

IN-DEPTH

# Shipping Law

CHINA



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# Shipping Law

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In-Depth: Shipping Law (formerly The Shipping Law Review) aims to provide those involved in handling cross-border shipping disputes with an overview of the key legal issues arising across multiple jurisdictions, including leading maritime nations and major shipbuilding centres. Among other things, it analyses the most noteworthy aspects of available dispute resolution procedures; shipbuilding contracts, contracts of carriage and cargo claims; limitation of liability; ship arrest procedures; and much more.

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# China

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## Summary

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## Introduction

### i Commercial overview of the shipping industry

In 2023, the Chinese shipping industry presented a stable and promising trend overall. The coastal shipping market, dominated by the markets of domestic dry bulk transportation, container transportation and hazardous liquefied cargo transportation, climbed steadily with fluctuations. However, international shipping routes were challenged by factors such as the Russia–Ukraine conflict and escalating inflationary pressures, resulting in a general weakness in demand and pronounced market volatility.<sup>[2]</sup>

According to the latest data released by the Ministry of Transport of the People's Republic of China, Chinese ships registered in China totalled 185,000, in which 121,900 are possessed by Chinese shipowners, with the combined net tonnage of 298 million tons, accommodating 861,800 passengers and offering a container capacity of 2,987,200 standard containers. Among these ships, for inter-provincial coastal transport, there are: (1) 2,538 dry bulk cargo ships (weighing over 10,000 tons each, excluding heavy and lengthy cargo carrier and combination carrier), with a total carrying capacity of 83.356 million tons; (2) 410 container ships (with a capacity of over 700 TEU each, excluding multipurpose ships), providing a combined container capacity of 973,000 TEU; (3) 1,152 oil tankers (including crude oil tankers and refined oil tankers, excluding dual-purpose tankers for oil and chemical products), amounting to a total carrying capacity of 116.88 million tons; (4) 292 chemical tankers (including dual-purpose tankers for oil and chemical products), with a total carrying capacity of 1.492 million tons; and (5) 85 liquefied gas carriers, with a combined carrying capacity of 316,000 tons.<sup>[3]</sup> Throughout the year, the commercial freight volume reached 8.554 billion tons, with a total cargo turnover of 12,100 billion ton-kilometres. Specifically, freight volume of inland amounted to 4.402 billion tons, with an inland cargo turnover of 19,026 billion ton-kilometres. Meanwhile, ocean freight volume accounted for 4.151 billion tons, with the ocean cargo turnover of 101,977 billion ton-kilometres.<sup>[4]</sup>

According to the latest data from the National Bureau of Statistics, in 2023, imports of coal, crude oil, and natural gas in China have surged, reaching historically unprecedented levels. In particular, coal imports reached 470 million tons, marking a notable increase of 61.8 per cent compared to the previous year; crude oil imports amounted to 560 million tons, increased by 11 per cent; and natural gas imports totalled 120 million tons, increased by 9.9 per cent. Beyond domestic inter-provincial coastal and inland trade routes, China's international maritime routes encompass both near-ocean routes primarily to the Hong Kong and Macau districts, and to countries such as Singapore, Malaysia, Japan and South Korea, as well as far-ocean routes mainly to Mediterranean countries, Western Europe and the United States. Nationally, there are 21,323 operational berths at ports designated for industrial production, including 2,751 berths capable of accommodating ships of 10,000 tons or more. In total, the annual cargo handling capacity reached 15.685 billion tons, positioning China at the forefront internationally.<sup>[5]</sup>

