

Comments on the Beijing Draft-Reply from the China MLA

Reference is made to Letter dated 23 March 2013 from President of CMI, concerning the Beijing Draft Final Version. The China MLA would like to thank the CMI and the International Working Group for their substantial work to prepare a Draft International Convention on Recognition of Foreign Judicial Sales of Ships which is known as the “Beijing Draft”. In order to make it more practically feasible, rigorous and widely accepted, the China MLA has the following comments on the Beijing Draft:

Article 1 Definition, paragraph 3

In order to make it in line with wording of Article 1, paragraph 4 and Article 4, paragraph 1, it is suggested to add more words to this paragraph as *“Clean Title” means free and clear of any and all Mortgages or Charges, all Maritime Liens and other liens, and other encumbrances of whatsoever nature and howsoever arising.*

Article 1 Definition, paragraph 9

Considering where a judicial sale will not be recognized for violating the law of the State in which the Judicial Sale is accomplished or the provisions of this Convention and it will not have the effect of normal judicial sale, it is suggested to delete *“by which Clean Title to the ship is given to Purchaser and the proceeds of sale are made available to the creditors”* from the definition of Judicial Sale.

Article 1 Definition, paragraph 10

Because maritime lien is classified as a security for substantive right under Maritime Code of PRC, it is suggested to add *“or secured by”* after “recognized as” in this paragraph.

Article 1 Definition, paragraph 10

It is suggested to delete quotation marks from *hypothèque*.

Article 3 Notice of Judicial Sale, paragraph 4

On one hand, with the development of modern communicating technology it is bound to get much easier to acquire confirmation of receipt and provide such evidence, on the other hand, without requirement for confirmation receipt this Convention will lose enough support from MLM 1993 member states. Therefore it is suggested to keep *“which provide confirmation of receipt”* and delete the square brackets.

Article 7 Recognition of Judicial Sale, paragraph 4

It is suggested to delete *“as defined by this Convention”* after “an Interested Person” for the sake of brevity and add *“or Subsequent Purchaser”* after “Purchaser” to insure that Subsequent Purchaser shall have the same protection as Purchaser under this Convention.