each party to exert its strength, further optimise the allocation of resources, and facilitate integrated management of the relevant terminals, thereby lowering operational costs, increasing overall competitiveness of DCT and enhancing its efficiency,” said Cosco Shipping Ports in a statement.
This moves comes shortly after APM Terminals signed an agreement to sell its 20% stake in DPCT to DPCD, which is a unit of port operating group Dalian Port Company Ltd, for $18m.

Cosco Singapore to buy 40% stake in Indonesia shipping firm

by Wei Zhe Tan

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SINGAPORE-listed Cosco Shipping International (Singapore) Company Ltd has inked a Memorandum of Understanding to acquire a 40%stake in Indonesia-incorporated Ocean Global Shipping from affiliate Cosco Shipping (Southeast Asia).
The group is negotiating a purchase price for the shares, which will take into account a report produced by an independent asset valuation firm.
Ocean Global Shipping provides services in logistics, container canvassing and management, ship agency, and chartering and bunkering.
“The company will make further announcements in the event that the definitive agreement for the proposed acquisition is signed, and when there are material developments in respect of the proposed acquisition.”
The plan follows Cosco Singapore’s announcement earlier this year to offload its 51% shareholding in Cosco Shipyard Group, a 50% stake in Cosco (Nantong) Shipyard and a 39.1% equity interest in Cosco (Dalian) Shipyard to parent-owned unit Cosco Shipping Heavy Industry.
At the time, group vice-chairman and president Gu Jing Song said the company would use proceeds from the disposal to finance projects such and mergers and acquisitions, as well using some cash for working capital requirements.
Revenue for the second quarter fell 31.2% year-on-year to $524.7m ($385.5m) mainly as dismal industry conditions continued to weigh on the performance of the shipyard segment.
Shipyard operations saw revenue for the period decrease 31.6% to S$516.1m because there was less business activity in ship repair, shipbuilding and marine engineering.
During the quarter, the group’s Cosco Zhoushan shipyard and Cosco Dalian yard each delivered one bulk carrier, while Cosco Guangdong shipyard delivered one emergency response and rescue vessel.
However, revenue from the dry bulk shipping and other segments rose 4.7% to S$8.7m as charter rates in that particular segment continued to pick up in line with the uptrend in the Baltic Dry Index.
Other income, which consists of gains from the disposal of scrap metal, interest income and others, rose 21.4% to S $17.9m.
However, these were not enough to stem the decline in the core shipyard business, which contributes about 98.3% of total group revenue.
A 93.2% drop in administrative expenses to S$900,000 on a net reversal in impairment of trade and other receivables helped to narrow the net loss attributable to shareholders to S$20.8m for the three months ended June 30, 2017, compared with a S$36.8m net loss in the second quarter of 2016.
As of June 30 this year, the gross order book was about $5.8bn, with vessel deliveries leading up to 2020. Among them are contracts for drillships and floating production storage and offloading vessels for Brazil-based clients worth $951m.
Although the group secured orders for one floating storage and regasification unit and three boxships during the quarter, the contracts were inked at relatively low prices amid the shipbuilding slump.
Amid such conditions, Cosco Singapore forecasts weak operating margins on forthcoming newbuilding contracts.
“The group expects these difficult and challenging business and operating conditions to persist or even worsen. As such, 2017 will remain a very difficult year for the group.”

NAT seeks to diversify financing structure after second-quarter loss

by Max Tingyao Lin

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Suezmax specialist faces capital expenditures of $116m in newbuilding deliveries in July-December

Nordic American Tankers is scheduled to take delivery of three suezmax newbuilding tankers in July-December.

Source: EC Audiovisual Library

NORDIC American Tankers (news, data) may seek to diversify its capital structure as it faces large capital expenditures for its newbuilding deliveries during the second half of this year.

The New York-listed suezmax specialist, which traditionally relies more on bank and equity financing, said in its latest quarterly report that it "wishes to consider a more diversified capital structure, including bond financing and other instruments". It did not elaborate.

After breaching a security ratio covenant for a $500m revolving credit facility last year, NAT has been forced to pay more interests, cap its dividend payout, and freeze its remaining borrowing capacity under the facility.

The latest announcement has come as NAT is scheduled to take delivery of three suezmax newbuilding tankers in July-December, for which the company said it will need to pay $116m, the remaining balance of the newbuilding contracts, at the time of delivery.

