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Law Offices of Countryman & McDaniel
THE CARGO LETTER [458]
Air & Ocean Logistics - Customs Broker News
30 Sept. 2009
Part 1 of 1
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Good Wednesday Evening from our Observation Deck.....overlooking the officially designated "Cargo City" area and..... Runway 25-Right, at **Los Angeles International Airport**, voted "**Best Cargo Airport in North America.**" **Here is what happened in our industry during Sept. 2009**

We're back from FIATA 2009 at Geneva! A great time for International forwarders & brokers!
www.fiata2009.com/

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Contribute your knowledge, stories & company information.....by e-mail to **The Cargo Letter**. We strive to bring you useful information which is timely & topical. Be sure to visit our website.....<http://cargolaw.com>

Archive of **The Cargo Letter** www.cargolaw.com/cl-archives.php

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OUR "A" Section: Trade, Financial & Inland News***

1. **Freight Forwarder Trade Briefs** _____

*****Cargo Letter Correspondent In Peril?.....** as our friend & **Moscow correspondent Mikhail Voytenko** has fled his home country, fearing for his life after he publicly doubted the official version of a pirate attack. Mikhail Voytenko is the editor of Maritime Bulletin, a maritime information service run by the Russian freight company Sowfracht. The Russian news agency Interfax reported he fled to Turkey, but we are in contact with Mike and can assure you he is neither in Russia nor Turkey. He is safe and getting back to work on Maritime Bulletin. "Friends warned me that influential people might want to have their revenge on me." He said he plans to stay away from Russia for 3 or 4 months. Voytenko had questioned the information given by Russian officials in the case of Finnish freight carrier **M/V Arctic Sea**. The ship went missing for 3 weeks and was seized in mid-August off the coast of West Africa by Russian war ships. "The whole story reeks of a secret service operation," said Voytenko. He questioned the official story

that the ship was carrying a cargo of wood. Military experts have speculated that the ship was, in fact, being used to smuggle Soviet cruise missiles. The Russian foreign office has repeatedly denied the accusations.

www.examiner.com/x-21184-Homeland-Security-Examiner~y2009m9d4-Threats-from-Russian-agents-force-publication-Editor-out-following-article-about-Arctic-Sea

Read Mike's Continuing Contributions At Our [Daily Vessel Casualties](http://www.cargolaw.com/presentations_casualties.php):

www.cargolaw.com/presentations_casualties.php

*****NAFTA Crashes** as the value of trade moving by surface transportation between the U.S., Mexico & Canada fell US\$51Bn in June, the 6th consecutive monthly decline in trade between the North American partners, according to the Dept. of Transportation. Trade via truck, rail & pipeline was off 31.5% in June compared to the same month in 2008. Most U.S. trade with its neighbors moves by those modes. The value of U.S. shipments with Mexico & Canada has dropped 27% in the 1st half of the year compared to last. U.S. trade with its North American Free Trade Agreement partners rose 6% in June from May, but the figure is subject to seasonal variations & other factors that make the comparison less reliable than year-over-year figures. The June trade figure is down 8.4% compared to June 2004. U.S.-Canada surface trade totaled US\$31Bn in June, down 36.6% versus the year-ago period. U.S.-Mexico surface trade was US\$19.7Bn, down 21.8%.

*****China Tires Deflated** as it has hauled the U.S. to the World Trade Organization on Sept. 14 over what it alleged were unfair tariffs imposed by Washington on Chinese tire imports. "The U.S. has adopted protective measures against Chinese tires shipped to the U.S. This is a violation of WTO rules," said a Chinese Commerce ministry spokesman. Amid warnings that a surge in Chinese-made tires had cost more than 5,000 jobs in the U.S., President Barack Obama ,on Sept. 11, imposed punitive duties of 35% on the Chinese imports, igniting the 1st trade spat of his presidency just weeks before hosting his Chinese counterpart Hu Jintao. The government-run U.S. Int'l Trade Commission (USITC) had urged duties of up to 55% after union leaders claimed imports of cheap Chinese tires had tripled over the last 5 years. However, to minimize Chinese anger, Obama had opted for a lower figure, whereby tariffs, already at 4%, will soar by an additional 35% in the 1st year, 30% in the 2nd and 25% in the third. Xinhua news agency also quoted experts as saying that 100,000 Chinese jobs could be lost as a result of U.S. tariffs and that China's tire industry would be worse off to the tune of one billion dollars.

*****U.S. Farmers Loose**..... as a WTO panel has ruled in favor of Brazil over the U.S. in a dispute over cotton subsidies to U.S. farmers. The ruling essentially paves the way for Brazil to impose countermeasures of up to US\$147M per year, with the WTO saying the subsidies unfairly bring down int'l cotton prices. The WTO did not, however, grant Brazil the right to impose so-called cross-sectoral countermeasures, as Brazil was seeking the right to suspend concessions against U.S. intellectual property & services. "It is regrettable that the U.S. has not yet complied with the determination of the multilateral trading system after the U.S. subsidies have been condemned several times," Brazil's ambassador to the WTO, Roberto Azevedo, told journalists.

*****Happy Birthday To Adrian, Larry & Robert!** as DHL's marked its 40th anniversary on Sept. 25. DHL was the result of a chance meeting between Adrian Dalsey & Larry Hillblom at a food store parking lot in San Francisco. Colleagues at a company that offered limited delivery service, the 2 hatched a plan to start their own delivery company. Real estate associate Robert Lynn joined the two and DHL began its 1st courier service between the U.S. West Coast & Hawaii. In the beginning, the 3 partners – Adrian Dalsey, Larry Hillblom & Robert Lynn – delivered shipping documents by air, carrying the documents themselves between San Francisco & Honolulu, Hawaii overnight, thus launching the int'l air express industry. The 1st DHL offices overseas were in Guam (1970), and then the Philippines (1971). In 2008, DHL moved 2.9 million 20-foot container units in ocean freight. In terms of volume, this would be enough to fill the 381-meter high Empire State Building from top to bottom more than 87 times. Strung together, this line of containers would be 17,677 kilometers long – more than twice as long as the Nile River, the longest in the continent of Africa. In 2008, Deutsche Post DHL's revenues exceeded

US\$79Bn. The company has more than 500,000 employees in more than 220 countries. Again, it started in San Francisco, not Germany.

www.dp-dhl.com

*****Stimulus For The Rest of Us** as the U.S.Dept. of Transportation has released a new software application that it said will help the transportation industry to deliver products more efficiently. DOT worked with the Federal Highway Administration's Freight Office and other agencies to develop the Electronic Freight Management service, which DOT is offering for free on its Web site. The software is scalable from small to large businesses, DOT said, and it worked to maximize cargo visibility, which improves asset utilization. Get the free software programs:

www.efm.us.com/

*****U.S. Truck Tonnage Falls** as it fell 7.5% in Aug. from the same month last year, the best year-to-year showing since Nov. 2008, American Trucking Assn. said Sept. 25. ATA's seasonally adjusted for-hire truck tonnage index improved 2.1% in Aug. from July, the same increase as the previous month.

