

Newsletter

#52

May 2020

Editor: S. McInnes



MSC'S
TECHNOLOGY

MPL CONFERENCE
POSTPONED

LCA: LEGAL ASSISTANCE
WORLDWIDE

MPL NEWS

13th ANNUAL CONFERENCE

CANNES - FRANCE

Due to the extensive problems created by the coronavirus, it is with regret that we have decided to defer the conference to 2021. By then the pandemic hopefully will be under control and you, our members should feel secure and comfortable in attending. Notice of the actual new dates will be circulated shortly.



MSC'S TECHNOLOGY

There is always the difficulty transporting fruit and it becoming too ripened by the time it arrives at its destination.

MSC is providing a more efficient solution without sacrificing strength and reliability. They are using **Controlled Atmosphere Technology** which slows down the process and extends the shelf-life.

Fresh fruit and vegetables are an important part of the growth for those people around the world seeking a healthy lifestyle.

The result is the total global fruit trade market has grown by an average of 40% over the past ten years. MSC is meeting that demand through its reefer cargo services. Over 1.8 million TEU annual reefer shipments were made in 2019, and the company is continually investing in the best-refrigerated transport for all types of fruit and vegetables. It is now adding over 5,000 Star Cool units using Controlled Atmosphere (CA) technology.

Giuseppe Prudente, MSC's Chief Logistics Officer says "By adding more capacity for transporting temperature-sensitive cargo, we are offering even more options for our customers to meet their growing demand. He goes on to

say that "MSC understands the importance of preserving the condition of its customers' cargo from the moment it is loaded until the moment it reaches its delivery point and thus helping producers of all sizes and in all regions to open up new markets for their high quality fruits and vegetables."

CA is an active process in regulating atmosphere composition to extend the shelf-life, maintain the appearance, freshness and quality of perishable products, particularly stone fruit, apples, avocados, lettuce and persimmon. This is done by slowing the natural ripening process by reducing the oxygen concentration and increasing the carbon dioxide. Star Cool CA relies on an effective, simple and low-energy CA system which is built into the Star Cool Integrated Reefer.

With a normal reefer, there is a high level of heat transfer via the double frames of machinery and container. Integrating Star Cool eliminates this thermal bridging, resulting in reduced heat leakage and improved energy emissions.

Extracted from an MSC article on
Controlled Atmosphere Technology

SANDY MCINNES
EDITOR

MPL NEWS

MPL PARTICIPATION AT 2020 EXHIBITIONS

INTERMODAL BRAZIL

MPL out of necessity caused by the Coronavirus, had to cancel our attendance at Intermodal/Brazil earlier this year. It is an important event for our Group, and it is planned to re-arrange our participation for March 2021.



INTERMODAL SOUTH AMERICA –
BRAZIL – DURING A PREVIOUS YEAR

BREAKBULK EUROPE

Again, due to the Coronavirus pandemic, the organizers of Breakbulk Europe have postponed this event and will now open in Bremen, Germany on the 29th September and continue through to 1st October.

This is the world's largest exhibition for project cargo and the breakbulk industry.

MPL WILL KEEP YOU POSTED FOR BOTH BREAKBULK PLANNED FOR LATER THIS YEAR AND ON INTERMODAL IN 2021.



MPL NEWS

LCA – LEGAL ASSISTANCE WORLDWIDE FOR OUR MPL MEMBERS

The MarcoPoloLine Group now has a unique arrangement with the **LAW FIRM LCA** who will provide guidance and legal services to MPL Members at exclusive rates.

They offer a variety of services, such as:

- Credit Collection
- Legal advice in general
- Litigations
- Legal assistance with matters relating to Covid 19

LCA was established 30 years ago and have offices located in Milan, Genoa, Treviso and Dubai. In addition, they have a network of international law firms with corresponding lawyers in major cities and ports globally.

LCA also has a vested interest in innovation and supports new generations of enterprises and their expansion on the global markets.

They are also there to assist you on a variety of levels, for example technological starts-up, embracing and coordinating approaches that interconnect businesses with markets,

plus new technologies, scientific innovation and the law.

