



## Hanjin Shipping – Current Jurisdictional Status and Options – United States of America

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The Bankruptcy Court granted this request on an interim basis, through an interim provisional Order dated September 6, 2016. After a further hearing on the scope of this interim relief, the Court issued an Order granting provisional relief to Hanjin on September 9, 2016 (the Provisional Order). The Provisional Order grants significant protection to Hanjin-owned and leased assets, but also includes certain carve-outs.

The Provisional Order forbids arresting or attaching any vessel or other transportation equipment that is owned, operated by, or chartered to Hanjin. Various parties asserting maritime liens against Hanjin-chartered vessels sought reconsideration of this aspect of the Provisional Order and pursued an emergency appeal to the District Court. Both requests were denied. However, in denying reconsideration, the Bankruptcy Court stated that "once these vessels are no longer under charter by the Debtor, they will not be protected by the stay and the Maritime Lienholders would be able to enforce their [in rem] liens against such vessels in the United States." These maritime lien interests also appealed the District Court decision to the Court of Appeals for the Third Circuit, seeking to stay the Bankruptcy Court's prohibition of vessel arrest. That appeal remains pending, but the Court of Appeals has preliminarily indicated that it may lack jurisdiction to entertain the appeal.

In addition to the restraint against arrest or attachment of vessels, the Provisional Order broadly prohibits taking or continuing any act to create, perfect, or enforce a lien or other security interest in Hanjin assets, or any asset or property chartered, leased, managed, or operated, but not owned, by Hanjin that is located in the territorial jurisdiction of the United States. However, the Provisional Order provides an exception that none of these provisions impairs the creation or continued existence of possessory liens over Hanjin assets, including, but not limited to, containers.

In response to the activities in the United States, Hanjin in Korea has proposed a sale of its assets. The sale comes as creditors line up claims less than two months after the company applied for court receivership as the first major shipping line to be dragged down by global industry overcapacity and comparatively low freight rates. The firm had total debt of 6.03 trillion Korean Republic Won (\$5.41 billion) as of the end of June 2016, according to its Court filing.

A spokesman for the Seoul Central District Court overseeing Hanjin Shipping's Receivership said assets currently set to be put up for sale include the entire operations of Hanjin Shipping's United States to Asia routes, such as manpower systems, five container ships, and ten overseas businesses. The Port of Long Beach, California said Wednesday that container volumes in September fell 16.6 percent from a year ago, as the effects of the Hanjin bankruptcy reached West Coast ports. Further, according to The Port of Long Beach, California, Hanjin Shipping accounted for approximately 12.3 percent of the Port's total containerized volume.