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Law Offices of Countryman & McDaniel
THE CARGO LETTER [461]
Air & Ocean Logistics - Customs Broker News
24 Dec. 2009
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Good Christmas Eve 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.**"

As is normal for the month of December, our industry news was mostly marked by one group giving an award to another. Despite a lack of hard news stories, we have added some other transport features this month we hope will Inform & entertain.

Thank you for supporting our effort in publishing **The Cargo Letter** for you each month. We plan new features for you in 2010.

Merry Christmas to you all & a Happy New Year,

McD

To help you find what you need -- **FAST** -- there's now a transport search engine installed at our www.CargoLaw.com website!

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** _____

*****Truce Called In Long-Running Banana War** as the European Union and a group of Latin American countries have reached an agreement to end tensions over the EU's tariffs on banana imports, bringing to a close the longest international trade dispute in memory. At issue is the EU's current banana import regime, which allows 775,000 tons of the fruit from African,

Caribbean & Pacific (ACP) countries - many of which are former European colonies - to enter the bloc duty-free each year. Meanwhile, Brussels places a €176 per ton tariff on bananas from all other exporters. Many Latin American countries, which include some of the world's biggest banana exporters, have long insisted that this import regime illegally discriminates in favour of bananas from ACP countries and violates WTO rules on quantitative restrictions. The WTO's Dispute Settlement Body has supported such claims, and Brussels has been under pressure to revise its policies. The United States also has an interest in the agreement, as several major banana companies - namely Chiquita, Del Monte & Dole - operate in Latin America but are headquartered in the U.S. Washington has joined the Latin American countries in challenging the European banana tariff regime at the WTO. The deal will gradually cut the EU's tariffs on Latin American banana exports from the current level of €176 per ton to €114 per ton by 2017, beginning with a "down payment" cut of €28 per ton that took effect on 15 Dec. From here on, the tariff will drop by between €3 and €7 per ton each year from 2011 to 2017, when it will reach its final level of €114. In return, Latin American countries will forfeit demand for further cuts and drop cases against the EU. Latin American producers will settle several legal disputes pending against the EU at the World Trade Organization, some dating as far back as 1993.

*****Canada & U.S. Match-Up On Security** as the two countries plan to align their respective supply chain security programs: the U.S. Customs-Trade Partnership Against Terrorism (C-TPAT), and the Partners in Protection (PIP) program of Canada. The programs will be aligned "in an effort to achieve harmonization as quickly as possible." The countries have also created a Maritime Annex to the Joint Framework for the Movement of People and Goods During and Following Emergencies. This is an addition to the Framework the countries established in May. The new annex guides communication and coordination during incidents that affect shared waterways and ports, enabling both nations to assist one another during emergencies. Canada joined the United States in recognizing NEXUS and Free and Secure Trade (FAST) trusted traveler program cards as valid identification documents in all lanes at all land and sea border ports of entry as of Nov. 25. The United States will join a biometric data sharing initiative involving Canada, Australia, the United Kingdom and, eventually, New Zealand – an initiative designed to strengthen the integrity of immigration systems and the security of each country while protecting privacy & civil rights.
www.dhs.gov/ynews/releases/pr_1259080420061.shtm

*****Uncle Sam Extends More Heart** as the U.S. Export-Import Bank has surpassed US\$70Bn in total credits outstanding, the highest level in the bank's 75-year history. The milestone was reached with the authorization of a US\$3Bn financing to support U.S. exports for a liquefied natural gas project in Papua New Guinea, also considered Ex-Im Bank's single largest transaction. Since the start of the fiscal year on Oct. 1, the bank has authorized US\$7.5Bn in transactions, compared with US\$1Bn for the same period last year. In fiscal year 2009, the bank set a record of US\$21Bn in authorizations, and a record of US\$4.36Bn in authorizations for small exporters. No country gives more, or ever has.
www.exim.gov/

*****Consequence/Benefit of The Falling Dollar** as for Oct. 2009, statistics reported by the U.S. Census show a 2nd consecutive month of year-on-year increases for United States exports, which in volume terms were the highest exports have been since June 2008. On the import side- while still showing a decline-the numbers were markedly improved in October, with the rate of decline sharply lower than in past months (-8.4% in Oct. versus -20.7% in Sept.).

*****Vital Supply Chain For Our Troops** as the United States has greatly expanded the use of a new supply route to send non-military cargo to Afghanistan via Russia, Kazakhstan, Uzbekistan & Tajikistan, Reuters reported. The route has been used to convey almost 5,000 containers to U.S. troops. With President Obama's decision to send 30,000 more troops to Afghanistan in 2010, that number is expected to expand significantly. The supply route through Central Asia is being used as an alternative to the traditional route to Afghanistan via Pakistan, which has become increasingly burdened & vulnerable to attack from insurgents along the

Pakistan-Afghanistan border. The situation indicates a much higher proportion of non-military goods shipped to troops via the new route arrive intact compared to those routed through Pakistan. The shipments include wood, nails & plastic sheeting. What ever they need, God's Speed.

*****The Check Is In The Mail -- Who Are You Really?**as effective on Dec. 4 2009, all payments made to U.S. Customs & Border Protection by check must include the Taxpayer Identifying Number (TIN), which should be written on the face of the check. The TIN may be either the social security number (SSN) or employer identification number. We think some bad paper was hung.

<http://edocket.access.gpo.gov/2009/E9-28905.htm>

*****Taking A Megabyte Out of Cargo Crime** as the Transported Asset Protection Assn. (TAPA) has launched its Incident Information Service (IIS) which marks the start of its freight crime database for its members within the region. The IIS)is a database of freight crimes occurring against the industry and TAPA members. The database stores incidents such as crimes of hijacking, robbery, warehouse burglary, fraud, theft from facilities and thefts from and of the vehicle & load. According to the US FBI's report in 2006, the cost of global cargo theft is conservatively estimated to be US\$15Bn to US\$30Bn a year and according to the European Union, the theft of high value, high risk products moving in supply chains in Europe costs businesses in excess of Euros 8.2Bn a year. The freight crime statistics for Asia are not known and the TAPA IIS offer an opportunity for its members to collect the loss data and provide an overview of the actual trends.