Outside of our industry, but which might be of interest to you on a purely personal basis, they are active in the Law of Art and Law is food.

For further information on **LCA**, we recommend you have a look at their website www.lcalex.it it could give you a better insight

For additional details on how they relate to MPL and on how they can assist you, please write to legalassistance@marcopololine.com





The standard ISO 22301: The value of Business Continuity Management System in “Phase 2”

The need for companies to implement a management system capable of ensuring business continuity (**Business Continuity Management System** or **BCMS**) arises from an analysis of their new needs in the so-called “Phase 2”. These needs are not only related to safety issues but they involve the entire company organization.

Safety is in fact just one of the aspects related to the consequences of the COVID-19 outbreak: nowadays, companies are mainly in crisis both because they suffered business interruption, which caused severe economic damages threatening their own survival, and because of the sudden need to adopt new working processes (*e.g.* application of strict safety protocols in the workplace, rational management of human resources, rethinking of shifts and working hours, application of smart working and implementation of the Internet of Things, just to name a few of the most significant changes), which involve additional organizational and legal compliance issues.

Therefore, companies need to build a management system suitable to make them **resilient to disruptive events related to biological threats**, in order to avoid that *(i)* future lockdown periods, *(ii)* the consequences of breaches of contracts, *(iii)* the application of penalties for non-compliance with mandatory rules and *(iv)* organizational inefficiency, may cause adverse and uncontrolled effects on the company's business.



The guidelines for implementing a business continuity system are already provided by the international standard ISO 22301:2019 “*Security and resilience - Business continuity management systems - Requirements*”. This regulation, which involves all the operational and management areas of the company, aims at identifying the requirements for planning and implementing a management system capable to prevent risks and protect the company from disruptive events.

So far, the ISO 22301 standard has been applied mainly to prevent the consequences of natural events (such as earthquakes or floods) or in the IT industry (to prevent, for example, service interruptions). However, **the scope of the standard depends on the risks that the BCMS aims to prevent**: companies having their productive units in areas where earthquakes are likely to happen will take care of calculating the seismic risk, companies offering digital services will aim at preventing the risks connected to cyber-attacks, but from now on **all companies will also have to take into account the biological risk**. This need is also strengthened by a legal argument: under Italian law, at present, companies could -theoretically- rely on force majeure to avoid the consequences of their breaches of contracts due to the COVID outbreak. In the future, on the contrary, a new pandemic emergency **could no longer be considered as an unforeseeable and/or inevitable event** (which are the indefectible requirements for the application of force majeure under Italian law) and, consequently, in defect of the adoption of all the appropriate measures to avoid its consequences (such as the implementation of a Business Continuity Management System), **force majeure will unlikely protect nonperforming companies**.



It is a fact that the creation and implementation of a BCMS could not be achieved through a merely legal activity. To assist companies in the process of implementing the business continuity system, our firm has entered into a **collaboration agreement with a first-level partner in the international market of certification bodies**, able to guarantee qualified assistance also from a technical and operational point of view.

The legal aspects involved in the creation of a BCMS are very significant, and we mention here below the most important ones.