"NAT has [undertaken to] review a financing arrangement for these three newbuildings," the company said.

NAT's cash reserves fell to $34m as of end-June from the end-December level of 82.2m, after the company dipped into losses in January-June due to weak spot rates.

The company posted a net loss of $15.9m in April-June, compared with a net loss of $3.4m in the first quarter of this year and a net profit of $13m in the second quarter of 2016.

Net voyage revenue was at $39.1m, versus $55.2m in January-March. The company said its fleet recorded an average daily time charter equivalent of $16,100, compared with $22,700 during the first quarter.

"The supply of tanker tonnage is inelastic in the short term. When there are too many ships in an area, rates tend to go down," the company said in its report. While generally trading in spot markets, NAT said it now had several time charter arrangements with unnamed oil majors.

For the second quarter, NAT declared a dividend including a cash payout of $0.10 per share and a portion of the shares that NAT owns in Nordic American Offshore, equivalent to $0.05 per NAT share.

NAT shares closed at $5.71 on Friday, down 44% on year. The share price has been hovering around its lowest levels this century since last month.

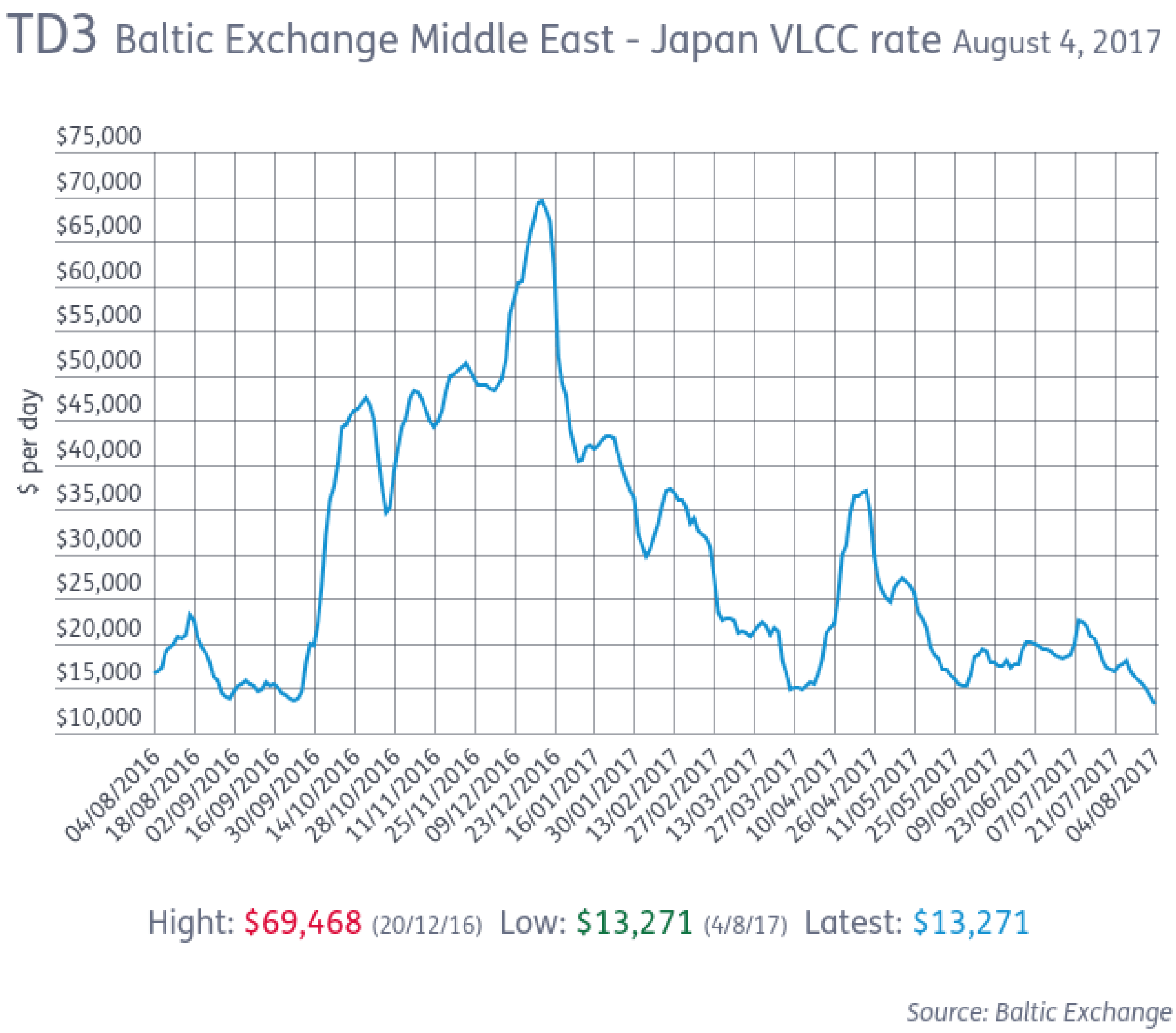
VLCC earnings head for three-year low despite strong oil demand

