



# CMHF SPOTLIGHT

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# UK Sanctions Regulations Illustration: Court Upholds Detention Of Superyacht Owned By Non-sanctioned Russian Individual

*Case briefing of Dalston Projects Ltd & Ors v. Secretary of State for Transport (M/Y Phi) [2023] EWHC 1885 (Admin)*

## ❖ Factual Background

- The yacht “Phi” was owned by a non-sanctioned Russian individual and originally came to London for World Superyacht Awards. She had been moored in Canary Wharf, London, since December 2021 and was still there on 24th February 2022 when Russia-Ukraine war broke out.
- UK’s Secretary of State instructed detention of the yacht on 29th February 2022, on the basis that the owner had close connection to Mr. Putin and benefitted from the latter’s regime, although he was not a sanctioned individual. The detention continued following the Secretary of State’s decision on 11th April 2022 and 3rd January 2023, and the owner sought a judicial review of the decision to detain the yacht.
- UK’s Sanctions Regulations are made under the Sanctions and Anti-Money Laundering Act 2018, Section 1(1) confers on the Secretary of State the power to make sanctions regulations for purposes including interests of international peace and security and furthering a UK Government foreign policy objective.
- Shipping sanctions are imposed pursuant to Section 7 allowing detention of “disqualified ships”, means ships are “owned, controlled, chartered, operated or crewed by i) designated persons, or ii) persons connected with a prescribed country...”.
- Regulation 57(D) of Part 6 (“Ships”) grants the Secretary of State the power to order the detention of a ship and a requirement to state the grounds for the detention. Regulation 57(I) provides a definition of persons considered to be “connected with” Russia.

# UK Sanctions Regulations Illustration (Cont'd): Court Upholds Detention Of Superyacht Owned By Non-sanctioned Russian Individual

## ❖ Yacht Owner's Arguments

- The owner's first argument is that the Secretary of State acted for purposes outside the intention of the legislation. The proper purpose behind the detention power for ships was to target the ships themselves, not their owners, as such is to restrict the movement of the vessels and thus disrupt Russia's maritime trade. Although the detention technically fell within the scope by literal wording of the relevant regulations, Secretary of State was targeting the assets of a non-sanctioned individual through this detention, which should not be the proper purpose of the law.
- Second argument is that, the detention is in breach of Article 1 of the First Protocol of the European Convention on Human Rights 1988 as such was a disproportionate interference with the owner's private property rights.

## ❖ The Court Decision

The Court dismissed the claim for judicial review.

- The court dismissed the owner's first argument after considering the wordings of the regulations as well as the legislative context and purpose. The Secretary of State's detention under Regulation 57 (D) also extended to those connected with Russia, and the fact that the owner being an un-designated person under other UK regulations did not affect the legitimacy of the Secretary of State's decision to detain the yacht.

# UK Sanctions Regulations Illustration (Cont'd): Court Upholds Detention Of Superyacht Owned By Non-sanctioned Russian Individual

## ❖ The Court Decision (Cont'd)

- It was found that the yacht was high value (at least EUR 44 million), and information indicated that the owner likely benefitted from the Russian regime. Targeting him would send a signal to others in his position and imply that UK would exert maximum pressure on Russia in a wide variety of ways.
- As to the owner's second argument on disproportionality, the Court held that the Secretary of State did not need to demonstrate the efficacy of each individual detention decision to maintain a sanctions measure, as it was granted a broad margin of discretion to decide the exercise of the sanctions power to pursue the UK's foreign policy objectives. As detention of Russian assets was part of the UK Government's foreign policy response to Russia's attack to Ukraine, a rational connection would be needed between the sanctions measure and the aim.
- Further, the Court considered the public interest outweighed the significance interference with the owner's property right in the yacht.

## ❖ Comment

The decision is an illustration of the approach that the English courts will take to sanctions regulation in order to reflect UK's foreign policy. However, such approach should be contrasted with other cases in which sanctioned individuals or entities sought to make use of sanctions regulations as a means of repudiating contracts or frustrating litigation being pursued against them. In those cases, the Courts inclined to interpret the relevant sanctions regulations more narrowly.

## In A Nutshell : Pricing Approach To Bunkers on Redelivery

The supply of bunkers is normally the responsibility of time charterers. Bunkers are charterers' property upon delivery of the vessel until they are purchased back by owners on redelivery.

