Welcome to Portius, the world's first ever port law centre

This newsletter is the mouthpiece of Portius, the world's first ever academic institute focusing on international and EU law relating to maritime and inland ports. Portius is hosted by the Maritime Institute of Ghent University (Belgium) and the College of Europe in Bruges (Belgium) and Natolin-Warsaw (Poland). The former is one of Europe’s largest maritime law and law of the sea centres, the latter offers prestigious programmes in European studies. Moreover, Portius is actively supported by the port authorities of Ghent and Zeebrugge, two leading seaports in the Scheldt-Rhine Delta. Portius is conveniently located at the maritime heart of Europe, just a stone’s throw from Brussels, the capital of the European Union.

Portius is also a network of specialist port lawyers working in the port, academic and legal sectors and it is moreover supported by a large number of other organisations and companies.

Portius intends to offer specialised educational programmes and to organise events on topical issues in port law.

Portius’s organisational structure, activities and website will be officially presented at an inaugural ceremony at the Castle of the Counts in Ghent on 7 September 2010.

The Port Law Log is a monthly e-newsletter reporting on the activities of Portius and on other port law developments. The newsletter is sent free-of-charge to interested readers worldwide. Please feel free to forward it to friends and acquaintances in the worlds of shipping and law or to contact us with feedback.

The Portius team thanks you for your interest and looks forward to meeting you at one of its forthcoming activities.

Prof Dr Eric Van Hooydonk
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Portius will be officially launched on 7 September 2010 at an inaugural ceremony at the Castle of the Counts in Ghent. Speakers include:

- Hilde Crevits, Flemish Minister for Mobility and Public Works
- Giovanni Mendola, Principal Administrator, Ports & Inland Waterways Unit, DG Move, European Commission
- Paul Breyne, Governor of the Province of West Flanders
- André Denys, Governor of the Province of East Flanders
- Daniel Termont, Mayor of the City of Ghent
- Christophe Peeters, Chairman of the Port of Ghent
- Joachim Coens, Chairman - Managing Director of the Port of Zeebrugge
- Prof Dr Paul Van Cauwenberge, Rector of Ghent University
- Jan De Mondt, Director of Administration and Finance, Acting Director of the Development Office of the College of Europe
- Daan Schalck, CEO of the Port of Ghent (Chair)
- Prof Dr Eric Van Hooydonk, who will deliver the inaugural lecture ‘The law ends where the port area begins’ – On the anomalies of Port Law.

The ceremony is sponsored by the Port of Ghent, the Port of Zeebrugge and the Port of Antwerp.

Attendance to this event is by personal invitation only.

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International and EU Update Seminar on Places of Refuge for Ships in Need of Assistance on 13 October 2010

On 13 October 2010, Portius is organising an International and EU Update Seminar on Places of Refuge for Ships in Need of Assistance at Ghent University. It will be the very first legal event to focus on two major developments in this field: the Draft International Convention on Places of Refuge, adopted by the Comité Maritime International in 2008 and the 2009 amendments to the EU Vessel Traffic Monitoring Directive – containing an elaborate framework for the accommodation of ships in need of assistance in EU waters – which are in the process of being implemented by the European Commission and EU Member States. Speakers include:

- Dirk Sterckx, European Parliament Rapporteur on Places of Refuge
- Daniel Warin, Policy Officer for Maritime transport policy, DG MOVE, European Commission
- Hugh Shaw, Secretary of State's Representative for Maritime Salvage and Intervention (SOSREP)
- Portius Chairman Prof Dr Eric Van Hooydonk, who will present his newly published book on Places of Refuge
- Richard Shaw, CMI Rapporteur on Places of Refuge, University of Southampton
- Dr Inken von Gadow-Stephani, author of the book *The access to ports of refuge and other refuge berths for ships in distress*
- Isabelle Corbier, advocate at the Bar of Paris
- Drs Jasmine Coppens, PhD Researcher with Ghent University
- Archie Bishop, Legal Advisor to the International Salvage Union
- Alfons Guinier, Secretary-General of the European Community Shipowners' Associations
- Eelco Leemans, Acting Director of The North Sea Foundation
- Patrick Verhoeven, Secretary-General of the European Sea Ports Organisation.

For the full programme and practical information, click here.

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New book on Places of Refuge for Ships in Need of Assistance by Eric Van Hooydonk

Portius Chairman Eric Van Hooydonk has authored a new in-depth 524-page study of the places-of-refuge issue, providing an original, well-structured and detailed analysis of relevant international conventions, guidelines, case law, legal doctrine as well as of the new CMI and EU rules adopted in 2008 and 2009 respectively. In the foreword, CMI President Karl-Johan Gombrii and CMI IWG Chairman Stuart Hetherington describe the work as a "timely and magnificent book" and honour the author as "the heart and soul" of the CMI International Working Group that prepared the CMI Draft Convention. Dr John A.C. Cartner, author of *The International Law of the*...
Shipmaster (2009) immediately hailed the new book on Places of Refuge as "superb" and "the standard on the subject". Publisher Informa offers delegates at the International and EU Update Seminar on 13 October 2010 a 10 pc discount on the price of the book, on which more information is available on Informa's website.

Your contribution to The Port Law Log
All readers are invited to submit laws, regulations, judgments, papers, other port law materials and news on forthcoming events and new publications with a view to their inclusion in The Port Law Log and/or the Portius website, which will contain a freely accessible database on port law. Please send your submission to portius@ugent.be. We thank you in advance for your contribution!