by Eric Yep @ericyep eric.yep@informa.com

Firm underlying oil demand signals outweighed by severe vessel oversupply in Middle East

BENCHMARK time charter equivalent earnings for very large crude carriers are headed to their lowest in three years despite the fact that oil demand has been at its highest in several months, indicating that vessel supply has clearly outpaced demand growth.

The TCE earnings on the Baltic Exchange slipped to $3,389 per day on Friday's close, down from $5,332 per day a week earlier. The last time it fell below the $3,000 mark was in October 2014.



The sharpest decline was on the TD3 route from the Middle East to Japan to $13,271 per day, down 19.1% on week, while the TD1 route from the Middle East to the US continued to slide deeper into negative territory.

Tanker freight rates for the benchmark routes from the Middle East generally slump in August on a seasonal basis due to there being fewer liftings, with strong domestic demand from the producing nations keeping barrels at home.

But the extended build-up in tonnage lists this time has sparked concerns that the rebound in rates later on will be tougher.

This is despite that as far as oil demand is concerned, the underlying fundamentals appear rock solid.

Oil refineries are running at high rates. Refinery processing rates across the US, Europe, China, India and Brazil, which account for roughly half the world's refinery capacity, are running a staggering 1.2m barrels per day above last year's levels, according to Morgan Stanley.

In spite of high oil processing rates, refineries are seeing strong profit margins and oil product stockpiles are drawing down counter-seasonally, which are indicators of strong oil demand.

Morgan Stanley said the oil hubs in the US, Amsterdam-Rotterdam-Antwerp, Japan and Singapore are reporting that petroleum product stockpiles have fallen by 3m barrels in the last four weeks, compared to an average increase of 17m barrels over the last five years.

Oil refining margins are very strong globally, and especially in Asia and the Mediterranean where they are close to 2015 levels, when the collapse in oil prices had created exceptionally strong conditions for refiners, the bank said.

“We believe that the biggest driver for this robust demand is strong economic growth in recent months,” Goldman Sachs said, adding that with recent activity and oil demand levels surprising to the upside, its 1.6m bpd oil demand growth forecast for this year may be surpassed.

Countries such as China have been strong demand drivers.

China imported around 36m tonnes, or nearly 8.8m bpd, of crude oil in June, making the country the world's oil top buyer for the month, according to Banchero Costa.

It said China’s June oil imports were up 17.9% from a year earlier, although shipments dipped 2.9% from May's figure, which was the second - highest on record.

In the first half of 2017, China imported the equivalent of 8.6m bpd of crude, up 13.8% on the same period last year, Bancosta said.

However, so far the demand side bullishness has yet to lift freight rates, mainly because of a supply overhang with large newbuilding tonnage.

According to Clarksons, 35 VLCCs have been delivered so far this year while another 16 are due by end-December.

The Middle East VLCC market suffers from severe oversupply of tonnage, and the only reason that rates are not dipping lower could be that some owners are unwilling to fix vessels at below operating costs, brokers said. There is clear evidence that the dirty freight tanker market is headed for an extended downturn, unless there is a major market development that sends tanker demand through the roof.

Nigerian maritime authorities tighten cabotage regulations

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Move aims to protect local jobs

THE Nigerian Maritime Administration and Safety Agency has announced a new measure to enforce cabotage laws, intended to ensure coastal and inland trades continue to give preference to local workers.