*****Big Brother Is Watching** as the Federal Motor Carrier Safety Administration is increasing its use of Global Positioning System history logs as supporting evidence in driver hours-of-service audits, Qualcomm's VP & general manager for transportation and logistics, said the company had "seen an uptick" in FMCSA's use of electronic data in enforcement actions. Electronic data, such as the position logs generated by GPS-based tracking systems & electronic onboard recorders, have been used by FMCSA since Dec., when it lifted a more than decade-old moratorium on using electronic data to verify hours. The agency now requires carriers using GPS tracking & EOBRs to retain data generated by these systems for 6 months.

*****Bulletproof** as a Redmond, Ore., company announced a new system for locking containers, truck trailers & railcars for shippers of high-value goods. IntelliTRAILER Inc. said its new product, the IntelliGUARD Locking System, is an armored lock that is positioned inside the transportation equipment. The locks are opened using a keyless entry system -- either with handheld transmitter used at the receiving location or by satellite from a remote location. The locking systems, which are built from stainless steel and are bulletproof, have a base prices of US\$3,495 to US\$3,995. The higher priced systems include features such as GPS tracking worldwide, awareness of unit security status (whether doors are open or closed), temperature monitoring & damage intelligence. The company said the locks can be installed in any size or type of door.

www.intelitrailer.com/

*****UPS To The Rescue** as it plans to pour more than US\$9Bn into a program to advance leading relief organizations' response to global emergencies. Both UPS and the Atlanta-based UPS Foundation will back the effort through a combination of grants, in-kind services and logistics expertise during the next 2 years, the company said. Unveiled at the Clinton Global Initiative's 2009 Annual Meeting this week in New York, the pledge will support leading global relief groups, such as the American Red Cross, UNICEF, the World Food Program, CARE & the Aidmatrix Foundation. The UPS aid includes a half million dollars as well as logistics, shipping & warehouse support for the American Red Cross to respond more swiftly to disasters; a two-year, US\$1M commitment to the U.S. Fund for UNICEF, including a grant to fortify its emergency response role in the Asia-Pacific region. The Clinton Global Initiative, established by President Bill Clinton, gathers global leaders to devise innovative solutions to pressing global challenges. CGI members have made more than 1,400 commitments valued at US\$46Bn, which have already improved the lives of 200 million people in 150 countries.

*****Calendar Note**as in observance of upcoming National Holidays & Mid-Autumn Festivals in Hong Kong & China, most factories & offices in mainland China & Hong Kong will be closed. Hong Kong's holidays will be observed from Oct. 1, 2009 to Oct. 3, 2009, while China will celebrate its holidays from Oct. 1 to 8, 2009.

*****Avalon Gets New Surety Facility For Brokers** as Great American Ins. Group's Ocean Marine Division, said it has entered into a strategic marketing relationship with Avalon Risk Management under which its Great American Alliance Insurance Co. subsidiary will underwrite international transportation and U.S. Customs bonds with Avalon. Avalon writes more than 35% of all continuous bonds on file with U.S. Customs & Border Protection.

*****C.H. Robinson Worldwide Buys The Farm** as it has acquired 2 jointly owned produce companies. Rosemont Farms Corp., Boca Raton, Fla., provides marketing & logistics services to retail and food service customers. Quality Logistics, also based in Boca Raton, provides transportation & logistics services in the produce industry, focusing on LTL & refrigerated transportation. The companies were established in 1999.
www.chrobinson.com/

*****No Talking. Note: You're Next** as the National Transportation Safety Board has instituted a policy banning texting & talking on cell phones by its employees while they are working, the Associated Press reported.

*****Cuba Libre?** as the U.S. Commerce Dept.'s Bureau of Industry & Security has amended its regulations to implement President Obama's April 13 directive to make it easier for Americans with family in Cuba to visit and send gifts to their relatives. The measures, implemented on Sept. 3, will allow items normally exchanged between individuals as gifts to be included in gift parcels going to Cuba and remove the requirement that gift parcels be sent only to members of the donor's immediate family, the agency said. Gift parcels may now be sent from an individual in the U.S. to an individual or an independent religious, educational, or charitable organization in Cuba, BIS added. The agency noted that the amendment raises the value for gift parcels from US\$400 to US\$800 and "increases the number of parcels that an individual donor may send each month from 1 parcel per household to 1 parcel per donee."

*****Iraqite Disfuntion**..... as Iraqi police have arrested the country's deputy transport minister after he was allegedly filmed taking a bribe in a sting operation, the Associated Press reported last week. Sabah al-Saedi, chairman of parliament's anti-corruption committee, said police filmed Adnan al-Obeidi accepting a US\$100,000 bribe from a company doing work at the Baghdad airport. More than 1,000 arrest warrants have been issued this year against officials suspected of corruption, including 52 in senior posts, AP reported. In May, Iraq's former trade minister, Abdul-Falah al-Sudani, was arrested on charges of importing expired foods, engaging in illegal contracts & employing relatives. Freedom is not free, America has paid for it.

*****River of No Return - Returns** as the River Thames is to be reinstated on London's iconic tube map after a new design which left it out was greeted by a wave of outrage. Designers had airbrushed out the blue ribbon representing the river in an attempt to de-clutter the map, first produced by draftsman Harry Beck in 1933. But Transport for London (TfL), which operates the capital's transport networks, had reckoned without Londoners' deep affection for their local waterway. As news of the revamp leaked out, it was inundated with complaints, both from the general public and from Mayor of London, Boris Johnson. "Can't believe that the Thames disappeared off the tube map whilst I was out the country! It will be reinstated," Johnson said on an official Mayor of London Twitter feed after returning from New York on Sept. 16. Action was swift. "Transport for London (TfL) announced that it has listened to Londoners and would be reinstating the River Thames on the world-famous Tube map," a statement read on Sept. 17.
www.tfl.gov.uk/modalpages/2625.aspx

*****Trains Will Never Catch On** as a contest staged on Sept. 18 in 1830 between old & new technologies got a lot of attention, but didn't forecast the future very well. The event was a race between a horse and the 1st locomotive built in the U.S., known as the "Tom Thumb." The course was 9 miles long in Maryland, from Riley's Tavern to Baltimore. The horse won. But steam locomotives went on to become essential to the growth of the nation. By the mid-1920s, there

were nearly 70,000 of them hauling most of the nation's passengers & freight. Today, there are close to 2,400 locomotives in service. While they don't take part in races, they average about 3,500 horsepower apiece.

