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南京海事法院海事审判报告

Report on Trails of Nanjing Maritime Court of PRC (2022)

(2022 年 1 月—2022 年 12 月)



中华人民共和国南京海事法院
Nanjing Maritime Court of PRC

2023 年 12 月
December 2023

南京海事法院海事审判报告

(2022年1月—2022年12月)

特别说明：本报告以中英两种文字发布，以中文文本为准

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Report on Trials of Nanjing Maritime Court of PRC (January —December 2022)

Special Statement: This report is announced in Chinese and English,
and the Chinese Version shall prevail.

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前言

2022年,南京海事法院坚持以习近平新时代中国特色社会主义思想为指导,深入学习贯彻党的二十大精神和省第十四次党代会精神,紧扣党的十八大以来全国唯一新设海事法院、江苏唯一新设专门法院定位,锚定“努力打造全国一流乃至在国际上有影响力的海事法院”奋斗目标,认真落实省委和上级法院决策部署,忠实履行法定职责,深入实施“党建引领、服务品牌、精品审判、基层基础、管理效能、队伍素能”六大提升工程,丰富拓展“专而新、专而特、专而精、专而优、专而强、专而高”现代化专门法院发展内涵,为保障高水平对外开放和海洋强国、海洋强省建设作出积极贡献。

一、基本情况¹

(一) 总体概况

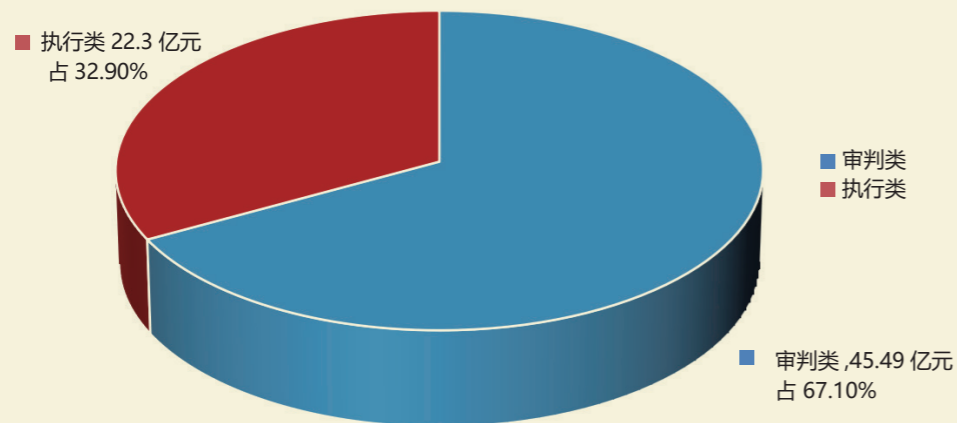
2022年,南京海事法院受理各类案件3466件,同比增长17.61%,位列全国海事法院第4位。其中,新收案件2904件,同比增长28.27%,位列全国海事法院第5位;审执结案件2753件,同比增长15.43%,位列全国海事法院第6位。

2022年,全院审判质效指标持续向好,法定正常审限内结案率85.28%,一审服判息诉率81.49%,立案标的额总计67.78亿元,其中审判类案件45.49亿元,占比67.10%;执行类案件22.30亿元,占比32.90%。(见图表1)

¹本部分数据主要来自中国海事审判网。



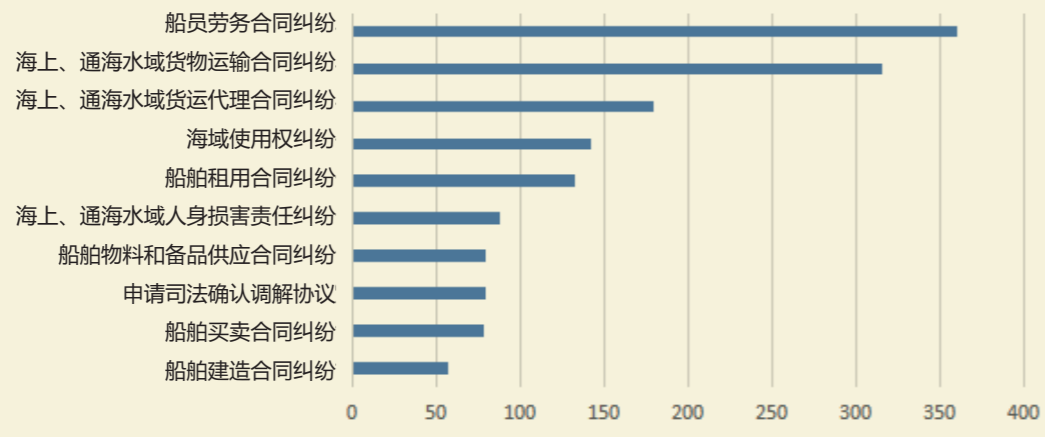
一、基本情况¹



图表 1: 全院立案标的额情况

(二) 案件构成

1. 民事案件: 1. 受理 2589 件, 同比增长 14.46%。其中, 新收 2132 件, 同比增长 21.62%; 审结 2141 件, 同比增长 19.94%。其中收案数量排名前三的案由分别是: 船员劳务合同纠纷 (360 件), 海上、通海水域货物运输合同纠纷 (315 件), 海上、通海水域货运代理合同纠纷 (179 件)。(见图表 2)



图表 2: 新收案件数排名前十的案由



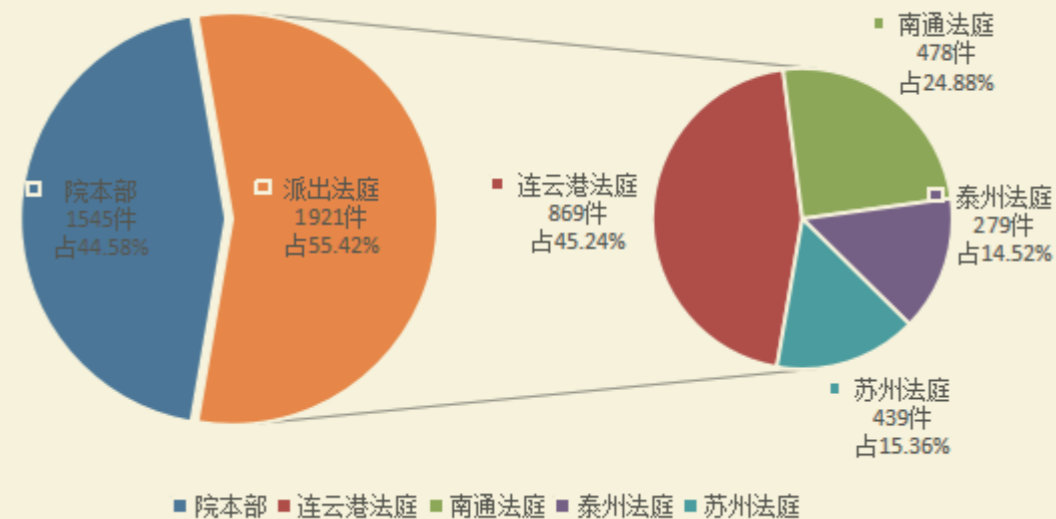
2. 行政案件: 受理 130 件, 同比增长 3.17%。其中, 新收 122 件, 同比增长 79.41%; 审结 94 件, 同比减少 20.34%。

3. 执行案件: 受理 680 件, 同比增长 21.86%。其中, 新收 572 件, 同比增长 30%; 执结 458 件, 同比减少 2.35%。

4. 扣押船舶情况: 依法扣押船舶 155 艘, 其中外国籍、港澳台船舶 4 艘依法拍卖成交船舶 13 艘, 拍卖成交总额 4402.7 万元。

5. 涉外涉港澳台案件情况: 受理 216 件, 占全院受理民事案件的 8.34%。其中, 新收 146 件, 占全院新收民事案件的 6.85%; 审结 135 件, 占全院审结民事案件的 6.31%。案件涉及中国香港、新加坡、马绍尔群岛等 51 个国家或地区。涉“一带一路”签约国案件 88 件, 占比 40.74%, 审执结 42 件, 案件涉及新加坡、韩国、巴拿马等 21 个“一带一路”签约国。

6. 派出法庭收结案情况: 派出法庭共受理案件 1921 件, 占全院受理案件的 55.42%。其中, 新收案件 1662 件, 占全院新收案件 57.23%; 审结 1616 件, 占全院审结案件 58.70%。(见图表 3)



图表 3: 派出法庭受理案件情况



二、工作亮点

(一) 忠诚履行职责使命，精准服务海洋经济高质量发展

服务海洋经济发展，高效审理海上货物运输、货运代理、港口航道疏浚、码头建造、船舶修造等各类海事案件，助推现代海洋产业体系构建。助力高水平对外开放，在全国率先出台《关于服务保障 RCEP 高质量实施的司法措施》，与苏州中院签署“1+4”协同工作机制框架协议，与省发改委联合发布“一带一路”企业法律风险指引，倡议发起服务保障“一带一路”法庭联盟并发布典型案例。妥善处理一起双方当事人均系 RCEP 成员国企业主动选择管辖案件，得到时任最高人民法院主要领导批示肯定。优化法治化营商环境，深入 130 余家港口企业了解海事司法需求，制定护航港航船舶企业发展 12 项司法措施，推出优化法治化营商环境十大典型案例，编印法律风险提示手册，引导涉海企业防范风险。开展港航船舶企业信用修复专项行动，帮助 16 家符合条件的被执行企业修复失信信息，为涉海主体诚信经营营造良好法治环境。

(二) 实施审判精品战略，着力打造海事纠纷解决优选地

完善案件精品培育机制，对精品案件进行全周期动态管理，全年 3 个案例入选省法院公报参阅案例，1 篇文书和 1 个庭审分获全省法院“百篇优秀裁判文书”一等奖和“百场优秀庭审”二等奖，1 篇司法建议获评全省法院优秀司法建议。强化海事审判专业支撑，与南京大学等高校深化合作，与南京信息工程大学合作完成的课题得到省委领导批示肯定。高标准推进江苏省法学会海商法学研究会工



作，开展“国际海事司法中心建设”专题研讨。实体化运行专业审判团队，船舶碰撞团队、船员劳务团队分别推出《船舶碰撞案件若干问题解答》《涉疫情船员劳务纠纷相关疑难问题讨论纪要》。着力提升海事司法效能，出台《涉外、涉港澳台司法文书送达工作规程》，健全外国法查明和适用机制，在一起国际多式联运合同纠纷案件中，准确查明并适用墨西哥法律关于货损赔偿责任限额的规定作出判决，双方当事人均服判息诉并自动履行到位。

(三) 优化司法为民举措，积极回应人民群众海事司法需求

做精海事诉讼服务，畅通船员诉讼绿色通道，全面提速网上立案、电子送达、互联网开庭等在线诉讼服务。探索运用移动微法院“线上代理见证”功能，破解疫情期间跨境立案委托手续公证认证难题。开发上线“法护海江河”智能化平台，推动沿海沿江 17 个一站式解纷中心、11 个巡回审判点（基地）、7 个审务工作站和 2 个水上联合调解室等多元解纷站点提档升级，为当事人提供高效率、低成本解纷方案。做实涉海民生权益保障，成立船员权益保护中心，在沿海沿江分设 5 个船员权益保护工作站，发布服务保障船员权益 10 大举措和《船员权益风险提示手册》。开展“保民生护薪”等专项执行行动，让当事人胜诉获得感更加充实。加大基层基础建设力度，完善海事审判大数据分析平台，优化法官远程会议、互联网法庭等信息化系统，统筹推进南京法治园区新址和派出法庭项目建设，为人民群众提供更加舒适便捷的诉讼活动场所。