Under the New NIMASA Cabotage Compliance Strategy, the agency said it would stop reviewing any future submissions for waivers relating to vessel manning in a number of categories for officers on board vessels involved in the cabotage trade.

The move will help ensure qualified Nigerians in the maritime industry will be able to be gainfully employed, according to NIMASA director general Dr Dakuku Peterside.
He said: “The era of foreigners taking jobs Nigerians are qualified for in the maritime sector is over. The NCCS will point a new direction to our cabotage regime as the agency will no longer consider applications for grants of waiver on manning requirements for vessels engaged in coastal trade with regards to second officer, second engineer, second mate down to able seamen, ratings and stewards.”
He added that special applications for the positions of captains, chief engineers, chief officers and first mates would still be considered on the basis of merit if there were no qualified Nigerian personnel available.
However, the applying organisation would have to present plans to train a local and ensure the Nigerian national would eventually transfer into the aforementioned roles within one year.
Dr Peterside said the measure would help ensure qualified locals would not be deprived of suitable roles in the maritime sector. He assured industry participants that the agency would continue to work with them on the initiative.
The agency also asked all related government departments and international oil firms to work with it to cultivate opportunities in Nigeria’s maritime sector.
Nigeria’s move to tighten cabotage regulations comes as an Australian Senate committee last month highlighted the risks posed by vessels using flags of convenience and called for an inspection programme and the closure of regulatory loopholes, amid a surge of foreign-flagged vessels in Australia’s waters.
Coastal trading rules differ for Australia- and foreign-flagged vessels. Unlike Australia-flagged vessels, which are granted unrestricted access to coastal trade through general licences, foreign-flagged vessels have access only to temporary licences that can last up to 12 months. While these licences can be renewed, vessels must conduct a minimum of five voyages in the country to obtain them.
Under current Australian regulation, foreign crews operating in Australian waters must be paid at Australian wage levels. Foreign-flagged vessels that have conducted at least three voyages in Australian waters within one year and have a continuous voyage permit for at least 15 months must pay their crew Australian wages irrespective of nationality.

APL exploring Oceania routes for growth

by Abdul Hadhi

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CMA CGM unit is also enhancing its Middle East and South Asia presence to strengthen market position

Sartini: APL has leveraged the scale and resources of the CMA CGM group to grow.

SINGAPORE-based APL — a standalone brand of the CMA CGM Group — was seeking growth opportunities in Oceania and transatlantic routes, while enhancing its presence in the Middle East and Indian subcontinent, chief executive Nicolas Sartini said.
As part of those efforts, the Singapore-based containership operator has introduced eight new services and enhanced six existing services since January 2017.
“They are strategically designed

to strengthen our global network, in particular our stronghold transpacific and intra-asia lanes, where we will continue to fortify our market leadership position and growth in these markets," Mr Sartini said in an interview.

It has launched two new Oceania services — the China Australia Service 3, which connects north Asia to key ports in east coast Australia, and the Asia Fremantle Express, offering direct connectivity between Singapore and Fremantle on the Australian west coast.

It has also launched an India-Pakistan to Mediterranean Express, which is a weekly service connecting India and Pakistan with the Mediterranean markets.

Integration pays dividends

APL's value proposition for CMA CGM is its strong presence and market share in the transpacific and intra-Asia lanes— an area where the latter is relatively underrepresented, according to analysts.

Mr Sartini said that APL continued to operate its own ships and had full autonomy in developing areas such as commercial, sales, trade and network design, and pricing from Singapore.

Even so, the integration with the CMA CGM Group has been progressing very well. Through network synergies, APL has expanded its global presence and strengthened its market position in all worldwide trades, introducing over 30 new services since June 2016.

APL has also sharpened its cost advantage through operational procurement synergies and cross-chartering of vessels, with more than 40 vessels currently cross-chartered within the group.

"Today, APL operates with flexibility within a robust framework as we leverage the scale and resources of the group for growth," Mr Sartini explained, adding that its focus was on achieving cost excellence, securing profitable volumes growth and differentiating itself in the market place.

APL became part of CMA CGM when the major French container shipping line acquired parent Neptune Orient Lines last year and started to show improvement almost immediately.

The volume of containers carried by APL during the third quarter of 2016 grew almost 10% year on year to 1.3m teu, while operating margins rose 40.2% per feu and costs fell by 15.7% per feu, largely due to co-operation with its new sister line on freshly enhanced services, including Asia-Europe, transpacific and transatlantic trades.

