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**THOUGHT  
FOR THE MONTH**

**“It is  
very easy  
to defeat  
someone,  
but it is very  
hard to  
win someone”**

**Dr. A P J Abdul Kalam**

*During the Holiday Season more than ever, our thoughts turn gratefully to those who have made our progress possible. And in this spirit we sincerely say Thank You and Best Wishes for the holiday season and a Happy New Year!*



## To Arrest or not to Arrest ? The Federal Court of Australia dispels the dilemma



The recent decision by the full bench Federal Court in Australia, to decide a maritime lien appeal, is significant because it also address the concerns raised by the international maritime community.

The brief fact of the case are as follows – an Egyptian company Egyptian Bulk Carriers (EBC), time chartered the vessel, Sam Hawk from its owner, a Hong Kong based company. The time charter contained a clause requiring EBC to provide and pay for bunkers; EBC was not authorized to contract for necessities, including bunkers, on behalf of the

owner nor was EBC authorized to bind the vessel, Sam Hawk with a maritime lien for necessities.

During the course of the time charter, EBC contracted with Reiter Petroleum (RP) for supply of bunkers to Sam Hawk, upon its arrival at Istanbul. One of the contractual terms between EBC and RP was that the “laws of the United States and the State of Florida” would apply “with respect to the existence of a maritime lien”. The master of the vessel accepted delivery on the bunker only after the issuance of a no liability notice, which advised RP that Sam

Hawk and her owner did not accept liability to pay for bunkers and that payment was the responsibility of the time charterer, EBC. RP invoiced EBC, however EBC did not pay for bunkers and 12 months later, RP arrested the vessel in Australia to obtain security for a claim for unpaid bunkers.

The main contention of RP was that an action in rem lay against the vessel as per Australian law under Section 15(1) of

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## 10 Tips for Improving Your Memory

### 1. Establish Routine

I rarely lose my keys or sunglasses because I put them in the same place every time. On the rare occasions I don't put them in their proper place, I can drive myself crazy trying to find them. The same applies to important information. If you establish specific e-mail and desktop folders for critical documents, you'll know right where to go first.

### 2. Go Against Habit

If you really want to remember something critical, intentionally break the routine surrounding it. Suppose you keep forgetting to back up your computer at night. And let's say you always keep your keys in your right-hand pocket. Put them in your left pocket in the morning so when you are ready to leave you have to break your pattern. The odd feeling acts like a string around your finger, making you aware that something needs to be done.

### 3. Eat More Brain Food

Lots of foods improve your memory because they are filled with special antioxidants and vitamins. Try adding more green tea, blueberries, salmon, cabbage, broccoli, cauliflower, dark chocolate and turmeric to your daily intake. Experts say a glass of red wine every so often can help as well. Of course, too much of that and you probably won't remember what happened the night before.

### 4. Get More Sleep

Your brain needs downtime to stay sharp. If you don't get enough sleep, you'll tax your memory and start forgetting things. Stay rested so you can keep your mind alert.

### 5. Have a Mental Workout

I am all for zoning out on mindless videos and light fiction, but actually challenging my brain makes me sharper and more effective at remembering. Mental challenges like studying complex concepts make simple tasks like remembering names at a party seem like a piece of cake.

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the Admiralty Act, 1988, as the US Lien clause and Canadian Law provide for *rem* proceedings in Australia. Further since EBC had contracted for the bunkers as agents of the owner, the owner was thus liable under section 17 of the Admiralty Act, 1988, thereby entitling RP to arrest the vessel.

The owners stated that RP's action should be dismissed as the owners were not a party to the contract between EBC and RP.

The judge in the first instance, held that RP had a maritime lien even though his claim did not fall under section 15(2) of the Admiralty Act, 1988, which excludes a maritime lien for supply of necessities. Aggrieved by the judgment, the owners preferred an appeal.

The 5 bench judge hearing the appeal unanimously held that the owners were not privy to the contract between EBC and RP. The judges then applied Australian Law to the substantive issue and concluded that since under section 15(2) of the Admiralty Act, 1988, the supply of bunkers or necessity does not give a right to exercise a maritime lien, the action of RP to arrest the owners vessel failed.

The bench also addressed the key question of the maritime community, that is, "In what circumstances, can, if at all, there be a proceeding on a maritime lien under section 15 where the claimed lien is said to arise under foreign law?" The judges concluded that in order to do so, the

foreign law under which a maritime lien is claimed must be the governing law, (*lexcausae*), according to Australian choice of law rules; and the rights arising under that foreign law must fit the description of a maritime lien in Australian law, a description which includes its priority consequences and the circumstances in which it can arise.

With this decision in place coupled with the fact that the appeal court upheld the principle of *lexifori* (the law of the forum), by placing reliance on the "HALCYON ISLE" judgment; it can be concluded that obtaining an order of arrest in Australia for the supply of necessities is going to be a herculean task in the near future.