In 2023, China maintained its position as the world leader in shipbuilding market share for the 14th consecutive year, solidifying its status as a prominent shipbuilding nation. China's shipbuilding output, new orders and backlog, measured in deadweight tons, collectively represented 50.2 per cent, 66.6 per cent and 55 per cent of the global total, marking

respective increases of 2.9 per cent, 11.4 per cent, and 6 per cent compared to 2022. Each of these market shares surpassed the 50 per cent threshold for the first time. By the close of 2023, the nation's shipbuilding output reached 42.32 million deadweight tons, with new orders totalling 71.2 million deadweight tons and a backlog of 139.39 million deadweight tons. On a national scale, completed export ships amounted to 34.53 million deadweight tons, with undertaken export ship orders totalling 66.51 million deadweight tons, and a backlog of 130.15 million deadweight tons. Exported ships respectively constituted 81.6 per cent, 93.4 per cent and 93.4 per cent of the nation's shipbuilding output, new orders and backlog. Overall, the three principal indicators of shipbuilding experienced synchronised growth, maintaining a dominant position in the global market.<sup>[6]</sup>

## ii General overview of the legislative framework

The Maritime Law of the People's Republic of China, promulgated and implemented in 1993, stands as the paramount and foundational legislation governing maritime transport and shipping party relations in China. It encompasses pivotal legal provisions concerning ship real rights, crew members, contracts of carriage of goods by sea, contracts of carriage of passengers by sea, charterparties, contracts of sea towage, collision of ships, salvage at sea, general average, limitation of liability for maritime claims, contracts of marine insurance, limitation of time for maritime claims and the application of law to foreign-related matters.

In addition to the Maritime Law, maritime legislation in China is reflected in: (1) the Civil Code of the People's Republic of China; (2) administrative regulations tailored by various government departments (such as the Regulation of the People's Republic of China on the Administration of Navigable Waterways concerning navigation safety, Regulations of the People's Republic of China Governing the Registration of Ships regarding ship supervision, Regulation of the People's Republic of China on Seamen concerning crew management, Regulations on the Safety Management of Hazardous Chemicals pertaining to hazard prevention and pollution control, Regulations of the People's Republic of China on the Investigation and Handling of Maritime Traffic Accidents addressing investigation procedure and Regulation on the Administration of Domestic Water Transport focusing on operational management); (3) administrative regulatory documents issued by the State Council (such as the Official Reply of the State Council on Approving Temporary Adjustments to the Implementation of the Provisions of Relevant Administrative Regulations in the Lin-Gang Special Area of China (Shanghai) Pilot Free Trade Zone); and (4) local laws and regulations, governmental normative documents tailored by provinces and municipalities according to specific needs, such as Shanghai's Guidelines for Waterway Transport Market Credit Management, and Credit Management Guidelines for the Transportation Industry in Jiangsu Province.

In the judicial practice of maritime affairs and commerce in China, courts demonstrate a commitment to respecting the principle of party autonomy and adhering to the application of international maritime customs and conventions.

## Year in review

On 21 August 2023, the State Council issued the most recent amendments to the Regulations of the People's Republic of China on International Ocean Shipping. These revisions are centred on reducing barriers to entry within the shipping market and involve adjustments to regulations governing foreign international shipping operations among mainland China, the Hong Kong Special Administrative Region, the Macau Special Administrative Region and the Taiwan region. Notably, for container and general cargo shipping services between the mainland and the two special administrative regions, the licensing system has been eliminated, with a transition to a registration requirement overseen by provincial-level transportation authorities. Moreover, the revisions include provisions pertaining to international passenger ships and international ships carrying dangerous chemicals in bulk.

Following the release of the Ministry of Transport's Legislative Plan for 2023, revisions to the Maritime Law have taken precedence. Additionally, the plan highlights the importance of amending the Port Law of the People's Republic of China, with a particular focus on improving port management systems, port engineering construction management, port production safety management, port transportation guarantee obligations, port eco-development, shoreline management and port resource integration.