Generally, owners have duty to provide information to charterers so to enable the latter to stem appropriate bunker quantities. Charterers are not permitted to order additional bunkers not required for the chartered service for their own commercial purposes, for example for the purpose of making a trading profit on redelivery where the market price is less than the agreed contract price.

### ❖ “About” Margin for Redelivered Bunker Quantity

- Charterparty terms which specify the quantity of the bunkers on redelivery are usually preceded by the word “about”, which allows 5% discrepancy from the set quantity in common practice, given the difficulty in determining precisely the bunker quantity needed before redelivery.
- In London Arbitration 13/03, the tribunal considered the acceptable margin is within 5%, commenting it was not always possible to precisely obtain the required quantity of bunkers, and such margin is also a commercial precaution to avoid charterers finding themselves in breach.
- Interestingly, in London Arbitration 15/13, the tribunal decided that it was appropriate to apply a 2% margin only, as the particular facts of the case showed that owners had advised 12 days in advance of redelivery on the estimated amount of bunkers, whilst charterers stemmed much less. The tribunal felt strict adherence to the 5% rule would lead to unacceptable scenario where charterers can save costs by redelivering with 5% of shortfall.

### ❖ **Applicable Bunker Price for Excess or Shortage Of Redelivery Bunkers**

- The general position under English law is that unless it is otherwise agreed in contract, the price of bunkers on redelivery will be the market price at the place or area of redelivery, without regard to the price actually paid by charterers for the bunkers.
- The contractual price for the bunkers will only apply to the excess quantity of bunkers which falls within the 'about' allowance as above mentioned.
- However, for any bunkers which are in excess of or shortage of the contractually agreed quantities (after taking into account the 'about' provisions or 5% allowance), the position is that the applicable bunker price ought to be the price at the redelivery port or redelivery area at the time the vessel was redelivered and not the contract price or price actually paid for the bunkers by charterers, regardless of whether owners opt to take on bunkers at such port. Such approach is adopted in the recent London Arbitration 3/23.
- It is worth mentioning that in London Arbitration 3/23, charterers argued the master had substantially over-estimated the quantity of bunkers required and such amounted to a breach of charter. Owners' position was that the master's calculation takes into account a safety margin of 140mt IFO to allow port delays. Tribunal found the safety margin applied was not unreasonable, therefore decided this issue in favor of owners.

# Loss Prevention: The Evolving Threat Of Illicit Drug Trafficking At Sea

Illicit drug smuggling operations have been long troubling commercial shipping. The illicit opiate and cocaine markets are currently two of the most serious drug threats, and in recent years, the popularity of amphetamine-type stimulants (ATS) has also increased. Studies showed the share of cocaine quantities seized associated with maritime trafficking has increased from 84% in 2015-18 to 89% in 2021.

Despite efforts by government and international bodies to curb drug trafficking, the global drug market continues to expand. Depending on the jurisdictions, if drugs are found on board the ships, the consequence may range from significant fines to ship arrest and criminal proceedings against the ship master and crew.

This article will look into the global drug smuggling operations and trends, preventative measures and IG Clubs' P&I cover on this issue.

## ❖ Drug Trafficking Routes

- Global cocaine trafficking primarily starts from South America and Central America, through seaports such as Buenaventura, Cartagena, Guayaquil and Santos.
- Another concerning trade relates to smuggling of “captagon” (containing amphetamine), which goes across the Near and Middle East to North Africa.

- Opiates, particularly heroin, predominate in South Asia and Oceania region; the trade of methamphetamine in East and South-East Asia also continues to be of concern. Market intelligence highlighted the method of concealing drugs within containers, especially those shipped from Vietnamese ports.

## ❖ Regulatory Requirement

- The International Ship and Port Facility Security (ISPS) Code within the SOLAS chapter XI-2 is a mandatory instrument to enhance maritime security, which can help to identify and address vulnerabilities in the security system that could be exploited by drug traffickers.
- Ships trading to and from high-risk areas are recommended to refer to the IMO Revised Guidelines for the Prevention and Suppression of the Smuggling of Drugs, Psychotropic Substances and Precursor Chemicals on Ships Engaged in International Maritime Traffic (Resolution MSC.228(82) and Resolution FAL.9(34)).



