Hong Kong Legal Services Forum 2014 - Importance of Maritime Arbitration Cases and Sharing

1） In the English Arbitration Act 1979, on the three Special Categories (commodity sales; shipping contracts; insurance and re-insurance) of maritime related disputes a Report by V V Veeder QC that in 1990, about 10% of the maritime related awards were subject to application under s. 1 of the 1979 Act of which maritime cases comprised 58%, commodity 30% and insurance/reinsurance 12%.

2） Lord Mance's Advisory Committee's Interim Report on Section 69 of the English Arbitration Act 1996 concludes that "*the bulk of the Commercial Court's work under Section 69 in relation to all awards, at all three stages of Section 69, relates to maritime awards.*"

3） In LMCQ Spring 2013, Sir. Bernard Eder's article: Maritime arbitration has played a key role in the development of English commercial law over the past centuries. In the last 30 years, nearly 2,000 maritime-related cases were dealt with by the courts in London. Approximately 1,750 cases before the courts of first instance (mainly Commercial or Admiralty court); 440 cases went to the Court of Appeal and 62 cases heard in the House of Lords/Supreme Court. Averaging 40 cases every year.

4） International Congress of Maritime Arbitrators ("ICMA"), Shanghai, 11th May 2015, Lord Phillips of Worth Matravers (the founding President of the Supreme Court of the United Kingdom) will deliver the Cedric Barclay's Lecture entitled: "*Contributions to English law of contract that started life as maritime arbitrations in Cedric's day*".

5） Maritime law and arbitration is of pragmatic relevance to Hong Kong and Singapore practitioners (arbitrators and lawyers alike) to capture the jurisprudential developments in the international commercial law, and be in the best position to provide quality services to the Asian region.

6） Some of the recent maritime-related cases which shaped the English commercial law and practice can be named:

- **The Mihalis Angelos (1970) 2 LLR 43 (pre-destined to fail);**
- **The Mareva [1975] 2 LLR 509 [CA] and The Niedersachsen [1983] 2 LLR 600 [CA] (Mareva/freezing injunction);**
- **The Nanfri (1978) 1 LLR 581; The Hermosa (1982) 1 LLR 570 and The Bulk Uruguay (2014) EWHC 885 (Comm) (anticipatory breach);**

- **Bremer Vulkan v. South India Shipping Corpn. Ltd. [1981] 1 LLR 253 [HL] (strike-out for want of prosecution);**

- **The Nema [1982] AC 724 [HL] (the Nema guideline);**

- **The Angelic Grace [1995] 1 LLR 87 [CA] (anti-suit injunction); The Front Comor [2009] ECR I-663 (anti-suit injunction against EU Member States);**

- **The Ikarian Reefer [1995] 1 LLR 455 (expert witness);**

- **Ali Shipping Corp. v. Shipyard Trogir [1998] 1 LLR 643 (implied by law on confidentiality in arbitration);**

- **The Golden Victory [2007] 2 AC 353 [HL](breach-date rule vs. judgment-date rule);**

- **Fiona Trust v Privalov [2008] 1 Lloyd's Rep 254 [HL] (arbitration is chosen as a one-stop method of adjudication for the determination of all disputes);**

- **The Achilleas [2009] 1 AC 61 [HL] (variation of Hadley v. Baxendale rule?);**

- **The Antaios [1985] AC 191 [HL] and Rainy Sky SA v. Kookmin Bank [2012] Bus LR 313 [SC] (construction / interpretation of contract);**

- **The Aquafaith [2012] EWHC 1077 [Comm] (reconsider White & Carter rule);**

- **The Astra [2013] 2 Lloyd's Rep 69 (time of payment of hire is of essence);**

- **The New Flamenco [2014] EWHC 1547 (benefit to take into account in reduction of damages);**

- **The Wisdom C (2014) EWHC 1884 (Comm) (Late Payment of Commercial Debts [Interest] Act 1998);**

- **Emirates Trading Agency LLC v. Prime Mineral Exports Private Ltd. (2014) EWHC 2104 (Comm) (multi-tier arbitration clause, calling for "friendly discussion for a continuous period of 4 weeks").**