

青岛海事法院 海事审判情况通报

**Qingdao Maritime Court
Report on Maritime Trials
2022**

青岛海事法院
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前 言

2022年，青岛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，深入学习宣传贯彻党的二十大精神，深刻领悟“两个确立”的决定性意义，坚决做到“两个维护”。全面贯彻落实习近平总书记对山东和青岛工作的重要指示要求，锚定“走在前、开新局”，主动服务和融入新发展格局，在中共山东省委的坚强领导、青岛市委和省法院党组的大力支持、青岛市人大、政协的有力监督下，围绕省委提出的“打响海事法院品牌”，全力服务保障国家战略和海洋经济高质量发展，着力为青岛市引领型现代海洋城市 and 新时代社会主义现代化国际大都市建设贡献力量，各项工作取得新成效。

为更好的接受社会监督，不断改进海事司法工作，进一步提升海事司法公信力和影响力，我们编写了《青岛海事法院海事审判情况通报（2022年）》，简要介绍我院2022年海事审判工作情况，同时发布十起典型事例和十起典型案例。

编 者

2023 年 8 月

Preface

In 2022, Qingdao 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 CPC, fully understood the decisive significance of the "Two Establishments", and resolutely achieved the "Two Upholdings". To fully implement the requirements of General Secretary Xi Jinping's important instructions for the work of Shandong and Qingdao, anchor on the principle of "taking the lead and opening up new horizons", and take the initiative to serve and integrate into the new development pattern, under the strong leadership of Shandong Provincial Party Committee of the CPC, the strong support of Qingdao Municipal Party Committee of the CPC and the Party Group of the Shandong Provincial Court , and the powerful supervision of Qingdao Municipal People's Congress and Qingdao Committee of CPPCC, and focusing on Shandong Provincial Party Committee's proposal to "Branding the Maritime Court", we have made every effort to serve and safeguard the national strategy and the high-quality development of the maritime economy, and endeavoured to contribute to the construction of Qingdao's leading modern maritime city and the new era of socialist modernization of the international metropolis, and have achieved new results in all our work.

To enhance social supervision, continuously improve maritime judicial work, and further advance the credibility and influence of maritime justice, we have compiled Report on Maritime Trials of Qingdao Maritime Court (2022), which provides a brief overview of the maritime trial work of Qingdao Maritime Court in 2022 as well as ten typical cases.

Editor
August 2023

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第一部分 主要工作情况

一、坚持党对法院工作的绝对领导，深入学习宣传贯彻党的二十大精神

党的二十大是在全党全国各族人民迈上全面建设社会主义现代化国家新征程、向第二个百年奋斗目标进军的关键时刻召开的一次十分重要的大会，在党和国家发展进程中具有重大现实意义和深远历史意义。青岛海事法院将学习宣传贯彻党的二十大精神作为首要政治任务，制定《青岛海事法院深入学习宣传贯彻党的二十大精神实施方案》，多次召开党组扩大会、党组理论学习中心组会议专题学习党的二十大精神，自觉把党的领导贯穿于法院工作全过程、各方面，推动全院干警切实把思想和行动统一到党的二十大精神上来。准确把握青岛海事法院在服务海洋强国和贸易强国战略中的职能定位，增强以海事司法推动海洋经济高质量发展的使命感和责任感。

二、贯彻新发展理念，着力构建“一二三四五”海事司法新格局

——突出“一个重心”。在全省海洋强省建设工作会议上，省委明确提出要“打响海事法院品牌”。青岛海事法院

全面落实省委、青岛市委决策部署和工作安排，将做大、做强、做优青岛海事法院作为工作重点，以推进涉海纠纷全领域管辖为工作重心，将青岛“4.27”碰撞溢油重大事故所涉海事行政、民事、商事、刑事案件，全部导入诉讼程序，依法审查处理。依法审理青岛水务集团有限公司诉山东海警局、青岛海警局海事行政案件。以实施海事审判精品战略为契机，在“塔利门”轮案中，通过实施海事禁诉令，一揽子解决包括英国禁诉令在内的国际纠纷。中国日报、法治日报等30余家中央、省、市媒体予以了集中报道。

——激活“两种功能”。青岛海事法院将维护社会公平正义的司法功能与服务海洋经济高质量发展的经济功能有机结合，推动两大功能同向发力。注重发挥海事审判法治引领和法治保障作用，积极构建市场化、法治化、国际化一流营商环境。依法审理全球首座全潜式渔业养殖装备“深蓝一号”案，为深海渔业养殖装备技术指标的设定提供司法支撑。建立海事司法文库编纂制度，推出中英双语海事审判白皮书，将典型案例、优秀文书翻译成外文，面向国际社会发布，提升了海事司法国际公信力和影响力。开展海事司法标准供给工作，为海洋工程装备制造、国际物流贸易等涉海经济领域高质量发展提供规则指引和法律保障。

——做好“三个连接”。海运贸易量占全球贸易总量的

90%以上。青岛海事法院作为专门审理涉外涉海纠纷的司法机关，一头连着港口航运贸易金融，一头连着全球资源；一头连着国内大循环，一头连着国内国际双循环；一头连着国内法治，一头连着涉外法治，在全球经贸往来和法治文化沟通交流方面具有独特地位。青岛海事法院秉持“人类命运共同体”和“海洋命运共同体”理念，准确适用域外法律和国际条约、国际惯例，平等保护中外当事人合法权益，依法审理涉外案件471件。在“天鹰座”轮大豆货损案中，参考国际惯例，做出了对国际远洋大豆货运具有借鉴意义的判决，被英国劳氏法律电子数据库收录。

——发挥“四项职能”。充分发挥对外开放的法治引领保障职能，依法审理涉外涉海案件1984件；充分发挥涉外涉海资源的配置职能，通过与青岛市委海洋委联合签署《服务保障青岛海洋经济高质量发展战略协作框架协议》，海事法院提供的涉外企业“信息包”与青岛市区招商引资“政策包”碰撞对接，实现精准招商；充分发挥全球海洋争端解决的机制职能，妥善处置青岛“4.27”特大海上溢油案中所涉“义海”轮、“交响乐”轮涉外纠纷；充分发挥涉外人才培养支持职能，依托最高人民法院国际海事司法研究基地，与青岛西海岸新区、海事局、港务局等部门建立人才联合培养机制，与市委海洋委协同为涉海单位及企业开展涉海领域专业培

训，为青岛培养“懂外语、懂国际贸易和航运规则、懂国内法和国际法”的“三懂”人才队伍提供支持。

——彰显“五大特色”。海事法院作为全球唯一由国家设立的审理海事纠纷的专门法院，具有鲜明的中国特色和制度优势。青岛海事法院始终坚持全球眼光、中国气派、海洋意识、中心视阈、厚生境界“五大特色”。在“北极星1”轮案和“狮子”轮系列案中，面对外籍船东弃船、外籍船员弃管的局面，青岛海事法院坚持国际人道主义精神，及时向船员提供生活物资，并成功将外籍船员遣返回国，展现中国海事司法的大国风范和责任担当。在“春雪”轮船舶碰撞案中，案件双方放弃新加坡管辖协议，主动选择青岛海事法院管辖。青岛海事法院自主研发的船舶扣押拍卖管理平台，作为全国海事法院首创，重塑船舶扣押、监管、鉴定等六大节点，打造“互联网+”船舶管理新模式，入选最高人民法院智慧法院建设成果巡礼。

三、服务保障海洋强省建设，助力海洋经济高质量发展

（一）助力现代海洋产业体系建设

青岛海事法院依法审理涉海纠纷，积极规范行业秩序，为我省和青岛市海洋经济转型升级提供司法保障。

——海洋渔业。积极服务青岛国家深远海绿色养殖试验区建设，通过审理“深蓝一号”等一大批深海渔业养殖装备

建造合同纠纷案，进一步规范大型海洋装备的设计、使用和管理，更好推动近海渔业向深远海发展。在“欣慧”海洋牧场建造合同纠纷案中，通过推动双方诉前和解，实现了海洋牧场的顺利交接。

——海洋旅游业。支持海洋旅游新业态创新发展，服务青岛中国邮轮旅游发展实验区建设。依法审理盛世飞洋游艇泊位租赁合同纠纷案，认定各方责任，规范游艇行业运营秩序，为青岛奥帆中心附近泊位实现规范管理提供了司法支持。

——海洋工程装备及船舶制造业。依法保障深远海养殖装备等新兴海洋装备制造业、青岛船舶建造行业健康发展。在范某某违法打捞致死案中，依法认定范某某无视造船公司警示标识，擅自进入造船海域盗割钢材属于违法行为，震慑了针对造船企业的不法行为，维护了企业生产秩序。

——海洋化工产业。依法规范海洋化工行业经营秩序。在台湾地区阳明海运公司货运纠纷案中，依法审查案涉公司在运输双氧水等高危化工原料时的操作合规性，判定双方责任，促成双方和解，为海洋化工行业高危化工原料及产品的运输划定了标准红线。

——海洋交通运输业。支持海上交通运输良性发展，推动国内外海上运输规则衔接，保障国内国际双循环体系构建。在法国达飞海运纠纷案中，充分参照国际公约《海牙规则》，

认定法国达飞公司符合我国法律规定的免责情形,为国际航运提供司法保障。

——海洋新能源产业。支持海上风电等新能源全产业链发展。依法审理中国电建集团中南院运输合同纠纷案,对风电设备的海上运输标准予以规范,保障了我省首个平价海上风电项目顺利推进。

（二）打造可持续海洋生态环境

青岛海事法院积极构建海洋环境保护体制机制,依法行使海洋环境保护管辖权,促进海洋环境有效治理。

——构建环渤海生态环境治理体系。积极推动与环黄渤海有关省市海事法院、涉海行政机关建立协作机制。与山东省农业农村厅建立渔业司法执法协作联动机制,与大连、天津海事法院签署《渤海生态环境保护司法协作机制框架协议》,共同召开联席会议,推进裁判尺度统一,审判执行互助、区域纠纷协同化解,推动海洋环境污染问题源头治理。

——搭建海洋环境污染治理新模式。加强与海事、海警等涉海行政部门的沟通和衔接,实现对突发性海洋污染所造成的有效管控。在“交响乐”船舶碰撞溢油案中,依法设立海事赔偿责任限制基金并扣押“交响乐”轮,及时引导上万名养殖户采用集体诉讼形式解决纠纷,依法审理涉及希腊、巴拿马、利比里亚、马绍尔群岛共和国、印度等多个国

家当事人海洋环境损害赔偿案件。

——推进海岛司法工作新模式。将海岛巡回审判庭作为维护海洋生态环境的第一阵地,设立长岛海洋生态文明综合试验区巡回审判庭,依法审理外籍船舶进入长岛养殖海区纠纷等案件,服务保障海岛周边海洋环境综合治理。建立灵山岛省级自然保护区巡回审判庭,形成服务保障海洋环境的新格局。

——依法行使海洋公益诉讼管辖权。在《最高人民法院 最高人民检察院 关于办理海洋自然资源与生态环境公益诉讼案件若干问题的规定》公布后,依法审理我省首例由检察机关作为公益诉讼起诉人提起的海洋渔业资源生态损害赔偿案,通过判决,责令被告采用增殖放流方式修复被破坏的海洋生态。

四、服务高水平对外开放,着力保障贸易强国战略实施

(一) 积极参与全球海洋规则制定

党的二十大明确指出“稳步扩大规则、规制、管理、标准等制度型开放”。青岛海事法院立足我国制度性开放发展战略,积极参与国际海洋治理机制和相关规则制定与实施,打造标准供给山东样板。相关做法得到最高人民法院的认可并推广。

充分运用互联网、大数据手段,采集国内、国际生效裁

判文书和仲裁裁决，提取裁判规则，向涉外涉海企业提供法律标准。目前青岛海事法院已拟定8大类标准供给合同样本，并在山东港口集团旗下港航企业全面推开，在青岛西海岸新区涉外涉海企业中逐渐推行。为国内企业“走出去”，国外企业“走进来”提供了法律指引和司法保障。

（二）积极参与青岛上合示范区“法智谷”建设

根据市委政法委统一部署，积极参与上合“法智谷”建设，提供信息资源支持和司法服务保障。

运用智慧法院建设成果，汇集海洋、海事、海警等涉海行政机关的信息数据，建立海事司法数据中心。依法受理、快速办理中外当事人在仲裁前或仲裁中提出的财产保全、证据保全、行为保全等临时措施申请，实现海事司法与海事仲裁的互联互通。积极推进域外法查明中心建设。与山东大学、华东政法大学、大连海事大学、上海海事大学、蓝海法律查明和商事调解中心等学校、机构签订域外法查明专项合作协议，建立快捷权威的域外法查明机制，为高水平对外开放提供涉外法律支持。充分运用海事司法资源，整合涉海法律服务力量，组织召开“服务海洋经济高质量发展”研讨会、山东涉海律师座谈会，就涉外海事审判焦点问题进行交流探讨。吸引涉外法律服务资源向青岛聚集。

（三）积极服务保障青岛 RCEP 实施

依法受理涉 RCEP 国家案件 244 件，受案范围涉及新加坡、菲律宾、韩国、日本、缅甸等10多个国家，海事司法在服务保障 RCEP 中的作用愈加凸显。

2022年11月25日，涉案金额达123亿元的原泰国籍“诺丹娜·安德里亚”轮在法院成功拍卖。该案系外籍走私母船首次在我国海域被罚没、拍卖，也是青岛海事法院首次执行涉 RCEP 缔约国船舶。

（四）积极服务保障青岛自贸片区高质量发展

青岛海事法院与青岛自贸片区管委签署合作备忘录。在海事司法、理论研究、产业平台建设、人才培养等领域开展合作。建设青岛海事法院青岛自贸区审判区、国际海事司法研究基地、航运交易所，打通航运信息壁垒，共同培养懂外语、懂国际贸易和航运规则、懂国内法和国际法的涉外法治人才，打造国际海事纠纷解决优选地、国际海事司法研究高地，共同推动山东自贸试验区青岛片区高质量发展，探索可复制可推广的自由贸易“青岛经验”。依托“四库模式”打造的与国际高标准规则接轨的海事“标准合同”以及“互联网+”船舶扣押拍卖新模式已成为创新案例。

五、坚持全面从严治党，建设忠诚干净担当的政法铁军

全面从严治党是我们党从历史进程中得出的宝贵经验，

党的二十大报告明确提出“全面从严治党永远在路上”。青岛海事法院牢牢坚持党对司法工作的绝对领导,强化政治机关意识,把全面从严治党要求贯穿人民法院工作始终,深入学习贯彻《中国共产党政法工作条例》,严格落实重大事项请示报告制度,做到在党的领导下依法独立公正行使审判权。全面落实司法巡查反馈整改工作,实施基层党组织组织力提升工程,规范基层党组织建设,发挥党员先锋模范作用,树立党的一切工作到支部的鲜明导向。紧紧围绕习近平总书记关于文化建设的指示要求,把文化建设融入到法院工作的各个方面,高标准建成“海洋法治教育基地”,着力打造学习型法院、学习型法官。“书香法院”文化建设项目荣获“全国法院文化建设特色项目”,三人分别获评“齐鲁最美法官”“全省优秀法官”和“全省法院先进个人”称号。围绕青岛市委“作风能力提升年”活动,用好监督执纪“四种形态”,始终保持正风肃纪越来越严的高压态势,不断擦亮“清风徐来、廉自盛开”廉政品牌,努力打造忠诚干净担当的海事法院铁军。

Part I Overview of Main Works

I. Adhere to the Party's absolute leadership over the work of the courts, and study, publicize and implement the Party's Thinking in the Party's 20th National Congress in depth.

The 20th National Congress of the CPC is a meeting of great importance. It takes place at a critical time as the entire Party and the Chinese people of all ethnic groups embark on a new journey to build a modern socialist country in all respects and advance toward the Second Centenary Goal. It is of great practical significance and far-reaching historical significance in the development process of the Party and the country. Qingdao Maritime Court regards the study, publicity and implementation of the spirit of the 20th National Congress of the CPC as its primary political task, formulated *Qingdao Maritime Court's Plan of Studying, Publicizing and Implementing the Spirit of the 20th National Congress of the CPC in Depth*, has repeatedly convened the enlarged conference and the theory study center group meeting of Party Group to study the Party's Thinking in the Party's 20th National Congress, and consciously put the Party's leadership through the whole process and all aspects of the court's work. Qingdao Maritime Court will encourage all of the judges, court staff, and judicial personnel to unite their thoughts and actions in the spirit of the 20th National Congress of the CPC. Qingdao Maritime Court will accurately grasp the function positioning of itself in serving the strategy of Maritime Power and Trade Power, and enhance the sense of mission and responsibility of promoting high-quality development of marine economy through maritime justice.

II. Apply the new development philosophy, and strive to build a

new pattern of maritime justice about the "One-Two-Three-Four-Five".

--Highlight the "One Core". At the province's conference on the construction of a strong marine province, Shandong Provincial Party Committee clearly proposed to "Branding the Maritime Court", Qingdao Maritime Court fully implements the decisions, arrangements and work arrangements of Shandong Provincial Party Committee and Qingdao Municipal Party Committee, makes Qingdao Maritime Court being bigger, stronger and better as the focus of its work, and promotes the jurisdiction of maritime disputes in all fields as the priority of its work. Under this guidance, Qingdao Maritime Court introduced all maritime administrative, civil, commercial and criminal cases involved in the Qingdao "4.27" collision and oil spill accident into litigation procedures and examined and handled them according to law. Qingdao Maritime Court tried the maritime administrative case, Qingdao Water Group Co., Ltd. v. Shandong Coast Guard Bureau and Qingdao Coast Guard Bureau , according to law. In the case of "Talimen" , taking the implementation of the strategy of maritime trial excellence as an opportunity, a package settlement of international disputes including the British injunction has made by Qingdao Maritime Court, through the implementation of maritime injunction. China Daily, Legal Daily and other more than 30 central, provincial and municipal media carried intensive news coverage.

--Activate the "Two Functions". Qingdao Maritime Court organically combines the judicial function of maintaining social fairness and justice with the economic function of serving the high-quality development of the marine economy, and promotes the two functions to work in the same direction. It means that focusing on giving full play to the role of the law in guiding and guaranteeing maritime trials, and actively building a world-

class business environment being market-oriented, law-based, and internationalized. The case of "Deep Blue No.1", the world's first fully submersible fishery aquaculture equipment, was tried in accordance with law, providing judicial support for the setting of technical index of deep-sea fishery aquaculture equipment. A judicial library compilation system for maritime cases has been established, and white papers on maritime trials in both Chinese and English has been published, which translated typical cases and outstanding judicial documents into foreign languages, and released them to the international community, thus enhancing the international credibility and influence of maritime justice. Qingdao Maritime Court has also carried out the work of providing maritime judicial standards to provide rule guidance and legal guarantee for high-quality development in maritime economic fields such as marine engineering equipment manufacturing and international logistics trade.

--Make the "Three Connections" well. Seaborne trade accounts for more than 90% of global trade. As a judicial organ specialized in hearing foreign-related maritime disputes, Qingdao Maritime Court has a unique position in exchange of global economic and trade, and communication of legal culture, connecting the port, shipping, trade and finance with the global resources; connecting the domestic economic cycle with the inter-circulation of domestic and international economy; connecting the domestic rule of law with the foreign rule of law. Adhering to the concepts of a "Human Community with a Shared Future" and "Maritime Community with a Shared Future", Qingdao Maritime Court accurately applies extraterritorial laws, international treaties and international practices, equally protects the legitimate rights and interests of Chinese and foreign parties, and has handled 471 foreign-related cases in accordance with the law. In the case of soybean cargo damage of "Aquila", with reference to the

international practice, Qingdao Maritime Court has made a judgment with reference value to the international ocean-going soybean freight, which is included in British Lloyd's Register Legal Electronic Database.

--Exert the "Four Capacities". Giving full play to the capacity of guiding and guaranteeing the rule of law in opening up to the outside world, Qingdao Maritime Court has tried 1,984 foreign-related maritime cases in accordance with law. Giving full play to the capacity of allocating foreign-related and sea-related resources: through Qingdao Maritime Court and the Marine Committee of Qingdao Municipal Party Committee jointly signed *Framework Agreement of the Strategic Cooperation on Service and Guarantee for High-quality Development of Qingdao Marine Economy*, the "information package" provided by the Court about foreign-related enterprises is combined with the "policy package" for investment promotion in Qingdao urban area, which achieves accurate investment promotion. Giving full play to the capacity of the global maritime dispute settlement mechanism: Qingdao Maritime Court properly handled the foreign-related disputes of "Yihai" and "A SYMPHONY" involved in the "4.27" offshore oil spill case in Qingdao. Giving full play to the capacity of supporting foreign-related talent training: relying on the International Maritime Judicial Research Base of the Supreme People's Court, Qingdao Maritime Court established a joint training mechanism for talent with Qingdao West Coast New Area, Maritime Safety Administration, Port Authority and other departments, and cooperated with the Marine Committee of the Qingdao Municipal Party Committee to carry out professional training in sea-related fields for ocean-related institutions and enterprises, to provide support for Qingdao on training talents who understand foreign languages, international trade and shipping rules, and domestic and international law.

--Highlight the "Five Characteristics". As the only special courts in the world set up by the country to hear maritime disputes, the maritime courts have distinct Chinese characteristics and institutional advantages. Qingdao Maritime Court has always adhered to the "Five Characteristics" of Global Vision, Chinese Style, Marine Awareness, Central Vision Threshold, and State of Well-being. In the series cases of "Polaris 1" and "Lion", faced with the situation that foreign shipowners abandoned their ships and foreign crew members, Qingdao Maritime Court adhered to the international humanitarian spirit, provided daily necessities to the crew members in time, and successfully repatriated the foreign crew members to their home countries, demonstrating the demeanor and responsibility of China's maritime justice. In the ship collisions case of "Spring Snow", the two parties gave up the jurisdiction agreement of Singapore and chose the jurisdiction of Qingdao Maritime Court. The ship arrest auction management platform, independently developed by Qingdao Maritime Court, reshaped the six nodes of ship arrest, supervision and appraisal, as the first of its kind in the national maritime court. It created a new model of ship management of "Internet +", and was selected as the Supreme People's Court smart court construction achievements tour.

III. Serve and guarantee the construction of a strong marine province, and help the high-quality development of the marine economy

1. Help build a modern marine industrial system

Qingdao Maritime Court tries maritime disputes according to law, actively standardizes the industrial order, which provides judicial guarantee for the transformation and upgrading of the marine economy of Qingdao City and Shandong Province.

--Marine Fishery. Serve the construction of Qingdao National Far-reaching Sea Green Aquaculture Pilot Zone actively. Through the trial of a large number of disputes over the construction contract of deep-sea fishery aquaculture equipment such as "Deep Blue No.1", Qingdao Maritime Court further regulated the design, use and management of large-scale marine equipment, which better promoted the development of offshore fisheries to the far-reaching sea. In the dispute over the construction contract of "Xinhui" marine ranch (aquaculture equipment) , the pre-litigation settlement between the two parties realized the smooth handover of marine ranch.

--Marine Tourism. Support the innovative development of new forms of marine tourism, and serve the construction of Qingdao China Cruise Tourism Development Experimental Zone. In accordance with the law, Qingdao Maritime Court heard the ship berth leasing contract dispute of “Shengshi Feiyang”, and identified the responsibility of all parties, which regulated the operation order of the yacht industry, and provided judicial support for the standardized management of berths near Qingdao Olympic Sailing Center.

--Marine Engineering Equipment and Shipbuilding Industry. Ensure the healthy development of emerging marine equipment manufacturing industry, such as far-reaching marine aquaculture equipment, and Qingdao shipbuilding industry in accordance with the law. In the case of Fan illegal salvage to death, according to law, Qingdao Maritime Court determined the illegal act that Fan ignored the warning signs of the shipbuilding company and illegally entered the shipbuilding sea area to steal and cut steel, which deterred the illegal acts against shipbuilding enterprises and maintained the production order of enterprises.

--Marine Chemical Industry. Regulate the operation order of the

marine chemical industry according to law. In the case of Yangming Shipping Company in Taiwan, Qingdao Maritime Court reviewed the compliance of operation of the company involved in the case when transporting hydrogen peroxide and other high-risk chemical raw materials according to law, and determined the liability of both parties to facilitate the reconciliation of both parties, which drew a red line for the transportation of high-risk chemical raw materials and products in the marine chemical industry.

--Marine Transport Industry. Support the sound development of maritime transport, promote the convergence of domestic and international maritime transport rules, and ensure the establishment of the development pattern of the inter-circulation of domestic and international economy. In the case of CMA CGM shipping dispute, fully referring to the Hague Rules, Qingdao Maritime Court determined that CMA CGM met the exemption situation stipulated by Chinese law, which provided judicial protection for international shipping.

--Marine New Energy Industry. Support the development of the entire industrial chain of new energy sources like offshore wind power. In the dispute over the contract of carriage of Zhongnan Engineering Corporation Limited of Power Construction Group of China, after determining according to law, Qingdao Maritime Court standardized the maritime transportation standards of wind power equipment, ensuring the smooth progress of the first affordable offshore wind power project in Shandong Province.

2. Foster a sustainable marine ecological environment

Qingdao Maritime Court actively builds a system and mechanism for marine environmental protection, exercises jurisdiction over marine environmental protection according to law, and promotes effective

governance of the marine environment.

--Build an ecological and environmental governance system around Huanghai Sea and Bohai Sea. Promoting the establishment of cooperation mechanisms with maritime courts and sea-related administrative organs of relevant provinces and cities around Huanghai Sea and Bohai Sea actively, Qingdao Maritime Court has established a joint mechanism for fishery judicial and law enforcement cooperation with Department of Agriculture and Rural Affairs of Shandong Province, signed *Framework Agreement on the Judicial Cooperation Mechanism for Ecological and Environmental Protection of Bohai Sea* with Dalian Maritime Court and Tianjin Maritime Court, and held joint meetings to promote the unification of judgment standards, mutual assistance in trial and enforcement, coordinated resolution of regional disputes, which is to promote the treatment of marine environmental pollution from the source.

