

## 1. MARITIME AND OTHER CONVENTIONS

### 1.1. Has your jurisdiction ratified the 1952 and/or the 1999 Arrest Convention or neither?

Finland has ratified the International Convention relating to the Arrest of Sea-Going Ships 1952 on 21 December 1995 and it is incorporated into the Finnish Maritime Code.

In addition, Finland has signed the International Convention on the Arrest of Ships 1999 on 31 August 2000 but the convention has not yet been ratified.

### 1.2. If your jurisdiction has not ratified either of the aforementioned conventions, what categories of claim can be brought by way of arrest of a vessel?

n/a

### 1.3. In particular, can arrest be made:

#### a) by a mortgagee of a vessel registered under the laws of your jurisdiction?

Yes. However, an arrest is not applicable if the applicant is domiciled in Finland and the vessel in question is registered in the Finnish Register of Ships or if the claim is of a public nature.

#### b) by a mortgagee of a vessel registered under the laws of a different jurisdiction?

Yes.

### 1.4. Has your jurisdiction ratified the 1926 and/or the 1993 Maritime Liens and Mortgages Convention or neither?

Finland has signed the 1993 Maritime Liens and Mortgages Convention.

### 1.5. If your jurisdiction has not ratified either Maritime Liens and Mortgages Convention does your jurisdiction recognize foreign maritime liens? If so what types of claim are recognised as maritime liens?

Finland recognises maritime liens. The claims secured by a maritime lien are listed in the Maritime Code, Chapter 3 which corresponds to the list in the International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages of 1967

### 1.6. Does the law of your jurisdiction incorporate the 1961 Hague Convention Abolishing the Requirement for Legalisation of Foreign Public Documents?

Finland has ratified the 1961 Hague Convention Abolishing the Requirement for Legalisation of Foreign Public Documents.

## 2. NATURE OF THE SHIPS' REGISTER

### 2.1. Is the ships' register in your jurisdiction a register of legal title?

Yes it is.

### 2.2. Does the ships' register in your jurisdiction (whether or not a register of legal title) provide for registration of the interest of a demise charterer in circumstances where legal title is registered in another jurisdiction (the 'underlying register')?

No, the ships' register in Finland does not provide for registration of the interest of a demise charterer.

**2.3. If your jurisdiction does provide for registration of the interest of a demise charterer, does it provide for registration or notation of a mortgagee registered on the underlying register?**

n/a

**2.4. Does your jurisdiction allow a vessel registered in the ships register in the name of the holder of legal title also to be registered in another jurisdiction in the name of a demise charterer? If so is such registrations permitted when the vessel is subject to a mortgage registered in the ships' register in your jurisdiction and is the consent of the mortgagee required?**

**2.5. Please describe (briefly) the criteria for registration of a vessel on the ships' register in your jurisdiction, with particular reference to eligibility or not for registration of different types of assets employed in offshore oil and gas exploration, production, processing and storage.**

According to the Finnish Register of Ships Act, Finnish vessels engaging in merchant shipping with the length of 15 meters and upwards must be registered in the Finnish Register of Ships. Vessels falling below this length requirement with a length of 10 meters minimum may be registered voluntarily. The Finnish Register of Ships Act does not regulate the registration of different types of assets employed in offshore oil and gas exploration, production, processing and storage.

Vessels under construction in Finland may be registered in the Register of Ships under Construction if the vessel will fulfil the requirements for registration once complete. This is the case even if the vessel is intended to be taken abroad for registration after the building is completed. It is also possible to register vessels prior to the start of construction, provided that the vessel can be identified by means of hull number, blueprints or other reliable way.

### **3. FORMALITIES FOR MORTGAGE REGISTRATION**

**3.1. Does a mortgage in respect of a vessel registered in your jurisdiction need to:**

**a) attach documents, such as a loan agreement, evidencing the obligations secured?**

The following attachments are needed:

- Ship mortgage application (original or copy)
- Power of attorney (if the applicant is not the owner)
- Original bond(s)
- Mortgage decision (internal decision by corporate body) (copy)
- Consent from the ship owner (if necessary)

**b) set out in detail the circumstances giving rise to a right of enforcement?**

No

**3.2. Does a mortgage in respect of a vessel registered in your jurisdiction need to be notarised and/or legalised?**

A ship mortgage is registered upon application and pursuant to the terms and conditions agreed upon by the debtor and creditor. The Trafikverket is the registration authority for ship mortgages and is required to ensure that the agreement has been drawn up in accordance with current legislation and regulations and that the interests of all parties are safeguarded.