[http://en.wikipedia.org/wiki/Tom_Thumb_\(locomotive\)](http://en.wikipedia.org/wiki/Tom_Thumb_(locomotive))

*****Rail Man Salutes French Railroad** as a drunk French teenager narrowly escaped death on Sept. 13 after falling asleep on a railway track and slumbering undisturbed as a high-speed train roared over him, police said. The 19-year old, whose name was not released, remained fast asleep face down on a stretch of track near Saint Nolff in southern Brittany, as the Quimper to Paris train passed, leaving only a few grease stains on the back of his jacket. The driver saw the body lying on the tracks & slammed on the brakes, but was only able to stop a few hundred meters further on. "It was his unconscious state that saved him really, as he lay there completely still like a dead body," said a spokesman for the local police force, adding that the clearance under the train is only around 20 centimeters. According to the spokesman, the teenager was making his way back from the Saint Nolff music festival when he stopped to take a nap on the railway line. Roused by police and fire fighters who attended the scene, the young man gave a one-fingered salute before rolling over and going back to sleep. He was subsequently transferred to a nearby hospital where police say he is still recovering from his alcohol binge. "He's not really aware of what happened," said the police spokesman. Call him "slim."

*****Very Cheap Transport** as authorities arrested a man they said tried to trade his father's car for US\$50 worth of crack cocaine. Deputies arrested the 39-year-old man around 4 a.m. Sept. 16, after his 74-year-old father reported that his Lincoln had been stolen. When deputies arrived at the father's home, they saw the son walking up the street. They determined that the car had been sold for drugs. Deputies later saw someone else driving the Lincoln & pulled it over. The driver fled the moving car, which hit two parked cars. Deputies caught the driver, who was arrested on suspicion of evading an officer & resisting arrest. The son was arrested on suspicion of car theft. Authorities did not release the names of those involved.

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2. The Cargo Letter Financial Page _____

****COSCO Container Lines.** **DOWN** with operating loss of US\$631M in 1st half of 2009, a steep plunge from US\$141M in profit it saw in corresponding period 2008.

****FedEx Corp.** **DOWN** as 1st quarter profits fell 53% to US\$181M from the same period in 2008. FedEx Corp. plans to boost shipping rates for FedEx Express by 5.9% for U.S. domestic & U.S. export services, starting in Jan.

****Frontier Airlines Holdings.** **UP** with operating profit of US\$10.2M for the month of August.

****Sino-Global Shipping America Ltd.** **DOWN** with net loss of US\$1.7M in the fiscal year ending June 30, compared to a US\$100,000 profit in the prior fiscal year.

****Torm Line.** **DOWN** with a US\$33M loss in 2nd quarter of 2009

****UTi.** **DOWN** with US\$11.8M in earnings or 12 cents a share on quarterly revenue of US\$840.5M for its fiscal quarter ended July 31, compared with US\$33.7M on revenue of US\$1.26Bn in 2008.

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OUR "B" Section: FF World Air News***

3. Freight Forwarder World Air Briefs _____

*****Larger Impact Than 9/11** as the Int'l Air Transport Assn. said its projected losses for the airline industry in 2009 have become larger since a projection made in June. IATA now projects an US\$11Bn loss, US\$2Bn worse than previously forecast. The association said rising fuel prices and "exceptionally weak yields" are responsible for the steeper losses. Revenue for the year is expected to drop 15% to US\$455Bn. Worse yet, IATA now estimates the airline industry lost US\$16.8Bn in 2008, not the US\$10.4Bn it initially calculated. "This revision reflects restatements & clarification of the accounting treatment of very large revaluations to goodwill and fuel hedges,"

said IATA, which stripped out such extraordinary items that are not realized in cash terms to come to revised figures. "The bottom line of this crisis -- with combined 2008-2009 losses at US\$27.8Bn -- is larger than the impact of 9/11," with the industry losing US\$24.3Bn in 2001-2002, said Giovanni Bisignani, IATA's director general and chief executive officer. "This is not a short-term shock. Eighty billion dollars will disappear from the industry's top line. That 15% of lost revenue will take years to recover. Conserving cash, careful capacity management and cutting costs are the keys to survival. The global economic storm may be abating, but airlines have not yet found safe harbor. The crisis continues." Contact [Countryman & McDaniel](#) for details.
www.iata.org/

*****Cargo Screening 100%** as the Transportation Security Administration has issued rules that move the Certified Cargo Screening Program from pilot phase to permanent status The Implementing Regulations of the 9/11 Commission Act contains a statutory requirement that the TSA "establish a system to screen 100% of cargo transported on passenger aircraft by Aug. 3, 2010." In order to comply with the requirement, the rule establishes the certified cargo screening program (CCSP). This program will allow the TSA to certify other facilities in the air cargo supply chain to screen air cargo before turning it over to aircraft carriers. To become a certified cargo screening facility (CCSF), these other facilities must be certified by a TSA-approved validator and apply with the TSA. Once certified, these facilities must ensure their personnel undergo a security threat assessment (STA), use TSA-approved methods to screen cargo, and apply for recertification on a periodic basis, among other things. The rule provides guidelines for applying to become a CCSF, operation of CCSFs, and approval of firms and individuals who will validate CCSF facilities. Airlines earlier this year began inspecting half of all cargo in the passenger environment, but the agency created the CCSP because it believes airlines are not equipped to inspect the 12 million pounds of air cargo transported on passenger aircraft each day without causing delays in the supply chain. The rule becomes effective Nov. 16, 2009. At that time, the facilities of freight forwarders & shippers that have been validated through on-site visits will become Certified Cargo Screening Facilities.
<http://edocket.access.gpo.gov/2009/E9-21794.htm>
<http://edocket.access.gpo.gov/2009/pdf/E9-21794.pdf>

*****EU Freight Crashes** as the Assn. of European Airlines (AEA) reports an overall drop of 16.8% in freight-ton kilometers (FTKs) for July 2009 compared to the same month a year ago. Europe-Asia traffic remained the biggest loser with a monthly fall of 23.2% compared to 2008. AEA Secretary General Ulrich Schulte-Strathaus said, "If the industry cannot make money in the peak summer season, it is clearly in a desperate situation, and yet our members are reporting ongoing losses. If the airlines cannot make money when they are 81.8% full, there is clearly something very wrong with the cost/revenue relationship." For the 1st 7 months of 2009, AEA members recorded a drop of 21.3% in FTKs. Europe-Asia averaged 26.5% for the period.

*****Our Bags Are Now Officially "Airfreight"** as American Airlines & Delta Airlines each made US\$118M in just one quarter, just off baggage fees. The total money generated from baggage fees in 2009 between the top 10 carriers is US\$1.23Bn and those numbers are only for the first 2 quarters. With the current new generation of baggage fees, we are on track to reach about US\$3Bn for the entire year. Baggage fees are here to stay, and when you see that just 2 airlines can make US\$118M in just a couple of months, you can understand why. Next: Let's DIM the passengers!