--Build a new model to control marine environmental pollution. Strengthen communication and connection with maritime administrative departments, such as maritime safety and coast guard, to achieve effective control on the impact of sudden marine pollution. In the case of ship collisions and oil spill of “A SYMPHONY”, Qingdao Maritime Court established the maritime compensation liability limitation fund in accordance with the law and detained “A SYMPHONY”, and tens of thousands of farmers were promptly guided to settle disputes in the form of class action lawsuits. In accordance with the law, Qingdao Maritime Court tried the marine environmental damage compensation cases involving parties from Greece, Panama, Liberia, Republic of the Marshall Islands, India and other countries.

--Promote a new model of judicial work on islands. The island circuit tribunal will be the first position to safeguard the marine ecological

environment. The Circuit Trial Court of Long Island Marine Ecological Civilization Comprehensive Pilot Zone was set up, which heard the cases about foreign ships being into the Long Island farming sea in accordance with the law, to serve and ensure the comprehensive management of the marine environment around the island. The Circuit Court of Lingshan Island Provincial Nature Reserve was established to form a new pattern of service and protection of the marine environment.

--Exercise jurisdiction over marine public interest litigation according to law. After the promulgation of *Provisions of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues concerning the Handling of Public Interest Lawsuits Involving Marine Natural Resources, Ecology and Environment*, Qingdao Maritime Court tried the first case of compensation for ecological damage of marine fishery resources prosecuted by the procuratorial organ which is a public interest prosecutor in Shandong in accordance with the law, to order the defendant by judgment to restore the damaged marine ecology by means of multiplication and release.

IV. Serve the high level of opening up to the outside world and strive to ensure the implementation of the strategy of Trade Power

1. Participate in global rule-making for the oceans actively

The 20th National Congress of the CPC clearly pointed out "steadily expanding rules, regulations, management, standards and other institutional openness". Based on China's institutional openness development strategy, Qingdao Maritime Court actively engaged in the international maritime governance mechanism and related rule-making and implementation, and created a Shandong model for standard provision. The relevant practice has been recognised and promoted by the Supreme People's Court.

By fully utilising the internet and big data means to collect domestic and international effective judgement instruments and arbitration awards, and extracting the judgement rules, we provide legal standards to foreign-related maritime enterprises. At present, Qingdao Maritime Court has drawn up 8 categories of standard supply contract samples, which have been comprehensively promoted in the port and shipping enterprises under Shandong Port Group, and gradually implemented in the foreign sea-related enterprises in Qingdao West Coast New Area, providing legal guidance and judicial protection for domestic enterprises to "go out" and foreign enterprises to "come in".

2. Active participate in the construction of the "Legal Intelligence Valley" in SCODA

In accordance with the unified deployment of the Political and Legal Affairs Committee of Qingdao Municipal Party Committee, we have actively participated in the construction of the "Legal Intelligence Valley" in SCODA, providing information resource support and judicial service guarantee.

Using the results of the construction of the intelligent court, it has brought together information and data from ocean, maritime safety, coast guard and other sea-related administrative organs to establish a maritime judicial data centre. By legally accepting and expeditiously processing applications for property preservation, evidence preservation, behavioural preservation and other provisional measures filed by Chinese and foreign parties before or during arbitration, we have achieved the interconnection of maritime justice and maritime arbitration. We have actively promoted the construction of the Extraterritorial Law Identification Centre. By signing special cooperation agreements on the identification of extraterritorial laws with Shandong University, East China University of

Political Science and Law, Dalian Maritime University, Shanghai Maritime University, Blue Ocean Law Identification and Commercial Mediation Centre and other schools and institutions, we have established a fast and authoritative mechanism for the identification of extraterritorial laws, providing foreign legal support for opening up to the outside world at a high level. With the full use of maritime judicial resources and the integration of sea-related legal services, we have organised and convened a seminar on "Serving the High-Quality Development of the Marine Economy" and a symposium for sea-related lawyers in Shandong, to exchange and discuss the focus of foreign-related maritime trials, as well as to attract foreign-related legal service resources to Qingdao.

3. Actively serve and guarantee the implementation of Qingdao RCEP

The Court has accepted 244 cases involved RCEP countries in accordance with the law, and the scope of cases involves more than 10 countries such as Singapore, Philippines, South Korea, Japan and Myanmar, etc. The role of maritime justice in serving and safeguarding the RCEP has become more and more prominent.

On 25 November 2022, the former Thailand vessel, Nodana Andrea, involving a total amount of 12.3 billion yuan, was successfully auctioned in our court. This was the first time that a foreign smuggling mother ship was forfeited and auctioned in China's waters, and also that Qingdao Maritime Court executed a RCEP contracting party ship for the first time.

4. Actively serve and guarantee the high-quality development of Qingdao FTZ

Qingdao Maritime Court and the Administrative Committee of Qingdao FTZ have signed a memorandum of cooperation in the fields of maritime justice, theoretical research, industrial platform construction, and talent training. We have built a trial area of Qingdao Maritime Court in

Qingdao FTZ, international maritime justice research base, and shipping exchange, breaking through the shipping information barriers, jointly cultivating foreign-related rule of law talents who know foreign languages, international trade and shipping rules, domestic law and international law, creating a preferred place for international maritime dispute resolution, international maritime justice research highland, and jointly promoting the high-quality development of Qingdao section of Shandong Pilot FTZ, exploring replaceable and spreadable "Qingdao Experience" of free trade. The maritime "standard contract" and the new mode of "Internet+" of ship seizure and auctioning, which are based on the "Four Databases Model" and are in line with the international high standard rules, have become innovative cases.

V. Adhere to the full and rigorous Party self-governance and constructing a loyal, clean and responsible political and legal team

The full and rigorous Party self-governance is a valuable experience drawn by the Party from its historical process. The Party's report of the 20th National Congress clearly puts forward that "Exercising full and rigorous Party self-governance will always be on the road". Qingdao Maritime Court firmly adheres to the absolute leadership of the Party in judicial work, strengthens the awareness of political organs, consistently applies the requirements of full and rigorous Party self-governance throughout the work of the Court, thoroughly studies and implements *Regulations of the Communist Party of China on the Work of Political and Legal Affairs*, and strictly implements the system of requesting instructions for reporting on major matters, ensuring the independent and impartial exercise of judgemental power under the leadership of the Party in accordance with the law. We have fully implemented the feedback and rectification work of judicial inspections, implemented the project of upgrading the

organisational strength of grass-roots party organisations, standardised the construction of grass-roots party organisations, given full play to the pioneering and exemplary role of party members, and established a clear orientation that all the work of the party should be done at the branch level. By closely adhering to the requirements of General Secretary Xi Jinping's instructions on cultural construction, and integrating cultural construction into all aspects of the work of the courts, we have built the "Marine Rule of Law Education Base" at a high standard, and have endeavoured to build a learning court and a learning judge. The cultural construction project of "Scholarly Court" won the "Characteristic Project of the National Court Cultural Construction", and three people were awarded the "Most Beautiful Judge of Qilu", "Excellent Judge of Shandong Province" and "Outstanding Individual of all Courts in Shandong" respectively. Around the "Year of Style and Ability Improvement" carried out by Qingdao Municipal Party Committee, with using well the "Four Forms" of supervision and discipline, we have always maintained the high-pressure situation of increasingly strict discipline, and constantly polished the brand of that "Breeze blows gently, and honesty blossoms by itself", and strived to build a loyal, clean and responsible maritime court iron troops.

第二部分 海事审判情况

2022 年，我院始终坚持以习近平新时代中国特色社会主义思想为指导，认真学习贯彻习近平法治思想，聚焦海洋强省战略、山东自贸试验区建设、国家沿海重要中心城市、国际航运贸易金融创新中心等重点战略，牢牢把握“走在前列、全面开创”总要求和司法为民、公正司法工作主线，忠实履行宪法法律赋予的职责，充分发挥海事司法职能作用。

2022 年我院全年共受理各类案件 3055 件，结案 3339 件，案件涉及 30 多个国家和地区。妥善处置多起标的额巨大，涉案人数众多，影响力广的系列涉外案件，体现了我院干警的高素质的司法能力和司法水平，实现了对服务和保障海洋经济高质量发展的有益司法探索。

一、案件概况

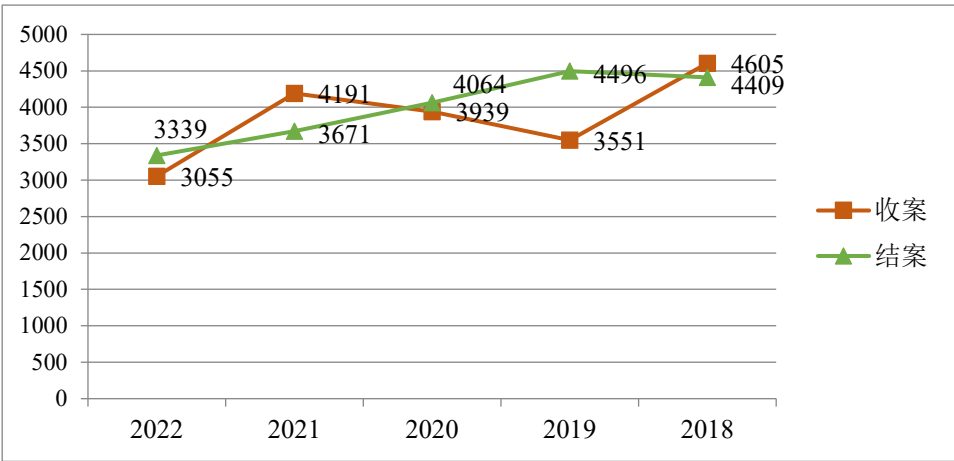
（一）收结存案情况¹

2022 年，全院收案 3055 件，同比下降 27.11%；结案 3339 件，同比下降 9.04%；未结 425 件，同比下降 39.64%。收结存案件数量相对于去年均存在一定幅度下降。

表1. 2022年案件同比情况表

	旧存	收案	结案	未结
2022年1-12月	709	3055	3339	425
2021年1-12月	182	4191	3671	702
同比	289.56%	-27.11%	-9.04%	-39.46%

图 1. 2018 年--2022 年收结案数量变化趋势图



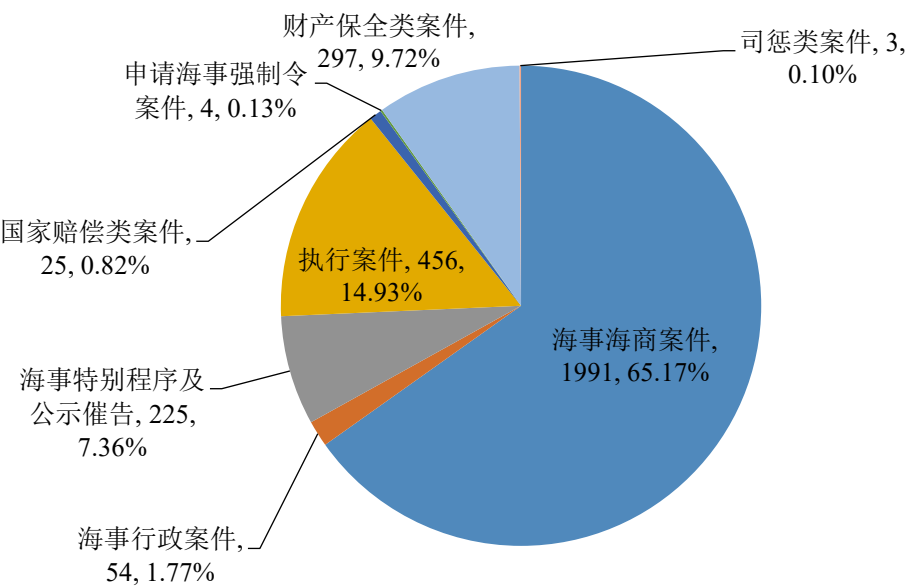
¹根据《最高人民法院关于调整执行案件司法统计标准的通知》，统计口径均为去除执恢、执保案件的数据。全口径统计（包括执恢、执保），收案 3741 件（-15.57%），结案 4036 件（+3.54%），未结 430 件（-40.11%）。

从收结案数量变化来看,近五年案件数量呈现稳中下降趋势,主要是两个方面的原因导致,一是根据最高院最新统计口径,扣除了执恢、执保案件数据;二是部分案件在诉前调解流程即调解成功,未进入诉讼流程。2022 年诉前调解直接化解海事海商纠纷 1085 件,诉前化解率不断提高。

（二）收案构成情况

2022 年,海事海商收案 1991 件(包括民初案件 1986 件,协外认案件 1 件,民申案件 2 件,民监案件 2 件),海事特别程序及公示催告收案 225 件(包括民特案件 222 件,公示催告案件 3 件),执行收案 456 件(包括首执案件 383 件、执行异议案件 73 件),财产保全类收案 297 件,海事行政收案 54 件(包括行初案件 21 件,行审案件 33 件),国家赔偿类收案 25 件(其中司法救助 22 件,法赔 3 件),申请海事强制令收案 4 件,司惩类收案 3 件。

图2. 2022年各类案件收案分布情况



相较于 2021 年，首执案件、海事特别程序案件出现大幅度下降；海事行政案件大幅度增加；其余类型案件数量变化不大。

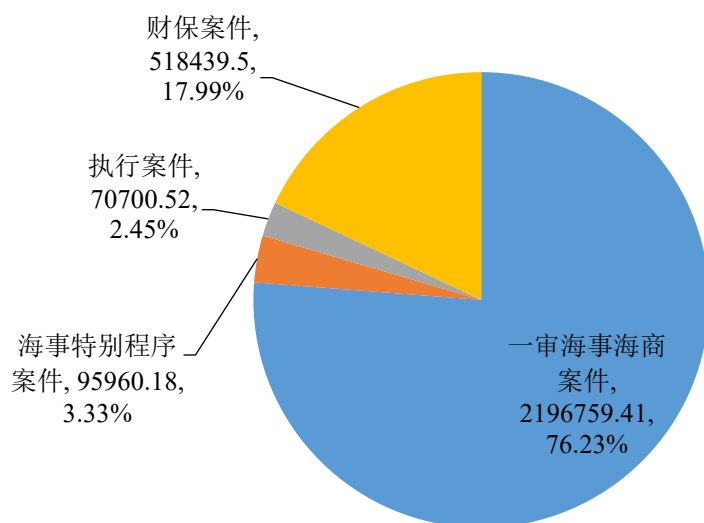
表2. 2022年三类变化较大案件同比情况表

	海事特别程序	首次执行	海事行政
2022	222	383	54
2021	734	727	32
同比	-69.75%	-47.32%	68.75%

（三）收案标的额情况

2022 年，各类案件收案标的总额 288 亿元，同比上升 22.73%；一审海事海商案件、财保案件、海事特别程序案件、执行案件标的占比分别为 76.44%、17.99%、3.33%、2.45%。

图3. 2022年收案标的额占比分布情况



(四) 诉前调案件情况

2022 年，诉前调解成功案件 596 件，调解成功并申请司法确认案件 484 件，调解成功并诉请出具司法调解书案件 5 件，总数同比上升 13.14%，诉前化解率为 35.56%。

二、各类案件情况²

(一) 民事一审案件情况

2022 年，民事一审案件收案 1986 件，同比下降 11.48%。

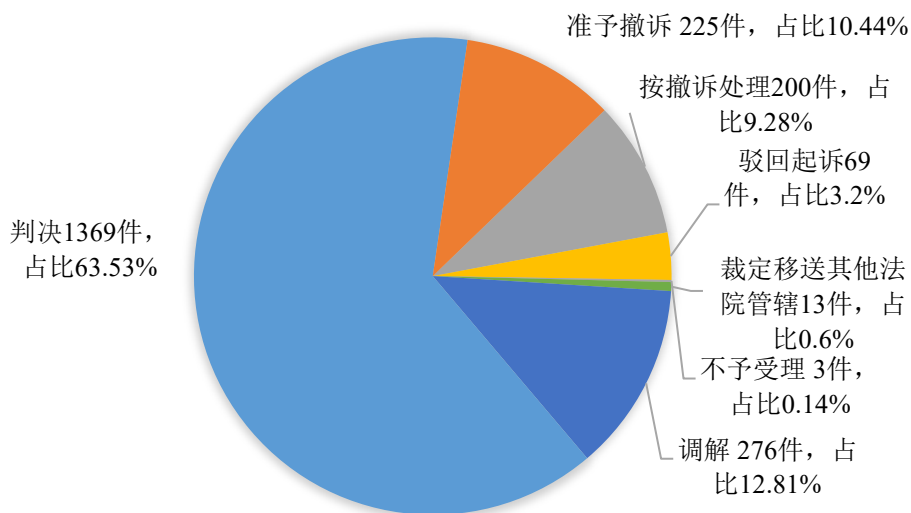
² 本部分报告的案件数量均不包含诉前调案件。

表3.2022年民事一审案件收案——案由前十类型统计

	件数	占比
总计	1986	——
船员劳务合同纠纷	547	27.54%
海上、通海水域货物运输合同纠纷	207	10.42%
海事债权确权纠纷	206	10.37%
海上、通海水域人身损害责任纠纷	154	7.75%
海上、通海水域货运代理合同纠纷	133	6.70%
船舶物料和备品供应合同纠纷	77	3.88%
海上、通海水域保险合同纠纷	70	3.52%
船舶买卖合同纠纷	55	2.77%
船舶营运借款合同纠纷	33	1.66%
海上、通海水域养殖损害责任纠纷	32	1.61%

2022 年,民事一审案件结案 1850 件,结收比为 82.0%。

图4.2022年1-12月民事一审案件--结案方式统计

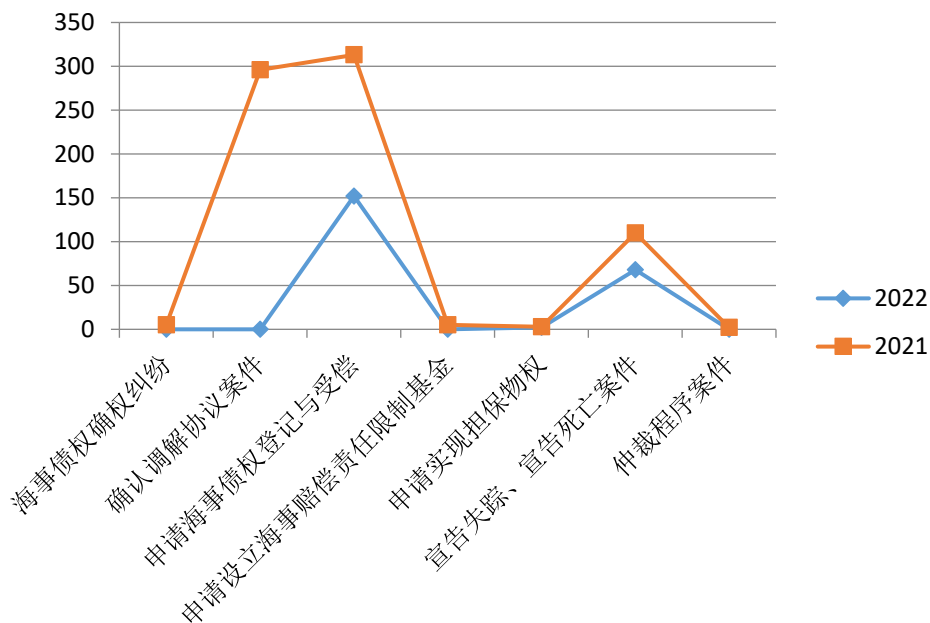


（二）海事特别程序案件情况

2022 年，海事特别程序案件收案 222 件，同比下降 69.75%；结案 250 件，同比下降 65.62%。

海事特别程序收案 222 件，其中申请海事债权登记与受偿案件 152 件，占比约 68.47%，同比下降 52.20%；宣告失踪、宣告死亡案件 68 件，占比约 30.63%，同比下降 38.18%；申请实现担保物权案件 2 件，占比约为 0.9%，同比下降 33.33%。

图5. 2021年--2022年海事特别程序案件收案类型案由分布情况



相较去年，海事特别程序案件类型和案由减少；确认调解协议案件出现大幅下降，案件数量由 291 下降为 0，系该类案件改立诉前调确案字所致；申请海事债权登记与受偿案件同比下降 51.28%。

表4.2021年—2022年海事特别程序及督促、公示催告程序案件收案情况

案由 年份	债权 登记	司法 确认	财产 保全	宣告 死亡	扣押 船舶	涉仲 裁类	设立 基金	海事 强制令	证据 保全	公示 催告
2022	152	0	297	68	38	2	0	4	0	0
2021	313	296	224	110	45	7	5	5	1	1

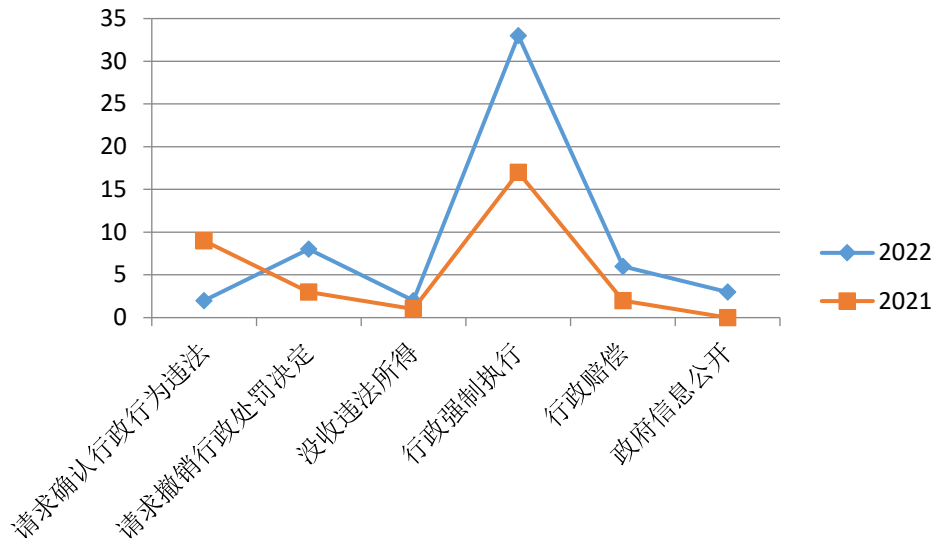
（三）海事行政案件情况

2022 年，海事行政案件收案 54 件，同比上升 68.75%；其中行政强制执行案件 33 件，同比上升 200%；请求撤销

行政处罚决定案件 8 件，同比下降 11.11%；行政赔偿案件 6 件，同比上升 200%；请求确认行政行为违法案件 2 件，同比下降 77.78%；没收违法所得案件 2 件，同比上升 100%；其他海事行政案件 3 件。

相较去年，海事行政案件收案数量显著提升，同比上升 68.75%；行政赔偿类案件和行政强制执行案件数量大幅增长。

图 6. 2021 年--2022 年海事行政案件收案类型案由分布情况



（四）执行案件概况

表5. 2022年执行办案情况统计表³

	首次执行	恢复执行	执行异议	执行保全	合计
收案	383	51	73	635	1142
结案	479	62	71	636	1248
结收比	125.07%	121.57%	97.26%	100.16%	109.28%

执行收案（包括执恢、执保）1142 件，结案 1248 件，结收比 109.28%。

网拍船舶总成交价 19246.85842 万，其中拍卖成交渔船 36 条，总成交价 8335.370421 万；拍卖成交货船 1 条，总成交价 1953.6 万；拍卖成交油船 1 条，总成交价 8610 万，拍卖成交其他类型船 2 条，总成交价 347.888 万。

（五）涉外、涉港澳台案件概况

2022 年，涉外案件共收案 289 件，海事债权确权纠纷，海上、通海水域货物运输合同纠纷，海上、通海水域养殖损害责任纠纷，船舶碰撞损害责任纠纷和保险人代位求偿权纠纷位列收案前五位，占全部收案的 87.54%。其中，海事债权确权纠纷占比最大主要系“交响乐轮”系列案件所致。

³执行局提供，数据调取自“人民法院执行案件流程信息管理系统”，查询时间 2023 年 1 月 1 日。

表6.2022年涉外案件案由分布情况

案由	数量
海事债权确权纠纷	121
海上、通海水域货物运输合同纠纷	110
海上、通海水域养殖损害责任纠纷	11
船舶碰撞损害责任纠纷	6
保险人代位求偿权纠纷	5
海上、通海水域货运代理合同纠纷	5
海上、通海水域保险合同纠纷	4
申请海事债权登记与受偿	4
申请扣押船舶	3
申请诉前财产保全	3
船员劳务合同纠纷	3
海难救助合同纠纷	2
船舶修理合同纠纷	2
船舶污染损害责任纠纷	2
因申请行为保全损害责任纠纷	1
海上、通海水域财产损害责任纠纷	1
港口货物保管合同纠纷	1
申请承认和执行外国仲裁裁决	1
罚款	1
船舶建造合同纠纷	1
船舶触碰损害责任纠纷	1
货运代理合同纠纷	1

表7. 2022年涉港澳台案件分布情况

案由	数量
海上、通海水域货物运输合同纠纷	6
船员劳务合同纠纷	4
执行分配方案异议之诉	1
海事债权确权纠纷	1
海事担保合同纠纷	1
申请诉前财产保全	1
航次租船合同纠纷	1
船舶修理合同纠纷	1
船舶物料和备品供应合同纠纷	1
船舶租用合同纠纷	1
保险人代位求偿权纠纷	1

2022 年，涉外、涉港澳台案件结案 267 件，占全部结案的 7.80%，同比下降 15.23%，其中涉外 248 件，涉港 15 件，涉澳 0 件，涉台 4 件。

