Caribbean Ports must prepare for new obligations to weigh containers

In this issue:
- Are your channels deep enough?
- Launch of Women in Maritime Association, Caribbean
- Svitzer grows in the Caribbean
- Caribbean Transshipment Pentagon
- Protecting the Environment
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features

6 BARBADOS BENEFITS AS SVITZER GROWS IN THE CARIBBEAN

9 LARGER FEEDER VESSEL EXPECTED... ARE YOUR CHANNELS DEEP ENOUGH?

10 CARIBBEAN PORTS MUST PREPARE FOR NEW OBLIGATIONS TO WEIGH CONTAINERS

16 A NEW CHAPTER IN CARIBBEAN MARITIME HISTORY – WOMEN IN MARITIME ASSOCIATION LAUNCHED

COVER PHOTO: Svitzer Dominicana operating in Caucedo terminal in Dominican Republic (operated by DP World).
Mission Statement:
To foster operational and financial efficiency, and to enhance the level of service to the mutual benefit of Caribbean Ports and their stakeholders, through the sharing of experience, training, information and ideas.
WiMAC has monumental role to play...

Sappho, Esther, Joan of Arc, Nanny, The Kahina, Taytu Betul, Solitude, Marie Curie, Rosa Parks. Great women of history, time and again, have displayed extraordinary heroism, determination and intellectual might, leading their people and future generations to freedom and greatness. In every sphere of human endeavour, women have led from the front; conquering the unconquerable; surmounting the insurmountable; challenging then subduing threats and coercion. They have led armies to victory. They have built great empires. They have established new frontiers and raised standards, in literature, science, aviation, sport. Women have inspired, supported, encouraged and motivated; and, like Sacajawea, have directed our path even with a baby on her back.

Greatness is not gender-specific and women have been equal and often extraordinary. It is therefore interesting, that despite the exploits and daring achievements of Bonnie, Read, Lacy and Talbot, women mariners are few. And, in an age where women have achieved, advanced and led in every field of industry and commerce, they are still woefully outnumbered in maritime affairs. Surely the shipping industry is handicapped by this inequality.

It is against this background that the International Maritime Organization (IMO) adopted a policy in 1988 for the integration of women in the maritime sector. The objective then was to expand the capabilities of women in shipping. Twenty-five years later, ‘women in maritime’ groups are all over the world. Women in Maritime Association, Caribbean (WiMAC), was established in April of this year (see page 16). Quietly and with little fanfare, the women organized and established a regional body that is destined to support development across the Caribbean Sea.

Portside Caribbean welcomes and supports this initiative, recognizing its potential and the intellectual capacity it harnesses. If history is our guide, then WiMAC has a monumental role to play, working alongside organizations such as the PMAC. Through mutual cooperation and the resulting synergy, both can effectively raise standards of professionalism and service across all four major language groups in the region.

Michael Jarrett
Editor
Barbados benefits as Svitzer grows in the Caribbean

By Mike Jarrett

In inking a deal with Svitzer a year ago, Barbados Port Inc., in one fell swoop, solved its harbour tug problems; saved itself $26 million in expenditure; gained access to world-standard maintenance; secured top level training for port personnel; and, received more than $4 million on top of it all.

It was a ‘sweet deal’ that Svitzer’s Caribbean business development manager Robert Bosman described as a “win, win” for both parties.

The 15-year pact, signed in May of 2014, has already passed the one year mark and from all appearances it’s ‘so far, so good’. “Already a significant improvement in the maintenance and operational practices and procedures have been seen – transforming the local tug service into one that meets international standards,” Minister of Tourism and International Transport, Richard Sealy reportedly told the country’s parliamentary representatives as he introduced the Barbados Port Inc. (Transfer of Management and Vesting of Assets) (Amendment) Bill 2014 in the House of Assembly in January of this year.
In this agreement the parties agreed that Svitzer Caribbean would “buy and leaseback two tugs” and then operate them both in the Bridgetown Port with local crew. The tugs are 100% operated and maintained by Svitzer on behalf of Barbados Port Inc. In addition to operating two tugs the agreement also included development and training of the Port’s maritime students on vessels within the Maersk Group, Svitzer’s parent company.

Sealy told the parliamentary representatives that Barbados had sold the two tugs to Svitzer for $4.3 million in a lease arrangement for 15 years. It is a special time charter arrangement which will see Svitzer providing the vessels while Barbados Port Inc. will retain responsibility for crewing. Svitzer will in turn manage the operations and train the crew and, in this regard, has appointed a country manager as they will have responsibility for the entire Barbados operations, the minister said.

The country manager the minister referred to is David Small, who has been appointed Contract Manager for Svitzer in Barbados. He has oversight for executing the contract locally.

The two tugs sold to Svitzer are not new. In fact, the Chairman of Barbados Port Inc. as reported by Barbados Today (June 7, 2014), indicated that they would have had to be replaced in a few years at a cost that could be as high as $26 million. “That would be a huge capital investment... so the board agreed that they will sell the tugs to Svitzer and lease them back. Svitzer is a large operator of tugs. They do it here, all through the Caribbean (and globally); and we feel quite rightly that the taking over of the tugs by Svitzer not only gives us upfront cash, but it also tells us that when those tugs have reached their full age that Svitzer would replace them at Svitzer’s cost and continue (the lease agreement). So we would not
have that major capital cost,” Mr. Harding said, as quoted in the report.

**DEPENDABLE EFFECTIVE TUG SERVICES CRUCIAL**

Tugs provide safe berthing and un-berthing of ships. Compared to the size of the ships they service, the tugs seem small but their role and the responsibility entrusted to them and their crew is huge. Their effective operations and the reliability of the service they deliver are crucial for smooth port operations. But there are broader implications. An ineffective or undependable tug service in a main port could easily bring major industries to an expensive if even temporary halt.

Tug services are generally provided by private companies. In high volume ports, revenues generated by tug companies are usually sufficient to make their operations feasible. In smaller ports however, such as many in the Caribbean, the volume of business is generally not enough to cover the costs. Tug services are therefore provided by the public sector as a government service. “Although this may work well, in practice we see times that the required expertise is lacking in terms of tug boat capacity, crewing, training and maintenance,” said Dickson Rivas, General Manager of Svitzer Dominicana.

“Also the dry dockings and related supervision turn out in many cases to be much more expensive than budgeted due to postponed maintenance and lack of negotiating power with the ship yards,” said Robert Bosman.

In a world where operational costs are constantly increasing, supply chain demands are greater and vessel size is increasing, stronger modern tugs are hardly a luxury. Indeed, they are a necessity. However, in the Caribbean, financial constraints, limited resources, economies of scale and paucity of specific expertise make it extremely difficult to maintain effective and dependable towage. However, given Svitzer’s initiatives in the Caribbean, even the smallest of ports can access world standard towage.

Svitzer Dominicana, part of the Svitzer towage group of A.P. Moller-Maersk, offers services in the Americas and the Caribbean. Svitzer Dominicana operates towage services in Barbados, St. Kitts-Nevis, the Dominican Republic, Haiti, Mexico, Panama, Bahamas, Venezuela and Sint Eustatius. In the Caribbean, Svitzer presently operates more than 25 tugs which vary from 60BP ASD’s to conventional 25BP twin screw tugs. Globally Svitzer operates more than 400 tugs.

Svitzer Dominicana offers a mix of global expertise adapted to Caribbean needs. Services to the Caribbean are offered from its organization in the Dominican Republic. This means that mobilization and travel costs are kept to an absolute minimum. The array of options offered ensures that every port authority or terminal in the Caribbean, large or small, has a choice of tug to suit their needs. The company offers a range of relationships. In some cases Svitzer will take over existing tugs and operate them on contract with the port. That package includes maintenance, training and local crewing. Svitzer Dominicana also offers spot tugs for unexpected towage jobs and salvage services.

In addition to one in Santo Domingo, Svitzer has established another simulator in Freeport. Developed by FORCE from Denmark, this Bahamas facility simulates one cargo vessel and two tugs. This means that can one pilot and two tug captains can be trained at same time.

“At very competitive rates specific software for Caribbean ports and terminals can be developed in this training centre,” Rivas said.

Given its options and flexibility, Svitzer’s business has been growing in the Caribbean region.