(四) 持续深化改革创新，不断完善海事审判工作机制

健全海事审判权运行机制，制定《关于推进审判执行工作高质



量发展实施意见》，出台“六类案件”标识操作指引，加强对审判质效数据的跟踪研判。推进海事审判“三合一”机制改革，召开海洋生态环境民事公益诉讼法律问题研讨会，配合省法院明确海事行政案件管辖范围，推动在全国率先实现海事行政案件专门化集中管辖。与南京市人民检察院签署协作配合机制备忘录，正式受理履职以来第一起非法捕捞水产品引发的海洋生态环境公益诉讼。深化海事司法与行政执法协作，召开深化江苏海事司法与行政执法战略协作推进会，持续擦亮海事司法执法协作“江苏品牌”，工作成效受到省委领导充分肯定。开通船舶司法扣押锚地和“电子围栏”，实现江河湖海船舶“一键扣押”，大力提升司法执法工作效能。

（五）落实全面从严治党，努力锻造高素质海事审判队伍

坚持政治引领淬忠诚，深入开展“致敬红船·海法扬帆”党建引领工程三年行动，举办长三角海事法庭党建联盟研讨会，深化“一支部一品牌”创建，连云港法庭党支部获评省级机关党支部“服务高质量发展先锋行动队”和全省法院优秀党支部品牌。坚持正风肃纪优作风，严格执行防止干预司法“三个规定”等铁规禁令，开展作风建设大讨论，接受省人大常委会对海事审判工作专项审议，邀请代表委员、特约监督员参加会议，以监督外在推力激发法院发展内生动力。坚持提升能力强素养，深入实施“海法菁英”培养计划，常态化开展青年翻译小组活动，组织干警登船实习、参加海上安全技能培训，受邀参加北外滩国际航运论坛并做主旨发言，参与《船舶司法出售国际效力公约》等国际海事规则制定。干警撰写的51篇论文在《人民司法》等期刊发表或在全国、省级会议上获奖，1名干警获评全国审判业务专家。



三、问题建议

为更好服务保障海洋强国、“一带一路”建设等国家重大战略实施，助力营造市场化、法治化、国际化营商环境，我院梳理总结海事审判实践经验，对下列海事海商纠纷提出如下建议。

（一）对船舶碰撞类纠纷的建议

船舶碰撞事故是航行安全的大敌，2022年，全院共受理船舶碰撞案件73件。案件中反映出的问题主要有：（1）在航行中未按规定采取让路行动、未保持安全航速、未按规定值班等是船舶发生碰撞事故的常见原因。（2）在港区、锚地（停泊区、过驳区），受潮汐流、局部水域船舶密集、大雾天气等环境因素影响，进出船舶与锚泊船易发生碰撞事故。

建议：（1）强化安全责任意识。船舶所有人、经营人要加强对所辖船舶航行的动态实时监控和管理，增加安全管理投入，按照谁登记谁负责、谁经营谁负责、谁收益谁负责的原则落实船舶安全管理主体责任。（2）提高安全航行水平。船舶经营者应当确保足额配员、船员适任，驾驶人员要严格遵守船舶避碰规则，加强对周围环境的观察和判断能力，提高船舶操纵与避碰的能力和水平。（3）加强安全航行管理。海事管理机构应当督促港口经营人优化进出港作业安排，增加锚地资源，持续加大对未按规定配员、超等级靠泊等违法行为的监督检查力度，降低船舶进出港口、锚地的事故风险。



（二）对港口作业类纠纷的建议

港口是链接国内外市场的重要枢纽，因《港口货物作业规则》废止，港口作业行为缺乏专门具体的法律法规指引。2022年，我院共受理港口作业类纠纷案件90件，案件反映出的问题主要有：（1）港口企业法律意识参差不齐，某些港口企业未订立港口作业合同，甚至未确定合同相对方，即开始进行装卸货作业，一旦发生纠纷，双方权利义务难以界定。

（2）因港口经营人与其他相关各方对港口货物作业流转过程中的权属情况及各方法律关系的认知与识别存在较大差异，法律纠纷日渐频发。

建议：（1）规范订立港口作业合同。参考《港口货物作业规则》内容订立合同，明确委托港口作业的主体，并为之签订书面合同。（2）合法行使留置权。港口企业行使留置权，要及时、准确、妥当通知相对人必要信息，留置的货物应与债务人未履行债务金额大致相当，不得明显超出债务范围，以免造成不当留置。

（三）对多式联运类纠纷的建议

多式联运因运输距离长、参与主体广、交接环节多，在货物交接、货损认定等环节易发生纠纷。2022年，我院受理涉多式联运合同纠纷案件10件，案件反映出的问题主要有：（1）各区段承运人疏于查验货物，导致货损发生后难以准确认定损失发生区间，不利于各区段承运人权利义务的界定。（2）多式联运类纠纷因适用外国法或国际公约的情形较多，增加了外国法查明等诉讼成本。

建议：（1）规范货物交接程序。多式联运区段经营人在经营过程中，应加强对货物的查验，并如实谨慎填写设备交接单等单据。（2）谨慎约定法律适用。缔约时尽可能明确合同履行中可能适用的外国法律或国际



公约，根据需要协商选择全程或某一运输区段适用的法律，使纠纷发生时适用法律具有可预见性，充分保护各方的预期利益。（3）及时投保分散风险。货主企业应提高保险意识，在对货物出口运输过程中，应及时购买保险或对货物做保价运输，适当分散货损风险。

（四）对涉海涉江领域欠薪类纠纷的建议

船员队伍是建设海洋强国的重要人才储备，保护船员工资权益对于维护海运生产秩序具有重要意义。2022年，我院共审执结船员劳务合同纠纷案件443件，案件反映出的问题主要有：（1）实践中一些派遣机构为规避自身责任，不按相关规定与船员签订合同或借用他人名义与船员签订合同，使得船员在主张工资报酬时陷于被动。（2）船员因法律意识欠缺或担心诉讼成本，未能在立案前或审理过程中及时申请财产保全。在案件审执过程中，往往仅能提供其在船工作的船舶信息，难以提供其他有效财产线索。

建议：（1）增强船员维权意识。船员在上船服务前应当事先了解雇主的诚信情况、资产状况、诉讼情况等，查阅船舶经营相关资质，以书面形式签订合同并及时固定有关证据。遇欠薪情况时，通过内部协商、向劳动监察部门反映、向海事法院提起诉讼等途径解决。必要时可以在起诉前申请诉前财产保全，请求法院对被告所属船舶采取司法扣押措施。（2）提升企业合法合规经营能力。航运企业、中介服务机构等发布招聘信息时应如实披露公司状况和经营资质，与劳动者规范签订合同，明确双方的权利和义务。妥善保存船员服务簿、船上值班记录、航海日志、轮机日志等资料，按照合同约定和船员实际工作情况及时发放工资、缴纳社会保险



等。(3) 营造维护船员权益社会氛围。积极推动船员从业者较多的省份、地市成立船员服务协会、海员工会,通过线下宣讲活动、发布微信公众号等方式,为船员提供法律知识科普教育和咨询,对法院、劳动监察部门等作出的欠薪治理典型案例进行重点宣传,保障船员体面工作,保障航运业安全和高质量发展。



四、典型案例

一、外国企业主动选择管辖 高效化解赢得称赞

——STO 租船韩国股份有限公与丰益贸易(亚洲)有限公司、中向石油有限公司、华东中石油国际事业有限公司海上货物运输合同纠纷案

【基本案情】

2022年7月,韩国STO租船公司所属油轮“STO AZALEA”装载7000多吨散装棕榈酸化油,自马来西亚帕西古当港起运驶往中国上海港和连云港港,两张提单均载明托运人为新加坡丰益公司,收货人凭新加坡中向公司指示,通知方为华东中石油公司。提单正面载明租约并入条款,并约定因提单引起的任何争议应在伦敦或纽约仲裁。油轮先抵达上海港,华东中石油公司提取了3900余吨货物。因对货物质量是否存在缺陷存有争议,油轮抵达连云港港后,华东中石油公司拒绝提货。8月,船东STO租船公司书面表示放弃仲裁,将丰益公司、中向公司、华东中石油公司诉至南京海事法院,请求赔偿在目的港无人提货造成的滞期费以及船舶营运损失。

【裁判结果】

法院受理案件后,考虑到棕榈酸化油作为生物柴油原材料,长期滞港可能对海洋生态环境造成潜在危险,遂第一时间与中向公司驻北京办事处以及华东中石油公司工作人员取得联系,沟通解决方案。一方面,依托海事司法与行政执法协作机制,主动联系连云港海关,了解棕榈酸化油清关程序以及卸货、存储实际障碍,形成尽快卸货、减少损失的可行性方案;另一方面,充分运用法院信息化手段,在短短两周内促成身



处山东、北京、上海三地的当事人开展线上听证,查清货物托运、货物质量检验、货款支付、提单流转等基本事实,为争议解决打牢基础。同时,承办法官加班加点与当事人沟通协调、充分释法明理,从实际解决问题、最大限度降低损失的角度推动争议实质性化解,积极促成当事人和解。最终,滞港近两个月的“STO AZALEA”轮在其他港口顺利完成卸货,开启了新的航程,3000余吨棕榈酸化油得以投入工业生产。

【典型意义】

法治是最好的营商环境,本案是南京海事法院受理的首起双方当事人为外国企业主动选择我院管辖案件,案件当事人来自韩国、新加坡等《区域全面经济伙伴关系协定》(RCEP)成员国,基于对中国海事司法的信赖,韩国船东主动将争议解决方式变更为到南京海事法院诉讼,新加坡当事人积极参与线上听证及调解活动,表明中国海事司法得到越来越多外国当事人的信赖和认可,是我国推进国际海事司法中心建设、打造国际海事纠纷解决优选地的生动例证。本案处理过程中,承办法官秉持司法便民利民理念,充分利用智慧法院建设成果,仅用43天就促成当事人达成和解。事后韩国船东专程写来感谢信,为承办法官团队“点赞”,真正实现了以公正、高效、专业的司法能力赢得当事人对中国海事司法的信任。

【案号】(2022)苏72民初1300号



二、发挥海事强制令高效优势 维护大宗商品供应链稳定

——浙江物产道富有限公司申请海事强制令案

【基本案情】

2021年11月,物产道富公司从俄罗斯进口一批4万余吨的钢坯,价值近3000万美元,由菱州船务(香港)公司所属的“江远太仓(JOSCO TAICANG)”轮运输,物产道富公司向卖方支付信用证项下的货款后取得全套正本提单。承运船舶靠港后,中国太仓外轮公司作为船舶代理人以案涉船舶的转租船东与其租家在相关租约下尚有费用争议为由,拒绝向物产道富公司交付“江远太仓”轮载运的1/J号提单下剩余的1500余吨钢坯。物产道富公司遂向南京海事法院申请海事强制令,请求责令被请求人菱州船务(香港)公司、中国太仓外轮代理公司根据提单交付货物。

【裁判结果】

法院在审查过程中,通过书面函询和线上听证等方式,充分听取江苏、浙江、上海三方当事人意见,认为承运人无正当理由拒绝放货,且钢坯受国际形势影响价格波动较大,延迟交付可能造成巨额损失,故依法及时作出海事强制令,责令被请求人立即放货,同时发出“预处罚通知”风险警示,告知被请求人限期不交付货物的法律后果。最终中国太仓外轮代理公司主动发出放货指令,物产道富公司顺利提取全部剩余钢坯。

【典型意义】

海事强制令是《海事诉讼特别程序法》规定的一项特别程序制度,



具有纠正被请求人违法或者违约行为, 高效解决纠纷的重要作用。新冠肺炎疫情爆发以来, 海上货物运输的不确定性增加, 本案是通过海事强制令为国际贸易中的市场主体提供及时有效司法救济, 保障大宗商品产业链供应链稳定的典型案例。案涉钢坯货值较大, 是工业生产的重要原材料, 长期堆存在港口不仅会产生高额堆存费, 而且可能影响下游企业的生产经营。法院综合全案事实和各方陈述申辩情况, 打出“海事强制令+ 预处罚通知”组合拳, 前移惩戒警示关口, 实现前端快速解决当事人纠纷, 在促进滞留货物顺利流转, 保障港口物流畅通的同时, 也帮助各方主体进一步增强合规经营和依法维权意识, 取得了纠纷解决效率和经济效益最大化的良好效果。