2022 年，涉外案件共涉及 30 个国家或地区，其中前五名分别为爱尔兰、希腊、丹麦、新加坡、德国。

表8.2022年涉诉当事人国家情况统计

国家	涉案数量
爱尔兰	125
希腊	124
丹麦	35
新加坡	31

国家	涉案数量
德国	26
法国	26
荷兰	16
韩国	14
马绍尔群岛	11
瑞士	9
巴拿马	7
日本	4
乌克兰	4
美国	3
俄罗斯	2
菲律宾	2
利比里亚	2
挪威	2
泰国	2
阿联酋	1
阿曼	1
埃塞俄比亚	1
迪拜	1
吉尔吉斯斯坦	1
马来西亚	1
毛里求斯	1
塞舌尔马埃共和国	1
印度尼西亚	1
英国	1
英属维京群岛	1

（六）船舶扣押情况

2022 年，扣押船舶 125 条，涉及案件 130 件。解扣船舶 30 条，涉及案件 31 件。中国籍 116 条，外国籍 9 条。

表 9.2022 年扣押船舶情况统计

船舶类型	渔船	货船	浮吊船	油船
船舶数量	87	27	1	2

（七）其他案件概况

2022 年，司法救助案件收案 22 件，同比下降 45%；司惩案件收案 3 件，同比下降 76.92%；申请海事强制令案件 4 件，国家赔偿收案 3 件，再审案件收案 0 件。

三、一审海事海商案件情况

（一）海商合同纠纷案件情况⁴

2022 年，海商合同纠纷收案 1433 件，同比上升 49.11%；结案 1295 件，同比上升 39.55%。

4 案由主要包括船员劳务合同纠纷，海上、通海水域货物运输合同纠纷，海上、通海水域货运代理合同纠纷，船舶物料和备品供应合同纠纷，海上、通海水域保险合同纠纷，船舶买卖合同纠纷，船舶营运借款合同纠纷，船舶修理合同纠纷，船舶租用合同纠纷，金融借款合同纠纷，船舶建造合同纠纷，船舶经营管理合同纠纷，合伙合同纠纷，劳动合同纠纷，建设工程施工合同纠纷，航次租船合同纠纷，船坞、码头建造合同纠纷，买卖合同纠纷，水路货物运输合同纠纷，船舶抵押合同纠纷，货运代理合同纠纷，劳务合同纠纷，建设工程合同纠纷、租赁合同纠纷、光船租赁合同纠纷、海事担保合同纠纷、海难救助合同纠纷、港口货物保管合同纠纷、承揽合同纠纷、渔业承包合同纠纷、确认合同无效纠纷、运输合同纠纷、土地租赁合同纠纷、委托合同纠纷、海上、通海水域打捞合同纠纷、海上、通海水域运输船舶承包合同纠纷、渔船承包合同纠纷、航道、港口疏浚合同纠纷、船舶代理合同纠纷、船舶检验合同纠纷、中介合同纠纷、仓储合同纠纷、保证合同纠纷、借款合同纠纷、债权转让合同纠纷、公路货物运输合同纠纷、劳务派遣合同纠纷、多式联运合同纠纷、建设工程勘察合同纠纷、建设工程监理合同纠纷、服务合同纠纷、海上、通海水域旅客运输合同纠纷、海上、通海水域运输联营合同纠纷、海运集装箱保管合同纠纷、海运集装箱租赁合同纠纷、船舶拆解合同纠纷

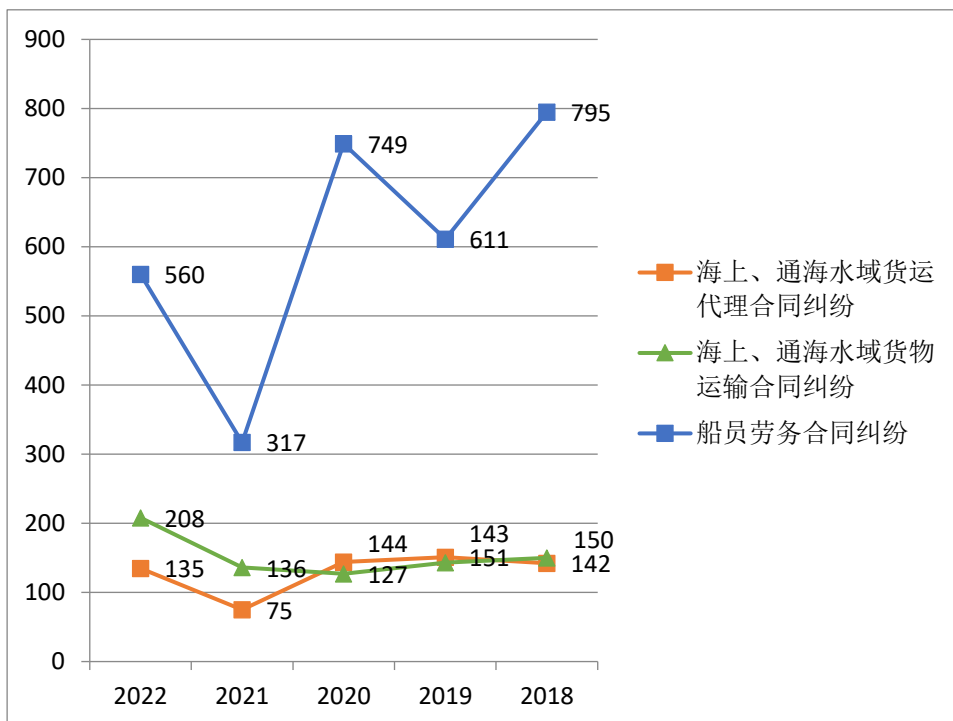
船员劳务合同纠纷,海上、通海水域货物运输合同纠纷,海上、通海水域货运代理合同纠纷案件是最主要的收案类型,占比为 62.04%。

表 10.2022 年海商合同纠纷案件前三名情况统计

案由	案件数量	同比
船员劳务合同纠纷	547	74.76%
海上、通海水域货物运输合同纠纷	207	52.21%
海上、通海水域货运代理合同纠纷	135	44.44%
总计	889	68.37%

从 2018 年-2022 年三类案件趋势图可以看出,2021 年受疫情影响案件数量全部下降。2022 年三类案件数量均出现一定规模上升,“后疫情时代”经济复苏,各个行业形势向好,诉讼案件数量随之也上升。

图 7.2018 年--2022 年三类案件收案趋势图



船舶代理、货运代理等涉航运产业案件收案 147 件，同比上升 75%；船舶建造、维修等涉船舶工程案件 62 件，同比上升 6.90%；船舶买卖、经营管理、船舶抵押等涉船舶经营案件 83 件，同比上升 22.06%；航运金融保险案件 70 件，同比上升 18.57%。

表11.2021年--2022年海商合同案件主要类型收案情况

案由 年份	货物 运输	货运 代理	船舶 修建买	租船 合同	海上 保险	船员 劳务	物料 供应
2022	207	135	117	17	70	547	77
2021	136	75	126	32	57	313	62

（二）海事侵权纠纷案件情况⁵

2022 年，海事侵权纠纷收案 229 件，同比下降 3.38%。
审结 210 件，同比下降 7.89%。

海上、通海水域人身损害责任纠纷和海上、通海水域养殖损害责任纠纷为主要的案件类型，两类案件共收案 186 件，占比为 81.22%。

2022 年，海事侵权案件收结案较 2021 年略有下降，新增侵害企业出资人权益纠纷案件。

表12.2021年--2022年海事侵权案件主要类型收案情况

案由 年份	人身 损害	养殖 损害	船舶 触碰	财产 损害	船舶 污染
2022	159	32	15	12	5
2021	168	27	15	11	3

⁵ 案由主要包括海上、通海水域人身损害责任纠纷、海上、通海水域养殖损害责任纠纷、船舶碰撞损害责任纠纷、海上、通海水域财产损害责任纠纷、提供劳务者受害责任纠纷、船舶污染损害责任纠纷、船舶触碰损害责任纠纷、财产损害赔偿纠纷、侵权责任纠纷、因申请财产保全损害责任纠纷、侵害企业出资人权益纠纷、因申请行为保全损害责任纠纷、海上、通海水域污染损害责任纠纷

Part II Overview of Maritime Trials

In 2022, Qingdao Maritime Court has continuously adhered to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, earnestly studied and implemented Xi Jinping Thought on Rule of Law, focused on the strategy of a strong marine province, Shandong Pilot FTZ, the National Coastal Important Central City and the International Center of Shipping, Trade, Innovation, and Financial and other major strategies, firmly grasped the general requirements of “leading edge, comprehensive pioneering” and the main work thread of justice for the people and judicial fairness, faithfully performed the duties entrusted by the Constitution and laws, giving full play to the role of maritime judicial functions.

In 2022, the Court has in total accepted 3055 cases and concluded 3339 cases, involving more than 30 countries and regions. A series of foreign-related cases with huge targets, large numbers of people involved and wide influence have been properly handled, reflecting the high-quality judicial ability and judicial level of the judges, court staff, and judicial personnel in the Court, and realizing beneficial judicial exploration for serving and ensuring the high-quality development of the marine economy.

I. Cases overview

1. Overview of the receipt and balance of cases¹

In 2022, the Court has accepted 3055 cases, down 27.11% year-on-year, concluded 3399 cases, down 9.04% year-on-year, and not concluded

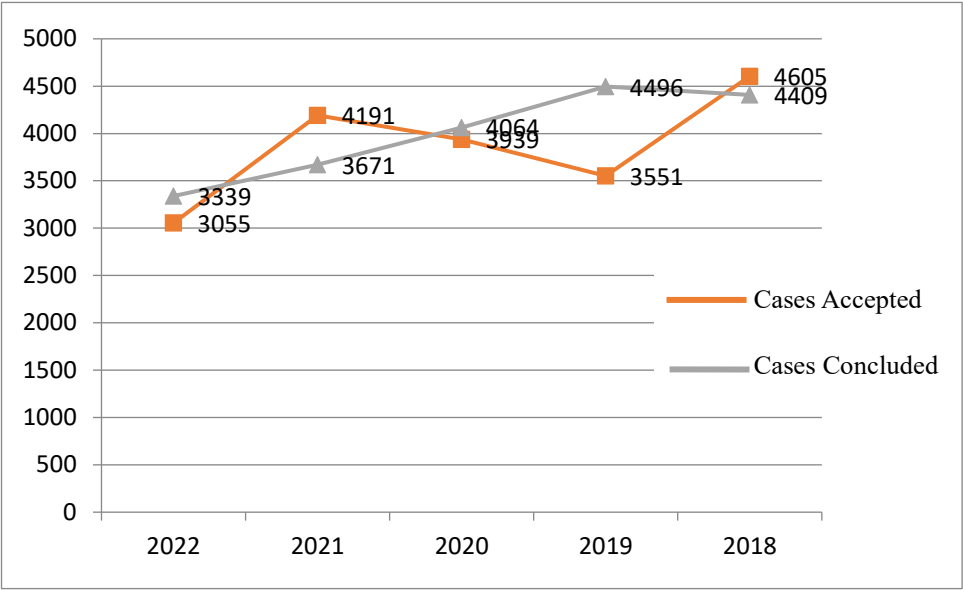
¹ According to *Notice of the Supreme People's Court on Adjusting Judicial Statistics Standards for Enforcement Cases*, the statistical standard is the data of excluding the cases of enforcement resumption and preservation. Including the cases of enforcement resumption and preservation, the Court has accepted 3741 cases (-15.57%), concluded 4036 cases (+3.54%) and not concluded 430 cases (-40.11%).

425 cases, down 39.64% year-on-year. The number of accepted, concluded, dis-concluded cases has decreased to a certain extent compared with last year.

Table 1. Year-on-year situation of cases in 2022

	Number of cases stored	Number of cases accepted	Number of cases concluded	Number of cases dis-concluded
2022	709	3055	3339	425
2021	182	4191	3671	702
Year-on-year	289.56%	-27.11%	-9.04%	-39.46%

Figure 1. Trend chart of the number of accepted and concluded cases from 2018 to 2022



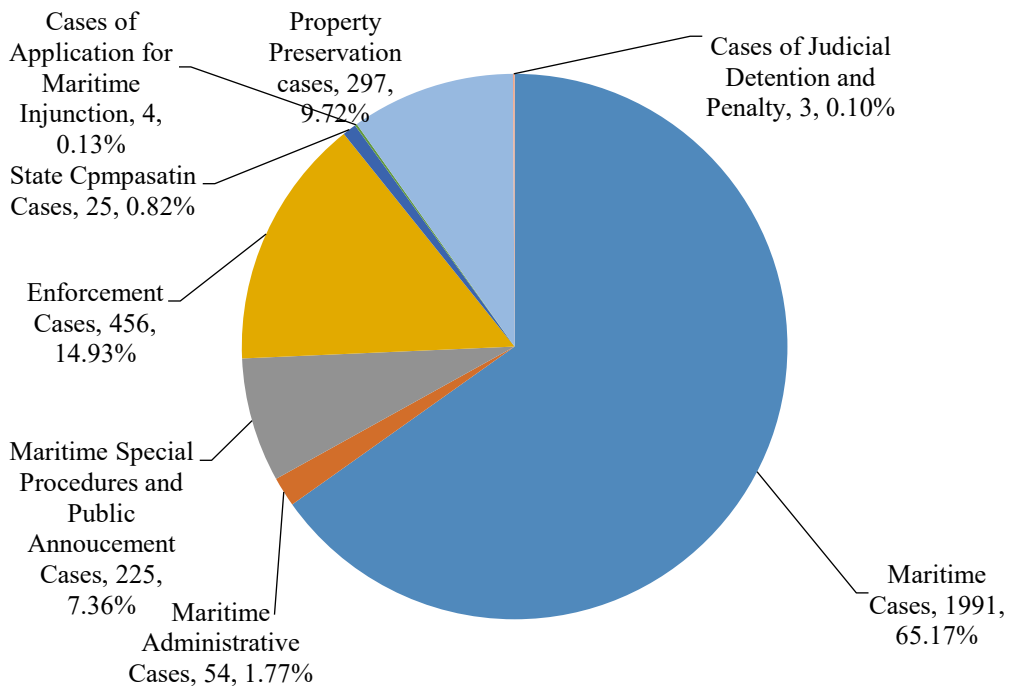
From the changes in the number of cases accepted and concluded, the number of cases in the past five years showed a steady downward trend, mainly due to two reasons: the first is deducting the data of cases of

enforcement resumption and preservation, according to the latest statistical standard of the Supreme People's Court ; the second is that some cases were successfully mediated during the pre-litigation mediation process and did not enter the litigation process. In 2022, 1,085 maritime disputes were directly resolved through pre-litigation mediation, and the pre-litigation resolution rate continued to increase.

2. The composition of the cases accepted

In 2022, 1991 maritime cases (including 1986 civil cases of first instance, 1 cases of reviewing the application for recognition and enforcement of foreign court adjudication and arbitral award, 2 civil cases of application for retrial review and 2 civil cases of ex officio for retrial review), 225 cases of maritime special procedures and procedure for public announcement (including 222 cases of civil special procedures and 3 cases of public announcement), 456 enforcement cases (including 383 cases of first enforcement, 73 cases of enforcement objection), 297 property preservation cases, 54 maritime administrative cases (including 21 administrative cases of first instance and 33 cases of reviewing the application for enforcement non-litigation administrative action), 25 state compensation cases (including 22 cases of judicial assistance and 3 cases that courts act as the organ liable for compensation), 4 cases of application for maritime injunction , 3 cases of judicial detention and penalty.

Figure 2. The distribution of cases accepted by category in 2022



Compared with 2021, there was a significant decrease in first enforcement cases and maritime special procedures cases; a significant increase in maritime administrative cases; the number of remaining types of cases has not changed much.

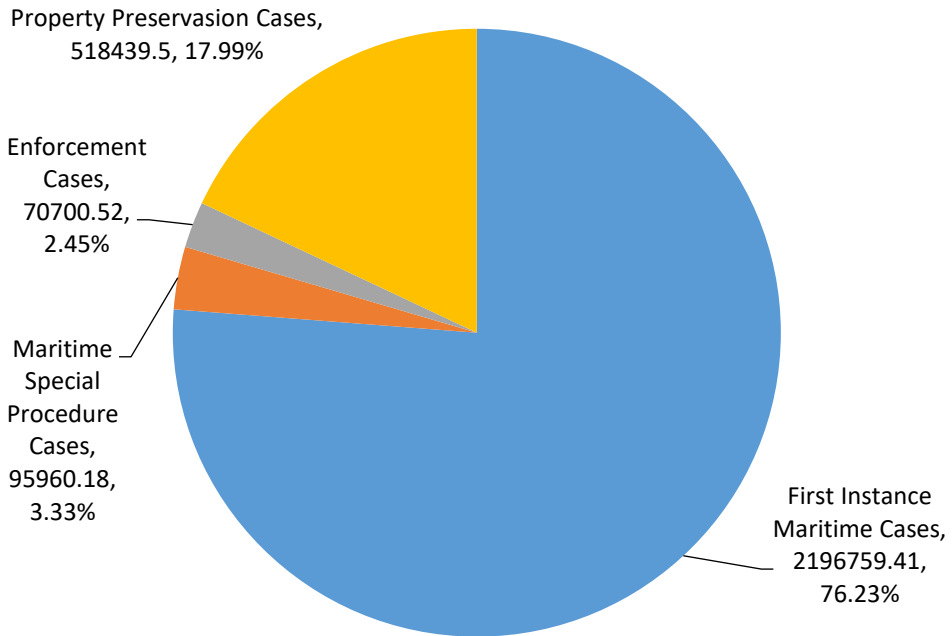
Table 2. Year-on-year table of three types of cases with large changes in 2022

	Maritime special procedures cases	First enforcement cases	Maritime administrative cases
2022	222	383	54
2021	734	727	32
Year-on-year	-69.75%	-47.32%	68.75%

3.The amount of the target of the cases received

In 2022, the total amount of subjects in various cases accepted will be 28.8 billion yuan, up 22.73% year-on-year; the proportions of first instance maritime cases, property preservation cases, maritime special procedures cases and enforcement cases were 76.44%, 17.99%, 3.33% and 2.45% respectively.

Figure 3. Distribution of the proportion of received targets in 2022



4. Overview of pre-litigation mediation cases

In 2022, there were 596 cases of successful pre-litigation mediation, 484 cases of successful mediation and application for judicial confirmation, and 5 cases of successful mediation and application for the issuance of judicial mediation letters, with a total up 13.14% year-on-year, and the pre-litigation resolution rate was 35.56%.

II. Overview of various cases²

1. Overview of civil cases of first instance

In 2022, the Court accepted 1986 civil cases of first instance, down 11.48% year-on-year.

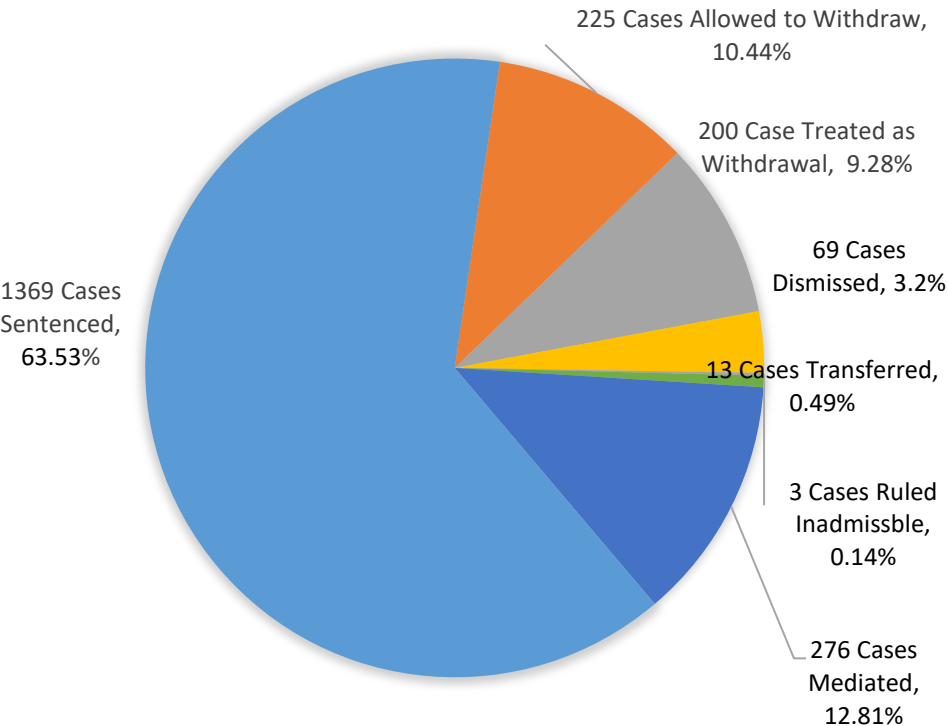
Table 3. First instance civil cases received in 2022 -- Statistics are based on the top 10 types

	Total	Percentage
Total	1986	——
Crew labor contracts disputes	547	27.54%
Disputes over cargo transportation contracts at sea and sea waters	207	10.42%
Disputes over confirmation of maritime claims	206	10.37%
Disputes over personal injury at sea and sea waters	154	7.75%
Disputes over freight agency contracts at sea and sea Waters	133	6.70%
Disputes over ship material and spare parts supply contracts	77	3.88%
Disputes over marine and sea water insurance contracts	70	3.52%
Disputes over ship sale contracts	55	2.77%
Disputes over contracts for the loan of money for ship operation	33	1.66%
Disputes over liability for damage of breeding at sea and sea waters	32	1.61%

In 2022, 1850 civil cases of first instance were settled, with a acceptance-conclusion ratio of 82.0%.

² The number of cases reported in this section does not include pre-litigation mediation cases.

Figure 4. Civil Cases of First Instance Concluded in 2021 through January to December

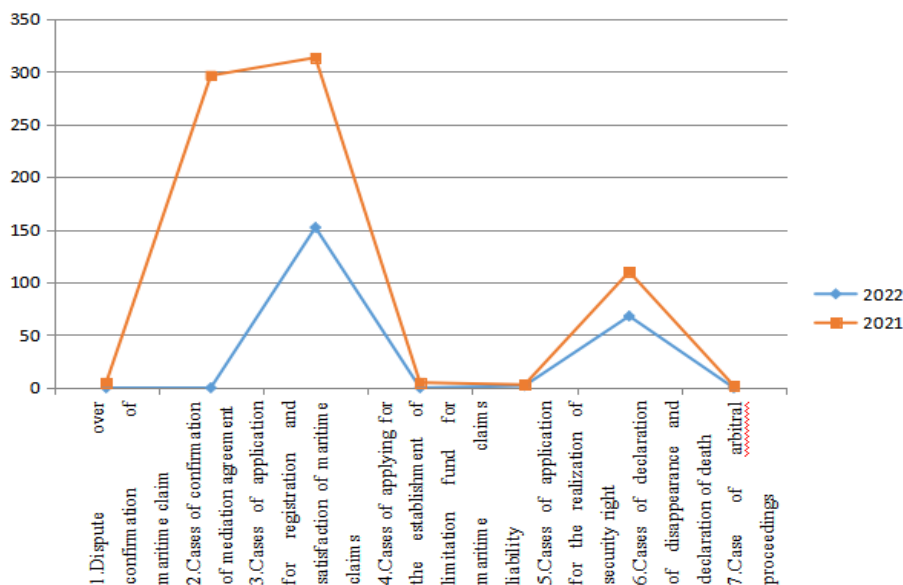


2. Overview of maritime special procedure cases

In 2022, 222 maritime special procedures cases were accepted, down 69.75% year-on-year; 250 cases were settled, down 65.62% year-on-year.

222 maritime special procedures cases were accepted, of which 152 applications for registration of maritime claims and compensation, accounting for about 68.47%, down 52.20% year-on-year; 68 cases of declaration of disappearance and declaration of death, accounting for about 30.63%, down 38.18% year-on-year; There were 2 cases of application for the realization of security rights, accounting for about 0.9%, down 33.33% year-on-year.

Figure 5. Distribution of types of cases accepted by maritime special procedures, and causes of cases from 2021 to 2022



Fewer types and causes of case for maritime special procedures compared to last year; the number of the cases of confirmation of mediation agreement dropped significantly, from 291 to 0, which was caused by its type token changed to pre-litigation mediation; the cases of application for registration and satisfaction of maritime claims decreased by 51.28% year-on-year.

