

SHIP ARREST IN SINGAPORE



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Gillian Musgrave from the club's Singapore office says that we are frequently asked if it is easy to arrest a ship in this jurisdiction and how much it would cost. Bearing in mind that Singapore is one of the world's busiest ports as well as a key bunkering port, the question is an unsurprising one. It is the home of a mature and efficient court system with experienced Admiralty judges who can promptly handle arrest applications and related issues. It has also developed into one of the strongest arbitration centres in the world, and arrest actions to enforce either a Singaporean or a foreign arbitration claim is common. We hope that the following article will provide a useful summary of the position and answer some of the questions more commonly asked by our members.

Singapore is a favourable jurisdiction for ship arrests, given the high volume of maritime traffic, its position as an international maritime hub and its efficient legal system. This article will provide an overview of ship arrest in Singapore.

COMMENCEMENT OF PROCEEDINGS

Arresting a ship begins with filing an admiralty *in rem* writ in the Singapore High Court, which is the court vested with admiralty jurisdiction. The claimant must satisfy the court that its claim falls within a statutorily prescribed list of maritime claims (which list broadly gives effect to the 1952 Arrest Convention), as well as complying with other statutory requirements depending on the nature of the claim. The arrest of 'sister ships' is also possible but not of 'associated' ships.

It is generally advisable to file the *in rem* writ as soon as possible once the cause of action arises, to prevent an ownership change from defeating the claimant's right of action against the ship. As the Singapore courts operate an electronic filing system, it is possible to file a writ quickly and with relative ease, even after office hours or on non-working days if there is urgency.

WARRANT OF ARREST – FULL & FRANK DISCLOSURE

The claimant must apply to the court for an arrest warrant. The application is *ex-parte* (that is, only the claimant appears before the judicial officer) and is supported by affidavit evidence. It is a strict requirement that the claimant makes full and frank disclosure of all material facts relevant to the application, even if a fact is potentially adverse to the claimant. This is to enable the court to fairly decide whether or not to grant the application.

COUNTER-SECURITY – ARREST COSTS & EXPENSES

Counter-security does not need to be provided by an arresting party. However, the court will require an undertaking from the claimant's solicitors that undertakes to indemnify the Sheriff for the expenses incurred by him during the arrest process (such as, for example, the costs of posting a security guard on the arrested ship during the arrest). Typically, the legal costs to effect an arrest may range between S\$15,000 to S\$20,000, depending on the complexity and duration of the arrest. A major portion of these costs may however be recovered from the shipowner as costs of the litigation.

ARREST TO OBTAIN SECURITY FOR ARBITRATION

Under the Singapore Arbitration Act and International Arbitration Act respectively, a ship may be arrested in Singapore in order to obtain security for a claim subject to Singapore or foreign arbitration. As a result, Singapore is a popular jurisdiction for 'arbitration security' arrests.

ARREST OF TIME CHARTERERS' BUNKERS

Arresting time charterers' bunkers onboard a ship is generally not permissible under Singapore law, unless for example, the underlying claim against the bunkers is for salvage (such as claim attracts a maritime lien under Singapore law).

FORM AND QUANTUM OF SECURITY

A claimant is entitled to security for its reasonably arguable best case plus interest and costs, up to the value of the arrested vessel. Alternative forms of security that are generally accepted by the Singapore courts include letters of undertaking from any International Group P&I Club, guarantees from banks with an office or branch in Singapore or a cash payment into court.

RELEASE OF ARRESTED SHIP

Releasing a ship is a fairly quick process and can be achieved within two to three hours of filing the release papers in court (if released during normal court hours). Releasing ships outside of business hours is possible, but would require prior arrangements to be made for the judicial officer and Sheriff to attend in court to effect the release.

JUDICIAL SALE

If a ship is not released on the provision of alternative security, the court may order that the ship be appraised and sold upon granting judgment for the underlying claim. Alternatively, the court may also order the sale of the ship pending the outcome of the underlying litigation where there is good reason; for example, the continued or prolonged arrest of the ship may have an adverse, deteriorating effect on her value as security. A judicial sale may take place by public auction or private treaty, and has the effect of conferring on the purchaser clean title good against the world.

Incisive Law LLC is a Singapore law practice and alliance partner of Ince & Co Singapore, together known as the Ince Law Alliance. They regularly assist the club and its members on maritime legal issues, including ship arrest in Singapore. S. Mohan is the Joint Managing Director of Incisive Law LLC and a senior Singapore maritime lawyer.