【案号】(2022)苏72行保3号

三、一揽子化解五方主体三起纠纷 助力船企快速恢复生产经营

——“明远9898”轮与“顺运88”轮船碰撞系列案

【基本案情】

2021年4月, 明远公司所属“明远9898”轮与顺运公司所属“顺运88”轮在南通港锚地北侧发生碰撞。事故造成“顺运88”轮船、货沉没, “明远9898”轮船艏破损。海事事故调查报告认定“明远9898”轮承担主要责任, “顺运88”轮承担次要责任。事故发生后, 人寿财保宜丰支公司就“顺运88”轮直接损失及其船载货物损失出具限额担保函。天安



财保航运保险中心对“顺运88”轮船载货物进行了全额保险理赔。稳强海洋公司参与事故抢险并产生相关费用。2021年9月至11月, 各方主体相继向南京海事法院提起关于船损、货损及施救费用的诉讼。其中, 顺运公司起诉明远公司和人寿财保宜丰支公司, 请求赔偿“顺运88”轮船船舶损失; 天安财保航运保险中心起诉明远公司、顺运公司以及人寿财保宜丰支公司, 请求赔偿货损; 稳强海洋公司起诉明远公司以及顺运公司, 请求支付抢险、施救、守护费。

【裁判结果】

法院在审理中, 考虑到三起案件系一次碰撞事故引发的系列纠纷, 案件当事人相互关联、案件事实相互交织, 遂决定协同推进三起案件的处理。在人寿财保宜丰支公司同意向顺运公司支付船舶直接损失以及货损后, 法院乘势促成各方当事人对船舶碰撞责任比例达成一致意见, 并以此作为计算顺运公司、明远公司对天安财保航运保险中心承担货损的责任比例, 以及对稳强海洋公司承担打捞费的责任比例。在对上述问题达成初步意向后, 再进一步组织各方对船舶直接损失、间接损失以及货损数额进行协商。通过分层次、有步骤的调解工作, 最终促成涉及五方主体的三起纠纷一揽子化解。

【典型意义】

因水上运输的特殊性, 船舶碰撞事故通常引发船损、货损、打捞、施救、清污等一系列纠纷, 涉及船舶之间、货主和船东之间、保险公司和



船东之间的多个侵权或合同关系。处理此类船舶碰撞事故纠纷,需要全方位多角度切入,以寻求减少船企实际损失的最优路径。本案船舶碰撞事故发生后,涉事船东同时陷入多起纠纷,迫切需要快速解决以尽快恢复生产经营。由于船舶碰撞案件审理程序有别于一般民事诉讼案件,具有“送状不附证”、法定审理期限较长等特点,对船舶损失、船期损失的认定,又经常需要借助司法鉴定程序予以确定,因此常规诉讼流程往往不能满足船东尽快解决纠纷的需求。本案中,法院本着实质性化解纠纷的目的,在查清案件事实的基础上组织调解工作,促使受损船东一次性解决了向有责任主体的索赔以及向其他受损主体的赔付纠纷,有效节约各方当事人诉讼时间和经济成本,为船舶企业及时恢复正常生产经营提供了有力保障。

【案号】(2021)苏72民初1165号,(2021)苏72民初996号,(2021)苏72民初1088号



四、强制交付滞港高碳铬铁 化解自贸试验区实体企业经营风险

——“明远9898”轮与“顺运88”轮船舶碰撞系列案

【基本案情】

2020年11月,伯利兹籍众望船舶有限公司所有的UNIHOPÉ轮接受委托,承运华乐公司、兴大公司所有的高碳铬铁8000余吨。运输过程中,UNIHOPÉ轮因船舱进水横倾严重在连云港市车牛山海域漂航,后经连云港市海事局救助,UNIHOPÉ轮停靠到徐圩港。因共同海损分担问题分歧较大,承运人拒不向华乐公司和兴大公司交付货物,双方陷入僵持,货物滞留船上,外籍船员无法换班。因涉案高碳铬铁总价达800万美元,远超共同海损预估金额,为消除UNIHOPÉ轮及货物的危险状态,保障外籍船员合法权益,南京海事法院联合徐圩新区管委会积极组织承运人与货主协商,促进纠纷化解,最终承运人同意将货物全部卸下,货主将大部分货物先行提走后,尚余500余吨高碳铬铁堆存于徐圩港码头。后华乐公司、兴大公司持全套正本提单多次向港口公司请求提货,但港口公司以提货要严格审批,需征得所有利益相关方一致同意为由拒不放货。两公司分别向南京海事法院申请海事强制令,请求港口公司交付涉案货物。

【裁判结果】

法院收到海事强制令申请后,第一时间前往徐圩港调查询问,勘验货



物堆存情况。考虑到高碳铬铁是生产不锈钢的重要原材料，长时间存放港口，不仅会产生高额保管费用，还会因长期露天堆放造成货物品质下降。同时，由于原材料价格上涨，高碳铬铁的国内市场交易价格已远超当时买入价，替代购买将会大幅增加企业成本。鉴于华乐公司、兴大公司已提供足额担保，海事强制令申请符合法律规定，法院依法作出海事强制令，责令港口公司交付涉案高碳铬铁。港口公司收到海事强制令后主动配合货主提取了涉案货物，滞留港口的500余吨高碳铬铁得以投入生产。

【典型意义】

我国是国际大宗商品贸易领域的最大购买者，受地缘政治局势及疫情影响，全球大宗商品价格波动剧烈。海事强制令作为海事诉讼特别程序，因其超越诉讼程序而享有强制执行效力，具有便捷、高效、低成本的优势。本案两家企业系在自贸试验区连云港片区内从事不锈钢生产的实体企业，自俄罗斯进口的近万吨高碳铬铁对企业生产经营至关重要，若长期滞留港口，两企业将面临对供应链下游企业的巨额赔偿。法院综合考虑涉案企业实际情况，灵活运用海事强制令，打破合同履行僵局，将两生产企业的损失降至最低，有力保障了供应链稳定。同时，在纠纷处理过程中，法院联合海事、边检等单位，顺利完成了承运船舶上外籍船员的换班及遣返工作，充分彰显了海事司法“助企纾困、暖企利民”的责任担当，得到案件当事人高度肯定并收到连云港市徐圩新区管委会的感谢信。

【案号】(2022)苏72民初652号、655号



五、超期提交海域使用权续期申请 不当然丧失续期申请权

——江苏渔禾岛紫菜种植有限公司诉盐城市自然资源和规划局不履行海域使用权续期职责案

【基本案情】

渔禾岛公司于2009年11月20日取得国海证093200492号海域使用权证（以下简称0492号海域证），发证机关为盐城市人民政府，宗海面积420.46公顷，终止时间为2020年6月30日。2020年6月16日，渔禾岛公司向盐城市资规局邮寄续期申请，申请延长0492号海域证期限。盐城市资规局于2020年6月17日收到申请后，于2020年6月19日作出《不予受理决定书》，认定渔禾岛公司所提出的延期申请已超过法定受理期限，依据《海域使用管理法》第二十六条之规定，决定不予受理。渔禾岛公司不服《不予受理决定书》中针对0492号海域证作出的不予受理决定，认为盐城市资规局的不予受理决定违法，且东台地区有5宗海域的海域使用权于2019年12月31日到期，海域使用权人于2019年12月6日向盐城市资规局申请续期，盐城市资规局于2019年12月9日受理，并于2020年1月9日公示办理延期手续，故提起本案诉讼，要求撤销盐城市资规局作出的涉案不予受理决定。

【裁判结果】

法院经审理认为，渔禾岛公司提出续期申请虽然超过了法定申请期限，但盐城市资规局以渔禾岛公司的续期申请逾期为由作出不予受理决定没有法律依据。首先，盐城市资规局作出不予受理决定没有《海域使用管



理法》上的依据，也没有《行政许可法》上的依据。其次，《海域使用管理法》第四十五条关于“违反本法第二十六条规定，海域使用权期满，未办理有关手续仍继续使用海域的，责令限期办理，可以并处一万元以下的罚款；拒不办理的，以非法占用海域论处”的规定表明，即便海域使用权人在海域使用权期满、未办理有关手续的情况下继续使用海域，在行政机关责令其限期办理的情况下，海域使用权人仍可以办理相关延续手续并取得海域使用权。此外，盐城市资规局以渔禾岛公司的续期申请逾期为由作出不予受理决定违反了比例原则。一审法院遂判决撤销盐城市资规局于2020年6月19日作出的《不予受理决定书》中对渔禾岛公司提出的0492号海域证续期申请不予受理的决定并责令盐城市资规局于判决生效之日起五日内对渔禾岛公司提出的续期申请重新作出处理。盐城市资规局不服提起上诉，二审维持原判。

【典型意义】

海域使用权是稀缺的国家资源，行政机关对于海域使用权的许可应注重促进自然资源优化配置、维护社会公共利益的行政目标。本案是一起因海域使用权人超过法定期限提交续期申请引起的不履行海域使用权续期职责的典型案件。本案判决明确了以下裁判规则：一是海域使用权人超过法定期限提出续期申请时，并不当然丧失续期申请权，行政机关不得以续期申请超过法定期限为由决定不予受理；二是行政机关在此类续期受理后，应充分考虑超期的严重程度、审核的难度等，从有利于行政相对人的利益保护角度选择处理方式，行政裁量不得违反合理性原则。



本案折射出的问题是行政机关对于法律的明确规定缺乏准确的认知理解，对规范海洋执法行为、促进海洋行政机关依法行政、提高海洋环境保护效能具有典型示范意义。

【案号】一审：(2020)苏72行初74号 二审：(2021)苏行终1534号

六、鼓励预防事故减损 构建诚实守信保险秩序

——福建拓昊船务有限公司与中国人寿财产保险股份有限公司
南京市江北新区支公司海上、通海水域保险合同纠纷案

【基本案情】

拓昊船务公司为其所属的“感恩9”轮在被告处投保了沿海内河船舶一切险并附加螺旋桨、舵、锚、锚链及子船损失等单独损失险，该轮在保险期间航行中遭遇8级大风，加之舵杆长期受海水侵蚀及自然磨损存有一定损伤，在风力作用和舵杆损伤的共同作用下发生舵杆断裂和舵叶丢失的事故，船舶存在走锚或触碰他船的现实危险性，拓昊船务公司为避免船舶在无法航行且遭遇大风的情况下发生其他事故，遂进行拖航和减载，保险公司对拓昊船务公司主张的损失拒赔，并主张保险法第五十一条规定的保险人承担该施救费用需以发生相应保险事故为前提，但本案并未发生次生保险事故，故对拓昊船务公司主张的上述施救费用不予认可。

【裁判结果】

南京海事法院经审理认为，在已经发生了保险事故的情况下，被保险人为避免次生保险事故的发生而采取诸如拖航、减载等减损措施发生的



合理施救费用，应由保险人承担。保险法第五十一条的规定系为鼓励被保险人在有保险事故发生的可能或面临保险事故发生的现实危险时，为避免或减少属于保险人应当赔付的损失的发生，积极采取相应的预防或减损措施，主要系强调被保险人在此情形下有采取必要的预防或减损措施的义务，而不是强调保险人的赔付应以最终有保险事故发生为前提。否则会产生只有发生了保险事故后相应的施救费用才由保险人承担，而被保险人成功预防或阻止了保险事故发生而支出的费用反而不能要求保险人承担的违背常理的情况，如此，则被保险人在面临保险事故发生的可能性或现实危险时都不会采取措施，而是等待事故发生后再采取相应措施，这显然与上述法律鼓励减损和施救的立法精神以及价值取向不符。此外，我国海商法第二百四十条与保险法的上述规定实际系解决同一问题，法律精神和价值取向应当一致，海商法中的规定未提及或强调需要以保险事故发生作为保险人承担施救费用的前提，亦可印证保险法中相关规定本意亦非对此进行强调，故保险人承担上述费用并不以次生保险事故发生为前提。据此判决被告支付相应施救费用。一审判决后，双方均服判息诉。

