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Legal Risk Management: Key to International Trade and Investment

# Hong Kong Maritime Arbitration and CMAAC

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Lianjun Li is a partner and head of the shipping practice at Reed Smith Richards Butler. He qualified as a solicitor in Hong Kong, England and Wales. He has extensive experience in dealing with disputes related to shipping, international trade, ship purchase and sale, ship construction, international commercial and shipping arbitration and cross border litigation.

He is a fellow of the Chartered Institute of Arbitrators and a Panel Arbitrator of the Hong Kong Law Society. He is also an arbitrator on the panels or lists of some well-known arbitration institutions including Hong Kong International Arbitrator Centre, China International Economic Arbitration Commission (CIETAC), China Maritime Arbitration Commission (CMAC), Kuala Lumpur Regional Centre for Arbitration, Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Centre), South China Economic and Trade Arbitration Commission (Shenzhen Court of International Arbitration), Qingdao, Wuhan and Xiamen Arbitration Commissions, Arbitration Center Across the Straits, Singapore Chamber of Maritime Arbitration. He is a visiting professor to Dalian Maritime University, Shanghai Maritime University, Korea University and Ji Mei University. He also serves as a member of the Hong Kong Maritime and Port Board.

Lianjun received educations from Dalian Maritime University, World Maritime University, Stockholm University and University of Hong Kong. He worked at Dalian Maritime University and Stockholm University before commencing his professional life in Hong Kong in 1993. He also qualified as second officer for ocean going vessel and worked at seas over two years.

Lianjun has been highly recommended as a leading lawyer in shipping litigation by "Chambers & Partners" and other legal guides.

Lianjun is a co-author of *Maritime Law and Practice in China* (Informa Law) and *Maritime Law and Practice in Hong Kong* (Sweet & Maxwell).

# Hong Kong Maritime Arbitration and CMAAC

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# I. Hong Kong Maritime Services

## **Port of Hong Kong**

- Hong Kong is one of the busiest and most efficient international container ports in the world. It handled 19.8 million TEUs of containers in 2016. The port provided about 330 container liner services per week connecting to around 470 destinations worldwide.

# Hong Kong Maritime Services

## Hong Kong Ship Register

- Hong Kong Shipping Register (HKSR) is an autonomous register under Article 125 of the Basic Law. Ranked the fourth in the world, HKSR crossed the 100 million gross tonnage mark in 2015.
- HKSR offers the most competitive package, complemented by a simple and speedy registration / deregistration process. The HKSR is operated by the Government of the Hong Kong SAR through the Marine Department which has over 150 years of experience in ship registration, inspection and survey.

# Hong Kong Maritime Services

## Arrangements for Avoidance of Double Taxation

- Due to the international nature of shipping operations, shipping operators are more susceptible to double taxation than other taxpayers. It is therefore the Hong Kong Special Administrative Region Government's (HKSARG) objective to make arrangements with its trading partners for the avoidance of double taxation on income derived from international shipping operation. Such arrangements reduce the overall tax burden of ship operators of Hong Kong and the trading partners, thereby improving their international competitiveness. This will also help enhance Hong Kong's position as an international maritime centre.
- Hong Kong has concluded double taxation relief arrangements covering shipping income with 44 tax administrations

# Hong Kong Maritime Services

- Number of Establishments and Number of Persons Engaged of Major Industry Groups and the Maritime Industry

<b>Industry Group</b>	<b>Number of Establishments</b>	<b>Number of Persons Engaged</b>
Ship agents and managers, and local representative officers of overseas shipping companies	253	7959
Ship owners and operators of sea-going vessels	162	4650
Ship owners and operators of vessels moving between Hong Kong and the ports in Pearl River Delta	53	1048
Ship brokers	43	191

# Hong Kong Maritime Services

## Major Shipping Law Firms in Hong Kong:

Reed Smith Richards Butler

Watson Farley & Williams

Holman Fenwick Willan

Ince & Co

Clyde & Co

DLA Piper

Mayer Brown JSM

Hill Dickinson

Howse Williams Bowers

RPC in association with Smyth & Co



# Hong Kong Maritime Services

## P&I Clubs in Hong Kong

- Skuld
- Gard
- West of England P&I Club
- UK P&I Club
- The Standard Club
- China P&I Club
- North of England P&I
- The Swedish Club
- London P&I Club
- Steamship Mutual
- The American Club
- Britannia P&I