Table 4. Reception of cases of maritime special procedures and public announcement from 2021 to 2022

Cause of Action/Year	2021	2022
Registration of creditors' rights	313	152
Judicial confirmation	296	0
Preservation of properties	224	297
Declared death	110	68
Arrest of ship	45	38
Arbitration-related	7	2

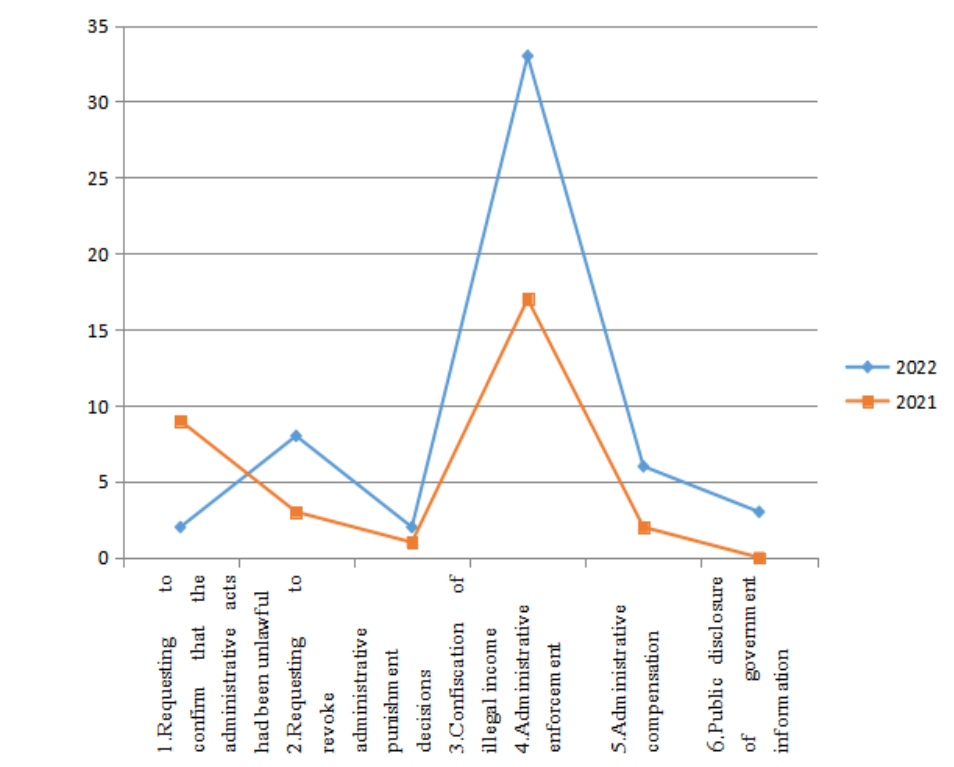
Establishment of a limited liability fund	5	0
Maritime injunctions	5	4
Preservation of maritime evidences	1	0
Public announcement	1	0

3. Overview maritime administrative cases

In 2022, the Court accepted 54 maritime administrative cases, up 68.75% year-on-year. Among them, 33 cases of administrative enforcement, up 200% year-on-year; 8 cases of requesting to revoke administrative punishment decisions, down 11.11% year-on-year. 6 cases of administrative compensation, up 200% year-on-year; 2 cases of requesting to confirm that the administrative acts had been unlawful, a down 77.78% year-on-year, 2 case of confiscation of illegal income, up 100% year-on-year; 3 other maritime administrative cases.

Compared with last year, the number of maritime administrative cases received increased significantly, up 68.75% year-on-year; the number of administrative compensation cases and administrative enforcement cases has increased significantly.

Figure 6. Distribution of types of cases received in maritime administrative cases from 2021 to 2022



4. Overview of enforcement cases

Table 5. Statistics on enforcement cases in 2022³

	First enforcement	Enforcement resumption	Enforcement objection	Property preservation	Total
Number of cases accepted	383	51	73	635	1142

³ Provided by the Enforcement Board, the data was collected from the "People's Court Enforcement Case Process Information Management System", and the query time was January 1, 2023.

Number of cases concluded	479	62	71	636	1248
Acceptance-conclusion ratio	125.07%	121.57%	97.26%	100.16%	109.28%

The number of cases received for enforcement (including enforcement resumption and preservation) was 1142, and 1248 cases were settled, with a acceptance-conclusion ratio of 109.28%.

The total transaction price of 2022 online auction sale of ships was 192,468,584.2 yuan, among which 36 fishing boats were sold at auction with a total transaction price of 83,353,704.21 yuan; 1 freighters were sold at auction with a total transaction price of 19,536,000 yuan; 1 oil tanker was sold at auction with a total transaction price of 86.1 million, and 2 other types of ships were sold at auction, with a total transaction price of 3,478,880 yuan.

5. Overview of foreign-related cases, and cases involving Hong Kong, Macao and Taiwan-related

In 2022, there were 289 foreign-related cases, and disputes over confirmation of maritime claims, freight agency contract at sea and sea waters, liability for damage of breeding at sea and sea waters, ships collision, subrogation rights of insurers ranked among the top five, accounting for 87.54% of all cases accepted. Among them, disputes over confirmation of maritime claims accounted for the largest proportion, mainly caused by the series cases of the "A SYMPHONY" .

Table 6. Distribution of foreign-related cases in 2022

Cause of action	Total
Dispute over confirmation of maritime claims	121
Dispute over cargo transportation contracts at sea and sea waters	110
Dispute over liability for damage of breeding at sea and sea waters	11
Dispute over liability for damage of collision of ships	6
Disputes over subrogation rights of insurers	5
Dispute over freight agency contract at sea and sea waters	5
Dispute over marine and sea water insurance contracts	4
Application for registration and satisfaction of maritime claims	4
Application for arrest of ships	3
Application for pre-litigation property preservation	3
Crew labor contracts disputes	3
Dispute over contracts of salvage at sea	2
Dispute over ship repairment contracts	2
Dispute over liability for pollution damage of ships	2
Disputes over liability for damages due to the preservation of application	1
Disputes over liability for property damage at sea and sea waters	1
Dispute over deposit contracts for cargo at port	1
Application for recognition and enforcement of foreign arbitral awards	1
Penalty	1
Dispute over ship construction contracts	1
Disputes over liability for damage of collision between ship and fixed object	1
Dispute over freight agency contracts	1

Table 7. Distribution of cases involving Hong Kong, Macao and Taiwan in 2022

Cause of action	Total
Dispute over cargo transportation contracts at sea and sea waters	6
Crew labor contract disputes	4
Action for objection to distribution plan of enforcement	1
Dispute over confirmation of maritime claims	1
Disputes over maritime guarantee contracts	1
Application for pre-litigation property preservation	1
Dispute over voyage charter parties	1
Dispute over ship repairment contracts	1
Dispute over ship material and spare parts supply contracts	1
Dispute over charter parties	1
Disputes over subrogation rights of insurers	1

In 2022, 267 cases involving foreign countries, Hong Kong, Macao and Taiwan were concluded, accounting for 7.80% of all concluded cases, down 15.23% year-on-year, including 248 cases involving foreign countries, 15 cases involving Hong Kong, 0 cases involving Macao and 4 case involving Taiwan.

In 2022, foreign-related cases involved a total of 30 countries or regions, of which the top five were Ireland, Greece, Denmark, Singapore, and Germany.

Table 8. Country statistics of parties involved in litigation in 2022

Country	Total
Ireland	125
Greece	124
Denmark	35
Singapore	31
Germany	26
France	26
Netherlands	16
Korea	14
Marshall Islands	11
Switzerland	9
Panama	7
Japan	4
Ukraine	4
United States	3
Russia	2
Philippines	2
Liberia	2
Norway	2
Thailand	2
U.A.E	1
Oman	1
Ethiopia	1
Dubai	1
Kyrgyzstan	1
Malaysia	1
Mauritius	1
Republic of Mahe, Seychelles	1
Indonesia	1
United Kingdom	1
British Virgin Islands	1

III. Overview of maritime cases of first instance

1. Overview of maritime contracts disputes⁴

In 2022, 1433 maritime contracts disputes were accepted, up 49.11% year on year. 1295 cases were settled, up 39.55% year on year.

Table 10. Statistics of the top three maritime contracts dispute cases in 2022

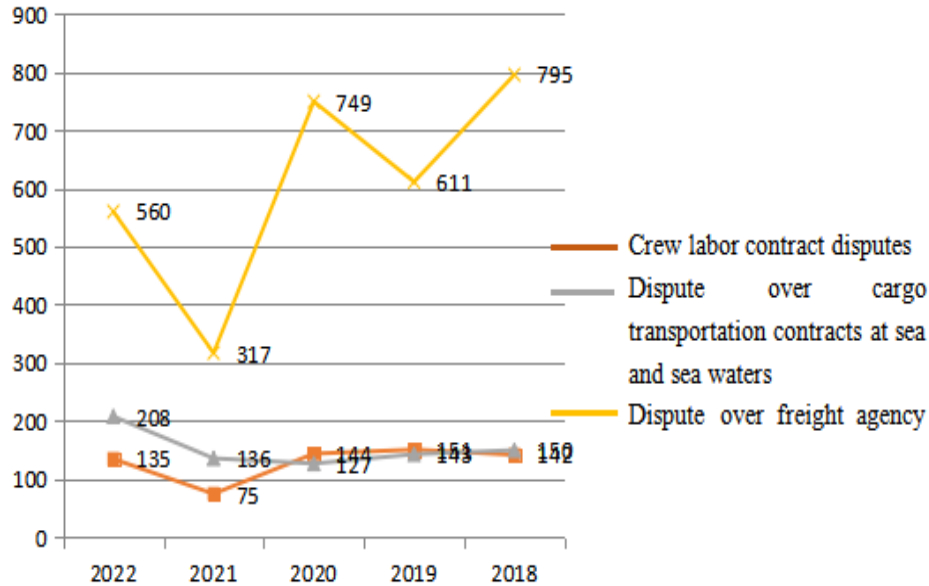
Cause of action	Total	Year-on-year
Crew labor contracts disputes	547	74.76%
Dispute over cargo transportation contracts at sea and sea waters	207	52.21%
Dispute over freight agency contract at sea and sea waters	135	44.44%
Total	889	68.37%

From the trend chart of the three types of cases from 2018 to 2022, it can be seen that the number of cases decreased in 2021 affected by the epidemic. In 2022, the number of cases of the three types of cases increased

4 The causes of the case mainly include disputes over crew labor contracts, cargo transportation contracts at sea and sea waters, freight agency contract at sea and sea waters, ship material and spare parts supply contracts, marine and sea water insurance contracts, ship sale contracts, contracts for the loan of money for ship operation, ship repairment contracts, ship repairment contracts, charter parties, ship management contracts, partnerships contracts, labor contracts, project construction work contracts, voyage charter parties, dock and wharf construction contracts, sales contracts, contracts for cargo transportation by waterway, ship mortgage contracts, freight agency contracts, lease contracts, bare boat charter contracts, maritime guarantee contracts, contracts of salvage at sea, port cargo storage contracts, hire of work contracts, contract of fishery contracting, confirmation of contract invalidity, transportation contracts, land lease contracts, entrustment contract, salvage and wreck removal contracts at sea and sea waters, contracting contracts for the transportation of ships at sea and sea waters, fishing vessel contracting contracts, waterways and port dredging contracts, ship agency contracts, ship inspection contracts, intermediary contracts, warehousing contracts, guarantee contracts, loan contracts, debt transfer contracts, cargo transportation contracts on road, labor dispatch contracts, multimodal transport contracts, construction project survey contracts, construction project supervision contract, service contract, passenger transportation contracts at sea and sea waters, joint venture contracts for transportation at sea and sea waters, maritime container storage contracts, maritime container leasing contracts, ship dismantling contracts.

in a certain scale, and the economic recovery in the "post-epidemic era" improved the situation in various industries, and the number of litigation cases also increased.

Figure 7. Trends in the acceptance of three types of cases from 2018 to 2022



147 cases involving the shipping industry such as shipping agency and freight forwarding were received, up 75% year-on-year; 62 shipbuilding and maintenance cases, up 6.90% year-on-year; there were 83 ship-related cases involving ship sales, operation and management, and ship mortgage, up 22.06% year-on-year; There were 70 shipping finance and insurance cases, up 18.57% year-on-year.

Table 11. Acceptance of major types of maritime contract cases in

2021-2022

Cause of action/Year	Cargo transportation	Freight agency	Repairment, construction and sale of ships	Charter party	Marine insurance	Crew labor contract
2022	207	135	117	17	70	547
2021	136	75	126	32	57	313

2. Overview of maritime tortious disputes⁵

In 2021, 229 maritime tortious disputes were accepted, down 3.38% year on year. 210 cases were settled, down 7.89% year on year.

The number of accepted and concluded cases of maritime tortious disputes of first instance in 2022 decreased, compared with that in 2021, and there were new case type which is infringement of the rights and interests of corporate investors.

Table 12. Acceptance of major types of maritime tortious disputes in 2021-2022

Cause of action /Year	Personal injury	Breeding damage	Ship collision	Property damage	Pollution from ships
2022	159	32	15	12	5
2021	168	27	15	11	3

⁵ The causes of the case mainly include dispute over liability for personal injury at sea and sea waters, liability for damage of breeding at sea and sea waters, damage of collision of ships, liability for property damage damage of collision of ships, liability for injury to labor service providers, liability for damage of collision of ships, liability for collision between ship and fixed object, property damage, tortious liability, liability for damages caused by applying for property preservation, infringement of the rights and interests of enterprise investors, liability fordamage by applying for action preservation, liability for pollution damage at sea and sea waters.

第三部分 典型事例

（一）提炼海事裁判标准 对接国际经贸规则

海运兴则贸易兴，贸易兴则国运兴。党的二十大报告明确指出，要加快建设海洋强国、贸易强国。我国货物贸易总额连续 6 年位居全球第一，已成为名副其实的贸易大国和航运大国，但我国的国际规则话语权却与实际经济地位不相匹配，尤其是大量涉外涉海企业开展国际业务时，缺乏标准化规则指引，维护自身合法权益举步维艰。

为贯彻落实党的二十大关于“稳步扩大规则、规制、管理、标准等制度型开放”的战略部署，近年来，青岛海事法院紧紧围绕党中央关于海洋强国、贸易强国的重要决策部署，深入港航企业调研，通过提炼裁判标准为企业参与国际竞争提供规则指引，蹚出了一条具有中国特色的实践路径，从源头保障港航企业权益的探索已初见成效。“标准供给”工作被最高人民法院《司法决策参考》和简报选用，写入山东省高级人民法院工作报告，入选“山东法院司法改革这五年”典型案例，并被多家中央、省、市级媒体报道。

一、围绕规则，摸清行业实情

青岛海事法院秉持“一个重心”、“两种性质”、“三个一

头”、“四项功能”、“五大特色”的工作思路，将海事司法工作置于海洋强国、贸易强国的战略中统筹谋划，发挥海事审判专业优势，推动国内法治与涉外法治融通共进。

针对中国港航企业在国际海运交易中面临的困境，青岛海事法院主动担当作为，把“标准供给”列入重点调研项目，研究制定《青岛海事司法与标准供给调研阶段性实施方案》。最终由 14 名审判经验丰富的专业法官组成专题调研组，前往青岛港、烟台港、威海港、日照港、潍坊港、东营港、滨州港等山东省港口集团旗下 7 个港口集团公司开展走访调研，确定了包括“集装箱货物作业合同”、“港口疏浚合同”等 11 个具体调研方向。通过充分挖掘海事司法优势资源，与青岛自贸片区共建创新协作机制，创立了由标准合同资料库、海事审判案例库、涉外仲裁案例库、模板案例资料库组成的“四库”模式，将已有的具有中国特色、能够有效解决中国问题的裁判规则进行加工提炼转化，“海事法院-港航企业”协同推进格局形成。

二、立足需求，供给司法标准

在标准合同拟定期间，充分发挥港航企业实践检验作用，通过书面反馈、现场座谈方式，与青岛港、烟台港、东营港等山东省各个港口单位、航运企业、海工企业开展对接，充分听取各企业在实际运用中发现的问题，吸取其实践经验，组织召开审委会和专业法官会议，对企业提出的意见建议进

行评析，确定最终修改意见，确保拟定的合同条款充分保护使用各方合法权益。

目前，青岛海事法院已形成“港口疏浚”“仓储质押”“集装箱作业”“散杂货作业”“滚装作业”“港口货物保管”“液体散货作业”和“件杂货作业”八大类合同范本，均被纳入山东港口集团合同管理平台，在山东省沿海各大港口推广使用，得到了包括前湾集装箱码头在内的港口企业高度认可。

三、聚焦实践，强化维权能力

依托海事司法标准供给文本，港航企业对合同中各项条款法律风险的认识更加清晰，更加准确把握保护自身合法权益的方式方法，有效提升与外国企业磋商时的议价能力，确保合同条款的实际内涵与理想预期充分吻合。对于保障我国涉海经济主体合法权益，降低法律风险，提高我国企业在国际航运贸易中的话语权发挥了积极显著的作用。

例如司法实践中存在一定争议的港口货物留置权问题，海事司法标准供给文本通过对留置权的界定、对监管货物占有等条款进行详细解读，既解决了金融企业质押权与港口留置权的冲突，实现了质权和留置权利益维护的平衡，又切实维护了港口的合法权益。近年来，青岛港通过行使留置权，有效维护了自身合法权益超过2亿元。

四、搭建体系，完善法治保障

涉外法治工作是全面依法治国的重要组成部分。党的二十大报告中强调，要坚持统筹推进国内法治和涉外法治。随着对外开放的不断深入，我国涉外事务领域不断拓宽，完善涉外法治体系，强化我国在全球治理体系中的参与权、话语权和主导权，对打造人类命运共同体、构建以合作共赢为核心的新型国际关系、增强我国对外贸易综合竞争力具有重要意义。这就要求我们必须从全球贸易规则的学习者、遵循者、执行者，不断转变为规则的制定者、推动者和引领者。

下一阶段，青岛海事法院将在已有工作成果基础上，推动标准供给领域的全方位拓展，打造覆盖港口、航运、贸易、金融等全生态链的标准供给模式。进一步强化标准合同范本的使用范围和影响力，引导涉外企业充分利用标准供给调研成果参与国际规则竞争，提升海运领域国际话语权，通过将我国海事法院管辖写入合同管辖条款等方式，构建我国海洋经济法律保护体系，为我国走向深蓝、深耕深蓝、经略海洋提供有力的司法保障。

Part III Typical Examples

I. Refine maritime adjudication standards and connect with international economic and trade rules

While maritime transport flourishes, trade flourishes, and while trade flourishes, national fortune flourishes. The Report of the 20th National Congress of the CPC clearly points out that it is necessary to accelerate the construction of a strong maritime country and trade country. China's total trade in goods has ranked first in the world for six consecutive years, and it has become a true trading and shipping power, but the discourse power of China in international rules does not match its actual economic status. Especially when a large number of foreign sea-related enterprises carry out international business, the lack of standardised rules to guide them, and it is difficult for them to safeguard their own legitimate rights and interests.

In order to implement the strategic deployment of the 20th National Congress of the CPC on "steadily expanding the systematic opening up of rules, regulations, management, standards, etc.", in recent years, Qingdao Maritime Court has been closely around the CPC Central Committee's important decision-making and deployment of Maritime Power and Trade Power, and has conducted in-depth research on port and shipping enterprises to provide guidance on rules for the enterprises to participate in international competition by refining adjudication standards. The Court has waded out a practical path with Chinese characteristics. And the exploration of safeguarding the rights and interests of port and shipping enterprises from the source has begun to bear fruit. The work of "standard provision" has been selected by the Supreme People's Court's *Judicial Decision Making Reference* and Briefing Notes, written into the work

report of Shandong Higher People's Court, selected as a typical case of the "Five Years of Judicial Reform of Shandong Courts", and reported by a number of central, provincial and municipal level media.

1. Map the industry facts around the rules

Qingdao Maritime Court upholds the working ideas of "One Core", "Two Natures", "Three Connections", "Four Functions" and "Five Characteristics". And we have placed the work of maritime justice in the overall planning of the strategy of Maritime Power and Trade Power, giving full play to the professional advantages of maritime justice, and promoting the integration and coexistence of the domestic rule of law and the rule of law relating to foreign affairs.

In view of the difficulties faced by Chinese port and shipping enterprises in international maritime transactions, Qingdao Maritime Court took the initiative to take the role of "standards supply" in the key research projects, to study and formulate *Phased Implementation Plan of Qingdao Maritime Judicial and Standard Supply Research*. Eventually by 14 trial experienced professional judges to form a special research group, went to the port of Qingdao port, Yantai port, Weihai port, Rizhao port, Weifang port, Dongying port, Binzhou port and other port groups in Shandong province under the 7 port group companies to carry out visits to the research, determined that including the "container cargo operations contracts", "port dredging contracts" and other 11 specific research direction. By fully exploring the advantageous resources of maritime justice, and building an innovative collaboration mechanism with Qingdao FTZ, the "Four Databases" model consisting of a standard contract database, a maritime trial case database, a foreign arbitration case database, and a template case database was created to process and refine the existing adjudication rules with Chinese characteristics that can effectively solve Chinese problems.

The existing adjudication rules with Chinese characteristics and capable of effectively solving Chinese problems were processed, refined and transformed, and a pattern of synergistic promoted by "the Maritime Courts and port and shipping enterprises" was formed.

2. Build on demand and supply judicial standards

During the preparation of the standard contracts, the Court gave full play to the role of practice testing of port and shipping enterprises through written feedback and on-site talks. Working with Qingdao Port, Yantai Port, Dongying Port and other ports in Shandong Province, shipping enterprises, offshore enterprises to carry out docking. Qingdao Maritime Court fully listen to the enterprises in the actual use of the problems found in the practical experience, drawn on their practical experience, sponsored the Meeting of the Trial Committee and the Meeting of Professional Judges. Our court evaluated and analyzed the opinions and suggestions put forward by the enterprise, determined the final amendment opinions, and ensured that the proposed contract terms fully protect the legitimate rights and interests of the users.

At present, Qingdao Maritime Court has formed eight types of standard contract forms, including "port dredging", "storage pledge", "container operation", "bulk cargo operation", "ro-ro operation", "port cargo custody", "liquid bulk cargo operation" and "miscellaneous cargo operation". The above standard contract forms have been incorporated into the contract management platform of Shandong Port Group and promoted for use in major ports along the coast of Shandong Province, which have been highly recognised by port enterprises including Qianwan Container Terminal.

3. Focus on practice and strengthen the capacity to protect rights

Relying on the maritime judicial standard supply text, the port and

shipping enterprises have a clearer understanding of the legal risks of the terms of the contract, more accurately grasp the ways and means to protect their legitimate rights and interests, effectively enhance the bargaining power when negotiating with foreign enterprises and ensure that the actual connotation of the terms of the contract is fully in line with the ideal expectations. It has played a positive and significant role in safeguarding the legitimate rights and interests of China's sea-related economic entities, reducing legal risks and improving the discourse power of China's enterprises in international shipping trade.

For example, there is a certain controversy in judicial practice of the port cargo lien, maritime judicial standard supply text through the definition of the lien, give a detailed interpretation of the provisions governing the possession of goods. By this way not only solved the financial enterprises pledge right and port lien conflict, to achieve a balance of the maintenance of the interests of the pledge right and the right of retention, but also effectively safeguarded the legitimate rights and interests of the port. In recent years, Qingdao Port has effectively safeguarded its legitimate rights and interests by exercising the right of lien for more than RMB 200 million.

4. Build a system to improve the rule of law

Foreign-related legal work is an important part of the overall rule of law. The report of the 20th National Congress of the CPC stresses the need to advance the domestic rule of law and foreign-related rule of law in a coordinated manner. With the deepening of opening up to the outside world, China's foreign-related affairs continue to broaden the field, improve the foreign-related rule of law system, strengthen China's right to participate, to speak and to dominate in the global governance system, to create a Human Community with a Shared Future, to build a new type of

international relations centred on win-win co-operation and to enhance the comprehensive competitiveness of China's foreign trade is of great significance. This requires that we must move from being learners, followers and enforcers of global trade rules to constantly transforming ourselves into rule-makers, promoters and leaders.

In the next stage, Qingdao Maritime Court will promote the all-round expansion of the standard supply field on the basis of the results of the existing work, and create a standard supply model covering the whole ecological chain of ports, shipping, trade and finance. We hope to further strengthen the use and influence of the standard contract form, guide foreign-related enterprises to make full use of the research results of the standard supply to participate in the competition of international rules, enhance the international discourse in the field of maritime transport, and build China's legal protection system of the maritime economy by writing the jurisdiction of China's Maritime Court into the jurisdiction clause of the contract, so as to provide strong judicial protection for China's development towards the deep blue, ploughing the deep blue, and exploring the Ocean.

