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Maritime and Transport Committee sessions for Sydney 2017

1 Avoiding that Sinking Feeling: Navigating Shipping Insolvencies: Joint session between the Insolvency Section and the Maritime and Transport Law Committee. Monday, October 9; 09.30-12.30.

The Hanjin collapse at the end of August 2016 left 147 vessels stranded around the world, unable to enter port. Hanjin was the latest in a series of high profile shipping insolvencies, with OW Bunkers in November 2014, and Copenship, STX and Swiber in between. Meanwhile, we are seeing high levels of consolidation activity, as the shipping industry seeks to restructure businesses and financing.

We will look at the immediate problems arising for stakeholders when a shipping business announces that it will not be paying the bills, including threat of arrest and refusal of access to the vessels. How are debtors and creditors best advised? How can charters be terminated and cargo returned or compensated for, and to what extent will insurance respond? How business is affected when the original financiers sell their NPLs (non-performing loans) to investors? We will explore the cross border insolvency issues and application of the UNCITRAL Model Law to seek to achieve "modified universalism", including some of the exception jurisdictions where the doctrine is not yet (fully) applied, including Singapore, Hong Kong, the Cayman Islands and Bermuda. We will consider good practice in dealing with failing businesses and the politics (national and international) of support. This will be a full 180 minutes session, planned with two co-chairs (one from each committee), an industry key note speaker who will set the scene around the issues and events which are topical when we meet in Sydney in October 2017.

We plan for about 6 additional speakers (mostly lawyers from both private practice and in-house from a range of jurisdictions).

2 Marine Transportation, the Environment, and Climate Change: what we are doing, whether it is working, and what is left to do. Wednesday, October 11; 14.30-17.30.

Climate change has put pressure on the shipping industry to adapt to new requirements from governments as well as to expectations from customers requiring the transport of their goods with minimal environmental footprint. New conventions such as the Ballast Water and Bunker Oil conventions are now entering into force. In the SECA area the sulphur content is limited to 0.1 % and IMO has just agreed a global reduction to 0.5 % to apply to most vessel types as from 2020. We see many ship-owner ordering LNG driven vessels. Is that the solution for the future? For existing ships, there are significant problems and costs relating to the retrofitting of scrubbers or other technologies, which are in their infancy. How will the industry adjust to the forthcoming changes? The topics in this session will include issues relating to alternative fuels, improving marine vessel emission inventory methods, emission reductions, and exhaust regulations. The session will also focus on supply chains and climate system impacts, including transportation in the arctic.

This will be a full 180 minutes session planned with two co-chairs and will include 6 speakers from a range of jurisdictions from industry and private practice as well as from governmental bodies.

3 Vessel and Infrastructure Finance and Ownership Structures. Thursday, October 12; 14.30-15.45.

Many family owned shipping businesses historically operated ownership structures based on bearer shares. However, the compliance environment has changed significantly in the last 10 years. Bearer shares were abolished in the UK in May 2015. In the US, ownership through bearer shares will require disclosure of the ultimate beneficial ownership except where the shares are publicly traded. Even in jurisdictions where the model is still available legally, and beneficial ownership is not a matter of public record, current due diligence requirements around anti-money laundering and compliance will require companies to identify their beneficial ownership to their financing banks and contractual counterparties. We will explore ownership structures in the modern compliance regime, and the extent to which these structures are driven by the financing that is available to shipping businesses in 2017. We will look at equity and debt financing and the nature of the modern relationship between the capital provider and the company, including the growing number of partnerships between ship managers and private equity providers and the allocation of risk and liability between them.

This will be a 75 minutes session planned with one chair and will include 4 speakers from a range of jurisdictions from industry and private practice.

4 Freight Forwarding in darker times. Thursday, October 12; 16.15-17.30.

Freight Forwarders face legal and operational issues when dealing with the collapse of a supply or logistics chain. The consequences of in particular a bankruptcy can be disruptive and severe. The logistics chain may come to a complete stop. Freight Forwarders' legal or contractual rights of retention, liens and the like in various jurisdictions are of particular interests for the industry. Also, the Freight Forwarders' contractual position as a 3PL or 4PL 'in the middle' between the Cargo Owner and the carrier causes lots of discussion. This session will dive into the various legal and operational challenges and will also offer solutions going forward.

This will be a 75 minutes session planned with one chair and will include 4 speakers from a range of jurisdictions from industry and private practice.