



UCTshiplaw.com *bulletin*

N° 1/02

May 2002

In keeping with our undertaking to send UCTshiplaw.com *bulletin* on a regular basis the students of the shipping law LLM programme have compiled this exciting issue. We have included various articles and news of updates to our UCTshiplaw.com website. You may access these directly by clicking on the hyperlink provided - but please take the time to browse through the site. We know you will find it full of interesting surprises.

As always, we would welcome any suggestions you may have on how we can improve the Bulletin or our website. Please e-mail your comments to shiplaw@law.uct.ac.za

SHIPPING LAW UNIT NEWS

ROB KNUTZEN

The Shipping Unit is pleased to announce that Rob Knutzen has joined the UCT Shipping law staff as a part time teacher in the shipping law masters programme. Rob and Prof Hare will share the teaching of both Carriage of Goods by Sea and Maritime Law during the second semester. Rob graduated from UCT in 1970 and went on to do his BCL at Oxford before teaching at the University of Canterbury in New Zealand. He then joined Ince & Co in London for several years before going on to become President and CEO of Golden Ocean Group, one of the world's largest independent shipowners. His wide-ranging and 'top-notch' experience will undoubtedly be of great value and inspiration to both the staff and the students of UCT. For further details see www.uctshiplaw.com/staff.htm

GRAHAM BRADFIELD ...

has returned from Australia and has joined Deneys Reitz. Graham is taking up his Maritime Law LLB course again in the second semester as part-time teacher with us. Graham developed the course many years back, and taught it until 2000. We and our LLB students are delighted to have him back.

STEPHEN GIRVIN ...

who has been with us for the past two years to teach Carriage of Goods by Sea, last year as Visiting Professor of Shipping Law, has been appointed Associate Professor at the National University of Singapore from the second semester of this year. Congratulations to Stephen. We will be keeping up contact with him, and hope to have him back with us as an occasional teacher once he has settled in at NUS.

ADMIRALTY MOOT



On 14 May 2002 the admiralty class mooted against each other in the Oliver Tambo Moot Court. Advocates Peter Hazell SC (left) and Mike Wragge (right) supported the respective sides and acted as “opstokers” in the debate. Professor John Hare (far right) presided over the moot. Much fun was had by all.

COMPARATIVE SHIP ARREST VIDEOCONFERENCING LINKS

This year’s LLM Admiralty students have had the benefit of UCT law faculty’s new Oliver Tambo Moot Court video conferencing facility by being able to attend a series of comparative ship arrest lectures on-line via the “big screen.” Professor Martin Davies from Tulane Law School and Dr Stephen Girvin of the University of Nottingham presented guest lectures on ship arrests in the US and England/ Wales, respectively. The overseas and South African classes were able to ask questions during the lectures without a time delay and could discuss issues face-to-face, so to speak. The students have experienced the sessions as an exciting and informative way of coming to grips with ship arrest in other jurisdictions. The trans-national classroom interaction was also a novel cultural experience. One overseas student could not resist asking whether it is true that South Africa has 11 official languages... viva to global interaction beyond territorial waters!



Two German shipping law students, Sigrid Wettwer & Sven Deters enjoying a glass of port after the Admiralty debate in the Oliver Tambo Moot court

WEBSITE NEWS

WHAT'S NEW ON THE SITE?

We have had an excellent crop of student dissertations in the 2001/2 academic year covering topics as diverse as Deviation in Carriage Law, Good Faith in Marine Insurance, Identification of the (Contr)actual Carrier, Subsidisation of the Korean Shipyard Industry, Title to Sue at the Dawn of the Sea Transport Documents Act, and Employment Equity and Affirmative Action in the SA Shipping Industry. As results are finalised, short synopses of these and other works are being added to our site's database of research dissertations. Full texts of most are available from the Unit on request, usually by email. Check our database at <http://www.uctshiplaw.com/rschdiss.htm>

We have hundreds of useful and interesting links on our site - and more are added every week. Please let us have details of any you may have found. Our *Link of the Month* is [The Admiralty and Maritime Law Guide](#) which includes over 1,500 annotated links to admiralty law resources on the Internet and a growing database of admiralty case digests and opinions, arbitration award abstracts and international maritime conventions. Its well worth a visit.