（二）服务保障青岛自贸片区高质量发展

为深入贯彻落实习近平总书记关于以更大力度谋划和推进自由贸易试验区高质量发展的重要论述和党的二十大报告关于加快建设贸易强国的重大部署，青岛海事法院与中国（山东）自由贸易试验区青岛片区管委签署合作备忘录，共同推动中国（山东）自由贸易试验区青岛片区高质量发展，着力建设现代海洋、国际贸易、航运物流、现代金融、先进制造等产业高地和涉外法治人才高地，不断探索可复制可推广的自由贸易区“青岛经验”。

一、设立青岛自贸片区审判区

青岛海事法院设立青岛自贸片区审判区，旨在打造成为自贸区对外开放的窗口、平等保护中外当事人合法权益的高地及海洋法治科普基地，使当事人、律师、相关机构、社会各界自觉成为自贸片区营商环境的维护者、建设者、推广者。通过派驻审判机构开展日常审判活动，妥善审理涉外海事海商案件，及时解决产业链运行中形成的阻滞，总结推广案件审理规则，为市场主体经营提供司法支持。通过庭审观摩、公开宣判、新闻发布会、海事法律报告、海事司法文库等形式，推进海事司法资源有效配置。积极邀请人大代表、政协委员、涉海企业开展相关活动，不断提升海事司法透明度，着力打造国际海事纠纷解决优选地，以高质量的海事司法服务保障青岛自贸片区高质量发展。

二、建设国际海事司法研究基地

高标准建设“最高人民法院国际海事司法研究基地”，搭建国际学术交流平台，组织重大理论问题的学术研讨，加大对外宣传与交流力度，召开重大国际海事司法会议。充分发挥专家“外脑”作用，推进国际海事司法高端智库建设，激活高等院校、科研院校在海洋、自然科学和人文科学方面的科研和人才优势，增强我国海事司法的国际认同和国际影响，打造具有国内国际影响力的国际海事司法研究高地，为青岛海洋经济高质量发展提供智力支持。依托海事司法研究基地平台，解读好自贸片区功能政策和产业优势，为自贸片区高质量发展提供前瞻性服务，主动对接国际学术机构，国际金融机构，国际海事、海商、海运、船舶制造等机构和组织，吸引其来自贸区设立亚太大区分部和地区分支机构。

三、协同开展制度创新

将制度创新作为服务保障青岛自贸片区创新发展的首要工作任务，聚焦航运金融、国际船舶运输、国际船舶登记管理、国际航运经济等海洋经济领域，探索建立海事司法审判、司法工作机制方面首创性、差异性举措。与青岛自贸片区共建诉前海事海商案件纠纷化解机制，探索诉前调解船舶司法拍卖程序，推进船舶司法拍卖交易信息共享，着力培育、总结、提炼、形成一批可复制可推广的创新成果。开展国际船舶登记制度改革和第二船籍港制度政策研究，探索复制推

广“船舶扣押预担保”创新举措，探索设立“船员司法救助资金池”，开辟“海员维权绿色通道”，为开展航运政策制度创新提供司法研究保障。目前，青岛海事法院自主研发的“互联网+”船舶扣押拍卖管理新模式，已作为中国（山东）自由贸易试验区制度创新成果被省政府在全省推广。

四、推进航运中心建设

依托自贸片区功能政策和产业基础优势，发挥海事司法数据中心支撑作用，深化在海洋渔业、海洋船舶工业、海洋交通运输业、海洋盐业、海洋油气业、滨海旅游业等方面的研究，对标高标准国际经贸规则，为服务建设国际海事司法中心提供理论支撑和实践探索。抢抓 RCEP 实施、建设中日韩自贸区等机遇，依托双方优势条件，共建国际交流合作中心，打通航运经纪、航运金融、船舶工程、船舶交易、法律服务等航运服务信息壁垒，畅通连接航运服务业市场主体，共同促进航运企业或中资、外籍船舶在青岛片区落户登记，为青岛聚集全球资源要素，不断催生新的企业主体和业态模式，打造全球航运中心提供有力支撑。

五、培养高端涉外人才

基于“优势互补、协同创新、资源共享、互利共赢”的原则，与青岛自贸片区围绕人才培养开展深度合作。依托海事法院高层次涉外法治人才培养支持保障职能，充分激活青岛自贸片区在高水平经贸人才、法律人才、航运人才引进、

培养政策方面的优势，增强自贸片区对高端人才的吸引力，形成人才聚集高地效应。推进建立双向交流、司法实践、课题研究、共建基地等形式健全高层次涉外人才培养机制，通过挂职锻炼、特邀调解员等方式，推动涉外法治人才参与到涉外司法实践中，构建复合型海事人才培养实践基地，共同培育懂外语、懂国际经贸规则、懂国内国际法的涉外、涉海法治人才和高端航运服务业技能人才。

下一步，青岛海事法院还将进一步加强与青岛自贸片区沟通协作，全面发挥青岛自贸片区审判区机制作用，更好服务高水平对外开放和海洋强国发展战略，依托最高人民法院国际海事司法研究基地，谋划推进常态化国际海事高端论坛机制，建立航运服务高端人才培养模式，全面建设域外法查明中心、航运博物馆，着力构建以海事司法规则为中心的海洋产业生态链，积极为青岛海洋中心城市建设贡献海事司法力量。

II. Service and ensure the high-quality development of Qingdao Pilot FTZ

In order to thoroughly implement the important exposition of General Secretary Xi Jinping on planning and promoting the high-quality development of the Pilot FTZ with greater efforts and the major deployment of the Report of 20th National Congress of the CPC on accelerating the construction of a trade power, Qingdao Maritime Court has signed a memorandum of co-operation with the Qingdao Area Administrative Committee of the Pilot FTZ, to jointly promote the high-quality development of Qingdao Pilot FTZ. We will focus on the construction of a highland for modern ocean, international trade, shipping and logistics, modern finance, advanced manufacturing and other industries and a highland for foreign-related rule of law talents, and continuously exploring the "Qingdao Experience" of the Pilot Free Trade Zone that can be replicated and promoted.

1. Establish the Trial Area of Qingdao Pilot FTZ

Qingdao Maritime Court has set up the Qingdao FTZ Trial Area, aiming to become a window for the opening up of the FTZ to the outside world, a highland for the equal protection of the legitimate rights and interests of Chinese and foreign parties, and a base for popularisation of the rule of law on the sea. By this way, we hope to make the parties, lawyers, relevant institutions and the community consciously become the defenders, builders and promoters of the business environment of the FTZ. Through the daily trial activities carried out by the stationed trial institutions, it properly adjudicates foreign-related maritime and maritime commercial cases, promptly solves the obstacles formed in the operation of the industrial chain, summarises and promotes the rules of case adjudication,

and provides judicial support for the operation of the market entities. Through trial observation, public judgement, press conference, maritime legal report, maritime judicial library and other forms, to promote the effective allocation of maritime judicial resources. The Court actively invites deputies to the National People's Congress, members of CPPCC, sea-related enterprises to carry out related activities, constantly enhances the transparency of maritime justice, strives to create a preferred place for the settlement of international maritime disputes, and guarantees the high-quality development of Qingdao FTZ with high-quality maritime judicial services.

2. Build an international maritime justice research base

It has built the International Maritime Justice Research Base of the Supreme People's Court to a high standard, set up an international academic research and exchange platform, organised academic seminars on major theoretical issues, stepped up publicity and exchanges with the outside world, and convened major international maritime justice conferences. Giving full play to the role of expert "exobrain", the Court promotes the construction of high-end think tank of international maritime justice, activates the scientific research and talent advantages of colleges and universities and scientific research institutes in the marine, natural science and humanities, enhances the international recognition and international influence of China's maritime justice, and build a highland of international maritime justice research with domestic and international influence to provide intellectual support for the high-quality development of Qingdao's maritime economy in order to provide intellectual support for the high-quality development of Qingdao's maritime economy. Relying on the platform of maritime justice research base, we will interpret the functional policies and industrial advantages of FTZ, provide forward-looking

services for the high-quality development of FTZ, take the initiative to dock with international academic institutions, international financial institutions, international maritime, shipping, shipbuilding and other institutions and organisations, and attract them to set up Asia-Pacific regional divisions and regional branches in FTZ.

3. Carry out institutional innovation collaboratively

Qingdao Maritime Court has taken system innovation as the primary task of serving and guaranteeing the innovative development of Qingdao FTZ, focusing on shipping finance, international ship transport, international ship registration management, international shipping economy and other maritime economic fields, and exploring the establishment of the first and differentiated initiatives of maritime judicial trial and judicial working mechanism. The Court builds a dispute resolution mechanism for pre-litigation marine and maritime cases with Qingdao Free Trade Zone , exploring pre-litigation mediation of the ship judicial auction procedures, promoting the sharing of information on ship judicial auction transactions, and focusing on cultivating, summarizing, refining and forming a number of replicable and extendable innovations. The Court conducts policy research on the reform of the international ship registration system and the second port of registry system, explores the replication and promotion of the "ship seizure pre-guarantee" innovation, explores the establishment of the "seafarers' judicial assistance fund pool", and opens up the "green channel" for the protection of seafarers' rights, to provide judicial research guarantee for shipping policy and system innovation. At present, Qingdao Maritime Court independently developed the "Internet +" new mode of ship seizure auction management, as China (Shandong) Pilot Free Trade Zone system innovation results by the provincial government to promote.

4. Promote the construction of shipping center

Relying on the functional policies in Free Trade Zone and the advantages of industrial foundation, Qingdao Maritime Court plays the supporting role of the Maritime Judicial Data Center, deepens the study in the areas of marine fishery, marine shipbuilding industry, marine transportation industry, marine salt industry, marine oil and gas industry, coastal tourism industry, etc., and complies with the high-standard international economic and trade rules, to provide theoretical support and practical exploration for the service of constructing the International Maritime Judicial Center.

Seizing the opportunities such as the implementation of RCEP, the construction of China-Japan-ROK Free Trade Zone and so on, the Court jointly builds the international cooperation and exchange center based on the advantageous conditions of both sides, opens up the information barriers of shipping services including shipping brokerage, shipping finance, ship engineering, ship trading, legal services, etc., smoothly connects the market players in the shipping service industry, jointly promotes the settlement and registration of shipping enterprises and the Chinese or foreign-invested ships in Qingdao Area, provides strong support for Qingdao to gather global resources and elements, and continuously gives birth to new business entities and business modes, and to build a global shipping center.

5. Cultivate high-end and foreign-related talents

Basing on the principle of "complementary advantages, synergistic innovation, resource sharing and mutual benefit and win-win", Qingdao Maritime Court cooperates with Qingdao Free Trade Zone in-depth on talent cultivation . Relying on the support and guarantee functions of the Maritime Court for the cultivation of high-level foreign-related legal talents,

the Court fully activates advantages of Qingdao Free Trade Zone in the introduction and cultivation policies of high-level economic and trade talents, legal talents, and shipping talents, and enhances the attractiveness of the Free Trade Zone to high-end talents, to form the effect of the highland of talent gathering.

Qingdao Maritime Court promotes to establish the cultivation mechanism of high-level foreign-related talents in the forms of two-way exchanges, judicial practice, subject research, the joint construction of bases etc., promotes foreign-related legal talents to participate in foreign-related judicial practice through temporary training, special mediators and other ways, and builds a cultivation practice base for the inter-disciplinary maritime talents, and work together to cultivate the foreign-related, maritime-related legal talents and high-end shipping service industry skilled talents with the knowledge of foreign languages, international economic and trade rules, domestic and international law.

In the next step, Qingdao Maritime Court will further strengthen the communication and collaboration with Qingdao Free Trade Zone, give full play to the role of Qingdao Free Trade Zone trial area mechanism, better serve the development strategy of high-standard opening up and strong marine country. Relying on the Supreme People's Court International Maritime Judicial Research Base, the Court plans to promote the normalization of the International Maritime High-end Forum mechanism, to establish the cultivation model of high-end talents for the shipping service, comprehensively construct the center for proof of extra-territorial law and the Shipping Museum, strive to build a marine industry ecosystem centered on the rules of maritime justice, and actively contribute maritime judicial power to the construction of Qingdao Marine Center City.

（三）构建海事行政审判工作新格局

青岛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，深入贯彻习近平法治思想，坚持服务大局、司法为民、公正司法，以实质性化解行政争议为目标，充分发挥海事行政审判职能作用，推动行政审判工作取得新进展。

一、明确案件管辖范围，海事行政审判职能作用显著提升

为防止管辖权冲突，减少当事人诉累，公正高效维护当事人的合法权益，进一步明确海事行政案件的管辖范围，青岛海事法院通过向省法院报送《关于明确海事行政案件受理范围的请示》、向相关行政机关发送司法建议、到兄弟法院走访调研、召开海事行政审判工作座谈会等方式，加大海事行政案件受案范围的宣传和解释工作，切实提高行政执法人员对海事行政案件专门管辖制度的认识。上述举措已取得初步成效，2022 年行政案件收案数量是上一年度两倍。请示协调省法院下发《关于预防和解决行政诉讼案件推诿管辖问题的通知》，进一步规范涉海行政案件由专门法院管辖，研究出台《关于海事行政案件管辖若干问题的指引》，扩大海事行政审判影响力。

二、注重工作沟通协调，府院良性互动机制不断完善

一是严格落实行政机关负责人出庭应诉制度。依法向行政机关发送负责人出庭应诉通知书，通过负责人出庭发声，

缓解相对人对抗情绪。在审结的行政诉讼案件中，行政机关负责人出庭应诉率达到 100%，取得了良好的社会效果和法律效果。

二是加强海事司法与行政执法的合作联动和执法衔接。与山东省农业农村厅建立海洋渔业司法执法协作联动机制，联合出台 22 条措施，全面加强协作配合。与青岛市委海洋委办公室建立协作机制，签署《服务保障青岛海洋经济高质量发展战略协作框架协议》，围绕青岛市建设引领型现代海洋城市的目标定位，构建协作平台。与青岛市海洋发展局联合开展海事司法与海洋执法联动协作专题调研活动，在纠纷化解、海上执法、海洋灾害治理等方面深化合作。与山东海警局探索建立海事司法与海上行政执法协作联动机制，预防化解行政争议，共同保护国家海洋权益，保护自然资源与生态环境，保护行政相对人的合法权益。

三、加强行政审前和解工作，推动行政诉讼实质性化解

一是出台《关于行政案件审前和解程序的规定》，建立行政争议审前和解程序。该程序有效推进行政诉讼案件实质性化解，实质解决行政相对人和行政机关之间的争议，防止行政诉讼程序空转，真正实现案结事了。

二是畅通行政执法工作咨询渠道，从源头预防和化解行政争议的产生。与山东海警局探索建立行政争议审前化解中心，在派出法庭设立联合工作室，与海警局下设工作站对接，

及时高效化解行政争议。畅通日常沟通咨询渠道，指派专人随时接收、处理海事行政机关在行政执法过程中所涉法律适用及执法程序类问题，2022 年度处理全省涉海警、海事、海监、渔业、生态等 13 家机构行政执法咨询 20 余件次，有效规范行政行为，从源头减少了行政争议的产生。

四、依法审查非诉执行案件，支持行政机关依法行政

一是注重发挥司法审查能动作用，创新支持依法行政的方法。对涉及行政处罚的非诉执行案件进行审查前置，在立案阶段即进行形式审查并充分听取行政相对人意见，同时进行类案的普法宣传教育，积极促进行政相对人自动履行。2022 年度，通过审查前置成功促使相对人自动履行非诉执行案件 5 件，有效促进了行政机关与相对人之间的关系和缓，提高了行政执法的效率和公信力。

二是继续采用“裁执分离”模式，助力海域管理与保护。近年来，山东省各级政府持续加强围填海活动的监督检查力度，严肃查处违法围填海行为，相关行政非诉执行案件也有所增加。2022 年度，共受理行政审查非诉执行案件 33 件，其中对违法围填海行为予以行政处罚的案件 24 件。对符合法律规定的裁定准予执行后，继续采用“裁执分离”机制，将恢复海域原状的执行内容裁交地方政府及相关部门，同时对后续实施情况进行定期回访，要求海洋管理机关及时反馈实施，取得了良好效果。

五、积极开展司法建议工作，延伸海事行政审判职能

针对审判实践中发现的行政执法环节存在的问题，加强司法建议工作，分别向山东省农业农村厅、山东海警局发出规范行政执法行为的司法建议，向烟台市政府发出关于规范海上养殖管理的司法建议，上述建议均得到有关部门的高度重视和积极回应。山东省农业农村厅复函表示，相关建议符合法律规定和我省海洋与渔业执行工作实际，在今后的工作中予以采纳，以进一步规范相关行政执法行为。山东海警局积极组织了对建议书内容的学习研究，由分管副局长牵头专项部署落实，对建议书中关于不当告知当事人行政诉讼管辖法院问题、对所属海警机构行政诉讼法知识培训问题、加强基层海警机构执法基础装备建设问题均一一进行解决。烟台市政府按照建议对全市海上非法养殖情况进行了摸底清理。

下一步，青岛海事法院将坚持依法监督与支持相结合，充分发挥海事行政审判职能作用，努力推动海事行政争议实质性化解，规范海事行政执法行为，依法维护国家海洋权益，保护海洋生态环境，促进海洋经济高质量发展。

III.Build a new pattern of maritime administrative adjudication work

Qingdao Maritime Court adheres to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, deeply implements Xi Jinping Thought on the Rule of Law, adheres to serving the overall situation, administering justice for the people, and impartial justice, with the goal of substantively resolving administrative disputes, giving full play to the role of maritime administrative adjudication, and promoting new progress in administrative adjudication.

1. Clarify the scope of case jurisdiction, and the role of maritime administrative adjudication functions has been significantly improved

In order to prevent jurisdictional conflicts, reduce the burden of litigation of the parties, protect the legitimate rights and interests of the parties in a fair and efficient manner, and further clarify the jurisdiction scope of maritime administrative cases, Qingdao Maritime Court has increased the publicity and interpretation of the scope of maritime administrative cases by submitting *Request for Clarification on the Scope of Acceptance of Maritime Administrative Cases to High people's court of Shandong Province*, sending judicial suggestions to relevant administrative organs, visiting and investigating other courts, and holding a symposium on maritime administrative trial work. Effectively raise the awareness of administrative law enforcement personnel of the special jurisdiction system for maritime administrative cases. The above measures have achieved initial results, and the number of administrative cases received in 2022 is twice that of the previous year. Request High people's court of Shandong Province to issue *Notice on Preventing and Resolving the Issue of Prevarication of Jurisdiction in Administrative Litigation Cases* , further

standardize the jurisdiction of specialized courts in sea-related administrative cases, study and issue *Guidelines on Several Issues Concerning the Jurisdiction of Maritime Administrative Cases*, and expand the influence of maritime administrative adjudication.

2. Pay attention to work communication and coordination, and the benign interaction mechanism between the Government and Courts has been continuously improved

The First is to strictly implement the system for responsible persons of administrative organs to appear in court to respond to lawsuits. Send the notice of the responsible person's appearance in court to the administrative organ in accordance with law, and use the responsible person's appearance in court to speak out, to alleviate the confrontational emotions of the counterparty. In the administrative litigation cases concluded, the rate of responsible persons of administrative organs appearing in court and responding to the lawsuit reached 100%, achieving good social and legal effects.

The second is to strengthen the cooperation and linkage between maritime justice and administrative law enforcement and the connection between law enforcement. It established a collaborative linkage mechanism with the Department of Agriculture and Rural Affairs of Shandong Province for judicial law enforcement of marine fisheries, and jointly issued 22 measures to comprehensively strengthen coordination and cooperation. Establish a collaboration mechanism with the Office of the Ocean Committee of Qingdao Municipal Party Committee, sign *Framework Agreement on Service Guarantee Qingdao Marine Economy High-quality Development Strategy Cooperation*, and build a collaboration platform around the goal of building Qingdao into a leading modern marine city. Jointly carry out special research activities on joint cooperation

between maritime justice and marine law enforcement with Qingdao Municipal Marine Development Bureau, and deepen cooperation in dispute resolution, maritime law enforcement, and marine disaster governance. Explore with the Shandong Coast Guard to establish a collaborative linkage mechanism between maritime justice and maritime administrative law enforcement to prevent and resolve administrative disputes, jointly protect national maritime rights and interests, protect natural resources and ecological environment, and protect the legitimate rights and interests of administrative counterparts.

3. Strengthen administrative pretrial settlement efforts, and advance the substantive resolution of administrative litigation

The first is to promulgate *Provisions on Pretrial Settlement Procedures for Administrative Cases* to establish pretrial settlement procedures for administrative disputes. This procedure effectively promotes the substantive resolution of administrative litigation cases, substantively resolves disputes between administrative counterparts and administrative organs, prevents idling of administrative litigation procedures, and truly achieves the conclusion of cases.

The second is to unblock consultation channels for administrative law enforcement work, and prevent and resolve the occurrence of administrative disputes from the source. Explore the establishment of a pre-trial dispute resolution center with the Shandong Coast Guard, set up a joint studio in the dispatched court, and dock with the Coast Guard Bureau's workstations to resolve administrative disputes in a timely and efficient manner. Smooth daily communication and consultation channels, appoint special personnel to receive and deal with the application of law and law enforcement procedures involved in the administrative law enforcement process of maritime administrative organs at any time, and handle more

than 20 administrative law enforcement consultations from 13 institutions related to coast guard, maritime safety, maritime surveillance, fishery, ecology and other institutions in the province in 2022, effectively standardizing administrative behaviors and reducing the occurrence of administrative disputes from the source.

4. Review non-litigation enforcement cases in accordance with law, and support administrative organs in lawfully administering in accordance with law

The first is to pay attention to giving play to the dynamic role of judicial review and innovate methods to support administration according to law. Conduct pre-review of non-litigation enforcement cases involving administrative punishments, conduct formal reviews at the stage of case filing, and fully listen to the opinions of administrative counterparts, and at the same time carry out publicity and education on the law of similar cases, and actively promote the automatic performance of administrative counterparts. In 2022, 5 non-litigation enforcement cases were successfully promoted by the counterparty to automatically perform through the pre-review process, which effective easing of relations between administrative authorities and their counterparts, and improved the efficiency and credibility of administrative law enforcement.

The second is to continue to adopt the "separation of judgment and enforcement" model to help the management and protection of maritime areas. In recent years, governments at all levels in Shandong Province have continued to strengthen the supervision and inspection of land reclamation activities, seriously investigated and dealt with illegal land reclamation activities, and related administrative non-litigation enforcement cases have also increased. In 2022, a total of 33 non-litigation enforcement cases for administrative review were accepted, including 24 cases in which

administrative punishments were imposed for illegal land reclamation. After the enforcement of rulings that comply with the law is granted, the "separation of adjudication and enforcement" mechanism will continue to be used, and the implementation content of the restoration of the original state of the sea area will be handed over to the local government and relevant departments, and regular return visits will be made to the follow-up implementation situation, requiring the marine management authority to give timely feedback on the implementation, and good results have been achieved.

5. Actively carry out judicial proposal work and extend the functions of maritime administrative adjudication

In view of the problems in the administrative law enforcement link found in trial practice, the judicial suggestions work was strengthened, and judicial suggestions on regulating administrative law enforcement were issued to the Department of Agriculture and Rural Affairs of Shandong Province and the Shandong Coast Guard, and judicial suggestions on regulating the management of marine aquaculture were issued to the Yantai Municipal Government, and the above suggestions were highly valued and responded positively by relevant departments. The Department of Agriculture and Rural Affairs of Shandong Province replied that the relevant suggestions are in line with the law and the actual implementation of marine and fishery work in our province, and will be adopted in future work to further standardize relevant administrative law enforcement behaviors. The Shandong Coast Guard Bureau actively organized study and research on the content of the proposal, with the deputy director in charge taking the lead in special deployment and implementation, and solved the issues in the proposal concerning improper notification of the parties to the court of jurisdiction for administrative litigation, the training of the

knowledge of the administrative procedure law of the coast guard agency to which it belongs, and the strengthening of the construction of law enforcement infrastructure for grassroots coast guard institutions. In accordance with the recommendations, the Yantai Municipal Government has explored and cleaned up the illegal aquaculture situation at sea in the city.

In the next step, Qingdao Maritime Court will adhere to the combination of supervision and support in accordance with the law, give full play to the role of maritime administrative adjudication, strive to promote the substantive resolution of maritime administrative disputes, standardize maritime administrative law enforcement behavior, safeguard national maritime rights and interests in accordance with the law, protect the marine ecological environment, and promote the high-quality development of the marine economy.

（四）海洋环境资源审判工作实现新发展

青岛海事法院深入学习贯彻习近平生态文明思想，不断加强海洋环境司法保护力度，创新审判机制，搭建协同工作平台，海洋环境资源审判工作实现新发展。

一、聚焦机制建设，搭建海洋环境共治平台

一是完善海洋环保司法机制。聚焦司法能力现代化要求，优化配置全院审判资源，建立海洋环境审判专业化力量，依法审理海洋渔业资源损害、海洋环境公益诉讼案件，设立长岛海洋生态文明综合试验区、灵山岛省级自然保护区巡回审判庭，构建海洋环境司法立体格局。

二是构建海洋环保共治体系。发挥海事法院与行政机关各自的优势和作用，强化海洋生态环境共保联治。与山东省农业农村厅建立渔业司法执法协作联动机制，与海事局、海警局、海洋局建立常态化协作沟通机制，共同维护海洋生态环境和海域安全。

三是搭建海洋环保合作平台。树立“海洋命运共同体”理念，建立跨区域司法保护合作机制。与大连、天津海事法院签署《渤海生态环境保护司法协作机制框架协议》，共同召开联席会议，推进区域纠纷协同化解。参与黄河三角洲生态环境保护司法机制建设，推动海洋环境污染问题源头治理。

二、聚焦司法职能，拓展海洋环境保护路径

一是妥善审理海洋环境资源保护系列案件。发挥海事司

法审判职能，积极审理禁渔期非法捕捞、使用违禁渔具捕捞等海洋资源损害案件，密切关注海洋渔业发展新动态，依法审结全球首座全潜式渔业养殖装备“深蓝一号”案，为海洋渔业可持续利用提供司法保障。

二是推动海洋环境公益诉讼集中管辖。落实《关于办理海洋自然资源与生态环境公益诉讼案件若干问题的规定》，集中管辖海洋环境公益诉讼案件，与青岛市检察院、日照市检察院等沿海地市检察机关建立对接机制，公开开庭、受理审结一批破坏海洋渔业资源、盗采海砂等生态损害公益诉讼案件。

三是突出海洋生态环境修复司法导向。将海洋环保司法审判工作与海洋生态保护有机融合，突出恢复性司法理念，杜绝以罚代管，以“增殖放流”等海洋生态恢复措施作为核心条款，促成原被告双方达成和解，调解结案的占比一半以上，海洋自然资源得到充分保护。

三、聚焦实践基础，破解海洋环境污染难题

一是确立海洋污染损害审查标准。妥善审理 2011 年康菲重大溢油事故损害赔偿系列案，综合专业勘测数据及多位行业专家意见，对溢油损害范围及溢油造成的长期生态损失予以认定，确定了兼具科学性与公平性的裁判标准，为后续海上溢油事故损害标准认定提供了参考范本。

二是形成海上污染损害处置模式。参与处置 2021 年利

比里亚籍“交响乐”轮重大溢油事故，积极参与船舶货油过驳合同签署等应急处置，依法扣押“交响乐”轮，有效控制事态恶化。同时将本次事故涉及的船舶碰撞、海难救助、环境损害、交通肇事等海事案件全部导入海事诉讼程序，维护了社会整体稳定，为海洋污染事故处置提供了重要参考。

三是开展海洋污染损害理论探索。成功申报《海上生态环境损害评估鉴定法律制度研究》重点研究课题，组织召开海洋生态环境损害评估鉴定专题学术研讨会，最高法院，山东高院，大连、南京、天津、上海海事法院，青岛市法院、检察院、山东大学、天津大学，青岛海洋地质研究所等 21 家单位及鉴定机构参加会议。会议对海洋生态环境损害评估鉴定的范围、内容设计、程序设计以及司法审查内容进行深入研究，为破解环境保护司法实践难题提供科学路径。

四、完善体系建设，做好海事司法机制保障

进一步发挥海事司法在服务保障海洋环境资源方面的机制作用，推动海洋环境资源审判工作实现新发展。

一是完善海洋环境资源案件“三合一”归口机制。根据最高人民法院关于环境资源审判的工作要求，目前全国已有 23 家高级人民法院实现环境资源审判“三合一”，海事法院作为维护海洋环境的第一阵地，完善海洋环境资源审判“三合一”机制将更有利于海事法院发挥涉海审判的专业优势，为维护海洋生态环境发挥积极作用。

二是建立“以审判为中心”的海洋污染治理体系。近年来，青岛海事法院积极参与“康菲”“交响乐”等重大溢油事故的处置工作，特别是主持完成事故处置中的损失标准认定、赔偿资金分配等矛盾集中环节，积累了相对丰富的海上污染处置经验，通过将司法经验置于污染处置决策的重要层面，有效降低海洋污染处置全程的法律风险，为最终全面化解社会矛盾奠定良好基础。

三是发挥海事司法在海洋环境保护中的独特优势。海事司法具有跨区域的明显特征，便于实现多地域海洋环境资源案件的集中管辖，最大限度统一裁判尺度。海事司法的海事赔偿责任限制基金、海事强制令等专属职能，符合国际公约及国际通行惯例，是处置涉外领域海洋环境资源案件的重要工具。要进一步挖掘海事司法优势职能，为海事司法维护海洋环境资源提供更大平台。

IV. New development has been achieved in the adjudication of marine environmental resources

Qingdao Maritime Court has deeply studied and implemented Xi Jinping Thought on Ecological Civilization, continuously strengthened the judicial protection of the marine environment, innovated the trial mechanism, built a collaborative work platform, and achieved new development in the trial of marine environmental resources.