*****777F & B747-400ER Join The Freighter Fleets** as DHL Express, FedEx Express & TNT each said this week they have taken delivery of new, larger freight aircraft. FedEx, on Sept. 23, unveiled its 1st Boeing Co. 777F at ceremonies in Everett, Wash. The B777 freighter joins a FedEx fleet of more than 650 planes. The new twin-engine cargo plane has a payload capacity of 215,000 pounds, which is 14,000 pounds more than the company's MD-11 freighter. By April 2010, FedEx Express plans to have four B777 freighters serving routes between Asia & the U.S. In all, there will be 15 B777s in the company's fleet by the end of fiscal year 2014. DHL, on Sept. 24, introduced a Boeing 767 extended range freighter on a flight between Leipzig, Germany &

New York. A total of 6 of the planes are intended to replace capacity shared with Lufthansa Cargo. The 767 freighters provide a 4% fuel savings over the MD-11s. TNT is enhancing its service capacity between China & Europe with the addition of a new dedicated B747-400ER freighter, the company announced. The 110 ton Boeing 747-400 ERF (Extended Range Freighter) offers the lowest ton-mile cost in the industry.

www.aerospace-technology.com/projects/boeing777f/
http://en.wikipedia.org/wiki/Boeing_747-400

*****No To Super Jumbos?** as Singapore Airlines said it has agreed to a delayed delivery schedule for eight A380 aircraft on order. No reason was given for the delay, but many airlines have been seeking to postpone aircraft purchases because the fall in travel & freight demand associated with the global recession has hurt cash flow in an industry already struggling cost & liquidity problems. Singapore Airlines already operates 9 A380s.

http://en.wikipedia.org/wiki/Airbus_A380

*****Around The World** as Atlanta-Hartsfield airport has got its 1st round-the-world freighter with the arrival of a Singapore Airlines Cargo 747-400 weekly service from Hong Kong. The flight returns to Singapore via Brussels & Sharjah.

www.siacargo.com/

*****China & Japan Join Hands** as Star Alliance members Air China & ANA have agreed to a code-sharing agreement on flights operated by both airlines between Beijing Capital Int'l Airport & Tokyo's Haneda Airport starting Oct. 25 this year.

****AA Will Watch The Thermometer** ... as American Airlines Cargo Division said it would roll out a new express temperature-controlled service on a worldwide basis. The airline said it was offering the ExpediteTC product to its customers globally, following a successful trial in the early summer between 10 U.S. and international cities. AA Cargo said its personnel would monitor specific temperature ranges at various points during transit and that dry ice & batteries will be maintained as needed. The airline offers a 100% flown-as-booked guarantee, in addition to the specialized handling, monitoring & tracking.

www.aacargo.com/

*****Swine Flu Banned At LAX** as airline passengers looking for an extra dose of protection will soon be able to get vaccinations for the seasonal flu & the H1N1 virus at Los Angeles Int'l Airport. Beginning Oct. 1, travelers passing through LAX will be able to get a pair of shots protecting them from both strains of influenza for US\$25 at all terminals. We're going to get ours!

*****Atlas Air Lifts The President**.....as flight crews on Air Force One, President Barack Obama's official plane, will receive training through 2010 from air cargo specialist Atlas Air. The company announced that the U.S. Air Force has extended its contract to train the service's Boeing 747 pilots & engineers. Crews from the Presidential Airlift Group, which includes planes that fly the vice president and other officials and dignitaries, and the E-4B National Airborne Operations Center will receive refresher courses at Atlas' training facility in Miami. Atlas & sister company Polar Air Cargo operate the world's largest combined fleet of Boeing 747 freighters. Guys, please keep the President safe.

www.atlasair.com/aa/military-charters-humanitarian-missions.html

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OUR "C" Section: FF World Ocean News***

4. FF World Ocean Briefs

*****Rotterdam Rules of The Road Take The Stage** as on 23 Sept., 15 countries officially expressed their support for the new UN convention 'Rotterdam Rules'. The countries signed the convention that describes the rights & obligations involved in the maritime carriage of goods. Important seafaring nations such as the U.S., Norway, Greece, France and the Netherlands are

among the signatories. The signing took place in Rotterdam, the city after which the UN convention is named. The following countries have signed the convention: Congo, Denmark, France, Gabon, Ghana, Greece, Guinea, the Netherlands, Nigeria, Norway, Poland, Senegal, Spain, Switzerland, Togo and the U. S. In addition, delegations from all over the world will be attending the signing ceremony. Signing the treaty does not mean that a country has adopted it -- the individual governments in each country must approve it, and it would not take effect until one year after 20 countries adopt it, and then only in those countries. In the U.S., if the Obama administration signs it, it would then go to the Senate for advice & consent, and if not found to be "self executing" it would require implementing legislation to be passed by both the House and Senate & signed by the president.

The Brussels-based European Shippers' Council has led cargo-owner opposition to the new rules & questioned the level of int'l support for the new maritime liability convention. It sent out a statement that only 15 states signed the rules which "would indicate a growing concern among governments that these rules are not the panacea that supporters of the Convention suggest." Nicolette van der Jagt, ESC secretary general said, "I believe that one of the reasons that so few governments have signed could be that there are still so many unanswered questions." CLECAT's position is that the proposed new rules do not contain enough benefits, limit liability in only one direction with no benefit to forwarders, offer only a partial solution to current issues and are uncertain. Transport Canada indicated in a press statement last week that they are not ready to sign because of concerns amongst a number of Canadian stakeholders and they wanted more time to consult with them. This could be what other member states are thinking."

www.portofrotterdam.com/en/news/pressreleases/2009/20090923_02.jsp

CLECAT's position paper

www.clecat.org/dmdocuments/PP010OMAm090529PosPapRottRules.pdf

Critique of the Rotterdam Rules by Philippe D'Elbecque

http://www.arbitrage-maritime.org/cpt_download.php?file=gazette20.pdf

Concerns - UN Update

www.unece.org/trans/wp24/wp24-inf-docs/24infdocs.html

*****al Qaeda Warning** as NATO this week warned Indian maritime authorities that Somali pirates linked to al Qaeda could be targeting Indian vessels and sailors, the Times of India reported Sept. 24. NATO said it had specific intelligence pointing to plots involving Indian vessels in the next few weeks. "We expect to see an increase in the Somali base in the next few weeks," said Christian Helseth, NATO deputy chief of staff. "It'll be a huge challenge to all the naval operators in the area." The report said India has already stepped up patrols along freight lanes frequented by Somali Pirates, but that NATO naval units would now be assisting the Indian Navy.