Past students of Marine & Shipping Law are encouraged to visit our [Alumni Cyberhome](#), and through its pages to let us have updates of what you are doing and where you are doing it!

RECENT & UNREPORTED CASES

A continuously updated list of recent judgements in the Supreme Court of Appeal and the High Courts at Durban and Cape Town may be found at www.uctshiplaw.com/unrepcas.htm most with a short synopsis, accessed by clicking on the name of the vessel. Full text judgements are available in PDF format.

The most recent decisions and summaries to appear on the site are:

- **The [Merak S Appeal](#)**
- **The [Bunga Mas Tiga](#)**
- **The [Ivory Tirupati](#)**
- **The [Delta Peace](#)**
- **The [Stella Tingas](#)** – summary now available
- **The Heavy Metal Appeal** - we have put a "[Heavy Metal Made Easy](#)" on site to help unravel the facts of the case.
- **The Millenium Amanda** will be posted to the site during this week. Go to <http://www.uctshiplaw.com/unrepcas.htm>

LEGISLATION

The long awaited **Ship Registration Regulations, 2002** to the [Ship Registration Act](#) (58 of 1998) have now been published. The regulations are available in the: Government Gazette No. 23345, volume 442, dated 26 April 2002/Regulation Gazette No.7336 in parts 1 and 2. We are endeavoring to put a copy of the voluminous regulations on our website. The commencement of the Act is still on hold as SAMSA awaits the ship licensing regulations which will replace the current licensing of smaller craft in terms of section 68 of the Merchant Shipping Act. Data capture required for the computerisation of a centralised register of ships is now complete.

The [Sea Transport Documents Act](#) has still not been signed into law by the President. We understand that commencement papers were sent to the President's office many months ago.

Also still in the bureaucratic pipeline is accession to the Fund Convention on oil pollution liability - which has a year's lead in time, and without which SA remains appallingly under-covered for oil pollution claims. Prof Hare wrote an open letter to the Minister of Transport earlier this year. The Minister replied, thanking for our interest, but indicating that this matter has not previously been brought to his attention. In fact, the SA MLA and Prof Hare have been pushing for accession to the Fund Convention since 1994. The Government has been singularly remiss in failing to appreciate the enormity of the problem. Previous accession papers which had been processed at SAMSA's behest were lost by the relevant Government departments.

A copy of Prof Hare's press letter will this week be added our site at <http://www.uctshiplaw.com/fund.htm>. Spare a moment to read it, and then use all the influence you have to try to make the Government do something about it!

The proposed [amendments to sec 11](#) of the Admiralty Jurisdiction Regulation Act, dealing with ranking, seem to have got stuck in the pipe altogether. Without the proposed ranking changes, promoting the mortgagee, it remains unlikely that the world's ship financiers will consider SA mortgages as decent security.

ARTICLES

M.V. "BUDI AMAN"

On the night of Monday 25 March 2002, 28 containers aboard the m.v. 'Budi Aman' dislodged and plunged into Table Bay, off the Cape Peninsula. Each of the containers weighed in at around forty tonnes. It is said that an enormous swell had caused the vessel to roll, when she was at anchor some five nautical miles off Cape Town Harbour, thereby causing the containers to topple into the sea.

These floating containers pose a great risk to traffic leaving the port as they have a tendency not to sink immediately, but to float just beneath the surface of the water. They

are very difficult to spot and may not be detected by radar. When hit at speed a vessel could very likely come to a watery grave.