www.tapa-asia.org/

*****Big Brown Gears Up For Christmas** as Monday Dec. 21, was "Peak Day" which saw more than 22 million packages delivered by UPS worldwide on that one day alone. That's more than 250 deliveries every second. While Dec. 21 was the busiest day for all package deliveries (ground & air combined), Wednesday, Dec. 23, will be the busiest day for UPS air express packages. UPS will deliver more than 6 million air packages on that day globally. UPS, once again, is one of the holiday season's top employers of choice and is adding 50,000 seasonal employees around the U.S. Meanwhile, UPS Airlines, one of the 10 largest in the world, is adding 37 chartered aircraft to its year-round operating fleet to handle the influx of holiday packages. During Peak Week 2009, 2,049 UPS cargo flights will take off daily. That's about 330 more flights than a typical day in November.

www.ups.com/content/us/en/about/facts/index.html?WT.svl=SubNav

*****10+2 Filing Becomes Madatory Next Month - Penalties** as U.S. Customs & Border Protection (CBP) has published reminders regarding the Importer Security Filing (ISF, 10+2) program. ISF filing requirements become mandatory on Jan. 26, 2010, and must be filed for all ocean shipments entering the U.S. Bonds are not yet required for ISF, however, starting Jan. 26, 2010, bond data must be submitted properly. Penalties are up to US\$5,000 per shipment.

http://apps.cbp.gov/csms/viewmssg.asp?Recid=17766&page=&srch_argv=09-000371&srctype=all&btype=&sortby=&sby=

*****New Trucking Companies To Man Up** as the Dept. of Transportation's Federal Motor Carrier Safety Administration (FMCSA) said it will begin enforcing its new entrant safety assurance process rule, which requires newly registered truck companies to meet stricter safety requirements. Under the new requirements, a newly registered truck company will automatically fail its safety audit if violations of any one of 16 essential federal regulations are discovered. These regulations cover controlled substances & alcohol testing, hours-of-service rules, driver qualifications, vehicle condition and carrier insurance responsibility. Failure to pass a new entrant safety audit may result in revocation of a carrier's registration, unless that carrier takes corrective action within a time period established by FMCSA. Additionally, if certain violations are discovered during roadside inspections, the new carrier may be subject to an expedited safety audit or a compliance review that can result in fines or an out-of-service order.

*****The Eurostar Is Relit** as it resumed its high-speed rail service linking Britain, France & Belgium on Dec. 22 after a 3-day suspension that stranded tens of thousands of holiday travelers and left French President Nicolas Sarkozy indignant. The first train pulled out of the Gare du Nord station in Paris shortly after 8 a.m. (0700 GMT) carrying 750 passengers, many of whom had been stranded for days. Hundreds of others waited in a line that stretched across the cavernous Paris train station, as Eurostar staff circulated with trays of pastries and coffee in paper cups. Officials at the Eurostar train company said they had identified the problem that caused trains to break down in the Channel Tunnel - unusually dry, powdery snow that got into the engines. President Sarkozy summoned the head of France's SNCF rail operator into the Elysee Palace on Monday for a one-on-one meeting and ordered him to get the Eurostar moving again, saying the situation was "unacceptable for travelers."

www.raileurope.com/index.html

*****Paper Or Plastic?** as Intelligent Global Pooling Systems' recent tests of randomly sampled wood pallets for food shipments found Listeria and "abnormally high counts of bacteria that could potentially create health hazards for consumers." iGPS operates one of the world's largest plastic pallet rental pools. Each iGPS pallet is embedded with radio frequency tags for individual tracking. During the past year, the company has sparked a heated debate with the wood pallet industry over sanitation and health. "There is a growing body of evidence that wood pallets pose unacceptable risks to our nation's food supply," said Bob Moore, chairman and CEO of iGPS, in a statement. "It's clear from the tests we've conducted in Philadelphia and Portland, Maine, that wooden pallets can harbor a lot of bacteria, and even pathogens, because of wood's propensity to retain moisture," said Peter Kmieck, director of Kappa Laboratories. However, some plastic pallet makers, such as iGPS, have added the chemical fire retardant deca-bromine to ensure their pallets meet various fire safety regulations. Wood pallet makers have noted that several recent studies, including those conducted by the American Chemical Society and the federal government's National Oceanic and Atmospheric Administration, demonstrate that fire retardant chemicals are increasingly showing up in the nation's water supply. A number of retail food shippers have moved to all-plastic pallet pools in recent years, citing their own lists of safety and environmental concerns associated with wood pallets, such as cleanliness, damage & disposal. The politics in this debate obscure the science.

National Wooden Pallet and Container Assn.

www.nwpc.com/

Intelligent Global Pooling Systems

www.igps.net/

*****Unintended Transport Consequences** as cities around the U.S. that have installed energy-efficient traffic lights are discovering a hazardous downside: The bulbs don't burn hot enough to melt snow and can become crusted over in a storm - a problem blamed for dozens of accidents and at least one death. "I've never had to put up with this in the past," said Duane Kassens, a driver from West Bend who got into a fender-bender recently because he couldn't see the lights. "The police officer told me the new lights weren't melting the snow. How is that safe?" Many communities have switched to LED bulbs in their traffic lights because they use 90% less energy than the old incandescent variety, last far longer and save money. Their great advantage is also their drawback: They do not waste energy by producing heat. Authorities in several states are testing possible solutions, including installing weather shields, adding heating elements like those used in airport runway lights or coating the lights with water-repellent substances. Illinois authorities said that during a storm in April, 34-year-old Lisa Richter could see she had a green light and began making a left turn. A driver coming from the opposite direction did not realize the stoplight was obscured by snow and plowed into Richter's vehicle, killing her. "Would the accident have occurred if the lights had been clear? I would be willing to bet not," Oswego police Detective Rob Sherwood said. In the State Wisconsin, which has put LED bulbs at hundreds of intersections, saves about US\$750,000 per year in energy costs, energy savings in excess of 80%.

*****Big Brown Honor** as a UPS driver's unscheduled delivery in New Jersey made one retailer very grateful on Dec. 13. John Piontkowski spotted a bank bag in the middle of the road while he was making deliveries in Randolph. Inside, he found US\$5,200 and a Bank of America deposit slip showing the money came from Stuyvesant Liquors in Jersey City. The driver took the money to the bank. He tells the Daily Record of Morristown that he never considered keeping the cash. Store owner Don Knaus says he and his wife were busy running errands Wednesday and lost track of the money, which somehow landed in the road near their home. As they searched, their bank called to say the money had been found. The driver says the store owner gave him "a very nice reward." We hope his kids are Boy Scouts!

