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Sendt: 17. april 2012 11:02
Til: nifs-rr@jus.uio.no
Emne: [Correspondence Group on Rotterdam Rules] SV: The Norwegian Maritime Law Commission's Report on the Rotterdam Rules

Dear Gertjan,

Thank you very much for this.

We did indeed discuss the international scope of the rules. One option was to make the rules generally applicable, also outside the scope set out in the rules themselves. In the end, however, we decided to reproduce the scope provisions in the Convention. There is, however, a remark in the report (which the Norwegian courts are likely to pay attention to), that if Norwegian law exceptionally should apply outside this scope, then it would still be an option to use the Rotterdam Rules as implemented in the Maritime Code as gap-filling law (p. 54).

The advantage of this approach is that the scope provisions are clearly set out in the Code, so that our treaty obligations are made clear. However, the scope provisions are likely to be construed so that they are subject to choice of law, in order not to be in conflict with the Rome I Regulation and the competence rules in TFEU art 3 (p. 54 of the report). If this is so, it is perhaps not very meaningful to reproduce the scope provisions, as the Rotterdam Rules in any event do not necessarily apply within their scope. But meaningful or not, this was where we ended.

Best regards,
Erik