

ULGENER LEGAL CONSULTANTS / LAW OFFICE

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CONTENTS:

1. Turkey, Becoming A Party To 1996 Protocol (LLMC)
2. Ulgener – Maersk Seminar On Rotterdam Rules
3. Turkish Crew Repelling the Pirates, but how ?
4. Index of Articles of Past Issues

Earlier volumes of the newsletter can be found on our website.

1. Turkey, Becoming A Party To 1996 Protocol (LLMC)

Turkish Government has ratified LLMC 1996, thus approving the provisions of the Protocol which amends the 1976 Convention, and it has been published in the Official Gazette on 13.3.2010. The 1996 Protocol shall come into force within 90 days as per Article 11 of the Protocol.

Under the new regime, the amount of compensation foreseen in respect of the loss of life, personal injury and other claims have been substantially increased. The Protocol also decreases the limit of the minimum tonnage for the application of the Protocol to 2000 tons, thus expanding the scope of liability.

It is an important reminder that the provisions of Article 9 of the Protocol suggest that the Protocol shall apply only to such claims arising after the Protocol comes into effect in a Member State. Turkey has ratified the Protocol, but reserved its right to exclude the application of paragraphs 1(d); and (e) of Article 2 of the Convention, thus reserving its right over the provision concerning claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship and claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with the Convention, and that further loss caused by such measures will be subject to limitation of liability.

In addition, Turkey has also reserved its right to exclude applications for claims in respect of the damages within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 and/or of any amendments/protocols thereto.

2. Ulgener – Maersk Seminar On Rotterdam Rules

The Chamber of Shipping in Istanbul was host to a delightful seminar regarding the Rotterdam Rules on 18 February 2010 in which the audience was honoured by the senior General Manager of Maersk Shipping, Kim Chalmer Rasmussen, and Dr Fehmi Ulgener, the legal advisor of the Chamber, who was also the organiser of the event together with Maersk Shipping Turkey.

Dr Ulgener stated in his speech the importance of the Rotterdam Rules for the shipowners in the context of the nature of the Rules as a modern multi-modal convention which also governs door-to-door carriage. He also emphasised that while the Convention covered a wide range of transportation modes, that the main issue preserving its magnitude for the shipowners was still the carriers' liability. Dr Ulgener continued his speech

stating that “*the principle of carriers’ liability regarding the door-to-door carriage is a modern concept and a system which we will all be acquainted with through our professional careers*”, therefore once again emphasising the significance of the concept.

At the end of his speech Dr Ulgener has drawn a comparison between the La Haye Convention and the Rotterdam Rules and pointed out to the fact that the latter is modernising the former while, at the same time, including the concept of “*door-to-door*” carriage which smoothes almost the most criticized points of the La Haye Convention, thus bringing a balance to both the sides of the commercial relationship.

3. Turkish Crew Repelling the Pirates, but how ?

The Turkish vessel Yasin-C which was attacked off the Somalian coasts by the Somalian pirates was successful in ridding of the pirates without loss of life or injuries by, in fact, a cunning plan.

The bulk carrier was laden with wheat in the Mariupol port of Ukraine and it was confronted with a pirate attack 270 miles off the Mombasa port of Kenya where it was heading. While the conditions of the crewmembers were unknown to the owners at the time, the master, Ferhat Bayar, split the good news 15 hours after the attack in a telephone conversation with the owners.

The crew had prepared a shelter with food and water supplies previously for possible acts of piracy. At the time of the attack, the emergency signal was given and the crewmembers had gathered in the shelter and locked the door. Although the pirates on board the ship had given a hard time to the crew members, trying to knock down the door, they threw in the sponge after 15 hours. They have looted ship and vandalized the vessel setting some cabins on fire and left. The crewmembers could only come outside their shelter after they knew the pirates had departed; however, although the vessel was seriously vandalized, nobody was subjected to physical violence.

Needles to say that, it is certainly a questionable strategy !

