



### Ernest Yang

#### Partner

HEAD OF LITIGATION & REGULATORY, HONG KONG;  
CO-HEAD OF INTERNATIONAL ARBITRATION, ASIA PACIFIC

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Ernest Yang is a partner at DLA Piper. He heads the Litigation & Regulatory Group in Hong Kong and is responsible for the International Arbitration practice in Asia. Ernest is a qualified Solicitor Advocate in England and Wales. Ernest recently passed the examination for Hong Kong legal practitioners to practise law in the Greater Bay Area in the People's Republic of China.

Ernest's main area of practice is in commercial litigation and arbitration. He is experienced in handling international disputes covering areas such as sale of goods/trade and commodities, joint ventures, energy and offshore projects, international investment and technology. Ernest is experienced in handling arbitration disputes in a variety of venues including Australia, Beijing, Hong Kong, Singapore, Switzerland, London, and Stockholm before arbitral institutions such as the BIAC, CIETAC, HKIAC, ICC, LCIA, LMAA, SCC, SCMA, SHIAC and SIAC (in alphabetical order).

Ernest was appointed a member of the Chinese People's Political Consultative Conference (CPPCC) in Shanghai in 2013, with a mandate to help Shanghai develop into an international arbitration centre. In 2015, Ernest was part of a team which submitted the proposal "Building Shanghai into a Ship and Aircraft Finance and Leasing Centre" to the China (Shanghai) Pilot Free Trade Zone. This proposal has been recognised as one of the "Outstanding Proposals of the Year" in 2016. Ernest was promoted to the Standing Committee of the CPPCC in Shanghai in January 2019.

Ernest was named by Chambers Asia Pacific 2011-2020 as a leading individual in the area of Dispute Resolution: Arbitration in China. Clients characterise him as "highly experienced", and also praise his "good legal insight". Legal 500 Asia Pacific 2018 noted: "Ernest Yang has 'a good common law background and experience in dispute resolution - his strength is to tease the frame of the case and decide on a winning strategy.'" He has also been recognised in China Business Law Journal 2016-2021 as The A-List Top 100 Lawyers for China practice.

Since 2011, Ernest has started to accept appointments as arbitrator and was appointed as arbitrators in various jurisdictions (including as a sole arbitrator) on many occasions.

- Litigation, Arbitration and Investigations
- Regulatory and Government Affairs

- Technology
- Energy and Natural Resources

English Chinese  
(Cantonese) Chinese  
(Mandarin)

## LANGUAGES SPOKEN

- English
- Chinese (Cantonese)
- Chinese (Mandarin)

## EXPERIENCE

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### AREAS OF EXPERIENCE

- International Arbitration
- Litigation
- Corporations, Shareholders and Joint Ventures
- International Sale of Goods and Distribution Contract
- Intellectual Property, Technology and Life Sciences
- Private Equity, Financial Institutions and Insolvency Proceedings
- Energy and Offshore
- Hospitality, Sports and Entertainment
- Maritime, Transportation and Insurance

### SELECTED EXPERIENCE

#### Disputes involving corporations, shareholders and joint ventures

- Acting for Saleen Motors in their multi billion dollar dispute with their joint venture partner in China involving arbitration proceedings in Hong Kong and applications before the Hong Kong Courts for anti suit injunctions to restrain PRC court proceedings.
- Acting for a Chinese food and beverage company in respect of enforcement proceedings before the Hong Kong Courts in their dispute with its Korean joint venture partner.
- Acting for a leading conglomerate in Asia in their multi billion dollar dispute with their joint venture partner in China involving arbitration proceedings in Hong Kong conducted entirely in Chinese.
- Acting for a US-based pharmaceutical company in their dispute involving their joint venture partner in China involving arbitration proceedings before CIETAC in Beijing.
- Acting for a US-based video gaming company in their joint venture dispute with their Chinese partner involving arbitration proceedings in Singapore.

#### Disputes involving international sale of goods and distribution contracts

- Acting for the Midea Group, the leading air conditioning and white goods manufacturer, in a dispute involving their long term distribution contract in Israel involving arbitration proceedings in Singapore and a leading case in the Singapore Court of Appeal concerning the setting aside of arbitration awards.
- Acting for a leading steel conglomerate in China concerning the import of raw materials from an Australian supplier involving arbitration proceedings in Australia.
- Acting for a conglomerate in China concerning the supply of equipment to European purchasers involving arbitration proceedings in Switzerland.
- Acting for a leading steel mill in China in their dispute with a counterpart concerning non-performance of the contract due to violations of US anti-dumping regulations involving arbitration proceedings in Hong Kong.
- Acting for a leading European manufacturer of consumer products in their dispute with manufacturers based in the PRC due to alleged use of child labour involving arbitration proceedings in Hong Kong and parallel proceedings in China.

