

# Newbuilding Orders and Prices at Korean Shipyards Are Up, but Too Late Perhaps for Sungdong

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**PRACTICES** Shipping Dispute Resolution, Ship Sale and Purchase, Ship Construction and Conversion, Shipping

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The Changwon District Court in South Korea has this afternoon (23 March 2018) issued a comprehensive prohibition order (CPO) following the application of Sungdong Shipbuilding and Marine Engineering Co. Ltd (Sungdong) to enter Chapter 11 Rehabilitation filed earlier this month.

The effect of the CPO is to provisionally prohibit all creditors of the yard from taking legal action in South Korea to secure and enforce their claims by attachment, arrest or foreclosing of their security interests.

The protection is granted pending the determination by the Court of whether to place the yard into the Chapter 11 rehabilitation procedure under Korean law.

Chapter 11 proceedings are commenced with the aim of providing a struggling party with protection against action by its creditors whilst a process is undertaken to identify claims against the debtor and, thereafter, to write those claims down. In this way, a struggling shipyard, for example, may be “resurrected” to continue trading, clear of much of its previous debt. Where the future prospects of the party are poor, however, the process may ultimately result in a decision instead to liquidate the company.

Unfortunately for Sungdong, it would seem that hopes that it will be resurrected through a Chapter 11 process are low. It has been reported that KPMG has already determined that the liquidation value of the yard significantly exceeds its value as an on-going entity and so it looks more likely that Sungdong’s eventual fate will be liquidation.

This would be an unfortunate and sad outcome for a yard which, having been established in only 2001, rose to become one of the world’s 10 largest builders based on compensated gross tonnage with exports peaking in 2009 at US\$1 Billion worth.

Like many yards it suffered significantly as a result of the collapse in global liquidity and related demand for vessels following the 2008 financial crisis and thereafter the slump in global commerce and more recently in the oil industry.

Should Sungdong’s fate indeed be liquidation, this will contrast with the fortunes, at least to date, of STX Offshore and Shipbuilding Co. Ltd, another major Korean yard. That too in recent years has suffered considerable financial difficulties. However, having been placed in Chapter 11 rehabilitation proceedings in 2016, it emerged last year from the process significantly unburdened from its previous debts and with the intention to seek to rebuild its order book.

However, a question mark has again recently emerged over STX’s future as recent reports are that the workforce has announced plans to strike in the face of demands by Korean Development Bank (KDB) to trim its workforce down significantly. KDB, being one of STX’s biggest creditors, requires this if it is to continue to support the resurrected yard with further funding and by issuing refund

guarantees in respect of the shipbuilding contracts the yard has entered and wishes to enter. If the workforce is not cut, STX may also end up again in a Chapter 11 process or be liquidated.

The difficulties currently faced by these two yards, once some of the leading producers of vessels in the world, contrast with considerably more positive news that continues to emerge in respect of the shipbuilding industry including, in particular, prospects for a number of the largest South Korean yards.

As such, it is reported that there has been a significant upturn in the placing of newbuilding orders, particularly for LNG carriers, VLCCs and large containerships, with prices also reported to be rising in respect of certain types of vessel (LNG carriers in particular). The cause of the rise in prices appears to be not only the general uptake in ordering, but also a rise in steel prices and, in respect of vessels to be built at South Korean yards, the strengthening of the Korean Won.

Haynes Boone CDG, LLP lawyers have considerable experience in connection with South Korean newbuilding matters, including assisting creditors to navigate the Chapter 11 process in South Korea having steered clients through, in conjunction with local Korean counsel, the Chapter 11 process in respect of STX.

Please contact the partner listed should you require further information.