4. Index of Articles of Past Issues

Vol.1

1. Introduction
2. Maritime liens on vessels according Turkish Law
3. Amendment of Turkish Commercial Code: Public sale of the ship outside Turkey / Faith of encumbrances registered in Turkey and deletion of registry

Vol.2

1. The new Turkish Commercial Code
 - a. Introduction
 - b. Highlights
 - b.1. Auction abroad - deletion from Turkish registry
 - b.2. Carriers’ liability - the new regime
 - b.3. Time charters - a newcomer to the code
 - b.4. Counter security for arresting ships
 - b.5. Club Letter of undertakings - at last !
 - b.6. Cancellation of charter - compensation of losses
 - b.7. IMAC - the amended formation
 - b.8. General Average - direct reference to YAR
 - b.9. Pollution - a whole new chapter
2. News from the community-Launching of first Kamsarmax of Yasa

Vol.3

1. Salvage Under Turkish Law
2. Turkish Open Form (“TOF”) - A closer look
3. Crew claims according Turkish Labour Law
4. Ince&Co – Ülgener Shipping Law Seminar
5. Our website

6. Latest status of the Draft TTK
7. News from the community

Vol.4

1. Competency of courts, interpretation of arbitration & jurisdiction clauses and securities of foreign claimants
2. Enforcement and recognition of foreign court and arbitration awards in Turkey
3. Cargo issues: An introduction to Carrier's Liability and Bills of Lading according Turkish Law
4. Laytime issues: Notice of Readiness according Turkish Law
5. Turkish International Ship Registry TUGS

Vol.5

1. Present Status of the draft Turkish Commercial Code
2. Cargo issues: The burden of proof
3. Laytime issues: Hindrances effecting loading / discharging
4. Turkon Line – Our new exclusive clients
5. Ereğli Shipping – Our new exclusive clients

Vol.6

1. Turkish Shipbuilding – The differences between present and future system
2. Cargo issues: The burden of proof in relation with the argument of unseaworthiness
3. Laytime issues: Demurrage under Turkish Law

Vol.7

1. Piracy: Yasa Neslihan, A Hijacking with a happy ending
2. Pollution: Case Report in respect of cancellation of a fine imposed by the officials
3. Yachting – New tax regulation
4. Our new exclusive clients – Zer AS (Koc Group)
5. Our new exclusive clients - Beks Shipping

Vol.8

1. Turkish Open Form (TOF) at the Old Library, Lloyds
2. Rotterdam Rules and Turkish Commercial Code / Turkish Draft Commercial Code
3. Oguz Dagdeviren (Mr.), Our new blood

ULGENER LEGAL CONSULTANTS / LAW OFFICE

Ulgener LC/LO, based in Istanbul, with its office right in the Shipping Center, where the most major Turkish ship holding groups have their headquarters,
is a law firm dedicated mainly to shipping matters, with a wide scope including all kind of related issues, such as:

P&I matters, such as cargo claims - disputes arising from bills of lading, crew claims, pollution, liens on vessels; as well as accidents, such as collisions, salvage, wreck removal and general average matters, etc.

FD&D matters, such as disputes arising from voyage and time charterparties, i.e. forced freight & demurrage collection, liens on cargoes, etc.

H&M, war and strike clauses and cargo insurance matters, such as salvage, general average adjustment, etc, also representing underwriters and provision of legal advice regarding local and international law,

Collection of outstanding premiums on behalf of P&I Associations,

Litigation and also corporate issues regarding yachts / superyachts.

Ship Finance - Sale & Purchase, as well as advising and assisting foreign banks and other financial institutions, covering also Turkish mortgages and disputes arising out of mortgages,

Assisting owners in respect of new building contracts and relevant steps to be taken after initial stage.

Enforcement of foreign arbitration and court awards,

Advising shipowners and P&I Clubs regarding issues arising from Turkish as well as International maritime law,

(legal correspondents of a P&I Club within International Pool)

Also assisting owners for protection of their interests and avoiding conflicts on drafting charterparties, bills of lading, MOA's and other documentation,

Also advising leading Turkish steel manufacturers for shipping related issues,

Legal advisers to Turkish Chamber of Shipping.