**3.3. What are the registry fees in order to have a mortgage registered against a vessel registered in your jurisdiction?**

Registration fee of a ship mortgage is 225 €.

**3.4. Is registration indefinite or is there any requirement for re-registration after a certain period?**

A ship mortgage is valid for 10 years unless renewed or cancelled. Renewal must take place within 10 years of the date on which the mortgage is registered or the date on which the mortgage was most recently renewed.

**3.5. In your jurisdiction is a mortgage of a vessel required to be registered only in the ships register or, in addition, in another register? If so, please give brief details.**

No other registration is required.

**4. INFORMATION CONCERNING SECURITY INTERESTS IN SHIPS**

**4.1. Please advise if information concerning security interests in ships registered in your jurisdiction is publicly available, and if so, how it may be obtained, including the following issues, as applicable.**

**a) Does a person seeking such information need the authorization of the vessel owner to get such information?**

Data entered in the Register of Ships are public. Information on whether there is a mortgage on a particular ship can be obtained by anyone by phoning the registration authority. Detailed information on encumbrances on a particular ship may be obtained for a fee from the officials who handle matters pertaining to the Register of Ships. Orders for encumbrance certificates must be submitted in writing, for instance by fax or e-mail.

**b) Does your jurisdiction certify the accuracy of the information?**

An application which is pending but has not been processed has no legal impact except for the registration of mortgages. Once an application is pending, a mortgage on the ship may not be registered on the basis of an application or consent from the previous owner. There is no legal impact on registration. Under chapter 1 section 5 of the Maritime Act, title in a ship is transferred by agreement and pursuant to the terms of that agreement; registration does not compensate for imperfect acquisition.

**c) How much time is generally required to obtain such information?**

See answer in question 4.1 a).

**4.2. May a vessel subject to a security interest be sold by the owner prior to the release of the security interest, and if so, under what conditions or circumstances.**

**5. ARREST OF A CHARTERED VESSEL**

**5.1. Does your jurisdiction allow a mortgagee to arrest vessels on bareboat charter or time charter?**

It is not possible to arrest bare-boat or time-chartered vessels if the charterer is solely liable for the claim.

**5.2. Under the laws of your jurisdiction, could the mortgagee incur any liability in tort, delict (or similar) to charterers or cargo interests if the mortgagee arrests the vessel when it is subject to charter and/or carrying cargo (on the grounds of interfering with the contractual relationship between owner and charterer or bill of lading holder)?**

**5.3. What are the procedures or requirements, if any, applied to the cargo on board a vessel that has become subject to judicial sale in your jurisdiction? Must the cargo be discharged before sale, and if so, who bears the costs and risks of such discharge?**

**6. PRIORITY ISSUES BETWEEN MORTGAGES REGISTERED IN THE SHIPS' REGISTER IN YOUR JURISDICTION**

**6.1. Does your jurisdiction have a system of "priority notice" to enable priority to be reserved for a period before actual registration of the mortgage?**

No.

**6.2. Once a mortgage is registered in your jurisdiction is it possible for a subsequent mortgage to be registered without the consent of the first registered mortgagee?**

Yes.

**6.3. When there are two or more registered mortgages what determines their priority?**

The priority is based on the date of registration. Earlier registration ranks higher in the order of priority. In case the mortgages are registered on the same date, the rights of mortgagees are equal.

**6.4. Is there any doctrine of notice such that the priority of a registered mortgage is deferred to that of an earlier but unregistered mortgage of which the registered mortgagee has notice?**

No.

**6.5. Can a second registered mortgagee exercise enforcement remedies without the consent of the first registered mortgagee?**

It is always possible to apply, but the application does not change the priorities.

