

MARITIME LAW**PRACTICE**

Appeal from order of Prothonotary dismissing defendant's third-party claim against 4103831 Canada Inc. (Trans Salonikios) on ground that Federal Court (F.C.) lacking jurisdiction — Defendant, marine carrier, agreeing in contract evidenced by bill of lading upon which plaintiff, Soline Trading Ltd., designated as consignee, to carry container of frozen shrimps from Ecuador to Port of Montreal — Container discharged at Port of Montreal, stored at yard belonging to Termont Terminal, stevedoring company, terminal operator — Trans Salonikios unlawfully taking possession of container — Defendant denying any liability for wrongful delivery of cargo, claiming that contract of carriage at an end when cargo was discharged in Montreal, placed in possession of Termont — Trans Salonikios contending that F.C. lacking jurisdiction over that claim on basis that its maritime law jurisdiction not extending to land transportation of goods carried by sea, especially where existence of contractual relationship between Trans Salonikios, parties not alleged — Prothonotary concluding plain, obvious that F.C. having no jurisdiction to hear third party claim — Finding that present set of circumstances closer to that of truckers in, *inter alia*, *Sio Export Trading Co. v. The Vessel "Dart Europe"*, [1984] 1 F.C. 256 (*The "Dart Europe"*), *Marley Co. v. Cast North America (1983) Inc.*, [1995] F.C.J. No. 489 (QL) (*Marley*) than that of terminal operator in *ITO – International Terminal Operators Ltd. v. Miida Electronics Inc.*, [1986] 1 S.C.R. 752 (*ITO*) — Issue whether Prothonotary correctly concluding plain, obvious that F.C. having no jurisdiction to hear third party claim — Prothonotary's conclusion legally defensible — In order to determine whether F.C. having jurisdiction over subject matter, test in *ITO* having to be met, i.e. there must be a statutory grant of jurisdiction by Parliament; there must be an existing body of federal law essential to the disposition of the case; the law on which the case is based must be a "law of Canada" — Defendant claiming, *inter alia*, that *Federal Courts Act*, R.S.C., 1985, c. F-7, s. 22(1) providing statutory grant of jurisdiction over its third party claim as it confers on F.C. concurrent jurisdiction; that claim against Trans Salonikios falling within definition of "Canadian maritime law" as set out in Act, s. 2(1) — Whether third party claim is a claim for relief made under or by virtue of "Canadian maritime law" as defined by Act, s. 2(1), interpreted by courts — To extent underlying activity allegedly engaging Canadian maritime law in present case is that of a land carrier, not much support in case law, if any, for defendant's position — Here, no proximity of Trans Salonikios operations to the sea, no connection between Trans Salonikios, contract of carriage by sea — No indication in *ITO* that cargo delivery activities going beyond tailboards of trucks or railway car doors integral part of carrying on activity of shipping within meaning of *Constitution Act, 1867*, s. 91(10) — Land transportation of cargo offloaded from ship at port terminal so that it be brought to its next destination not qualifying as port development business within meaning of *British Columbia (Attorney General) v. Lafarge Canada Inc.*, 2007 SCC 23, [2007] 2 S.C.R. 86 — Situation of Trans Salonikios closer to that of land carriers in *The "Dart Europe"*, *Marley* — Integration of logistics between terminal operator, trucker not bringing matter of trucker's activities within federal jurisdiction — Trans Salonikios remaining fundamentally a trucker governed by provincial law — Courts having to avoid encroachment on matters of local concerns within exclusive provincial jurisdiction when determining scope of Parliament's jurisdiction over navigation, shipping — Appeal dismissed.

CERTAIN UNDERWRITERS AT LLOYD'S V. MEDITERRANEAN SHIPPING COMPANY S.A. (T-1376-14, 2017 FC 893, LeBlanc J., order dated October 6, 2017, 29 pp.)