#### Disputes involving intellectual property, technology and life sciences

- Acting for an Israeli-based company with technology for use in mobile phones under a technology licensing agreement against a PRC-based manufacturer involving arbitration proceedings in Hong Kong.
- Acting for a Chinese manufacturer of telecommunications equipment in their dispute with Eastern European buyers involving

arbitration and court proceedings in Sweden.

- Acting for a US-based medical devices manufacturer against their licensee in China involving arbitration proceedings before CIETAC in Beijing.
- Acting for a Chinese-based medical devices manufacturer against their purchaser in Europe involving arbitration proceedings in Hong Kong.
- Acting for a US-based research facility to seek recovery of remuneration for clinical testing services which were provided involving arbitration proceedings in Hong Kong.

#### Disputes involving private equity, financial institutions and insolvency proceedings

- Acting for a US-based garment manufacturer against a private equity fund in Hong Kong in a dispute concerning a convertible bond and options agreement involving arbitration proceedings in Hong Kong.
- Acting for the petitioner in Re Lucky Resources (HK) Ltd in the leading Hong Kong court authority on the relationship between winding up proceedings and the enforcement of arbitration awards.
- Assisting a PRC based investment fund in claims arising from a failed SPAC acquisition involving arbitration proceedings in Hong Kong.
- Assisting a PRC bank on their enforcement options in relation to the insolvency of an offshore entity based in Singapore.
- Assisting a PRC-based investment bank in insolvency proceedings before the Hong Kong Courts in respect of defaults in repayment.

#### Disputes involving energy and offshore projects

- Acting for Guangzhou Salvage in relation to a claim in respect of its floating Derrick, The Hua Tian Long, in respect of a multi million dollar offshore drilling contract. This was a leading case before the Hong Kong courts and established the concept of crown immunity in Hong Kong.
- Acting for a Chinese contractor in their dispute with their Vietnamese counterpart in an EPC contract dispute.
- Acting for a Chinese company against a Norwegian company in respect of the sale of 10 oil tankers involving arbitration proceedings in London.
- Acting for a leading Chinese energy company in respect of their disputes with a Middle Eastern counterpart involving the drilling of oil wells in that country. The dispute was resolved by arbitration in Hong Kong.
- Acting for a leading Chinese energy company which has sold a consignment of oil in respect of its rights and obligations in respect of the bankruptcy of its counterparty based in Singapore.

#### Disputes involving hospitality, sports and entertainment

- Acting for a PRC company in a dispute concerning the broadcasting rights of several competitions of an internationally popular sport involving arbitration proceedings before CIETAC in Hong Kong.
- Acting for a PRC real estate developer specialising in green, sustainable architecture in a dispute concerning several hotel and residential developments involving arbitration proceedings in Hong Kong.
- Acting for a global hotel chain in disputes with their local partners concerning the operation of a hotel located in the PRC involving arbitration proceedings before CIETAC in Shanghai.
- Acting for a PRC company specialising in online games in their dispute with a Hong Kong private equity fund in a dispute concerning a convertible bond agreement involving arbitration proceedings in Hong Kong and an application for a Mareva injunction (involving the Chabra jurisdiction) in Hong Kong.
- Acting for a Chinese-based e-book software manufacturer against a US company for alleged IP theft involving arbitration proceedings in Hong Kong.

#### Disputes involving maritime, transportation and insurance

- Acting for a leading Chinese liner shipping company in their long term cooperation agreement with an European counterpart involving arbitration proceedings in London.
- Acting for a purchaser of an aircraft in relation to outstanding arrears with an airport authority.
- Acting for a leading insurance company in relation to cargo insured by them which was stolen on board on a vessel in China, involving arbitration proceedings in London and parallel proceedings in China.
- Acting for Jiangsu Eastern Shipyard against a Greek shipowner in a shipbuilding contract dispute involving arbitration proceedings and court proceedings in London which is a leading authority on appeals under the English Arbitration Act.

- Acting for the China Classification Society in the public enquiry in Hong Kong concerning the ferry disaster which took place off Lamma Island in Hong Kong in which they have been completely exonerated.

## CREDENTIALS

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### Professional Qualifications

- Solicitor of the Senior Courts of England and Wales
- Solicitor of the High Court of Hong Kong

### Prior Experience

Prior to joining DLA Piper, between 1999 and 2007, Ernest practised in the London and Hong Kong offices of an international shipping law firm.

