Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

SINOCHEM INTERNATIONAL CO. LTD. *v.* MALAYSIA INTERNATIONAL SHIPPING CORP.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 06–102. Argued January 9, 2007 —Decided March 5, 2007

A contract between petitioner (Sinochem), a Chinese state-owned importer, and a domestic corporation not a party here (Triorient) provided that Sinochem would purchase steel coils and that Triorient would be paid under a letter of credit by producing a valid bill of lading certifying that the coils had been loaded for shipment to China on or before April 30, 2003. Triorient subchartered a vessel owned by respondent (Malaysia International), a Malaysian company, to transport the coils, and hired a stevedoring company to load the coils in Philadelphia. A bill of lading, dated April 30, 2003, triggered payment under the letter of credit. Sinochem petitioned a Chinese admiralty court for preservation of a maritime claim against Malaysia International and arrest of the vessel, alleging that the Malaysian company had falsely backdated the bill of lading. The Chinese court ordered the ship arrested, and Sinochem timely filed a complaint in that tribunal. The Chinese admiralty court rejected Malaysia International's jurisdictional objections to Sinochem's complaint and that ruling was affirmed on appeal.

Shortly after the Chinese admiralty court ordered the vessel's arrest, Malaysia International filed this action in a United States District Court, asserting that Sinochem's preservation petition to the Chinese court contained misrepresentations, and seeking compensation for losses sustained due to the ship's arrest. Sinochem moved to dismiss on several grounds, including lack of subject-matter and personal jurisdiction and the doctrine of *forum non conveniens,* under which a federal district court may dismiss an action if a court abroad is the more appropriate and convenient forum for adjudicating the controversy. The District Court determined it had subject-matter ju-

risdiction over the cause, concluded it lacked personal jurisdiction over Sinochem under Pennsylvania law, conjectured that limited discovery might reveal that it had personal jurisdiction under Federal Rule of Civil Procedure 4(k)(2), but dismissed on *forum non conveniens* grounds, finding that the case could be adjudicated adequately and more conveniently in the Chinese courts. Agreeing that there was subject-matter jurisdiction and that personal jurisdiction could not be resolved *sans* discovery, the Third Circuit panel held that the District Court could not dismiss the case under the *forum non conveniens* doctrine unless and until it determined definitively that it had both subject-matter and personal jurisdiction.

Held: A district court has discretion to respond at once to a defendant's *forum non conveniens* plea, and need not take up first any other threshold objection. In particular, a court need not resolve whether it has authority to adjudicate the cause (subject-matter jurisdiction) or personal jurisdiction over the defendant if it determines that, in any event, a foreign tribunal is the more suitable arbiter of the merits of the case. Pp. 5–12.

(a) A federal court has discretion to dismiss on *forum non conveniens* grounds "when an alternative forum has jurisdiction to hear [the] case, and . . . trial in the chosen forum would establish . . . oppressiveness and vexation to a defendant . . . out of all proportion to plaintiff's convenience, or . . . the chosen forum [is] inappropriate because of considerations affecting the court's own administrative and legal problems." *American Dredging Co.* v. *Miller*, 510 U. S. 443, 447–448. Such a dismissal reflects a court's assessment of a "range of considerations, most notably the convenience to the parties and the practical difficulties that can attend the adjudication of a dispute in a certain locality." *Quackenbush* v. *Allstate Ins. Co.*, 517 U. S. 706, 723. A defendant invoking *forum non conveniens* ordinarily bears a heavy burden in opposing the plaintiff's chosen forum. When the plaintiff's choice is not its home forum, however, the presumption in the plaintiff's favor "applies with less force," for the assumption that the chosen forum is appropriate is then "less reasonable." *Piper Aircraft Co.* v. *Reyno*, 454 U. S. 235, 255–256. Pp. 5–6.