【典型意义】

保险事故发生后，船舶处于随时可能发生次生保险事故的危险中，如不采取施救措施，可能发生更严重的事故及损失。但保险人常以保险法第五十一条的规定进行抗辩，认为如次生保险事故未发生，则被保险人要求其承担施救费用的条件不成就。司法实践中对此问题也存有争议。



南京海事法院在案件审理中深入阐明了保险法第五十一条鼓励被保险人在预防和避免保险事故发生时积极采取减损和施救措施的立法精神以及价值取向，并结合与该规定有异曲同工作用的海商法第二百四十条并未提及或强调需要以保险事故发生作为保险人承担施救费用之前提的情况，认为保险人承担上述施救费用并不以保险事故发生为前提。本案判决系以法律的目的解释、系统解释和逻辑解释阐明了法律规定的精神实质，适用法律时突破了法律条文的字面含义，对保险法有关规定的准确适用及司法实践中的争议认定具有示范作用。本案判决保险人承担相应施救费用的结果，鼓励被保险人在面临保险事故发生的现实危险时积极采取自救等减损措施，避免事故发生损害各方利益并危害海洋环境，还倡导被保险人诚信履行减损义务，有利于构建诚实守信的保险金融秩序。

【案号】 (2022) 苏 72 民初 1141 号



七、跑出“快审快执”加速度 高效保护自贸区企业合法权益

——连云港陆海达物流有限公司与珠海市东野航运有限公司、钟某、吕某定期租船合同纠纷

【基本案情】

2021年10月21日，江苏连云港自贸区企业陆海达公司与东野航运公司签订《船舶租赁合同》，约定：陆海达公司以每月租金730000元向东野航运公司租用甲板驳船，租期为2021年10月25日起至2022年10月24日止。如船货两空，违约方赔偿守约方一个月总运费的30%作为违约金，并赔偿守约方主张权利所产生的一切费用，包括但不限于诉讼费等费用。合同签订后，陆海达公司依约向东野航运公司支付租船定金50000元，但东野航运公司未按合同约定提供船长、船舶信息。鉴于合同目的已经无法实现，陆海达公司遂解除合同，另寻替代船舶，并要求东野航运公司退还定金，但其无合理理由拒绝退还定金。东野航运公司为一人公司，钟某为该公司前法定代表人，在纠纷发生后，钟某以不合理低价向其母亲吕某转让股份，并将公司法定代表人变更为吕某，试图规避债务。陆海达公司为维护合法权益，将东野航运公司、钟某及吕某作为共同被告诉至法院，要求三被告共同承担赔偿责任。

【裁判结果】

南京海事法院经审理认为，陆海达公司与东野航运公司签订的《船舶租赁合同》系当事人真实意思表示，不违反法律、行政法规强制性规定，合法有效，双方均应诚信履行合同义务。东野航运公司在收到租船定金



后，未依约在指定时间提供符合合同约定的适租船舶，虽后续东野航运公司与陆海达公司协商过更换船舶以继续履行合同，但后期双方就替代船舶费用等信息并未达成一致意见，因东野航运公司的违约行为，案涉《船舶租赁合同》的合同目的已无法实现，陆海达公司有权解除案涉合同，并要求东野航运公司承担赔偿责任等违约责任。同时，被告东野航运公司为一人公司，钟某在涉案合同签订、履行期间系东野航运公司唯一自然人股东，其未提交证据证明公司财产独立于其个人财产，且其与吕某的股权转让价格畸低，存在恶意逃避债务之嫌，应当对担任股东期间东野航运公司的债务承担连带责任。判决后，各方当事人均未上诉。

【典型意义】

本案从立案、审判到执行和解用时不到三个月，以快审快结的方式高效保护了自贸区企业的合法权益。原告陆海达公司在起诉之初无法提供东野航运公司准确的送达地址，承办法官充分发挥主观能动性，通过查询关联案件中当事人的代理人，以代理人为线索，最终与被告公司法定代表人取得联系，顺利解决了案件送达问题，推进案件办理进度，同时为后期开庭审理与执行和解奠定了有利基础。本案的办理过程充分体现人民法院对公正与效率的追求，不仅是能动司法的生动体现，也是海事司法积极保障自贸区企业合法权益的有力诠释。

【案号】 (2022)苏72民初1133号



八、充分运用海上“枫桥经验” 化解渔业金融借款纠纷

——邮政储蓄银行连云港市赣榆支行与庄某某、董某某船舶抵押合同纠纷案

【基本案情】

2017年5月，庄某某以其所有的“苏赣渔X号”渔船作为抵押物，与邮政储蓄银行连云港市赣榆支行签订个人额度借款合同、个人最高额抵押合同，向其申请可循环使用借款额度64万元，庄某某的配偶董某某承诺共同还款。后庄某某办理该额度项下个人商务E捷贷业务，支用借款共计64万元用于渔船捕捞。贷款到期后，庄某某未能偿还。经多次催要无果，邮政储蓄银行连云港市赣榆支行诉至南京海事法院，要求庄某某和董某某偿还欠款并支付相应利息，并确认就抵押物渔船拍卖或变卖所得价款在抵押担保范围内优先受偿。

【裁判结果】

法院受理案件后，法院依法向庄某某、董某某邮寄应诉材料，但信件被退回。经向银行清收人员和当地村委了解获知，庄某某在出海作业时船舶受损，资金周转困难导致未能偿还借款，庄某某及董某某外出打工，家中无人。承办法官遂通过柘汪镇西林子村诉调对接渠道，发挥网格治理查人找物的优势，多方联系到庄某某及其配偶，完成送达。同时，为减轻当事人诉累，法院选派具有丰富经验的特邀调解员组织当事人在涉渔矛盾一站式解纷中心进行调解，承办法官通过庭站间远程交互系统监督指导，最终促成双方达成调解协议。



【典型意义】

本案是一起运用海上“枫桥经验”，通过海事多元解纷机制高效化解纠纷，保障渔业渔民发展权益的典型案列。船舶抵押贷款是当地渔民群众常见的融资方式，生硬判决不利于纠纷化解，本案处理过程中，法院抓牢源头性疏导、实质性化解、综合性治理三个诉源治理发力点，在司法送达、案件调解等环节充分发挥多元解纷机制作用，形成纠纷化解强大合力，有效促成当事人双方成功调解。达成调解协议后，法院通过引导互助保险理赔等方式及时督促履行，不仅保障了金融机构的优先受偿权，也帮助渔民进一步增强了依法合规经营的意识，为促进渔业金融规范稳健发展创造了良好的法治环境。

【案号】 (2021) 苏 72 民初 1018 号



Report on Trials of Nanjing Maritime Court of PRC (2022)

(January —December 2022)

Foreword

In 2022, Nanjing Maritime Court adhered to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era., deeply studied and implemented the spirit of the 20th National Congress of the Communist Party of China and the 14th Provincial Party Congress. Aligning with the positioning of being the only newly established maritime court nationwide since the 18th National Congress of the Party and the only newly established specialized court in Jiangsu Province, the Court aimed to build a first-class maritime court with its influence spreading across the country and even across the globe. It diligently implemented the decisions and deployments of the Provincial Party Committee and the superior courts, faithfully fulfilled its statutory duties, and carried out six major enhancement projects: "Party building leadership, service branding, high-quality adjudication, grassroots foundation, management efficiency, and team competence." The Court enriched and expanded the development connotation of a modern specialized court that are both specialized and new, specialized and unique, specialized and refined, specialized and excellent, specialized and strong, and specialized and high, actively contributed to serving and ensuring high-level external opening, as well as the construction of a strong maritime country and a strong maritime province.

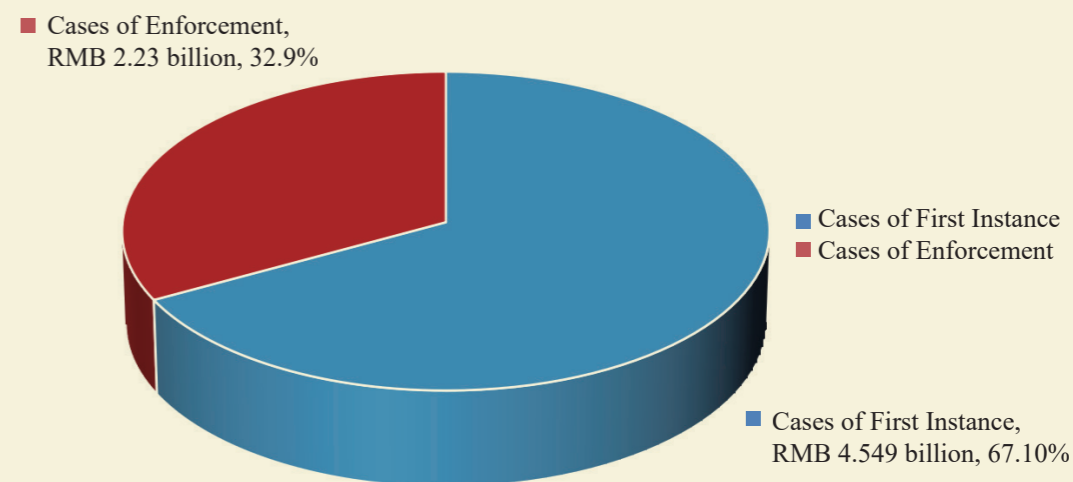


I.2022: A Year in Review

(I)General Overview

In 2022, Nanjing Maritime Court accepted a total of 3,466 cases of various types with an increase of 17.61% over last year, ranking the fourth among the maritime courts in China. Among these, 2,904 cases were newly accepted, with an increase of 28.27% over last year, ranking the fifth among the maritime courts; 2,753 cases were concluded, with an increase of 15.43%, ranking the sixth among the maritime courts nationwide.

In 2022, the overall quality and effectiveness of trials of the Court's adjudication continued improving. The clearance rate within the statutory period reached 85.28%, 81.49% cases were settled without appeals, and the total subject amount of cases reached 6.778 billion yuan of which 4.549 billion yuan(67.10%) were trial cases and 2.23 billion yuan(32.90%)were enforcement cases.(Chart 1)



Value of Subject Matters of Received Cases



(II) Composition of Cases

1. **Civil cases:** 2,589 cases were accepted, with an increase of 14.46% over last year. Among these, 2,132 cases were newly accepted, with an increase of 21.62%. 2,141 cases were concluded, with an increase of 19.94%. The top three disputes were: contracts of seaman service (360 cases), contracts of carriage of goods by sea or by waters leading to the sea (315 cases), and contracts of freight forwarding by sea or by waters leading to the sea (179 cases) . (Chart 2)



The Top 10 Types of Cases Received by the Court in 2022

2. **Administrative cases:** 130 cases were accepted, with an increase of 3.17% over last year. Among these, 122 were newly accepted, with an increase of 79.41% over last year. 94 cases were concluded, with a decrease of 20.34% over last year.

3. **Enforcement cases:** 680 cases were accepted, with an increase of 21.86% over last year. Among these, 572 cases were newly accepted, with an increase of 30% over last year. 458 cases were concluded, with a decrease of 2.35% over last year.