*****Tree Transport** as authorities said they caught an Indiana man riding a bike while balancing a stolen Christmas tree across the handlebars. Police in Portage, Indiana said they spotted 48-year-old Phillip Menefee about 1 a.m., Dec. 6, riding the bike equipped with a homemade motor but no lights. Police had been investigating motor noise near a Christmas tree lot. Police said Menefee had been drinking at a bar and told police he bought the tree from the lot, which is run by Mathisen Tree Farms of Greenville, Mich. When told the lot was closed, police said he claimed he bought the tree from the bar. Police arrested Menefee for theft and public intoxication. The US\$40 tree, which was marked with a tag, was returned. There was no telephone listing for Menefee in Portage area. Of course there was no phone number, it was Santa. Last time he stops off at a bar!

*****The Elf Was Driving** as Santa Claus is in trouble with the law in one western Wisconsin city. Police in Sparta said they cited a man dressed as Santa after witnesses told officers he stumbled out of a vehicle on Dec. 16, approached several children playing in a yard, hugged them and demanded to know the whereabouts of his reindeer. The man was cited for open intoxicants. The driver of the car in which he was riding was arrested for drunken driving.

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2. The Cargo Letter Financial Page _____

****FedEx Corp. DOWN** with 2nd quarter profit of US\$345M, down 30% from last year's US\$493M in the same period.
****Hapag-Lloyd. DOWN** as the world's 6th-largest container shipping company, had an underlying loss of US\$981M through 9 months of 2009, compared to earnings before interest, taxes & amortization of US\$308M in same 2008 period.
****Neptune Orient Lines. DOWN** as it lost US\$245M in 1st quarter 2009, compared to the profit of US\$127M for same period 2008.
****Zim Line. DOWN** with a 3rd quarter loss of US\$206M

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OUR "B" Section: FF World Air News***
3. Freight Forwarder World Air Briefs _____

*****Dark Christmas** as the Int'l Air Transport Assn. (IATA) said this week it has revised its estimate of how much the airline industry will lose in 2010. IATA said it now projects a US\$5.6Bn loss in 2010, compared to previous projections of US\$3.8Bn. Airlines will lose US\$11Bn in 2009. The increased losses are primarily due to an expected rise in fuel costs, despite a moderate recovery in volumes. "For 2010, some key statistics are moving in the right direction," said Giovanni Bisignani, IATA's Director General & CEO. "Demand will likely continue to improve and airlines are expected to drive down non-fuel unit costs by 1.3%. But, fuel costs are rising and yields are a continuing disaster. Airlines will remain firmly in the red in 2010." IATA projects revenues will actually expand 4.9% in 2010 to US\$478Bn, though that's still well below the peak of US\$535Bn in 2008. IATA is forecasting that fuel will represent 26% operating costs in 2010. That's lower than the 32% of operating costs that fuel comprised in 2008, but twice the 13% of operating costs that fuel represented in 2001-2002. "Consolidation is the great hope for the industry," Bisignani said. "The round of consolidation experienced since this horrible decade began is a step in the right direction. But it has been confined within political borders as a result of

ownership restrictions in the archaic bilateral system. The industry cannot afford the mounting losses of the status quo. The next decade must facilitate consolidation."

*****Last Minute Sanata Gift In Air Asia?** as with export freight shipments piled up in Asia, a sudden surge in demand has some looking to the sky for signs of economic upturn, said The Journal of Commerce in this week's feature story. Available aircraft capacity, shaved to the bone at the depths of the recession, is colliding with a mini boom in trade to create a shipper's nightmare -- freight pile-ups at Asian airports. It's the latest indicator that an economic and trade recovery is under way -- and not a moment too soon for global airlines that could lose US\$11 Bn this year and ocean shipping lines that might lose double that amount. But is the recovery sustainable, or is the latest rally simply a case of shippers rushing their goods to market before the end of the year. In this week's Journal of Commerce cover story expert voices and recent industry data point to indications that this is a sign of a larger recovery. Shipping activity in raw materials, project cargo and other categories support hopes of sustainability. However, before shippers' confidence to rebuild is restored, carriers will need to return to higher levels of capacity, and they plan to move forward on that very cautiously.

www.joc.com

*****Some Glow In The East** as preliminary traffic data released by the Assn. of Asia Pacific Airlines for Oct. indicates a recovery in air cargo demand remains unclear. The airline association said demand maintained the trend of "slow but steady improvement," with traffic 2.4% below the levels recorded in Oct. 2008, the smallest shortfall so far this year. The average int'l cargo load factor in Oct. rose by 4.2% to 69.1%, as carriers reduced capacity by 8.3%.

*****Dreams Do Come True** as after 7 years of development and with parts from 135 suppliers worldwide, -- and after two and a half years of delays -- the start of the near-year long Boeing 787 "Dreamliner" test phase began Dec. 15 with a maiden test flight in Everett, Washington. Boeing now hopes to make first delivery of it's "Dreamliner" to the plane's launch customer, Japan's All Nippon Airways, in late 2010. Depending on its configuration, the plane will hold as many as 330 passengers. The aircraft makes extensive use of composite materials, making its airframe lighter, stronger and more fuel efficient. But that's just the start of many new innovations. The larger, eye level windows have no sliding plastic shades for a reason. There is an electrostatic film sandwiched internally that can adjust the level of light which passes through them, individually controlled by passengers, as well as the flight crew. They act the same way as tinted windows, but with multiple levels of adjustment. Although no date has been set, Boeing expects to build a freighter version, possibly in 10 to 15 years. Boeing is reported to be also considering a 787 variant as a candidate to replace the 747-based VC-25 as Air Force One.

http://en.wikipedia.org/wiki/Boeing_787

List of B787 Customers

http://en.wikipedia.org/wiki/List_of_Boeing_787_orders

Product of The World

www.latimes.com/business/la-fi-boeing16-2009dec16-g,0,456344.graphic

*****RFID Baggage Tags For Baggage -- Cargo Next** as Avery Dennison Corp. announced that its RFID inlays have passed the specifications & system tests and met the performance requirements established by the Int'l Air Transport Assn. (IATA) for the tagging of luggage & bags at airports. The RFID technology has already been successfully deployed in tagging solutions at Las Vegas & Hong Kong airports, where it has been involved in the tracking of millions of transported items and goods. Recent studies have demonstrated that the deployment of RFID systems for bag tagging can provide a rapid return on investment (ROI) by increasing accuracy and reliability of read rates. RFID tags eliminate bad reads from damaged bar codes and help reduce the costs of locating & delivering misplaced luggage, which cost airports millions of dollars every year.

