

CDCS, CSDG, CSCF and CTEFC 6.5 PDUs Points granted

6.5 Law Society CPD Points granted

Hot & New
Training
Program

Real Trade Fraud and Trade Disputes Cases

A full collection of landmark cases personally handled by Mr King Tak Fung as a legal practitioner or banker in the past 40 years

A survival kit for

Financiers (Risk, Operations, Credit Administration, RMs, Products, Legal & Compliance)
Lawyers, Auditors, Regulators, Shipping/Logistics/Sales/Accounting/Finance/Insurance Officers

Background:

1. Fraudsters have successfully defeated the anti-fraud / trade-based AML mechanism adopted by various financial institutions in different parts of the world.
2. Financiers and traders are exposed to millions of US dollar trade disputes without an effective mechanism to resolve such disputes speedily and amicably without litigation.
3. This workshop is specially designed by Mr Fung to pass on his impeccable trade finance knowledge, experience and creative approach by way of case studies. He will conduct this workshop in person.

Highlights:

A. Trade fraud identification and mitigation

1. **Fraudulent LC identification** – typical fraudulent LC wording, built-in discrepancies to trap beneficiaries, T.T. reimbursement, an export LC indicates that it is fully secured by cash, photocopy documents / discrepancies acceptable
2. **Warehouse finance and repo** – the largest warehouse finance fraud in the world - how to conduct proper due diligence check and implement effective risk management?
3. **Control over goods** – how to mitigate forged bills of lading presentation, unauthorised release of goods and charter-party bills of lading issued by charterer risks?
4. **Transaction structure** – circular trade, back-to-back LCs, export LC negotiation (presentation of cargo receipts, copy bills of lading or letter of indemnity) and finance against multi-million SBLCs or bank guarantees

5. **Trade-based AML** – Who is the bank’s customer and due diligence checks

B. Fraud and injunction

1. **SBLC / bank guarantee reissuance** – landmark court injunction cases in China and Indonesia – how to resolve the conflict of law and conflict of local law and ICC rules?
2. **Injunctions** – under what circumstances would a common law court injunct an LC payment – is a negotiating bank immune from the fraud exception? Effective ways to lift PRC court injunctions

C. Open account fraud and mitigation

1. **Key legal principles:**
 - The pros and cons of disclosed and undisclosed assignment of debts
 - Is it a must to obtain the buyer’s acknowledgement of the notice of assignment?
 - How to handle ban on assignment provisions?
 - Under what circumstances may a buyer exercise his right of set-off against the financing bank?
2. Non-existing underlying trade
3. Fabricated or unauthorised modification of export invoices
4. Multiple financing provided by different banks
5. Buyers deny that they have ever received the goods or notice of assignment
6. Disguised intra-group transactions
7. Buyer acting as a conduit of the seller (resell the goods back to the supplier or to a connected party of the seller)

D. Creative trade disputes resolution (This part will be integrated with the corresponding topics highlighted above during the workshop)

1. **How can an LC issuing bank prove that the presenting bank has ante-dated the receipt of documents** and discharge a fraudulent claim of US\$20 million?
2. **Trade dispute resolution protocol** – Mr Fung will share with you the protocol invented by him in recovering tens of millions US dollars for his clients in the most cost- and time-effective manner. This includes the drafting of exceptional demand letters, arresting of vessels, direct negotiation with LC issuing banks, effective use of the ICC DOCDEX proceedings etc.
3. **Creative negotiation** – the sharing of a hugely successful negotiation case by recovering a substantial sum from the buyer (which is another valued client of the financing bank) within three weeks.
4. **OFAC issues** – how to effectively resolve sanctions issues alleged by LC issuing banks

Speaker:

Mr King Tak FUNG (e-mail: fungkingtak@gmail.com)

- Former Partner of Stephenson Harwood specialising in Banking and International Trade Law and Practice
- Former Vice chairman and Technical Advisor to the ICC-HK TBAML Sub-committee

- Arbitrator on Credit Insurance Disputes
- Co-chair of the ICC Consulting Group on ISBP 2013 revision
- Member of the ICC Consulting Group on Forfaiting and UCP 500 Revision
- Member of the Drafting Group on the revision of the ICC Documentary Instruments Dispute Resolution Expertise (DOCDEX) Rules and a DOCDEX panel expert
- Former Vice President and Head of Trade Finance at Bank of America N.A.
- Trade Finance & Banking Expert Witness in Hong Kong, Taiwan and PRC Courts
- Accredited mediator of HK International Arbitration Centre & the HK Law Society
- Author of "UCP 600 - Legal Analysis & Case Studies" (2008) and "Leading Court Cases on Letters of Credit" (2005)

Logistics:

Date:	10 January 2025 (Friday)
Time:	9:30 am – 5:30 pm
Venue:	The Hong Kong Management Association 2/F, Pico Tower, 66 Gloucester Road, Wan Chai, Hong Kong
Medium:	Cantonese with an English Workbook
Organisers:	ICC – Hong Kong
Cancellation:	There will be no refund for cancellation of booking initiated by the applicant. However, the registration may be transferred to another person from the same company or organisation at no extra charge.
Seat reservation:	<u>Only upon receipt of payment on a first come, first served basis.</u>
Deadline of Registration:	<u>31 December 2024</u>
Enquiry:	Contact Ms. Anne Wu at Tel: 2973 0060 or e-mail to: publn@icchkcbc.org

Registration fees:

- ❖ *Fee includes course attendance **for the full-day workshop**, working papers, lunch and refreshments.*
 - ❖ *You will enjoy early bird discount if you register and pay on or before **15 December 2024**.*
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| ✧ | HK\$ 4,500/person | <i>(regular)</i> |
| ✧ | HK\$ 3,800/person | <i>("early-bird" for public)</i> |
| ✧ | HK\$ 3,600/person | <i>("early-bird" for ICC-HK / FHKI / HKFI / The Hong Kong Association of Banks members)</i> |
| ✧ | HK\$10,800/group | <i>("early-bird" for a group of 3 persons from the same company, HK\$3,600 for each additional registrant in the same company)</i> |
| ✧ | HK\$ 10,200/group | <i>("early-bird" for a group of 3 persons from ICC-HK / FHKI / HKFI / The Hong Kong Association of Banks members, HK\$3,400 for each additional registrant in the same company)</i> |
| ✧ | HK\$19,200/group | <i>("early-bird" for a group of 6 persons from the same company, HK\$3,200 for each additional registrant of the same company)</i> |

Reference Book: (optional)

"UCP 600 - Legal Analysis and Case Studies" by King Tak FUNG, ICC Publication No.1000C

Unit price at HK\$1,000/copy, special discount for workshop attendees at HK\$900/copy

By way of Q&A techniques, this book addresses 99 highly controversial trade finance issues and analyses 55 landmark court cases and unpublished banking cases. -It consists of a total of 12 chapters including **PRC LC Law & Practice, Fraud & Injunctions**. The majority of these unpublished cases involved Mr. Fung himself either as a banker or a legal practitioner which cannot be found in any other sources.