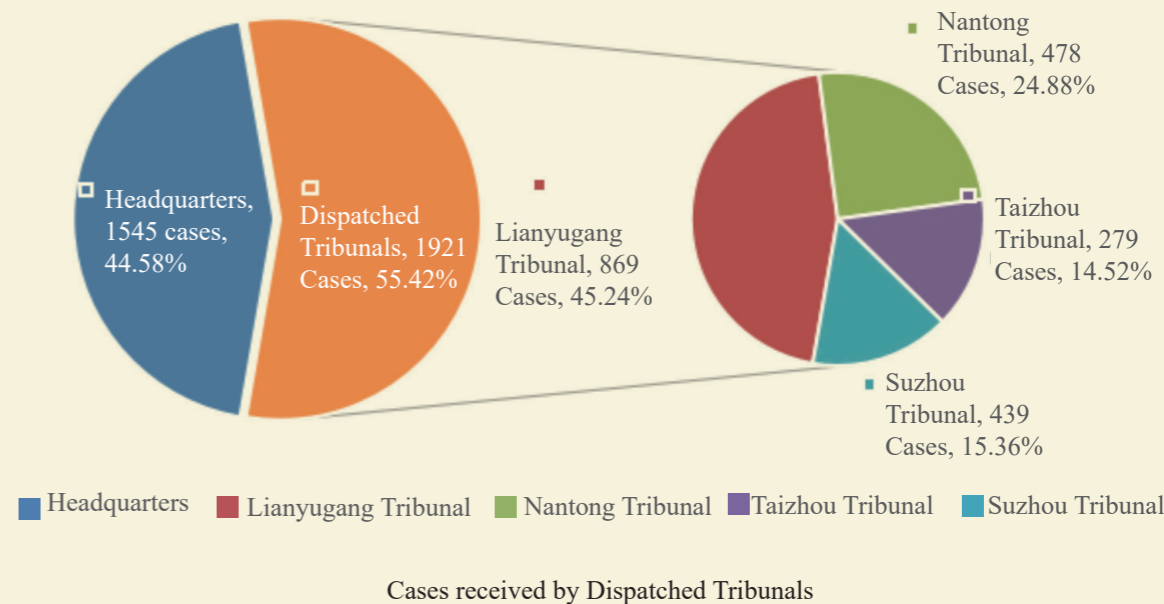
4. **Arrest of ships:** 155 ships were arrested in accordance with the law, including 4 flying the flags of foreign countries or Hong Kong, Macao and Taiwan; 13 ships were judicially sold in accordance with the law,,



with a total turnover of 44.027 million yuan.

5. **Cases involving foreign countries, Hong Kong, Macao and Taiwan:** 216 cases were accepted, accounting for 8.34% of all civil cases accepted by the Court. Among these, 146 cases were newly accepted, accounting for 6.85% of all new civil cases. 135 cases were concluded, accounting for 6.31% of all civil cases concluded. The cases involved 51 countries or regions, including Hong Kong (China), Singapore, the Marshall Islands, etc. There were 88 cases involving signatories who also take part in the “Belt and Road Initiative”, accounting for 40.74% of the total cases, with 42 cases concluded, involving 21 signatories, such as Singapore, South Korea, and Panama.

6. **Cases of Dispatched Tribunals:** 1,921 cases were accepted by dispatched tribunals, accounting for 55.42% of the accepted cases by the Court. Among these, 1,662 cases were newly accepted, accounting for 57.23% of the newly accepted cases by the Court. 1,616 cases were concluded,, accounting for 58.70% of the concluded cases by the Court. (Chart 3)





II. Work Highlights

(I) Faithfully fulfilling duties and mission, Accurately serving the high-quality development of the maritime economy

In serving the development of the maritime economy, the Court efficiently adjudicated various maritime cases, including maritime cargo transportation, freight forwarding, port dredging, dock construction, shipbuilding, etc., thereby facilitating the construction of a modern maritime industry system. The Court contributed to high-level external opening, taking the lead nationally in introducing judicial measures on the high-quality implementation of RCEP, signing the "1+4" collaborative work mechanism framework agreement with Suzhou Intermediate People's Court, and, in collaboration with the Provincial Development and Reform Commission, issuing legal risk guidelines for enterprises related to the Belt and Road Initiative, as well as initiating and launching the "Belt and Road" Court Alliance, and publishing typical cases. The Court adeptly handled a case where both parties, as members of RCEP countries, voluntarily chose the jurisdiction, receiving positive recognition from the top leaders of the Supreme People's Court at that time. To optimize the legal and business environment, the Court delved into the maritime judicial needs of over 130 port enterprises, formulated 12 judicial measures to support the development of port, navigation, and shipbuilding enterprises, introduced ten typical cases optimizing the legal and business environment and compiled legal risk guidebooks, guiding maritime enterprises in risk prevention. The Court carried out a special action to restore credit for port, navigation, and shipbuilding enterprises, assisting 16 eligible enterprises with credit information restoration, contributing to the creation of a favorable legal environment for honest



and trustworthy operation among maritime entities.

(II) Implementing the strategy of elite trials, focusing on building "preferred" place for dissolving maritime disputes

Enhancing the mechanism for cultivating exemplary cases, the Court implemented dynamic management throughout the entire life cycle of exemplary cases. 3 cases were selected for provincial court gazette reference cases, with 1 legal document and 1 trial earning the first prize in the province's "Hundred Outstanding Judgment Documents" and the second prize in the "Hundred Outstanding Trials", and 1 judicial suggestion was awarded as an excellent judicial suggestion by the provincial courts. Strengthening professional support for maritime adjudication, the Court deepened cooperation with universities such as Nanjing University. A collaborative project with Nanjing Information Engineering University received commendation from the Provincial Party Committee leaders. The Court advanced the work of the Maritime Law Research Association of Jiangsu Law Society to a high standard, conducting specialized seminars on the "Construction of International Maritime Judicial Centers." Operating professional adjudication teams, the Collision of Vessels team and the Seaman Service team have released documents such as "Answers to Several Questions in Collision Cases" and "Discussion Minutes on Difficult Issues Related to Seaman Service Disputes during the Pandemic." Focused on improving maritime judicial efficiency, the Court issued the "Procedure for the Delivery of Judicial Documents in Foreign, Hong Kong, Macao, and Taiwan-related Cases," and improved the mechanism for determining and applying foreign laws. In an international multimodal transport contract dispute, the Court accurately determined and applied Mexican laws regarding the limit of liability for cargo damage compensation,



resulting in both parties accepting the judgment and voluntarily fulfilling their obligations.

(III) Optimizing judicial measures for the people, actively responding to the maritime judicial needs of the masses

To refine maritime litigation services, the Court established an efficient litigation pathway for seaman, facilitating online filing, electronic service, and internet-based court hearings. The Court explored the use of the mobile micro-court's "online agency witnessing" function to address notarization and certification challenges for cross-border filing during the pandemic. The "Law Protects the Seas and Rivers" intelligent platform has been developed and launched, enhancing and upgrading 17 one-stop dispute resolution centers, 11 mobile trial points (bases), 7 litigation workstations, and 2 waterborne joint mediation rooms along coastal and riverside areas, providing parties with efficient and cost-effective dispute resolution solutions. The Court solidified the protection of maritime and livelihood rights, establishing a Seaman Rights Protection Center and 5 seaman rights protection workstations along coastal and riverside areas, along with issuing 10 measures for safeguarding seaman rights and "Seaman Rights and Risks Warning Manual." Special enforcement actions, such as "Protecting Livelihoods," have been initiated to enhance the satisfaction of successful litigants. The Court increased efforts in grassroots infrastructure development, refining the maritime trial big data analytics platform and optimizing information systems such as remote judge meetings and internet courts. Simultaneously, the Court is coordinating the construction of the new site for the Nanjing Rule of Law Park and the establishment of dispatched tribunals projects, aiming to provide the public with more comfortable and convenient



venues for legal activities.

(IV) Continuously deepening reform and innovation, constantly improving the mechanism of maritime adjudication

Strengthening the mechanism for the exercise of maritime adjudication authority, the Court formulated the "Implementation Opinions on Promoting High-Quality Development of Trial and Enforcement Work" and issued operational guidelines for identifying "six types of cases." to enhance the tracking and analysis of data on adjudication efficiency. The Court promoted the reform of the "three-in-one" mechanism for maritime adjudication, hosting a seminar on legal issues related to marine ecological environmental civil public interest litigation, cooperating with the Provincial Court to clarify the jurisdiction of maritime administrative cases, leading the nation in achieving specialized centralized jurisdiction over maritime administrative cases. The Court signed a memorandum of cooperation with the People's Procuratorate of Nanjing, formally accepting the first civil public interest litigation on marine ecological environment related to the illegal fishing of marine products since taking on responsibilities. Deepening collaboration between maritime judiciary and administrative law enforcement, the Court held a strategic cooperation promotion meeting to deepen the collaboration between maritime judiciary and administrative law enforcement of Jiangsu, continuously enhancing the collaborative "Jiangsu Brand" in maritime judiciary and law enforcement, and the work effectiveness has been fully recognized by the leaders of the Provincial Party Committee. The Court established a judicial anchorage for vessel detention and an "electronic fence," enabling the "one-click detention" of ships in rivers, lakes, and seas, significantly improving the efficiency of judicial law enforcement work.



(V) Implementing full and strict governance over the Party, striving to cultivate a high-quality maritime trial team

Adhering to political leadership to cultivate loyalty, the Court actively carried out the three-year action of the "Salute to the Red Boat, Sailing with Maritime Court" Party-building leadership project, organized a seminar for the Yangtze River Delta Maritime Court Party Building Alliance and deepened the creation of a distinctive brand for each Party branch. The Party branch of Lianyungang Court was recognized as a provincial-level Party branch "Pioneer Action Team for High-Quality Development" and an outstanding Party branch in the provincial court system. Maintaining political integrity, disciplinary rigor, and fostering good work styles, the Court strictly implemented rules and prohibitions such as the "Three Prohibitions" to prevent interference in judicial matters, conducted discussions on improving work styles, underwent a special review by the Standing Committee of the Provincial People's Congress on maritime adjudication, and invited representatives, committee members, and special supervisors to participate in the meeting, fostering internal motivation through external supervision. Emphasizing capability enhancement and fostering a strong professional ethos, the Court implemented the "Maritime Court Elite" training plan and regularly organized activities for young translation groups facilitated shipboard internships, participated in maritime safety skills training, attended the North Bund International Shipping Forum and gave a keynote speech, and took part in the formulation of international maritime rules, including the "Convention on the International Effects of Judicial Sales of Ships." 51 papers written by court officials were published in journals such as "People's Justice" or received awards at national and provincial



conferences. 1 judge was recognized as a national expert in judicial affairs.

III. Issues and Suggestions

In order to better serve major national strategies such as the building of a powerful maritime country and the Belt and Road Initiative, and to help create a market-oriented and international business environment in accordance with the law, the Court has sorted out and summarized practical experiences of maritime trials, and put forward the following suggestions for the maritime and commercial disputes.

(I) Suggestions for Ship Collision Disputes

Ship collisions pose significant threat to navigation safety. In 2022, the Court handled a total of 73 cases related to ship collisions. The issues reflected in these cases mainly include: (1) Common causes of ship collisions during navigation include failure to take prescribed right-of-way actions, failure to maintain a safe speed, and failure to follow duty regulations. (2) In port areas, anchorages (anchorage areas, transit areas), and areas affected by tidal currents, dense ship traffic, and adverse weather conditions such as heavy fog can lead to collisions between entering and anchored ships.

Suggestions: (1) Strengthen safety awareness and responsibility. Shipowners and operators should enhance real-time monitoring and management of their ships during navigation, increase investment in safety management, and implement the principle of responsibility based on registration, operation, and benefit. (2) Improve the level of safe navigation. Ship operators should ensure an adequate crew and competent crew members. Navigators must strictly adhere to collision



avoidance rules, enhance their observation and judgment skills of the surrounding environment, and improve ship maneuvering and collision avoidance capabilities. (3) Enhance safe navigation management. Maritime authorities should encourage port operators to optimize harbor operations, increase anchorage resources, and consistently intensify supervision and inspections of illegal activities such as undermanned and unauthorized berthing. This will help reduce the risk of accidents for ships entering and leaving ports and anchorages.