## 1. Anchor

Drugs have been stored in the compartment where the anchor is kept, but this maritime tool has also been used to throw them overboard.

## 2. Containers

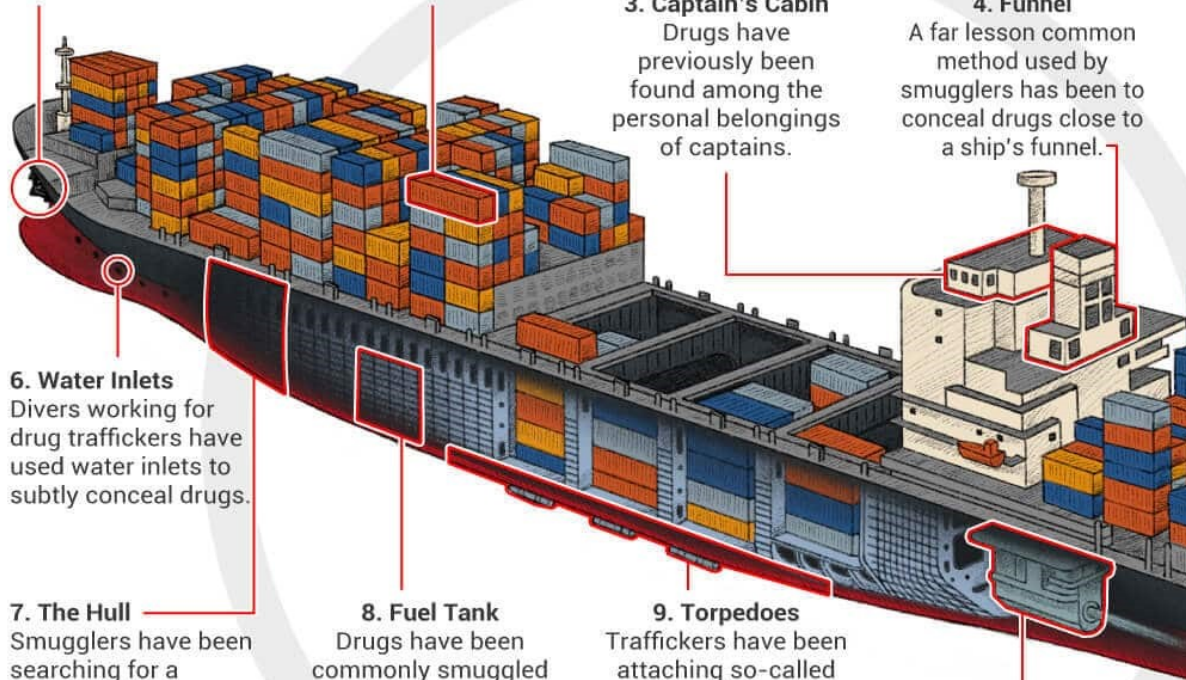
Traditionally, drug traffickers have smuggled illicit substances in among supplies onboard, often in the ship's principal hold or hull.

## 3. Captain's Cabin

Drugs have previously been found among the personal belongings of captains.

## 4. Funnel

A far less common method used by smugglers has been to conceal drugs close to a ship's funnel.



## 6. Water Inlets

Divers working for drug traffickers have used water inlets to subtly conceal drugs.

## 7. The Hull

Smugglers have been searching for a watertight method to evade authorities, increasingly concealing drugs within or attached to ship hulls.

## 8. Fuel Tank

Drugs have been commonly smuggled in car fuel tanks, but what about ships?

## 9. Torpedoes

Traffickers have been attaching so-called 'torpedoes' to ship hulls, allowing them to cut away illicit loads at high sea, if necessary.

## 10. Engine Room

Illicit substances have been seized from ship engine rooms occasionally.

## Hide and Seek Drug Traffickers Get Creative

### ❖ Preventative Measures Before Arriving At Port

- Consider performing background checks of crew members to determine whether they may have been engaged in drug smuggling.
- For regular trades in high-risk jurisdictions, review previous gangway logs and be alert to any unusual patterns of shore leave. Consider avoiding crew members staying on the same shipping routes for extended periods.
- Ensure the vessel receives a comprehensive port update from local agent. If the risk has increased, The Ship's Security Officer, the Company Security Officer and Port Facility Security Officer should work together to prepare a thorough risk assessment.
- Consider operating a programme to ensure that substances are not concealed in conveyances, such as sealing and securing compartments within conveyances.
- Hiring additional security watchman from approved shore supplier in known drug smuggling areas.