“In addition to our recently opened Marine Standards office in Tortola and our simulators in Freeport and Santo Domingo, we have grown in the Caribbean. We now have operations in the Bahamas, Dom Rep., Statia, Barbados, St. Kitts, Mexico and Panama. We have the ambition to grow further by offering “hassle free” towage services to the Caribbean islands, which is more economical. Next to harbour towage services for cargo and cruise vessels, we are also capable of providing (LNG and oil) terminal towage operations and providing other marine services such as pilot services,” Rivas said.

Through Svitzer’s “a la carte” towage services Caribbean, all ports, large and small, can now effectively raise their operational standards. Meanwhile, Svitzer grows in the Caribbean.
Not all Caribbean ports will benefit directly from the expansion of the Panama Canal. For various reasons, including proximity to main routes and land-side capabilities, the megaships expected to transit the expanded canal will not be calling on smaller Caribbean ports.

To be sure, many of the larger ports, like Kingston, Freeport and Caucedo will see, sooner or later, bigger ships entering their domain. These terminals will gain direct benefits and, in anticipation, have been investing capital in getting ready. Kingston, for example, through its recently announced deal with a CMA CGM consortium, will undergo significant upgrading at its container terminal. The neighbouring Kingston Wharves terminal is also gearing up. However, apart from talk, most of the smaller ports in the Caribbean are not gearing up to receive the megaships expected to utilise the expanded Panama Canal.

Barbados Port Chairman, David Harding, addressing a conference in Trinidad recently on the topic of the implications of the Panama Canal expansion, made the point that most ports in the Caribbean would not be receiving megaships transiting the isthmus and therefore massive expansion of port capacity may not be necessary. He made the point that “…the cost of developing a port to accommodate these mega containerships was going to be astronomical and they (the ports) were never going to get a profitable return from that investment.”

Beyond resources
To be sure, the cost of re-making a port to accommodate these massive vessels is beyond the limit of available resources of most Caribbean countries. For example, the cost of refurbishing the Kingston container terminal, which is already well endowed with size and infrastructure, is over US$600 million. Given existing physical limitations, the cost of making small ports ready for the new age could be much higher. And, as has been pointed out, this investment may not be necessary given the port’s location (read ‘remoteness’) to main sea lanes.

The question is, given these realities: are small ports well advised to do nothing? Perhaps not. According to Harding and others, although the new age megaships expected to transit the expanded Canal may not be calling on Caribbean small ports, these harbours are likely to see bigger ships than they now do using their facilities.

“These current ships will have to ply elsewhere and some of the other ports in the Caribbean will have to further enhance their ports and operations to accommodate these bigger ships,” Mr. Harding said. “The Port of Barbados has already embarked on that and we have moved ahead with a number of initiatives and projects that will see a brand new port rolling out in a few years’ time — a port that can accommodate bigger ships; a port that can give a faster turnaround.”

Larger feeder vessels
The expectation is, displaced by larger vessels in trans-ocean traffic, bigger ships will be deployed in feeder services connecting Caribbean ports. Port authorities across the region will therefore need to prepare for this reality.

The first order of business is to ensure that entry channels, turning basins and depth alongside can accommodate bigger ships which are low in the water from full cargo loads. Many of these ports are built close to or downstream from estuaries and silting is a continuous process. Depths which can now accommodate smaller feeder vessels could well be inadequate for larger feeder vessels under load. These depth studies may reveal that minor dredging projects are immediately necessary. They may also show that all is well. It is important to know.

The expanded Panama Canal is expected to be open for business in less than a year. It is therefore imperative that surveys and analyses be addressed as soon as possible to ensure that harbour depth is sufficient to facilitate the new situation. No port manager needs a containership running aground and blocking commercial port traffic for days. It is therefore sensible to get the facts as soon as possible.

Now is the time. ●
Overweight containers and incorrectly declared weight have been a problem for ports, shipping lines and others in the global supply chain since the beginning of the container revolution in 1956.

In that year the mv Ideal X became the world’s first containership with a cargo including 56 containers from New York to Houston. At present, almost 60 years later, more than 130 million containers are crossing oceans. The declared weight of more than 30% of that volume is inaccurate.

Misdeclared container weight carries significant adverse consequences. Ports and terminals have been particularly hard hit. Incidents of collapsed containers stacks; damage to forklifts and chassis; containers falling onto the wharf; cargo liability claims, as well as personal injury or death to port workers made this problem one that had to be addressed and urgently.

A recent survey conducted by International Association of Ports & Harbors (IAPH) showed that of the ports sampled, more than 90% had indicated that accidents on the terminal was the main risk caused by misdeclared container weight. Guidelines recommending shippers and terminals to verify the weight of containers have been developed. However, due to their non-binding nature, many shippers and terminals in the Caribbean and around world do not verify the weight of containers before they are loaded onto ships.

There is yet no international legal framework for regulating ports. This may account for the apparent low level of compliance. In order to fill this gap, the International Maritime Organisation (IMO), the United Nations specialised agency for the regulation of international shipping, has had to extend the legal instruments, which it has adopted from the ship to ship port interface.

The International Convention on the Safety of Life at Sea, 1974 as amended, commonly known as SOLAS Convention, is a typical example of an international shipping convention, which has come ashore. The first SOLAS Convention was adopted in the wake of the sinking of the Titanic in 1911. It addressed ship safety concerns such as life-saving appliances, fire prevention and distress communications. However, subsequent amendments to the convention have led to the adoption of the International Ship and Port Facility Security Code and the International Maritime Dangerous Goods Code (IMDG Code). Both codes have introduced new rights and obligations for operators of port facilities, which cannot be avoided as the codes are legally binding on all parties to the Convention.

In November 2014 the IMO took one step further inland with adoption of amendments to the SOLAS Convention, which require port facilities to verify the weight of containers before they are loaded onto ships. This is a significant development for Caribbean ports, which must now prepare for new obligations to weigh containers.
Convention. This required the weighing of packed export containers and that the weight (gross mass) be verified before they are loaded onto ships. The obligation to verify the weight of the container is placed on the shipper who is required to state the weight in the shipping documents accompanying the container and to provide this information to the terminal representative and or the shipping company. Prior to the amendment, the shippers’ obligation was limited to providing appropriate information on the cargo with sufficient time in advance of loading to allow the implementation of precautions, which may be necessary for proper stowage and safe carriage. However, this obligation was essentially unenforceable.

Two methods of establishing the weight of a container are now being prescribed: weighing the packed container using calibrated equipment; or, weighing the packages in the container and then adding the dunnage and packing material and the weight of the container itself.

These amendments become effective in July 2016, at which time they become legally binding.

CRITICAL ELEMENT
The verification of the weight of a container is a critical element in the preparation of a ship’s stowage plan. And the adoption of the above-mentioned amendments was triggered by the casualty involving the container vessel MSC Napoli which suffered structural failure due in part to undeclared container weights. The vessel subsequently broke up off the coast of the United Kingdom in 2007 with 114 containers being lost. Some were carrying dangerous goods.

In 2013, the 8110 teu MOL Comfort also broke in two and sunk off the coast of Yemen. A major cause of the incident was reportedly overweight containers.

At common law, ports are treated as bailees, with their primary duty of care being to deliver the goods in their charge to the person lawfully entitled to accept same, in the same condition in which it was received by the port. Ports therefore have no legal obligation to weigh or verify the weight of containers received for export. Notwithstanding, port operators may find themselves having to invest in scales, weighbridges or other lifting equipment used to determine the weight of a packed container. This is because most stuffed cargo containers delivered to port facilities for export are not weighed prior to their delivery to the port and many shippers in the Caribbean will not be prepared or be in a position to acquire such equipment.

Ports will also have to develop procedures to prevent containers being accepted by the port without the proper accompanying shipping documents. The national legislation, which will be passed to implement the amendments will very likely have a clear provision prohibiting the loading of such containers on board with attendant penalties.

When containers have been rejected by ships due to undeclared weights, ports will be exposed to costs associated with non-loading, demurrage, storage and eventual return of the containers. And such costs will have to be recovered from the shipper or freight forwarder.

A CHALLENGE
Arrangements will have to be put in place with both the carrier and the shipper to ensure that information about the weight of the container is received well in advance of the time of loading and to provide for the recovery of the (above-mentioned) costs without having to resort to the courts.

It is in the interest of ports to comply with the new regulations. Some of the larger ports in the region already have container lifting and repositioning equipment with built-in technology to verify the weight of loaded containers and so the additional investment should not be significant for them. For smaller ports however this could be a challenge.