(II) Suggestions for Disputes Related to Port Operations

Ports serve as crucial hubs connecting domestic and international markets. Due to the repeal of the "Rules for Cargo Handling in Ports", specific legal regulations guiding port operation is absent. In 2022, our court handled 90 cases related to port operation disputes. These issues mainly include: (1) Varying levels of legal awareness among port enterprises, with some failing to establish port operation contracts or even identify the counter parties before loading and unloading operations. The lack of clarity in rights and obligations leads to difficulties in defining responsibilities when disputes arise. (2) Different understandings about ownership and legal relationships during the cargo transportation among port operators and other relevant parties, resulting in an increasing number of legal disputes.

Suggestions: (1) Standardize the port operation contracts. Refer to the content of the repealed "Rules for Cargo Handling in Ports" when drafting contracts, clearly specify the entities entrusting port operations, and sign written contracts with them. (2) Legally exercise lien. When exercising lien, port enterprises should promptly, accurately, and appropriately notify the relevant parties of necessary information. To avoid potential risks, the lienor shall retain goods



whose value are roughly equal to the unpaid debts .

(III) Suggestions for Multimodal Transportation Disputes

Multimodal transportation, due to its long transportation distance, wide range of involved parties, and multiple handover points, is prone to disputes in aspects such as cargo handover and damage determination. In 2022, our court handled 10 cases involving disputes related to multimodal transportation contracts. The issues reflected in these cases mainly include: (1) Carriers in various segments are lax in inspecting goods, leading to difficulties in accurately determining the loss after cargo damage. This hinders the definition of rights and obligations for carriers in different segments. (2) Disputes in multimodal transportation often involve the application of foreign laws or international conventions, increasing the litigation costs associated with determining foreign laws.

Suggestions: (1) Standardize the cargo handover procedures. Operators in different segments of multimodal transportation should strengthen the inspection of goods and accurately and prudently fill out documents such as equipment handover forms during their operations. (2) Carefully specify the applicable laws. When entering into contracts, specify as clearly as possible the foreign laws or international conventions that may apply during contract performance. Through negotiation, choose the law applicable to the entire journey or a specific transportation segment as needed. This ensures predictability in the application of laws when disputes arise, adequately protecting the expected interests of all parties. (3) Timely purchase insurance to spread risks. Cargo owners should enhance their awareness of insurance. During the export transportation process, they should promptly purchase insurance or insure the cargo, appropriately



spreading the risk of cargo damage.

(IV) Suggestions for Wage Arrears Disputes in Maritime and River Areas

The maritime workforce is important to build a maritime power, so protecting the wage rights and interests of crew members is of great significance for maintaining the order of maritime production. In 2022, our court concluded 443 cases related to disputes over crew labor contracts. The issues reflected in these cases mainly include: (1) In practice, some dispatching agencies, in order to evade their own responsibilities, do not sign contracts with crew members by law or sign contracts with crew members in the name of others, putting the crew members in a passive position when claiming wages. (2) Due to a lack of legal awareness or concerns about litigation costs, crew members often fail to apply for property preservation in a timely manner before filing a lawsuit or during the trial process. In the process of handling cases, crew members can usually only provide information about the vessel they worked on, making it difficult to provide other effective property clues.

Suggestions: (1) Enhance crew members' awareness of safeguarding their rights. Before serving on board, crew members should pre-investigate employers' integrity, financial status, litigation situation, etc. They should check relevant qualifications of ship operation, sign contracts in writing, and promptly fix relevant evidence. In case of wage arrears, they can resolve the issue through internal negotiations, reporting to the labor supervision department, or filing a lawsuit in maritime court. If necessary, they can apply for pre-litigation property preservation, requesting the court to take judicial detention measures against the vessels owned by the defendant. (2) Improve the legal and



compliant operation capabilities of enterprises. Shipping companies, intermediary service agencies, and others should truthfully disclose company conditions and operating qualifications when releasing recruitment information. They should sign contracts with workers according to regulations, clearly define the rights and obligations of both parties. Properly keep records such as crew service logs, on-board duty records, navigation logs, and engine logs. Timely pay wages and contribute to social insurance in accordance with the contract and the actual work situation of crew members. (3) Create a social atmosphere for safeguarding the rights and interests of crew members. Actively promote the establishment of crew service associations and seafarers' unions in provinces and municipalities with a large number of maritime practitioners. Conduct offline promotional activities, publish WeChat public accounts, and provide crew members with legal knowledge popularization education and consulting. Focus on promoting typical cases of wage arrears governance made by the court, labor supervision departments, etc. Protect the dignified work of crew members and ensure the safety and high-quality development of the shipping industry.



IV .Typical Cases

Case1: Foreign Companies Actively Choosing Jurisdiction – Efficient Resolution Earns Praise

— STO Chartering Korea Co., Ltd. vs. Fine Trading (Asia) Limited, Zhongxiang Petroleum Co., Ltd., Sinopec International Petroleum Service Corporation Ltd. Case of Dispute over Maritime Goods Transport Contract

[Case Summary]

In July 2022, the South Korean company STO Chartering's oil tanker "STO AZALEA" loaded over 7,000 tons of bulk palm stearin. The cargo was shipped from Pasir Gudang Port, Malaysia, to Shanghai Port and Lianyungang Port in China. Two bills of lading both indicated that the shipper was Singapore Fine Trading Company, with the consignee instructed by Singapore Zhongxiang Company, and the notify party being Sinopec East China Company. The front side of the bills of lading included charter party terms and stipulated that any disputes arising from the bills of lading should be arbitrated in London or New York. The tanker first arrived at Shanghai Port, where Sinopec East China Company extracted more than 3,900 tons of cargo. Disputes arose over the quality of the goods. When the tanker arrived at Lianyungang Port, Sinopec East China Company refused to take delivery. In August, the shipowner, STO Chartering, in a written statement, abandoned arbitration and filed a lawsuit against Fine Trading, Zhongxiang Company, and Sinopec East China Company at the Nanjing Maritime Court, seeking compensation for demurrage fees and ship operation losses caused by the failure to take delivery at the destination port.



[Judgement]

After the court accepted the case, considering that palm stearin, as a raw material for biodiesel, could pose potential dangers to the marine ecological environment if left in the harbor for an extended period, the court promptly contacted the Beijing office of Zhongxiang Company and personnel from Sinopec East China Company to discuss solutions. On the one hand, relying on the collaboration mechanism between maritime judiciary and administrative law enforcement, the court proactively contacted Lianyungang Customs to understand the customs clearance procedures for palm stearin and the actual obstacles to unloading and storage, forming a feasible plan to unload the cargo as quickly as possible and reduce losses. On the other hand, leveraging the court's information technology tools, the court facilitated online hearings for the parties located in Shandong, Beijing, and Shanghai within a short two weeks. During these hearings, the court clarified basic facts such as cargo consignment, quality inspection, payment, and the circulation of bills of lading, laying a solid foundation for dispute resolution. Simultaneously, the presiding judge worked overtime to communicate and coordinate with the parties, provided comprehensive legal explanations, and actively promoted the substantive resolution of the dispute from the perspective of practical problem-solving and minimizing losses. In the end, the "STO AZALEA" tanker, which had been delayed in the harbor for nearly two months, smoothly completed unloading at other ports, embarked on a new journey, and more than 3,000 tons of palm stearin were put into industrial production.

[Significance]

The rule of law constitutes the best business environment. This case



marks the first instance where both parties, as foreign enterprises, actively chose our court's jurisdiction. The parties involved come from South Korea and Singapore, which are RCEP (Regional Comprehensive Economic Partnership) member countries. Based on their trust in China's maritime judiciary, the South Korean ship owner voluntarily changed the dispute resolution method to litigation in the Nanjing Maritime Court. The Singaporean parties actively participated in online hearings and mediation activities, indicating an increasing trust and recognition of China's maritime judiciary by foreign parties. This case serves as a vivid example of China's efforts to advance the construction of an international maritime judicial center and create a preferred location for resolving international maritime disputes. During the handling of this case, the presiding judge adhered to the principle of making justice accessible to and benefiting the people. Leveraging the achievements of the intelligent court construction, the judge facilitated a resolution in just 43 days. Afterward, the South Korean ship owner sent a special thank-you letter, praising the judge's team, which truly realizing that fair, efficient, and professional judicial capabilities have gained the trust of the parties in China's maritime judiciary.

【Case No.】 (2022)S72MC No.1300



Case2: Leveraging the Efficient Advantages of Maritime Mandatory Orders to Maintain Stability in the Bulk Commodity Supply Chain

—Zhejiang Material Industry Dao Fortune Co. Ltd. Maritime Mandatory Order Application Case

[Case Summary]

In November 2021, Zhejiang Materials Industry Dao Fortune Co. Ltd. imported a batch of over 40,000 tons of steel billets from Russia, valued at nearly 30 million US dollars. The transportation was carried out by the vessel "Jiangyuan Taicang (JOSCO TAICANG)" owned by Lingzhou Ship Service (Hong Kong) Company. After Zhejiang Materials DaoFu Co., Ltd. paid the seller's payment under the letter of credit, the company obtained a complete set of original bills of lading. However, upon the arrival of the carrying vessel at the port, China Taicang Foreign Shipping Company, as the agent of the ship, refused to deliver the remaining 1/J bill of lading under the vessel "Jiangyuan Taicang" carrying more than 1,500 tons of steel billets to Zhejiang Materials DaoFu Co., Ltd. The reason for the refusal was a dispute over charges between China Taicang Foreign Shipping Company, acting as the ship's agent, and the sub-charterer and its sub-lessee under the relevant charter. In response to this, Zhejiang Materials Industry Dao Fortune Co. Ltd. applied to the Nanjing Maritime Court for a maritime injunction, requesting an order for the requested parties, Lingzhou Ship Service (Hong Kong) Company and China Taicang Foreign Shipping Agency Company, to deliver the goods in accordance with the bill of lading.



[Judgement]

During the review process, the court, through methods such as written inquiries and online hearings, fully considered the opinions of the three parties involved from Jiangsu, Zhejiang, and Shanghai. The court found that the carrier had no justifiable reason to refuse cargo release. Additionally, due to significant price fluctuations in international situations affecting the steel billets, delayed delivery could cause substantial losses. Therefore, the court promptly issued a maritime injunction by law, ordering the respondent to release the cargo immediately. Simultaneously, a "pre-penalty notice" was issued as a risk warning, informing the respondent of the legal consequences if the cargo was not delivered within the specified period. In the end, China Taicang Foreign Vessels Agency voluntarily issued the cargo release order, allowing Zhejiang Material Industry Dao Fortune Co. Ltd. to smoothly retrieve all remaining steel billets.

[Significance]

A maritime injunction is a special procedural system established by the Special Procedures for Maritime Litigation Law, playing a crucial role in correcting illegal or breach of contract actions by respondents and efficiently resolving disputes. Since the outbreak of the COVID-19 pandemic, the uncertainty in maritime cargo transportation has increased. This case is a typical example of using maritime injunctions to provide timely and effective judicial relief for market entities in international trade, ensuring the stability of the bulk commodity industry supply chain. The involved steel billets have significant commercial value as essential raw materials for industrial production. Prolonged storage in ports not only incurs high storage fees but may



also impact the production and operation of downstream enterprises. The court, considering all the facts of the case and statements from various parties, employed a combination of "maritime injunction + pre-penalty notice," shifting the punitive warning point forward. This strategy facilitated the swift resolution of disputes among the parties, promoting the smooth flow of detained goods, ensuring the logistical efficiency of the port, and helping all entities enhance their awareness of compliant operations and lawful rights protection. The approach achieved a favorable outcome in terms of dispute resolution efficiency and economic benefits maximization.