### ❖ Preventative Measures Before Arriving At Port (Cont'd)

- Enhance crew awareness on danger of possession of drugs, and provide regular training and drills on security duties.
- Consider installing physical barriers to prevent unauthorised access to commonly targeted areas, such as rudder trunk spaces, overboard openings, and exposed thrusters/propeller areas.
- Documenting evidence to show the measures are implemented and fully operational at any time.

### ❖ Preventative Measures During Ship's Stay In Port

- The master and the crew should maintain high standard of security, using surveillance security system, establishing areas of restricted access, locking access and entry points, and limiting vessel access to a single point.
- Assess whether the port has 24-hour security maintained.
- Implement strict access controls with thorough entry checks such as verifying photo IDs, work orders, or by use of measures such as uniforms, badges and a card key system etc.

- Keep close watch and an accurate record of all activities on and around the ship from arrival until departure and particularly during loading. The log should be frequently checked by the watchmen and SSO for any irregularities in the entries.
- Arrange additional lighting across all areas on exposed decks to illuminate all possible shadow areas.
- Immediately communicate any suspicious activity seen on or close to the ship (such as divers or small boats) to the master, who should, in turn, report the situation to the local authorities. In such cases, an underwater hull inspection before departure is recommended.
- If the ship is taking bunkers, contact local agent to ensure the bunker supplier is a reputable company with a clean record.
- In some cases, stevedores and shore gangs have befriended ship's crew and lured them into smuggling illicit drugs. Ensure crew are aware of the risks involved and report any incidents to the master.
- Carry out a thorough search of all compartments before the ship leaves port and again after disembarking the pilot (but before beginning the sea passage). The Ship Security Officer should record all events and searches in the ship's logbook and the security log.

# Loss Prevention: The Evolving Threat Of Illicit Drug Trafficking At Sea (Cont'd)

## ❖ Allocation Of Liability And Costs

If drugs are found on board, the resultant fines or proceedings may cause delay, cargo claims and other disputes. It is recommended that clear provisions are agreed in charterparties and bills of lading to allocate the liability and associated consequences.

## ❖ IG Clubs' P&I Cover

- There is no cover for claims arising from: a) the ship is found to be employed in an unlawful carriage, trade, voyage or operation; and b) in event of any personal act or default on the part of a member or its managers, or where there has been willful misconduct.
- P&I cover can respond to covered P&I liabilities (other than fines for drug smuggling) such as a cargo claim arising from ship's delay due to drug smuggling investigations.
- Whilst owners may be found strictly liable in terms of any penalty imposed by the authorities, the fines and penalties related to drug smuggling can only be covered on a discretionary basis. The member would need to satisfy the board that it had taken all such steps as appeared to the board to have been reasonable to avoid the event giving rise to the fine.
- Costs related to drug smuggling investigations is also covered on discretionary basis. Examples include the costs of discharging and storing cargo to allow searches by the authorities to be carried out, costs related to detained crew members, port and tug costs incurred while investigations are carried out and legal, correspondent and survey costs related to the investigations and/or defending the member and the crew.

# Charterers Liable To Pay Hire Rate For Time Lost By Underwater Cleaning After Redelivery

*Case Reading of Smart Gain Shipping Co. Ltd v. Langlois Enterprise Ltd(Globe Danae) [2023] EWHC 1683 (Comm)*

## ❖ Factual Background

- Owners and charterers entered into a single trip time charterparty (“CP”) for loading metallurgical coke in bulk in India and discharging in Brazil. Clause 86 of the CP provided:

*“Owners not to be responsible for any decrease in speed/increase in consumption of the Vessel whether permanent or temporary cause [sic] by Charterers staying in ports exceeding 25 days trading in tropical and 30 days if in non-tropical waters. In such a case, underwater cleaning of hull including propeller etc. to be done at first workable opportunity and always at Charterers’ time and expense. After hull cleaning vessel’s performance warranties to be reinstated.”*

