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## China closes the cash box

FOR much of last year, experts said Chinese banks were on a path of dominating ship finance, snatching up market share ceded by European banks.

It seemed natural they should do so. China's banks are now the world's most fully capitalised. China's position as the leading shipping nation is unchallenged and will only expand. But the Chinese banking scene is enormously complex, and international lending by Chinese banks has come at a slow drip in comparison to the amount of funding apparently on offer.

Last year, China's banks underwent a due diligence process imposed by regulators similar to the stress-testing on Europe's banks. Since then, the road to credit for companies that are not state-owned has never been easy. As concerns over an overheating economy led to tighter lending conditions last October, private companies have complained about a rising cost of funding and more stringent screening of loans. State-owned companies reportedly have felt the pinch too, but not to the same degree.

Against this background of domestic tightening, the Chinese bank expansion into international markets has slowed. It has been crimped by Chinese bankers' reluctance to hold excessive US dollars. When China's banks give loans to foreign companies, the currency of choice is the still the US dollar. But when the loans are repaid, the principal and interest must be reported in yuan in Chinese bank accounting statements. As the yuan is appreciating against the dollar, the banks expect these sums to lose value over the loan term.

However, Chinese capital has not dried up totally. It comes with government strings — when it does come. Chinese authorities have pledged up to \$10bn in financing to Greek shipowners that agree to build in

Chinese yards. Much of this would be accounted for by financing from the state-owned Export-Import Bank of China. While deals have certainly not been fast and furious, there have been a few, amounting to at least \$500m, since China's Prime Minister Wen Jiabao voiced his support for Greek shipping in Athens last year.

Seaspan's chief executive Gerry Wang, fresh from ordering 10,000 teu vessels at Chinese shipyards, said last week Exim financing would be a key source for loan-worthy shipping companies in the near future.

When even China's commercial banks have trouble lending to shipping, and with Exim financing emerging as the major source of funding worldwide, shipping seems to be moving further from pure market forces. The trend may benefit a sizeable number of individual owners but presents dangers to the industry as a whole.

## Greece on the slide

LIKE encyclopaedias of old, we are tempted to roll out this old saw: "Greece — land of contrasts!"

The nation suffered another downgrade on

Monday when the credit ratings agency Standard & Poor's lowered its grade on Greek debt to CCC. Market commentators saw this as a sign that the market believes that Greece will default on its sovereign debt. Meanwhile, Greece's robust shipping industry sails on.

The prospect is slightly terrifying, if only because the whiff of burning cinders from the Lehman default still lingers in the air. Would a Greek default lead to same systemic shutdown in global trade? That could happen, but the smart money calls it an outside chance. Nevertheless, a Greek collapse would very conclusively pinch the filigree of optimism left over from the container market rally of 2010. Most frightening, it could further stall an already stalled US recovery. Banks would suffer; lending tighten even more.

With China's familiar role as trade saviour to the west — and shipping — eroding, it may be time to get out raincoats once more. It is a good time to remember, then, that it has traditionally been Greek owners that show the rest how to make money in any market. ■

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### Industry Viewpoint



JOHN AC CARTNER

**A recent statement on piracy gave only tepid support for armed guards but it is high time for the IMO to act boldly**

# Stand up for self-defence

THE International Maritime Organization makes an American politician proud. It agilely straddles the fence while testing the waters, keeping a foot in each camp, bending an ear to the rail and watching the political storm clouds.

That dull thud you just heard was the anticipated statement on the carriage of armed guards on our ships.

The IMO response is not helpful. It does little. As Sherlock Holmes once pointed out, it is completely accurate and completely useless. It may be harmful because the point is missed and piracy goes on with its kidnappings, ransoms, deaths and tortures of our seafarers.

When will the IMO get it? The number of ship transiting pirate waters in northeastern Africa is large. The number of attacks and captures is small. The success rate of the attackers is substantial. Why? Pirates go for the low-hanging fruit. Easy pickings are easy money and there is a lot of fruit nowadays.

Pirates, however, are cowards. They do not like to get shot. They like to go back home and enjoy the cash largesse. If one is dead it is hard to enjoy the largesse.

If one is a pirate, however, and the likelihood of being shot is substantial — it only takes one marksman and one bullet — it is rationally likely that one will be very careful in investigating a target.

Flight will be the first line of defence at resistance. Citadels? Navies? Electric shocks? Lasered eyes? Water cannons? Razor wire? Loud noises? Interesting, ineffective and usually from the imaginations of people who have no idea about maritime realities. And they are costly. What works on the cheap? Private armed guards.

This is the rule: some 80% of the fire in an infantry fixed engagement suppresses the enemy. It does not kill or wound him. That means that the infantryman in the foxhole is interested in getting back home to enjoy the largesse of his government for his selfless service. One cannot do that if one is dead.

