

SHIPPING & TRANSPORT

Brazil

Proposed bill will extend terminals' lease contracts

Author: Godofredo Mendes Vianna

A bill in course at the House of Representatives provides for the controversial adaptation of terminals' and port areas' lease contracts entered into before the Ports Act was enacted. The bill aims to eliminate juridical uncertainty on the issue, stipulating that refusing to extend the contract or unjustifiably procrastinating will be deemed administrative dishonesty. The bill is in the final stages of being passed.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FUW9A3>)

Finland

New Maritime Employment Contracts Act takes effect

Authors: Tarja Bergwall, Herman Ljungberg

The new Maritime Employment Contracts Act recently entered into force. It replaces the 1978 Seamen's Act and is the first step towards the ratification of the International Labour Organisation's 2006 Maritime Labour Convention. Although much of the content of the Seamen's Act is included unchanged in the Maritime Employment Contracts Act, some major improvements regarding employee rights have been made.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FUW9AZ>)

USA

Satisfying physical damage requirement of economic loss rule

Author: Philip C Brickman

The US Fifth Circuit Court of Appeals recently overturned a decision by the Western District of Louisiana to dismiss a plaintiff's demand for economic loss arising from a maritime tort for failure to satisfy the physical damage requirement of the economic loss rule as set forth in *Louisiana ex rel Guste v M/V TESTBANK*.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FUW9CA>)

USA

Avoiding salvor exposure

Author: Lawrence R DeMarcay

For companies operating in the marine environment, US-based salvage laws can be confusing. If a crisis is added to the mix, it is a recipe for potential problems down the road. As such, it may be helpful for companies to gain an understanding about the various types of salvage, when a salvage claim exists and how best to respond to a potential salvage situation before an unfortunate event occurs.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FU9D6J>)

Brazil

ANTAQ proposes new resolution for legal entities in navigation

Author: Godofredo Mendes Vianna

The National Agency for Water Transportation recently submitted to public hearing a proposal for the rules granting authorisation for legal entities to operate in deep sea, cabotage, maritime support and port support navigation. The new proposal amends provisions relating to transfer of ownership, authorisation for navigation and owners' equity levels. The agency is currently analysing the contributions received.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FSFXJP>)

Netherlands

Flying the flag under the 1952 Arrest Convention

Author: Ellen Saman-Kole

What does 'flying the flag of a contracting state' mean under the 1952 International Convention Relating to the Arrest of Sea-Going Ships? This was a central question in a recent dispute before the Leeuwarden Court of Appeal. The case appears to be one of the first – at least in the Netherlands – which deals with the definition of 'flying the flag of a contracting state', although the issue has also been dealt with in an Irish decision.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FSFXK7>)

Belgium

Ship arrest: piercing the corporate veil

Authors: André Kegels, Ben Muyshondt

The Antwerp Court of Appeal recently considered the arrest of a vessel for claims against a company which did not own the vessel. No lien was involved and the claim did not concern

the vessel. However, the court held that the creditor could look beyond the "veil of a separate legal identity" between the shipowner and the debtor, and arrest the vessel in respect of maritime claims against the debtor.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FT4T40>)

Brazil

ANTT publishes new rules for use of railways

Author: Godofredo Mendes Vianna

The Brazilian Agency for Land Transportation recently published Resolutions 3.694, 3.695 and 3.696. The resolutions aim to regulate the use of railways in Brazil and cover the regulation of cargo transportation, mutual transit and production goals. When discussed during public hearings, the changes were considered highly controversial.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FTPFUB>)

Germany

Piracy: criminal liability risks when using armed private security teams

Authors: Olaf Hartenstein, Jörg Noltin

Pirate attacks in the Gulf of Aden remain one of the major issues in the maritime industry. Hitherto, deploying private armed security teams has turned out to be the most effective way for shipowners to ensure that their vessel can safely traverse the dangerous seas along the coast of Somalia. This update outlines the German government's position on the deployment of armed private security teams and considers the criminal risks involved.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FTPFV7>)

Philippines

Seafarer penalised for refusing to deploy

Author: Ruben T Del Rosario

The Supreme Court has ruled that a seafarer's refusal to board a vessel constituted an unjustified breach of his contract of employment. The seafarer was suspended for six months. Such disciplinary action was appropriate, ruled the court, on account of the seafarer's "unjust refusal to join the ship after all employment and travel documents had been duly approved by the appropriate government agencies".

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FTPFWJ>)

AVIATION

Brazil

Ratification of Cape Town Convention inches closer

Author: Kenneth D Basch

In recent months Brazil has been inching closer to ratification of the Cape Town Convention on International Interests in Mobile Equipment and the attendant Protocol to the Convention on Matters Specific to Aircraft Equipment. The Senate recently approved both the convention and the supplementary protocol, completing the last legislative step in the approval process. The president is expected to ratify the convention shortly.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FUW9A0>)

Belgium

Constitutional Court and ECJ rule on aircraft noise limitations

Author: Pierre D Frühling

Two inconsistent sets of rules apply to aircraft noise at Brussels Airport. Recent rulings by the Constitutional Court and the Court of Justice of the European Union have moved the dispute over aircraft noise infringements closer to a final decision by the Council of State, attracting interest in Belgium and abroad.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FU9D5G>)

Norway

Norway and Canada enter into aviation safety agreement

Author: Paul Sveinsson

A temporary agreement between Norway and Canada signed in October 2010 recently entered into force. It provides for the mutual recognition of certificates and licences relating to the airworthiness of civil aeronautical products, and establishes procedures that make such approvals simpler and more efficient than previously, and thus less expensive.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FU9D60>)

Canada

Newfoundland court dismisses appeal in *Sikorsky* case

Author: Carlos P Martins

In February 2011 the Newfoundland court dismissed Sikorsky Aircraft Corporation's application to prevent Cougar Helicopters Inc from proceeding with a claim against it in that province. This decision was recently upheld by the Newfoundland and Labrador Court of Appeal. In the appeal, Sikorsky challenged the applications judge's ruling that the action could proceed in Newfoundland.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FSFXHM>)

Canada

Canada-Mexico bilateral agreement signed

Authors: Gerard A Chouest, Carlos P Martins

A new air services agreement has been announced between Canada and Mexico. This agreement will replace the restrictive agreement previously in force. It should serve to reduce the administrative burden associated with applications for route rights and thus improve the ability to offer more economical air services between the two countries.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FT4T3X>)

India

No sovereign immunity for foreign national carriers before consumer forums

Author: Ananjan Mitter

In a recent judgment, the Supreme Court held that a state-owned foreign airline is not entitled to sovereign immunity in a consumer action for service deficiency. Relating to an alleged delay in the delivery of a consignment (which led to deterioration of the goods), the appeal was brought by Ethiopian Airlines, which contested an order handed down by the National Consumer Disputes Redressal Commission.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FT4T4W>)

Canada

Bilateral Aviation Safety Agreement enters into force

Authors: Gerard A Chouest, Carlos P Martins

The Bilateral Aviation Safety Agreement between Canada and the European Union has come into force. The agreement establishes the framework for a broader reciprocal acceptance of the certification of aeronautical products and services. Some of the press releases which followed its entry into force suggested that it would introduce a 'brave new world' overnight, though – unsurprisingly – that is not the case.

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FTPFTQ>)