www.motorola.com/Business/US-EN/Business+Product+and+Services/RFID/RFID+Tags

*****More On The "Overflight" of The Northwest Flight** as a call from a flight attendant to the pilots of the Northwest Airlines plane that overshot Minneapolis catapulted the cockpit crew from complacency to confusion -- or so they want you to believe. Interviews with the flight crew and other documents just released by the National Transportation Safety Board indicate the pilots were completely unaware of their predicament until the moment the intercom rang. They were unaware that they had flown their Airbus A320 with 144 passenger more than 100 miles past their destination, that air traffic controllers and their airline's dispatchers had been struggling to reach them for more than an hour, or that the military was at that moment readying fighter jets for an intercept mission. The plane had been out of radio contact for 77 minutes as it flew across a broad swath of the country on Oct. 21, raising national security concerns. Capt. Tom Cheney, 54, and First Officer Richard Cole, 54, told investigators they had taken out their laptops and were absorbed in working on a complicated crew scheduling program that they were required to learn following Delta Air Lines' acquisition of Northwest a year earlier. Cole told investigators they became distracted as they "got deeper and deeper into it." According to a statement signed by flight attendant Barbara Logan, she called the cockpit around 8:15 p.m. CDT to find out when they would be landing. She was told they would land around 12 Greenwich Mean Time. "I said I did not know the time - he said I was hosed and hung up." The lead flight attendant called to get gate information and was apparently also hung up on, according to Logan's report. That flight attendant later got through to the cockpit. At this point neither pilot can be licensed to fly cargo & passengers. At some later date, the actual truth would be helpful.

*****Why Can't I Fly?** as neither the U.S. Transportation Security Administration (TSA) nor the airlines publish the criteria that are used when boarding passes are issued to identify passengers who will be given extra screening or be denied boarding on the "No Fly" list. However, criteria are known to include:

Passengers with a one-way reservation.

Passengers who pay cash for their tickets.

Passengers who book reservations the day of their flight.

Passengers who "no show" a single leg of their flight.

Random selection

Flight to specific final destinations.

Flying without ID

*****FAA Says Osama bin Laden's Family Are Now Pilots?** as responding to ABC News reports based on findings from Safe Banking Systems (SBS), a risk & compliance technology firm, the Federal Aviation Administration (FAA) said members of Osama bin Laden's family are permitted to be licensed pilots. "The many different spellings of bin Laden in the FAA's data make it impossible for them to determine exactly who has a license" According to ABC, "The FAA and the Transportation Safety Administration (TSA) would not address the bin Laden family pilots specifically, but said no current license holders are considered 'potential terrorists to harm the flying public.'" Using proprietary, entity resolution software to decode transliterations, misspellings and similarities among public data, Mineola, NY-based SBS determined that at least 12 members of bin Laden's family currently hold FAA pilot's licenses, making them eligible to fly aircraft anywhere in the United States. Three bin Ladens received licenses in June, including one named in a civil lawsuit brought by families of 9/11 victims alleging he helped finance al-Qaeda networks. What a world.

www.safe-banking.com/

*****Skip To My Loo** as Cathay Pacific said Nov. 25, it has endured a spate of mysterious toilet blockages on its Airbus fleet, with one packed plane forced to make an unscheduled landing because it had no working lavatory. Toilets on the Hong Kong airline's Airbus A330 & A340 planes have been blocked in 3 separate incidents over an 11 day period. One Nov. 17 flight from Riyadh, in Saudi Arabia, to Hong Kong carrying 278 passengers was forced to divert to Mumbai, when flight attendants discovered shortly after take-off that none of the plane's 10 toilets were working. The enforced detour caused an 18-hour delay on what should have been an 8-hour

flight. The two other flights affected by blocked toilets were from Rome to Hong Kong on Nov. 9 and Dubai to Hong Kong on Nov. 19. In both cases, the number of passengers had to be restricted to fewer than 240 when it was discovered before take-off that only toilets on one side of the plane were functioning. The exact cause of the toilet blockages remained unclear, the spokeswoman said, adding that passengers might be partly to blame. "You would be amazed at what we find in the pipes when we clean the system -- not just face towels but medicine bottles, socks, items of clothing and even children's stuffed toys," Cathay Pacific said. The airline said it has consulted Airbus about the problem and its engineers are now fitting new pipes and carrying out deep-cleaning treatment on toilets. Aircraft toilets use high-speed pipes that carry waste at up to 110 kms (68 miles) an hour into a holding tank which is emptied between flights. Two vacuum systems operate separately on each side of the plane, meaning that a blockage usually affects all toilets on one side of the aircraft. Cathay's internal guidelines say the minimum toilet-to-passenger ratio in economy class should be one to 80. We love the service on Cathay Pacific, but skip the water they bring around. My toilet-to-passenger ratio can't handle it.

<http://en.wikipedia.org/wiki/Toilet>

*****Is This Seat Taken?** as the question is should overweight passengers pay extra to fly? That's the debate stemming from a photo of an extremely large passenger that was posted on the aviation website Flightglobal.com. The photograph shows an obese passenger spilling out of his seat and into the aisle. According to the blog, the photograph was taken by an American Airlines flight attendant to show her manager what was happening on the aircraft. Although it was posted on the blog last month, ABCNews.com, the New York Post and New York Daily News have since picked up the photo & blog post. Not to be unkind, but there comes a physical limit where people become cargo. Neither the airline nor the other passengers should be penalized for this. What would the result be if the passenger was rated on a volumetric basis, like our cargo? Perhaps palletized? **THE PHOTO:**

www.msnbc.msn.com/id/34276453/ns/travel-tips/

*****The Gentleman From New York -- Legislation In Flight** as on Dec. 13, U.S. Sen. Chuck Schumer (D-NY) caused a disturbance aboard a US Airways shuttle flight from New York to Washington. A House Republican aide who was on the same flight as Schumer, spoke to Politico.com and described the incident... Sen. Schumer was sitting next to Sen. Kirsten Gillibrand (D-NY), both were talking on their phones after the announcement came over the loud speaker to turn off all electronic devices. A flight attendant then informed the two that everyone on the plane was now waiting for the two Senators to end their phone calls. The unnamed source said Schumer asked the flight attendant if he could finish his conversation, to which she replied "no." Schumer hung up the phone and began arguing with the attendant. The aide said: "He argued with her about the rule. She said she doesn't make the rules, she just follows them." When the attendant turned away, Schumer called her a "bitch." Schumer's office played-down the incident, but admitted to the profane outburst. One can't help but wonder what Senator Kirsten Gillibrand had to think of Senator Schumer's childish behavior. Especially at the ease in which the word was used. Of course, the issue here is not political -- just manners from those we elect to represent us, regardless of party.