- Under **Italian Labour law**, according to the Legislative Decree no. 81/2008, any company having at least one employee shall adopt the so-called "risk assessment document". This document detects the possible risks for workers in the workplace and, after evaluation on how to prevent dangerous situations, indicates the measures to be implemented to ensure occupational safety. The Legislative Decree no. 81/2008 provides, among others, the indications of the measures to be taken and the obligations upon employers and managers responsible for the safety of the company's workplace. In case of a breach to the provisions stated therein, employers and managers could suffer the imposition of sanctions, or even be arrested, in case such a violation is related to a crime. After the COVID outbreak, the risk assessment document shall **be duly updated to any risk, including the new biological risk**, as provided by articles 17 and 28 of Legislative Decree no. 81/2008.
- The implementation of safety measures has also an impact on **Italian criminal law**: the Legislative Decree no. 231/01 states that corporate liability occurs in case a company omits to put in place the needed measures to prevent its employees from committing crimes in the interest of the company itself. Even though it is (still) not mandatory, from an organizational standpoint, many companies are adopting a document collecting the internal procedures adopted by the management to prevent committing crimes (the so-called "model pursuant to Legislative Decree no. 231/2001"). Between such crimes, article 25septies of the Legislative Decree no. 231/01 includes the involuntary manslaughter or injuries committed in violation of the rules on occupational health and safety. That is to say, in case a COVID infection is suffered by an employee for the lack of adopting appropriate safety measures, the worker's eventual injury or death could cause civil and criminal consequences both for the managers (according to the Legislative Decree no. 81/08) and for the company itself (according to the Legislative Decree no. 231/01). Then, developing a management system which takes into account the risk of contagion, implementing all the appropriate measures to prevent employees, suppliers, auxiliaries and customers from being infected, means not only protecting people's health but also **restricting the scope of the criminal liability of entrepreneurs and companies, as well as preventing the imposition of severe sanctions (including the activity suspension, limitation or even closure)**.
- Another important legal aspect related to the implementation of a BCMS is the assessment of the management model adopted by the company in relation to personal data processing in accordance with the GDPR and the Italian Code of Privacy, the legal and organizational protection measures of corporate know-how required by Articles 98 and 99 of the Industrial Property Code and the security of IT systems. Smart working (but also the intensive use of e-commerce), exponentially increased the risk of data loss and cyber-attacks, which brings with it a **considerable risk of sanctions and reputational risk**.

- Finally, a further decisive aspect of the legal due diligence related to the BCMS is represented both by a careful analysis of existing contracts with suppliers and customers, and by drafting new contractual models to properly regulate future business relationships. On the other hand, regarding pending agreements, especially those having object continuous or periodic execution, whenever possible, it would be appropriate to renegotiate them with the contractual counterparts, to regulate the consequences of eventual new lockdown periods and/or a strong limitation of the operational activity, also considering the above mentioned inapplicability of **force majeure** in the future.

Currently, the additional value of implementing a valid business continuity system is to offer companies an integrated solution to cope with future biological emergencies and beyond: a well-organized structure, in fact, is more responsive in providing solutions to new risks, and the BCMS has the advantage of being able to adapt itself over time to future needs.

Getting an **ISO 22301 certification** grants several side benefits:

- it guarantees companies a **competitive advantage**, which can be applied in every industry (particularly for listed companies, since it enhances investors' confidence);

- it could be relevant also for insurance purposes, since the **risk assessment** activity that is required for constructing a BCMS, other than ensuring greater accuracy in the choice of the most appropriate insurance products, is valorized by the major companies in the form of a reduction in policy premiums for specific risks;
- it represents a **valid preventive defense** with respect both to controls on compliance with the prescriptions contained in the government security protocols (the violation of which leads to the suspension of the activity and to the imposition of sanctions) and to any claim from employees/their insurers/third parties for contagious injury.

The Firm, with its diverse expertise, together with the certifying partner, is able to lead clients in the process of building and implementing a valid business continuity system, resilient and COVID-proof, in order to protect the entrepreneur and the future of their companies.

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Import of facemasks, medical devices and ppe: administrative and criminal penalties

"Seizures of facemasks, optical thermometers and sanitizers not complying with the law"; "Finance Police raids, facemasks have been seized and wholesalers have been reported"; "Virus, Finance Police in pharmacies: non-compliant facemasks have been seized".

These are the headlines of recent articles published by the most important national newspapers, which reported about raids, in several areas of the country, by the Italian NAS, the Finance Police and the Customs Agency, aimed at the seizure of medical devices ("MD") and personal protective equipment ("PPE") imported from non-EU countries, and distributed within the national territory, with "counterfeit" CE conformity marking or "lacking conformity and safety standards".

From a regulatory perspective, the import and distribution of PPE and MD are regulated by respectively:

- **Council Directive 93/42/EEC** concerning medical devices, implemented in the Italian legal system by **Legislative Decree No. 46 dated 24 February 1997** (as amended by Legislative Decree No. 37 dated 25 January 2010 and by Law No. 37 dated 3 May 2019);
- **EU Regulation of the European Parliament and of the Council of 9 March 2016 No. 425** on personal protective equipment and **Legislative Decree No. 475 dated 4 December 1992** (as amended by Legislative Decree No. 17 dated 19 February 2019).

