

# Review

## Shipping



## Maritime Arbitration in Hong Kong

On 13 July 2006, the Hong Kong Shipping Register crossed the 31 million GT mark. And a review compiled by UNCTAD last year placed Hong Kong as the seventh largest maritime centre in the world and the fourth largest for the owning, operation and management of ships. Hong Kong now has over 80 international shipping lines with 450 sailings reaching more than 500 destinations worldwide. There are about 900 shipping related companies operating here with some of the world's largest and oldest ship management companies.

Geographically convenient, superbly well served and located on the Far East trade routes, Hong Kong lies at the centre of Asia Pacific, the fastest growing region in the world. It is a world centre of expertise in shipping with an enormous pool of professionals available to support dispute resolution. With its skill at blending the best of east and west, it is uniquely placed to be the focus in Asia for commercial dispute resolution services. Little wonder that Hong Kong has attracted more P&I clubs to set up offices on its shores than any other city in the world, London included.

### LAW

There are still widespread misunderstandings of the status of the Hong Kong Special Administrative Region since the change of sovereignty to the PRC. Hong Kong retains its common law system and the rule of law and this is guaranteed well into the middle of the next century. The Hong Kong Arbitration Ordinance (Cap 341) provides the legislative support for arbitration in Hong Kong. Whilst currently there is a separate regime for international (based on UNCITRAL Model Law) and domestic arbitrations, reforms have been proposed for unifying the two regimes into one and this could happen as early as 2007.

### EXPERTISE IN ARBITRATION

It is a little known fact, but Hong Kong provides the Chartered Institute of Arbitrators, headquarters in London, with its largest branch membership. Furthermore, the Institute's current President and Patron are both from Hong Kong. There is a vibrant and active arbitration community drawn from Hong Kong's enormous pool of experienced professionals. Hong Kong also has its own association of arbitrators, the Hong Kong Institute of Arbitrators.

### HKIAC

The Hong Kong International Arbitration Centre (HKIAC) was established in 1985 by a group of leading businesses and professionals. Initially generously funded by the business community and the Hong Kong government, it is independent of both and now financially self sufficient. Unlike under English law, parties do not have to apply to the court to appoint arbitrators on behalf of defaulting parties; they are able to take the much cheaper course (currently HK\$4,000 or about US\$512) of applying to the HKIAC to appoint an arbitrator. Services provided by the

HKIAC include:

- Appointment of arbitrators or umpire
- Determining number of arbitrators
- Operating panels of international and local arbitrators
- Free information service and assistance on dispute resolution in Hong Kong
- Arbitration rules

This article was first published in *Shippers* Today February 2007 and posted by the Hong Kong Trade Development Council on their website

- Arbitration support including holding security for fees and expenses on behalf of arbitrators
- Arbitration rooms in a prime and convenient location in the business district overlooking Hong Kong harbour
- Facilities including transcription, translation, video conferencing, catering, telecommunications etc.

HKIAC receives more international arbitration cases than any other arbitration centre in the Asia Pacific region, apart from CIETAC (comparison is difficult as figures include domestic arbitrations). In 2005, HKIAC saw the biggest increase in shipping arbitrations over any other types of arbitrations, a near doubling in numbers from the previous year.



## HKMAG

In response to demand from the shipping industry, in February 2000, the Hong Kong Maritime Arbitration Group (HKMAG) was formed as a division of the HKIAC. The primary objective of the group was to promote the development and use of maritime arbitration in Hong Kong. The HKMAG maintains a list of arbitrators (and mediators) with shipping experience willing to hear maritime disputes.

Together, the HKIAC and the HKMAG provide extensive and professional services to parties who wish to resolve their maritime disputes by arbitration.

## HONG KONG MARITIME ARBITRATION PROCEDURE

The parties are free to choose, either before or after the dispute has arisen, the rules of an arbitral institution, such as the rules of the London Maritime Arbitrators Association (LMAA) or UNCITRAL Rules or HKIAC Rules. If the parties so agree, the dispute resolution process may follow these rules, yet be heard at and/or administered by the HKIAC. It is not uncommon for shipping arbitrations to be “ad hoc” and follow no particular rules leaving the parties or the tribunal to agree on the procedures to be followed. Maritime arbitrations can be by documents alone or by oral hearing.

## HONG KONG'S INTERNATIONAL ARBITRATION UNDER UNCITRAL MODEL LAW

UNCITRAL Model Law should not be confused with UNCITRAL arbitration rules; the former being a piece of model legislation developed by the United Nations and recommended for international use whilst the latter is a set of arbitration rules promulgated by UNCITRAL for international arbitrations.

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## FURTHER INFORMATION

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