*****Piracy Outside Somalia - Return of The Pirate**..... as this crime is rising in areas outside the coast of Somalia, according to officials with the International Maritime Board. IMB's piracy reporting center reports that attacks in the South China Sea through mid-Sept. this year have risen to 19 from 17 during the same period last year. The region covers a triangle between Malaysia, Indonesia and the eastern Singapore Straits. "Choong said most of the pirates in the triangle were armed with guns and knives and that the maritime board had sent out an alert to vessels in May this year warning them of the dangers in the area," the report said. While the number of attacks pales in comparison to those in and around the Gulf of Aden, the increasing number of attacks is a sign that piracy in several parts of the world is returning to the problem it was several years ago. The affected area is on the trunk line between Asia and Europe (as is the Gulf of Aden), seemingly making that voyage even more treacherous. "We are urging countries in the area to increase anti-piracy operations as this helps to reduce such attacks," Choong told AFP. "These vessels should mount anti-piracy watches in the triangle because once these pirates are spotted, they do not attack unlike in Somalia, where the pirates attack regardless of being identified. Every time we inform the authorities the attacks go down but they then slowly creep up, so we are keeping a very close eye on the region." See the 2 hour **History Channel** video presentation which explains everything, featuring the **Countryman & McDaniel** law firm - setting forth the world problem with many experts & exciting live action -- a must see:

<http://shop.history.com/detail.php?p=69713>

*****Merchant Marine Strikes Back** as a big step for the int'l maritime industry's escalating war against piracy has been ushered in with the official opening of the Merchant Maritime Warfare Centre (MMWC), a UK based, non-profit organisation staffed by experienced maritime security specialists. MMWC has been established to provide certificated counter-piracy training and ongoing operational support, to enable members to adopt a coordinated, structured & sustainable approach to mitigating the financial, operational and human impact of piracy. The central feature of MMWC's services is a comprehensive package designed to provide unmatched preparation for pirate attacks through certificated training, risk assessment, auditing and 24 hours – 365 days a year operational support, which includes counter-piracy intelligence and threat analysis. "So far this year there have been over 240 piracy incidents recorded, of which over 100 resulted in actual attacks," said Nick Davis, Director, MMWC. "Our aim is to reduce the number of attempts that result in attacks through educating the industry and providing competence beyond compliance. We prepare management and crew in counter-piracy Best Practice, using proven techniques on sophisticated training tools whilst providing a constant stream of intelligence and support to at-risk vessels. Essentially, MMWC is the first full-service counter-piracy organization." www.mmwc.org

*****Thug Trail Continued**..... as trial of a Somali teenager accused of leading the pirate attack on container ship [M/V Maersk Alabama](#) last April has been delayed to allow time for the translation of more material into English. Proceedings against Abdiwali Abdiqadir Muse have been deferred until January 12 next year. Don't miss our amazing photo feature -- **pure, unadulterated 206 Year Deja Vu for the U.S.** : www.cargolaw.com/2009nightmare_maersk.alaba.html

*****Man The Deck** as Lloyd's reports this month that ex- British Royal Marines are now being routinely deployed as anti-piracy forces onboard fully laden large **Iranian** oil tankers now under regular attack from heavily armed pirates off the Gulf of Aden. Even the **Iranians** have pirate problems.

*****Our Industry Is Very Dangerous** as accidents in two different California ports this month led to the deaths of a containership crewman and a longshoreman. On Sept. 11, a member of the crew of an Evergreen vessel fell overboard outside the Port of Oakland, the San Francisco Chronicle reported. The incident occurred about 5:10 a.m. as the ship, [M/V Ever Elite](#), was maneuvering in the port's outer harbor. A Coast Guard vessel and tug responded to the accident and the man was brought to a pier in San Francisco but was pronounced dead. Then on Sept. 12 evening evening, a longshoreman, 53-year-old John Robert Kiser of Lakewood, Calif., was killed in a container terminal at the Port of Los Angeles when he was crushed under the wheels of an empty trailer. Coincidentally, the incident took place in the Evergreen terminal in Los Angeles. To read all the [Daily Vessel Casualties](#), each day visit: www.cargolaw.com/presentations_casualties.php

*****More Ships Idle As "Peak Season" Fizzles** as the effects of suspended services by the CKYH Alliance & CMA CGM, Maersk Line & Hyundai Merchant Marine will be felt through increased layups over the next 2 months, maritime news service Alphaliner said. The CKYH Alliance will pull 20% of its capacity on the Far East/Asia trade beginning in Oct., a move that will idle 18 vessels of 5,000 TEUs or larger. Meanwhile, when the CMA CGM-Maersk-Hyundai Hudson loop between the Far East & U.S. East Coast via the Panama Canal is temporarily suspended in at the end of Sept., that will release 8 more 5,000-TEU ships. It will be difficult to find employment for these ships during the period, as demand will likely remain weak until early next year, Alphaliner said. Indeed, carriers will likely scale back services in the coming weeks as the relatively strong, but short, "peak season" comes to a close. The idle fleet stood at 1.28 million TEUs as of Aug. 31, or 9.9% of global containership capacity.

*****Peak Season - A Bust ...** as import cargo volume at the nation's major retail container ports is now expected to total 12.5 million containers for 2009, according to the monthly Port Tracker report released by the National Retail Federation & IHS Global Insight. The number is significantly below last year's total but shows improvement from the 12.3 million forecast a month ago. "We're starting to see a pattern where import levels are still below last year but they're not as far below as they were just a few months ago," NRF said. "This matches up with other economic indicators that show the recession may be coming to an end." The 12.5 million TEU now forecast for 2009 would be a drop of 17.7% from last year's 15.2 million TEU & the lowest since the 12.47 million TEU in 2003. The number was revised upward to reflect higher projected imports for each of the remaining months of the year as retailers anticipate that economic conditions will begin to ease. One TEU is one 20-foot container or its equivalent. U.S. ports surveyed handled 1.1 million TEU in July, the most recent month for which actual numbers are available. That was up 8% from June but down 17% from July 2008, marking the 25th month in a row to see a year-over-year decline. Volume for August was estimated at 1.13 million TEU, down 17% from last year, while Sept. is forecast at 1.11 million TEU, down 18%. Oct., traditionally the peak month of the year, is forecast at 1.14 million TEU, down 17%. Nov. is forecast at 1.07 million TEU, down 13%, & Dec. is forecast at 1.04 million TEU, down 2% from 2008. The 2% decline in Dec. is significant because it would be the 1st single-digit decline of the year & compares with drops that have ranged from 15% to 32%. But January 2010 is forecast at 1.01 million TEU, down 18% from Jan. 2009.

*****Custodial Carriers Crash** as 8 publicly listed container lines lost more than US\$4Bn in the 1st half of 2009, essentially in the red by US\$264 per TEU, according to the newsletter Dynaliners, published by Dutch maritime consultant Dynamar. According to the report, embattled carriers Zim & Hapag-Lloyd bled the most per TEU (at US\$360 and US\$270, respectively), while OOCL fared the best, losing US\$116 per TEU. The other lines included in the research were APL, China Shipping, COSCO Container Lines, Hanjin Shipping, Maersk Line & OOCL. All 8 lost at least \$231M in the 1st half, with Maersk's container division losing US\$961M. The 8 saw 1st half turnover dip anywhere from 24% for Hapag-Lloyd to 57% for Zim.

