

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

I – INTERNATIONAL CONVENTIONS:

Maritime Warranties (Maritime Liens and Mortgages) and Arrest of Ships - Decision 487 - Andean Community of Nations CAN (February 5th 2001).

II – QUESTIONS RELATING TO WRONGFUL ARREST:

1. There is no obligation in our legislation to provide a security in order to arrest a vessel or maintain it. Nevertheless the Tribunal has the faculty to impose and obliged the claimant to provide it in the amount the Tribunal consider sufficient.
2. No. The Court competent to determine the scope of responsibility of the arrestor, for any loss or damage caused by the seizure of a ship, in particular but not exclusively, when the arrest was illicit or unjustified for having ordered and paid excessive security. (Art. 51 Decision 487 CAN).
3. The actual Civil Procedure Code establishes that if the arrestor loses the ship arrest claim he will be ordered to pay cost and damages. (Art. 904 Civil Procedure Code). Note that the “Civil Procedure Code” will be derogated by the “General Procedure Code” in May 22nd 2016. A similar provision as Art. 904 above cited, is not contained in this new code. Nonetheless, the arrestor will be responsible in the terms of Art. 51 Decision 487 CAN.
4. Yes, in the terms of Art. 51 Decision 487 CAN as referred in question 2.
5. Yes, in the terms of Art. 51 Decision 487 CAN as referred in question 2.
6. No. Ecuadorian laws do not establish that possibility and we are not aware of case law precedents with a similar resolution.
7. No.
8. No.
9. Lex fori arresti.