

**REPLY BY THE MEXICAN MARITIME LAW ASSOCIATION TO THE CMI QUESTIONNAIRE
OF 27 MAY 2015 ON THE STUDY RELATING TO LIABILITY FOR WRONGFUL ARREST**

I. International Conventions:

(a)

- (i) Mexico is not part to the Arrest Convention 1952 but it was incorporated in our internal legislation.
- (ii) Mexico is not part to the Arrest Convention 1999
- (iii) Mexico is not part to the Maritime Liens and Mortgages Convention 1926
- (iv) Mexico is not part to the Maritime Liens and Mortgages Convention 1993 but it was incorporated in our internal legislation.

II. Questions relating to wrongful arrest

- 1. Security must be provided to obtain an arrest order and quantity is set entirely according to the Judge criteria.
- 2. The arrestor will be liable for damages for the mere rejection of the claim, however the amount of damages must be proven at Court and that those damages are a direct and immediate consequence of the arrest.
- 3. The Superior Court decision will be the one that prevails in order to determine if arrestor is liable or not for damages.
- 4. The arrestor will be liable for damages if the arrest claim could not be enforced. If negligence, bad faith or gross negligence is proven, then the amount of damages to be awarded will be increased accordingly.
- 5. The arrestor will be liable for any expense incurred in connection for a grossly exaggerated claim, always provided that such extra expense is duly proven at Court and that those damages are a direct and immediate consequence of the grossly exaggerated claim. If negligence, bad faith or gross negligence is proven, then the amount of damages to be awarded will be increased accordingly.
- 6. If any of the causes for arrest mentioned in the 1952 Arrest Convention occurs, which was incorporated in our internal legislation, is enough for a vessel to be arrested and if claim is successful, no wrongful arrest can be claimed based on an entity being largely solvent or regular calls at Mexican ports occur. Only in cases

of Mexican Government Owned entities (i.e.- Pemex), arrest is not possible as they are considered solvent.

7. Only those mentioned above are causes for liability for wrongful arrest.
8. No, only damages can levied upon arrestor, understanding for damages, the direct damages, consequential damages, loss of profits, etc.
9. Mexican Courts will apply Mexican legislation for the arrest and will enforce any decision of competent foreign courts/arbitration panels as issued by the competent courts/panels.

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President
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