*****Port Stimulus** as the U.S. Dept. of Homeland Security has released US\$150M in American Recovery & Reinvestment Act funds for port security. The largest recipient of federal money is the Port of Long Beach with US\$7.78M, followed by the Port of Los Angeles with US\$6M. The combined haul for the twin ports, including money for several private terminals & 2 public safety agencies, is about US\$17.4M.
www.fema.gov/pdf/government/grant/bulletins/info332.pdf

*****Great Lakes Life Support** as the Lake Carriers' Assn. (LCA) said the season-long slump in U.S.-flag shipping on the Great Lakes continued in Aug. Major U.S.-flag carriers hauled only 7.2 million tons of dry bulk cargo, a decrease of more than 40% compared to both a year ago and the month's 5-year average, LCA said. Although the nation's steel mills are reporting small increases in production, the August iron ore total was one of the lowest recorded this season: 2 million tons, less than the 5.1 million tons in the same 2008 period.

*****Mitsui OSK Lines Taking Water** as it has widened its loss forecast for the 1st 6 months of the financial year due to higher operating costs for its containerships. The Japanese shipowner has revised its 6 month operating forecast for the period ending Sept. 30 to US\$143.5M operating loss compared to a previous forecast of a US\$55.8M) operating loss. Net loss will also increase significantly, the carrier projects, from US\$77.3M to US\$104.9M. The carrier had an operating loss of US\$127M in the 1st quarter, which runs from April through June. Losses increased even though the line said the recovery of freight rates & growth in trade volume had been close to expectations. The Japanese shipowner said at the end of the 1st quarter it expected container freight rates to deteriorate in the 2nd quarter of 2009.

*****Zim Line Looking For Life Line** as the Israeli liner carrier has announced it has reached a deal to delay the delivery of four 10,000-TEU ships from 2010 until 2014 or 2015. That follows a recent agreement with shipyards in Asia to postpone the delivery of nine 12,600-TEU ships, also to 2014 or 2015. The delivery delays, the carrier said, will allow the company to defer payments due on the ships of up to US\$2Bn. That would theoretically allow the carrier to navigate what is expected to be a testing period through 2013, with Zim's parent Israel Corp. estimating the line will suffer a cash flow shortfall of US\$1Bn through 2013. Standard & Poor's affiliate Ma'alot Ltd. cut its bond ratings for Israel Corp.'s wholly-owned subsidiary Zim Integrated Shipping Services Ltd. from "B" to "CC", with a "Negative" outlook. Not surprisingly, Zim said it will implement a general rate increase Oct. 1 from Asia and the Indian Subcontinent of US\$250 per TEU to North Europe and the West Mediterranean and, US\$200 per TEU to the East Mediterranean, Black Sea & Adriatic.

*****Mafia Hit - Disaster?** as according to a Sept. 16 report from the BBC, an informant from the Calabrian mafia said the ship was one of a number he blew up as part of an illegal operation to bypass laws on toxic waste disposal. The sunken vessel has been found 30km (18 miles) off the south-west of Italy -- just where a mob informant had said it would be. The informant said it contained "nuclear" material. Officials said it would be tested for radioactivity. Murky pictures taken by a robot camera show the vessel intact and alongside it are a number of yellow barrels. Labels on them say the contents are toxic. The informant said the mafia had muscled in on the lucrative business of radioactive waste disposal. But he said instead of getting rid of the material safely, he blew up the vessel out at sea, off the Calabrian coast. Italian authorities are investigating dozens of other sunken ships, possibly containing toxic waste, that may have been submerged by a local crime syndicate. As many as 32 shipwrecks with illicit and highly toxic cargo could be lying on the seabed and polluting the Mediterranean Sea, Italian authorities said. If tests show that there is nuclear material on the seabed it will prove that the mafia has moved into its dirtiest business yet.

*****Evergreen Line Rates Up** as it is raising rates effective Oct. 1 on services from northern Europe and the Mediterranean to the Far East, including Australia, and the Indian Subcontinent-Middle East. Rates will increase US\$100 per container from Europe to the Far East, and US\$150 per container from Europe to the Indian Subcontinent-Middle East regions. From the Mediterranean to the Far East and Indian Subcontinent-Middle East, rates will also rise by US\$150 per container.

*****Maersk Line Rates Up** as the Danish carrier said it is raising rates from northern Europe and western Mediterranean to West Africa beginning Oct. 1. Rates from northern Europe and West Mediterranean to West Africa will increase US\$217 per TEU or 20-foot reefer, & US\$391 per FEU or 40-foot reefer. From the United Kingdom to West Africa, rates will rise US\$214 per TEU or 20-foot reefer, US\$396 per FEU or 40-foot reefer.

*****Ground Floor Opportunity** as according to Timber Industry magazine, A.P. Møller-Maersk will introduce a new and more environmentally friendly floor system for containers at the UN climate conference in Copenhagen in December. Instead of hardwood plywood floors, the new container has a wood plastic floor. In cooperation with the Swedish timber manufacturer VIDA Packaging, there are already 5,000 orders for the new product. Before the shipping downturn started, Maersk produced about 200,000 containers in China each year.

www.maritimedanmark.dk/?Id=5638

*****Higher Tides Not Global Warming** as persistent winds & a weakened current in the Mid-Atlantic contributed to higher than normal sea levels along the Eastern Seaboard in June & July, according to a new NOAA technical report. After observing water levels 6 inches to 2 feet higher than originally predicted, NOAA scientists began analyzing data from select tide stations & buoys from Maine to Florida and found that a weakening of the Florida Current Transport—an oceanic current that feeds into the Gulf Stream—in addition to steady and persistent Northeast winds,

contributed to this anomaly. "The ocean is dynamic and it's not uncommon to have anomalies," said Mike Szabados, director of NOAA's Center for Operational Oceanographic Products & Services. "What made this event unique was its breadth, intensity & duration." The highest atypical sea levels occurred closer to where the anomaly formed in the Mid-Atlantic, where cities like Baltimore, Md., at times experienced extreme high tides as much as 2 feet higher than normal. Data from NOAA's National Water Level Observation Network tide stations, Atlantic Oceanographic & Meteorological Laboratory, and National Data Buoy Center, are published in the report. The full report, Elevated East Coast Sea Level Anomaly: June-July 2009: http://tidesandcurrents.noaa.gov/publications/EastCoastSeaLevelAnomaly_2009.pdf

*****Post Melt Down Light Enters The Tunnel** as the total number of containers shipped through the Port of Los Angeles in August increased by 6% compared to July, the second consecutive month that volumes have risen at the Port amid a slumping economy. The total number of 20-foot containers or TEUs imported & exported through the Port of Los Angeles in August was 612,581, a 6% rise compared to 576,203 TEUs in July. In June, total container volume at the Port was 551,679 TEUs. August container volumes, which reflect a muted peak shipping season, are the Port's highest this calendar year. By comparison, Aug. 2008 container volume was 19% higher, mostly due to a 2008 peak shipping season that came prior to the economic meltdown that hit in Sept. 2008. Year to date in 2009, total TEU volume is at 4,374,818, 18.3% lower compared to the same 8-month period in 2008. A long-term forecast prepared by the Tioga Group for the Port of Los Angeles earlier this year indicates that the recession and its effect on international container trade are expected to level out in late 2009, with modest growth returning in 2010.