The July 2016 deadline, a year away, should however give ports, shippers and governments enough time to establish the regulatory framework and commercial arrangements to facilitate the smooth implementation of the new regulations.

* Bertrand Smith is Director of Legal Affairs at the Maritime Authority of Jamaica, the focal point for the IMO, administering that country’s international obligations for safety of shipping and marine pollution.
A new chapter in Caribbean maritime history

Women in Maritime Association launched

A new chapter in Caribbean maritime history was started in Montego Bay Jamaica in mid-April 2015. Forty-seven women from 14 countries quietly converged on the Holiday Inn Sunspree hotel and for five days engaged in discussions about development, empowerment, capacity building and progress. When they emerged on April 17, the first pages of a new era in regional maritime development had been written.

Their five-day conference was intensive, extensive and comprehensive, all at the same time. And, by the end, the women from Antigua & Barbuda, The Bahamas, Barbados, Belize, Cayman Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Suriname, St. Lucia, St. Vincent & the Grenadines, and Trinidad and Tobago had established and launched the Women in Maritime Association, Caribbean (WiMAC).

When they departed Jamaica’s second largest city they had completed the task at hand. Articles of Association had been developed and duly signed; a draft resolution for establishing the body prepared and formally adopted; an operations structure agreed and the first council members elected. The Women in Maritime Association, Caribbean was a reality with the inaugural council elected and its first 40 members active.

The association’s Governing Council comprises a president, three vice presidents, a policy officer and a treasurer.

The voyage to Montego Bay started more than 25 years earlier, while many of the participants were still in lower school, when the International Maritime
Organization (IMO) developed a strategy to develop and empower women in the maritime industry.

In 1988 the IMO adopted a policy for the Integration of Women in the Maritime Sector (IWMS). It was as a comprehensive policy aimed at expanding the capabilities of women in the maritime sector. Less than 10 years later, in 1997, the world body took the next step of establishing the Women in Maritime Programme for the Integration of Women in the Maritime Sector.

Since then, the IMO has successfully pioneered the establishment of several regional groups and support networks to further the objectives of capacity building for women. These include: Association of Women Managers in the maritime sector of Eastern and Southern Africa (WOMESA); Arab International Women’s Maritime Forum for MENA and Africa; Pacific Women Association (PacWIMA); Association for Women Managers in the Maritime Sector, Asia (WIIMAAsia); Network for Professional Women in the Maritime Port Sectors of West and Central Africa; and Forum for Women Managers in the Maritime Sector, Latin America. Also included are Papua New Guinea Women in Maritime Association (PNGWIMA) and Women in Maritime, Philippines Association (WIMAPHIL).

The IMO also played a major role in the establishment of a women’s association at the institutional level; the World Maritime University Women’s Association (WMUWA) in 2014.

The Women in Maritime Association, Caribbean will promote the continued education and training of women in the maritime sector. It will be an advocate for gender equality. The WiMAC will maintain concern for protection of the marine environment and for safe, secure and efficient shipping and port operations. In this regard, it will connect national, regional and international organizations with similar objectives, thus bringing women of regional shipping into a global development initiative, which can only redound to the benefit of the Caribbean peoples.

IMO’s Senior Deputy Director, Mrs. Pamela Tansey (4th left), who presided over the conference with the Governing Council of WiMAC (left to right): Vice President with responsibility for Mentoring and Capacity Building, Dwayne Eversley (Independent Development Specialist, Trinidad and Tobago); Policy Officer, Deniece Aiken (Director, Board, Caribbean Maritime Institute); President, Claudia Grant (Deputy Director General, Maritime Authority of Jamaica); Treasurer, Tosca Pinas (Internal Auditor, Maritime Authority Suriname); Vice President with responsibility for Resource Mobilization, Sustainability and Research and Development, Vivette Grant (Deputy Executive Director, Caribbean Maritime Institute, Jamaica); and, Vice President with responsibility for Public Relations, Karen M. Mullings (Public Relations Officer, Maritime Authority of Jamaica).
Our concern for the environment is more than just talk. As we continue to deliver valuable information through the pages of this magazine, in a printed format that is appealing, reader-friendly and not lost in the proliferation of electronic messages that are bombarding our senses, we are also well aware of the need to be respectful of our environment. That is why we are committed to publishing the magazine in the most environmentally-friendly process possible. Here is what we mean:

- We use lighter publication stock that consists of recycled paper. This paper has been certified to meet the environmental and social standards of the Forest Stewardship Council® (FSC®) and comes from responsibly managed forests, and verified recycled sources making this a RENEWABLE and SUSTAINABLE resource.
- Our computer-to-plate technology reduces the amount of chemistry required to create plates for the printing process. The resulting chemistry is neutralized to the extent that it can be safely discharged to the drain.
- We use vegetable oil-based inks to print the magazine. This means that we are not using resource-depleting petroleum-based ink products and that the subsequent recycling of the paper in this magazine is much more environment friendly.
- During the printing process, we use a solvent recycling system that separates the water from the recovered solvents and leaves only about 5% residue. This results in reduced solvent usage, handling and hazardous hauling.
- We ensure that an efficient recycling program is used for all printing plates and all waste paper.
- Within the pages of each issue, we actively encourage our readers to REUSE and RECYCLE.
- In order to reduce our carbon footprint on the planet, we utilize a carbon offset program in conjunction with any air travel we undertake related to our publishing responsibilities for the magazine.

So enjoy this magazine...and KEEP THINKING GREEN.
The Government of Trinidad and Tobago is reportedly turning its attention to expanding the port at Point Lisas at the expense of previously announced plans for a multi-billion dollar development of the port at La Brea. In February of 2014, a Trinidad delegation including the country’s Trade Minister, Vasant Bharath visited China and signed agreements with two Chinese construction companies for the construction of the La Brea port and seven industrial parks in Trinidad.

The US$750 million project was expected to be funded by the Chinese Ex-Im Bank. However, the country’s private sector leaders raised concerns about building a new port close to the country’s capital and worsening the problem of congestion in Port of Spain while the port at Point Lisas was in need of development. The government therefore reviewed its plans for the Le Brea port investment. Trade Minister, as quoted in the local new media, said there is the possibility that the La Brea plans may be scaled down to dry docking facilities only. The Port at Point Lisas, operated by PLIPDECO, is acknowledged as being more efficient than the port of Port of Spain but in some respects is not up to world standards of productivity. The Trinidad government has now accepted the concerns and advice of the private sector and is now to invest in upgrading the Point Lisas port so as to bring it fully up to world standards and to reduce Port of Spain’s congestion problem.

Cuba: CMA CGM to Operate In Mariel

The CMA CGM Group plans to operate a logistics platform at the Port of Mariel in cooperation with Cuban logistics company AUSA. The agreement makes CMA CGM the first international company to sign a logistics agreement with Cuba. The deal was signed by the company’s vice–chairman, Rodolphe Saadé in the presence of French president François Hollande and the French minister for foreign trade, Matthias Fekl. CMA CGM LOG, the company’s logistics subsidiary, will contribute to the operation of a new 4,600 hectare logistics area called the Zona Especial de Desarrollo Mariel (Mariel ZEDM). It will operate a 17 hectare logistics platform with AUSA and will be responsible for unbundling and distribution, export consolidation, goods imports and exports and container distribution; and, empty container storage.
PANAMA: New Toll Structure for Canal Usage

The Cabinet Council of the Republic of Panama approved a proposal to modify the canal tolls structure, following a recommendation from the Panama Canal Authority (ACP) Board of Directors. The proposal modifies the pricing structure for most segments. It is expected to help the ACP to upgrade canal services and improve reliability. The proposals were proposed after a year of dialogue between representatives from various industrial sectors and a public hearing to solicit views and perspectives. Most segments will now be priced based upon different units of measurement. Toll for dry bulkers will be based on deadweight tonnage capacity and metric tonnes of cargo. LNG and LPG vessels will be assessed on the basis of cubic metres. Tankers will be measured and priced on Panama Canal Universal measurement system (PC/UMS) tons and metric tonnes of cargo. Container ships will continue to be measured and priced on the basis of twenty-foot equivalent units (teu). Passenger vessels will continue to be based on berths or PC/UMS. A customer-loyalty programme is to be introduced in which container lines will receive premium prices based on volume. The toll adjustments become effective on April 1, 2016.