***** "The Office" Aloft**as a woman concerned her boss would miss his pre-Thanksgiving American Airlines flight to Honduras apparently tried to buy him some extra time by making a bomb threat, CBS station WFOR-TV reported. While the flight was detained, so was she. Claudia De La Rosa, a Colombian native, was charged by Miami-Dade police with making a false bomb report after she was arrested early Dec. 1 morning at her employer's apartment. Police were able to track her down by tracing her IP address. An arrest affidavit made public by Miami-Dade police said a woman contacted Miami Int'l Airport early Nov. 30 morning, claiming a bomb had been placed on American Airlines flight 953, scheduled to leave for Honduras shortly after 10 a.m. **Claudia**, please get a prison job where your boss does not travel.

*****Happy To See Them, Or Skinks In His Pants?** as a German visitor was caught by Customs trying to leave New Zealand with 23 geckos & 20 skinks hidden in his underwear. Hans

Kubus, 58, was stopped at Christchurch Airport on Dec. 6 after checking in, and was searched by Customs staff. A small package containing the reptiles was found in his underwear, prosecutor Mike Bodie told the Christchurch District Court on Dec. 6. "The package contained 8 separate compartments separating various gecko and skink species," he said. Kubus' luggage also contained a single gecko in a rolled up sock. A total of 24 geckos were found from 5 different species, as well as 20 skinks from 2 species. The German admitted trading geckos and taking geckos & skinks from the wild without a permit. A black market trade in geckos exists in Europe and those taken by Kubus would have had a street value of around US\$35,850, Bodie said. The value of the skinks was unknown because trading in that species had not previously been identified. Kubus was due to be sentenced on Jan. 25. Skinks in your pants? Squerm?

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

4. FF World Ocean Briefs

*****World Maritime Transport 2009 Major Events** as the United Nations Conference on Trade and Development (UNCTAD) released its Review of Maritime Transport 2009, suggesting that the global economic downturn and financial crisis slowed growth in world seaborne trade, while an increase in the supply of vessels has kept freight rates depressed: The year 2008 marked a major turning point in the history of the world economy and trade. A tightening of credit brought about by the global financial crisis and reduced demand for goods & shipping services lead to a decelerated growth in international seaborne trade in 2008. At the same time, the supply of new vessels continued to grow. This growth was the result of vessel orders placed before the financial crisis, when the industry was still expecting continuing high growth rates in demand - which did not materialize. As the world's shipping capacity continues to increase, the industry finds itself confronted with a surge of oversupply and tumbling freight rates.

Key Developments Marine Transport Milestones For 2009:

- In 2008, world seaborne trade (goods loaded) increased by 3.6% to reach an estimated 8.17 billion tons.
- African countries experienced strong GDP growth in 2008 (5.1 per cent), the top performers being the resource-rich countries. As a whole the region's share of world trade remains at 2.7%.
- In 2009, the total world merchant fleet had expanded by 6.7%, to reach 1.19 billion deadweight tons (dwt). The tonnage of oil tankers increased by 2.5% and that of bulk carriers by 7%. For the 1st time, the total tonnage on dry bulk carriers has exceeded the tonnage on oil tankers. Together these two types of ships represent 71.2% of total merchant fleet tonnage.
- The world fleet of fully cellular container ships continued to expand substantially in 2008: by the beginning of 2009 there were 4,638 ships, with a total capacity of 12.14 million TEUs - an increase of 8.5% in the number of ships and 12.9% in TEU capacity over the previous year.
- World container port throughput grew by an estimated 4% to reach 506 million TEUs in 2008. Mainland Chinese ports accounted for approximately 22.6% of the total world container port throughput.
- Rail freight traffic measured in ton-kilometers in China, the Russian Federation and India showed growth rates of 3.5%, 5% & 8.4 % respectively for 2008. However, rail freight traffic declined in Europe by 5%. In both Europe and the U.S., rail freight declined significantly in the early months of 2009 compared to the same period in the previous year.
- During 2009 a new convention titled the UN Convention on Contracts for the Int'l Carriage of Goods Wholly or Partly by Sea, which will be known as the "**Rotterdam Rules**", opened for signature. The new Convention requires 20 ratifications to enter into force.
- The increasing number of piracy & armed robbery incidents against ships - particularly off the Somali coast and in the Gulf of Aden - are leading to investigations on ways to find adequate response in various forums including the Int'l Maritime Organization (IMO) and the UN.

*****IANA Wrangles Container Roadability** as the Intermodal Assn. of North America's Web-based equipment registry, designed to simplify compliance with new container safety rules, has begun operations. The Global Intermodal Equipment Registry links the 10-digit alphanumeric identifying code on containers & chassis with the U.S. Dept. of Transportation's intermodal

equipment requirements. GIER eliminates the need to physically capture and mark intermodal equipment in order to meet the roadability compliance guidelines. It is estimated that GIER will save the intermodal industry approximately US\$60M.

<http://gierregistry.com/>

*****TSA Raises Rates** as on Dec. 16, 2009, the Transpacific Stabilization Agreement (TSA) ocean carrier members announced they will seek an emergency revenue program in an attempt to increase freight rates. The program is "designed to reverse the trend of declining freight rates that will result in ocean carriers losing an estimated US\$20Bn in their global operations in 2009." The 15 carrier program proposes rate increases of US\$320 per 20-foot container, US\$400 per 40-foot container, US\$450 per high-cube container, and US\$505 per 45-foot container. The emergency revenue charge, as TSA is calling it, would expire upon execution of new contracts in spring 2010. TSA previously announced its members would in spring seek rate increases of US\$800 per 40-foot container for shipments from Asia to the U.S. West Coast and US\$1,000 per 40-foot container for all-water and intermodal shipments.

www.joc.com/node/415310

*****Down Under Is Up** as carrier members of the U.S. Australasia Discussion Agreement said they are increasing rates for U.S. exports to Australia & New Zealand by US\$250 per 20-foot container and US\$500 per 40-foot container, effective Feb. 15. The increase applies to dry and reefer shipments to all ports in Australia & New Zealand. USADA members are CMA CGM, Hamburg Sud, Hapag-Lloyd, Marfret, Maersk Line & U.S. Lines.