## Forum and jurisdiction

### i Courts

China has established 11 maritime courts specifically dedicated to handling maritime and commercial cases. These courts are spread across the country, spanning from Dalian in the north to Haikou in the south, and include cities such as Tianjin, Qingdao, Nanjing, Wuhan, Shanghai, Ningbo, Xiamen, Guangzhou and Beihai. Each maritime court comprises maritime trial chambers and commercial trial chambers, responsible for adjudicating first-instance maritime and commercial cases, respectively. Depending on the nature, subject matter and societal impact of the cases, the high people's courts where the maritime courts are located, as well as the Supreme People's Court may also have jurisdiction over first-instance maritime and commercial cases. The judicial review process for maritime cases follows a 'three-tier courts, final judgment after two-instance appeal' system, involving the maritime courts, the high people's courts and the Supreme People's Court.

The Maritime Law sets forth precise statutes of limitations for various maritime claims. For instance, contract for the carriage of goods claims regarding carrier liability must be filed within one year, while claims for indemnification from third parties must be filed within 90 days. The limitation period for charterparty claims, including voyage charterparty claims, is two years. Similarly, for claims arising from ship collisions, the limitation period is also two years (except for claims involving joint liability indemnification, which have a one-year limitation). Claims pertaining to a contract of marine insurance have a two-year limitation period. Claims for compensation for oil pollution damage from ships have a three-year limitation period, with a maximum limit of six years from the date of occurrence of the pollution damage.

Moreover, the Maritime Law also includes provisions concerning the suspension of statutes of limitations for maritime claims. If, within the final six months of the limitation period, circumstances such as force majeure or other hindrances prevent the filing of claims, the limitation period will be suspended. The counting of this period resumes once the cause of suspension ceases to exist. Additionally, regulations regarding the interruption of statutes of limitations have been specified. The limitation period ceases when legal action is initiated or the case is submitted for arbitration by the claimant, or when the defendant acknowledges their obligation. However, the limitation period does not cease if the claimant withdraws their action or arbitration submission, or if their action is dismissed by a court decision. In cases where a claimant seeks to arrest a ship, the limitation period halts from the day the claim is made, and restarts from the moment of discontinuance.

## ii Arbitration and ADR

In China, maritime arbitration cases typically involve the China Maritime Arbitration Commission (CMAC) and adhere to its arbitration rules. The most recent edition of its Arbitration Rules is the 2021 version. Alongside the CMAC headquarters in Beijing, there are additional branches such as the CMAC Shanghai (this was renamed as the CMAC Shanghai Headquarters in 2020), the CMAC Tianjin Maritime Arbitration Center, the CMAC Southwest Sub-Commission and the CMAC Hong Kong Arbitration Center. These branches all operate under the Arbitration Rules and roster of arbitrators, with jurisdiction determined by the arbitration clauses agreed upon by the parties involved. Moreover, some international arbitration institutions in major coastal cities accept maritime arbitration cases, extending beyond disputes tied solely to local ports. The duration of arbitration proceedings varies but typically concludes within nine months for standard cases, with more complex cases potentially extending beyond one year.

In maritime disputes, both CMAC and other arbitration bodies offer comprehensive mediation procedures outlined in their arbitration rules and have the authority to issue enforceable arbitration mediation agreements. It is important to highlight that China does not recognise the concept of 'expert determination'. Instead, settlements between disputing parties are facilitated through the leadership and involvement of various chambers of commerce. However, it is essential to acknowledge that settlement agreements lack legal enforceability, and any disputes arising from or related to these agreements must still be resolved through arbitration or litigation.

Regarding ad hoc arbitration, the current Arbitration Law does not provide for ad hoc arbitration procedures. However, as a Member State of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention), China is obligated to recognise and enforce arbitration awards rendered in other New York Convention Member States, including ad hoc arbitration awards. In 2023, the Regulation of the Shanghai Municipality on Promoting the Initiative for an International Commercial Arbitration Centre took the lead in accepting and stipulating the ad hoc arbitration system: 'This municipality will, in accordance with national arrangements, explore the possibility of allowing agreements on ad hoc arbitration by specific persons in Shanghai under specific arbitration rules in foreign-related commercial and maritime fields.'