【Case No.】 (2022) S72XB No.3

Case3: A comprehensive resolution of three disputes involving five parties assists ship enterprises in swiftly recovering their production and operations

—Series of Cases on the Collision between the "Mingyuan 9898" and "Shunyun 88" Vessels

[Case Summary]

In April 2021, a collision occurred between the vessel "Mingyuan 9898" owned by Mingyuan Company and the vessel "Shunyun 88" owned by Shunyun Company on the north side of the anchorage in Nantong Port. The incident resulted in the sinking of the "Shunyun 88" vessel and its cargo, as well as damage to the bow of the "Mingyuan 9898" vessel. The maritime accident investigation report determined that the "Mingyuan 9898" vessel bore the primary responsibility, while the "Shunyun 88" vessel bore secondary responsibility. After the accident, PICC Property and Casualty Company Limited issued a limited guarantee for the direct losses of the "Shunyun 88" vessel



and its cargo. Tianan Property Insurance Shipping Insurance Center made a full insurance claim for the cargo of the "Shunyun 88" vessel. Stabilizing Strong Ocean Company participated in the salvage operation and incurred related expenses. From September to November 2021, the parties involved filed lawsuits with the Nanjing Maritime Court regarding vessel damage, cargo damage, and salvage expenses. Among them, Shunyun Company sued Mingyuan Company and PICC Property and Casualty Company Limited Yifeng Branch, seeking compensation for the vessel loss of the "Shunyun 88." Tianan Property Insurance Shipping Insurance Center sued Mingyuan Company, Shunyun Company, and PICC Property and Casualty Company Limited Yifeng Branch, seeking compensation for cargo damage. Stabilizing Strong Ocean Company sued Mingyuan Company and Shunyun Company, seeking payment for salvage, rescue, and guard expenses.

[Judgement]

During the trial, considering that the three cases were a series of disputes arising from a single collision incident, with interconnected parties and intertwined facts, the court decided to coordinate the handling of the three cases. After PICC Property and Casualty Company Limited Yifeng Branch agreed to compensate Shunyun Company for the direct vessel loss and cargo damage, the court facilitated the parties' agreement on the proportion of liability for the vessel collision. This agreement was then used to calculate the responsibility proportions of Shunyun Company and Mingyuan Company for cargo damage to Tianan Property Insurance Shipping Insurance Center, as well as the responsibility proportion of Stabilizing Strong Ocean Company for salvage expenses. After reaching preliminary consensus on these issues, the court further organized



negotiations among the parties regarding the amounts of direct vessel loss, indirect loss, and cargo damage. Through hierarchical and step-by-step mediation efforts, the court ultimately facilitated a comprehensive resolution of the three disputes involving five entities.

[Significance]

Due to the unique nature of maritime transportation, ship collision incidents typically give rise to a series of disputes involving ship damage, cargo damage, salvage, rescue, pollution cleanup, etc. These disputes encompass various tort or contractual relationships between ships, cargo owners, shipowners, and insurance companies. Handling such disputes arising from ship collision incidents requires a comprehensive and multi-faceted approach to seek the optimal path for reducing actual losses for shipping enterprises. In this case, the shipowner faced multiple disputes simultaneously after the ship collision incident, urgently needing swift resolution to expedite the recovery of production and operation. Due to the distinct features of the trial procedure for ship collision cases, such as the "absence of evidence with the initial complaint" and relatively long statutory trial deadlines, determining ship losses and time charter losses often requires judicial appraisal procedures. Therefore, the conventional litigation process may not meet the shipowner's need for prompt resolution of disputes. In this case, with the aim of substantially resolving disputes, the court, based on clear understanding of the facts, organized mediation procedure. This facilitated the shipowner in resolving claims against responsible parties and making compensation to other affected parties in one go. This approach effectively saved litigation time and economic costs for all parties involved, providing robust support for the timely restoration of normal production and



operation for the shipping enterprise.

【Case No.】(2021) S72MC No.1165/996/1088

Case4: Enforcing Delivery of High-Carbon Ferrochrome Stranded in Port, Resolving Operational Risks for Entities in the Pilot Free Trade Zone

—Series of Cases Involving Maritime Injunction Applied by Lianyungang Huale Alloy Group Co., Ltd. and Others

【 Case Summary 】

In November 2020, the UNIHOPPE vessel, owned by Belizean company Zhongwang Shipping Co., Ltd., was entrusted to transport over 8,000 tons of high-carbon ferrochrome for Huale Company and Xingda Company. During the transportation, UNIHOPPE tilted significantly due to serious water ingress in the cargo hold, drifting in the Cheniushan sea area of Lianyungang. After assistance from Lianyungang Maritime Bureau, UNIHOPPE docked at Xuwei Port. Due to significant disagreements over the allocation of general average, the carrier refused to deliver the goods to Huale Company and Xingda Company, leading to a deadlock with the cargo stranded on board, with foreign crew members unable to rotate. As the total value of the involved high-carbon ferrochrome amounted to \$8 million, far exceeding the estimated amount for general average, to eliminate the hazardous situation of UNIHOPPE and the cargo, and safeguard the legitimate rights and interests of foreign crew members, Nanjing Maritime Court, in collaboration with the Management Committee of Xuwei New Area, actively organized negotiations between the carrier and the cargo owners to facilitate dispute resolution. Ultimately, the carrier agreed to unload all the cargo. After most of the cargo was taken away by the



owners, approximately 500 tons of high-carbon ferrochrome remained stored at the Xuwei Port. Subsequently, Huale Company and Xingda Company applied to Nanjing Maritime Court for maritime injunction, requesting the port company to release the cargo.

【 Judgement 】

Upon receiving the application for a maritime injunction, the court promptly went to Xuwei Port to investigate, inquire and examine the storage situation of the goods. Considering that high-carbon ferrochrome is a crucial raw material for the production of stainless steel, prolonged outdoor storage at the port would incur high storage costs as well as the decline in the quality of the goods. Additionally, with the rise in raw material prices, the domestic market transaction price of high-carbon ferrochrome had far exceeded the purchase price, so that alternative purchases would significantly increase enterprise costs. Given that Huale Company and Xingda Company had provided sufficient guarantees, and the application of maritime injunction complied with legal requirements, the court issued a maritime injunction, instructing the port company to deliver the high-carbon ferrochrome. Upon receiving the maritime injunction, the port company actively cooperated, allowing the cargo owners to retrieve the goods. Over 500 tons of high-carbon ferrochrome detained at the port could be put into production.

【 Significance 】

China is the largest buyer in the international bulk cargo trade. Due to geopolitical situations and the impact of the pandemic, there has been significant volatility in global bulk cargo prices. As a special procedure in maritime litigation, maritime injunction could be



enforced beyond litigation proceedings, which is convenient, efficient and low-cost. In this case, the two companies are entities engaged in stainless steel production in Lianyungang Pilot Free Trade Zone. The import of nearly ten thousand tons of high-carbon ferrochrome from Russia is crucial for their production and operation. If the goods detained at the port for an extended period, the two companies would face substantial compensation claims from downstream enterprises in the supply chain. Considering the actual circumstances of the companies, the court flexibly applied maritime injunction, breaking the deadlock in contract performance, minimizing the losses for both production enterprises, and effectively ensuring the stability of the supply chain. Simultaneously, during the dispute resolution process, the court, in collaboration with maritime and frontier inspection authorities, successfully completed the replacement and repatriation of foreign crew members on the carrying vessel, which showcases the maritime judiciary's responsibility in assisting enterprises in distress and benefiting the people. This approach received high praise from the parties involved in the case and led to a thank-you letter from the Management Committee of Xuwei New Area in Lianyungang.

【Case No.】(2022) S72MC No.652/655



Case5: Submitting an extension application for the expired maritime usage rights does not automatically result in the forfeiture of the right to apply for an extension

—Case of Jiangsu Yuhedi Island Seaweed Cultivation Co., Ltd. vs. Yancheng City Bureau of Natural Resources and Planning for Failure to Fulfill Maritime Usage Rights Renewal Duties.

[Case Summary]

Yuhedi Island Co., Ltd. obtained Maritime Usage Right Certificate No. 093200492 from the State Oceanic Administration on November 20, 2009 (hereinafter referred to as Maritime Certificate 0492), issued by the Yancheng City People's Government. The maritime area covered is 420.46 hectares, with an expiration date of June 30, 2020. On June 16, 2020, Yuhedi Island Co., Ltd. mailed an extension application to the Yancheng City Bureau of Natural Resources and Planning, requesting an extension of the period for Maritime Certificate 0492. After receiving the application on June 17, 2020, on June 19, 2020, the Yancheng City Bureau of Natural Resources and Planning issued a "Decision of Non-Acceptance" determining that the extension application submitted by Yuhedi Island Co., Ltd. exceeded the statutory acceptance period. In accordance with Article 26 of the Maritime Usage Management Law, the decision was made not to accept the application. Yuhedi Island Co., Ltd. disagrees with the decision of non-acceptance in the "Decision of Non-Acceptance" regarding Maritime Certificate 0492, considering it unlawful. Additionally, the company points out that in the Dongtai region, the usage rights for five maritime areas expired on December 31, 2019. The holders of these usage rights applied for an extension on December 6, 2019, and the Yancheng City Bureau of Natural Resources and Planning accepted the application



on December 9, 2019. The bureau also publicized the extension procedures on January 9, 2020. Therefore, Yuhedi Island Co., Ltd. has filed a lawsuit challenging the decision of non-acceptance made by the Yancheng City Bureau of Natural Resources and Planning and seeks to have it revoked.

[Judgment]

The court, after deliberation, concluded that although Yuhedi Island Co., Ltd.'s extension application was submitted beyond the statutory deadline, the decision of the Yancheng City Bureau of Natural Resources and Planning to reject the application on the grounds of its untimeliness lacked legal basis. Firstly, the bureau's decision to reject the application had no legal basis in the Maritime Usage Management Law or the Administrative Licensing Law. Secondly, Article 45 of the Maritime Usage Management Law stipulates that even if the holder of maritime usage rights continues to use the maritime area after the expiration of the usage rights without completing the relevant procedures, when ordered by the administrative authority to do so within a specified period, they can still proceed with the relevant extension procedures and obtain the maritime usage rights. Furthermore, the bureau's decision, based on the untimeliness of Yuhedi Island Co., Ltd.'s extension application, violated the principle of proportionality. In the first-instance judgment, the court ruled to revoke the decision of non-acceptance regarding Yuhedi Island Co., Ltd.'s extension application for Maritime Certificate 0492, made by the Yancheng City Bureau of Natural Resources and Planning on June 19, 2020. The court also ordered the bureau to reprocess Yuhedi Island Co., Ltd.'s extension application within five days of the judgment taking effect. The Yancheng City Bureau of Natural Resources and



Planning appealed the decision, but the second-instance court upheld the original judgment.

[Significance]

The right to use maritime areas is a scarce national resource, and administrative authorities should prioritize administrative goals that promote the optimal allocation of natural resources and uphold public interests in the granting of maritime usage rights. This case is a typical instance where the failure to fulfill responsibilities for the extension of maritime usage rights arose due to the holder submitting a renewal application beyond the statutory deadline. The judgment in this case has clarified the following test: First, when a holder of maritime usage rights submits a renewal application beyond the statutory deadline, they do not automatically forfeit the right to apply for an extension, and administrative authorities cannot refuse to process the application on the grounds of it exceeding the statutory period. Second, after receiving such a belated renewal application, administrative authorities should fully consider the severity of the delay, the complexity of the review, and other factors. They should choose a processing method from the perspective of protecting the interests of the administrative subject, and administrative discretion must not violate the principle of reasonableness. The issues reflected in this case indicate a lack of accurate understanding by administrative authorities of the explicit legal provisions, demonstrating the need for a clearer understanding to regulate maritime law enforcement actions, promote the lawful administration of marine authorities, and enhance the effectiveness of marine environmental protection.