The so-called "**Decreto Cura Italia**" (Law Decree No. 18 dated



17 March 2020, converted by Parliament with Law No. 27 dated 24 April 2020) issued in order to face the epidemiological emergency, has been recently released on the subject; Article 15 of the Decree allows the production, import and placing on the market of "*surgical masks and personal protective equipment in **derogation** from the European regulations in force*" regarding CE marking and procedures for assessing compliance with safety standards.

It is an **exceptional** provision, based on the state of health emergency, so that the authorisations issued by the competent authorities - the Italian Institute of Health in case of MD, the Italian INAIL in case of PPE - are valid only in Italy and until the end of the emergency period (31 July 2020).

Moreover, pursuant to Article 16, second paragraph, of the Law Decree "Cura Italia" a special precautionary measure has been introduced: the "facemasks" for common use, which are neither MD nor PPE.

The overlapping of regulatory provisions, during this emergency period, has caused a high-level uncertainty over the interpretation of such legislation; therefore, it cannot be ruled out that non-compliance with requirements may entail liability, even criminal liability, as shown by recent judicial investigations.

Thus, it is appropriate to briefly examine the main consequences – both administrative and criminal – that may occur in case of import and distribution of MD and PPE.



ADMINISTRATIVE PENALTIES

Non-compliance with certification and safety standards provided for MD and PPE

Legislative Decree No. 46, dated 24 February 1997 provides for several administrative fines (from a minimum of € 500 to a maximum of € 128,400) in case of non-compliance with the certification and safety requirements provided for MD.

The following conducts may constitute an administrative offence:

- violation of the provisions concerning the CE marking;
- affixing of markings, signs and inscriptions suitable to deceive third parties on the meaning and/or design of the CE marking;
- marketing, sale or entry into service of MD without CE conformity marking or devices without EU declaration of conformity, unless the fact constitutes a criminal offence;
- improper or unduly affixing of the CE conformity marking, unless the fact constitutes a criminal offence.

Legislative Decree No. 475, dated 4 December 1992, instead, punishes some violation regarding PPE with an administrative fine (from a minimum of € 1,000 to a maximum of € 60,000, depending on the case) in the following cases:

- production and import of first-class PPE that do not fulfil the essential safety standards;
- distribution on the market of PPE under Category I, II, and III that do not fulfil the essential safety standards;
- failure to draw up the EU declaration of conformity;
- placing of PPE on market without the CE marking;
- affixing of markings, signs and inscriptions suitable to deceive third parties on the meaning and/or design of the CE marking.

The import or distribution in accordance with the "Cura Italia" Law Decree do not constitute an administrative offence.

Customs offence referred to in article 303 TULD

The import from non-EU countries of PPE or MD, for their subsequent distribution in Italy, could be relevant from customs point of view.

The Italian Consolidated Law on Customs (D.P.R. dated 23 January 1973, n. 43 – called "TULD") provides that "*every customs operation must be preceded by a customs declaration*", according to the provisions of the Union Customs Code (EU Regulation dated 9 October 2013, n. 952).

The mismatch between the declaration and the findings of the customs authorities - whether intentional or negligent - is punished by article 303 of the TULD: "*if the declarations concerning the **quality, quantity and value of the goods intended for permanent import** [...] do not correspond to the findings, the declarant is punished with an administrative penalty from € 103 to € 516*".

CRIMINAL PENALTIES

Fraud in trade and sale of industrial products with mendacious signs under Articles 515 and 517 of the Italian Criminal Code

The import or distribution in Italy of PPE and/or MD without CE conformity marking or with counterfeit CE marking could constitute fraud in trade (Article 515 of the Italian Criminal Code), which punishes "*with imprisonment of up to two years or a fine of up to € 2,065 anyone who, in the exercise of a commercial activity [...] supplies the purchaser with a movable good at the place of another, or a movable good which differ from the one declared or agreed as to origin, provenance, quality or quantity*".

