

发件人: Escritório Jurídico Carbone [ejc@carbone.com.br]
发送时间: 2011年9月23日星期五 0:20
收件人: henryhaili@yahoo.com.cn
主题: CMI - Judicial Sales of Ships
Dear Prof. Henry Li,

The members of the Brazilian Maritime Law Association (ABDM) met on the 14th instant to discuss our position in respect of the draft Instrument above, to be upheld by Mr Goulart, our representative to the Meeting of the 27th instant in Oslo.

We have come to the conclusion that some articles of the Draft should be better considered and reviewed, as far as the prospects of any possible Brazilian adhesion in the future is concerned.

First of all, the Draft does not contemplate the principle that no foreign judgment shall be valid in Brazil unless our Superior Court of Justice grants it the required *exequatur* (article 483 of the Brazilian Civil Procedure Code). This point of law may be deemed untouchable, as it concerns the constitutional matter of national sovereignty.

The second point regards the "Notice" to the creditors. Sections 615-II, 619 and 698 require formal and personal notification for any auctions, including the judicial sale of ships, in the manner set out in the Code. Also, public notices published in the territory and in the language other than those of the national interested parties do not satisfy the requirements of Brazilian law, nor notices to an Embassy or Consulate would be deemed to fulfill such requirements.

Finally, if the state where the judicial sale takes place is not a party to the Brussels Convention 1926 on maritime liens and mortgages, it may happen that some creditors be deprived from their rights for any liens as set out in the said Convention, but not recognized by the state where such judicial sale takes place.

We would appreciate that the foregoing will deserve the necessary attention on the part of ISC.

Yours faithfully,

Artur R. Carbone
Presidente of Brazilian MLA

Escritório Jurídico Carbone
Av. Rio Branco, nº 109/14º andar
Centro -RJ. CEP.: 20040-004
Tel.: (21) 2253-3464

Nenhum vírus encontrado nessa mensagem.

Verificado por AVG - www.avgbrasil.com.br

Versão: 10.0.1410 / Banco de dados de vírus: 1520/3912 - Data de Lançamento:
09/22/11

--

Esta mensagem foi verificada pelo sistema de antivírus e
acredita-se estar livre de perigo.