Soldier life insurance is cold comfort in the foxhole, although it may be welcomed in its consequences back home. One chooses not to be grievously wounded either. It is risky, one may not survive for long and it hurts a lot.

Consider a vessel and think of it as a floating foxhole. That skiff and its squadron coming over the horizon are merely other floating foxholes. A field of fire set off from the higher-in-the-water floating foxhole will divert their lower-



Licence to kill: the carriage of armed guards in private service can and will be effective.

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down floating foxholes. Why? Conrad said it: "It is bad enough to die for commerce..."

What if the next floating foxhole is armed, too, what now, doughty lads? Maybe he is armed and maybe he is not. Hard to say. Let us draw nigh and observe. Let us draw his fire, if any.

Alongside, a hail of bullets and no letters to mother regretfully informing about the glorious demise of Aziz and his martyred tribal cohorts. No soldier life insurance either.

Private armed guards can and will suppress piracy.

The IMO is unique in being the only intergovernmental organisation legislating for our industry. This position must now be used boldly. The most recent statement on piracy gave tepid support to guards. We hope it will not become the embrace of death through faint flattery.

Stop the charade. The current situation is brigandage and highwaymen afloat. These human vermin are one of the abominations of mankind. Private state-sanctioned force against private unlawful force is the correct answer. Money masquerading for force spent by naval patrols is foot-tapping, gourd-rattling, chalk-faced kabuki. It is expensive for not much result.

I urge the IMO and stakeholders to get back to the real problem with a real solution. Use the powers of tacit acceptance. Treat what I have proposed in this journal as a technical change to the Safety of Life at Sea Convention.

Solas is designed to protect souls on board. If protection against pirates is not in the thrust of Solas, what is? Provide the states parties two things: the leadership to change laws and the mechanism to do so. Amend Solas in the International Ship and Port Facility Security Code.

Provide for limited transactional immunity from prosecution and civil suit for any private person who in good faith injures a putative pirate. This puts self-defence on a firm a priori footing. It gives

**If we do not suppress piracy now we will begin seeing commerce-raiding privateering without letter of marque. It is not far-fetched**

uniformity to the effort. It urges states with no piracy laws to consider and deal with piracy for what it is.

Piracy is contagious. We should not be surprised to see piracy popping up more frequently. Fishermen are becoming targets off the west coast of South America. Piracy in Nigeria will only grow. The Straits are about ripe for another outbreak.

If we do not suppress piracy now we will begin seeing commerce-raiding privateering without letter of marque. It is not far-fetched. The mothership phenomenon presages it. Will we send a navy after a raider? No.

As abhorrent as it may be to some, as off-putting as a licence to kill may be to others, the carriage of armed guards in private service can and will be effective. Who pays for it? It is trivial flag state money. The cost to arm one ship for a brief part of its voyage is about the same as a large reception and party at a flag state embassy. And the owner will reimburse the state.

Is the suppression of piracy not a proper function of flag states? You may rest assured that it is and remains wholly a flag state responsibility. By a flagged company paying for the guards and getting reimbursed by the state, and flag state law providing limited transactional immunity, a loud message is sent: this flag state will not accept piratical incursions on its vessels.

One would hope this ship has not left the pier for the IMO. Please, IMO, do your duty and act. Your seafarer constituency is counting on you. ■

John AC Cartner is a US and UK maritime lawyer. He holds the US unrestricted master mariner certificate and is the principal author of *The International Law of the Shipmaster* (2008), *Informa/Lloyds* [[www.intershipmaster.com](http://www.intershipmaster.com)] and co-author of *Defending against Pirates: The International Law of Small Arms, Armed Guards and Privateers* (2011), *Intershipmaster Press*, [www.intershipmaster.com](http://www.intershipmaster.com). He may be reached at [jacc@shipmasterlaw.com](mailto:jacc@shipmasterlaw.com).

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### Letter to the Editor

## Efficient shipping needs free markets, not protectionism

From Paul Slater

SIR — Mark Dickinson needs to do his homework before making statements to ignorant politicians (Nautilus International calls for 'European Jones Act', Lloyd's List, Thursday, June 9).

The US Jones Act, which I covered in a

piece two weeks ago, is a piece of protectionism that has had the exact opposite effects to those it was intended to deliver.

Because of its restrictive laws the US Merchant Marine is a shadow of its former self. The number of US merchant officers

and seafarers is at an all-time low and the renowned Academies survive by training foreign officers.

The US builds less than 1% of the world's ships. The cost of moving goods in the protected trade routes is four times higher than if foreign-built ships were

used and crew costs were in line with the highest quality foreign flag ships.

Furthermore, the idea of giving Brussels another stick with which to beat shipowners is absurd.

Efficient shipping is created by free markets, not by government interference

designed solely to protect jobs which can be performed by trained individuals of any nationality, many of whom can be found in the new extended Europe. ■

Paul Slater  
Chairman,  
First International