Moreover, the placing on market of PPE or MD bearing mendacious distinctive signs that could deceive the purchaser regarding the quality of the product may also amount to the sale of industrial products with mendacious signs (Article 517 of the Italian Criminal Code), which punishes

"with imprisonment for up to two years and a fine of up to € 20.000, anyone who sells or otherwise puts into service intellectual properties or industrial products, with national or foreign names, trademarks or distinctive signs, suitable to deceive the purchaser regarding the origin, provenance or quality of the work or product".

As clarified by the Supreme Court, the punished conduct ("otherwise puts into service") may be carried out by any handling of goods and, in particular, any activity aimed at getting out the product from the holder's availability for any reason, including its presentation to customs for customs clearance.

These crimes cannot be committed, however, if a MD or PPE has been authorized under article 15 of the "Cura Italia" Law Decree; in this case, during the entire emergency period, the absence or non-conformity of the CE marking will not be deemed as means of "fraud" or "mendacious sign".

The administrative liability of legal entities under Legislative Decree No. 231/2001

Fraud in trade (Article 515 of the Italian Criminal Code) and the sale of industrial products with mendacious signs (Article 517 of the Italian Criminal Code), are included among the offences which might cause the administrative liability of legal entities under the **Legislative Decree No. 231 of 8 June 2001**.

Consequently, a company may be held liable for such crimes, if committed in the interest or to the advantage of the company itself; and pursuant to article 25 bis1 of Legislative Decree No. 231/2001 the company may be punished with an **administrative fine** from a minimum of € 25,800 to a maximum of € 774,500.

The disqualification sanctions provided for by article 9 of the Legislative Decree, instead, will not be applied.

Speculative manoeuvres referred to in article 501 bis of the Italian Criminal Code

With the spread of the epidemiological emergency from Covid-19, many PPE and MD have become a "basic necessities", both in the protection of the individual in the private sphere and in the protection of health in the performance of work activities. The increased demand for such devices could cause an unreasonable increase in consumer prices, given their limited availability on the market.

The **speculative manoeuvres** on the prices of such "basic necessities" may constitute a criminal offence pursuant to **Article 501 bis of the Italian Criminal Code**, which punishes *"with imprisonment from six months to three years and a fine from € 516 to € 25,822 anyone who, in the exercise of any productive or commercial activity, carries out speculative manoeuvres or conceals, hoards or incurs raw materials, consumer food products or **basic necessities**, in order to cause their shortage or the increase in price on the domestic market"*.

Such a case may become more relevant in view of the issuance of the **Order No. 11 dated 26 April 2020**, by which the Extraordinary Commissioner for the emergency from Covid-19, has set at € 0.50 per unit (net of VAT) *"the final consumer price of face masks (standard UNI EN 14683), practised by final retailers"*. Although the boundaries within which this order may apply (by type of product and by subject) are not very clear, it is certain that the "surgical" masks are now expressly declared "basic necessities".

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3L LEEMARK



3L-Leemark was built already in 1993 and is headquartered in Taipei. Throughout the years we have reached a position we can call well-established in the Greater China Region including Taiwan, China, and Hong Kong.

The services offered by 3L-Leemark cover the full range of Air Freight, Sea Freight, Marble Transportation, Dangerous Cargoes, Yacht Transportation and Heavy Projects.

For project handling, 3L-Leemark will support you with tramper services, vessel chartering, Ro/Ro services, barge services, Discharging/Loading of Heavy Lift cargoes on/off vessels, Inland Transportation of Heavy Lift cargoes, Rigging & Installation, Civil works-Jetty construction, Civil Works-Bridge reinforcement, and temporary and long-term storage.



