

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

INTERNATIONAL MARINE TRANSPORT v MV ‘LE CONG’ AND ANOTHER

From: The Registrar, Supreme Court of Appeal
Date: 23 November 2005
Status: Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

The SCA today dismissed the appeal of a Panamanian company, International Marine Transport SA, which had appealed against a judgment of the High Court, Durban, refusing to uphold the arrest of a Chinese ship, the *Le Cong*, which had previously been arrested to serve as security in arbitration proceedings in London bought by International Marine against a Chinese state-owned enterprise called Shantou Sez Chemical Industry and Petroleum General.

International Marine’s claim against Shantou Sez was based on the latter’s breach of a charter party and was for the payment of USD 3 831 233. It contended that the *Le Cong* and a ship, the *Gaz Progress*, deemed to be owned by Shantou Sez, were ‘associated’ ships within the meaning of the Admiralty Jurisdiction Regulation Act as the owner of the *Le Cong*, Guangzhou Ocean Shipping

Company, was also a state-owned enterprise and that the two ships were therefore both subject to the control of the Chinese State.

The SCA found that the two state-owned enterprises had been established at different levels of government in the People's Republic of China and that International Marine had failed to discharge the burden of refuting the evidence of Guangzhou's legal experts who contended that because the two state-owned enterprises were controlled at different levels of government there was no commonality in control between them.

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