**6.6. Does your jurisdiction have a system for registration of security or liens other than mortgages, whether consensual or non-consensual? If so, please describe.**

No

**7. GENERAL ENFORCEMENT ISSUES**

**7.1. Does your jurisdiction make a distinction between the enforcement of mortgages registered under the flag of your jurisdiction and the enforcement of any other foreign mortgages?**

No.

**7.2. Is it necessary for the mortgagee to obtain a judgment in your jurisdiction on its claim under the loan agreement or other applicable debt instrument before it can enforce that mortgage?**

Yes.

**7.3. If so, how long is it likely to take to obtain a judgment if the claim is contested? Will the local court expedite the proceedings having regard to the ongoing costs of maintaining the vessel?**

**7.4. Will the court in your jurisdiction accept jurisdiction for the mortgage claim under Article 7 1952 Arrest Convention, or equivalent domestic legislation in your jurisdiction?**

**8. JUDICIAL DECISIONS AND APPEALS**

**8.1. Do all courts in your jurisdiction have authority to sell vessels free of maritime liens and prior claims, or is such authority limited to special courts, such as admiralty courts?**

In Finland the execution officers have authority to sell vessels

**8.2. What formalities, including evidence of claim, or evidence of notice, are required to affect the sale of a vessel free of liens and prior claims?**

**8.3. If the owner presents an appeal against judgment, will the court make an order for sale of the vessel before that appeal has been heard and decided?**

The appeal does not stay enforcement unless provided otherwise in the law or the court orders a stay.

**9. SALE PROCEDURE**

**9.1. Can a mortgagee enforce his mortgage in your jurisdiction by applying for a judicial sale by auction?**

Yes, once the mortgagee has a judgment.

**9.2. What are the criteria for an application for a judicial sale by auction and what is the procedure and timetable for such an application and sale?**

Judicial sale is applied for at the enforcement authority by a written application to which a document showing the ground for execution, i.e. an enforceable judgment or arbitral award, has been attached. Once judicial sale has been granted an amount of the defendant's property corresponding to the value of the creditor's claim will be distrained and liquidated. The procedure generally lasts at least 2 to 3 months.

**9.3. Will the court in your jurisdiction order a sale of the vessel pending judgment (pendent lite), recognising that the vessel is a wasting asset?**

The main principle under Finnish law is that it is not possible to sell the ship pendente lite. According to the Finnish Judicial Enforcement Act, if property which is subject to rapid deterioration or which is expensive to retain in custody has been arrested but the court has not yet given a judgment, the Bailiff is entitled to sell such property at the request of the claimant. In theory these principles may apply also to vessels under arrest.

**9.4. Will the court in your jurisdiction fix a minimum bid price (reserve price) for the vessel and will the amount of that minimum bid price be disclosed to interested parties? What happens if the maximum amount bid for the vessel is lower than the reserve price?**

No minimum bid price is fixed. However, the bailiff may not accept the highest bid in an auction of a vessel if in the bailiff's assessment that bid is clearly less than the current price of the vessel at the locality.

**9.5. Can the owner or other creditors influence the amount of the reserve price?**

No.

**9.6. What arrangements will be made for public advertisement of the sale?**

An announcement of an auction shall be published in one or more newspaper with general circulation in the locality. In addition the notice may be published in a national newspaper,

another publication or an information network if this is necessary. If there is a compelling reason for this, an announcement of an auction may be made in a sufficiently effective manner other than publication.

Also a sale brochure shall be prepared indicating information essentially affecting the sales and the conditions of sale. The general conditions of the auction shall be attached to the sale brochure. A presentation shall be arranged before the sale, unless this is unnecessary. The person who has possession of the property to be sold is obliged to permit the presentation.