Additionally, contractual parties may also choose to arbitrate maritime disputes in China under the arbitration rules of foreign arbitration institutions.

### **iii Enforcement of foreign judgments and arbitral awards**

In China, the recognition and enforcement of a foreign court judgment typically occurs through two primary mechanisms. First, parties may directly approach Chinese courts, substantiating their claim with evidence demonstrating that there have been precedents of mutual recognition and enforcement of court judgments between the relevant country and China. Second, foreign courts or concerned parties may initiate proceedings in Chinese courts in accordance with the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.

The recognition and enforcement of a foreign arbitral award in China is carried out through an application filed by the parties in accordance with the New York Convention. The judicial review of a foreign arbitral award by a Chinese court typically occurs within a period of three months from the date of acceptance of the application by the court. The enforcement timeline, on the other hand, generally depends on the availability of properties or specific actions can be enforced. To enforce arbitral awards, Chinese courts have the authority to seize and detain the properties and freeze the bank accounts of the person who is subject to enforcement within China, or to compel specific actions out of the person in accordance with the arbitral award. In cases involving the execution of property, such as when the property needs to be delivered outside China or when the proceeds are to be remitted out of China, compliance with relevant customs clearance for export or foreign exchange management requirements is necessary. Regarding the auction of ships and other assets, which may involve multiple creditors under the same property, distribution is conducted according to the prioritisation regulations stipulated by Chinese law.

## **Shipping contracts**

### **i Shipbuilding**

In current shipbuilding practice, the adoption of standard-form contracts remains a prevalent approach in the formation of shipbuilding contracts. Shipbuilders and principals often customise and negotiate specific terms and conditions based on individual circumstances. Generally, standard-form contracts for shipbuilding are used including the CSTC format developed by the former China Shipbuilding Trading Co Ltd, the CMAC format by the China Maritime Arbitration Commission, the Norwegian format by the Norwegian Shipowners' Association, NEWBUILDCON by BIMCO, the SAJ format by the Shipbuilders' Association of Japan and the AWES format by the Association of Western European Shipbuilders, among others.

In the resolution of disputes arising from shipbuilding contracts, the involved parties have the option to stipulate the choice of applicable law and method for dispute resolution. It is frequently observed, particularly in contracts drafted in standard formats, to designate laws of England and Wales as governing law, while preferring arbitration in either London or Singapore for disputes concerning contract performance. Additionally, some agreements stipulate the application of Chinese law and select jurisdiction in Chinese courts or arbitration bodies, involving primarily the Maritime Law, Civil Code and relevant judicial interpretations issued by the Supreme People's Court.



Unless otherwise provided in the contract, ownership of a ship transfers upon its delivery. If the shipyard refuses to deliver the ship, the buyer may seek relief through maritime injunction (i.e., a court order compelling the shipyard to fulfil its contractual obligation through). In practice, the buyer may require the shipyard to procure a bank-issued letter of guarantee with a credit line equivalent to the prepayment made by the shipowner. In the event of default by the shipyard, the shipowner can then seek redress from the bank.

## **ii Contracts of carriage**

China's legal system for maritime cargo transportation operates under a dual-track system, where there are different legal provisions to international and domestic shipments. The Maritime Law governs international cargo transportation, while domestic coastal and inland waterway transport between Chinese ports is regulated by the Civil Code and specialised regulations from the Ministry of Transport.

Additionally, in situations where contracts are silent and there are no legal directives, prevailing international shipping practices are acknowledged and upheld by Chinese judicial and arbitration authorities, could serve as a basis for rulings.

The Hague Rules, the Hague-Visby Rules and the Hamburg Rules, as well as the United Nations Convention on International Maritime Transport of Goods, although not treaties China is party to, can still be applied to contracts through specific clauses agreed upon by the parties.