- The vessel remained idle in Brazilian tropical waters for at least 42 days, as cargo was rejected by the Brazilian receivers.
- Charterers redelivered the vessel without underwater hull cleaning as requested by Owners, such that Owners had to conduct it themselves before delivering the vessel into her next employment, and in turn claimed the loss of such time from Charterers at the hire rate by invoking Clause 86.
- Charterers argued that i) as the vessel had been redelivered, Owners were confined to damages for loss of time, for example by proving that the cleaning prevented the vessel being further chartered - and not the claim in debt which would be the case if the vessel remained on hire; ii) the intention of Clause 86 should be to give Owners a claim in debt for hire during performance of charterparty, in respect of the time taken for underwater cleaning if hire was unpaid.

## ❖ The Arbitration Award

The tribunal supported owners on the following basis:

- The purpose of clause 86 is to assign responsibility regarding risks associated with marine growth forming on hull if the vessel spent extended time of idle following charterers' order, regardless of whether the vessel was redelivered. This obligation gave rise to a claim in debt.
- Tribunal accepted case *The Nicki R [1984] 2 Lloyd's LR 186* to apply, in which it was held that if the relevant clause required that repair to be "at charterers' expense", Owners did not have to prove any actual loss of time, and it was irrelevant whether such repairs were after completion of the contractual trip and concurrently with owners' own work on the engine.

## ❖ The Commercial Court Decision

Charterers appealed to the English Commercial Court, and the Court dismissed the Charterers' appeal, based on below:

- From the wording of clause 86, it is expressly stated that cleaning is to be "always at Charterers' time", but not stipulating Owners' claim is for "loss of time" resulting from cleaning.
- Clause 86 neither required the underwater cleaning to be undertaken before vessel's redelivery, nor required the Charterers to do it by themselves; the clause placed an obligation on the Charterers to pay compensation at the rate of hire, and such compensation is not hire. In this case, if Charterers do not conduct cleaning, they would have to compensate the Owners at the hire rate for the time associated with the cleaning.
- The court reconfirmed *The Nicki R [1984] 2 Lloyd's LR 186* being the authority for this case.



# Market Snapshot

## Growing Panama Canal Congestion: A “Wild Card” For Rates

- Delays at the Panama Canal averaged about 15 to 19 days per vessel in the first week of August, with the drought resulting in low water level in Gatun Lake and restricting the numbers of fully-laden vessels able to make the transit.
- Panama Canal Authority has shaved around 2 meters off its maximum draft for its neopanamax locks as well as slashing the maximum amount of daily transits by 20% to only 32 voyages a day since the drought.
- The changed operating conditions are seeing ships from all segments facing delays, and the vessel tracking data showed enormous congestion near the waterway.
- Even if rains returned to Panama, the authorities are unlikely to make upwards revision on drafts or the number of transits anytime soon, as it is estimated that current El Niño weather tends to bring drier weather to the country later on this year.
- Market observers expected the Panama Canal would become the wild card in the container shipping market because of the potential impact it may have on freight rates for transpacific voyages.

## Winter LNG Shipping Rally Off To Early Start

- Market data in mid-August showed spot LNG shipping rates in the Pacific region reached above USD100,000/day benchmark for the first time since mid-January, about three weeks earlier than in 2022. LNG shipping forward rates for November showed prices arriving at USD277,000/day for the Pacific and USD286,000/day for the Atlantic.
- The soaring of rates reflects a steep contango in prices of LNG and its increasingly tight supplies in the forthcoming winter season when demand for LNG is huge.
- Australia, one of the largest LNG exporters, is experiencing strikes at its 3 major LNG facilities, raising further concerns of potential supply disruptions if industrial action continues, and Asian buyers would have to compete with the Europe for other LNG sources such as US.
- Market predicted that despite the current strikes in Australia could free up to 60 vessels, charterers would probably hold the ships due to uncertainty on the disruption duration.
- Volumes of LNG in floating storage are also at higher than usual levels for the time of the year, and in the meantime, waiting times have also been increased as freshwaters levels in the Panama Canal are affected by the drought.

