



CURACAO CARGO ATTACHMENTS



The Club and its Members are advised of the following recent development in Curacao, in the ABC Islands of the Dutch Caribbean.

Ship owners and operators who may be considering carrying cargoes to Curacao should consider that jurisdictions in the former Netherlands Antilles (Bonaire, Curacao, Sint Maarten, St. Eustatius and Saba) and Aruba are well known to be amenable to attachment and arrest of ships, cargoes and other assets. This has recently been implemented in Curacao in a form capable of causing significant disruption to the operation of vessels.

Certain creditors of the Venezuelan state oil company, PDVSA, which operates a former oil refinery, and oil storage facility, in Curacao, are seeking attachment of cargoes belonging or consigned to PDVSA on vessels arriving in Curacao waters.



The attachments are asserted:

- (a) to extend not only to the owner of the vessel carrying the cargo, but to associated parties, including parent companies, managers, operators, and others potentially holding assets capable of being subject to the attachment;
- (b) not to be restricted to the particular cargo on board the vessel served, but to extend to any property belonging to, or receivables of, PDVSA, in the hands of, or coming under the control of, the party served, anywhere in the world;
- (c) against multiple unrelated vessels pursuant to a single grant of leave by the court.

The sums claimed run to billions of US dollars. Court documents indicate that attached cargo is to be placed in the hands of a custodian. Curacao lacks capacity to accommodate substantial quantities of third party petroleum products in segregated storage, particularly when the PDVSA facility is excluded. Arrangements for viable storage have not been publicised. It is anticipated that vessels subject to service of attachments risk becoming floating storage for the cargo subject to the attachment.

The courts do not appear to have considered the potential impact on ship owners, who may incur substantial delays and losses while arrangements are worked out, or third party claims where cargoes, or vessels, are not delivered in accordance with contractual obligations.

For more information please contact:

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We are pleased to introduce Daniel Zahavi as Cariconsult lead in-house attorney for all legal matters in the Dutch Caribbean. Daniel qualified as an Attorney-at-Law in the Netherlands in 1996, and has been practising in the Dutch Caribbean islands since the year 2000. Rupert and Daniel have enjoyed working together on numerous matters in the Caribbean.

Daniel's presence complements the Cariconsult survey teams headed by Peter de Vries in Curacao for Cariconsult ABC Islands, and Captain Jan Drost in Sint Maarten for the SSS Islands.