

REGULATORY OVERVIEW

The vessels owned by the Group operate on international voyages. Countries have sovereignty over their territorial waters and the vessels owned by the Group must comply with the laws of the countries while in the territorial waters of the respective countries. Therefore, vessels owned by the Group are subject to various laws, regulations and rules which can generally be categorised under the following heads:

1. International conventions and codes
2. Flag state regulations
3. Port state regulations
4. Classification society rules and regulations
5. International Maritime Solid Bulk Cargoes Code (IMSBC Code)
6. Hague-Visby Rules

The Group is principally engaged in chartering its vessels for the transportation of dry bulk cargoes, the operation of these vessels and the parties to the carriage of dry bulk cargoes are subject to the rules and regulations as set out below.

1. International conventions and codes

Conventions

The vessels owned by the Group must operate in compliance with the various conventions, including:

- 1.1 SOLAS Convention
- 1.2 International Convention for the Prevention of Pollution from Ships (“**MARPOL**”)
- 1.3 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (“**STCW Convention**”)
- 1.4 International Labour Organisation Conventions (“**ILO Conventions**”)
- 1.5 Convention on the International Regulations for Preventing Collisions at Sea (“**COLREGS**”)
- 1.6 International Convention on Load Lines

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These conventions have been ratified by and/or incorporated in the domestic laws of a majority of states. All vessels registered in the member states or calling in the territorial waters of the member states are subject to these conventions depending on their level of ratification and/or incorporation into their respective domestic laws.

Salient features of certain conventions are highlighted as follows:

SOLAS Convention regulates the safety of merchant vessels. It specifies minimum standards for the construction, equipment and operation of vessels. The satisfactory achievement of such standards is evidenced by the obtaining of various prescribed certificates by the vessel.

MARPOL concerns the prevention of pollution of the marine environment by vessels from operational or accidental causes. It regulates the emission of all forms of pollutants by the vessels including oil, sewage, garbage and gas.

STCW Convention sets standards for the training, certification and watchkeeping for seafarers working on board of the vessels which operate on international voyages. Under this convention, vessels owned by the Group are required to be manned by sufficient officers and crew possessing specified amounts of sea time and each of them must be trained and certificated accordingly to perform their respective duties on board the vessels.

COLREG sets out the rules of the road for vessels engaged on voyages on the high seas. It contains rules for steering and sailing, the conduct of vessels in limited visibility, etc.

International Convention on Load Lines sets the limit to the draught to which a ship may be loaded, in addition to setting provisions to prevent water from entering a ship through doors, hatches, windows, ventilators, etc.

Codes

In addition, the vessels must comply with the rules and regulations adopted by regulatory bodies such as IMO from time to time, such as:

1.7 ISM Code

1.8 International Ship and Port Facility Security Code (“ISPS Code”)

ISM Code was designed to extend greater responsibility to onshore management in respect of safe operation of ships as well as the prevention of pollution. All vessels owned, operated and managed by the Group have to comply with the ISM Code.

The ISPS Code came into effect in July 2004. Its implementation is aimed to reduce the vulnerability of a ship to be used in terroristic acts.

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The vessels of the Group engage in international voyages and they pass by and visit different states. They are subjected to the laws, regulations and rules of the relevant state while in their respective territorial waters.

2. Flag state regulations

A ship must be registered in a state and sailed under the flag of the registering state or jurisdiction (the “**Flag State**”). This gives the ship a nationality which follows that even in another state’s territorial waters, those on board are subject to the law of the Flag State.

The Flag State has jurisdiction over and exercises regulatory control over the ship that flies under its flag. This involves the inspection, certification and issue of safety and pollution prevention documents in accordance with the applicable international conventions and national regulations. These Flag State regulations and requirements apply to ships registered in that Flag State, yet some will also be applicable to visiting foreign ships. For example, Bermuda’s Merchant Shipping Act 2002 has provisions which are applicable to ships registered in Bermuda and some that are applicable to foreign ships engaged in operations in the country’s territorial waters.

The vessels owned by the Group are registered in Hong Kong. In addition to the international conventions, the vessels owned by the Group are also subject to the applicable laws, regulations and requirements of Hong Kong.

2.1 Principal legislations in Hong Kong relating to merchant shipping industry

Below is a summary of the principal legislations in Hong Kong relating to merchant shipping industry:

(i) Merchant Shipping (Registration) Ordinance (Cap 415)

The Merchant Shipping (Registration) Ordinance imposes certain registration and filing duties and liabilities on the owners of ships registered in Hong Kong.

(ii) Merchant Shipping Ordinance (Cap 281)

The Merchant Shipping Ordinance principally deals with (a) registration and licensing of ships; (b) forfeiture of ship; (c) compulsory third party risks insurance; and (d) detention of ships.

(iii) Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap 414)

The Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance provides for the legislative framework in enforcing claims against the ship owners where any persistent oil carried by the ship is discharged or escaped from the ship resulting in pollution and damage.

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(iv) Merchant Shipping (Safety) Ordinance (Cap 369)

The Merchant Shipping (Safety) Ordinance governs the safety of merchant shipping in Hong Kong.

(v) Merchant Shipping (Collision Damage Liability and Salvage) Ordinance (Cap 508)

The Merchant Shipping (Collision Damage Liability and Salvage) Ordinance governs the law relating to salvage operations. This Ordinance incorporates the International Convention on Salvage 1989, thereby bringing this aspect of Hong Kong law in line with international laws.

(vi) Carriage of Goods by Sea Ordinance (Cap 462)

The Carriage of Goods by Sea Ordinance incorporates the Hague-Visby Rules which governs the rights and liabilities (and the limitation of such liabilities) of the parties (including the ship owners) relating to the transportation of goods by sea.