The m.v 'Budi Aman' was on her way from West Africa to Singapore. Pentow Marine tugs were immediately dispatched to salvage the containers but heavy seas made for tough conditions and in the region of 12 containers were recovered. Many of the cotton carrying containers landed up on the beach at the seaside suburb of Milnerton on the other side of the bay. Pentow Marine has advised that environmental damage is unlikely bearing in mind the nature of the cargo.

That said, is it not just another warning bell for South Africa to accede to the 1976 International Convention on Limitation of Liability? [By: P J Veldhuizen](#)

“PROJECT WILLS”

This photo of the Brazilian submarine “Tupi” was taken during Simon’s Town’s 80th SA Navy Festival held in March of this year. The s. “Tupi” was submerged for its entire journey from Rio de Janeiro to Simon’s Town totaling over 500 hours and breaking the distance record of a Brazilian submarine voyage. The submarine is a class 209 model, being of the same class as the submarines purchased from Germany by South Africa. The SA-Germany procurement contract named “Project Wills” (a randomly chosen name) became effective in June of 1999 and entails the acquisition by the South African Navy of three class 209 submarines from Germany. The South African submarine model will be slightly smaller than the s. “Tupi”, with a submerged displacement of 1400 cubic meters and the interior will be custom made according to South Africa-particular specifications.



[By: Arabella Bennett](#)

FULL STEAM AHEAD FOR SOUTHERN TANKERS

Southern Tankers (Pty) Ltd. has ordered a new tanker from the Shina yard in Tongyong, South Korea at a cost of \$ 30 M. The new tanker is expected to transport a million tons of petroleum products annually around the South African coast. Even though her design or technology is not innovative; the ship nevertheless acts as a symbol of social and political change in South Africa.

Southern Tankers (Pty) Ltd. is a joint venture of two Durban-based companies, Unicorn Tankers and Dudula Shipping, with the purpose of creating a new petrochemical shipping and procurement services company. Unicorn Tankers is a company that has gained experience in this area for a long time and Dudula Shipping, which was formed in 1997,

is the leading black-owned empowerment company operating within the South African shipping industry following the awarding of an agency contract involving the importation of 2M barrels of crude oil from the Arabian Gulf. Dudula Shipping has pursued a strategy of forming partnerships with companies already established within the maritime industry. Dudula has, together with Smit Pentow Marine, employed the services of a bunker barge at the port of Richards Bay and they also have a joint venture in off-shore supply to the oil fields at Mosselbay. Consequently the co-operation with Unicorn Tankers became the next logical step.

The new company, Southern Tankers (Pty) Ltd has three main areas of focus namely:

- Ship-owning and operating
- Provision of a logistics and procurement service
- Provision of bunkering services

Southern Tankers (Pty) Ltd expects delivery of the new tanker early in 2004. Until then the company will have to charter in a vessel to be able to fulfill their transport obligations. The company has contracted with two oil giants, BP and Shell on a five-year basis; the contractual obligations will commence November 2002. Ownership of a vessel will give Southern Tankers the opportunity to invest in training its own seagoing staff. Southern Tankers plans to train cadets to become qualified officers, deck and engine room operators and wants their training to be of an international standard.

This step is expected to contribute significantly to employment in that some 40 South Africans will have the opportunity to develop seafaring and other related skills. This development will furthermore go along with governmental requirements set out in the South African Employment Equity Act, which is aimed at redressing the inequalities of the past. Accordingly the whole project is intended to provide support for the economic empowerment of historically disadvantaged groups in the South African society.

By: Volker Luecke

ENDQUOTES

“My father once told me that all you need to succeed in the law is a certain amount of common sense and clean fingernails.” – **John Mortimer, English Lawyer and Writer.**

“The ideal client is a wealthy man in very great trouble” – **John Sterling, American Lawyer.**

© UCTshiplaw.com*bulletin*

Editor: Arabella Bennett
(abennett@law.uct.ac.za)

Committee:

P J Veldhuizen (pj@gvinc.law.za)
Volker Luecke (vluecke@gmx.de)