

JURISDICTION AND LIMITATION OF LIABILITY OF COLLISIONS

LEX TRANSPORTI – COLLISION SEMINAR

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"MAERSK HOLYHEAD" c/w "PEQUOD"

















- The inter-ship claim is a tortious claim.
- Where is the appropriate jurisdiction for the claim?
 - Where the collision occurred, if in territorial waters
 - Domicile of registered owners
 - Domicile of bareboat charterer
 - Flag Registry

Jurisdiction and Security

- Agree jurisdiction if possible
- ASG wordings cover many key points
- Alternative: try and found jurisdiction in a particular country by way of arrest
- Security must go 'hand in hand' with jurisdiction



Considerations

- Limitation regime
- Procedural rules
- Investigative powers
- Local law issues
- Time limits



Distinguish between:

- Global Limitation Regimes
 - Value based – e.g. Argentina and USA
 - 1957 Convention (easier to break limit)
 - 1976 Convention
 - 1996 Protocol
- Limitation of Specific Claims
 - Contractual Limits
 - Statutory Limits



Examples

TONNAGE	1957 CONVENTION	1976 CONVENTION	1996 PROTOCOL
10,000	685,745	2,705,387	6,479,970
30,000	2,057,236	7,858,506	18,822,770
100,000	6,857,453	19,414,452	46,594,070

- Very difficult to break limit

- Except if:

"it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such a loss, or recklessly and with knowledge that such loss would probably result".

- The Marion

- St Jacques II

1996 Protocol - New Limits

- 8th June 2015
- Roughly 51% increase to limits
- Automatic for signatories to the 1996 Protocol
- Intended for Future Events only, although the drafting is poor:

Issue proceedings before 8th June

New Limits – Loss of Life / Personal Injury

- On ships not exceeding 2,000 tons - **3.02 million SDR**
(up from 2 million SDR)

- Then:
 - For each ton from 2,001 to 30,000 tons, **1,208 SDR**
(up from 800 SDR)

 - For each ton from 30,001 to 70,000 tons, **906 SDR**
(up from 600 SDR)

 - For each ton in excess of 70,000, **604 SDR**
(up from 400 SDR).

New Limits – Property Claims

- For ships not exceeding 2,000 gross tons: **1.51 million SDR**
(up from 1 million SDR)

- Then:
 - For each ton from 2,001 to 30,000 tons, **604 SDR**
(up from 400 SDR)

 - For each ton from 30,001 to 70,000 tons, **453 SDR**
(up from 300 SDR)

 - For each ton in excess of 70,000 tons, **302 SDR**
(up from 200 SDR)

New Limits - Examples

TONNAGE	1996 PROTOCOL	JUNE 2015 PROTOCOL INCREASE
2,000	1,000,000 SDR US\$1,542,850.00	1,510,000 SDR US\$2,329,703.50
30,000	12,200,000 SDR US\$18,822,770.00	18,422,000 SDR US\$28,422,382.70
100,000	30,200,000 SDR US\$46,594,070.00	45,692,999 SDR US\$70,357,045.00

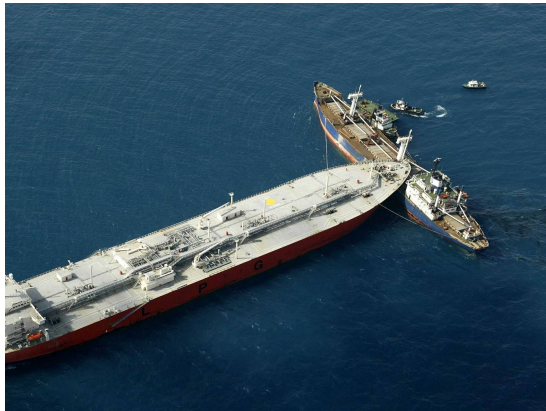
1 SDR : US\$1.54285

- The court procedure for a collision and/or actions *in rem* are different to those *in personam*.

- An *in rem* claim:
 - Must be issued within 2 years
 - Must be served on the vessel
 - Can not be served on the registered owners (inside or outside of the jurisdiction)
 - Must be served within 12 months of issue.
 - If the vessel calls in the jurisdiction and you do not serve, the claim form may become invalid.
 - Orders for substituted service are unlikely.