USA: US Grants Licences for Cuba Ferry Service

The U.S. Treasury Department, on Cinco de Mayo, approved licenses for a passenger ferry service between the United States and Cuba. One of the licenses was issued to Baja Ferries, which currently moves passengers and cargo between the USA and Mexico. Ferry services between Cuba and the United States were suspended immediately after the Cuban revolution that brought Fidel Castro to power. Meanwhile, other companies have moved to take advantage of the relaxation of hostility between the two countries with one, Cubakat, offering one way fares of $169 and a $200 round trip, in advance of its start of business, planned for December 2015. Despite the granting of licences by the US government, ferry companies will need approval from the Cuban government before they can begin operations.

JAMAICA: CMA CGM to Operate Kingston Container Terminal

The Jamaican government finally confirmed in Parliament on March 24, 2015 that, after five months of negotiations, agreement was reached with Terminal Link/CMA CGM Consortium to operate the Kingston Container Terminal (KCT). The deal allows the new company to run the port under a concession, which will allow the new operators to employ their own staff. The agreement with the consortium includes the dredging of the ship channel, turning basin and some berths to accommodate post-Panamax ships. Phase one also includes substantial civil works to upgrade the 40-year-old container terminal.

Terminal Link, which is owned jointly by CMA/CGM and China Merchant Marine, reported emerged the preferred bidder over Ports of Singapore International and Dubai Ports.

The deal was signed on April 7 in Kingston when it was disclosed that Terminal Link CMA CGM consortium will upgrade and expand KCT and operate it for 30 years under the name Kingston Freeport Terminal Ltd (KFTL). Thereafter it will be transferred back to Jamaican ownership. US$130 million will be spent to dredge the harbour and US$460 million on reinforcing 120 metres of the berthing to a depth of 15.5 metres. US$200-million will be spent on phase two of the development.
The New Caribbean ‘Transshipment Pentagon’: Opportunity for Caribbean Ports

BY FRITZ PINNOCK, PHD* AND IBRAHIM AJAGUNNA, PHD**

Based on the interest and investments in the Caribbean by global port operators, there will be no single global hub port in the Caribbean.

And, based on terminal capacity, it is obvious that no single port has the capacity to serve the entire Caribbean region.

Presently, Manzanillo, Cartagena and Kingston Container Terminal (KCT) are the only three ports that are not managed by a global shipping line or any of the top six port management companies in the world. Zim integrated services has been the single largest user of KCT. However, armed with plans for expanding the capacity of this port in anticipation of the expansion of the Panama Canal, CMA CGM made a successful bid and has been successful in its initiative to become the operator of the Kingston terminal.

Following an agreement between the government of Brazil and Cuba, the Brazilian Engineering group Grupo Odebrecht has successfully built the new value added Mariel container terminal in Cuba. This addition to the Caribbean competing global hub ports has changed the current projection from a ‘Caribbean transshipment triangle’ to a ‘Caribbean transshipment polygon’ as defined by the authors. The authors further posit that the current projection from a ‘Caribbean transshipment triangle’ to a ‘Caribbean transshipment polygon’ as defined by the authors. The authors further posit that the Caribbean fit into this picture?

AT CROSS ROADS

The Panama Canal is a major gateway for cargo moving from the Far East to the USA’s East Coast. However, this route ‘competes’ directly with the Far East – US West Coast to (via intermodal transportation network) the US East Coast. As a result, the prospect for Caribbean transshipment involvement is integrally tied to the efficiency and competitiveness of the expanded Panama Canal. The following key drivers to transshipment will influence the highly coveted Caribbean port status:

• Port must be located at the cross roads of main maritime trade routes
• Productivity of stevedoring operations
• Guarantee of berths
• Competitive tariff
• Control of operations
• Safety and security
• Dedicated feeder services
• Significant real estate (land space for integrated value added/economic zone expansion)

Within the Caribbean, Kingston, Jamaica; Freeport, Bahamas; Port of Spain, Trinidad and Tobago; Caucedo, Dominican Republic; Panama, Colombia and Cuba are major competing hub and sub-regional hub ports. And the number of services and directly connected ports describe well the ‘embeddedness’ of terminals in the global network and, simultaneously, the potential for import and export development of the respective hinterlands. But connectivity alone is not sufficient to explain port throughput. Although there is no doubt that containerization is a necessary condition to increase trade in the Caribbean, its very presence does not guarantee that such development will occur. The reach of shipping networks from a country or port however shows potential trade opportunities. This is particularly true for smaller ports that rely on feeder and small vessel services. These ports do not depend on direct connectivity. Rather, they depend on connectivity to a transshipment hub, which defines their integration in the global liner-shipping network.

Industry experts believe that the expansion of the Panama Canal is opening a new phase for value added ports in the Caribbean. It is important to emphasise that, at the global level, only 17% of the commercial relations involve direct connections between ports, so transshipment is a fundamental aspect of maritime shipping networks.

In recent years, an active value-added transshipment market has emerged in Panama and the Caribbean, particularly within what has been dubbed the ‘transshipment triangle’. However, our projection about Cuba is now a reality. The investment in the new Mariel terminal and the PSA as the global management company has been a game changer thereby transforming the configuration from ‘transshipment triangle’ to ‘transshipment pentagon.’ (See Figure 1.)

This new configuration of multiple global hub ports will also attract a new layer of sub-regional hubs. Not all of the current competing hub ports will make it as global hubs with the insertion of Mariel in the equation. This would mean that some of the current competing global hub ports would compete with Kingston Wharves in Jamaica and Point Lisas in Trinidad and Tobago. The traditional Caribbean service ports will continue to operate at subsistence level but would be forced to do some upgrade on the current facility in order to remain competitive due to the increase in size of ships.

The growth in Caribbean transshipment activities is connected to issues such as economic growth in Latin
America and the need of shippers to reconcile these numerous inbound and outbound trade flows within their shipping networks. Transshipment activities are thus a mix of hub-and-spoke network configurations as well as interlining between long distance shipping routes. The advantages gained in terms of network interconnectivity and better usage of ship assets outweigh the additional handling costs that transshipment entails. The expansion of the Panama Canal comes at a time of uncertainties in world trade development, since the main trade drivers, such as American import-based consumption, are being questioned while new trade relations are not firmly established. In addition, South America represents a remarkable potential for additional volumes and transshipment activities.

In the ‘pentagon transshipment’ hubs, local and regional carriers will play a major role in local trade, but may be threatened to lose global and some of the regional trade due to growing alliances between global operators. These operators can offer more competitive prices when employing economies of scale. Local and regional carriers can only compete in service and not in price, as their advantages are in close customer relations with preferences and flexibility in payments. Regional carriers, for example, are largely niche carriers specializing in “less than container load” (LCL), mixed container loads and non-containerized goods (especially in inter-island trade). Such services are specialized in handling cargo such as three boxes, three pallets or three containers. These types of ‘handlings’ are very difficult for big operators, as they do not fit in their rationale for cargo handling.

**PANAMA CANAL EXPANSION – IMPACTS ON LOGISTICS AND MARITIME NETWORK**

The maritime component, ships and ports, are two elements constituting the movement of goods from one point to another or from one country to another. The sum of unique transportation arrangements is referred to as the ‘supply chain’, the management of which is referred to as logistics. The goal of logistics is the movement of goods, services and information across borders rapidly, reliably and cheaply. This in turn facilitates trade and development.

The goal of logistics goes well beyond the sea. It covers trade facilitation, customs modernization, the promotion of electronic processing of trade documents, improvement access to trade and transport information for the purpose of tracking and tracing, processing and approval and the cultivation of local logistics competence in forwarding, trucking, and freight consolidation. The approach to production, trade and transportation has evolved, incorporating freight logistics as an important value added service. The major challenge facing Caribbean nations is how to connect to global supply chains and maximize the opportunities from global transshipment hubs. This highlights the urgent need for countries to invest in port community systems so as to connect individual players in real time, thereby creating the value added platform for third party logistics (3PL) companies.

Port costs ripple right through national economies, especially those of small island-states. In fact, port costs affect the price of goods and services in nearly every sector of the economy. Competitiveness requires a modern, well-managed, cost-effective port system. While the standards of infrastructure in some Caribbean countries can be considered as acceptable, a major problem has been its maintenance. Other problems of infrastructure in the Caribbean are:

- Inadequate management
- Tariffs that are too low to support the services
- Accumulated debt
- Discontented customers; and
- Insufficient adjoining real estate to facilitate value-added operations

The state of logistics infrastructure is also affected by the region’s vulnerability to natural disasters and the tendency of governments to make decisions concerning major investment projects without appropriate hazard assessment and information on mitigation measures.