## Ukraine's "Humanitarian Corridor" For Releasing Ships, State-backed War Risk Cover To Be Launched

- Since mid-July 2023, after withdrawing from the UN-backed deal for Ukraine to export grain, Russia has made regular air strikes on Ukrainian ports and grain silos.
- In August 2023, Ukraine announced a "humanitarian corridor" in the Black Sea to release cargo ships that have been trapped in its ports by a de facto Russian blockade, albeit facing threats from Russia to treat any ships leaving Ukraine as potential military targets.
- Until end of August, only one commercial vessel, the Hong-Kong-flagged container ship "Joseph Schulte", which had been stuck in the port since February 2022, has used the temporary corridor to depart from Odesa carrying more than 30,000 metric tons of cargo in 2,114 containers.
- Ukraine is said to launch a state-backed war risk insurance scheme for bulker carriers in conjunction with international insurers, essentially a public-private partnership. The element of state support, put up by Ukraine's national infrastructure fund and state banks, should make it significantly cheaper for owners to buy policies, while still providing a profit for the commercial parties involved.

## Market Player Suggested Lock In Long-term Marine Hull Pricing If Offered

- Some marine insurance market players observed that the current inflationary trends were not yet being reflected in pricing, and inflation would probably kick in by 2024 or 2025, driving insurers to reconsider their exposure. It was estimated that once the overall loss ratio was drifting out by 5% or 6% due to inflation, such can be sufficient to turn the marginal profitability into unprofitability.
- Such observation is on the basis that the current Hull & Machinery (H&M) pricing is essentially flat, or at least not as hard as previous years.
- While long tenor H&M policies are no longer as common as they are in soft markets, fleets with good loss record may be able to negotiate longer than average H&M insurance policies in the current flat market, and are suggested to take advantage of the chance to lock in to current rates.
- Major casualties had been few in the past year. According to market resources, shipping losses hit a record low in 2022 with only 38 total losses of large ships reported globally, down from 59 the previous year. However, market warned that casualty trends are volatile and capricious, and it would only take a string of big losses to upend current perspectives.