In the first quarter of 2017, improvements in performance saw APL return to profitability for the first time since 2011—with a gross operating income of $56m, or 4.4% of core earnings before interest and tax, due to higher revenue per unit and cost control. Its net result was a profit of $26m.

Another growth driver has come from being part of the Ocean Alliance, which Mr Sartini describes as "game-changing" for APL. It offers 38 services under that umbrella, in addition to over 70 services of its own, which has vastly grown its market coverage. While not introducing enhanced or new services for transatlantic routes recently, APL has a number of offerings in that sector as part of the Ocean Alliance.

The Ocean Alliance came into effect in April this year and comprises CMA CGM, APL, Cosco, OOCL and Evergreen. With a capacity of 3.5m teu, the alliance is estimated to have around a quarter of the global container shipping market.

The Pacific playground for autonomous vessels

by Anastassios Adamopoulos

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Australia allows unmanned ships in its waters, adding to the northern European cluster

THE development of autonomous vessels is not a strictly northern European affair, as Australia has allowed the operation of an unmanned vessel, providing an alternative option for aspiring early adopters.

Australian Maritime Safety Authority chief executive Mick Kinley said that earlier this year, the authority had granted a request for the operation of a remotely operated unmanned hydrographic vessel. The permission involved granting exemptions from a number of regulatory requirements, which took about two months to secure.

Trials for autonomous vessels are ongoing in Norway and Finland, with a fully autonomous feeder promised in three years. Mr Kinley said Amsa would be open to allowing an unmanned cargo-carrying vessel to operate within Australian waters should it receive such a request. Ensuring safe operations would be of paramount importance.

In granting the exemption for the hydrographic vessel, Amsa had to consider requirements that did not apply to autonomous vessels, what were some of the things they could not comply with, such as collision regulation, and how they could be granted equivalence.

“It is a bit of an interesting exercise to actually look at how much of our standards on a domestic level are all aimed at keeping the people on board safe,” he said.

Mr Kinley, who worked for BHP Transport before joining Amsa, said that, based on his experience, completely unmanned ocean-going vessels were unlikely, as someone would have to maintain that automation equipment and it certainly would not be done with vessels powered by heavy fuel.

Autonomous vessels are no longer an abstract concept, something that is not lost upon international regulators; the International Maritime Organization Maritime Safety Committee agreed in June to develop a scope for the regulation of autonomous ships over the next four MSC sessions.

Mr Kinley said, however, that he expected there to be bilateral agreements between countries for the navigation of autonomous vessels within their waters before there was international regulation on the matter.

Elevation of IMO status

Australia’s open-minded approach towards autonomous vessels coincides with its campaign for an elevated position in the IMO Council — the country holds category C status and has launched a bid to secure B status during the election of the new council this upcoming December.

B status is granted to countries with the largest interest in seaborne trade, whereas category C represents those states with a special interest in maritime transport and navigation. Mr Kinley said that Australia’s share in the dry bulk market alone justifies its place in the second tier.

Category B is comprised of 10 member states, which means that Australia would have to replace another country. No country has ever successfully launched a bid to join the B category.

While council categories do not reflect different voting rights or obligations, they do send a message about a country’s importance in the maritime sector and could therefore elevate that nation’s concerns at the international forum.

Fair treatment of seafarers can be a reality

Change is in the air regarding the fair treatment of seafarers, says Hilton Staniland, professor of maritime law at the Institute of Maritime Law, University of Southampton and member of the Seafarers' Rights International Advisory Board

Staniland: Keeping the issue at the top of the industry's agenda is crucial if owners, managers and seafarers are to fully understand the role they play.

THE most recent major survey carried out regarding the fair treatment of seafarers and recently republished by Seafarers' Rights International found that the rights of seafarers are often subject to violation and that there is widespread concern among seafarers about criminalisation.

These rights are enshrined in the guidelines on fair treatment of seafarers in the event of a maritime accident, adopted by the International Maritime Organization and the International Labour Organisation.