*****Throughput >>>** Container throughput at the French cargo port **Marseilles Fos** increased 4% in the 1st 8 months of the year to 583,779 TEUs. >>> **Suez Canal** Container Terminal in Port Said reported that it handled a record 160,000 containers in Aug., topping its June record by more than 11,000 cans, as the terminal, at the northern terminus of the Suez Canal, expects to complete the 2nd phase of an expansion in 2012 that will double capacity to 5.4 million TEUs.

***** This Month In U.S. Navy History**

1776 - John Paul Jones sails into Canso Bay, Nova Scotia, and attacks British fishing fleet.
1858 - [Sloop Niagara](#) departs Charleston, S.C., for Liberia with African slaves rescued from slave ship.
1918 - Ensign David S. Ingalls, in a Sopwith Camel, shoots down his 5th enemy aircraft, becoming the 1st U.S. Navy ace while flying with British Royal Air Force.
1925 - [Submarine S-51](#) (SS 162) sinks after collision with [SS City of Rome](#) off Block Island, Rhode Island.
1941 - In 1st successful U.S. Navy escort of convoys during World War II, Navy escorts turn over [HX-150](#) to British escorts at the mid-ocean meeting point. All ships reach port safely.
1957 - In project Stratoscope, Office of Naval Research obtains sharp photographs of sun's corona from 1st balloon-borne telescope camera.
1960 - First nuclear-powered aircraft carrier, [USS Enterprise](#) (CVN 65), launched at Newport News, Va. Capt. Kirk was not aboard.
1984 - Mid-East Force begins escort of U.S.-flagged vessels in Persian Gulf.

*****Start Spreading The News ,,,,**, as the state-of-the-art stealth ship [USS New York](#) (LPD 21), whose bow stem includes seven-and-a-half tons of steel recovered from the fallen World Trade Center, is scheduled to be commissioned into the U.S. Navy's fleet on November 7. Join [Countryman & McDaniel](#) in showing support for the new ship & her crew. Your donation will be used to create a USS New York educational fund for the present & future crews of [USS New York](#). "**Strength forged through sacrifice. Never Forget**" is the motto of [USS New York](#). Bravo Zulu!

www.ussny.org/contribute.php
www.ussny.org/silver-service.php

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5. [The Cargo Letter](#) Cargo Damage Dispatches
****Back By Popular Demand****

We're sorry, but there were so many sinkings, explosions, pirate attacks, fires, cargo mishaps, battles on the water & other disasters at sea that we do not have room to print even the highlights this month. **Many people lost their lives at sea this month!!**

But you can read all this month's disaster news at our special Internet web feature which provides full details of each event -- our **Vessel Casualties & Pirate Activity Database**. Bookmark the site and visit every day! Updated twice daily.

www.cargolaw.com/presentations_casualties.html

SPECIAL NOTE: Please view the dramatic new pictures at our special "**Gallery of Cargo Loss**" website feature.

www.cargolaw.com/gallery.html

See our new feature for Sept. 2009: "**Meet Me At The Roundabout**" - M/V MSC Nikita

http://www.cargolaw.com/2009nightmare_nakita.html

See our newest photo feature "**Singles Only**" - Transportation Disasters Told In A Single Photo!

www.cargolaw.com/2000nightmare_singles.only.html

Daily Vessel Casualties as we don't want you to miss the excitement of our 24 hour reports of the dramatic events at sea each day -- stories of casualties & pirates --- almost none of which are carried on your local news. Edited daily by **Christoph Wahaner, Esq.** of **Countryman & McDaniel**.

www.cargolaw.com/presentations_casualties.php

NOTE: The historic dangers of carriage by sea continue to be quite real. **Shippers must be encouraged** to purchase high quality marine cargo insurance from their [freight forwarder](#) or [customs broker](#). It's dangerous out there.

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OUR "D" Section: FF in Cyberspace***

6. The Cargo Letter "Cyber Ports Of Call"

Here are our suggested world wide web sites of the week for your business, your information and your amusement.....

Cargo & Trade>>>>>>

2009 European 3PL Market Report free

<http://events.eft.com/eu3pl/report.shtml>

CSI: U.S. Container Security Initiative

www.cbp.gov/xp/cgov/trade/cargo_security/csi/

DHS H1N1 Preparedness Guide guide to assist businesses in planning for the H1N1 flu

www.flu.gov

Ghost Fleet of The Recession

www.dailymail.co.uk/home/moslive/article-1212013/Revealed-The-ghost-fleet-recession-anchored-just-east-Singapore.html

Independent Search Engine for Ocean Container Routes and Schedules free

www.linescape.com

Largest Tugboat Ever Built in U.S. -- 5 Stories High
www.morrisdailyherald.com/articles/2009/08/10/32272068/index.xml

Presidential Proclamation 8405 To Adjust the Rules of Origin Under NAFTAmodified Harmonized Tariff Schedule of the U.S. (HTS) to reflect amendments to the Int'l Convention on the Harmonized Commodity Description & Coding System
<http://edocket.access.gpo.gov/2009/E9-21335.htm>

Supply Chain Carbon & Sustainability Report 2009 free
<http://events.eft.com/SSC/report.shtml>

Sustainable Transportation
www.asla.org/ContentDetail.aspx?id=23430

Tips for New U.S. Importers & Exporters
www.cbp.gov/xp/cgov/trade/trade_outreach/diduknow.xml

U.K.'s Fork Lift Truck Assn. (FLTA)
www.fork-truck.org.uk/

UK Maritime Statistics For 2008
www.dft.gov.uk/pgr/statistics/datatablespublications/maritime/compendium/maritimestatistics2008

U.S. Coast Guard Civilian Careers
www.uscg.mil/civilian/

U.S. Customs Containerized Cargo Sealing Policy new procedures for sealing of containerized cargo that has undergone a CBP physical examination.
www.cbp.gov/xp/cgov/newsroom/fact_sheets/port_security/container_sealing.xml

U.S. Export Compliance Videos
www.census.gov/foreign-trade/aes/exporttraining/videos/