The expanded Panama Canal will be a game changer for the Caribbean and thereby create more competitive access to the US east coast. Cuba has been a factor in the equation thereby creating a new configuration of global competing hub ports from the ‘transshipment triangle’ to the new ‘transshipment pentagon.’ We classify Caribbean transshipment ports into three layers: global hub port; sub-regional hub ports and service ports. Global hub port status will be shared by at least three major ports based on investment in existing hub ports by global port management companies and shipping lines. KCT, Jamaica; Cartagena, Colombia; and, Manzanillo, Panama are the non-aligned competing hub ports that could swing the pendulum based on new investment in the region.

Industry experts have argued that, both large container ships; declining freight rates; overcapacity in the global shipping industry; and, carrier consolidations will have tremendous impact on the industry. In the short-to-medium-term, the global economic climate remains highly volatile and uncertain. Finally, the Panama Canal expansion will impact the regional shipping industry through growth in the size of ships traversing the Canal. Ships in the 4,000 to 12,000 teu range will be plying the North/South trade routes with increasing vessel-sharing agreements formulated to pull service volumes together. And continued growth and expansion of transshipment ports across the Caribbean will be further facilitated when the Nicaragua Canal becomes a reality.

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Port facilities are usually equipped with a drainage system to handle storm water. However, due to the multiplicity of goods handled in the port, spills may occur. Even if in small amounts and unless there are very strict rules regarding immediate removal of any type of spill, they will eventually be washed to sea during the next rain event.

STORM WATER RUN-OFF
The impact from such an outlet of various materials may or may not impact the marine environment. However, depending on the orientation of the port and the design of the drainage system, this may lead to discharges, which are likely to spread along the coast. Proper management of a port will include precise instructions related to various types of spills, from dry bulk goods, like grain, to chemicals and oil. The daily use of sealed surfaces will prevent small amounts of rubber, oil, grease and other substances from immediately getting into the marine environment. However, even after six months of dry weather, this material will run off during the first shower. Proper installation of oil separators and sedimentation tanks for sand on the storm water system can substantially reduce the amount being discharged and thus help in reducing negative impacts from port operations.

In addressing storm water run-off, ports should also consider installation of reservoirs so as to catch the rainwater for cleaning applications and other uses such as watering plants. This will reduce the amounts of industrial waste discharged into the environment but will also help significantly in conserving fresh clean water. Increasingly, many ports are looking at using infrastructure to cope with potential climate changes. One of the new inventions is permeable surface systems, which can store large volumes of water while keeping the surface relatively free of puddles.

PREVENT OIL SPILLS
It is best for a port to prevent oil spills from happening. The port must develop contingency plans which outline what to do when an oil spill occurs. Such plans must be able to deal with both spills on land which may end up in the water, as well as direct spills into the sea. There are multiple response techniques (mechanical collection and recovery, dispersing, in situ burning, natural attenuation) but, generally, oil spills may be very difficult to contain.

The spread of oil on the sea can be very fast, depending on the type of oil and on prevailing weather conditions. Well-organized contingency plans may include modeling results from a number of scenarios under different conditions. Trial-spills are very informative when designing a plan for an emergency clean-up.

The various weathering processes that effect spilled oil are shown in Figure 1. An oil spill at sea will spread mainly according to the wind direction but also with sea currents. As mentioned, an oil spill model can be used to determine the potential track and spreading. Figure 2 showing an oil spill from a ferry was simulated. The oil track was followed for 48 hours. The oil front moved approximately 30 km south.

Port authorities should consider how an oil spill could propagate, if it happens in the port from either a land-based source run-off (through a storm water drainage system) or from ships moored in the port. Such studies will enable the port manager to train staff and to ensure that suitable equipment is available for such disasters. Port authorities should take the...
potential damage on vulnerable ecosystems into account, e.g. coral reefs, seagrass beds, mangroves and adjacent beaches. Vulnerability of habitats at risk will be determined if proper baseline studies or habitat mapping around the port have been undertaken.

Oil spill cooperation in the Caribbean

Port operations will have an impact on the marine environment. The task at hand is how to minimize this impact; and, how to contribute to improving deteriorated areas. In this regard, port managers have an obligation to their businesses and communities. They also have an international obligation.

Under the Cartagena Convention and Oil Spills Protocol and particularly article 11, the Contracting Parties must “co-operate in taking all necessary measures to respond to pollution emergencies in the Convention area” and shall, “individually and jointly, develop and promote contingency plans for responding to incidents involving pollution or the threat thereof in the Convention area”. Under this regional instrument Caribbean countries have worked on the development of a regional OPRC Contingency Plan (Oil spill Preparedness, Response and Cooperation) under UNEP/IMO guidance. This plan provides a framework under which island-states and territories may cooperate at the operational level in responding to oil spill incidents, as required by Article 8 of the Protocol to the Cartagena Convention.

Regional oil spill cooperation:
Caribbean OPRC coverage

Caribbean national economies depend on tourism and clean beaches. However, the Caribbean Sea is plied by heavy maritime traffic. Oil refining and distribution are also major industries. Some 13 million barrels per day, representing 17.9% of world production, were produced in the wider Caribbean region in 2012 (source: OPEC, 2013). Caribbean countries and particularly the smaller island-states are therefore vulnerable. Their individual response capacity is insufficient to effectively manage large oil spills. Regional cooperation is the most effective method to manage these risks and to protect both the abundant marine life and the vulnerable national economies.

On the international level, the efforts are monitored by UNEP and IMO, who design and fund regional programmes to keep the Cartagena Convention on national agendas and ensure that an effective regional cooperation system is in place. Regional Marine Pollution Emergency Information and Training Centre for the Wider Caribbean (RAC/REMPEITC-Caribe) is an activity centre, hosted by the Government of Curacao since 1995. It provides technical assistance to countries in the wider Caribbean region for the ratification and implementation of the OPRC Convention; their oil spill contingency planning; and, it monitors the existence of national oil spill contingency plans that are approved, up-to-date and effectively implemented. Since the opening of the centre in 1995, the ratification of the OPRC Convention has increased from 12% to 59% of the total countries and territories of the wider Caribbean region. Currently, 36 Caribbean states and territories are part of a regional OPRC Plan.

The plans are designed as 3-tiered response procedures to enhance the ability of an island-state to respond effectively to a spill that is beyond its capability. Of the 36 OPRC territories, 19 currently have an approved national plan and 14 have a draft plan. That represents 92% coverage for the wider Caribbean region. The ratification of the OPRC Convention is important for mitigating oil spill risks. For more information, please contact your national maritime administration or visit the RAC/REMPEITC-Caribe website.

NATIONAL OIL SPILL CONTINGENCY PLANNING

Ports play a key role in the design and effective implementation of national contingency plans and port managers should assume an active role in the planning. Port managers should ask: is our oil spill plan up-to-date? When was the last oil spill exercise? What is the plan and objectives in the coming year and who should be involved?

All initiatives in this regard should be part of a national contingency plan that involves all stakeholders. In many territories, port managers are assigned the role of national oil spill coordinator in port areas. The national oil spill plan should contain information about the designated national entities responsible for oil spill matters; the identified risks and sources of oil spills; the identified resources for combating spills; the available logistics support and oil storage/disposal facilities; communication capabilities and procedures; and, an oil dispersant policy and plan for national territorial waters.

One of the international obligations under the OPRC Convention is regular updating and exercising of the national and port contingency plans. Periodic drills and reviews keep the plan up-to-date and personnel informed and involved. Responsible port managers will include drills and exercises in their annual budgets and will ensure other port stakeholders do the same. It is wise to assign the job of organizing drills and updating plans with port stakeholders to the harbour master or port operations manager. The RAC/REMPEITC-Caribe, if requested, will assist countries in the wider Caribbean region with this process.

Port managers can help to minimise oil spill risks by smart design and operations. Notwithstanding, spills will occur and ports therefore need to be prepared to handle them. There are regional tools available to manage the risks but it is imperative that a national oil spill contingency plan be designed, periodically reviewed, tested and updated. This requires know how, dedication and financing. Knowledge is available in the region. Dedication and financing are the responsibility of ports and governments. They must inform the public about capabilities and plans to cope with severe oil spills. This benefits the society and creates awareness and public goodwill in the event of actual spills and disastrous incidents.