## Idle container ship fleet rockets on Hanjin collapse

The idle container ship fleet has soared to 1.7 million twenty-foot-equivalent units this year, driven up by the bankruptcy of Hanjin Shipping and from container lines withdrawing ships from service at a rapid rate in an attempt to limit the impact of chronic overcapacity and weak demand. The number of idle ships has increased from 238 vessels in November 2015, with a combined capacity of about 900,000 twenty-foot-equivalent units, to 435 ships aggregating 1.7 million TEUs in early November of this year, according to industry analyst Drewry. At the beginning of 2015, idle container ships comprised just 2.5 percent of the global fleet, and ships laid up in quiet waterways around the world now account for 9 percent of the global fleet. The growth of the idle fleet may have been rapid, but of the 1.7 million idle TEUs, Hanjin Shipping generated 36 percent of that capacity during the last quarter when it collapsed. "We infer from these changes that, as Hanjin was forced to pull ships from the east-west routes, the other carriers were able to increase the utilization of their existing vessels, as they did not add much replacement capacity. The Hanjin bankruptcy may have created an artificial jump in the idle fleet, until some former Hanjin-operated ships are transferred to operators," Drewry noted. Maersk China Chairman Tim Smith said overcapacity was one of the greatest problems facing the container shipping industry, but there have been some good signs for the industry this year. "There has been unprecedented scrapping, the youngest-ever ship has been scrapped at 10 years, the most scrapping ever this year, at more than 600,000 TEUs and an almost complete absence of new orders," he said at the Asian Logistics and Maritime Conference in Hong Kong. "Only 200,000 TEUs of new orders have been made this year compared to 2.3 million TEUs ordered in 2015. The big new ships will come and we will see the older, medium-size, inefficient, and non-operating vessels will become redundant and more of them will need to be scrapped, and that will eat away at the overhang in the next year or two."

-Joc.com

# COCHIN PORT LEAPS FORWARD



The efforts of Cochin Port in attracting new business have started showing results. The last week saw the arrival of the first ever Car Carrier in Cochin Port.

The Cyprus registered MV Dresden berthed at Cochin Port to unload 345 cars of various makes of Hyundai, Ford and Renault. The vessel has 13 decks with the capacity to carry 4,300 cars. The Car Carrier, which is a Roll on-Roll off (Ro-Ro) ship, is highly productive with automobiles being driven in and out of the ship. The operator is carrying the vehicles of Renault, Ford, Hyundai and Toyota from Tamil Nadu and Honda and Ford from Gujarat.

The car carrier arrived at Cochin from Ennore in the circuit of Ennore-Cochin-Kandla-Cochin-Ennore connecting the automobile production hubs in Tamil Nadu in the East coast and Gujarat and Haryana in the West of India.

The Cochin Port has allotted Q7 berth for handling the vessel and a yard of 4,000 sq. m area for storage of the cars. The port also offered rebates in port charges; concessional wharfage and rebate in the notified vessel related charges. The port expects to earn 10 lakh per call from such vessels.

Car handling is highly prestigious, and adequate volumes could be a steady source of income to the port to the tune of about Rs.3 to 6 Crores per annum in

addition to the significant contribution to environmental safety by eliminating thousands of trucks from the roads and the resultant emission savings.

Kerala is a major consumption centre of cars with annual sales of about 1,50,000 to 1,80,000 units, which is highly significant in determining logistic patterns. Considering the conditions of roads in Kerala, this new mode would be a pattern changer, with more dealers opting for this new mode. The prospect of Cochin Port attracting coastal movement of cars, with major automobile manufacturers moving cars to dealers in Kerala from factories in Tamil Nadu, Gujarat and Haryana, assumes significance in this regard. The new business is the culmination of sustained efforts of Cochin Port.

On a related development, talks have begun between Cochin Port Trust and the Tea Board with the former willing to lease out land to set up a Tea Park.

The top officials of CPT met up with officials of the Tea Board to discuss the various facilities available at Cochin Port for handling tea exports. The facilities placed before the Tea Board include highest productivity at the Container Terminal at Kochi, dedicated train service from Irugur to

Vallarpadham, resolving the Walayarcheckpoint issues through cooperation from the state government, green channel at Walayarcheckpoint for self-sealed and excise sealed containers.

Cochin Port handles about 70,000 million kg of the 96,000 million kg handled in South India and there is a weekly mainline direct shipping service from Cochin to various destinations at Europe, Middle East, China and other SAARC countries. Setting up a Tea Park would enable the exporters to reduce their logistics cost which in turn could increase their returns.

Meanwhile, the Cochin Port Trust has also recently introduced the On-line Berthing System for all the berths. This is as part of Ease of Doing business. Henceforth, the Port Users need not attend Berthing meetings at the Port and the Berths are allotted based on the on-line requests through e-mode. This not only increases transparency but saves the Users time by avoiding attending berthing meeting at the Port premises, which practice has been stopped.

With the arrival of new business and with various new measures being implemented, there has been a marked change in the fortunes of the Port.

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