*****The Green Created -- Is Money.....** as following a current industry trend, Israeli ocean carrier Zim said it will begin "super slow-steaming" on two of its services in the coming weeks to cut down on fuel consumption during the slow season for container trade. Slow-steaming will be used on the line's ZCS service between Asia, North America and the Mediterranean, and also on its EMX service, which connects the Far East and Indian Subcontinent with the Mediterranean. The ZCS is operated with 15 vessels (average vessel size 4,900 TEUs, according to ComPair Data), while the EMX is operated with 10 4,300-TEU vessels on average. Zim will add a 4,250-TEU ship to each service. Zim said it estimates a 13 % reduction in fuel consumption on the 2 services, with carbon dioxide emissions also reduced about 13% per year and nitrogen oxides emissions reduced about 46%.

www.compairedata.com/

*****Under Water** as the U.S.-Flag Great Lakes fleet hauled more than 9 million net tons of dry-bulk cargo in November. That's the 1st month this year that cargos totaled more than 9 million tons in a single month. Through Nov., U.S.-Flag carriage stands at 60,352,716 tons, a decrease of approximately 36.6% compared to a year ago. The U.S.-Flag float is 38.4% off the 5-year average for the Jan.-Nov. timeframe. How is this fleet still afloat?

*****Rent Your New Office At Mongla** as Cargo News Asia reported on Dec. 3, 2009 that the Bangladesh government has signed a Memorandum of Understanding (MOU) to develop the Mongla Port to be a regional hub. Mongla Port is in the south-western region of Bangladesh, and it will play a vital role in exporting and importing goods to and from various countries including India, Nepal, China & Bhutan. Mongla Port is the 2nd largest seaport of Bangladesh. It lies about 62 miles north of the Bay of Bengal and is connected to the major inland river port and rail terminal at Khulna.

*****So Close - You Can Almost Hug The Trees** as the U.S. Court of Appeals for the 9th Circuit will hear an appeal from the Pacific Merchant Shipping Association challenging a California Air Resources Board requirement for the use of low-sulfur fuel in vessels. The CARB rule stipulates that vessel operators must switch to the use of low-sulfur fuel within **24 miles** of the California coast. PMSA is challenging that requirement on the grounds that the state is attempting to regulate int'l commerce and is extending its jurisdiction into federal waters. John McLaurin, PMSA president, said vessel operators are serious about reducing emissions, but they

believe regulation of the global shipping industry should be promulgated at the national and int'l levels. For example, PMSA supports the U.S.-Canada initiative to set an int'l emissions standard for ocean-going vessels through creation of a North American Emission Control Area.

www.pmsaship.com/

*****Forget The Bad Economy -- Replace Your Truck** as the Port of Los Angeles said it will allow a limited number of truckers to continue operating their existing trucks past a Jan. 1 deadline for cleaner trucks. The modifications follow and are designed to be consistent with a ruling last week by the California Air Resources Board that allows truckers who have purchased a new truck or retrofitted rigs with private funds to continue to operate their existing truck until April 30, while waiting for the new truck to be delivered or the retrofit to be installed. The next phase of the so-called clean trucks plan is slated to begin Jan. 1, when 1993 and older trucks will be banned, and 1994-2003 trucks will need to be retrofitted or replaced. To provide balance in this story, please keep in mind that even these older trucks first need to meet California's strict emissions standards for non-port vehicles just to be licensed. The port requirements are extra. All of this can be quite a burden upon some guy whose truck waits for hours to pick up one container for a US\$150 dray charge which then requires another couple of service hours to make door delivery.

*****Best of The Best** as the U.S. Coast Guard has released its top 11 video compilation for 2009. The top 11 video compilation (presented in no particular order) is available for viewing & downloading from the Coast Guard Visual Information site. The public is encouraged to vote online at the Coast Guard's YouTube channel, www.youtube.com/USCGImagery, for their favorite video in the Coast Guard's best video of 2009 contest. http://cgvi.uscg.mil/media/main.php?q2_itemId=731355

Throughput >>> Guangzhou grew 16.4% for the year to 980,000 TEUs >>> **Shanghai** for the year is down 12.5% to 22.1 million TEUs >>> **Shenzhen** is down 17.5% for the year to 16.5 million TEUs. >>> **Xiamen** was up 8% for the year to 450,000 TEUs. Not bad for a failing world economy.

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

1775 - Lt. John Paul Jones raises the Grand Union flag on the Continental Navy ship Alfred. It is the first American flag raised over an American Naval vessel.

1819-The U.S. Revenue cutter **Dallas** seized a vessel laden with lumber that had been unlawfully cut from public land in one of the first recorded instances of a revenue cutter enforcing an environmental law.

1821 - Lt. Robert F. Stockton (City of Stockton named for) and Dr. Eli Ayers, a Naval surgeon and member of the American Colonizing Society, induce a local African king to sell territory for a colony, which eventually became the **Republic of Liberia**.

1841 - Commissioning of **USS Mississippi**, first U.S. ocean-going side-wheel steam warship, at Philadelphia.

1917 - Four U.S. battleships arrive at Scapa Flow taking on the role of the British Grand Fleet's Sixth Battle Squadron. Include **USS Delaware** (BB-28), **USS Florida** (BB-30), **New York** (BB-34), & **USS Wyoming** (BB-32).

1918 - President Woodrow Wilson sails in **USS George Washington** for WWI Paris Peace Conference.

1938 - Prototype shipboard radar, designed & built by the Naval Research Laboratory, is installed on **USS New York** (BB-34).

1941 - Japanese carrier aircraft attack U.S. Pacific Fleet based in Pearl Harbor, Hawaii.

1942 - Pharmacist's Mate First Class Thomas A. Moore performs appendectomy on Fireman Second Class George M. Platter on board **USS Silversides** (SS-236)

1942 - Pharmacist's Mate 1st Class Harry B. Roby performs an appendectomy on Torpedoman 1st Class W.R. Jones aboard **USS Grayback** (SS 208). It is the second appendectomy ever performed aboard a submarine.

1943 - **USS Grayling** (SS 208) sinks its 4th Japanese ship in 3 days.

1944 - Admiral Halsey's Third Fleet encounters typhoon northeast of Samar. Destroyers [USS Hull](#), [USS Monaghan](#) & [USS Spence](#) sink, while 21 other ships are damaged.

*****The Ghost Fleet of Mallows Bay** as the eastern shore of the Potomac River in Maryland is home to the largest ship graveyard in the Western hemisphere. At first glance – and with no sense of scale – this may appear to be a shoal of fish or a group of large aquatic animals. The reality is, however, you're seeing the remains of between 100 and 200 ships, each the size of a football field, rotting slowly into the mud or being overgrown by vegetation. During World War 1 the U.S. Government undertook a massive shipbuilding effort – only to see hundreds of ships left idle when the War ended. The Western Marine & Salvage Co. bought more than 200 ships at a cut-price rate, hoping to scrap them for their metal, but their plan went quickly astray when fire destroyed some of the ships, while others broke loose & sank. 169 ships were eventually towed to Mallows Bay, but after the price of scrap metal fell sharply in the stock market crash of 1929, WM&SC were soon forced into bankruptcy. Despite several failed attempts to salvage the wrecks over the years, these rusting hulks are still with us today, but it's evident that the local environment has adapted to accommodate them.