## China's Dry Bulk Trade Volume On The Rise Affecting Bulker Freights

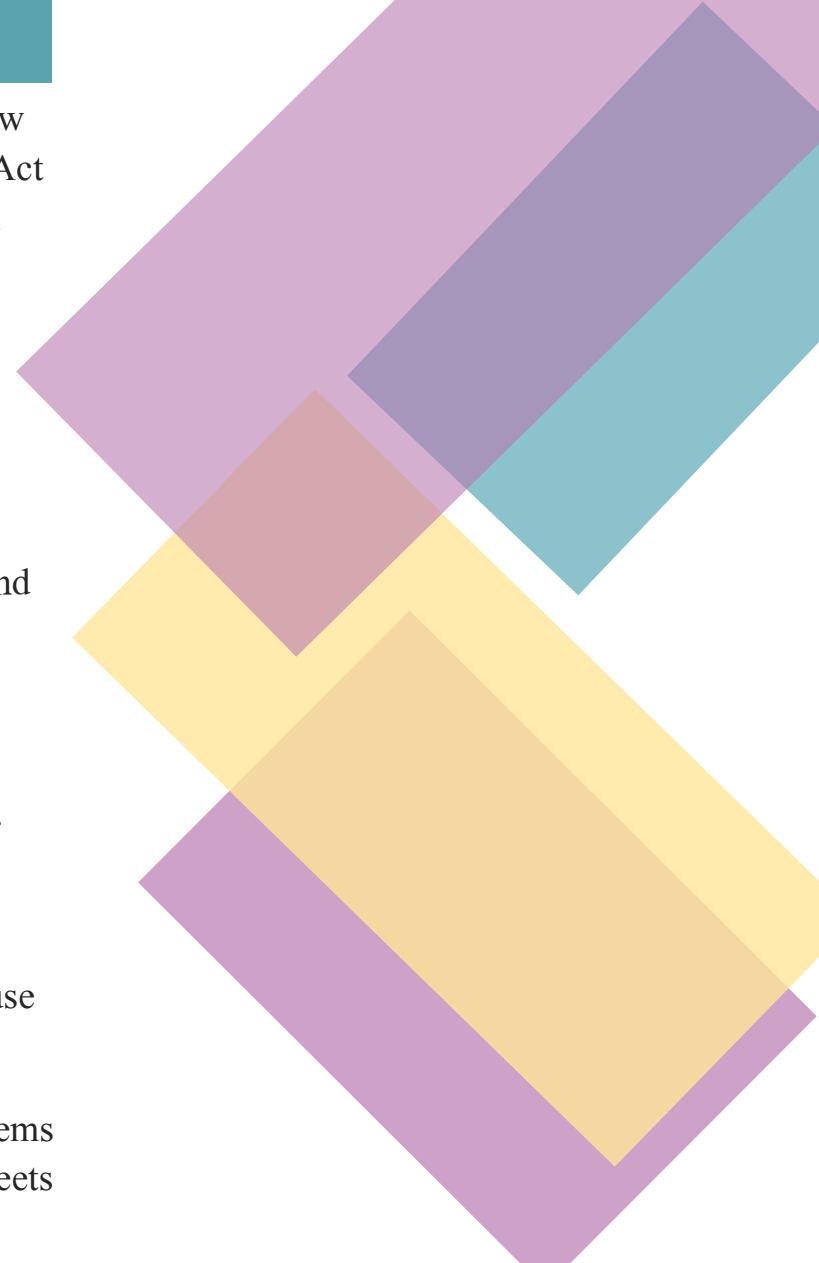
- Data in July 2023 shows that China has continued its decline in exports and imports in terms of value, adding to a prolonged trade slump. In dollar terms, exports fell 14.5% year on year, and imports declined 12.4%.
- However, from January to July 2023, there is a significant increase in both China's main imports and exports in terms of quantities, compared to the same period of 2022. Exported steel products are almost 28% up; grain imports and iron ore imports had increased by 5% and 7% respectively. Coal and lignite imports increased by almost 90% due to favorable international market price and the country's zero-tariff policy. Import of refined petroleum products almost doubled, and crude oil imports also rose by 12%.
- The changes in value and quantity have affected shipping routes and freights. By mid-August, in a yearly basis, the Baltic TCEs showed Capesize China-Brazil voyage has increased by around 15%, whilst the Panamax South China – Indonesian round voyage dropped by almost 51%. Supramax rates for US Gulf – China, North China – West Africa and South China – Indonesia are down by roughly 46%, 66% and 47% respectively. Handysize rates for North China – South Korea – Japan trip have decreased by around 60%.

## China Supersedes Greece As The World's Largest Owner For The First Time

- Recent market data showed the Chinese-owned fleet amounts to 249.2 million gross tonnage (GT), superseding Greece and ranked as the world's largest owner for the first time. China, Greece (249million GT), Japan (181 million GT), South Korea (66 million GT) and the US (66 million GT) are round out the top five.
- Greece retains the lead in deadweight tonnage terms and has the leading market share for tankers and LNG carriers.
- China has the largest fleet share in bulkers, at 24%, and boxships at 16%. In newbuild market, China's orderbook is almost double of the Greek-owned orderbook.
- China's ascendancy has been built on its strong cargo base, its powerful shipbuilding sector and its increasingly active finance sector.
- The largest shipowners in China are Cosco Shipping and China Merchants Group.

# The Electronic Trade Documents Act 2023: UK Modernizes The Law In E-B/L

- UK's Electronic Trade Documents Act 2023 ("The Act"), which seeks to modernize the law to keep up with technology developments, received Royal Assent on 20th July 2023. The Act allows for the legal recognition of numbers of trade documents including bills of lading in electronic form since 20th Sept 2023.
- The Act contains only eight sections and it is light and flexible on details in order to adapt developing technologies. It leaves details to be determined by the courts, and also opens opportunities to secondary legislation to deal with specific issues.
- According to section 2 of the Act, to effectively issue an electronic document, one of the conditions is a "reliable system" must be used to ensure the security of the bill of lading and its use, with the criteria listed in section 2(5) to assist the courts in determining whether a system is "reliable".
- Section 3 provides that anything which may be done with a paper document may be done with an electronic document, including endorsement, transfer and parting with possession.
- However, market voices concern such flexibility would be achieved at the expense of uncertainty, as parties might not know whether their electronic documents could be recognized under the Act before the courts making decisions on whether the system they use is reliable.
- Some experts suggest that to relieve such dilemma, it might help to have a register of systems which will be recognized as reliable, as parties would at least know whether the system meets legal requirements at the time of issuing the electronic bill of lading.