## II. Hong Kong Maritime Law

### Legal System

#### 1. Prior to 1997

English law

Common law system

#### 2. After 1997

One country two system

Basic Law

Common law system



# Hong Kong Maritime Law

## Substantive Law

### Major Statutes

Merchant Shipping Ordinance

Marine Insurance Ordinance

Merchant Shipping (Safety) Ordinance

Merchant Shipping (Prevention and Control of Pollution)  
Ordinance

Merchant Shipping (Limitation of Shipowner's Liability)  
Ordinance

Carriage of Goods by Sea Ordinance



# Hong Kong Maritime Law

## Major International Conventions apply to Hong Kong

- The Hague Visby Rules
- International Convention for the Unification of Certain Rules of Law with Respect to Collision between Vessels 1910 1910年
- International Convention Relating to the Arrest of Sea-going Ships 1952
- Convention on the International Regulations for Preventing Collisions at Sea 1972
- International Convention for the Safety of Life at Sea (SOLAS)
- 1996 Protocol to the Convention on Limitation of Liability of Maritime Claims
- International Convention on Salvage 1989

# III. Hong Kong Maritime Arbitration

## Hong Kong Arbitration Institutions

- Hong Kong International Arbitration Centre is the largest arbitration institution in Hong Kong.
- Hong Kong Maritime Arbitration Group



# Hong Kong Maritime Arbitration

- International Court of Arbitration of the International Chamber of Commerce (“**ICC**”)
- China International Economic and Trade Arbitration Commission (“**CIETAC**”) Hong Kong Arbitration Centre
- China Maritime Arbitration Commission (“**CMAC**”) Hong Kong Arbitration Centre



# China Maritime Arbitration Commission (CMAC)

- China Maritime Arbitration Commission (“**CMAC**”), established within the China Council for the Promotion of International Trade on 22 January 1959 in accordance with the Decision made by the state Council of the People’s Republic of China on 21 November 1958, is a permanent arbitration institution, taking cognizance of domestic and international cases involving maritime disputes.
- CMAC has its headquarters in Beijing, with sub-commissions in Shanghai, Tianjin, Chongqing, Shenzhen, Hong Kong and Fujian. CMAC has heard thousands of maritime cases since its establishment. The CMAC awards which are considered to be impartial and authoritative have won CMAC great reputation at home and abroad. CMAC now is one of the major maritime arbitration institutions.

# China Maritime Arbitration Commission (CMAC)

## Current Rules:

- CMAC Arbitration Rules
- Revised and adopted by the China Council for the Promotion of International Trade/China Chamber of International Commerce on November 4 2014. Effective as of January 1, 2015.



# CMAC Hong Kong

- 19th November 2014
- CMAC Hong Kong Arbitration Center was established.
- The place of arbitration is HK
- Hong Kong arbitration related laws apply
- CMAC Arbitration Rules, effective as of January 1, 2015
- Chapter V Special Provisions for Hong Kong Arbitration
- CMAC Hong Kong Terms - new ad hoc rules to be announced soon



# Hong Kong Maritime Arbitration

**Hong Kong is an ideal venue for conducting maritime arbitration :**

- (1) Hong Kong's Arbitration Ordinance provides a user-friendly framework
- (2) Hong Kong courts are supportive of arbitration but have minimal intervention

MARITIME  
LAW



# Why HK is an ideal venue for maritime arbitration

- (3) Arbitration awards made in Hong Kong are enforceable in many countries
- (4) Hong Kong is conveniently located and easily accessible from anywhere in the world
- (5) Bilingual – English and Chinese
- (6) The main arbitration institution in Hong Kong, HKIAC, can provide excellent facilities and supporting services. ICC, CIETAC and CMAC can also provide excellent arbitration services. For ad hoc arbitration, there are many well-known maritime arbitrators conducting arbitrations in Hong Kong

# Why HK is an ideal venue for maritime arbitration

- (7) Many well-known professionals, including maritime law firms, accountant firms, surveyors and experts have set up their offices in Hong Kong
- (8) There are leading maritime arbitrators in Hong Kong. LMAA's Asia Pacific Liaison Committee is based in Hong Kong.
- (9) Hong Kong has been recognised as a reputable maritime arbitration forum. Mr. Justice Hamblen of English High Court said in the judgment of *Shagang South- Asia (Hong Kong) Trading v. Daewoo Logistics* [2015] EWHC 194 that “*Hong Kong is no doubt geographically convenient, it is also a well known and respected arbitration forum with a reputation for neutrality, not least because of its supervising courts*”

# Conclusion

- Hong Kong as one of the leading shipping centres has been providing excellent maritime law and arbitration services to the world's shipping industry. Certainly, we welcome the owners, operators, charterers to use our services in Hong Kong.

**Thank you!**