

**Circular Ref: 2023/0001****Date: 9 January 2023**

## **SHIP ARREST IN SUDAN**

### **1. Please give an overview of ship arrest practice in your country.**

Ship arrest is a relatively new procedure in the jurisdiction of Sudan as it was introduced for the first time in 2010 when a new law of Sea Transport was enacted. According to the law of Sea Transportation of 2010 any claimant of a maritime claim may apply to the competent court to arrest a ship to which the debt is connected or any other ship owned by the debtor at the time of the debt emergence. A claimant seeking to arrest a ship should file with the competent court an application annexed with the documents showing the genuineness of the claim; the court should issue an order of temporary arrest upon reviewing the produced documents and fix a date not exceeding fifteen days for a session for which the debtor should be summoned to appear in that session to contest the arrest or present the security provided for in article 49 of the law of Sea Transport.

### **2. Which International Convention applies to arrest of ships in your country?**

INTERNATIONAL CONVENTION ON ARREST OF SHIPS, 1999

### **3. Is there any other way to arrest a ship in your jurisdiction?**

No.

### **4. Are there alternatives e.g. saisie conservatoire or freezing order?**

No.

### **5. For which types of claims can you arrest a ship?**

Maritime claims only.

### **6. Can you arrest a ship irrespective of her flag?**

Yes.

### **7. Can you arrest a ship irrespective of the debtor?**

Yes.

### **8. What is the position as regards sister ships and ships in associated ownership?**

Sister ships are subject to arrest while ships in associate ownership can't be arrested.

**9. What is the position as regards Bareboat and Time-Chartered vessels?**

The provisions of the law of Sea Transport of 2010 apply to all species of ships except the worships.

**10. Do your Courts require counter-security in order to arrest a ship?**

The law of Sea Transport didn't provide for counter security neither the courts created a rule for counter security, but as the law of Civil Procedures empowers the court to demand such security in case of saisie conservatoire it is possible that a court may apply such provision on a ship arrest case.

**11. Is there any difference in respect to arresting a ship for a maritime claim and a maritime lien?**

No difference.

**12. Does your country recognise maritime liens? Under which International Convention, if any?**

Yes, Sudan is party to the International Convention on Maritime Liens and Mortgages 1993 Geneva.

**13. What lapse of time is required in order to arrest a ship from the moment the file arrives to your law firm?**

In the event all the necessary documents are available and the prescribed court fees paid, an arrest can be done in the same day an application.

**14. Do you need to provide a POA or any other documents of the claim to the Court?**

POA is not required but documents supporting the claim must produced before the court.

**15. What original documents are required, what documents can be filed electronically, what documents require notarisation and/or apostille, and when are they needed?**

The documents supporting the claim are required to be produced at the time of hearing the application.

**16. Will your Courts accept jurisdiction over the substantive claim once a vessel has been arrested?**

Yes.

**17. What is the procedure to release a ship from arrest?**

By virtue of of article 49/1 of the Sea Transport law the, the court may order to release the arrested ship if the security required is placed by the debtor. In practice if the parties settled the dispute during the temporary arrest and before the date of the session fixed by the court, the applicant files an application with the court requesting the release of the ship upon the settlement reached by the parties and the court shall immediately issue an order to release the ship.

**18. What type of security needs to be placed for the release?**

- The amount of the security in cash or certified check deposited in the court's treasury.
- Placing a letter of guarantee valid up to the end of the implementation stage
- Placing a P&I letter of undertaking

- Any security accepted by the claimant.

**19. Does security need to cover interest and costs?**

Interest is not applicable in Sudan but costs may be included.

**20. Are P&I LOUs accepted as sufficient to lift the arrest?**

Yes.

**21. How long does it take to release the ship?**

Only one day.

**22. Is there a procedure to contest the arrest?**

Yes.

**23. What period of time will be granted by the Courts in order for the claimants to take legal action on the merits?**

The law of Sea Transport ignored that so it is up to courts to decide the period Upon the discretion of the judge.

**24. Do the Courts of your country acknowledge wrongful arrest?**

Yes.

**25. Do the Courts of your country acknowledge the piercing and lifting of the corporate veil?**

Yes.

**26. Is it possible to have a ship sold pendente lite; if so how long does it take?**

By virtue of article 149 of the Civil Procedures Law, if it is proved during the process of a suit that the attached property is liable to loss, damage or transfer of title by owner, the court may issue the temporary order it deems suitable to maintain the property and prevent its loss, damage or title transfer thereof. So pursuant to the provision of the aforesaid article, if the claimant placed solid evidence that the ship is liable to dissipation during the process of the suit then the court may issue an order of selling the ship pendent e lite. It is difficult to estimate the time needed to sell the ship as it depends on the circumstances of each case, however, it takes long time a bit.

Source of Information: shiparrested.com