In the Maritime Law, provisions concerning multimodal transport contracts only apply to those involving international maritime transport. These provisions define multimodal transport, outline liability periods, specify obligations of multimodal transport operators, address compensation for segment damage and establish liability presumptions. If the segment where goods are lost or damaged cannot be identified, multimodal transport operators are liable for compensation according to carrier liability regulations and limits.

## **iii Cargo claims**

In a voyage charterparty, the charterer is entitled to claim compensation for cargo damage or shortage or other dispute over delivery of cargo. If the jurisdiction court is not specified in the charterparty, the maritime court of the defendant's domicile, the port of loading, the port of discharge or the location of the cargo has jurisdiction.

For bill of lading holders, cargo issues claims arising from the bill of lading can be brought against both the actual carrier and the contractual carrier of the transportation contract. The actual carrier is sometimes considered as the agent of the contractual carrier. Claims for cargo damage or shortage, delivery without bill of lading, refusal to deliver or cargo retention are categorised as tort claims.

In another scenario, when the holder of bill of lading, although has not directly signed a voyage charterparty with the carrier, are still considered as a party to it because the terms are effectively included in the bill of lading. According to judicial practice in China, this incorporation happens when the bill of lading is transferred to him, clearly indicating the terms of the executed voyage charterparty. Accordingly, unless stated otherwise, the

dispute resolution clauses of the voyage charterparty also apply to this holder of bill of lading.

In China, there is no the concept of the action in rem, while due to constraints limitations imposed by real rights theories, as for a bareboat chartered ship, cargo owners may apply for arrest of a bareboat chartered ship, but since the bareboat chartered ship is not the property of bareboat charterer, cargo owners are prevented from seeking compensation through the judicial auction of the ship. Ship owners are also not held liable in this scenario.

#### **iv Limitation of liability**

The entities subject to maritime liability limitation encompass shipowners, bareboat charterers, ship operators, salvors and the employees or agents of shipowners and salvors, along with liability insurers. To invoke maritime liability limitation, certain conditions must be met: the losses prompting the maritime compensation claim must not result from the reckless actions or inactions of the aforementioned parties who were aware of the potential harm. Otherwise, the right to limit maritime liability cannot be exercised. The Maritime Law clearly outlines eligible types of maritime compensation claims for limitation and non-limiting claims. Liability limits are determined by ship tonnage, with liable parties also allowed to establish maritime limitation funds in jurisdictional courts. These funds ensure the availability of dedicated, irrevocable resources for fulfilling limited compensation obligations.

## **Remedies**

### **i Ship arrest**

China's regulations concerning ship arrest are primarily outlined in the Special Maritime Procedure Law of the People's Republic of China. Ship arrest in China fall into two categories: those occurring before or during litigation or arbitration proceedings, and those executed for the enforcement of judgments or arbitration awards. The distinction lies in the requirement for providing counter-guarantee in cases of pre-litigation or pre-arbitration ship arrests; counter-security must be provided to ensure a full compensation for potential wrongful arrest. It is notable that in pre-litigation or pre-arbitration ship arrest, legal action must be initiated within 30 days of arrest of the ship; failure to do so will result in the release of the ship by the court.

For the arrest of coastal ships registered in China, courts typically issue orders to the ship's registry authority, prohibiting sale or mortgage, without interfering in the ship's operation. However, for ocean-going ships, Chinese courts usually require the ship to be detained at a berth. For the arrest foreign ocean-going ships, Chinese courts may require the applicant to provide counter-guarantee in cash or demand the applicant to arrange for the ship's specialised custody at their own expense. In instances of forced auctions, providing counter-guarantee equivalent to the ship's assessed value may also be necessary.

In addition to seeking the arrest of the ship, maritime claimants can also request the arrest of sister ships, referring to other ships owned by the same liable party. However, such

requests cannot relate to the disputes over ship ownership or possession. Joint venture ships with ownership structures distinct from sister ships are exempt from arrest. Releasing a ship requires providing security equivalent to the claim amount, typically in the form of cash, insurance policies or bank guarantees. Yet, courts usually demand cash security for foreign-flagged ships. The counter-guarantee offered by the applicant addresses claims resulting from wrongful arrest. In Chinese judicial practice, a wrongful arrest occurs only when the applicant's claims lacks any merit. If the court partly supports the claims, the detention shall not be deemed wrongful.