GE GAS TURBINE GENERATOR
LOADING ONTO BARGE AT
TAICHUNG PORT



GE GAS TURBINE GENERATOR 230T
DISCHARGING AT TAICHUNG PORT



TEMPORARY JETTY CONSTRUCTION AT NAN-KAN
RIVER MOUTH FOR KKPC POWER PLANT

3L LEEMARK

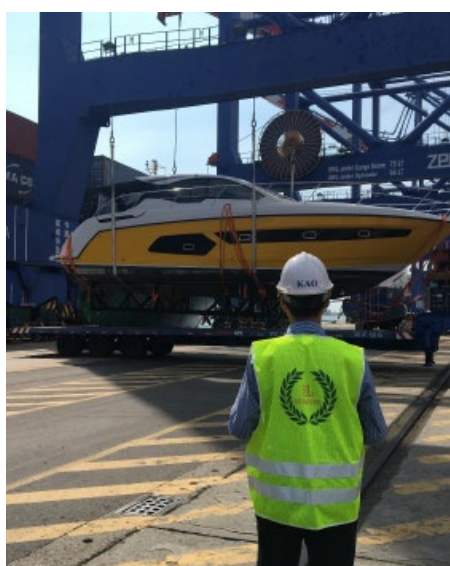


KAOHSIUNG LRT PROJECT
ROLL-OFF USING MAFI WITH
TRACKS AT TAICHUNG PORT

KAOHSIUNG LRT PROJECT
TRANSFERRING FROM MAFI TO HYDRAULIC
TRAILER



TRANSFORMER 250T DELIVERY FROM
MANUFACTORY TO TAICHUNG PORT FOR
SHIPPING TO USA



KAOHSIUNG LRT PROJECT DISCHARGING TO
DEPOT USING PATENTED RAMP



KAOHSIUNG LRT PROJECT ROLL-OFF USING MAFI
WITH TRACKS AT TAICHUNG PORT

YACHT OPERATION AT KAOHSIUNG PORT AND
TRANSSHIPPING FOR PHILLIPPINES



**MAY, 2020
ECUADOR**

NEWSLETTER

OUR SECTION

Message from our CEO Mrs. Lic. Ana María González: *The new challenges of the new world that we are forced to live in these circumstances push us to be more competitive than before. For this reason, Alltranscarga Corp is renewed and looks for alternative routes that allow optimizing time and costs.*



GUAYAQUIL PORT

Guayaquil, Ecuador: Dredging works in the access channel allow the entry of ships with a maximum draft of 13 meters. The canal facilities make the arrival and departure of ships more agile, reducing the time of call and waiting



ECUADORIAN STAR PRODUCT

Banana exports grew 1.78% during 2019. The ports that stood out in their performance were Guayaquil, Bolívar and Posorja. The 79.8% of banana shipments were made in containers and 20.22% in bulk.



COVID-19 AND PORT SECURITY

Coronavirus: Ports of Latin America continue to implement security and prevention measures Chile, Mexico, Panama, Ecuador, Colombia, Brazil, the Dominican Republic and Guatemala strengthened their actions

Follow us in   

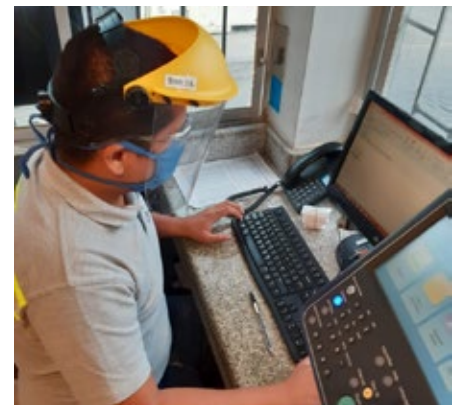
WWW.ALLTRANSCARGOCORP.COM

NEWSLETTER

OUR SECTION

Our internal situation has been modified by local government. This is the case of inland trucking shedules.

We work from our homes, but it don't swich the normal logistics of supply chain.



GLOBAL DIGITAL SOLUTIONS

Coronavirus pandemic powers digital solutions in the global maritime industry DCSA Initiative Seeks Digital Standardization, and Chinese Tanker Companies Engage in Blockchain

AIRPORT SITUATION

On June 1, domestic flights to and from Ecuador will be officially operative. The airport authorities request the covid19 test for all passengers as a requirement to enter the country.