See [The Google Earth](#) presentation & explore further:

<http://googlesightseeing.com/maps?p=4538&c=&t=k&hl=en&ll=38.468866,-77.269694&z=18>

*****1912 - Premier Issue of "The U.S. Lighthouse Service Bulletin"** (Jan., 1912) as it described an incident on board the lighthouse tender [Amaranth](#) in connection with a Pintsch gas buoy. According to the documentation:

"On the morning of the 18th of Dec. [1910], at the Detroit lighthouse depot, 11th district, during a pressure test of the B III type Pintsch gas buoy, the buoy blew up, and John A. Dunbar, machinist attached to the tender [Amaranth](#), was killed. The test was made with Pintsch gas at a pressure of 18 atmospheres (approx. 270 pounds), and the buoy exploded as Mr. Dunbar closed the valve, the compressor having been shut down about 5 minutes before the accident. The top of the buoy separated from the barrel portion of the buoy at or near the weld, taking the cage work with it. The cage carried away the mainmast of the [Amaranth](#) and fell to the dock. The cone landed on and broke through the roof of the lamp shop some distance away. The barrel portion of the buoy & counterweight went through the dock. Paragraph 'Test of gas buoys and tanks,' page 34 of the Regulations of the United States Lighthouse Service [sic], provides for the test of buoys by hydrostatic pressure and not by gas or air. The bureau regrets the loss in the line of duty of an efficient and conscientious employee. This is the first buoy accident of this character in the United States Lighthouse Service." Their dedication helped make 2009 possible.

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

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

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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 Dec. 2009: "**Star Crossed**" - [JDS Kurama](#) at war in Tokyo Bay Dec., 2009.

www.cargolaw.com/2009nightmare_kurama.html

Also this month: "**General Motors Increases Training**" - a new understanding of "training".
www.cargolaw.com/2009nightmare_qm-train.html

See our newest photo feature "**Singles Only**" - Transportation Disasters Told In A Single Photo!
New Postings!
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 Natural Gas Vehicle Year in Review
www.ngvamerica.org/

Antidumping & Countervailing Duties (ADCVD) what is/how it works
www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/

Business Global on-line exhibition center
www.businessglobal.com

CORRAL (UK Colonial Registers & Royal Navy Logbooks) to image ship's logbooks of particular historic & scientific value & to digitize meteorological observations
www.corral.org.uk/Home

Enforcement of U.S. Intellectual Property Rights**updated** - trademark, copywrite & penalties
www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/enforce_ipr.ctt/enforce_ipr.pdf

Export University 2010: Educating Towards Export Excellence
www.buyusa.gov/philadelphia/exportu.html

Horizon Logistics Adds LTL Rate Tool
www.horizon-logistics.com/

Isle of Man Ship Registry has launched its new website with links to industry news & trade contacts
www.iomshipregistry.com/

LexMericatoria database for int'l commercial law
www.jus.uio.no/lm/

Lloyd's Interactive Piracy Timeline a master work you must see
www.lloydslist.com/ll/media/siteArticle.htm?articleId=20017604966

Safe Transport of Containers by Sea - Guidelines on Best Practices
www.marisec.org/containers/

The International Law of the Shipmaster (2009) Lloyds/Informa: London (800pp), by John A. C. Cartner, R. P. Fiske & T. L. Leiter
This New Book Is Your Next Read
www.informaprofessional.com/publications/books/the_international_law_of_the_shipmaster

U.S. Commercial Service in Austria
www.buyusa.gov/austria/en/

U.S. Importer Self-Assessment Points of Contact
www.cbp.gov/xp/cgov/trade/trade_programs/trade_contacts/isa_poc.xml

U.S. Tariff Classification -- What You Should Know
www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp017r2.ctt/icp017r2.pdf

United States Trade Representative & Trade Agreements
www.ustr.gov/tpp

World Shipping Council Assessment of Container Shipping about 30% of world trade or US\$4.6 trillion.
www.worldshipping.org/pdf/Liner_Industry_Valuation_Study.pdf

PRODUCTS>>>>>>>>

After Office Hours **THE** Emergency Contact Directory for people who need help quickly. Do you provide services to marine and transport insurers & shipping companies? Should your company be listed?
www.AfterOfficeHours.com

Shipping Explorer track vessels with live data, photos, track history, etc.
www.shippingexplorer.net/index.html

EVENTS>>>>>>>>

Transport Events
www.transportevents.com/

Trade Shows, Exhibitions, Conferences & Business Events Worldwide
www.eventseye.com/

World Trade Organization Events
www.wto.org/english/news_e/meets.pdf

2nd Breakbulk Asia Transportation Conference & ExhibitionJan. 26 - 27, 2010, Singapore
www.joc.com/BBA

10th Trans-Pacific Maritime Conference..... March 1 & 2, 2010 - Long Beach, CA
<http://guest.cvent.com/EVENTS/Info/Summary.aspx?e=e53aa686-c0b4-42b1-a81a-0251ddb9ba7f>

17th Annual Insurance Insolvency & Reinsurance RoundtableMarch 24-27, 2010, Scottsdale, Arizona
<http://litigationconferences.com/?p=4207>

2010 Shanghai World Expo May 1 - Oct. 31 2010
www.worldexpochina.net/

Commercial Vehicle Operator Show April 13-15, 2010, Birmingham, UK
www.cvoperatorshow.com/

Let's Say Thanks In Support of Our Troops personalize your special message - free, thanks to Xerox
www.LetsSayThanks.com

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

Package & Label Your Products for Export
www.businesslink.gov.uk/bdotg/action/layer?r.s=m&r.l1=1079717544&r.lc=en&r.l3=1078027562&r.l2=1077717216&topicId=1078027562&r.i=1078027697&r.t=RESOURCES

Transportation & Logistics Council 36th Annual Conference April 18-21, 2010, San Diego, CA
www.tlcouncil.org

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-Trade Partnership Against Terrorism (C-TPAT) Supply Chain Security Training Seminar 16-18 March 2010, Anaheim, CA
http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/ctpat_supply_chain.xml

U.S. Navy Small Business Conference Jan. 27, 2010, Los Angeles
www.hosbconference.com/

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

[Free Webinar](#)>>>>>>>>>>

Trade Winds 2010: Exporting to Central America - Best Prospects in Panama, Costa Rica, Honduras, El Salvador & GuatemalaFriday, Jan. 15, 2010; 11:00AM-12:00PM EST
<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=0Q14>

[Apps For That](#)>>>>>>>>>>

Co Pilot turn by turn voice navigation. Why buy that expensive mobile thing?