In judicial practice, the procedures, security, counter-security and liabilities regarding bunker detention resemble those of ship arrest. However, it shall be noted that if a bunker detention is requested before litigation or arbitration, the claimant must file a lawsuit or arbitration within 15 days of the detention. Bunker detention often entails issues such as pumping bunker from the vessel, onshore storage measures and customs supervision, which may impede the execution of the detention.

Apart from arresting ships to enforce effective judgments or arbitration awards, in practice, arresting a ship to secure guarantees from the shipowner during legal proceedings requires careful consideration of legal risks. For ships involved in legal proceedings, if arrest is pursued, the possibility of ship auctioning must also be weighed. Otherwise, if the shipowner fails to provide security, and the applicant releases the ship due to the inability to obtain additional counter-security for continued detention and ship auctioning, of whether a favourable judgment or arbitration award is obtained later, the applicant may face substantial compensation claims from the shipowner for wrongful detention, leading to significant liability.

In practice, particularly regarding foreign ships engaged in ocean shipping, courts cannot effectively oversee ships anchored offshore. Hence, these ships must be arrested at berth. However, in instances of collisions or oil pollution incidents within Chinese territorial waters, courts may seek assistance from maritime authorities or border forces to move the ships from anchorage to berth.

## **ii Court orders for sale of a vessel**

In addition to auctioning off ships to settle debts as per enforceable court judgments or arbitral awards, maritime claimants can also request the auction of detained ships during litigation or arbitration proceedings.

While the law does not explicitly require providing counter-security for the judicial auction of a ship, current practice shows a preference among maritime courts for depositing counter-security equivalent to the value of the ship as a prerequisite for auctioning, to avoid potential liability in the event the auction applicant's legal claims are dismissed.

# **Regulation**

## **i Safety**

Safety supervision is primarily outlined in the Maritime Traffic Safety Law of the People's Republic of China. This law aims to protect life and property at sea by improving maritime traffic conditions, bolstering navigational services and detailing rules for navigation, anchorage and operations. It also imposes specific regulatory requirements for cargo transportation, particularly the handling of hazardous goods. Furthermore, it establishes frameworks for maritime search and rescue, enhances accident investigation procedures and integrates safety standards throughout port operations, navigation, cargo transportation and accident response.

China is a contracting party to conventions such as the Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation 1988, the International Convention for the Safety of Life at Sea 1974 (SOLAS), the International Regulations for Preventing Collisions at Sea 1972 (COLREGs), the International Convention on Maritime Search and Rescue 1979, the International Convention on Salvage 1989 (SALVAGE) and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (the London Convention). These conventions constitute an integral part of China's maritime legal system and are given precedence in domestic law. To align with these conventions, many regulations in China's maritime safety framework, such as the Administrative Provisions of the People's Republic of China on the Safety and Pollution Prevention of Shipping Companies, Provisions on the Safety Supervision and Administration of Carriage of Solid Bulk Cargoes by Sea, Provisions on the Safety Supervision and Administration of Carriage of Hazardous Goods by Vessels, have incorporated provisions from these conventions.

## **ii Port state control**

In China, the Maritime Safety Administration serves as the primary authority for regulating ports. Its responsibilities include overseeing maritime traffic safety, pollution prevention, maritime search and rescue, and other related tasks.

Currently, China has joined the Memorandum of Understanding on Port State Control in the Asia-Pacific Region (also known as the Tokyo MoU). The latest edition of the Port State Control (PSC) Manual, released by the Tokyo MoU, serves as the operational standard and guidance for conducting port state control inspections, as recognised by the competent authorities under this memorandum.