CUSTOMS SITUATION

The customs situation in our country keeps working normally 24 hours a day and 7 days a week without stopping. Given the situation, customs have prioritized the nationalization of medical supplies.

Follow us in   

SAMATRA

ETHIOPIA



Despite the current epidemic and challenges in the logistics industry globally, our company is currently taking the advantage of reduced operations to evaluate its activities, restructure its management, train and develop its team and add new members for the bright future ahead.

I am pleased to announce that Ms. Meseret Yemane has joined our company as Air Freight and Network Manager effective 5th of May 2020.

Meseret's key past experience has been working with the Ethiopian Airlines Cargo and Logistics Enterprise on marketing, customer services and various activities of operations and as team leader for various Global Sales Agents of GSA and CSA sections.

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SERVICES



SAMATRA's wealth of experience in shipping and handling goes back to the 1970s. However, its integration to the MCC Group in 2009 was a rebirth. We provide a complete logistics solution, bundling air, sea and land transportation with state of the art warehousing and strategic consulting. Our port handling and customer clearance services has earned a reputation for cost effectiveness, quality and efficiency.



Sea Freight



Port Handling



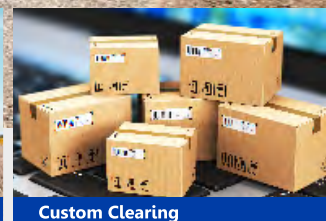
Air Freight



7000 sqm Warehousing



Inland Transport



Custom Clearing

SAMATRA is a proud member of:



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FMG

RUSSIA



Dear Friends,

For the past few months our company FMG Shipping and Forwarding made supplies of pharmaceutical substances and applied goods from China to the countries of European Union and Eastern Europe: Ireland, Switzerland, Bulgaria and Belarus during COVID-19 pandemic. How could it be possible you may wonder?

With the instruments of Marco Polo worldwide network and our own experience in meds we can be the trustful and reliable adviser in multimodal shipments of such specific goods. A lot of questions

and problems may come up during these shipments in required documents and working of European facilities. Especially when the booking was made with to-door service of the ocean line.

Our success cannot be possible without Marco Polo line. So great thanks to our colleagues from Albatrans (Ireland), NTZ Transport (Bulgaria) and Alfons Freriks Logistics (Netherlands)!



KEEP CALM AND BOOK WITH FMG

ANSHIN

SINGAPORE



TEMASEK UNIT LEADING CONSORTIUM TO RESCUE PIL

A CONSORTIUM of investors led by Heliconia Capital Management, the investment firm owned by Temasek Holdings, may soon come to the rescue of struggling Singapore boxship operator Pacific International Lines (PIL).

PIL, which is struggling to stay current on its charter payments and has been divesting assets to shore up cash, confirmed on Tuesday that it is in exclusive talks with Heliconia for a potential investment.

Negotiations are at a preliminary stage, so the parties have yet to decide on how much cash to inject into PIL, and whether the funds will be raised by the issuance of equity, debt, convertible bonds, or a mix.

There is no certainty that a deal will be struck either, PIL said in a filing to the Singapore Exchange: "As discussions with Heliconia progress, the board will make further announcements as and when there are any material updates or developments. Until such time, neither the company or Heliconia will make further comments on this matter."

PIL is the world's tenth biggest container shipping line, helmed by former Nominated Member of Parliament Teo Siong Seng, better known as SS Teo.

The struggle to remain profitable has challenged global boxship operators for more than 10 years now. PIL reported a net loss of US\$35 million in the first half of 2019. As at June 30 last year, it owed a total of US\$1.89 billion in loans and notes payable, and carried US\$1.97 billion in lease liabilities, with a cash pile of just US\$154 million.

PIL said on Tuesday: "In light of the significant challenges facing the container shipping industry, PIL has made significant progress towards rationalising our service offerings and reducing asset costs. However, despite the company's best efforts, the persistent Covid-19 pandemic has caused the situation to worsen over the past month."

PIL has since commenced discussions with 15 of its financial lenders to seek their support for a "debt re-

profiling plan". PIL prefers to use this term because its original intention was to defer payment obligations without creditors taking any haircuts, The Business Times understands. There is also a stigma attached to the term "debt restructuring" in China, where PIL is active.

