

NEWS LETTER



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WORLD WIDE CLAIMS SERVICES

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RUPEEEEE.....



While the NRIs cashed in on the falling Rupee, it gave many heart-burns to the people in India and the Government. But it did not dampen the sense of humour of the average Indian. Here are some of the tweets -

" I tripped and rupeed.(fell)

" Rupee is very much down to earth".

" The concept of "free falling" in Physics will be taught in future by using Rupee as the example".

" Dollar is in elevator, Rupee in ventilator and the Nation is in ICU".

And what does Rupee has to say to all these — "I don't appreciate".

STX PAN OCEAN

We have advised individual clients before about the status of this shipping company in S.Korea and the claims pending against them.

The company is in financial problems and Rehabilitation procedures have been commenced as of 17 June 2013 under the decision of the Bankruptcy Division No.5 of Seoul Central District Court. **WWCS** being one of the regular claimants have received notice to this effect from the Seoul court. The Notice explains the procedures for checking the Result of a creditor's claim, filing of confirmation proceedings etc.

The period for filing of claims with the court is set upto 18 July 2013. However, it may be permitted for the claimants to file the claim even later beyond this date but before the 2nd Creditors' Meeting which would be held sometime in November 2013.

The company has submitted to the court the report of the Acceptance/Objection Result of secured and unsecured claims already received by them. Any creditor intending to oppose any Result may apply for confirmation proceedings against the Debtor's administrator. The application for confirmation proceedings has to be filed with the court by 9 September 2013. The application has to be filed along with payment of Stamp of KRW 1000 (AED 3.37990) and Delivery fee of KRW 25,520 (AED 86.2551).

Needless to say, a local lawyer's assistance may be required to initiate the proceedings and attend subsequent meetings in the Seoul court.

The above procedures apply only to those claims that occurred prior to 17 June 2013. Claims that occur after 17 June 2013 will be dealt with by the Company's claims depart-

CARGO CLAIMS – SUING SHIP OWNERS IN UAE

Marine Claims Recoveries in UAE has always been a relentless fight, with the ship owners resorting to every conceivable defence to avoid the claims and the claimants trying to pin them down to get the maximum possible settlement. If the claims are not settled to their satisfaction, the claimants have the option to file suit against the Carrier in UAE courts. Even if the bills of lading are subject to a different Law and Jurisdiction, the UAE court will assume jurisdiction if (a) the incident happened in UAE or (2) the contract of carriage originated or completed in UAE.

However, it is now reported that some ship owners are taking out "Anti suit injunction" from English courts to resist the legal actions initiated against them in UAE.

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They rely on the English Law and Jurisdiction clause in the bills of lading and plead that filing suit in UAE is a breach of contract. The English court then issues an injunction restraining the claimant from filing suit in UAE. Committal proceedings for contempt of court will be initiated against the claimant if they go ahead with the suit in UAE ignoring the Injunction.

The injunction is not enforceable in UAE. The contempt Order can be executed only against the claimant's assets (if any) in England or against an individual of the company if he is in England. The penalty would be seizure of assets, imprisonment and/or fine. We understand that setting aside the Anti suit injunction is not a realistic prospect.

The practice of obtaining Anti suit injunctions is gaining ground in order to assert the English jurisdictions in the bills of lading. Appeal to overturn the injunction is unlikely to be successful if the contract of carriage reflects English jurisdiction. Apart from the legal restriction that will be imposed on the claimant's company, the unpleasant aspect of this Injunction is that it will be directed against an individual (say, the Director) of the company.

This news does not make pleasant reading for the cargo claimants in UAE. It obviously has far reaching consequences for claims recoveries in UAE.

Why are the ship owners averse to UAE jurisdiction ?

For foreign ship owners, UAE is not a convenient jurisdiction for various reasons such as language, culture and above all the absence of an Admiralty court. They have to depend on local lawyers as all court proceedings are conducted in Arabic language. Most ship owners and their P&I Clubs prefer to appoint English Legal Consultants who in turn instruct the local lawyers. Besides, all documents have to be translated into Arabic for submission in the court. These contribute to a substantial increase in the ship owner's costs. Ultimately, even if the case is won, only a small amount of the costs are recoverable. On the other hand, in England considerable amount of the costs are recoverable.

As for the local ship owners in UAE, it suits them well to have a jurisdiction far from home so that enforcement proceedings if any against them will not be easy.

The Advantages for claimants in UAE jurisdiction

The local claimants naturally feel comfortable to have their case tried in the local courts than in an alien jurisdiction. Another important factor is that the cost of filing suit in UAE is very reasonable compared to England where the costs are extremely high. Besides, the proceedings are conducted fairly quickly and the parties can expect a judgment without much delay. Above all, it does not make sense to them to accept a Law & Jurisdiction that has no connection with the shipment.

Consequences for the cargo interests in UAE

If more and more ship owners and P&I Clubs resort to Anti suit Injunctions, claims recoveries in UAE will become extremely difficult since most bills of lading are subject to English Law and Jurisdiction.