**9.7. To what extent is it possible for the owner or other creditors to influence the timetable or procedure for sale?**

**9.8. Can a mortgagee enforce its mortgage in your jurisdiction by applying for a court approved private sale? If so, what are the criteria for an application requesting the court to approve a private sale and what is the procedure and timetable for such an application and sale?**

**9.9. Can a mortgagee bid its debt (animo compensandi) so as to allow a set off of the debt against the purchase price (and provide security for the claims of potential prior lien holders)? Or does a mortgagee (or its preferred bidder or buyer) have to pay the full price in cash?**

## **10. SALE PROCEEDS**

**10.1. Will the sale proceeds be held in an interest bearing account?**

- a) **Will they be held in the currency of the sale or will they be converted into local currency?**
- b) **Will the proceeds of sale ultimately be subject to any exchange control or similar restrictions (and/or court fees) when they are paid out? If so, what is the procedure and likely timetable for obtaining permission to remove the funds?**

## **11. PRIORITIES GENERALLY**

**11.1. Are priorities determined under local law (lex fori), or the law of the jurisdiction in which the claim arose (lex causae), or the law of the flag of the vessel?**

**11.2. If local law, where does the mortgagee rank amongst other maritime claims in the order of priority and which are those claims which rank prior to the mortgagee. Do the claims which rank ahead of a mortgage in your jurisdiction vary depending on whether the mortgage is:**

Claims secured by a maritime lien rank highest in the order of priority. Subsequent come claims secured by a right of retention, claims secured by a right of lien (mortgagee), then unsecured claims. Costs of enforcement and sale fees are paid from the proceeds prior to performance of any claims.

- a) **a mortgage of a vessel registered under the laws of your jurisdiction?**
- b) **a mortgage of a vessel registered under the laws of a different jurisdiction?**

**11.3. Are there any special rules on priority for local creditors?**

No.

**11.4. Is it necessary for claimants to introduce their claims prior to the date of sale or within some specified period thereafter?**

Mortgages of a vessel are registered, therefore the bailiff should take them into consideration without the mortgagee's introduction. Other claims are not registered so claimants have to introduce their claims in a meeting of the parties that is organized by the bailiff.

A meeting of the parties shall be arranged at the latest two weeks before the. The debtor, the applicant and the joint owners as well as all the known creditors and holders of a special right who have a right of lien or other right to be entered into the list of parties shall be invited to the meeting of the parties (participants in a meeting of the parties). The invitation to the meeting of the parties shall be sent at the latest four weeks before the meeting.

**11.5. What is the timetable leading up to the distribution of the proceeds of sale?**

**11.6. Is the distribution order decided by the court?**

No, the distribution order is decided by the bailiff.

**11.7. Is that order subject to a right of appeal?**

An enforcement measure or a decision of the bailiff is subject to appeal by the person whose right the measure or decision affects. After the closing remittance, an appeal is allowed only for an error in the remittance.

**12. MORTGAGEE'S SELF-HELP REMEDIES**

**12.1. Under the laws of your jurisdiction does a vessel mortgage governed by and registered in accordance with such laws give the right to take the following enforcement steps without a court order in your jurisdiction?**

- a) to take possession of the vessel;  
No
- b) to appoint a receiver, manager or other party to operate the vessel;  
No
- c) to sell the vessel as mortgagee;  
No
- d) to sell the vessel as attorney in fact of the owner.  
No

**12.2. If, under the law of the ships' register (where that is a different law from the law of your jurisdiction) a mortgagee is given the right to take the enforcement steps referred to at (a) — (d) of 12.1 without a court order would its right to do so be recognised or prohibited in each case in respect of a vessel physically located in your jurisdiction?**

**12.3. Where answers to the questions in 12.2 are negative would the answers be different in each case if a court order were obtained in the jurisdiction of the ships' register?**

### **13. INSOLVENCY PROCESSES**

**13.1. Has your jurisdiction adopted the UNCITRAL Model Law on Cross-Border Insolvency?**

No

**13.2. Do the laws of your jurisdiction provide for recognition of foreign insolvency proceedings? (if the UNCITRAL Model Law has been adopted, in addition to its provisions)**

**13.3. Do the laws of your jurisdiction provide that the enforcement of rights of secured creditors (such as the mortgagee of a vessel) can be stayed or suspended during applicable insolvency proceedings?**

**13.4. Is the answer to 13.3 different if the insolvency proceedings did not originate in your jurisdiction but are foreign insolvency proceedings (being recognised in your jurisdiction by whatever means)?**

**13.5. If the mortgage over a vessel located in your jurisdiction is being enforced through a maritime court sale in circumstances where the owner of the vessel is subject to insolvency proceedings in your jurisdiction, do the maritime court sale proceedings take precedence over the insolvency proceedings, or vice versa?**

If assets of the bankruptcy estate have been distrained before the beginning of bankruptcy, the enforcement shall be stayed and the distrained assets and the possibly accrued funds remitted to the estate, unless the estate requests that the enforcement be resumed on its behalf. If the sale of the distrained assets has been announced before the beginning of bankruptcy, the enforcement may be stayed only if the estate so requests. If the enforcement is resumed or an already announced sale is cancelled at the request of the estate, the estate shall bear the costs of the enforcement.

