

Chinese Maritime Cases Series

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Martin Davies · Jiang Lin *Editors*

Chinese Maritime Cases

Selection for Year of 2017

Chinese Maritime Cases Series

Series Editors

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

Jiang Lin, Law School, Shanghai Maritime University, Shanghai, China

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.

More information about this series at <http://www.springer.com/series/16710>

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

Jiang Lin
Law School
Shanghai Maritime University
Shanghai, China

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Foreword

I am pleased to note that Prof. Martin Davies of Tulane University Law School and Associate Prof. Jiang Lin of Shanghai Maritime University Law School have embarked on the great project of publishing selected Chinese maritime judgments on year-by-year basis. This book is the fourth in the Chinese Maritime Cases series they have published through the esteemed press Springer. I would like to thank them, as well as Springer, for opening a window to professionals worldwide and other people interested in maritime law and trial to look into the current status of Chinese maritime law and adjudication and the progress Chinese draftsmen and judges have made in the past decades.

China had her own maritime statute in 1992, which went into effect on July 1, 1993, almost 30 years ago. The history of Chinese maritime court system can be traced back to 1984, nearly 40 years ago. I, with honor, participated in the legislation process of China Maritime Law (the “CML”) to certain extent. Then, while discussing and drafting the CML, the law-drafting institutes and other personnel engaged all agreed that this special law would be founded on, among others, two fundamental principles. One is internationalization, which means that the CML provisions would be in line with the pertinent international conventions and customs. Shipping is a cross-border business, which derives from and serves the international trade. To balance the interest of various groups in different countries, there exist a number of international conventions and customs in the shipping field. Thus, China should cause the CML to recognize and embrace the predominant international rules as much as feasible. The other principle is localization, which means that the CML provisions would demonstrate Chinese features. The CML is a delicate combination of international conventions and customs and Chinese features.

As I observe in Chinese judicial practice, the above fundamental principles are followed by the maritime courts and judges when deliberating and making the maritime judgments. That is clearly reflected in the 200 judgments selected by this book. Those judgments show that Chinese maritime adjudication is connected with the world, while fully acknowledging the domestic reality, and Chinese maritime judges apply Chinese maritime law in a dynamic and innovative manner to achieve the principles.

I sincerely wish that the Chinese Maritime Cases series, initiated by Prof. Martin Davies and Associate Prof. Jiang Lin with great support of Springer, will be sustained for a very long time, leaving the window opened for observation, communication and co-development.

June 2021

Shi Cheng Yu
Professor in Law
Former President of Shanghai Maritime University
Shanghai, China

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About the Editors

Professor Martin Davies is Admiralty Law Institute Professor of Maritime Law at Tulane University Law School in New Orleans and Director of the Tulane Maritime Law Center.

He holds the degrees of M.A. and B.C.L. from Oxford University, England, and an LL.M. from Harvard Law School. Before joining Tulane, he was Harrison Moore Professor of Law at the University of Melbourne in Australia and before that he taught at Monash University, The University of Western Australia and Nottingham University. He has also been Visiting Professor at universities in China, Italy, Azerbaijan and Singapore. In 2019, he was elected to be Titulary Member of the Comité Maritime International (CMI).

He is Author (or Co-author) of books on maritime law, international trade law, conflict of laws and the law of torts. He has also published many journal articles on these topics. He has extensive practical experience as a consultant for over 30 years on maritime matters and general international litigation and arbitration, in Australia, Hong Kong, Singapore and the USA.

Associate Professor Jiang Lin (John Lin) is Associate Professor of Maritime Law at Shanghai Maritime University and Deputy Director of Shipping Policy and Law Research Center of Shanghai International Shipping Institute. He is also Adjunct Professor at Tulane University Law School.

After graduation with a B.Sc. degree from Shanghai Maritime University in 1996 and an LL.M. degree from Southampton University in 1999, he commenced his legal career at Sinclair Roche & Temperley (SRT) and later joined Ince & Co. He was dually qualified as English solicitor and Chinese lawyer. In 2008, he came back to his mother college to be a lecturer and researcher. Meanwhile, he keeps practicing English and Chinese laws at Sinopar Law Firm. He is also an arbitrator with China Maritime Arbitration Association, Shanghai Arbitration Commission and Shanghai International Arbitration Center and a supporting member of London Maritime Arbitrators' Association.

He is Author and Chief Editor of two serial books: Shanghai Shipping Policy and Law Development White Book and Shipping Finance Law Review. He also writes books and articles on cruise commerce, offshore trade and insurance.

He is a member of Jiusan Society, one of the eight democratic parties in China.

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