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Driven by economics, Caribbean countries review energy options

BY CANUTE JAMES*

S President Barrack Obama’s April 8-9 visit to Jamaica, and his meeting with leaders of several Caribbean Community (Caricom) countries, helped to reinforce one uncomfortable reality for the region’s leaders. They are in danger of becoming pawns in the diplomatic chess game between the US and Venezuela. The threat is starker for those countries that are net importers of energy.

The interventions concerning energy made by President Obama and energy secretary Ernest Moniz in Jamaica were the continuation of a policy indicated in June 2014 in Trinidad and Tobago by US vice president Joe Biden and later sharpened by Biden in a January 26 meeting in Washington attended by Caribbean leaders and government ministers.

Central to the matter is Venezuela’s PetroCaribe energy programme that was started by late president Hugo Chavez in 2005. Under PetroCaribe, Venezuela’s state-run energy company PDV supplies crude and products to several Central American and Caribbean countries, allowing them to keep a part of the payment as a soft loan to be used for infrastructural and social projects.

The PetroCaribe formula requires beneficiaries to pay 40% of the cost of oil and products upfront when the price is above $100 per barrel. This rises to 50% upfront when oil prices are between $80 per barrel and $100 per barrel, and 60% at between $50 per barrel and $80 per barrel. Full payment kicks in when the oil price falls below $15 per barrel. PetroCaribe signatories include Antigua and Barbuda, The Bahamas, Belize, Dominica, Dominican Republic, El Salvador, Grenada, Guyana, Nicaragua, St. Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines and Suriname. Cuba receives products under a separate bilateral agreement with Caracas.
However, the deterioration of the Venezuelan economy, which has been compounded by the fall in oil prices, has raised doubts over Caracas’s willingness and ability to continue the scheme. Venezuela’s president Nicolás Maduro has consistently said Caracas will continue the programme and plans to expand it, although several countries owe billions of dollars that could relieve Venezuela of its financial distress.

The US’ Caribbean Energy Security Initiative, led by Biden, is offered as a means of reducing the region’s use of oil for power generation, with increased use of natural and gas renewable sources. But the timing of the US effort could hardly have been coincidental, given the uncertain future of PetroCaribe and the continuing decline of Venezuela’s economy.

The official statement after the January meeting between Biden and the Caribbean leaders did not refer to PetroCaribe. However, there were indications that Washington wanted to wean PetroCaribe signatories away from the Venezuelan facility. “Whether it is the Ukraine or the Caribbean, no country should be able to use natural resources as a tool of coercion against any other country,” Biden said.

“Economies squeezed by the high cost make companies less competitive, crowding out other investments in the future of your countries. Citizens in your countries are demanding more affordable supply and are expressing their discontent when they hear about investments in which they do not seem to see any results. Governments are dependent on a single, increasingly unreliable, external supplier.”

Biden told the Caribbean leaders they could achieve significant stability in their electricity systems by switching to geothermal energy, hydropower and other sources.

“You can max out your use of renewable energy resources like wind, solar, and biomass, diversifying your supply, keeping your foreign reserves in the bank where you need them. You can leverage energy efficiency in every sector, shrinking the amount of energy you need to keep your economy humming.”

Significantly, Trinidad and Tobago – an exporter of energy that eschewed PetroCaribe – offered help. Trinidad and Tobago will work with multilateral financial institutions to create a $1 billion fund to improve the Caribbean region’s energy security, Trinidad and Tobago’s prime minister Kamla Persad-Bissessar said. Trinidad and Tobago has been “working closely” with the InterAmerican Development Bank to design the initiative, she said.

Energy security can be built through transforming the energy matrix in the Caribbean by converting to liquefied natural gas-fuelled electricity generation for base load capacity, Persad-Bissessar said. “We must look past short term fluctuations in oil prices to focus on the long term strategic interests of the region.”

While president Maduro rejects each statement of doubt over the future of PetroCaribe, dependent countries have been warned that their economies could be affected if Caracas were to terminate the programme. The reduction or the suspension of PetroCaribe financing will leave several governments short of cash, the IMF’s deputy director for the western hemisphere Adrienne Cheasty said. “If resources are not recycled from the private to the public sector in the form of financing or reductions in energy subsidies, some governments could be forced to discontinue social or investment programmes. Nearly all countries would face some additional fiscal pressures.”

While there is yet no indication that any PetroCaribe signatory will leave the programme – as Biden tangentially suggested they should – two of the most heavily indebted to Caracas are acting to reduce their exposure. The Dominican Republic paid off 98% of its accumulated $4.1 billion PetroCaribe debt in January of this year, using bonds worth $1.93 billion, based on a 53% discount. The payment to PDV was made from the proceeds of a $2.5 billion sovereign bond issue.

Jamaica is examining several proposals from international financial institutions to sell its $3 billion PetroCaribe debt, the country’s finance minister has said. Jamaica would not be interested in a transaction involving the PetroCaribe debt “unless there was a discount sufficient to make it worthwhile,” the minister said.

The fact that PetroCaribe signatories are not thinking of exchanging the programme – at least immediately – for what the US is proposing was revealed when the leaders of the Central American and Caribbean group CELAC ended a meeting in Costa Rica without acting on a request from Maduro to condemn “an attack by the US on Venezuela” in which Washington was encouraging Caribbean countries to create alternatives to PetroCaribe. The group instead said it would “promote regional energy integration,” but did not refer to PetroCaribe.

“The Caribbean has heard what has been said about energy by president Obama, vice president Biden and energy secretary Moniz,” a Jamaican energy ministry official said. “Any decision taken by the region — individually or collectively — is unlikely to be one that is influenced by the diplomatic tension between Washington and Caracas. Economic common sense — not political pressure — will be the driver.”

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Hot Potato!
Exploring the liability of Caribbean Port operators (Part 2)

BY LOWEL MORGAN

There is, apparently, a great game of ‘hot potato’ being played in the shipping industry. It seems liability for delayed, damaged or lost cargo is being tossed from player to player – each seeking to pass liability as quickly as possible to the next party. The players in this game are shippers, ship owners, carriers, stevedores, agents, and port/terminal operators.

International Instruments
The international instruments have not adequately addressed the peculiar position concerning the liability of port operators. Most Caribbean nations adhere to the Hague Rules (Antigua & Barbuda, Aruba, The Bahamas, Bonaire, Dominica, Grenada, Jamaica, St. Kitts and Nevis, St. Lucia, Trinidad and Tobago). Others are party to the Hague-Visby Rules (British Virgin Islands, Cayman Islands, Montserrat and the Turks and Caicos Islands). Two have ratified the Hamburg Rules (Barbados and St Vincent and the Grenadines). However, as discussed below, these instruments may prove deficient for port operators. They do not necessarily extend to protect operators or apply to the period during which cargo may be within the control of port operators.


The Hague Rules and Hague-Visby Rules focus primarily on establishing the minimum obligations of the carrier and defining the extent to which carriers can limit their liability. Both Rules leave port operators exposed to liability as they do not expressly address the responsibility of port operators, permit carriers and shippers to limit their liability for care of cargo at the port. In Article 1(e) of the Hague Rules and Article I(e) of the Hague-Visby Rules, ‘carriage of goods’ is defined as covering “the period from the time when the goods are loaded on to the time they are discharged from the ship.”

The carrier’s responsibility therefore runs from “tackle to tackle” – from the time when the ship’s tackle is hooked on at the loading port until the hook of the tackle is released at the port of discharge. To compound this issue, Article 7 of the Hague Rules and Article VII of the Hague-Visby Rules provide that carriers and shippers are free to negotiate their own terms in respect of the custody, care and handling of goods before loading and after discharge, and are well within their right to exclude their responsibility during this period. In other words, the carrier is free to exclude all liability for the cargo once it is not physically aboard his vessel. Thus, liability for cargo at the port is likely to fall squarely on the operator.


Under the Hamburg Rules, carriers are liable for loss of or damage to goods in their charge, unless they can prove that all reasonable measures to avoid damage or loss were taken. One positive is that, unlike the Hague-Visby Rules, under Article 4(1) of the Hamburg Rules, the responsibility of the carrier for the goods “covers the period during which the carrier is in charge of the goods at the port of loading, during the carriage and at the port of discharge.” Additionally, Article 7(2) of the Hamburg Rules provides that, if an action is brought against a servant or agent of the carrier for loss, damage or delay of goods, that third party is “entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke” under the Rules. However, it is debatable whether this would automatically apply to port operators, as they are not servants of the carrier and would not necessarily be considered agents of the carrier under law.