【Case No.】(2020)Jiangsu 72,Administrative Case First Instance No.74,(2021)Jiangsu ,Administrative Case Final Instance No.1534.



Case6: Encouraging Accident Prevention and Loss Reduction, Building an Honest and Trustworthy Order in Insurance Market

—Dispute Over Maritime and Inland Waters Insurance Contract Between Fujian Tuohao Shipping Co., Ltd. and China Life Property & Casualty Insurance Co., Ltd. Nanjing Jiangbei New District Branch

[Case Summary]

Tuohao Shipping Company purchased all risks coastal and inland river hull insurance and additional coverage for separate losses such as propellers, rudders, anchors, anchor chains, and damage to sub-vessels for its vessel Gratitude 9. During the insurance period, the vessel encountered a storm with fresh gale. Due to prolonged exposure to seawater and natural wear, the rudder post sustained certain damage. Under the combined effects of fresh gale and damage to the rudder post, an accident occurred involving the breakage of the rudder post and the loss of the rudder blade. This posed a danger to the vessel of dragging anchor or colliding with other ships. To prevent further accidents in situations where the vessel couldn't navigate and faced strong winds, Tuohao Shipping Company engaged in towing and unloading. The insurance company made a declinature for the losses asserted by Tuohao Shipping Company, arguing that according to Article 51 of the Insurance Law of PRC, the insurer's assumption of salvage expenses is contingent on the occurrence of a corresponding insured event. Since no secondary insurance event had occurred in this case, the insurer contended that they were not liable for the salvage expenses claimed by Tuohao Shipping Company.

[Judgement]

Nanjing Maritime Court held that, in the event of an already occurring



insurance incident, reasonable salvage expenses incurred to prevent the occurrence of secondary insurance incidents, such as towing and unloading, should be borne by the insurer. Article 51 of the Insurance Law of PRC encourages the insured to take necessary preventive or loss reduction measures when facing the possibility or imminent danger of an insurance incident to avoid or minimize losses that the insurer should compensate. It primarily emphasizes the obligation of the insured to take necessary preventive or loss reduction measures in such situations, rather than emphasizing that the insurer's compensation is contingent on the ultimate occurrence of an incident covered by insurance. Otherwise, it would lead to a situation where the insurer is only liable for salvage expenses corresponding to the occurrence of an insurance incident, while expenses incurred by the insured in successfully preventing or stopping the occurrence of an insurance incident cannot be claimed from the insurer, which would be contrary to common sense.

In such a scenario, the insured would be discouraged from taking measures when facing the possibility or imminent danger of an insurance incident and would instead wait for the incident to occur before taking corresponding measures. This is clearly inconsistent with the legislative spirit and values that encourage loss reduction and salvage. Additionally, Article 240 of the Maritime Law and the aforementioned provisions of the Insurance Law effectively address the same issue. Legal spirit and values should be consistent, and the provisions in the Maritime Law do not mention or emphasize the need for the occurrence of an insurance incident as a prerequisite for the insurer to bear salvage expenses. This further confirms that the relevant provisions in the Insurance Law are not intended to emphasize this point. Therefore, the insurer is obligated to bear the aforementioned expenses without the prerequisite of the occurrence of



secondary insurance incidents. In accordance with this judgment, the defendant is required to pay the corresponding salvage expenses. Both parties accepted the judgment after the first trial.

[Significance]

After the occurrence of an insurance incident, the vessel is in constant danger of experiencing secondary insurance incidents. If salvage measures are not taken, more severe accidents and losses may occur. However, insurers often use the defense based on Article 51 of the Insurance Law, arguing that if secondary insurance incidents do not occur, the conditions for the insured to demand the insurer to bear salvage expenses are not met. There is also controversy in judicial practice regarding this issue. While handling the case, Nanjing Maritime Court provided a thorough clarification of the legislative spirit and values of Article 51 of the Insurance Law, encouraging the insured to actively take loss reduction and salvage measures when preventing and avoiding insurance incidents. The court, in conjunction with Article 240 of the Maritime Law, which has a similar effect to the aforementioned provision, noted that it does not mention or emphasize the need for the occurrence of an insurance incident as a prerequisite for the insurer to bear salvage expenses, and concluded that the insurer's assumption of the aforementioned salvage expenses is not contingent on the occurrence of an insurance incident. This judgment serves as an interpretation of the spirit and substance of legal provisions with the purpose of demonstrating the accurate application of relevant provisions of the Insurance Law and resolving disputes in judicial practice. The result of this judgment, with insurers bearing corresponding salvage expenses, encourages the insured to actively take self-rescue and other loss reduction measures when



facing the imminent danger of an insurance incident, which helps prevent accidents, protect the interests of all parties involved, and safeguard the marine environment. It also advocates for the insured's honest fulfillment of loss reduction obligations, contributing to the establishment of an honest and trustworthy insurance financial order.

【Case No.】(2022) S72MC No.1141

Case7: Running At an "Accelerated Pace of Quick Trial and Execution" To Efficiently Protect the Legitimate Rights and Interests of Enterprises in the Free Trade Zone

—Dispute over Time Charter Contract between Lianyungang Luhaida Logistics Co., Ltd., Zhuhai Dongye Shipping Co., Ltd., Zhong, and Lv

[Case Summary]

On October 21, 2021, Luhaida Company in Jiangsu Lianyungang Free Trade Zone entered into a "Ship Lease Contract" with Dongye Shipping Company. The agreement stipulated that Luhaida Company would lease a deck barge from Dongye Shipping Company at a monthly rent of 730,000 RMB, with the lease term starting from October 25, 2021, and ending on October 24, 2022. In the event of the vessel being empty, the defaulting party would compensate the performing party with 30% of the total freight for one month as liquidated damages. The defaulting party would also compensate for all expenses incurred by the performing party in asserting its rights, including but not limited to legal fees. After the contract was signed, Luhaida Company paid a rental deposit of 50,000 RMB to Dongye Shipping Company as agreed. However, Dongye Shipping Company failed to provide the contracted captain and vessel information. As the purpose of the contract could no longer be realized, Luhaida Company terminated the



contract, sought an alternative vessel, and requested the return of the deposit from Dongye Shipping Company, which unreasonably refused to refund the deposit. Dongye Shipping Company is a single-person company, and Zhong is the former legal representative of the company. After the dispute arose, Zhong transferred shares to his mother Lv at an unreasonably low price and changed the legal representative of the company to Lv, attempting to evade the debt. In order to safeguard its legitimate rights and interests, Luhaida Company brought Dongye Shipping Company, Zhong, and Lv to court as joint defendants, seeking joint liability for compensation from the three defendants.

[Judgement]

After trial, the Nanjing Maritime Court held that the "Ship Lease Contract" signed between Luhaida Company and Dongye Shipping Company represented the genuine intentions of the parties, did not violate mandatory provisions of laws and regulations, and was legally valid. Both parties were obligated to fulfill the contract in good faith. Dongye Shipping Company, after receiving the rental deposit, failed to provide a suitable vessel as agreed in the contract within the specified time. Although Dongye Shipping Company and Luhaida Company later negotiated the replacement of the vessel to continue fulfilling the contract, the two parties did not reach a consensus on information such as the cost of the replacement vessel. Due to the default of Dongye Shipping Company, the contractual purpose of the "Ship Lease Contract" could no longer be achieved, and Luhaida Company had the right to terminate the contract and demanded that Dongye Shipping Company bear the responsibility for compensation and breach of contract, including the payment of liquidated damages. At the same time, the defendant Dongye Shipping Company is a single-person company, and Zhong is the only natural person shareholder of Dongye



Shipping Company during the signing and performance of the contract. Zhong did not provide any evidence which could prove the property of the company is independent from his personal assets. Moreover, the transfer of shares between Zhong and Lv was at an unreasonably low price, raising suspicions of maliciously evading debts. Therefore, Zhong should bear joint and several liability for the company's debts during his tenure as a shareholder. After the judgment, all parties did not appeal.

[Significance]

In the case, from filing, trial, to execution and settlement, the Court took less than three months, efficiently safeguarding the legitimate rights of enterprises in the free trade zone in a fast-tracked manner. At the beginning of the lawsuit, the plaintiff, Luhaida Company, could not provide an accurate address for serving judicial documents to Dongye Shipping Company. The judge fully exercised initiative, utilizing information from related cases to identify the representative of the parties involved. Using the representative as a lead, the judge successfully established contact with the legal representative of the defendant company, resolving the issue of document service smoothly. This progress facilitated the handling of the case and laid a favorable foundation for subsequent court hearings, execution, and settlement. The case reflects the Court's the pursuit of justice and efficiency, showcasing proactive judicial efforts and providing a strong illustration of maritime justice actively protecting the legitimate rights of enterprises in the free trade zone.

【Case No.】(2022) S72MC No.1133



Case8: Fully Applying the Maritime "Fengqiao Experience" to Resolve Fisheries Financial Loan Disputes

—Postal Savings Bank of China, Lianyungang Ganyu Branch, vs. Zhuang and Dong Ship Mortgage Contract Dispute Case

[Case Summary]

In May 2017, Zhuang mortgaged his fishing vessel, "Su Gan Yu X," to the Postal Savings Bank of China, Lianyungang Ganyu Branch. He signed a personal credit loan contract and a personal maximum mortgage contract, applying for a revolving loan amount of 640,000 yuan. Zhuang's spouse, Dong, undertook joint repayment. Subsequently, Zhuang applied for a personal business E-loan under this limit, utilizing a total loan amount of 640,000 yuan for fishing vessel operations. Upon the loan maturity, Zhuang failed to repay. After repeated urging without result, the Postal Savings Bank filed a lawsuit with the Nanjing Maritime Court, seeking repayment of the debt, corresponding interest, and confirmation of the priority claim within the mortgage guarantee range from the auction or sale proceeds of the mortgaged fishing vessel.

[Judgement]

After accepting the case, the Court sent the legal documents to Zhuang and Dong by mail, but the documents were bounced. Through inquiries with the bank's collection personnel and the local village committee, the Court found that Zhuang's vessel was damaged during fishing operations, and financial difficulties prevented the repayment of the loan. Zhuang and Dong worked away from home. The judge used the case coordination channel through the Zewan Town Xilinzi Village, leveraging the advantages of grid governance in searching for people



and things. After multiple contacts, the documents were successfully sent to Zhuang and his spouse. Simultaneously, the court appointed experienced mediators to organize mediation at the One-Stop Dispute Resolution Center for Fishery Conflicts to ease the litigation burden on the parties. The judge supervised and guided the process through the remote interaction system between the stations, the parties reached a mediation agreement ultimately.

[Significance]

This case is a typical example of the Court efficiently resolving disputes and safeguarding the development rights and interests of fisheries and fishermen through the maritime diverse dispute resolution mechanism, applying the "Fengqiao Experience" to maritime disputes. Ship mortgage loans are a common financing method for local fishermen, and a rigid judgment is not conducive to dispute resolution. In the proceedings, the Court focused on three aspects: addressing the source of the dispute, resolving the dispute substantially, and taking comprehensive measures. In the process of judicial documents delivery and mediation, the court fully utilized the diverse dispute resolution mechanism, mobilized all forces to resolve the dispute, which facilitated a successful mediation between the parties. After reaching a mediation agreement, the Court promptly supervised its implementation through measures such as guiding mutual insurance claims. That not only safeguarded the priority repayment rights of financial institutions but also helped the fishermen further enhance their awareness of lawful business operations. Meanwhile it created a favorable legal environment for promoting the standardized development of fisheries finance.

【Case No.】(2023) S72MC No.1018



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