1. Focus on mechanism construction and build a platform for co-governance of the marine environment

The first is to improve the judicial mechanism for marine environmental protection. Focus on the requirements of judicial capacity modernization, optimize the allocation of trial resources of the whole court, establish a professional force for marine environmental adjudication, try cases of damage to marine fishery resources and marine environmental public interest litigation in accordance with the law, establish Long Island Marine Ecological Civilization Comprehensive Experimental Zone and the Circuit Court of Lingshan Island Provincial Nature Reserve, and build a three-dimensional pattern of marine environmental justice.

The second is to build a marine environmental protection co-governance system. Give play to the respective advantages and roles of maritime courts and administrative organs, and strengthen joint management of marine ecological environment. Establish a collaborative linkage mechanism for fishery judicial law enforcement with the Department of Agriculture and Rural Affairs of Shandong Province, and establish a regular coordination and communication mechanism with the Maritime Safety Bureau, the Coast Guard Bureau, and the Oceanic Bureau to jointly safeguard the marine ecological environment and maritime area

security.

The third is to build a platform for marine environmental protection cooperation. Establish the concept of a "Maritime Community with a Shared Future" and establish a cross-regional judicial protection cooperation mechanism. Signed *Framework Agreement on the Judicial Cooperation Mechanism for Bohai Ecological Environmental Protection* with the Dalian Maritime Court and Tianjin Maritime Court, and jointly held a joint meeting to promote the coordinated resolution of regional disputes. Participate in the construction of a judicial mechanism for ecological environmental protection in the Yellow River Delta, and promote the treatment of the source of marine environmental pollution.

2. Focus on judicial functions and expand the path of marine environmental protection

The first is to properly handle a series of cases involving the protection of marine environmental resources. Give play to maritime judicial adjudication functions, actively hear cases of damage to marine resources such as illegal fishing during the fishing ban period and fishing with prohibited fishing gear, pay close attention to the new developments in the development of marine fisheries, and conclude the world's first fully submersible fishery aquaculture equipment "Deep Blue No.1" case in accordance with the law, providing judicial guarantees for the sustainable use of marine fisheries.

The second is to promote centralized jurisdiction of marine environmental public interest litigation. Implement *Provisions on Several Issues Concerning the Handling of Marine Natural Resources and Ecological Environment Public Interest Litigation Cases*, centralize jurisdiction over marine environmental public interest litigation cases, establish docking mechanisms with coastal municipal procuratorial organs

such as the Qingdao Municipal Procuratorate and the Rizhao Municipal Procuratorate, and hold public hearings and accept and conclude a number of public interest litigation cases for ecological damage such as destroying marine fishery resources and illegally mining sea sand.

The third is to highlight the judicial orientation of marine ecological environment restoration. Organically integrate the judicial adjudication of marine environmental protection with the protection of marine ecology, highlight the concept of restorative justice, put an end to the use of fines for escrow, and take marine ecological restoration measures such as "breeding and release" as the core clause, so that the original defendants and defendants reach a settlement, and more than half of the cases are concluded through mediation, and marine natural resources are fully protected.

4. Focus on the practical foundation to solve the problem of marine environmental pollution

The first is to establish a criteria for the review of marine pollution damage. A series of cases of the 2011 ConocoPhillips Oil Spill Damage Compensation Case were properly reviewed. The scope of the damage caused by the oil spill and the long-term ecological losses resulting from the oil spill were determined by integrating professional investigation data and the opinions of a number of experts in the industry, establishing adjudicative standards that are both scientific and fair, and providing a model for reference for determining the standards for damages in subsequent marine oil spill incidents.

The second is to form a pattern for the disposal of pollution damage at sea. By participating in the disposal of the Liberian vessel "A SYMPHONY" in the major oil spill accident of 2021, and taking an active part in the signing of the ship contract for the barging of cargo and oil in

emergency response, the vessel was seized in accordance with the law and the deterioration of the situation was effectively brought under control. At the same time, all the maritime cases involved in the accident, such as ship collision, salvage at sea, environmental damage and traffic accident, were introduced into maritime litigation procedures, which maintained the overall stability of the society and provided an important reference for the disposal of marine pollution accidents.

The third is to carry out the exploration on the theory of Marine pollution damage. After successfully submitting the key research project of Research on Legal System for Assessment and Appraisal of Marine Ecological Environment Damage, a symposium on assessment and appraisal of marine ecological environment damage was organized, in which 21 units and appraisal institutes, such as the Supreme People's Court, the Shandong Higher People's Court, Dalian Maritime Court, Nanjing Maritime Court, Tianjin Maritime Court and Shanghai Maritime Court, the People's Courts and People's Procuratorates of Qingdao, Shandong University, Tianjin University, and the Qingdao Institute of Marine Geology, etc., participated in the meeting. The meeting conducted an in-depth study on the scope, content design, procedural design and judicial review of the appraisal of damage to the marine ecological environment, and provided a scientific path to solve the problems of judicial practice of environmental protection.

5. Improve the construction of the system and safeguard the maritime justice mechanism well

To further develop the role of maritime justice as a mechanism for serving and safeguarding marine environmental resources, which will facilitate new developments in the adjudication of marine environmental resources.

The first is to improve the "Three-in-One" mechanism for the referral of marine environmental resources cases. According to the requirements of the Supreme People's Court on the trial of environmental resources, there are currently 23 high people's courts in the country to achieve environmental resources trial "three in one", as the first position to maintain the marine environment, improving "Three-in-One" mechanism of the trial of marine environmental resources will be more conducive to the maritime courts to play a professional advantage of sea-related trials, and play an active role in maintaining the marine ecological environment. As the first position to safeguard the marine environment, improving the "Three-in-One" mechanism of marine environmental resources trial will be more conducive to the maritime courts to give full play to their professional advantages in sea-related trials, and play an active role in safeguarding marine ecological environment.

The second is to establish a "trial-centred" marine pollution management system. In recent years, Qingdao Maritime Court has actively participated in the disposal of major oil spill accidents such as "ConocoPhillips" and "A SYMPHONY", presiding over and completing the determination of the loss standard and the distribution of compensation funds in the disposal of accidents, thus accumulating a relatively rich experience in the disposal of marine pollution. By placing judicial experience at the important level of pollution disposal decision-making, legal risks throughout the disposal of marine pollution are effectively reduced, and a good foundation is laid for the eventual comprehensive resolution of social contradictions.

The third is to utilize the unique advantages of maritime justice in the protection of the marine environment. Maritime justice has the distinctive feature of being trans-regional in nature, which facilitates the centralization

of jurisdiction over marine environmental resource cases in multiple geographical areas and maximises the consistency of adjudication standards. Limitation Fund for Maritime Compensation Liability and Maritime Compulsory Orders in Maritime Justice and other exclusive functions, in accordance with international conventions and international practice, is an important tool for the disposal of foreign-related marine environmental resources cases. It is necessary to further explore the advantageous functions of maritime justice and provide a greater platform for it to protect marine environmental resources.

（五）繁简分流多元解纷机制建设见成效

为贯彻落实习近平总书记关于“坚持把非诉讼纠纷解决机制挺在前面”的重要指示，切实发挥海事司法服务社会经济高质量发展的职能作用，青岛海事法院牢固树立“一二三四五”工作理念，积极构建符合海事司法规律和特点的繁简分流多元解纷新模式，打造“海上枫桥”样板，形成诉前调解、立案分流、简案速裁、繁案精审的分层递进解纷路径，在更高水平上实现司法公正与效率的有机统一。

一、聚焦建章立制，构建解纷新模式

（一）夯实制度基础。根据海事审判实际，制定《青岛海事法院繁简分流多元解纷工作方案》，在烟台、威海、石岛、日照、东营、董家口法庭设立海事海商诉前调解中心，组建“法官+法官助理+调解员+书记员”的工作团队，强化派出法庭“诉前调解、司法确认、速裁、信访、宣传”职能作用。制定《派出法庭调解员聘任与管理办法（试行）》，对调解员职责范围、工作待遇等作出明确规定，进一步加强调解员职能作用发挥，使“人民调解”与“司法调解”紧密结合。制定《扣押与拍卖船舶流程管理规范》，在全国海事法院内首次系统性规范扣押拍卖船舶标准，为多元解纷提供制度保障。

（二）优化分案流程。依托六个精审审判庭和五个派出法庭的职能整合调整，制定《网上立案审核分流工作流程及

要点》，进一步优化分案机制。各类纠纷立案后，全部分流至相应派出法庭进行诉前调解，调解成功并当场过付案款的，直接结案；调解成功不能当场过付案款的，及时进行司法确认；调解不成的，进行网上立案并适用速裁程序结案。经司法确认和速裁程序结案后，不能及时付款的直接执行。少数案件进入普通程序后，按精品案件标准进一步打造。有效整合解纷资源，为当事人提供了多途径、高效率、低成本的纠纷解决方案。

（三）科学组织考核。合理配置速裁法官和调解员，进一步优化考核办法。将经过调解确认不进入诉讼的案件和即时过付的案件纳入绩效考核范围，适度提高司法确认案件权重系数，鼓励法官以上述两种方式化解矛盾。通过与信息技术部门紧密合作，研发适合海事审判特点的统计监管系统，为全面准确反映工作情况提供信息数据，切实提升矛盾纠纷化解效率。

二、强化法庭职能，着力抓前端治未病

派出法庭聚焦制约司法效能提升的具体问题，与辖区内涉海行政机关、行业协会、专业调解组织等多元解纷力量密切配合，实现重点行业、重点领域全覆盖，充分发挥派出法庭在辖区诉讼服务最前沿作用，实现诉讼服务便民利民。

（一）烟台法庭

依托烟台多元商事海事调解中心，充分发挥调解在化解

海事商事领域矛盾纠纷中的重要作用,推进在线诉调对接机制建设,搭建线上线下调解与诉讼对接渠道。与海事局、海警局及辖区重要渔业生产集体形成了良好的诉前调解合作模式。将诉前质证、鉴定、保全以及海损理算等案件类型,纳入诉前解纷机制流程,在涉及商事主体、买卖合同、金融保险、国际贸易等商事海事领域提供高效调解服务。驻庭调解员充分利用线上沟通渠道,保障全天候紧跟调解流程。对于调解不成功的案件,及时有效形成笔录,并入后续诉讼程序;对于需要鉴定的案件,促使当事人提前申请鉴定,尽早形成鉴定结果,为化解商事海事纠纷提供友好、灵活、经济、便捷的解决方案。

（二）威海法庭

依托威海市海事海商法研究中心,积极为涉海企业提供法律服务,促进商事纠纷以非诉途径解决。规范诉前调解工作环节、构建诉前调解“三位一体”模式,搭建“三阶段”诉前调解工作机制,确保调解员、法官和书记员分工配合形成合力。做好案件衔接,将诉前调解质证笔录并入速裁案件,减少质证时间、提高庭审效率、缩短结案周期,实现简案快审。法庭干警主动融入威海社会化治理和调解工作大格局,与基层人民调解、行业调解等组织加强联系,构建“横向到边、纵向到底”的调解工作体系,深入渔港码头,对船员、船东进行答疑解惑。加强与辖区边防、海事、渔政、船检等

涉海部门的沟通协作，构建“法庭+海事+渔政”的基层纠纷化解模式，凝聚强大合力，促进矛盾纠纷在诉前得到实质性化解。

（三）石岛法庭

积极对接驻地党委、政府、法院和涉海行政机关，建立协调机制，在石岛渔人码头设立“老船长调解室”。依托调解室诉源治理信息化终端，将诉调关口前移，时时同步案件信息、调解资源、和解协议至治理终端，提供法官远程实时线上指导、调解员多方会议、当事人异地调解等多种司法服务形式，实现了矛盾化解流程全线上、过程全留痕，极大提升调解员纠纷化解效率，使诉源治理更加人性化、智能化，做到“小事不出港，矛盾不上交”。“老船长调解室”运行以来，石岛法庭受理案件数量比去年同期下降 55%，系多年来首次大幅下降，诉源治理成效显著，充分保障了辖区海域有序开发利用和海洋经济高质量发展。

（四）日照法庭

坚持能动司法理念，推动建立“安岚无漾”诉源治理新模式，探索发展新时代“枫桥经验”新路径。充分发挥海事法庭和渔业行政主管部门、渔业互保协会以及民间渔业协会等各类涉海主体职能，打造三级平台，在有序分工的基础上强化多元联动，形成诉源治理合力。在沿海重点渔业村居、渔港建立“安岚无漾”诉前调解室，加强矛盾纠纷源头预防，

及时把涉渔纠纷化解在萌芽状态；依托岚山区渔业协会，建立“安岚无漾”诉前调解中心，充分发挥渔业协会的行业优势和民间自律职能，对于重大涉渔纠纷做好关口把控、前端化解，减少诉讼增量；与海洋渔业主管部门联合建立“安岚无漾”诉源治理指导中心，加强涉渔纠纷行政调解力度，指导依法开展诉源治理工作，有效维护了当地渔业生产秩序，促进了海洋经济高质量发展。

（五）东营法庭

通过强化释法说理、优化处结速度、对接协作机构、定期跟踪回访四项机制建设，全面推进多元解纷工作。一是聘任驻庭调解员和特邀调解员各一名，充分发挥法官与调解员合力，在诉讼风险提示、权利义务告知、释法答疑、法律宣讲等各个环节，把释法说理落实到位，打通当事人内心隔阂的“最后一公里”。二是在征得双方当事人同意后，在最短时间内组织证据交换和线上线下调解，进一步简化裁判文书，实现案件当庭结案、文书当庭送达。三是主动对接驻地海上执法机构、调解委员会等涉海机构，加强协作机制，畅通沟通渠道，进一步探索减少同类纠纷的有效对策。四是建立调解案件定期回访制度，实时跟踪当事人权益实现情况。多措并举，努力提高调解成功率和本地化解率，提升当事人获得感和满意度。

V. Construction of a mechanism for dispute resolution divided by complexity and simplicity has effect

In order to implement the important instructions of General Secretary Xi Jinping on "insisting on putting the alternative dispute resolution mechanism in the forefront", and to effectively play the role of maritime justice to serve the high-quality social and economic development, Qingdao Maritime Court firmly established a "One-Two-Three-Four-Five" working concept, actively constructed a new mode of alternative dispute resolution divided by complexity and simplicity in conformity with the regularity and characteristics of the maritime justice, built a model for the "Maritime Fengqiao Experience", form the hierarchical and progressive dispute resolution path of pre-litigation mediation, distribution of cases, expedited trial of simple cases, and elaborate trial of complicated cases, so as to achieve organic unity between judicial justice and efficiency at a higher level.

1. Focus on the establishment of rules and regulations, build a new model of disputes resolution

First, strengthen the foundation of institution. According to the practice of maritime justice, formulate *Qingdao Maritime Court Work Program of Alternative Dispute Resolution Divided by Complexity and Simplicity*, set up maritime pre-litigation mediation center in Yantai, Weihai, Shidao, Rizhao, Dongying, Dongjiakou Dispatched Courts , organize the work team of "judge + judge assistant + mediator + clerk", and strengthen the "pre-litigation mediation, judicial confirmation, expedited trial, letters and visits, publicity" function of dispatched court. Formulate *Measures on the Appointment and Administration of Mediators in Dispatched Courts (Trial Implementation)*, which clearly stipulates the scope of duties and

treatment of the mediators, further strengthen the role of the mediators, so as to combine "people's mediation" and "judicial mediation" closely. Formulate *Management Standards for the Process of Seizure and Auction of Vessels*, which systematically regulated the standards for seizure and auction of vessels for the first time in the national maritime courts, and provided institutional safeguards for the alternative dispute resolution.

Second, optimize the case division process. Rely on the integration and adjustment of the functions of the six elaborate tribunals and the five dispatched courts, formulate *Online Case Review and Division Workflow and Key Points* to further optimize the case division mechanism. After all types of disputes are filed, they are all diverted to the corresponding court for pre-litigation mediation, and if the mediation is successful and the case is paid on the spot, the case will be concluded directly; if the mediation is successful but the case cannot be paid on the spot, judicial confirmation will be carried out in a timely manner; if the mediation is not successful, the case should be filed online and concluded by the expedited trial procedure. After the judicial confirmation and expedited trial procedure, cases that cannot be paid in a timely manner are directly executed. A small number of cases enter into the formal procedure, and are further built according to the standard of excellent cases. Effectively integrate the dispute resolution resources, provide the alternative, efficient and low-cost disputes solutions for the parties.

Third, organize assessment scientifically. Reasonably allocate the expedited trial judges and mediators, and further optimize the assessment methods. The cases confirmed by mediation that will not proceed to litigation and the cases with immediate payment are included in the scope of performance assessment, and moderately increase the weighting coefficient of judicial confirmation cases, so as to encourage judges to

resolve disputes in the above two ways. Through close cooperation with the information technology department, develop a statistical monitoring system suitable for the characteristics of maritime justice, to provide information and data to reflect the work situation comprehensively and accurately, and effectively enhance the efficiency of disputes resolution.

2. Strengthen the functions of the court, focus on the front-end and treat illnesses in advance

The dispatched courts focus on the specific problems that constrain the enhancement of judicial effectiveness, cooperate closely with the sea-related administrative organs, industry associations, professional mediation organizations and other alternative disputes resolution forces within the jurisdiction, to achieve full coverage of the key industries and areas, to give full play to the role of the dispatched courts at the forefront of litigation services within the jurisdiction, and to realize the litigation services' convenience and benefit for the people.

(1) Yantai Dispatched Court

Rely on the Yantai Alternative Commercial and Maritime Mediation Center, give full play to the important role of mediation in resolving contradictory disputes in the maritime and commercial fields, promote the construction of online coordination mechanism of litigation and mediation, and set up coordination channels between online and offline mediation and litigation. The court has formed a good pre-litigation mediation cooperation model with the Maritime Safety Administration, the Coast Guard and important fishery production collectives within its jurisdiction. Include the types of cases such as pre-litigation examination of evidence, identification, preservation, average adjustment and so on into the process of pre-litigation disputes resolution mechanism, provide efficient mediation services in the commercial and maritime field involving commercial subjects, sale

contracts, finance and insurance, international trade, etc. Mediators in the court make full use of online communication channels to follow the mediation process all the time. For the cases in which mediation is unsuccessful, form the transcripts timely and effectively and incorporate the transcripts into the subsequent litigation procedures; for cases requiring identification, urge the parties to apply for identification in advance, form the identification results as early as possible, so as to provide friendly, flexible, economical and convenient solutions for commercial and maritime disputes resolution.

(2) Weihai Dispatched Court

Rely on the Weihai Maritime Law Research Center, actively provide legal services to sea-related enterprises and promote the non-litigation approach to resolve the commercial disputes. Regulate the pre-litigation mediation process, construct a "Three Sphere Integrated" model of pre-litigation mediation, set up a "Three Stages" pre-litigation mediation mechanism to ensure that mediators, judges and clerks work together to form a synergy. Link up the cases, incorporate the pre-litigation mediation and examination transcripts into the expedited trial cases, reduce the time of evidence examination, improve the efficiency of court hearings, shorten the period to conclude the case, and realize the expedited trial of simple cases. All of the judges, court staff, and judicial personnel in the Court initiatively integrate into Weihai social governance and mediation work pattern, strengthen the contact with people's mediation, industry mediation and other organizations, build "horizontal to the edge, vertical to the end" mediation work system, go deep into the fishing port terminals to answer questions and solve problems for the crew and shipowners. Strengthen the communication and collaboration with border guards, maritime authorities, fisheries authorities, ship inspectors and other sea-related departments

under its jurisdiction, construct a basic dispute resolution model of "Court + Maritime + Fisheries", build a strong synergy and promote the substantive resolution of conflicts and disputes prior to litigation.

(3) Shidao Dispatched Court

Actively contact with resident party committees, governments, courts and sea-related administrative organs, establish a coordination mechanism, and set up the "Old Captain's Mediation Room" at Shidao Fisherman's Wharf. Rely on the mediation room source management information technology terminal, move the mediation gate forward, synchronize case information, mediation resources and settlement agreement to the management terminal, provide various justice service forms including the remote real-time online guidance of judges, mediator multi-party conference, mediation between parties in different places, to achieve that the contradiction resolution process is online all the time and the process leaves trace all the time, which greatly enhances the efficiency of the dispute resolution by mediators, makes the source of the management to be more humanized and intelligent, and realizes "small things do not go out of the harbor, conflicts are not handed over". Since the operation of the "Old Captain Mediation Room", the number of cases accepted by the Shidao Court decreased by 55% compared to the same period last year, which is the first significant drop in many years, the source management has obvious effectiveness, fully safeguarding the orderly development and utilization of the sea area and the high-quality development of the marine economy under jurisdiction.

Adhere to the concept of active justice, promote the establishment of a new model for the source management of "Dispute resolution", and explore new paths for the development of the "Fengqiao Experience" in the new era. Give full play to the functions of maritime courts, fishery

administrative authorities, fishery mutual insurance associations, private fishery associations and other types of sea-related entities, create a three-tier platform, strengthen the linkages of the multi-subjects on the basis of an orderly division of work, form a synergy in the source management. Establish "Dispute resolution" pre-litigation mediation rooms in coastal key fishery villages and fishing ports, strengthen the prevention of conflicts and disputes at source, and to resolve fishery-related disputes in the bud in a timely manner; rely on the Lanshan District Fisheries Association, establish the "Dispute resolution" pre-litigation mediation center, give full play to the industry advantages of the fisheries association and the self-regulation function of the civilian, do a good job of controlling and resolving major fishery-related disputes in the front-end, so as to reduce the number of litigation. Establish the "Dispute resolution" guidance center for the source management in conjunction with the marine fisheries authorities, strengthen administrative mediation in fisheries-related disputes, provide guidance on the source management in accordance with the law, which has effectively maintained the order of local fisheries production and promote the high-quality development of the marine economy.

(5) Dongying Dispatched Court

By the four mechanism constructions of strengthening the interpretation of the law, optimizing the speed of settlement, contacting collaborative institutions, and regular follow-up and return visits, the work on alternative disputes resolution has been comprehensively promoted. First, appoint one court mediator and one specially invited mediator, give full play to the synergy of judges and mediators, implement the interpretation of law and reasoning in the litigation risk tips, notice of rights and obligations, interpretation of the law, legal advocacy and other aspects, open up the barrier of the "last kilometer" in the heart of parties. Secondly,

after obtaining the consent of both parties, the court will organize the exchange of evidence and online and offline mediation in the shortest possible time, and further simplify the judgement documents, realize that the case will be concluded and the documents will be delivered in the court. Thirdly, initiatively contact the resident maritime enforcement agencies, mediation committees and other sea-related organizations, strengthen the collaboration mechanism, open up communication channels, and further explore effective countermeasures to reduce the number of similar disputes. Fourth, establish a regular return visit system for mediation cases, follow the realization of the rights and interests of the parties in real-time. A number of measures have been taken in an effort to increase the success rate of mediation and local settlement, to enhance the sense of achievement and satisfaction of the parties concerned.