Worldwide Port Law News

Spanish Parliament adopts new Port Act
The Spanish Act no. 33/2010 of 5 August 2010 contains a major amendment to Act no. 48/2003 of 26 November 2003 on the economic regime and the provision of services in ports of general interest. The new law seeks to enhance the efficiency and competitiveness of Spanish ports and specifically regulates the financial autonomy of ports and the provision of port services. To this end, it contains detailed provisions on various types of port dues and port services, on the delimitation of port areas and on port labour. The full Spanish text, as published in the Spanish Official Journal, is available from the Portius Port Law Database.

Hague Court rejects abuse of dominant position claim over Rotterdam port dues for oil tankers
In its judgment of 1 June 2010, the Court of Appeal at The Hague has rejected a claim by shipping agents representing the oil sector on an alleged abuse of a dominant position by the Rotterdam Port Authority. The oil sector had complained, inter alia, that port dues on ships are unreasonably high in comparison with tariffs for container vessels, that applicable tariffs for oil tankers were in excess of real costs and that the tariff structure was not transparent. It argued that the port authority enjoys a dominant position and that oil tankers have no real alternative than to use the deep-draught facilities at Rotterdam. For argument's sake, the Court assumed that the port authority enjoyed a dominant position on the relevant market, in casu the market for port services rendered to oil tankers unloading crude oil in the port of Rotterdam. The court however rejected the claim that tariffs for oil tankers were discriminatory. It accepted the port's position that, given additional investment and maintenance costs and traffic services necessitated by the accommodation of deep-draught oil tankers, the situation of such ships cannot be compared with that of container vessels. Next, the court considered that, as the oil sector does not compete with cargo interests in container traffic, it had insufficiently demonstrated a negative effect on its competitive position. The court also rejected the second argument, namely that port dues for oil tankers were unreasonably high in relation to the economic value of the services rendered. Referring to the ECJ's United Brands judgment 27/76, the Court recalled that the assessment must be made in two steps: first one needs to consider whether the difference between the rate charged and the costs incurred is excessive; second, if the answer to this question is affirmative, an assessment needs to be made of whether the rate is unreasonable in relation to the economic value of the service, either in itself or in comparison with competing products. The Court concluded that the oil sector had offered insufficient proof that this was the case. Finally, it considered various issues of national law, including the question of whether the port authority was entitled to charge port dues on a contractual basis. The Court found that it was and accepted in principle that the port authority needs to make a certain profit during periods of economic boom in
Draft EU Guidelines on Birds and Habitats in Estuaries and Coastal Zones online

The European Commission has produced Draft Guidelines on the implementation of the Birds and Habitats Directives in estuaries and coastal zones. Its development followed a request of the ports and maritime services sector. Previously not subject to many environmental requirements, the application and interpretation of environmental legislation, including the EU nature directives, has presented new challenges to the sector, which, in recent years, has sometimes resulted in delays in port development projects. Ports play an essential role in generating economic growth and they seek legal certainty as a prerequisite for new development projects. The European Ports policy, as formulated by the European Commission, has recommended reviewing legal constraints that may hinder development projects ('fast track procedure'). The draft guidelines provide a number of recommendations and elements of good practice to enhance port development and management in or near Natura 2000 sites. The document, which has not been formally adopted yet, is available from the European Commission's website and from the Portius Port Law Database.

New book on EU Maritime Safety Policy and International Law by Henrik Ringbom

This book offers a comprehensive international law analysis of the European Union's maritime safety legislation. The study assesses how the EU has acted as a flag State, port State and coastal State, and it measures the trends in this development against the international legal framework. Port lawyers will take a special interest in the extensive discussion of the legal framework of port state jurisdiction under international and EU law and esp. of items such as refusal of access to EU ports, and in the personal position of the author in the places-of-refuge debate. The author is currently Head of Sector for Environment Protection, Liability and Compensation at the European Maritime Safety Agency in Lisbon. The book is available from Martinus Nijhoff Publishers.

New book on Port Economics by Professor Wayne K. Talley

Port Economics by Professor Wayne K. Talley is arguably the first contemporary textbook of its kind. It provides a well-structured overview of all relevant port policy and management issues and touches upon their legal framework as well. It enables port lawyers to gain insight into the economic background of many port law issues. The author is the Frederick W. Beazley Professor of Economics and Executive Director of the Maritime Institute at Old Dominion University, Norfolk, Virginia, USA. The book is available from Routledge.

Port Law Calendar

Portius organises:

- Ghent, 7 September 2010
  Inauguration of Portius (by invitation only)

- Ghent, 13 October 2010
  International and EU Update Seminar on Places of Refuge for Ships in Need of Assistance

Portius recommends:

- Buenos Aires, 24-27 October 2010
  CMI Colloquium with topics relating to salvage, collisions and the Rotterdam Rules
Portius is the world's first institution to specialise in the study of the international and EU law of maritime and inland ports, the gateways to global trade. Portius is an independent non-profit academic centre hosted by Ghent University and the College of Europe at Bruges and Warsaw (Natolin). Other main partners are the port authorities of Ghent and Zeebrugge, two major ports in the Scheldt-Rhine Delta, Europe's maritime heartland. Portius is based on a genuinely international and EU-inspired network of port law academics and practitioners and welcomes contributors from all countries.

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