## **iii Registration and classification**

The Maritime Safety Administration is responsible for ship ownership registration. Ships eligible for registration in China include ships: (1) owned by Chinese citizens residing or primarily operating within China; (2) owned by legal entities established in accordance with Chinese law; and (3) operated by the Chinese government or public institutions. Additionally, ships intending to sail under the Chinese flag must undergo nationality registration.

Except for ship ownership and nationality registration, the Maritime Safety Administration also handles ship mortgage and bareboat charter registrations.

In the realm of ship classification, the China Classification Society (CCS) provides technical standards and inspection services for ships, offshore facilities and related industrial

products. It also conducts various inspections and certifications in accordance with international conventions, rules and regulations authorised by flag states or regions. In practice, maritime safety inspectors sometimes conduct port state control inspections on ships. If significant quality defects are detected, the classification society may be held responsible. For instance, in May 2023, inspectors from the Lianyungang Maritime Safety Administration, Jiangsu province, conducted a port state control inspection on the ship Global berthed at Xuwei Wharf. Multiple serious defects that may seriously undermines the navigation safety were discovered, prompting detention measures and holding the classification society accountable.

#### **iv Environmental regulation**

China's legislation concerning the prevention and control of atmospheric and marine pollution mainly includes:

1. the Atmospheric Pollution Prevention and Control Law of the People's Republic of China, providing specific rules on fuel usage, electricity consumption, atmospheric pollution emissions of ships;
2. the Marine Environmental Protection Law of the People's Republic of China, which regulates pollution prevention and control related to ship operations. It includes rules on ship emissions, pollution prevention equipment and supervision of ships transporting hazardous pollutants; and
3. the Water Pollution Prevention and Control Law of the People's Republic of China, which imposes requirements on the prevention and control of ship water pollution, including regulations on pollutant discharge and pollution prevention capabilities of ships.

China is a party to several international conventions aimed at preventing and controlling atmospheric and marine pollution. These include the International Convention for the Prevention of Pollution of the Sea by Oil 1954 (as amended in 1962 and 1969 (the OILPOL Convention) and its 1992 Protocol, the International Convention for the Prevention of Pollution from Ships (MARPOL), the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (the Oil Pollution Fund Convention) of 1971 and its Protocols of 1976, 1984 and 1992 and Amendments of 2000 and 2003, the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (the Bunker Convention) and the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996, as revised by the Protocol of 2010 (the HNS Convention).

#### **v Collisions, salvage and wrecks**

The regulation of ship collisions under Chinese legal system is primarily governed by Convention for the Unification of Certain Rules of Law with respect to Collisions between Vessels 1910 (the Brussels Collision Convention) and the provisions of the Maritime Law.

China is a signatory to the International Convention on Salvage of 1989, and the provisions concerning maritime salvage in the Maritime Law are generally consistent with those of

SALVAGE. According to both SALVAGE and the Maritime Law, the essential criteria for maritime salvage include: firstly, that salvage operations must occur at sea or in navigable waters connected to the sea; secondly, that the object of salvage must be in peril; and, finally, that salvageable objects encompass ships, cargo and other property. Additionally, the Maritime Traffic Safety Law of the People's Republic of China also includes provisions concerning maritime salvage. Following a collision accident, the parties involved and facilities are obliged to fulfil duties such as exchanging information, making efforts to assist each other and refraining from leaving the scene without authorisation.

China is also a contracting party to the Nairobi International Convention on the Removal of Wrecks 2007 (the Nairobi WRC 2007). While the Maritime Law does not provide specific regulations concerning the removal of shipwrecks, relevant provisions are outlined in the Maritime Traffic Safety Law. These provisions stipulate that owners or operators of sunken or floating objects posing a threat to safe navigation or channel maintenance, or presenting potential explosion hazards, shall salvage and remove them within the time frame designated by the competent authority.<sup>[7]</sup>

Since 2018, China has been gradually issuing standard specifications to facilitate ship dismantling. In January 2022, China enacted the Implementation Plan for Accelerating the Promotion of Comprehensive Utilization of Industrial Resources, proposing to research and formulate plans for the safe and environmentally friendly recycling of ships. Additionally, relevant governmental authorities are conducting research to establish a comprehensive ship life cycle management system based on China's relevant ship dismantling standards and the Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships 2009.