USDA Revises Lacey Act Enforcement Schedule
www.aphis.usda.gov/newsroom/hot_issues/lacey_act/download/lacey_act_FR.pdf

U.S. Trade & Development Agency Consultant Database
www.ustda.gov/consultantdb/

U.S. Trade Informationthe Top 5000 Importers, listed alphabetically, based on entered value during the fiscal year.
www.cbp.gov/xp/cgov/trade/trade_outreach/trade_info/

PRODUCTS>>>>>>>>>> No Financial Contribution To Us

Asia Pacific Maritime Security Market Assessment
www.researchandmarkets.com/research/721467/asia_pacific_marit

MARAD & USCG Maritime Security Officer Certification
http://mpsint.com/certified_isps.cfm

On Watch, Nordhavn's Motorsailer Newsletter
<http://nordhavn.com/onwatch/>

Videotel marine & cargo training
www.videotel.co.uk/

IANA'S Intermodal Expo Nov. 15 - 17, 2009, Anaheim, CA
www.intermodal.org/events_files/expo_files/index.html

Int'l Freight Week 18-20 Oct. 2009, Abu Dhabi National Exhibition Center
www.internationalfreightweek.com/

Intermodal 2009 3-5 Nov. 2009, Feria Valencia Spain
www.intermodal-events.com/

MARAD Approved Maritime Security Awareness Classes
<http://71.14.2.130/moodle/>

National Maritime Salvage Conference & Expo Oct. 6-8, 2009, Arlington Virginia
www.marinelog.com/DOCS/Conf.html#salvageanchor

Port of New York-New Jersey's 9th Annual Port Industry Day Conference Oct. 26, **USS Intrepid** at Pier 86, Manhattan, NY
www.nymar.org/calendar.html

SNAME 2009 Annual Meeting & Expo Oct. 21-23, 2009, Providence, Rhode Island
www.snameexpo.com

U.S. Customs "10 + 2" Outreach Events Scheduled in 2009
http://cbp.gov/xp/cgov/trade/trade_outreach/09_outreach_schl.xml

U.S. Customs Broker Exam Mon., Oct. 5, 2009
www.cbp.gov/xp/cgov/trade/trade_programs/broker/broker_exam/notice_of_exam.xml

Washington Union Station's Centennial Celebration
<http://newsroom.dc.gov/show.aspx/agency/ddot/section/2/release/15040>

General Interest>>>>>>>>

67th Annual Santa Train
www.facebook.com/pages/The-Santa-Train/46314894645?ref=mf

Carve A Pumpkin - Win A Vacation
www.gadling.com/tag/JackOLantern/

CoPilot Live amazing iPhone App
www.alk.eu.com/copilotlive/iphone/

Destroyer Squadron 24 & USS Cole currently on patrol
www.navy.mil/local/cds24

Lance Armstrong's Video Blogs even if you're not a cycling fan, these are interesting
www.livestrong.com/lance-armstrong/videos/

OpenStreetMap - Free Wiki World Map
www.openstreetmap.org/

Middle East and North Africa (MENA) Logistics Report
http://gw.vtrenz.net/?DB0DFPKPGX=clicksrc:C3D_JofC_091709res=4066531/sch=1097171

REVA Electric Car Company
www.revaindia.com/

Speed Tables ... what?

www.trafficlogix.com/speed-tables.asp

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OUR "E" Section: The Forwarder/Broker World***

7. New U.S. Transport Related Legal Cases _____

*****In The Wake** as this month we continue this new feature with a more humorous side of maritime law as brought to us by **Geoffrey Gill, Esq.** at **Countryman & McDaniel**.

Geoff Writes about recent maritime cases:

"Defense counsel creatively argued in *Vistar S.A. v. M.V. Sea-Land Express*, 792 f.2d 469 (5th Cir. 1986), that an ocean carrier's trucker subcontractor, who "low bridged" cargo on an inland highway, was entitled to the benefit of the "error in navigation" defense in section 1304(2)(a) of COGSA. The court disagreed, stating that "navigation" would be limited to ships.

In considering the propriety of the attempted removal to federal court of an admiralty action, the court in *Noble v. Bradford Marine Inc.*, 789 F. Supp. 395 (S.D.FI. 1992), call on "Wayne's World," including **"NOT!"** in the heading and deciding, on procedural grounds, that the defendants must **"Party On"** in state court.

Admiralty law permits a ship to be named as a defendant, and ships commonly are sued in rem. The naming of an inanimate object as a party litigant was taken a step further, however, when the sea was named as a correspondent in the divorce action filed by wife number one against Alan Villiers, a noted author and aficionado of the sea and sailing ships. "*Sea History*" magazine, 20 (Summer 1984).

Collisions at sea between oceangoing ships are also the source of admiralty humor. In *In re Potomac Transport Inc.*, 909 F.2d 42, 44 (2d Cir. 1990), the court puzzled as to "how two fully-equipped vessels several miles apart on a clear night somehow could manage to maneuver themselves into one another's side quarters." Perhaps the answer lies in the navigating officers' axiom "When in danger, when in doubt, run in circles, scream and shout."

Geoffrey W. Gill, Esq is a graduate of Fordham University School of Law, United States Merchant Marine Academy, and United States Naval War College. He is a licensed Master & practices maritime hull & yacht litigation in California, Florida & New York at the Law Offices of Countryman & McDaniel.

In re Air Crash Near Peixoto de Azeveda, Brazil

Sept. 29, 2006, 574 F. Supp. 2d 272 (S.D.N.Y. 2008).

The district court granted defendants' motion to dismiss wrongful death claims brought by Brazilian citizens & residents on basis for forum non conveniens. The court rejected plaintiff's arguments that their choice of forum should be entitled to the same level of deference that U.S. citizens and residents receive by virtue of the Treat of Amity, Commerce, and Navigation. That treaty, under the court's reasoning, only "requires that the signatories' courts be open to foreign nationals who happen to be located within the territory of the other." Because the plaintiffs were not located in the U.S., the treaty did not apply to their claims. The court further held that Brazil was both an available and adequate form despite plaintiff's complaints of Brazilian judicial procedure and process. In weighing considerations of public and private interest, the court was dissuaded from maintaining the New York litigation, holding "the most important factors of lack of jurisdiction in this forum over potentially liable parties & the lack of compulsory process over witnesses and evidence in Brazil, together with other considerations, swing the balance sufficiently to make this forum 'genuinely inconvenient' and a Brazilian forum 'significantly preferable.'" See our **Cargo Law** photo feature:

http://cargolaw.com/2000nightmare_singleonly10.html#Brazil-Mid-Air

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Written from wire stories, the Associated Press, Reuters, Hong Kong Shipping News Lloyds &
other world sources.

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Christoph Wahner, Esq. (Countryman & McDaniel) **Daily Vessel Casualties**

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(since 1978)

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Michael S. **McDaniel**, Editor.

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