(b) Although a federal court generally may not rule on the merits of a case without first determining that it has jurisdiction over the cause (subject-matter jurisdiction) and the parties (personal jurisdiction), see *Steel Co.* v. *Citizens for Better Environment*, 523 U. S. 83, 93–102, there is no mandatory sequencing of nonmerits issues, see *Ruhrgas AG* v. *Marathon Oil Co.*, 526 U. S. 574, 584. A court has leeway "to choose among threshold grounds for denying audience to a case on the merits," *Id.,* at 585. Pp. 7–8.

(c) *Forum non conveniens* is a nonmerits ground for dismissal. See

Syllabus

American Dredging, 510 U. S., at 454; *Chick Kam Choo* v. *Exxon Corp.*, 486 U. S. 140, 148. A district court therefore may dispose of an action by a *forum non conveniens* dismissal, bypassing questions of subject-matter and personal jurisdiction, when considerations of convenience, fairness, and judicial economy so warrant. *Forum non conveniens*, like other threshold issues, may involve a brush with "factual and legal issues of the underlying dispute." *Van Cauwenberghe* v. *Biard*, 486 U. S. 517, 529. But the critical point, rendering a *forum non conveniens* determination a nonmerits issue that can be determined before taking up jurisdictional inquiries is this: Resolving a *forum non conveniens* motion does not entail any assumption by the court of substantive law-declaring power. Statements in *Gulf Oil Corp.* v. *Gilbert*, 330 U. S. 501, that "*forum non conveniens* can never apply if there is absence of jurisdiction," *id.*, at 504, and that "[i]n all cases in which . . . *forum non conveniens* comes into play, it presupposes at least two forums in which the defendant is amenable to process," *id.*, at 506–507, account in large part for the Third Circuit's conclusion. Those statements draw their meaning from the context in which they were embedded. *Gulf Oil* answered in the affirmative the question whether a court that had jurisdiction over the cause and the parties and was a proper venue could nevertheless dismiss the action under the *forum non conveniens* doctrine. *Gulf Oil* did not address the issue decided here: whether a federal court can presume, rather than dispositively decide, its jurisdiction before dismissing under the doctrine of *forum non conveniens*. The quoted statements, confined to the setting in which they were made, are no hindrance to the decision reached today. The Third Circuit's further concern—that a court failing first to establish its jurisdiction could not condition a *forum non conveniens* dismissal on the defendant's waiver of any statute of limitations defense or objection to the foreign forum's jurisdiction, and thus could not shield the plaintiff against a foreign tribunal's refusal to entertain the suit—is not implicated on these facts. Malaysia International faces no genuine risk that the more convenient forum will not take up the case. This Court therefore need not decide whether a court conditioning a *forum non conveniens* dismissal on the waiver of jurisdictional or limitations defenses in the foreign forum must first determine its own authority to adjudicate the case. Pp. 8–11.

(d) This is a textbook case for immediate *forum non conveniens* dismissal. The District Court's subject-matter jurisdiction presented an issue of first impression in the Third Circuit, and was considered at some length by the courts below. Discovery concerning personal jurisdiction would have burdened Sinochem with expense and delay to scant purpose: The District Court inevitably would dismiss the case

without reaching the merits, given its well-considered *forum non conveniens* appraisal. Judicial economy is disserved by continuing litigation in the District Court given the proceedings long launched in China. And the gravamen of Malaysia International's complaint—misrepresentations to the Chinese admiralty court in securing the vessel's arrest in China—is an issue best left for determination by the Chinese courts. If, as in the mine run of cases, a court can readily determine that it lacks jurisdiction over the cause or the defendant, the proper course would be to dismiss on that ground. But where subject-matter or personal jurisdiction is difficult to determine, and *forum non conveniens* considerations weigh heavily in favor of dismissal, the court properly takes the less burdensome course. Pp. 11–12.

436 F. 3d 349, reversed and remanded.

GINSBURG, J., delivered the opinion for a unanimous Court.