

Chinese Maritime Cases Series

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Martin Davies

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Chinese Maritime Cases

Selection for Year of 2015

Chinese Maritime Cases Series

Series Editors

Martin Davies, Tulane University Law School, New Orleans, LA, USA

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The primary aim of this series is to, for the first time, provide the academics, practitioners and businessmen worldwide with a crucial source to perceive how the specially designed Chinese maritime courts apply, interpretate and develop the shipping law in practice to strike a balance of interest among the domestic and international market players. Each year, China trades with other states in trillions of USD, and more than 90% of the cargoes are carried by ocean-going ships. In view of the enormous trade volume and maritime activities, foreign trading houses, shipping companies and marine underwriters, as well as their legal advisors, are keen to track down the developments of Chinese maritime law and court practice so as to predicate and avoid the potential problems or resolve the emerging disputes properly. Cases and judgments are regarded as a crucial source of learning. However, so far, no serial Chinese casebooks, which contain full English translation of selected judgments, have been published. The authors try to make an audacious break-through in this field. This series has a secondary aim: to establish a core part of the database, which can be further developed to be an innovative tool for the foreign students, professors and lawyers to have a systematic study of Chinese maritime law.

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Martin Davies · Jiang Lin
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Preface

To provide the legal professions worldwide with a good reference of Chinese maritime adjudication, this book, being the second in the series, delicately selects dozens of influential maritime cases heard by Chinese Maritime Courts and their appeal courts – Provincial High People’s Courts and the Supreme People’s Court of China. The selection covers a wide scope of disputes including carriage of goods by sea contract, charterparty, shipbuilding, ship sale and purchase, marine insurance, mortgage and collision.

Reading the judgments in this book, which are literally translated from the original Chinese version, readers will gain a better comprehension of the Chinese maritime law and a real sense how Chinese maritime judges apply the law to decide the issues in practice. This book offers excellent case study materials and will benefit the personnel engaged in the shipping, legal, judicial, arbitral and educational sectors. It is expected to promote mutual understanding and exchange of views, on which basis the international maritime justice will be further credited and enhanced.

It is worth noting that with the prosperous developments of international trade and shipping in the past decades, China has experienced steady growth of cross-board disputes arising from maritime transactions and admiralty affairs. Those emerging disputes and the underlying causes seem to be distinctive in comparison with their counterparts in foreign countries. That is largely due to the fact that the scale of the shipping and circumferential markets in China is impressive and their operation is unique, which are clearly demonstrated in this book.

The selected cases involve multiple parties, and between them, there exist complicated business and legal relationships. Thus, while trialing the cases, Chinese judges interpret and apply the law in a creative way to resolve the novel questions, the answers to which cannot be found in international conventions or customs or foreign statutes or caselaw. In one sense, Chinese maritime courts are in an unrivaled situation to analyze and assess, in depth and breadth, the evolving disputes in the trade and shipping world and promote Chinese maritime judgments, as well as domestic legislative instruments, to be precedents for reference purpose worldwide.

This book does not only show the fruitful outcomes of Chinese maritime adjudication, but also casts a light on the trend of evolution of Chinese maritime legislation. For every maritime nation, the previous judgments make valuable contributions to present interpretation and application of the law and future legislation.

April, 2021

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