## Tanker Rates Plunge As OPEC+ Cuts Curb Vessel Demand

- Shipping rates for vessels from mid-sized Aframaxes to supertankers have eased in recent months due to Saudi Arabia's production cuts, Russia's export curbs and uncertain demand for oil.
- Freight for Aframaxes, a vessel type being heavily relied on by Russia to transport oil, initially slumped late last year, when EU ban on seaborne shipments of Russian crude took effect. Daily earnings for Aframaxes crossing the Mediterranean dropped to the lowest since June 2022.
- Earnings for Suezmax tankers from the Black Sea to the Mediterranean have fallen to the lowest level since February 2022.
- Rates for supertankers known as VLCCs have seen a less pronounced decline. There has been a shift toward using supertankers and other large vessels to transport oil from the US Gulf, West Africa and Latin America, as observed by the market.
- Russia has cut export of crude oil in response to Western sanctions. The country's crude shipments from the Baltic and Black Seas slumped in July to 1.79 million barrels a day, the lowest this year.
- Lower crude supplies in other regions also bring down shipping rates: flows from Iraq's Kurdistan region to Turkish port of Ceyhan have been halted since March; loadings of Forcados crude in Nigeria have been suspended for almost a month due to leaks at the terminal.

## VLCC And Suezmax Utilisation Forecast To Hit Close To 100% By 2025

- Market Analysts forecast VLCC utilisation will hit 99% by 2025 because of a very low orderbook. The annual average VLCC rates might hit USD54, 650/day this year and steadily rise for the coming couple of years to hit a hugely profitable USD87,500/day by 2025, that is to say a VLCC would be raking in average profits of around USD70,000 every day.
- Suezmax utilization is expected to hit above 98% by 2025.
- Tanker giant Euronav posted its best-ever Q2 operating performance outside the covid-related market spike of 2020, and pointed out that the orderbook-to-fleet ratios remain extraordinarily low by historical standards at just 1.6% for VLCCs.
- A historically low orderbook combined with favourable demand fundamentals should continue to support increased spot rate volatility. It is observed that the last period for both VLCC and suezmax sectors earning such rates is during year 2003 to 2008, which is widely acknowledged as shipping's greatest earnings period ever.

## Look Out For Risk Of Collision With Fishing Vessels In Chinese Waters

- According to the 2023 notice of the Ministry of Agriculture and Rural Affairs of China, fishing ban in the East and South China Sea between latitudes 26° 30' N and 12° N ended on 16 August 2023, and the ban for the Bohai Sea and Yellow Sea North of latitude 35° will be lifted on 1 September 2023.
- As the seasonal fishing ban comes to an end, the fishing vessels in Chinese waters will be expected to increase dramatically, and ship operators and masters are advised to take additional precautions in voyage planning and navigation.
- As per China MSA, during the period of 2019 to 2021, collisions between merchant and fishing vessels have resulted in 248 fishermen losing their lives. Considering the big difference in size and momentum between some merchant vessels and fishing boats, the bridge watchkeeper on merchant vessels may not even be able to realize that a collision with fishing boats occurred.
- Typical causes of collisions with fishing vessels include:
  - Merchant Vessel proceeds at high speed and the engines are not ready for maneuvering.
  - Officers on watch (OOW) on merchant vessels may be occupied with other non-essential tasks or there is a lack of assistance on the bridge for OOW. Fishing vessels' crew may also be occupied with fishing activities instead of navigation.
  - Merchant vessels' OOW over rely on AIS, which may be inoperative or transmitting incorrect information. AIS can complement but not replace target tracking on ARPA / RADAR for collision avoidance.
  - Communication with fishing vessels is not effective due to language difficulties or fishing vessels' failure to hear the foghorn.
  - Merchant vessels sometimes leave it to the last minute before taking avoiding action, but it is not enough to achieve a large turn of the voyage course.
- Apart from collisions, merchant vessels may also face claims of damage to fishing nets. Fishing nets are difficult to detect as they may be poorly marked. OOW need to rely on timely visual sighting.
- For other loss prevention advice, readers can refer to our CMH Spotlight 2022.07 Issue.

# Happy Reading, See You In September !

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# Acknowledgments

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