



How Digitalisation And Decarbonisation May Lead To Disputes

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As the maritime sector moves to achieve digitalisation and decarbonisation, it may be timely to take stock of the challenges ahead.

The challenges, from potential missteps and confusion to rising disputes, were discussed during a virtual panel organised yesterday by the Singapore Chamber of Maritime Arbitration.

Punit Oza, Chief Executive Officer-Designate at digital freight forwarder Wiz Bulk, warned how digital transformation is driving irreversible change in the industry.

"It's a bit like milk becoming yoghurt, you cannot revert," he said, drawing a chuckle from moderator Paul Aston, Consultant at international law firm Holman Fenwick Willan.

The issue with digital transformation, especially when it is accelerated during COVID-19, is how it could result in a potential series of mistakes that create catastrophic results for stakeholders, noted Mr Oza.

"That is where the legal challenges really lie," he said, pointing to processes like carbon meas-

urement and algorithmic ship routing as examples which may be prone to legal challenges if they are not well-tested.

For Mr Oza, this means industry players like him have a role to ensure digital evolution is robust enough to withstand legal challenges and failures.

FORMULA FOR CONFUSION

The discussion, which also touched on topics such as carbon emission calculation and the European Union Emissions Trading System (EU ETS), took a mathematical turn when a complicated formula was flashed on the screen.

Andrzej Jasionowski, Director and Forensic Naval Architect at marine forensic firm SophusQuorum, was showing the calculation used for the Energy Efficiency Design Index (EEDI), a mandatory measure for new ships to promote more efficient equipment and engines.

Zooming in to the figure on Specific Fuel Oil Consumption in the formula, Dr Jasionowski shared that the number has a 10 to 20 per cent deviation for measurements in shop tests in the laboratory compared with sea trials.

"My point is that even the most sophisticated method we have is faulty," he said, noting that the International Maritime Organization has unveiled legally binding targets on reducing greenhouse gas emissions based on such measures. "There will be a headache for legislation and everybody involved."

Believing that flawed calculations could create more disputes, Dr Jasionowski instead proposed a blanket ban on the speed of ships to reduce carbon emissions.

EVER-TIGHTENING REGULATIONS

In response, Sanjay C Kuttan, Chief Technology Officer at the Global Centre for Maritime Decarbonisation, said such views on carbon calcu-

lations do reflect ground sentiments. However, commercial pressures from producers and customers mean that slower ships may not be the best solution.

Instead, he suggested that no-carbon or low-carbon fuels be the "key driver" in decarbonisation. In such a case, there may not even be a need for carbon measurements as carbon is out of the equation – quelling the debates over how it is calculated.

But such debates will probably never go away, and may only intensify with increasing regulations. "In the coming years and decades, there's going to be ever-increasing legislation with ever-tightening regulations," said Andrea Skeoch, Deputy Director (FD&D), North of England P&I Association.

For members of her protection and indemnity association, the concern has been the EU ETS, which aims to include shipping in its carbon trading market, forcing shipowners to buy ETS permits. She said the association advises members on the regulations amid uncertainty, such as how it affects voyages that involve port calls outside the EU.

Wrapping up the discussion, moderator Mr Aston brought up the case late last year of environmental organisation Friends of the Earth suing the United Kingdom over the financing of a Liquefied Natural Gas (LNG) project in Mozambique, as the project was deemed to be against the Paris climate agreement.

Highlighting how LNG is a major fuel type in shipping, he alluded to how the industry may face such legal challenges in the future.

"Issues like climate litigation is something that is going to affect us all," he concluded, leaving the audience with some food, if not fumes, for thought. ■

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Andrea Skeoch
Deputy Director (FD&D),
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