## **vi Passengers' rights**

The provisions of the Maritime Law pertaining to the carriage of passengers by sea are applicable not only to international carriage of passengers by sea but also to coastal carriage of passengers. China ratified the Athens Convention on the Carriage of Passengers and their Luggage by Sea 1974 and its 1976 Protocol in 1994. One of the most discussed issues in the current amendments to the Maritime Law is to increase the limitation of liability for carriers under passenger transportation contracts.

## **vii Seafarers' rights**

China has ratified various international conventions, including the Maritime Labour Convention 2006 and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 (the STCW Convention) and its 1995 revision, among others. These conventions take precedence over Chinese law when applied in China. The Maritime Law provides general provisions regarding seafarers, encompassing qualifications for seafaring positions, rights and obligations of shipmasters and crew members. Furthermore, within the relevant provisions concerning maritime liens, the Maritime Law explicitly prioritises claims for wages, other remuneration, crew repatriation and social insurance costs made by the master, crew members and other members of the complement, placing them in the first order of priority for compensation. In areas not covered by the Maritime Law, laws and regulations such as the Regulation on Seamen,

Labour Law, Labour Contract Law, Social Insurance Law of the People's Republic of China and Regulation on Work-Related Injury Insurance shall apply.

A crew member may also apply for the arrest of a ship in cases of disputes regarding wages and labour remuneration incurred.

## Outlook and conclusions

In 2023, China responded to global trends in the maritime industry by amending the Regulations of the People's Republic of China on International Ocean Shipping. These revisions aimed to reduce entry barriers in the shipping sector while proposing the implementation of a credit management system to enhance future oversight and regulation of international shipping activities.

The revision of the Maritime Law remains a central focus in maritime legal discussions, encompassing various aspects of the legal framework. Key considerations include the potential integration of domestic waterway transportation into the Maritime Law and the adjustment of port operators and port operation contracts under its purview.

In addition, the transition towards alternative energy sources emerges as a pivotal determinant in shaping the future of the shipping market. Amidst this transition, the industry must adapt to changes such as bunker conversion, technological advancements and evolving environmental regulations. Notably, the National Development and Reform Commission of China recently announced China's intention to promote equipment upgrades across seven major areas, including transportation. This initiative is poised to create a massive market with an annual scale exceeding 5 trillion yuan, offering significant opportunities for both domestic and foreign enterprises to benefit from it.

## Endnotes

- 1 Ting Lei is a partner and Zhu Yang and Ziyu Wu are associates at Global Law Office. [Back to section](#)
- 2 [https://xxgk.mot.gov.cn/2020/jigou/syj/202303/t20230321\\_3778865.html](https://xxgk.mot.gov.cn/2020/jigou/syj/202303/t20230321_3778865.html). [Back to section](#)
- 3 [https://xxgk.mot.gov.cn/2020/jigou/syj/202403/t20240308\\_4046319.html](https://xxgk.mot.gov.cn/2020/jigou/syj/202403/t20240308_4046319.html). [Back to section](#)
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- 5 [https://xxgk.mot.gov.cn/2020/jigou/zhghs/202306/t20230615\\_3847023.html](https://xxgk.mot.gov.cn/2020/jigou/zhghs/202306/t20230615_3847023.html). [Back to section](#)
- 6 <http://www.cansi.org.cn/cms/document/19204.html>. [Back to section](#)

7 Article 40, paragraph 1 of the Maritime Traffic Safety Law of the People's Republic of China. [^ Back to section](#)



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