Whilst most of the member states to the international conventions simply adopt the requirements of the international conventions by incorporating the same in its national laws, the Flag State requirements of some states may be different or extended to aspects which are not addressed in the international conventions.

3. Port state regulation

As mentioned above a ship is required to comply with the laws of the state or jurisdiction which has sovereign rights in the waters where the ship sails. When the ship sails to and from a port, she is subject to the relevant local regulations that are applicable to the waters in which she is operating.

Main aspects of local requirements of a port include pollution, navigation, ballast and berthing/anchoring requirements.

4. Classification society rules and regulations

A classification society is a non-governmental body that establish and apply technical standards in relation to the design, construction and survey of marine related facilities including ships and offshore structures. It also supervises and surveys ships and structures to ensure that they comply with these standards.

There are a number of classification societies in the world, some of them are members of the International Association of Classification Societies (“IACS”). The vessels owned by the Group are classed by the American Bureau of Shipping of the United States and the Lloyd’s Register of Shipping of the United Kingdom.

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Compliance with the rules and regulations of a recognised classification society has now become mandatory for every seagoing merchant ship. The classification society will assign a class designation to a new ship which is designed, constructed, tested and operated in accordance with the classification society's rules. A certificate of class will be issued upon satisfactory completion of the relevant surveys. For ships in service, the society carries out relevant surveys to ensure that the ship remains in compliance with those rules.

Vessels are classified according to their structural integrity and design in light of the purpose of the vessel. The classification rules concern primarily the integrity and strength of the hull, machinery, control engineering and electrical arrangements.

Generally, a certificate of class is valid for five years and is subject to revalidation each year upon the satisfactory results of an annual survey for the hull and machinery which includes the general examination on the electrical plant, safety equipment, and communication equipment.

After five years the certificate will be renewed and reissued upon the satisfactory results of a thorough survey called special survey. The vessel is being thoroughly examined on her hull and the machinery which includes out-of-water examinations to verify that the structure, main and essential auxiliary machinery, systems and equipment of the ship remain in a satisfactory condition according to the rules. The examination of the hull might be supplemented, depending on the relevant rules, by ultrasonic thickness measurements of the steel structures. The survey is intended to ascertain the structural integrity remains effective and to identify any substantial corrosion, significant deformation, fractures, damages or other structural deterioration. Where the thickness of a vessel's steel structure is found to be less than the class requirement of the relevant classification society, repair works as approved by the classification society, such as welding with appropriate materials using an approved procedure by duly qualified welders, will generally be required to be carried out for maintenance of the classification status and may be a pre-condition for the vessel's continued service.

Additionally, a classed vessel must be dry-docked twice within five years to enable a close examination on the shell plating, shafting, propellers and rudders.

Most insurance are underwritten conditional upon that the vessel being certified to have maintained her classification status by a recognised classification society. The vessels owned by the Group are certified as having maintained their classification status by the American Bureau of Shipping of the United States and the Lloyd's Register of Shipping of the United Kingdom.

5. Description of the relevant rules and regulations in respect of dry bulk cargoes

The Group is principally engaged in chartering of the Group's own vessels and offers worldwide marine transportation services to its customers through chartering out its vessels for transportation of dry bulk cargoes. The chartering out of its vessels for the transportation of dry bulk cargoes is subject to the SOLAS Convention and the Hague-Visby Rules (annexed to the Carriage of Goods by Sea Convention).

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5.1 SOLAS Convention

The Maritime Safety Committee, the highest technical body of the IMO, has decided to adopt the International Maritime Solid Bulk Cargoes Code (IMSBC Code) and Chapter VI of the SOLAS Convention shall be amended accordingly to make the IMSBC Code mandatory. It is expected that the amendments shall enter into force on 1 January 2011. The IMSBC Code will replace the Code of Safe Practice for Solid Bulk Cargoes (BC Code), which was first adopted as a recommendatory code in 1965 and has since been updated at regular intervals.

The aim of the mandatory IMSBC Code is to facilitate the safe stowage and shipment of solid bulk cargoes by providing information on the dangers associated with the shipment of certain types of cargo and instructions on the appropriate procedures to be adopted as regards, among other things, the carriage of different dry bulk cargoes.

With the incorporation of the IMSBC Code into the SOLAS Convention, guidance on various procedures relating to the shipment of certain types of bulk cargoes shall be provided. Owners may also expect to receive advice on the properties of the different types of dry bulk cargoes, how they should be handled, together with the various test procedures which should be employed to determine their various characteristics.

5.2 Hague-Visby Rules

The Hague-Visby Rules (the “Rules”) are annexed as a schedule to the Carriage of Goods by Sea Ordinance (Cap. 462 of the Laws of Hong Kong). The Rules are a set of international rules relating to the carriage of goods by sea. The Rules seek to strike a balance between the competing interests of the shipowners and the cargo interests.

Under the Rules, the carrier is, among other things, required to “properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried” and to “exercise due diligence to make the ship seaworthy” and to “properly man, equip, and supply the ship”. Under Hong Kong laws, the obligations imposed by the Rules shall apply to the carriage of dry bulk cargoes in the event that the bill of lading is issued in a contracting state, or the carriage of the cargo is from a port in a contracting state or the contract contained in or evidenced by the bill of lading provides that these Rules or legislation of any State giving effect to them are to govern the contract.

The Rules further provides the carrier a wide range of situations where the carrier may be exempted from liability on a cargo claim provided the carrier is able to demonstrate it has exercised a reasonable standard of professionalism and care.

6. Conclusion

Companies operating marine transportation business are subject to various laws, regulations and international conventions depending on the jurisdictions in which their vessels operates, the country where the ship-owning company is incorporated, the Flag States where the vessels are registered and the laws and jurisdictions the ship-owning company and the contracting party submitted themselves to in various agreements.