1991 UN Convention on the Liability of Operators of Transport Terminals

The drafters of this convention attempted to address previous deficiencies by establishing uniform rules on
liability for loss, damage, or delay in handling goods in the charge of operators of transport terminals. In its explanatory note to the convention, the UN Commission on International Trade Law (UNCITRAL) noted the disparity in rules on the standard and limits of liability throughout various legal systems and intent to improve and harmonize liability rules, bearing in mind the legitimate interests of cargo owners, carriers and terminal operators. However, this convention did not receive sufficient ratifications to enter into force as it was only signed by France, Mexico, the Philippines, Spain, and the United States, and ratified by Egypt and Georgia.

Rotterdam Rules [Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea]
The Rotterdam Rules introduce the concept of “maritime performing party”, who is “subject to the obligations and liabilities imposed on the carrier” under Article 19 of the Convention and is “entitled to the carrier’s defences and limits of liability”, provided certain conditions are met. In particular, the occurrence that caused the loss, damage or delay must have taken place during the period between the arrival of the goods at the port of loading and their departure from the port of discharge. Additionally, the occurrence would have to take place either while the maritime performing party had custody of the goods or at any other time that it was performing activities contemplated by the contract of carriage. Terminal operators fall within the definition of maritime performing parties under the Rotterdam Rules and may therefore be jointly and severally liable (along with the carrier) for cargo claims. There is however, the possibility that the terminal operators can seek an indemnity from the shipping line in respect of such liabilities.

The way forward
Having established the insufficiencies of existing private, domestic and international options, we now look at the way forward. There are essentially two choices. Each country could set about drafting its own legislation and deal with shippers unilaterally. This will ultimately result in a multiplicity of rules and confusion for carriers and shippers and create an unattractive climate for investors.

The second (and better option) would be for Caribbean states to come together and enact the requisite policies as an organised bloc. Having a single instrument across the board has the following advantages. A unified, comprehensive set of rules on the liability of port operators will promote certainty, as carriers and shippers will know what to expect at each port. It would promote fair dealings, as shippers will not choose one port over another based on differing rules. It would result in more stable insurance risk profiles, which may be beneficial in negotiating annual premiums; and, would stimulate investment. Indeed, the introduction of legislation to bring certainty to this area would create a more stable environment for investment.

Port operators should be warned that no player likes to lose their advantage. Opposition to any move towards limiting the liability of port operators should be expected from shippers, carriers and agents. Shippers and agents would want to ensure that they are covered at every stage and would not want to increase their portion of liability.

Admittedly, the drafting and implementation of a Caribbean instrument is a long-term goal. Port operators are not without recourse however, as they can start to implement various internal measures in the interim to curtail their liability, and better regulate and manage potential liabilities. These measures include:

• removing control and operation of warehouse from the port operators to agents;
• drafting terms of use for the port facilities and defining what act qualifies as delivery to the agent;
• requiring ports to ensure shippers and consignees insure their goods;
• requiring agents to inspect condition of goods immediately as they reach the dock; and,
• ensuring their vigilance of their employees’ adherence to safety and operation policies.

As regards removing warehouse control and operation from port operators to agents, the port authority would maintain ownership of the physical property of the warehouse. However, a contractual arrangement between the port authority and the relevant agent would remove its liability for care of cargo within the warehouse. Agents would be responsible for ensuring the goods in their care are adequately secured and required to indemnify the port operator. Such an arrangement may require physical restructuring of the port.

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— The Editor
Warehouse operations are guided by strict principles, which have evolved and have been refined over time. These principles are expected to be, and should remain immutable even at the pace at which industry changes occur at all levels and in all areas of the operations.

If operations principles hold such an important place in the global supply chain, and they do, special attention should therefore be given to ensuring that the frameworks in which these principles have become enshrined are nurtured. At the very least, this requires continuing upgrade of Standard Operating Procedures. Improvements, updates, reviews and realignment must be addressed and encouraged at all times.

Regardless of the warehousing activity, whether it is handling of liquid, dry or break-bulk, the aim must be to maintain a sustainable level of efficiency, guided by adaptability and flexibility. Therefore effective receival and delivery systems associated with ship to shore transfers at the berth interface must be optimally executed, be it for containers or bulk (liquid/ dry), pipeline transfers or gravity feeds. Retrieval systems should also be flexible enough to provide ‘pick and pack’ state of the art procedures that are solely geared towards maximizing the satisfaction of end users. Storage and safe-keeping are of no less importance.

Best practices have emerged over time. And in this decidedly global scope of economic trading activity, driven by the ease of communication and information dissemination, these best practices can be copied, improved, made-to-be customized so as to add value or to accommodate specialized applications. For example the RS order-picking distribution operations in the UK handle as many as 48,000 orders daily aided by conveyer belt systems and electronic controls. Wal-Mart manages 150 distribution centres by using the available technology.

The challenge is to position the operations so that a competitive edge is maintained. This can be achieved through streamlining, reassessing, and reorganizing the procedures so that they remain current as new or different applications are developed and introduced. However, the devil is in the detail. The details are embedded in the standard operating procedures, which emanate from meaningful and thorough reviews of systems and/or procedures that are already established and/or are to be redefined or re-tooled. In addition, other regulations and legislations could also be in need of review in order to remain relevant to changing or new expectations.

A ‘Standard Operating Procedure’ is compulsory instruction. It goes to the heart of the matter as it describes the operations routine. This is how ‘it’ is to be done at all times. Any deviation has to be noted, authorized and ‘signed off’ on prior to action. It is essential that specific requirements in safety-critical systems are clear, accurate and complete. It might also be important to specify what a system should not do. And then it becomes necessary to ensure that any changes in applications that have changed over time be clearly reflected in the document.

Warehouse managers should bear in mind that while protocols, instructions or registration forms are part of the overall framework, which control the operational principles, standard operating procedures impose an over-arching responsibility, being the point at which correct methodology is defined and mandated. Where there are operating instructions or guidelines relative to safety precautions, systems testing, instrument operation and especially quality assurances, it is paramount that best practices are written into the Standard Operating Procedures. This is accomplished through timely introduction of appropriate amendments and an insistence on maintaining on-going adherence to the revised instructions. Be careful to delete obsolete details so as to prevent confusion and so render the document ineffective.

Next in importance are those procedures which emphasize pre-start and safety pre-start for health and safety reviews. For example, a small plastic bottle manufacturer, accustomed to producing 5,000 bottles of various sizes, decided to re-tool and upgrade so as to improve productivity. Due diligence was done and a
A significant increase in production was realized. Many of the system procedures for plant layout, retrievals and deliveries were impacted at the shop floor level as a result of the paradigm shift. Safety signs were obscured; waste material disposal capabilities were severely compromised; and, the standard operating procedures were not updated in any of the areas of deviation. Although the results of the re-tooling exercise were financially fruitful the way forward was incomplete in its implementation and exposed the manufacturer to costly consequences, which could easily obliterate the gains created by the infusion of capital.

Warehouse managers beware. Increased traffic due to the Panama Canal’s improved handling of energy and vessels carrying chemical raw materials will likely impact warehousing needs. The need to handle and disburse a whole new generation of toxicity will soon become evident. This will bring added responsibilities and increased risk of pollution, contamination from oil spills, accidents and toxic waste disposal.

Some standard operating procedures will, by default, become increasingly important in the workplace for health and safety reasons; and, the potential for negative environmental impact. Follow occupational health and safety procedures. Prepare for environmentally sustainable work practices. Observe housekeeping and waste disposal protocols. Clean plant, equipment and worksite and bear in mind that cleaning operations when conducted in enclosed spaces require constant supervisory attention.

The only way to achieve safe effective warehousing is to ensure that the operational principles enshrined in the Standard Operating Procedures, which guide operations are clear, constant, consistent, comprehensive and current.

“The only way to achieve safe effective warehousing is to ensure that the operational principles enshrined in the Standard Operating Procedures, which guide operations are clear, constant, consistent, comprehensive and current.”

As a tool for effective, safe warehouse management is likely to be severely compromised. These are five ‘Cs’ worth committing to memory: clear, constant, consistent, comprehensive, current.

Once the guidelines are carefully documented in the Standard Operating Procedures, the only remaining question which must be addressed, answered and decreed is: ‘who is bears ultimate responsibility for ensuring these safeguards are meticulously met?’