**13.6. Is the answer to 13.5 different if the insolvency proceedings did not originate in your jurisdiction but are foreign insolvency proceedings (being recognised in your jurisdiction by whatever means)?**

**13.7. If a vessel is sold in your jurisdiction through a maritime court sale is the mortgagee's claim to the sale proceeds subject to the risk of the mortgage being challenged or set-aside by applicable insolvency claw-back rules for transactions prior to insolvency?**

The Act on the Recovery of Assets to a Bankruptcy Estate provides claw-back rules for transactions prior to insolvency.

**13.8. Is the answer to 13.7 different if the insolvency proceedings did not originate in your jurisdiction but are foreign insolvency proceedings (being recognised in your jurisdiction by whatever means)?**

**13.9. Do the insolvency courts of your jurisdiction have, or claim, extraterritorial jurisdiction, such as over vessels located in a different jurisdiction? If so, how?**

### **14. LEASING**

**14.1. In your jurisdiction is leasing of vessels common as a method of financing?**



**14.2. Do the laws of your jurisdiction give effect to a lease in accordance with the form of the document (formal approach) or is there a risk they will re-characterise certain leases as security interests (functional approach)?**

**14.3. If the laws of your jurisdiction adopt a functional approach (14.2) please describe briefly how this is applied; also, please say whether your courts would adopt a functional approach even where the governing law of the lease follows the formal approach.**

**14.4. Do the laws of your jurisdiction permit the parties to the lease of a vessel governed by that law to expand by contract the rights and remedies of the lessor on default by the lessee? Or are such rights and remedies provided for exclusively by law?**

Leasing of vessels is not governed by special legislation. Therefore the parties can agree on the right by agreements.

**14.5. Do the rights and remedies of the lessor of a vessel include steps to terminate the leasing and re-take possession of the vessel through self-help or is this only possible in your jurisdiction with the assistance of the court?**

Depends on the agreement.

**14.6. Under the laws of your jurisdiction is a leased vessel considered to be an asset of the lessor or the lessee, or both?**

It is considered to be an asset of the lessor.

**14.7. Under the laws of your jurisdiction what impact would an insolvency process (or different processes) in respect of the lessee have on the rights and remedies of the lessor of a vessel? Is this affected by the type and terms of the lease?**

**14.8. Under the laws of your jurisdiction can a lessor arrest a vessel which it leases? Can it join in arrest proceedings initiated by a third party?**

There is no special legislation with regard to lessor's possibility to arrest a vessel which it leases. Vessels are arrested in accordance with the Maritime Code.

**14.9. Under the laws of your jurisdiction what priority is given to the rights of a lessor of a leased vessel as against third parties with maritime liens/claims?**

There is no special regulation with regard to lessor's priorities.

**14.10. Do the laws of your jurisdiction recognise registered leases in respect of vessels registered in a different jurisdiction? If so, please give brief details.**

**14.11. In your jurisdiction is there generally a wish to promote leasing of vessels, including by reforming the law? If so please provide a brief explanation.**

## **15. RESERVATION OF TITLES**

**15.1. Do the laws of your jurisdiction treat the holder of title under reservation of title as the holder of a security interest?**

Yes.

**15.2. Do the laws of your jurisdiction provide for reservation of title arrangements to be registered in the ships' register in any way different from a standard registration of the holder of title as registered owner? If so, please give brief details.**

No.

**15.3. If the laws of your jurisdiction do provide for reservation of title arrangements to be registered as referred to in 15.2, what rights and remedies are given to the holder of title?**

**15.4. Do the laws of your jurisdiction recognise foreign reservation of title arrangements of a type referred to in 15.2? If so, please give brief details of how these arrangements would be recognised.**