- Collisions

- S.190 of the Merchant Shipping Act
- 2 years



- “Allisions”

- Ship hits a fixed or floating object.
- 6 years



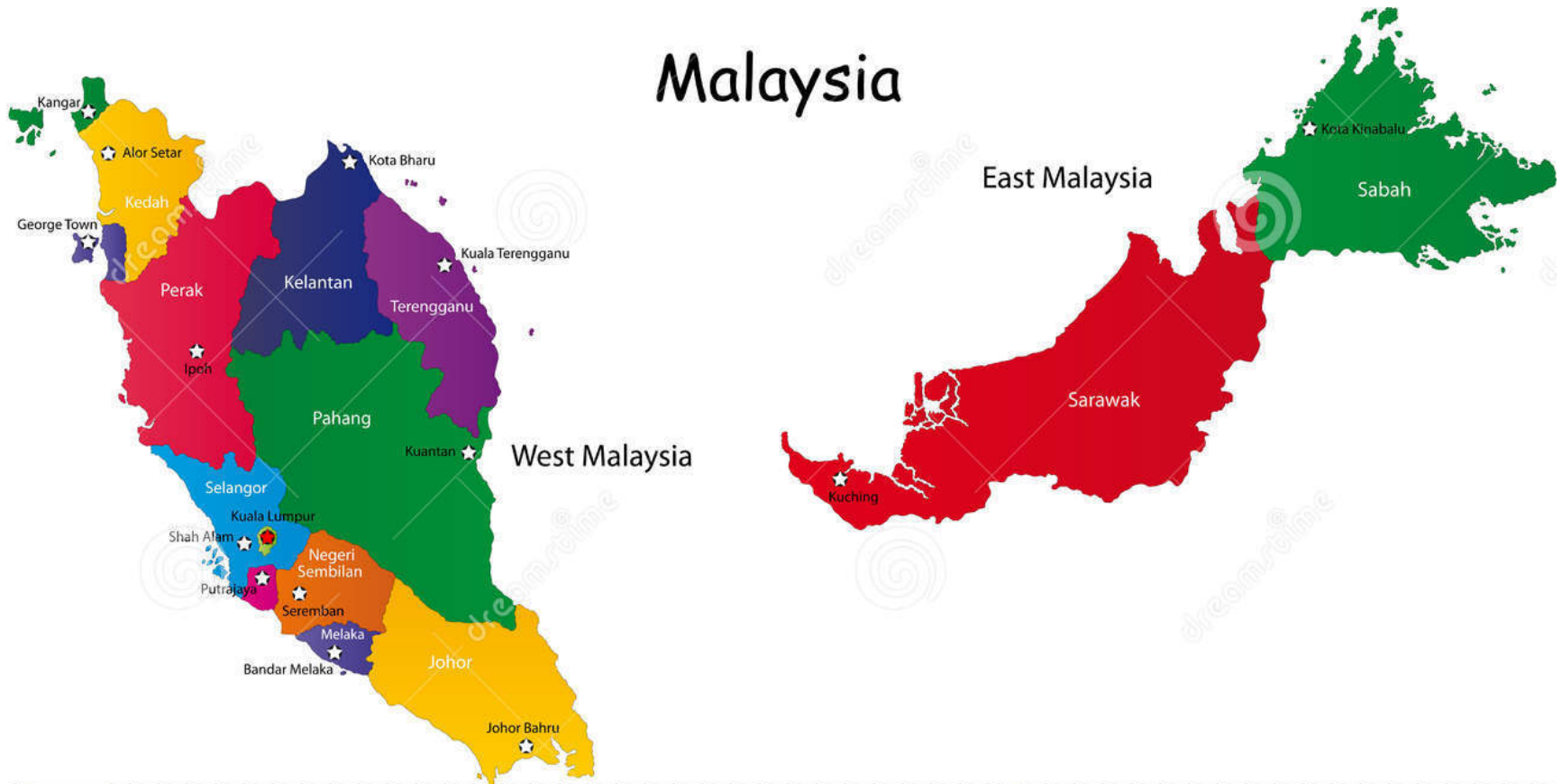
- What is the time limit for hitting another Vessel alongside?

Investigative Powers



Be very Careful...

Malaysia



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Claim by Master

- Gives rise to the right to limit liability



Bareboat charterers



Baltic Ace



Traps for the Unwary

- Time bars
 - Panama
 - Greece
- Liens
 - The Lien Convention
 - India



ANY QUESTIONS ?

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