

AGENDA
THE MARITIME LAW ASSOCIATION OF THE UNITED STATES
COMMITTEE ON PRACTICE & PROCEDURES

Date: May 3, 2006

Place: Healy & Baillie
61 Broadway, 32nd Floor
New York, New York

- 1) **Chair Announcements**
- 2) **Sub-Committee Reports – 9:30 a.m. to 10:00 a.m.**
 - a) Sub-Committee on Federal Rules & Statutes
 - 1) Supplemental Comments on Title 46 Codification
 - 2) Status of amendments to Rule B(1)(a) and Rule C(6)(b)(i)(A) – (Josh Force)
 - 3) Status of proposed Rule G – (Philip Berns)
 - b) Sub-Committee on Local Admiralty Rules
 - c) Recognition and Enforcement of Foreign Judgments – (Alan Van Praag)
 - d) Recognition Communications Committee – (John Edington)
- 3) **Main Committee Meeting – 10:00 a.m. to 12:00 p.m.**

Main Committee meeting
- 4) **Old Business**
 - a) Practice and Procedure Newsletter
 - b) Allied Maritime, Inc. v. The Rice Corporation d/b/a The Rice Company
 - c) Unreported Decisions
 - d) Rule-Based Bond Preempting Vessel Arrest
- 5) **New Business**
 - a) Lack of Uniformity in Electronic Filing Requirements
 - b) Malaysia International Shipping Corporation v. Sinochem International Company, LTD (436 F. 3d 349) - See attached
 - c) Seaplus Line Co. LTD v. Bulkhandling Handymax (409 F. Supp. 2d 316) - See attached
- 6) **Adjournment**

MALAYSIA INTERNATIONAL SHIPPING CORPORATION

V.

SINOCHEM INTERNATIONAL CO. LTD.

NO. 04-1816

3RD CIR., FEBRUARY 7, 2006

CITE: 436 F. 3d 349

U.S. Maritime jurisdiction based on vessel arrest in Chinese waters

The U.S. Court of Appeals for the Third Circuit ruled that a U.S. court may have subject matter (admiralty) jurisdiction over a dispute arising with regard to a vessel arrest that occurred in Chinese waters. In the instant case, plaintiff ship owner brought suit in federal court in Philadelphia against cargo interests alleging, among other things, fraudulent misrepresentation in having the vessel arrested when the vessel entered Chinese waters to deliver the cargo. The federal district court ruled that it had subject matter jurisdiction, but dismissed the action on the basis of *forum non conveniens* without ruling on the issue of personal jurisdiction over the parties. On appeal, the court ruled that the trial court should have determined whether it had personal jurisdiction over the parties prior to ruling on the motion to dismiss. With regard to subject matter jurisdiction, the court ruled that the issue is whether the alleged tort occurred on navigable water. Tort jurisdiction in admiralty is not limited to the navigable waters of the United States. *Malaysia International Shipping Corp., v. Sinochem International Co. Ltd., No. 04-1816* (3rd Cir., February 7, 2006).

**SEAPLUS LINE CO. LTD., Plaintiff, - against - BULKHANDLING
HANDYMAX AS, Defendant.**

05 Civ. 4813 (JGK)

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK**

2005 U.S. Dist. LEXIS 33346

**December 13, 2005, Decided
December 13, 2005, Filed**

PROCEDURAL POSTURE: Plaintiff, a vessel owner, sued defendant, a charter party, pursuant to Supp. R. Adm. & Mar. Cl. B to obtain an order of maritime attachment as security for a potential award in a foreign arbitration proceeding between the parties. Following the issuance of an order of maritime attachment, the charter party moved to vacate or reduce the attachment order pursuant to Supp. R. Certain Adm. & Mar. Cl. E, and moved for counter-security.

OVERVIEW: The charter party claimed that the owner could not demonstrate that the attachment was necessary to obtain jurisdiction over it or to secure satisfaction of any potential arbitration award. The court held that the owner failed to show that the maritime attachment under Supp. R. Certain Adm. & Mar. Cl. B should not be vacated under Supp. R. Certain Adm. & Mar. Cl. E(4)(f). The court found that the owner failed to demonstrate by a preponderance of the evidence that the attachment was necessary for it to obtain jurisdiction over the charter party or to secure any award it might obtain in the foreign arbitration because the parties' charter agreement provided for arbitration in Hong Kong, applying English law, the charter party was fully participating in that proceeding, the charter party had more than sufficient revenues to cover any award the arbitration panel might render against it, and there was no evidence that the charter

party would attempt to avoid paying any potential award entered against it. The court further held that the charter party was not entitled to counter-security under Supp. R. Certain Adm. & Mar. Cl. E(7) because the attachment order had been vacated.

OUTCOME: The charter party's motion to vacate the maritime attachment was granted. The order of maritime attachment was vacated. The charter party's remaining motions were denied.