— Alrick Mitchell, BSc. (Hons), Marine Commerce, has managed Planning and Operations at the Port of Kingston for 30 years.
Managing for success in an era of competitive advantage

BY FRITZ PINNOCK, PHD*

To have a competitive advantage, a company must create an edge over its competitors.

In the aggressive world of business, especially in context of today’s economic realities, every advantage counts in taking a business to the top of your industry sector. Gaining a competitive advantage takes strategic planning and extensive research.

In the quest for competitive advantage, managers would be valued for being technical experts, and required to identify problems within their teams, validate reports from team members and make final decisions. This sometimes create fears for manager who aim to gain competitive advantage.

Managers are responsible for directing employees in key performance areas and their success is required for obtaining important business results. Being successful as a manager means having a clear understanding of one’s role as a bridging gap between top-level managers and subordinates. The understanding of this role requires cultural, generational and emotional intelligence on the part of the manager. Competitive advantage means just that: being better than the other available alternatives that are available to your target market. It is not enough to be “just as good as” the competition. Successful strategic advantage falls to those who can deliver a product or service that is better in some way and that is more meaningful to the target audience.

The challenge for managers in gaining competitive advantage is how to move from identifying and solving organizational problems to trusting and enabling teams to accomplish this. Experts have argued that successful managers will have to develop the ability to build and motivate a diverse team and help them by developing and communicating a compelling vision and guiding and coaching them rather than micromanaging them. This requirement according to experts means managers would need to spend more time on these tasks rather than on the operational aspect of the organization.

THE FUTURE MANAGER

What makes managers important in gaining competitive advantage in small and medium sized organization is their position within the company. Managers are close to the action, with knowledge of operations and processes as well as first-hand relationships with customers and front-line employees. Managers network throughout the organization and they know where problems exist, where opportunities lie and what the important issues are. Managers are ultimately the leaders who will make change happen. As with any change initiative, it is important to obtain the buy-in from managers for any developmental objective. Sharing business transition goals with them and gaining their input on what leaders in the company need to do differently in the future provides important information and valuable insights. This can also help to identify success factors for a leadership competency model that can serve as the basis for achieving business goals.

It is imperative therefore that senior executives reinforce developmental action plans for managers with follow-up discussions and coaching. They should give particular attention to on-the-job experiences that might be helpful in developing individual skills and competencies. These projects need not be large. Smaller but more meaningful projects can provide valuable training experience while also contributing to a company’s business results. By targeting managers for development and for gaining competitive advantage, executives are sending a clear message about their importance to the organization. At the same time, managers are impacting everyday company performance, creating the next generation of executive leaders and aligning all parts of the company for achieving business success, without which there would not be ‘competitive advantage’.

GAINING COMPETITIVE ADVANTAGE

There are four steps to gaining a competitive advantage. These are:

1. Aim your product or service to your specific target market
2. Learn from your competitors and your customers.
3. Stay on the cutting edge
4. Use business information resources and take advantage of information revolution

Senior leaders and front-line employees need to understand the organization’s competitive advantage in order to make a real contribution. If the job you’re doing, however effective, does not align with organizational strategy, it is just another roadblock to success. Ensure that you root yourself in a fundamental understanding of the company’s strategy.

A successfully implemented strategy will lift your company to superior performance by providing (the company) with a competitive advantage to outperform other players in the industry.

To gain a competitive advantage, the business strategy manipulates the various resources over which it has direct control. These resources have the ability to generate competitive advantage. It is important to know that superior performance outcomes and superiority in production resources reflect competitive advantage.

BE INNOVATIVE

Innovative strategy helps determine how and to what degree the company uses innovation to deliver a mix of value and achieve competitive advantage. The goal of innovative strategy is to leapfrog other market players by the introduction of completely new or notably better products or services. This strategy is critical for technology start-up companies, which often intend to disrupt the existing marketplace by obsoleting the current market entries with a breakthrough product offering.

It is harder for more established companies to pursue this strategy because their product offering has achieved market acceptance. •

* Dr. Pinnock is Executive Director of the Caribbean Maritime Institute, Kingston, Jamaica.
“When life hands you lemons, make lemonade.”

This tidy bumper-sticker aphorism seems too flippant when one is sloshing knee-deep through the remains of inventory, product and damaged cables while being careful of tossed reels, flipped straddle carriers and twisted cranes. All around are the reminders that, hours ago, a Category 5 hurricane, or whatever the terror, once again tested our pluck.

Trauma, fear or fright, our human emotions reach for and are barely salved by the suggested, implied, or remembered from some lofty assertion that benefits come from the experience of loss.

Benefits of loss? Really? Where then is this lemonade?

Long before our citrus metaphor quenched our eager thirst came the effort of planting, growing, harvesting and processing. But, after a juicy squeeze and a touch of sugars, sweet lemonade flows.

Our lemonade begins with the recipe to precisely and deliberately with a sense of urgency, resume business as quickly as possible. Meticulous pre-planning with immediate and precise execution is a phase with a well thought-out strategy. A strategy designed to overcome the effects of the disaster or hazard in an efficient manner — our first order of business.

Our strategy addresses our defined risk continuum and calls for reconnaissance, preparation and evaluation for the bound-to-come under the rubric of Donald Rumsfeld’s “unknown known”

Did we do our homework?

Oh yes. Once charged with the imperative to plan and rehearse for survival, we began by assessing our internal and external risk, identifying critical business functions, backing-up data and creating crisis management, operations and communications teams.

We staged emergency supplies, selected operational assembly areas and reviewed our insurance coverage and contacts. We developed crisis relations with our primary and secondary vendors, creditors and public relations channels. Anticipation and preparation are foundational. And, we tested, and re-tested. We are prepared for whatever is the “unknown known.”

Our teams are cross-trained with designated responsibilities. Urgency priorities are established with the discipline and modeling of medical precision. We enact a triage:

• What is completely destroyed — is gone.
• What is salvageable — will wait.
• What makes a positive difference in outcome — receives attention.

Never chaos.

These anticipatory steps moved us from disaster to a transitional recovery mode and now proceed to a post-disaster recovery. Our recovery mode is assured. However, and this is a meaningful ‘however’, we are part of a community. This family of fellow citizens realizes the economic recovery of our community will be of immediate benefit to all.

We engage as the vanguard in leading our community to economic recovery. We move to the forefront by providing aid and a recognizable level of munificent giving. Always aiming to be generous, helping and caring, we begin to squeeze the lemon for our lemonade.

Our community engagement and expanding profile likely includes the benefits of government line-item trickle-down aid. We continue to participate and share in re-establishing the infrastructure of our community.

Our preparatory work with service providers, suppliers and creditors is activated. Likely, product discounts and invoice dating are optimized. Extraordinary support services are activated. Insurance claims are expedited. Banking terms and advances are processed. Purchase orders for replacement or new equipment move to the front of the queue.

Presupposing forward thinking and regular disaster preparation reviews, the result of seeking our “unknown known” has made us better than we were. We advance our business, conceivably as the benchmark for our industry.

Likewise... and presupposing a history of energetic effectiveness and efficiency in day-to-day operations... we move by design beyond Donna Summer’s disco re-make ‘I Will Survive’. Instead, we are de-facto practising Business Continuity Planning (BCP) and Business Continuity and Resiliency Planning (BCRP).

We do advance planning while imagining the next worst thing (NWT). We view NWT not only after a major adverse event but also in the event of smaller disruptions. NWT extends to man-made hazards; departure of key personnet; or, low-tier supply chain partner problems, while suggesting the very real possibility of achieving a competitive advantage.

Competitive advantage? Now!

Given the human tendency towards optimism, many business executives are prone to discount “disaster recovery” because a disaster seems an unlikely event. Perhaps we might take comfort in the notion that few are likely to read or download Nassim Taleb’s ‘The Black Swan’, Random House, 2007, or David Hand’s, ‘The Improbability Principle’, Farrar, Straus and Giroux, 2014.

The businesses that recover quickly are those that have planned in advance. The business leader willing to be labeled a contrarian views disasters beforehand as potential opportunities or advantages. S/he knows what needs to be done as soon as a disaster strikes. S/he acts premeditatedly to prepare, test, audit, and find benefit from the experience of loss.

And so, the higgler’s cart is set with lemons, squeezed and sweetened with the taste of competitive advantage... deliciously satisfying in the moment of truth.

*Joseph Cervenak, is Managing Principal, Kemper-Joseph lic. cervenak@kemperjoseph.com
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