## Provisions of the Supreme People's Court on Some Issues about the Trial of the Cases of Ship Collision Disputes

The Provisions of the Supreme People's Court on Some Issues about the Trial of the Cases of Ship Collision Disputes, which were adopted at the 1446th meeting of the Judicial Committee of the Supreme People's Court on April 28, 2008, are hereby promulgated and shall come into force on May 23, 2008.

Judicial Interpretation No.7 [2008]

In order to correctly try the cases of ship collision disputes, these Provisions are formulated according to the General Principles of the Civil Law of the People's Republic of China, the Civil Procedure Law of the People's Republic of China, the Maritime Law of the People's Republic of China, the Special Maritime Procedure Law of the People's Republic of China and other laws.

**Article1** The “ship collision” as mentioned in these Provisions refers to the ship collision provided for in Article 165 of the Maritime Law and excludes the collision between inland river ships.

These Provisions shall apply to the damage accidents provided for in Article 170 of the Maritime Law.

**Article 2** For the trial of a case of ship collision dispute, the compensation liability on the ships in collision shall be determined according to Chapter VIII of the Maritime Law.

**Article 3** For an infringement dispute of ship touch damages arising out of ship collision, the compensation liability on the ships in collision shall be determined according to Chapter VIII of the Maritime Law.

For an infringement dispute of ship touch damages not arising out of ship collision, the compensation liability on the ships in collision shall be determined according to the General Principles of the Civil Law; however, the application of other provisions than those in Chapter VIII of the Maritime Law shall not be affected therefor.

**Article 4** The compensation liability resulted from ship collision shall be borne by ship owners, or shall be borne by the bareboat charterer if the ship collision occurs during the bareboat charter period and the bareboat charter is registered according to law.

**Article 5** The casualty of persons on board resulted from ship collision shall be the casualty of the third party as provided for in Paragraph 3 of Article 169 of the Maritime Law.

**Article 6** Where the losses of cargo on board are caused due to mutual faults of both ships in collision, if the obligee of cargo on board lodges a case of compensation for breach of contract against the ship that carries the cargo (hereinafter referred to as “carrying ship”), or lodges a case of compensation for infringement against one ship or both ships in collision, the people's court shall accept the case.

**Article 7** Where the obligee of cargo on board lodges a case against the carrying ship for the losses of cargo resulted from ship collision, the carrying ship may claim to assume the compensation liability based on the proportion of faults according to Paragraph 2 of Article 169 of the Maritime Law.

The preceding Paragraph shall not affect the carrier and the actual carrier to apply the provisions on defense and limitation of liability of the carrier as provided for in Chapter IV of the Maritime Law.

**Article 8** Where, in the case of ship collision, the obligee of cargo on board or the third party lodges a case of compensation for the losses of cargo or other properties against the carrying ship or against both ships in collision, the ship concerned shall submit evidence to prove the proportion of faults. If the ship concerned refuses to submit evidence without any justifiable cause, the carrying ship in collision shall bear all the compensation liability or both ships in collision shall bear the joint and several liability of compensation.

The “evidence” as mentioned in the preceding Paragraph refers to the legally effective judgments, verdicts, mediation papers and arbitration awards. Foreign judgments, verdicts, mediation papers and arbitration awards submitted by the ships in collision shall be subject to review according to Articles 266 and 267 of the Civil Procedure Law.

**Article 9** With respect to the compensation claim for the expenses from floating, removal and demolition of the submerged, damaged, stranded or abandoned ship and cargo on board resulted from ship collision or from making them harmless, the party liable shall not enjoy the limitation of liability for maritime claims according to Chapter XII of the Maritime Law.

**Article 10** When a case of ship collision dispute is being tried, the evidence that is gotten by the people's court in the evidence preservation upon the application of the party concerned or that is collected upon investigation by the relevant department shall be presented after the parties concerned have completely adduced evidence and issued the note of evidence adducing.

**Article 11** The investigation materials about ship collision, which are obtained upon investigation of the competent department and are confirmed by the parties and the persons involved in the accident after an accident of ship collision occurs, may be the evidence for the people's court to find the case facts, unless they are repudiated by contrary evidence.