So far, lenders representing around 97.6 per cent of PIL's total bank debt have given their in-principle approval for a deferral of principal and interest payments until Dec 31, 2020, PIL said.

These lenders have also expressed support for a formal standstill on enforcement actions until the end of the year, or until a formal debt re-profiling agreement is entered into.

Two financial lenders representing the remaining 2.4 per cent of PIL's bank debt have not expressed their support, and PIL continues to be in discussions with them, it said.

One of the two lenders had issued a letter of demand to PIL on May 11 for US\$12.6 million to be paid within 10 business days.

DBS Group is one of PIL's biggest secured lenders, with an exposure of around US\$260 million, followed by Bangkok Bank with an exposure of around US\$220 million, sources told BT. Maybank is the next largest lender, followed by OCBC Bank, which is owed around US\$90 million secured on vessels, sources said. Representatives from DBS and OCBC Bank declined to comment.

Two entities linked to Temasek are also on the creditor list. SeaTown Lionfish, an independent subsidiary of Temasek, together with Broad Peak, a hedge fund in which Temasek is said to be an investor, are owed about US\$140 million, secured on vessels and PIL's shares in Singamas, BT further understands.

A spokesperson for Temasek declined to comment, noting that the debt does not sit in Temasek's books. PIL owns a 41 per cent stake in Hong Kong-listed container manufacturer Singamas, and some of these shares have been pledged to SeaTown and

ANSHIN

SINGAPORE



Broad Peak as collateral for loans since 2018. Separately, PIL has also entered into a number of sale and leaseback agreements with lessors, and these lessors hold the titles to some of PIL's vessels.

PIL is in talks with a group of its finance lessors with a view to concluding a "re-profiling" of certain lease agreements, it said.

PIL is privately owned by the Teo family, but it has often tapped the debt markets for refinancing in the past, and has an outstanding S\$60 million tranche of 8.5 per cent notes that will mature on Nov 16.

PIL cautioned that events of default will likely arise under the notes terms, since it has sought creditors' approval for a moratorium on enforcement actions against it. PIL said it will convene informal meetings with note holders to discuss its proposals for a debt re-profiling plan.

Trading in the notes is illiquid and their latest indicative bid price was 85.4 Singapore cents to the dollar, according to FSMOne.

While the identities of the parties that will be investing alongside Heliconia has not been revealed, the emergence of Heliconia as a potential white knight for PIL has taken some industry watchers by surprise. Tan Hua Joo, chief analyst at shipping consultancy Alphaliner, told BT that Heliconia's sudden interest in PIL may have been motivated by similar financial aid provided by the governments of South Korea, Taiwan and France to shipping lines.

But the argument that governments have a strategic interest in container shipping is generally not well grounded, he said. "Commercial shipping services are readily available in Singapore. Singapore is not just the second busiest container port in the world but also the second highest ranked port in terms of connectivity, just behind China.

"PIL has a global market share of less than 2 per cent and contributes less than 3 per cent of total container volumes in Singapore, based on my estimates. It is hard to justify having an ownership stake in the

carrier." Indeed, shipping is not on many people's to-buy lists these days. Fierce competition has also triggered consolidation moves, including Temasek's sale of Neptune Orient Lines (NOL) to France's CMA CGM in 2016. That said, NOL did turn profitable under the French shipping line after the sale.

As for Heliconia, it has previously focused on smaller, growth-oriented companies in its investments. But this will not be its first attempt at distressed investing. Back in 2018, Heliconia had considered taking a punt on insolvent shipbuilding and charter firm Marco Polo Marine, though other investors ultimately beat them to it. Heliconia chairman Lim How Teck is also a shipping veteran, having been with NOL from 1979 to 2005 where he held various positions including chief financial officer, chief operating officer and group deputy chief executive.

Evercore Asia is advising PIL on its strategic and capital raising initiatives, while PwC is advising PIL on its debt re-profiling. Wong Partnership is the legal adviser for PIL.

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