（六）妥善化解“中华富强”轮系列案件

一、“中华富强”轮系列案件办理经过

2021年4月19日，“中华富强”轮载客677人、载车162辆及相应货物、物品等，由威海开往大连，途中发生火灾。返航后救助过程中船舶发生燃爆，未造成人员伤亡。5月7日，“中华富强”轮船东威海市海大客运有限公司（以下简称海大公司）申请设立海事赔偿责任限制基金，基金限额人民币28274236.09元。收到申请后，青岛海事法院立即成立“中华富强”工作综合专班，与威海“中华富强”轮火灾事故理赔处置工作专班进行会商，确立以海事司法程序为主、威海专班协助配合的府院联动工作方案。

2021年5月15日至7月15日公告期间，1050名事故受损方进行债权登记。8月6日至9月22日，889件确权诉讼案件集中立案受理，案件进入正式审理阶段。11月16日，国家海事局发布《威海“4·19”“中华富强”轮调查报告》，对事故经过、原因、责任方等作出认定，作出《海上交通事故责任认定书》。2022年7月13日，基金项下案件全部审结，裁判文书全部依法送达。7月21日，召开全体债权人线上会议，确定海事赔偿责任限制基金分配方案。12月30日，基金款项基本支付完成，事故相关纠纷得以顺利处置。

二、“中华富强”轮系列案件主要特点

一是案件数量庞大、原告成分复杂、地域跨度广。接收债权登记材料 3000 余份，按照五大类型合并立案，制作裁定 1050 件，审理确权诉讼 889 件，系列案件数量为青岛海事法院史上之最。涉及挂靠司机、生产制造企业、物流公司等多个类型主体，遍布我国 13 个省市，涵盖制造、运输、消费、港口等各行各业。

二是案件类型复杂、法律问题繁多、审理难度大。纠纷性质涉及车损、货损、货保险、车保险以及旅客行李索赔等五大类，法律问题涵盖基础法律关系界定、三大形式证据认定、各类财产损失认定等多个领域。仅提请审判委员会研究的共计 4 大项、8 中项、35 小项。

三是程序叠加进行、兼顾稳定大局、统筹难度大。基金设立异议审查、债权登记、确权诉讼立案、确权诉讼前期准备、确权诉讼审判等程序前后叠加同时进行。该案审理中还涉及人员、效率、质量、效果统筹，难度较大。

四是社会关注度高、恰逢重大节日、维稳压力大。“中华富强”轮火灾事故发生即受到社会广泛关注，案件处理程序多、时间长，生效债权足额实现压力较大，案件维稳工作难度大。

三、“中华富强”轮系列案件经验做法

一是府院联动，维护社会稳定大局。府院联动方针贯穿办案全过程，审判质量与维稳管控“两手抓”，审判工作及

系统质效“双兼顾”。威海专班实时与青岛海事法院保持对接，兼顾坚持法内原则和增加法外温度双向保民生，在债权人的司法权利得到合法有效保障的同时，经济利益得到最大化实现。

二是勇于担当，统一行动合力作战。立即成立综合专班，全院统筹一盘棋，以统一决策、统一裁判尺度、统一行动时间节点顺利完成各阶段任务。

三是创新方法，不同阶段精准施策。在债权登记、确权诉讼、基金分配各个阶段，根据场景和当事人实际情况分类确定处理方法。债权登记时即研究审判方案、发送债权登记裁定时同时发送诉讼立案指导材料并指导债权人举证等。判决一经报结即归口管理、按事登记，为基金分配作好准备。基金分配时按是否预缴诉讼费、是否判后转移债权等确定数额，完成双对账双核算，解决了案件数量庞大，金额差异大，情况复杂等难题。创新采用表格式判决、法律框架内庭外和解模式、线上债权人会议等形式顺利高效审结全部案件，实现了法律效果和社会效果的统一。

四、“中华富强”轮系列案件典型意义

“中华富强”轮系列案件的顺利审结，为海事法院涉海群体性系统案件审理积累了宝贵经验，意义重大。

一是建强府院联动机制，处置稳中有序。“中华富强”轮系列案社会影响面广，案件稳控风险较高。为此，青岛海

事法院专班与威海专班建立常态化会商机制及交叉驻点模式，统一处置方案，积极引导当事人充分采用司法方法解决相关纠纷，实现了优势互补、协同推进。同时，通过及时通报案件进展信息及案件当事人的最新动态，做到因时施策，因事施策，确保事故处置平稳有序。

二是依托海事司法程序，有效化解矛盾。积极引导众多受损方通过法律途径解决纠纷，成功将突发性、紧急性的群体事件转化为依法定程序有序推进的司法案件，大大减轻党委政府压力。针对案件所涉法律问题多次召开审判委员会会议，最终制定五类要素式裁判文书模板，889件确权诉讼案件全部顺利审结，当事人服判息诉，唯一一件进入二审程序的案件，省法院终审判决驳回上诉维持原判。

三是勇于创新精准施策，取得预期效果。审判团队集中审理系列案件，应时创新，谨慎施策，最终判决总金额达上亿元，基本接近事故报告预估经济损失，社会面普遍反应平稳，实现了政治效果、社会效果和法律效果有机统一，充分体现了青岛海事法院干警的司法能力和司法水平。

VI. Properly resolve the series of cases of the “Zhonghua Fuqiang”

1. Process of handling the series of cases of the “Zhonghua Fuqiang”

On April 19, 2021, the “Zhonghua Fuqiang” was carrying 677 passengers, 162 vehicles and corresponding goods from Weihai to Dalian when a fire broke out on the way. After the return voyage, the ship exploded during the rescue process, and no casualties were caused. On May 7, the shipowner of the “Zhonghua Fuqiang”, Haida Passenger Transport Co., LTD. (hereinafter referred to as Haida Company) applied for the establishment of a limitation fund for maritime claims liability, with a limit of RMB 28,274,236.09. After receiving the application, Qingdao Maritime Court immediately set up a comprehensive task force for the case of “Zhonghua Fuqiang”, and held a meeting with the fire accident claim handling task force of the “Zhonghua Fuqiang” of Weihai, and developed a joint work plan with the government based on maritime judicial procedures.

During the announcement period from May 15 to July 15, 2021, 1050 injured parties registered their claims. From August 6 to September 22, 889 cases of rights confirmation litigation were filed and accepted, and the cases entered the formal trial stage. On November 16, the Maritime Safety Administration of PRC issued the “Investigation Report of the ‘Zhonghua Fuqiang’ of Weihai on April 19”, which identified the accident process, causes, responsible parties, and made the “Responsibility Identification Letter of Maritime Traffic Accident”. On July 13, 2022, all cases under the Fund were concluded, and all judgment documents were served in accordance with the law. On July 21, an online meeting of all creditors was held to determine the distribution plan of the maritime claims liability Limitation Fund. On December 30, the payment of the fund was completed,

and the disputes related to the accident were successfully handled.

2. The main characteristics of the series of cases of the “Zhonghua Fuqiang”

The first is the huge number of cases , the complex plaintiff composition, and the wide geographical span. More than 3,000 creditor's rights registration materials were received, and 1,050 adjudications were made according to the five types of combined filing, and 889 rights confirmation lawsuits were tried. The number of series cases was the largest in the history of Qingdao Maritime Court. It involved many types of subjects, such as affiliated drivers, manufacturing enterprises, logistics companies, and spread over 13 provinces and cities, covering manufacturing, transportation, consumption, ports and other industries.

The second is the complicated types of cases , numerous legal problems, and the difficult trial. The nature of the dispute involved five categories, such as car damage, cargo damage, cargo insurance, car insurance and passenger baggage claims, and the legal issues covered the definition of basic legal relations, the identification of three forms of evidence, and the identification of various types of property losses. Only the legal issues submitted to the judicial committee for study reached a total of 4 major items, 8 medium items and 35 minor items in all.

The third is the difficulty to carry out procedures superimposed, take into account the overall situation of stability and overall planning. The procedures, such as the review of objections to the establishment of the fund, the registration of creditor's rights, the filing of litigation for confirmation of rights, the preparation of litigation for confirmation of rights, and the trial of litigation for confirmation of rights, were carried out simultaneously. The trial of this case also involves problems about personnel, efficiency, quality and effect coordination, which bring more

difficulties.

The fourth is the high social attention, there is great pressure to maintain stability, especially coinciding with major festival. The fire accident of the “Zhonghua Fuqiang” has attracted widespread attention from the society when it happened. And the case handling procedures were many, the time was long, and the realization of the full amount of effective claims was difficult, so that the stability maintenance work was under greater pressure.

3. The experience of the series of cases of the “Zhonghua Fuqiang”

The first is that the government and the court work together to maintain social stability. The principle of linkage between the Government and the Court ran through the whole process of handling cases, the quality of trial and the maintenance of stability were focused simultaneously, and the efficiency and quality of trial were balanced in overall. The Weihai task force maintained real-time docking with Qingdao Maritime Court, and took into account the principle of adhering to the law and ensuring the people's livelihood , by which maximize the economic interests on the premise of that the judicial rights of creditors were legally and effectively protected.

The second is to have the courage to take responsibility, act in unity and fight together. Qingdao Maritime Court established a comprehensive task force immediately, and the entire court acted as one to successfully complete the tasks at all stages though unified decision-making, unified judge scale, unified action time node.

The third is to innovate methods and precise policies at different stages. During the various stages of creditor's rights registration, right confirmation litigation, fund distribution. The treatment method was determined based on the scene and the actual situation of the parties. When the creditor's rights were registered, the trial plan was studied. The

litigation filing guidance materials were sent when an adjudication on the registration of claims was issued, and the court guided the creditor to provide evidence at the same time. Once the judgment was reported to conclude, it would be centrally managed and registered according to the matter to prepare for the fund distribution. When the fund was allocated, the amount was determined according to whether the legal fees were paid in advance, whether the claims were transferred after the judgment, and the double reconciliation and double accounting were completed, which solved the problems, such as the large number of cases, the large amount difference, and the complicated situation. Innovative forms such as form-based judgment, out-of-court settlement model within the legal framework, and online creditor meetings had been adopted to successfully and efficiently conclude all cases, achieving the unification of legal and social effects.

4. the typical significance of the series of cases of the “Zhonghua Fuqiang”

The successful conclusion of the series of cases of the “Zhonghua Fuqiang” has accumulated valuable experience for the maritime court's trial of maritime, communal and systematic cases, which is of great significance.

The first is to build a strong linkage mechanism between the Government and the Court, and deal with it in a stable and orderly manner. the series of cases of the “Zhonghua Fuqiang” had a wide social impact, and the risk of cases stability control were high. To this end, the comprehensive task force of Qingdao Maritime Court and the task force of Weihai established a normalized consultation mechanism and a cross-residence mode, unified the disposal plan, and actively guided the parties to fully adopt judicial methods to solve relevant disputes, achieving complementary advantages and coordinated promotion. At the same time,

through timely reporting of the information of progress of the cases and the latest news of the parties, policies were implemented based on the time and the matter, to ensure the smooth and orderly handling of the accident.

The second is to rely on maritime judicial procedures to effectively resolve disputes. Qingdao Maritime Court actively guided many injured parties to solve disputes through legal means, successfully transforming sudden and urgent public events into judicial cases with orderly progress according to law. This greatly reduced the pressure on the Party Committee and the Government. In view of the legal issues involved in these cases, several meetings of the Adjudication Committee were held, and five types of element type written judgments were finally formulated. All 889 rights confirmation litigation cases were successfully concluded, and the parties served the judgment. The only case that entered the second instance procedure was rejected by the High People's Court of Shandong Province.

The third is to innovate courageously and adopt precise policies to achieve the desired results. The trial team focused on the trial of the series of cases, innovated timely, operated policies carefully. The final judgment totaled hundreds of millions, basically closed to the estimated economic losses of the accident report. The reaction of the community was generally stable, and the organic unity of political effect, social effect and legal effect has been realized, fully reflecting the judicial ability and judicial level of Qingdao Maritime Court.

（七）“交响乐”轮海域污染系列案件有序推进

2021 年 4 月 27 日，利比里亚籍“交响乐”（A SYMPHONY）轮与巴拿马籍“义海”（SEA JUSTICE）轮在青岛朝连岛东南海域发生碰撞，不同程度受损。其中，“交响乐”轮泄漏货油 9400 多吨，造成特别重大船舶污染事故，该事故对青岛及周边海域（烟台海阳市，威海乳山市、南海新区、文登区）造成污染，其中青岛海域污染最为严重，黄海中部主要渔场的天然渔业资源、增养殖生产、岸滩、海岛、自然保护地、滨海湿地、海水浴场、滨海旅游区等受到极大影响。该系列案件涉及中国、希腊、英国、巴拿马、利比里亚、印度、菲律宾等多个国家，法律适用涉及诸多国际公约、国际惯例等，牵涉超过 160 个诉讼主体，总索赔金额高达 65 亿元，社会关注度极高。自事故发生以来，青岛海事法院积极参与到事故处理的各项工作之中，以期能够及时回应社会关注与期待，妥善处理该系列案件。

一、发挥司法前伸职能

一是第一时间送法上门。“4·27”事故初期，各方掌握的信息仅局限于事故漏油量在 400 吨左右，事故的污染程度和损失大小难以确认。青岛海事法院在事故当日即决定主动作为，派遣资深法官前往政府相关职能部门开展调研，送法上门。这一做法很快得到了青岛市委市政府的积极回应，先后被纳入青岛市应急指挥和山东省应急指挥协作单位。期

间，多次参与青岛市委市政府、山东海事局召开的相关应急会议，并先后几十次前往相关职能部门提供法律咨询服务，取得了良好的社会效果，有关工作得到了省市主要领导的高度评价。

二是及时编制工作指引。依据工作实际，编制工作指引，明确案件办理各个环节的工作要求、注意事项等重要内容，有关机关依照该指引指导损失主体及时保存、固定证据，委托有资质的鉴定机构开展鉴定工作，为后续诉讼的快速开展、查明事实做好准备。

三是推进原油安全过驳。事故发生后，“交响乐”轮上还有 14 吨左右的货油，当时正值风大的春季，如不及时卸载，货船存在起火爆炸风险，将造成不可估量的损失。但因海况恶劣、油量太大、过驳风险高，“交响乐”轮船东与过驳公司就合同条款始终无法达成一致意见。青岛海事法院分管院领导带队赴山东海事局，运用过硬的业务能力打破谈判僵局，在费用确定等关键问题上明法析理，从双方利益出发给出最优选项，最终促成了合同签署。在各方的共同努力下，“交响乐”轮及时过驳危险货油，成功脱离起火爆炸的危险境地，充分保障了人民群众的生命财产安全。

二、发挥司法审判职能

一是指导政府和涉案主体提起诉讼，形成合理索赔预期。帮助政府部门理顺了清污单位如何垫资、何时垫资、垫资后

如何索赔等问题的处理思路,指导其有效开展诉讼相关工作。同时,与涉案主体积极沟通,努力降低污染事故的负面社会影响,引导各方树立正确的索赔观,放弃漫天要价、上访缠诉等想法,把精力集中在及时保存、固定证据上,确保涉案养殖户及清污主体保持情绪稳定,对获赔结果形成合理预期。

二是提炼类案裁判规则,积累油污审判理论和实践经验。涉案外轮分别依据我国海商法和有关国际公约的规定设立了海事赔偿责任限制基金和油污损害赔偿责任限制基金。先后有超过 160 个诉讼主体提起诉讼,涉及养殖损害、清污损失、货物损失、海难救助、船舶碰撞责任、船舶债权等多种类型。青岛海事法院积极总结审判方法,提炼审判规则,根据审判需要开展了大量理论研究,对平行诉讼,涉养殖、清污、海难救助案件以及海洋公益诉讼等法律问题调研,为完善我国禁诉令制度提供参考,为该系列案件的顺利审理提供理论及实务支撑,从而对指导和规范海洋开发利用、促进海洋经济发展以及保护海洋环境生态起到积极作用。

三、发挥司法后延职能

一是积极发出司法建议。针对审理中发现的有关职能部门的不规范行为,通过案件审判和司法建议及时规范和引导,促进行政执法规范化,助力涉海法治环境、营商环境、生态环境改善。

二是推进“三审合一”机制改革。经请示,最高院指定

该系列案件涉及的海事刑事案件由青岛海事法院审理,这是落实深化人民法院司法体制改革要求的重要举措,不仅利于海事民事、行政、刑事案件的统一协调处理,也有利于构建统一的海洋生态保护司法体系。

三是为服务保障海洋强国战略增势赋能。该系列案件的妥善审理,是服务和保障海洋经济高质量发展的有益司法探索,将对青岛乃至山东海域未来的海洋生态环境保护和修复、海洋渔业资源修复、海洋开发利用、养殖主体和清污主体权益保护、海上救助行业发展等产生深远影响。

VII. Carry out the series of maritime pollution cases of “A SYMPHONY” in an orderly manner

On April 27, 2021, the Liberian ship “A SYMPHONY” and the Panamanian ship “SEA JUSTICE” collided in the southeast sea area of Qingdao's Chaolian Island, with varying degrees of damage. Among them, “A SYMPHONY” leaked more than 9,400 tons of cargo oil, resulting in a particularly serious ship pollution accident, which caused pollution to Qingdao and its surrounding waters (Yantai Haiyang City, Weihai Rushan City, Nanhai New Area, Wendeng District), among which sea area of Qingdao was the most seriously polluted. In the middle of the Yellow Sea, the natural fishery resources, aquaculture breeding production, beaches, islands, natural protection areas, coastal wetlands, bathing beaches, coastal tourism areas, etc., have been greatly affected. The series of cases involved China, Greece, the United Kingdom, Panama, Liberia, India, the Philippines and other countries, the application of many international conventions, international practices, and more than 160 litigation subjects. The total claims amount to 6.5 billion yuan. Therefore the series of cases got a high social attention. Since the accident occurred, Qingdao Maritime Court has actively participated in the work of the accident handling, in order to respond to social concerns and expectations in a timely manner, and properly handle the series of cases.

1. To exert the forward function of judicature

The first is to provide legal assistance as soon as possible. At the early stage of the accident on April 27, the information available to all parties was limited to about 400 tons of oil leakage, and the degree of pollution and loss of the accident were difficult to confirm. Qingdao Maritime Court decided to take the initiative on the day of the accident, sending senior

judges to the relevant functional departments of the government to carry out research and provide legal assistance. This practice soon received a positive response from Qingdao Municipal Party Committee and Qingdao Municipal Government, and Qingdao Maritime Court was successively incorporated into the cooperation units of Qingdao Emergency Command and Shandong Emergency Command. During the period, Qingdao Maritime Court participated in the relevant emergency meetings held by Qingdao Party Municipal Committee, Qingdao Municipal Government and Shandong Maritime Safety Administration for many times, and went to relevant functional departments to provide legal consulting services for dozens of times, achieving good social effects, and high praise by provincial and municipal leaders.

The second is to formulate work guidelines in a timely manner. According to the reality, work guidelines were formulated to clarify the work requirements, precautions and other important contents of each link of cases handling. The relevant authorities guided the subject of loss to save and fix the evidence in a timely manner according to the guidelines, and entrusted a qualified appraisal institution to carry out the appraisal work, so as to prepare for the rapid development of subsequent litigation and the identification of facts.

The third is promoting the safe transfer of crude oil. After the accident, there was about 14 tons of cargo oil in the “A SYMPHONY”, which was in the spring when the wind was strong. If not unloaded in time, there was the risk of fire and explosion, which would cause immeasurable losses. However, due to bad sea conditions, too much oil and high risk of transfer, the owner of the “A SYMPHONY” and the transfer company have been unable to reach an agreement on the terms of the contract. The responsible leader of Qingdao Maritime Court led a team to Shandong Maritime Safety

Administration and used their excellent professional ability to break the deadlock in negotiations. They clarified the law on key issues such as cost determination according to the law, provided the best solution for both sides' interests, and finally facilitated the signing of the contract. With the joint efforts of all parties, the dangerous cargo oil on the "A SYMPHONY" was transferred in time, and successfully avoided fire and explosion hazards, which fully protected the safety of people's lives and property.

2. To give full play to judicial functions

The first is to guide the government and the subjects involved in litigation to form reasonable claims expectations. Qingdao Maritime Court assisted government departments in clarifying the processing procedures of how and when the cleaning unit should pay the advance payment, and how to claim compensation after paying, as well as guided them to effectively carry out litigation-related work. At the same time, Qingdao Maritime Court actively communicated with the involved subjects, striving to minimize the negative social impact of the pollution accident. The Court guided them to establish a correct view of claims, including abandoning excessive demands and unnecessary petitions, and focusing on timely preservation and fixation of evidence. This ensured that both the affected farmers and the pollution-cleaning subjects maintained emotional stability while forming reasonable expectations regarding compensation results.

The second is to refine the adjudication rules of similar cases and accumulate theoretical and practical experience in oil pollution trial. According to the provisions of China's maritime law and relevant international conventions, the ship involved in the case established a limitation fund for maritime claims liability and a limitation fund for oil pollution damage liability. Over 160 litigants have filed lawsuits, involving damages to aquaculture, losses from cleaning operations, cargo losses,

maritime salvage, ship collision liabilities, ship claims and other types. Qingdao Maritime Court actively summarized trial methods, refined trial rules, carried out numerous theoretical studies based on trial needs, including parallel litigation, aquaculture-related cases, feculence-clearing, maritime salvage as well as marine public interest litigation and other legal issues. These studies provided reference for improving China's injunction system while offering provided theoretical and practical support for the smooth trial of this series of cases. Thus it will play a positive role in guiding and regulating marine development and utilization while promoting marine economic development as well as protecting the marine environment and ecology.

3. Exert the function of judicial extension

The first is to issue judicial suggestions actively. Against the irregularities of relevant functional departments found in the trial, Qingdao Maritime Court standardized and guided them in a timely manner through case trials and judicial suggestions, to promote the standardization of administrative law enforcement, and help improve the maritime legal environment, business environment, and ecological environment.

The second is to advance the reform of the mechanism of that the trials of the three types of cases were conducted uniformly. Upon request, the Supreme People's Court designated the maritime criminal cases involved in this series of cases to be tried by Qingdao Maritime Court, which is an important measure to implement the requirements of deepening the reform of the judicial system of the people's courts. This is not only conducive to the unified and coordinated handling of maritime civil, administrative and criminal cases, but also conducive to the construction of a unified judicial system for marine ecological protection.

The third is to enable the strategic growth of the strategic of maritime

power. The proper trial of this series of cases is a beneficial judicial exploration to serve and guarantee the high-quality development of the marine economy, and will have a far-reaching impact on the future protection and restoration of the marine ecological environment, the restoration of marine fishery resources, the development and utilization of marine resources, the protection of the rights and interests of aquaculture entities and pollution cleanup entities, and the development of the marine rescue industry in the sea area of Qingdao City and even Shandong Province.

（八）打造船舶扣押监管全流程新模式

一、背景目的

长期以来，船舶扣押、监管领域标准不统一、操作不规范现象较为突出，船舶鉴定与看船机构不在册，法官自由裁量空间较大，船舶监管不规范甚至缺位等安全隐患突出，存在一定诉讼和廉政风险。为提升船舶拍卖成交率和溢价率，满足海事司法需求，规范船舶扣押监管行为，防范司法腐败，青岛海事法院发挥首创精神，打造船舶扣押监管全流程标准化新模式，有力提升人民群众获得感满足感，提高中国海事审判国际竞争力，为服务国际航运中心建设、打造国际海事司法争端解决优选地，提供了新经验新方案。

二、主要做法

一是出台《扣押与拍卖船舶流程管理规范（试行）》，建立专业船舶扣押工作团队。发布《扣押与拍卖船舶流程管理规范（试行）》，从船舶扣押裁定、船舶扣押实施、船舶看管和检验评估、船舶拍卖、债权登记与清偿分配等6个方面进行了全面规范。制定《青岛海事法院法警支队扣押船舶团队工作规范》，建立专门船舶扣押团队，协助案件承办人实施登船扣押、船舶交接等工作，全面加强船舶扣押规范化水平。

二是自主研发设计船舶扣押拍卖管理平台并投入使用。平台于2022年1月正式上线运行。依托山东省全流程网上办案系统，以涉案船舶为核心标的物，以《管理规范》为设

计理念，一揽子解决海事司法涉船问题，优化船舶扣押监管，为审判赋能，实现了该领域“从0到1”的突破。平台系全国海事法院首创，受到2021年中国——上合组织国家地方法院大法官论坛与会人员广泛赞誉，作为山东省政府创新成果在全省推广，获评山东省政法系统提升全民数字素养与技能创新实践案例、法治日报社2022年度智慧法院创新案例。

三、平台特色亮点

一是打通了服务当事人最后一公里，为扣押船舶争分夺秒。设置服务当事人的船舶管理服务号，将传统线下操作移植到线上办理，大大提高审查和实施效率，尤其当涉案船舶正在执行班轮运输、涉外运输任务、异地扣押等紧急场景下，能最大限度满足48小时内扣押的急迫需求。

二是打造船舶看管和检验评估机构报名和审核系统，构建互联网+“双库”机制。涉船机构入库标准全面公开，入库过程可监督，涉船机构线上申请入册报名，审核平台对照14项看管要求和10项检验评估要求进行自动比对，有效避免了暗箱操作，既为涉船机构提供一站式服务，又有利于法院规范管理。审核通过后形成两大独立涉船机构库（看管库和检验评估库），统一选取标准，解决了船舶这一特殊动产，以往无法从全国法院统一部署的鉴定评估系统中选取船舶看管和检验评估的固有障碍。

三是打造船舶看管和检验评估机构管理网，确保机构选

取和报价全程透明，节点留痕可追溯。涉船机构线上上传报价材料和检验评估报告、确认看管费用、查看摇号结果和委托事项评价考核。打造智能化线上筛选摇号体系，增设利害关系人回避选项，确保机构选取的公平性和不确定性。公开留痕的报价系统，避免了机构间恶性竞争，有效降低当事人诉讼成本，从制度机制上树起了一道坚固的廉政防火墙。

四是打造船舶扣押拍卖管理系统，优化办案流程，重塑六大节点，为审判提质增效。该系统部署于法院专网，法官在法院专网同一页面即可完成涉船案件的全部流程操作，全程线上办理并形成业务闭环。应用区块链加密技术保障数据安全，对案件流转中的文档审批、签章流程进行有效整合、全程留痕，区块链存证实现可追溯和有效比对，以信息化手段助力办案提质增效。

四、应用成效

一是有效保障司法为民落地落实。平台运行后，共处理242名当事人扣押船舶申请，线上出具扣押命令167份；37艘船舶线上摇号选取了检验评估机构；17家船舶看管机构和42家检验评估机构线上提出申请。为当事人提供对案件办理进度、机构选取透明度、法官和辅助人员司法作风进行监督的可靠途径，全面落实司法为民理念。

二是夯实海事司法高质量发展基础。自当事人提交船舶扣押申请至船舶拍卖成功进行价款分配，内部逐层审批，全

程节点留痕。在机构选取方面，畅通了选取机构途径，进一步提高了机构委托事项办理的质量和效率，保证了有资质的机构愿意入驻、能够入驻，有公平的受托机会，也保证了无资质的机构没有机会入驻，有问题的机构能够被及时停止受托，甚至被从平台上剔除，实现“良币驱逐劣币”效应，改变了船舶评估、看管环节的乱象，净化了船舶看管、评估领域的生态，对症船舶看管、评估检验环节不透明，不可预期等痼疾，解决了长期以来困扰海事审判的一大难题。经严格审核，目前组建了由 26 家检验机构和 13 家看管评估机构组成的机构库，保障了机制健康运行。

三是助力提升中国海事司法国际影响力。2022 年，青岛海事法院扣押各类船舶 110 艘，其中外轮 8 艘，占 8%，拍卖外轮 1 艘。船舶扣押拍卖全流程可竞争可监督可管理，加速了纠纷解决，促使资源要素更快回到市场中去，加快形成了高效便捷公正的营商环境，成为我国加快形成国内国际双循环的例证，也是我国坚定不移对外开放的例证。平台经验可复制可推广可借鉴，对积极行使海事司法管辖权，平等保护中外各方当事人的合法权益，进一步提高海事司法国际公信力，同样具有重要推动作用。

VIII. Create a new pattern for the whole process of ship detention and supervision

1. Background and purpose

For a long time, the standard of ship seizure, supervision is not uniform, the phenomenon of irregular operation is relatively notable, the ship appraisal and inspection of the ship agencies are not on the register, the judge has a large space for discretion, the non-standard or even missing ship supervision and other security risks are prominent, existing a certain litigation and integrity risk. In order to enhance the ship auction transaction rate and premium rate, meet the needs of maritime justice, standardize the supervision of ship seizure, and prevent judicial corruption, Qingdao Maritime Court has exerted its pioneering spirit to create a new pattern of standardization of the whole process of ship detention and supervision, which has effectively enhanced the people's sense of satisfaction and the international competitiveness of China's maritime adjudication, provided new experience and new solutions for serving the construction of international shipping center and creating a preferred place for international maritime judicial dispute settlement.