### Recognitions

- Named by *Chambers Asia Pacific 2020* as a leading individual in the area of Shipping: Litigation (International Firms) - China and Dispute Resolution: Arbitration (International Firms) - China.
- Described by *Chambers China 2020* as "[Ernest has an] amazing understanding of the law and cross-cultural experience" and "[Ernest provides] forceful and thorough advocate".

### Education

- University College London, LL.B.

### Memberships

- Shanghai Delegate Member of the Chinese People's Political Consultative Conference.
- Executive Board Member and Honorary Legal Advisor of the Hong Kong Shanghai Economic Development Association.
- Panel Arbitrator in the Singapore Chamber of Maritime Arbitration.
- Member of the Users Council of the Singapore International Arbitration Centre.
- Supporting Member of the London Maritime Arbitrators Association.

## INSIGHTS

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Ernest writes and speaks regularly in Hong Kong and the PRC.

### Publications

#### Hong Kong: disputes over pre-conditions to arbitration go to admissibility not jurisdiction

10 August 2022

The Hong Kong Court of Appeal (CA) confirmed in *C v D* [2022] HKCA 729 that, in line with the generally held view of international tribunals and national courts, non-compliance with contractual preconditions to arbitration is a matter of admissibility of a claim for the arbitral tribunal to decide, rather than an issue going to the substantive jurisdiction of the tribunal to hear a case. This classification is relevant to users of Hong Kong-seated arbitration as parties will not, generally, be able to challenge arbitral awards on grounds of substantive jurisdiction for non-compliance with such provisions. As Hong Kong is a UNCITRAL Model Law jurisdiction, the judgment of the CA has considerable international significance.

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## Spar Shipping v. Grand China Logistics: English court judgment recognised in mainland China for the first time

28 July 2022

On 17 March 2022, the Shanghai Maritime Court (the SMC) handed down a landmark decision ((2018) Hu 72 Xie Wai Ren No. 1), recognising the English court judgment in Grand China Logistics Holding (Group) Co. Ltd v Spar Shipping AS ([2015] EWHC 718 (Comm); [2016] EWCA Civ 982).

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## Successful asset preservation application in Mainland China prior to the recognition of Hong Kong arbitral award

17 November 2021

Following a victory in an arbitration at the HK International Arbitration Centre lead by DLA Piper Hong Kong, we have recently succeeded in assisting the Israeli client in obtaining an order from the Ningbo Intermediate People's Court for asset preservation prior to the recognition and enforcement of the HKIAC arbitral award in Ningbo, China.

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## Chambers International Arbitration 2021 Global Practice Guide – Trends and Development in China

15 September 2021

China encompasses a number of arbitral jurisdictions, the most popular of which are in Hong Kong and China. In the past year, we continued to see a significant rise in the number of arbitration cases seated in Mainland China and Hong Kong and strong development of the arbitration market despite the pandemic.

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## BOOKS IN ENGLISH

- Arbitration in Hong Kong: A Practical Guide, Second, Third and Fourth Editions (2011, 2014 and 2017), Sweet & Maxwell

## BOOKS IN CHINESE

- Performance of Contract, Waiver and Estoppel (2018), Law Press, China
- Sale of Goods (2011), Law Press, China
- International Arbitration (2006), Law Press, China
- Evidence (2002), Law Press, China
- Injunctions (2000), China University of Political Science and Law

## ARTICLES

- "Asia's Leading Dispute Resolution Practitioners Say a Universally Accepted Arbitration Framework is Crucial to the Success of the Belt and Road"; China Business Law Journal (September 2017)
- "Solicitor Advocacy: A Solicitor Advocate's View", Hong Kong Lawyer (September 2006)
- "Assessment of Damages for Breach of an Option" [2004] JBL 437

## Events

- International Chamber of Commerce (ICC) Inaugural Arbitration Day in the Philippines (2018)
- Belt and Road Seminar - Handling Disputes in China (2018)
- Singapore Chamber of Maritime Arbitration (SCMA) Seminar in Jakarta (2017)

- Presentation on Standby L/C and Guarantee Forum hosted by the Institute of International Banking Law & Practice in Hong Kong (2017)
- International Chamber of Commerce (ICC) Opening Seminar for China Arbitration Week in Beijing (2016)
- Weekend seminar for Arbitration Accreditation for the China International Economic and Trade Arbitration Commission (CIETAC) held in Renmin University, Beijing (2016)
- Global Legal ConfEx Conference in New Delhi (2016)
- Tutorials on International Arbitration at the Dalian Maritime University, Dalian (2016)
- Chartered Institute of Logistics and Transport Annual Seminar, Hong Kong (2016)