

# FOB Sellers under Rotterdam Rules

Dihuang Song

**WANG JING & CO.**

11 -13 September 2015  
Taipei

# 1. Rotterdam Rules

- Brief Introduction
- Initial work by CMI
- Eight years consultations within Uncitral
- Approval by UN General Assembly in 2008
- Signing ceremony in Rotterdam in 2009

# 1. Rotterdam Rules

- Certain provisions of RR pertaining to the FOB sellers
  - Chapter 7
  - Chapter 10
  - Chapter 11

# 1. Rotterdam Rules

- Current status
  - - signatories and ratifications
  - 25 signatories, 3 ratifications
  - - accession kit by Uncitral
    - two EGM held in 12/2014 and 08/2015
  - - Q & A prepared by CMI
  - - voluntary incorporation of RR
  - - Comments of China on RR

## 2. Impact on a carrier

- Definition
- “carrier” means a person that enters into a contract of carriage with a shipper
  - - wholly by sea
  - - partly by sea
  -

## 2. Impact on a carrier

- (1) Door to door v. tackle to tackle
- (2) Navigation error exemption removed
- (3) Limitation of liability increased
- (4) Allocation of burden of proof

## 2. Maritime performing party

- Definition
- “maritime performing party” means a performing party to the extent that it performs or undertakes to perform any of the carrier’s obligations during the period between the arrival of the goods at the port of loading of a ship and their depart from the port of discharge of a ship. An inland carrier is a maritime performing party only if it performs or undertakes to perform its services exclusively within a port area.

# 3. Impact on international trade

- (1) Current status of China's foreign trade
  - commodity
  - energy product
  - general cargo
- (2) Containerization and EDI
- (3) Laws on door to door transport to be unified



# 4. Impact of RR on FOB sellers –from PRC law perspective

- Definitions (trade laws v. transport laws)
  - - Incoterms
  - - CISG
  - - HR/HVR
  - - Hamburg Rules
  - - RR
- Complaints by Chinese FOB sellers

# 4. Impact of RR on FOB sellers –from PRC law perspective<sup>5</sup>.

## (1) FOB seller v. FOB buyer

- rights and obligations under sales contract

- unpaid seller v insolvent buyer

- insolvent seller v. buyer

## (2) FOB seller v. carrier

- - actual shipper v contractual shipper
- RR solution

**WANG JING & CO.**

**Thank You!**

**11-13 September 2015  
Taipei**