Over 81% of seafarers questioned said that they had not been treated fairly when facing criminal charges, and 46% said that they would be reluctant to co-operate fully and openly with casualty inquiries and accident investigations.
The survey was conducted in 2012, six years after the drawing up of these much-heralded guidelines in 2006.
Fast forward five years after the survey to today and it would appear that the message is starting to hit home, at least to an estimated two thirds of member states of the IMO.
A second survey concerning implementation of the guidelines into national law sent to every member state of the IMO fell into three broad categories of roughly equal size.
The first group said they had given effect to the guidelines explicitly in their legislation, and when you look at how these states have implemented the guidelines, there is a surprisingly large degree of commonality in the type of legislative techniques used.
The second group of countries said that they had not explicitly given effect to the guidelines because they felt that their laws already adequately protect seafarers. Many quoted their membership of Human Rights Conventions, the Maritime Labour Convention, as well as their adherence to relevant provisions in Marpol, as proof.
The third group said that, while they were still studying the guidelines, they found aspects of the guidelines ambiguous, difficult to interpret, and were not sure how to implement them into their national law.

Asking for assistance

While countries in the first two groups — effectively two thirds of respondents — have either implemented the guidelines, or feel they do not need to because their laws already give effect to the essence of the guidelines, it is the third group which is of immediate interest, as they are effectively asking for assistance in implementing the guidelines, and want to benefit from best practice, in particular from other IMO member states who have already given effect to the guidelines.
In our recent work, no state has spoken against the implementation of the guidelines; we have two groups of states saying either that they have already implemented the guidelines, or that they do not need to implement them.
But no group is saying they reject the guidelines or that the issues in the guidelines are not of importance.
We also have a group of states asking for assistance in implementing the guidelines.

This point was recently raised at the international workshop of representatives of over 50 member states at the IMO. A workshop that was addressed by key speakers including IMO secretary-general Kitack Lim, International Transport Workers' Federation general secretary Stephen Cotton, ILO director of labour standards Corinne Vargha, and ITF maritime co-ordinator Jacqueline Smith.

A panel chaired by IMO legal committee chairman Dr Kofi Mbiah discussed guidance for states on implementing or reviewing their implementation of the guidelines.

Stern challenges

Drafting guidance on implementation of the guidelines presents some difficulties because you are writing for a notional state, not a particular state. And that notional state could have any one of a number of legal systems and any combination of legal rights enshrined in its system.

The resolutions accompanying the guidelines, agreed by the Assembly and other bodies at the IMO, speak of the guidelines not interfering with the criminal and civil laws of the country concerned.

That immediately throws up very stern challenges.

In many respects, giving effect to the recommended guidelines is technically more challenging than drafting legislation that will give effect to a mandatory instrument because there the tramlines are laid down for you.

But in this case, the guidelines are recommendations and it is clear they should not interfere with existing laws in the country.

A recommended approach discussed by the panel, however, is to say that a public authority or investigating authority conducting an investigation following a maritime casualty shall take into account the relevant provisions of the guidelines in accordance with national legislation.

Although this does not in all cases ensure the application of the guidelines, it does ensure that the guidelines must be brought to the attention of the court and the lawyer concerned can argue that the guidelines should be observed by the court provided they do not interfere with the other laws of the state.

The guidelines are essential in advising what port or coastal states should do to ensure that an investigation undertaken to determine the cause of a maritime accident in their jurisdiction is conducted in a fair and expeditious manner.

They also outline what steps flag and seafarer states should take to achieve the same aim as well as assist shipowners in what action they should take in such a situation.

As the guidelines clearly state, “shipowners have an overriding duty to protect the rights of the seafarers employed or engaged, including the right to avoid self-incrimination and to take steps to ensure their fair treatment”.

More importantly, the guidelines also offer guidance to seafarers to ensure they are adequately protected.

So, what is the hope ahead for ensuring the fair treatment of seafarers?

Keeping the issue at the top of the industry’s agenda is crucial if owners, managers and seafarers are to fully understand the role they play, and if port and coastal states and flag states are to be fully resourced to ensure observance of the guidelines.

I would hope that the third group who have spoken about the difficulties in giving effect to the guidelines may find some assistance in the panel discussion. In theory, this could encourage 100% of countries to pay attention to the guidelines in one way or another.

Our work in this area will continue building on the work already done and advancing the work at regional and national level where more concrete recommendations can be given on how best countries can implement the guidelines and have the right laws in place in the event of a maritime casualty investigation occurring in their jurisdiction.