Donlen Fleet Management App the 1st

Red LaseriPhone becomes RFID scanner - a shopping/working must

Ship Finderworld-wide live

Title 49 U.S. transport law in your pocket

General Interest>>>>>>>>>

2010 U.S. Census

<http://2010.census.gov/2010census/>

Amazing Photography From Sam Ignarski
www.slideshare.net/SamIgnarski/amazing-2710406

Bad Valet don't give this guy your car
<http://news.yahoo.com/video/us-15749625/bad-valet-17172316>
<http://videos.apnicommunity.com/Video,Item,2940492015.html>

The Burj Dubai -- World's Tallest Building opens Jan. 4 2010
www.burjdubai.com/

Beazley's Holiday Driving Game
www.greetingsfrombeazley.com/game.php

Credit Card Lightbulbfor wallet-sized light
www.coollest-gadgets.com/20091220/credit-card-lightbulb-walletsized-light/#more-35572

European Traffic Police Network Winter Driving Quiz
www.tispol.org/node/5643

Informa Yacht Group
<http://informayachtgroup.com/>

Jubilee Sailing Trust sailing voyages for disabled & able bodied people working together
www.jst.org.uk

Let's Say Thanks In Support of Our Troops ... personalize your special message - free, thanks to Xerox
www.LetsSayThanks.com

Property Abroad
www.property-abroad.com
www.property-abroad.com/news/

Sikorsk Helicopter very cool
www.sikorsky.com

SM-28 Skymastermonitors weather, alerts of storms
www.coollest-gadgets.com/20091220/sm28-skymaster-monitors-weather-alerts-storms/#more-35568

The Space Show speak to an alien? Everyone gets a website
www.thespaceshow.com/

Tom Scott's Star Wars Weather Page
www.tomscott.com/weather/starwars/

U.S. Hospital Ship [USNS Mercy](http://www.navy.mil/swf/mmu/mmplyr.asp?id=13593)
www.navy.mil/swf/mmu/mmplyr.asp?id=13593

World Yacht Racing Forum
<http://worldyachtracingforum.com/index.php>

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

7. "In The Wake" &

New U.S. Transport Related Legal Cases _____

****In The Wake* as this month we continue with a more humorous side of maritime law from [Geoffrey Gill, Esq.](#) at [Countryman & McDaniel](#). Geoff writes about official maritime legal cases -- this month we visit the impact of reputation upon long standing maritime case decisions.

Can vessel value be influenced by reputation? A unique collision valuation issue was presented in the loss of the sloop *S/V Pleasant Day*, as reported in *The Niobe*, 31 Fed. 164 (S.D.Ga. 1887). *S/V Pleasant Day* "had been moored for quite a while in the Bilbo canal, an artery which perform[ed] the same functions for the city of Savannah that the Cloaca Maxima did for ancient Rome, and was as a consequence not so pleasant as her name imported." This, not surprisingly, adversely impacted valuation arguments advanced on behalf of her owner.

What about the reputation of seaman? Brawls have been viewed by courts as an incident of seafaring. The famous Judge Learned Hand observed in *Jones v. Lykes Bros. S.S. Co.*, 204 F.2d 815, 817 (2d Cir. 1953): "Sailors lead a rough life and are more apt to use their fists than office employees; what will seem to sedentary and protected persons as insufficient provocation for a personal encounter, is not the measure of the 'disposition' of 'the ordinary men in the calling.' "

A seaman's blood? In *Walters v. Moore-McCormack Lines Inc.*, 309 F.2d 191 (2d. Cir. 1962) the evidence revealed that the assailant "was a man of temperament ordinary for a seaman, whose blood was raised an ordinary degree by an ordinary seaman's altercation precipitated by the language so much a part of the seaman's life."

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](#).

CASES =====

[Vigilant Insurance Co. v. M/T Clipper Legacy](#)

U.S. District Court, Southern District of New York, 2 Sept. 2009

Damage Limitation Determined By "Customary Freight Unit": The subrogating underwriter sought to recover US\$218,764.00 for damage to cargo described in the bill of lading as 1,900 metric tons of peanut oil.

U.S. COGSA provides a carrier's damage limitation is set at US\$500.00 per package or, for goods not shipped in packages, "per customary freight unit." As was seen in this case, the agreed freight rate for bulk cargo may be crucial to determining the proper limitation of liability in a cargo damage case.

Here, the shipper did not declare a value for the cargo on the bill of lading, but specified freight charges as payable "per charter party dated February 23, 2005." That charter party agreement recited the rate as US\$90,000.00 lump sum.

The subrogating underwriter argued for application of the bill of lading cargo description as "1,900 metric tons" such that the damage limitation of US\$500.00 should be applied on a per ton basis. The Court stated that, under COGSA, it is not the unit used to describe the goods which controls – but the unit on which freight is charged that determines the "customary freight unit" for limitation purposes. Because the shipper clearly agreed to a lump sum freight, all it can recover for loss or damage is US\$500 -- or one "lump" freight unit. Again, this is why **The Cargo Letter** Urges all shippers to purchase high quality marine cargo insurance.

www.cargolaw.com/cogsa.html

Mon River Towing, Inc. v. Industrial Terminals & Salvage Co.

U.S. District Court, Western District of Pennsylvania

No. 06-1499, 4 December 2009

Mon River Towing brought this negligence suit against Industrial Terminal & Salvage Co. seeking damages for an incident when a fleet of barges chartered by plaintiff broke away from Defendants' facility. The opinion addresses legal standards for determining what profits, if any, were lost by plaintiff during the time its barges were out of service for repairs. The court ruled that for lost profits, the special Master must find:

1. Profits have actually been, or may reasonably supposed to have been, lost; and
2. The amount of that loss can be determined with reasonable certainty. All values must be determined with reasonable certainty, by factually-supported, not nearly speculative evidence of the income and costs normally attributable to the damaged vessels, and they must be arrived at by application of reliable principles & methods of accounting.

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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**

Maria Payne (Countryman & McDaniel)

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The Cargo Letter
(since 1978)

A world news service for Air/Ocean Freight Forwarders, NVOCC's, Consolidators, Indirect Air Carriers, Surveyors, Intermodal Shipper's Agents, Inland Carriers, Customs Brokers and Liability & Marine Underwriters world-widea free service to more than 8,000 industry subscribers & readers on 6 continents.

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