

# **A Comparative Study of Liability arising from the Carriage of Dangerous Goods between Chinese and English Law**

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# Abstract

This thesis is about the rights and liabilities arising under English and Chinese law in respect of the carriage of dangerous cargo. It is noted that the danger in dangerous cargoes was not necessarily something in the goods themselves, but might well lie in the way they were packaged, looked after or transported. Accordingly, the responsibilities and liabilities of the various parties with regards to the carriage of dangerous cargoes are usually intertwined and complex.

The purpose of this thesis is to analyse and evaluate the dangerous cargoes liabilities in English and Chinese law, by providing suggestions for existing problems in each country based on three sources: contract, tort and statute. Moreover, the chain of causation and concept of remoteness has particular importance in order to establish liability and decide which type and what amount of damage is recoverable.

This thesis compares both countries' liability regimes and how to secure compensation for its victims, and the restoration of the environment, with reference to the EU Environmental Liability Directive and relevant international conventions. The author draws her final conclusions from four important issues: (1) the meaning of dangerous cargo, the packing and handling; (2) the scheme of liability; (3) the channelling of liability; and (4) the type of recoverable damage.

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# Abbreviations

## Legislation and legal terms:

ARPMPV	Administrative Rules of the PRC for Preventing Marine Pollution caused by Vessels
ARSSDCV	Administrative Regulations of the PRC on the Safety Supervision of Dangerous Cargo on Vessels
BCH Code	Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk
CLC	International Convention on Civil Liability for Oil Pollution Damage
COGSA	Carriage of Goods by Sea Act
FUND	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage
HNS Convention	International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea
HR	International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, 1924 (The Hague Rules)
HVR	Brussels Protocol amending the Hague Rules relating to Bills of Lading, 1968 (The Hague-Visby Rules)
IBC Code	International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk
IGC Code	International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk
IMDG Code	International Maritime Dangerous Goods Code
IOPC Fund	International Oil Pollution Compensation Fund
ISM Code	International Management Code for the Safe Operation of Ships and for Pollution Prevention (“International Safety Management Code”)
LOT	Load on Top
MARPOL	The International Convention for the Prevention of Pollution from Ships
MEPL	Marine Environmental Protection Law of the PRC
MSA	Merchant Shipping Act
MSR	Merchant Shipping Regulations
MTSL	Maritime Traffic Safety Law of the PRC
NYPE	New York Product Exchange Time Charter
ORPC	International Convention on Oil Pollution Preparedness, Response and Co-operation
RADCP	Regulations of the PRC on Administration of Dangerous Cargo at Port
Ro-Ro	Roll on, Roll off
RR	United Nations Convention on the Contracts for the International Carriage of Goods Wholly or Partly by Sea (The Rotterdam Rules 2009)
SDR	Special Drawing Right
SMPEP	Shipboard Marine Pollution plan for Noxious Liquid Substances
SOLAS	Convention for the Safety of Life at Sea
SOPEP	Ship or Oil Pollution Emergency Plan

## Organizations

CMI	Comité Maritime International
IMO	International Maritime Organization
ITOPF	The International Tanker Owners Pollution Federation Limited
MOC	The Ministry of Communications of PRC

MSC  
UN/ECE  
UNCITRAL

Maritime Safety Committee of IMO  
UN Economic Commission for Europe  
United Nations Commission on International Trade Law

## **Courts**

C.A.  
C.A. (9<sup>th</sup> Cir.)  
H.C  
H.L.  
P.C.  
Sup. Ct

Court of Appeal  
US Court of Appeals (9<sup>th</sup> Circuit)  
High Court  
House of Lords  
Privy Council  
Supreme Court

## **Journals**

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