2. Key practices

Firstly, *Regulations on the Management of the Process of Ship Detention and Auction (for trial implementation)* have been issued to set up a professional ship detention team. *Regulations on the Management of the Process of Ship Detention and Auction (for trial implementation)* comprehensively regulate six aspects of ship detention ruling, implementation of ship detention, ship care, ship inspection and assessment, ship auction, and registration of claims and distribution of liquidation. *Formulation of Qingdao Maritime Court Judicial Police Detachment Ship*

Seizure Team Work Specification has established a specialized ship detention team to assist the case undertaker in the implementation of boarding and seizure, ship handover, etc., so as to comprehensively strengthen the standardization level of ship detention.

Secondly, the platform for the management of ship seizure auction has been independently developed and designed and put into operation. The platform was officially put on line in January 2022 for operation. Relying on Shandong Province's full-process online case handling system, with the ship involved in the case as the core subject matter, and *Regulations on the Management of the Process of Ship Detention and Auction (for trial implementation)* as the design concept, the platform solves the problems related to ships in maritime justice in one package, optimizes the supervision of ship seizure and empowers the trial, realizing the breakthrough of "from 0 to 1" in this field. The platform is the pioneer of the Maritime Courts in China, widely praised by the participants of the 2021 China-SCO Countries Local Court Chancellor Forum, promoted in the province as an innovative achievement of the Shandong Provincial Government, and evaluated as an innovative practice case of Shandong Provincial Political and Legal System to enhance the digital literacy and skills of the whole population, and an innovative case of Legal Daily's 2022 Annual Intelligent Court.

3. Features and highlights of the platform

Firstly, it has connected the last kilometer of service to the parties concerned and fought for time for the seizure of ships. The setting up of a ship management service number to serve the parties and the transplantation of traditional offline operations to online processing have greatly improved the efficiency of review and implementation, especially when the ship involved in the case is carrying out urgent scenarios such as

liner shipping, foreign-related shipping tasks, and off-site seizure, which can maximize the ability to meet the urgent need for seizure within 48 hours.

Secondly, it creates the registration and audit system for ship care inspection and assessment agencies, building the Internet + "double bank" mechanism. The criteria for ship-related organizations to enter the pool are fully published, and the process of entering the pool can be supervised. Through the ship-related institutions online application for registration, the audit platform will automatically check all requirements against the 14 caretaker requirements and 10 inspection and assessment requirements, effectively avoiding backdoor operations, providing one-stop service for ship-related institutions and facilitating the court's standardized management. After passing the review, two independent ship-related organizations will be formed (caretaker library and inspection and assessment library), and the selection criteria will be unified, thus solving the inherent obstacle that ships, as a special movable property, could not be selected from the appraisal and assessment system deployed by the national courts for caretaking and inspection and assessment of the ships in the past.

Thirdly, it creates a management network for ship care inspection and assessment agencies to ensure that the selection of agencies and offers are transparent and the nodes are traceable. Ship-related institutions can upload quotation materials and inspection and assessment reports online, confirm the cost of caretaking, view the lottery results and evaluation and assessment of entrusted matters. Smart online screening and shaking system is created, and the option of avoidance by interested parties is added to ensure the fairness and uncertainty of agency selection. The quotation system, which is open and traceable, avoids vicious competition among institutions, effectively minimizes litigation costs for the parties, and establishes a solid integrity firewall in terms of institutional mechanisms.

Fourthly, it creates a ship seizure and auction management system, optimizes the case handling process, reshapes the six nodes, improving quality and increasing efficiency for the trial. The system is deployed on the court's special network, and judges can complete all the process operations of ship-related cases on the same page of the court's special network, handling the whole process online and forming a closed-loop operation. It applies blockchain encryption technology to ensure data security, effectively integrates the document approval and signature processes in the flow of cases and leaves traces of the whole process, and the blockchain deposit enables traceability and effective comparison, so that information technology can help improve the quality and efficiency of the cases.

4 Effectiveness of application

Firstly, it effectively guarantees the implementation of justice for the people. Since the platform came into operation, a total of 242 party applications for ship seizure have been processed, 167 seizure orders have been issued online, 37 ships have been selected by online lottery for inspection and assessment agencies, and 17 ship caretaker agencies and 42 inspection and assessment agencies have applied online. This provides a reliable way for parties to monitor the progress of case processing, the transparency of agency selection, and reliable means of monitoring the judicial behavior of judges and support staff with full embracing of the concept of justice for the people.

Secondly, it is to consolidate the foundation for the high-quality development of maritime justice. Since the parties submitted ship detention application to the ship auction successful price allocation, through the internal layer by layer approval, the whole node can leave a trace. In the aspect of agency selection, the way of selecting agencies has been opened

up to further improve the quality and efficiency of agency commissioning, ensuring that qualified agencies are willing and able to enter and have a fair opportunity to be entrusted with, and also ensuring that unqualified agencies have no opportunity to enter, and problematic agencies can be stopped in a timely manner from being entrusted with, and even removed from the platform, realizing the effect of "good money expelling bad money", changing the chaos of the ship assessment and caretaker session, purifying the ship caretaker, assessment of the ecological field, the problem of non-transparency and unpredictability of the symptomatic ship care and assessment and inspection process, which has long plagued maritime trials, has been resolved. After rigorous review, the current formation of 26 inspection agencies and 13 care and inspection agencies composed of a pool of institutions, ensuring the healthy operation of the mechanism.

Thirdly, it helps to enhance the international influence of China's maritime justice. In 2022, Qingdao Maritime Court seized 110 ships of various types, including 8 foreign ships, accounting for 8%, and auctioned 1 foreign ship. The whole process of ship seizure auction can be competed and supervised and managed, accelerating the dispute resolution, prompting the resource elements to return to the market faster, accelerating the formation of an efficient, convenient and fair business environment, and becoming an example of accelerating the formation of the inter-circulation of domestic and international economy in our country, which is also an example of the unswerving opening-up of our country to the outside world. The experience of the platform can be replicated, promoted and applied, and has an equally important role in promoting the active exercise of maritime jurisdiction, protecting the legitimate rights and interests of Chinese and foreign parties on an equal basis, and further enhancing the international credibility of maritime justice.

（九）创新文化建设途径 打造“书香法院”品牌

青岛海事法院紧紧围绕习近平总书记关于文化建设的指示要求，把文化建设融入到法院工作的各个方面，创造性地提出了“一二三四五”海事审判工作思路，推出“书香法院”文化建设项目，引导干警勤学、善思、笃行，培养学习型法官、打造学习型法院，不断提升干警的政治理论水平和综合能力素养，有力保障海事审判事业的高质量发展。“书香法院”文化建设项目获评“全国法院文化建设特色项目”，写入山东省高级人民法院工作报告，并被多家中央、省、市级媒体报道。

一、升级配套设施，打造多层次文化空间

设置“书香思享空间”，全面升级配套设施，为干警打造富有书香法院特色的文化空间。

一是设置书籍自助取阅柜。在院内楼层电梯间及食堂的显著位置设置 11 个书籍自助取阅柜，方便干警利用碎片化时间进行阅读。每周定期更新书籍杂志，涉及图书类型 20 余种。

二是建设院内图书馆。与青岛市图书馆合作开设青岛海事法院分馆，丰富图书种类、数量，现有图书 6000 多册。馆内配备电子阅览设备，方便干警一体化借书还书、快速寻找目标书籍、阅读并下载电子书籍。馆外设置朗读亭，让干警身临其境感受阅读的魅力，满足干警享受朗读、快乐朗读

和社交分享的需要。

三是增设楼层电视展示平台。在每层楼电梯上方设置电视，进行时政热点、法律新闻、人文纪录片等内容展播，并每日及时更新，保证时效性与新鲜感，丰富干警精神文化生活。

四是打造对外“窗口”弘扬海事司法文化。利用一到三楼公共空间打造对外展示窗口——海洋法治教育基地，设置380余块展板，20余块屏幕，15个雕塑模型，综合使用声、光、电等新媒体技术，多角度、立体化、全景式展示了海法发展历程、青岛海事法院发展史，特别是近年来坚持党建引领、打造国际海事争议解决优选地的工作情况。海洋法治教育基地面向机关、学校、社会公众开放，对公众树立法治信仰、弘扬法治精神、传递法治强音起到了积极的促进作用。

二、营造向学氛围，推进学习型法院建设

“书香法院”以鲜明的政治性为导向，以进行全方位法院文化建设为原则，根据干警文化发展需求，举办多项活动，为干警提供精神储备，全力推进学习型法院建设。

一是举办“海课堂”。围绕政治理论、业务知识、传统文化等内容，邀请国内外知名专家学者来院讲学授课，成为一项特色学习活动品牌。创建“青岛海事法院海课堂”微信公众号，精心打造“青岛海法课堂”“青风”“海法之声”“海上枫桥”等海事特色栏目，创新宣传形式，充分发挥新媒体

优势，广泛宣讲中国海事司法规则和司法经验。

二是开设海事“译课堂”。制定实施青年干警外语能力提升计划，为干警提升英语翻译能力提供常态长效的指导。组建由 28 名青年干警组成的“书香法院外语(英语)学习团队”，邀请外教等高校教师入院开展讲座，组织英语翻译学习，开展配音秀等英语特色沙龙活动，提升青年干警外语业务能力水平。

三是开启“共读一本书”读书行动。成立读书兴趣小组，每月共读一本书，并通过短视频或读书心得等形式，在两网一号“书香法院”模块展示学习成果。推出《忠诚写青春，学习正当时》《一起读好书》等主题专栏，发表短视频及心得体会，为干警学习了解最新的海事法律制度、有关政策、典型判例等知识提供便捷平台。

四是打造“清风徐来 廉自盛开”纪检品牌，助推法院廉政文化建设。把制度建设贯穿党风廉政建设的全过程、各方面。定期组织党风廉政建设和反腐败工作会议，组织干警参观“青岛市清廉家风馆”，观看廉政警示教育片，签订党风廉政建设责任书，邀请干警家属来院进行家风廉政教育，引导干警深刻认识加强党风廉政建设和规范化建设工作的重要意义。

五是开展“乐享运动”活动。坚持文化陶冶情操，运动强健体魄，开展工间操活动、健步行活动，利用午休时间组

织干警小范围、短距离运动。成立足球、篮球、羽毛球、乒乓球、户外活动等 8 个文体活动小组，丰富干警业余文化生活，全面激发队伍的凝聚力、创造力和战斗力，实现队伍建设和业务工作的“双赢”。

三、书香建设见成效，“知行合一”结硕果

通过理论学习结合自身优势，找准海事司法职能定位，以更高站位、更大格局、更宽视野谋划和推进海事审判工作。“爱读书、读好书、善读书”的读书之道促进干警们思维发生转变、认识不断提高、专业水平得到提升，有利于更好地发挥海事司法审判职能作用，回应社会的新需求，人民群众的新期待。

一是学习型、研究型法官队伍建设初见成效，具有国际影响力的海事司法案例接续涌现。依托“书香法院”建设，干警的学习研究平台得到全面拓宽，干警投身研究的主动性大大提升。多位干警调研成果获国家、省级奖项，撰写的案例分析被《人民司法》等核心期刊采用，多个案例入选最高院、省院优秀案例。

二是以人民为中心的海事司法宣传成果丰硕，社会影响逐步扩大。青岛海事法院创新宣传方式，用接地气的语言讲好群众身边事，拓宽宣传渠道，打造海事司法名片。微电影《起航》在全国政法系统“三微”比赛中斩获十大微电影奖，“‘平等保护’赢得中外尊重”短视频入选最高院天平杯，

“海法之声”普法栏目在学习强国等平台取得了良好的社会反响，多篇信息稿件被国家级、省级、市级媒体采用。

IX. An innovative approach for cultural development: "Scholarly Court" brand

Closely aligning with General Secretary Xi Jinping's directives on cultural development, Qingdao Maritime Court has integrated cultural development into every aspect of the court's operations. Innovatively, it proposed the "One-Two-Three-Four-Five" maritime trial approach and launched the "Scholarly Court" cultural development project. This initiative encourages diligent learning, thoughtful reflection, and steadfast practice among all of the judges, court staff, and judicial personnel in the Court. It fosters learning-oriented judges and constructs a learning-oriented court, thereby continuously enhancing the political theory level and comprehensive ability of all of the judges, court staff, and judicial personnel. This solidly ensures the high-quality development of maritime adjudication. The "Scholarly Court" cultural development project was awarded the "National Court Culture Construction Featured Project." It has been included in the report of the Shandong Higher People's Court and covered by numerous central, provincial, and city-level media outlets.

1. Upgrade auxiliary facilities for a multi-layered cultural space

The "Shared Scholarly Space" has been established, comprehensively upgrading auxiliary facilities to create a cultural space imbued with the unique traits of the Scholarly Court for the judges, court staff, and judicial personnel.

First, self-service book cabinets have been placed around the court. A total of 11 cabinets have been installed in prominent positions within the elevator lobbies and cafeteria. This arrangement enables the judges, court staff, and judicial personnel to read during fragmented time periods. Books and magazines are refreshed weekly, covering over 20 types of reading

materials.

Second, an in-house library has been constructed. In collaboration with the Qingdao City Library, a branch was opened within Qingdao Maritime Court, enriching the types and numbers of available books, which currently total over 6000 volumes. The library is equipped with electronic reading devices, facilitating an integrated book borrowing and returning process, rapid searching for targeted books, and the reading and downloading of e-books. A reading pavilion is set up outside the library, enabling the judges, court staff, and judicial personnel to immerse themselves in the charm of reading, meeting their needs for enjoying reading aloud, joyous reading, and social sharing.

Third, television display platforms have been added to each floor. Televisions have been installed above the elevators on every floor, broadcasting current affairs, legal news, cultural documentaries, and more. Content is updated daily to ensure timeliness and freshness, enriching the spiritual and cultural life of the judges, court staff, and judicial personnel.

Fourth, a "window to the outside" has been created to promote maritime judicial culture. The public spaces on the first to third floors have been converted into an external exhibition window—the Marine Legal Education Base. The base displays more than 380 panels, over 20 screens, and 15 sculpture models. Through comprehensive utilization of sound, light, and electric new media technologies, it presents a multi-angle, three-dimensional, panoramic view of the development of maritime law and the history of Qingdao Maritime Court, especially the recent work on adhering to party-building guidance and striving to be the preferred destination for resolving international maritime disputes. Open to government bodies, schools, and the public, the Marine Legal Education Base has positively promoted the establishment of faith in the rule of law, the propagation of

the spirit of the rule of law, and the transmission of powerful messages about the rule of law.

2. Cultivate a learning atmosphere for the construction of a learning-oriented court

Guided by distinctive political features and the principle of comprehensive court culture construction, "Scholarly Court" hosts various activities in line with the cultural development needs of the judges, court staff, and judicial personnel. This approach provides intellectual reserves for the staff and wholeheartedly propels the construction of a learning-oriented court.

First, the "Maritime Classroom" has been established. This platform invites renowned experts and scholars from home and abroad to deliver lectures on topics encompassing political theory, professional knowledge, and traditional culture. It has become a distinctive brand of learning activities. A WeChat official account for "Maritime Classroom of Qingdao Maritime Court" was created, meticulously crafting maritime-themed columns such as "Qingdao Maritime Law Classroom," "Qingdao Wind," "Voice of Maritime Law," and "Maritime Fengqiao Experience". Through innovative publicity forms, it fully leverages the advantages of new media to widely disseminate Chinese maritime judicial rules and judicial experiences.

Second, the "Maritime Translation Classroom" has been launched. A plan to enhance the foreign language skills of young the judges, court staff, and judicial personnel has been developed and implemented, providing regular, long-term guidance to improve their English translation capabilities. A "Scholarly Court Foreign Language (English) Study Team," composed of 28 young the judges, court staff, and judicial personnel, has been formed. Inviting foreign teachers and other university professors to

give lectures in the court, the team organizes English translation studies, conducts voiceover shows, and hosts other English-themed salon activities to enhance the foreign language capabilities of the young the judges, court staff, and judicial personnel.

Third, the "Sharing a Book" initiative has been initiated. Reading interest groups have been established, collectively reading one book each month. Learning outcomes are showcased through short videos or reading impressions in the "Scholarly Court" section of the two networks and one number system. Thematic columns such as Loyalty Writes Youth, Learning is Timely and Reading Good Books Together have been launched, publishing short videos and reflections. These offer a convenient platform for the judges, court staff, and judicial personnel to learn and understand the latest maritime legal systems, relevant policies, and typical case judgments.

Fourth, the creation of the disciplinary inspection brand of "Breeze blows gently, and honesty blossoms by itself" promotes the construction of the court's clean governance culture. System construction is integrated throughout the whole process and all aspects of party conduct and clean governance construction. Regular meetings on party conduct and clean governance construction, and anti-corruption work are organized. The judges, court staff, and judicial personnel are arranged to visit the "Qingdao City Clean Family Style Museum," watch clean governance warning educational films, sign responsibility documents for party conduct and clean governance construction. They also invite the families of the judges, court staff, and judicial personnel to the court for family-style clean governance education, guiding the staff to deeply understand the importance of strengthening party conduct and clean governance construction, and standardization work.

Fifth, the "Enjoy Sports" is carried out. Insisting on cultural cultivation to refine sentiment and sports to strengthen the body, activities such as workout exercises and walking are carried out during work intervals. The use of lunch break times to organize small-scale short-distance sports for the judges, court staff, and judicial personnel has been implemented. Eight sports and cultural activity groups have been established, including football, basketball, badminton, table tennis, and outdoor activities. These activities enrich the cultural life of the judges, court staff, and judicial personnel, fully stimulating the team's cohesion, creativity, and combat effectiveness, achieving a "win-win" in team building and business work.

3. The construction of literature has achieved results, and the "Unity of Knowledge and Action" has borne fruits

Through theoretical learning combined with self-advantages, the judges, court staff, and judicial personnel accurately identifies the role of maritime judicature, and advances maritime adjudication with a higher stance, a larger framework, and a broader vision. The reading philosophy of "Cherish Reading, Read Quality Books, Excel in Comprehending Books" has transformed the thinking of the judges, court staff, and judicial personnel, continuously improved their understanding and enhanced their professional level. This is conducive to better exerting the judicial function of maritime judicature, responding to new societal demands, and meeting the new expectations of the people.

First, the construction of a team of scholarly and research-oriented judges has begun to bear fruit, and internationally influential maritime judicature cases continue to emerge. Relying on the construction of the Scholarly Court, the learning and research platform for the judges, court staff, and judicial personnel has been fully expanded, and their initiative

in research has greatly improved. Some research results of them have won national and provincial awards, the case analyses they have written have been adopted by core journals such as *The People's Judicature*, and many cases have been selected as excellent cases by the Supreme People's Court and Higher People's Court of Shandong Province.

Second, people-centered maritime judicature propaganda has yielded fruitful results, and its social influence is gradually expanding. Qingdao Maritime Court innovates propaganda methods, tells the stories around the masses in a down-to-earth language, broadens propaganda channels, and creates a business card for maritime judicature. The microfilm *Setting Sail* won the Top Ten Microfilm Award in the national political and legal system's "Wechat, Weibo, Micro Movies" competition, the short video "'Equal Protection' Wins Respect at Home and Abroad" was selected for the Supreme Court's Balance Cup, and the popular science program "Voice of Maritime Law" has received a good social response on platforms such as xuexi.cn Multiple articles have been adopted by national, provincial, and city-level media.

（十）建设海洋法治教育基地 推进法治和教育深度融合

一、基地设立背景

青岛海事法院海洋法治教育基地,是在法院审判综合楼走廊等楼宇空间打造的首家融合海洋教育和法治教育的实践基地。基地以“向海向洋向未来 济航济民济天下”为主题,以中外海洋文明史、海洋法治史以及青岛海事法院院史为主要内容,通过展板和声光电等手段讲述了一个个波澜壮阔的海洋故事和海洋法治故事。

海洋法治教育基地既是海洋法治科普教育基地,也是爱国主义教育基地。2022年7月,基地由青岛海事法院与青岛市教育局共同挂牌“青少年海洋法治教育基地”。被青岛市委宣传部授予“青岛市市级爱国主义教育基地”称号,被青岛市普法办授予“青岛市法治宣传教育示范基地”称号。基地自建成以来,接待了上合大法官论坛、省市区(县)机关、企事业单位、高等院校、科研院所,青岛市若干中小学及小记者团。

基地的设立,引领了海洋教育与法治教育的融合发展,丰富了法治教育资源,开创了法治教育新的专业领域,赋予了海洋教育新的内涵,增强了海洋教育的品牌影响力,具有鲜明的爱国主义教育色彩。

二、基地展区介绍

基地共设三大展区,从一楼到三楼依次是世界海洋部分,船舶发展史部分和中国海洋文明史部分。一楼世界海洋部分,通过展览世界各国探索海洋、走向海洋的标志性事件,讲述了世界海洋文明和世界海洋法治发展的故事;二楼船舶发展史部分,通过展览舟、筏、帆船、蒸汽机船、内燃机船等不同船舶,讲述了中外船舶的发展历史及新中国船舶工业发展史;三楼中国海洋及船舶发展史部分,以时间为轴展览了中国古人向海而生、走向海洋取得的辉煌成就,以及在中国共产党领导下,新中国海洋事业从弱到强、海洋法治逐步完善的光辉历程;同时,也呈现了青岛海事法院自诞生之日起,在保障海上运输、对外贸易发展和保护海洋环境等方面做出的重要贡献。

(一) 一楼展区:世界海洋文明、海洋法治发展史

1.大厅展区:在一楼大厅的正中央,通过海洋与泰山石的完美融合,凸显司法审判的公平、正义。在法庭的左侧有寓意“长风破浪会有时”的图画,右侧有“直挂云帆济沧海”的百舸争流。大厅左侧的世界海域图将世界有名港口城市,运河海峡进行展示,同时展示的还有从青岛港出发的航运线路和海上一带一路贸易线。大厅右侧通过视频方式循环展示全国 11 个海事法院的相关介绍。

2.长廊展区:通过展示世界海运及法治发展史讲述了人类探索海洋的起源。其中中世纪三大海法——《奥列隆

惯例集》《康索拉度海法》和《维斯比海法》最具有代表性。

（二）二楼展区：船舶发展史和“山-水-圣”组合

1.船舶发展史：介绍了世界船舶从舟筏时代到帆船、蒸汽机船、柴油机船时代的发展，还集中展现了新中国成立以来七十余年的船舶发展史。同时该展区重点介绍了船舶动力系统的发展及应用情况，如船舶内燃机的发展及应用等。

2.“山-水-圣”：大厅右侧“山—水—圣”的浮雕浑然一体、大气恢宏，寓意中华血脉生生不息，中华文化源远流长。山，即泰山，五岳之首，象征社稷稳定、国家昌盛、民族团结；水，即黄河，中华民族的母亲河，是中华文明的“根”之所在，“魂”之所附；圣，即孔子，儒家学派的创始人，中华优秀传统文化的代表。

（三）三楼展区：中国经略海洋史

介绍了从旧石器时代到新中国成立以来中国探索海洋的历程。通过展现中国先民的生产生活与海岸环境变迁,证实我国居民探索利用海洋的时间点，从“徐福东渡”到郑和下西洋,系统完备地展示了我国古代航海技术的发展进步及对世界航海作出的重要贡献。新中国成立以来海权内涵不断丰富，经略海洋的实践不断发展深化，展现了中华民族向海图强的光辉成就。

X. Construct the marine legal education base and promote the deep integration of law and education

1. Background

Qingdao Maritime Court's Marine Legal Education Base is the first practice base created in spaces such as corridors of the courthouse complex that merges maritime and legal education. Themed "Toward the sea, the ocean, and the future, serving navigation, the people, and the world", the base primarily covers the history of maritime civilization both in China and abroad, the history of maritime law, and the history of Qingdao Maritime Court. Through display boards and audio-visual methods, it narrates numerous magnificent maritime stories and maritime law stories.

The Marine Legal Education Base is both a maritime law science education base and a patriotism education base. In July 2022, the base was jointly named the "Marine Legal Education Base for Teenagers" by Qingdao Maritime Court and Qingdao Education Bureau. It was awarded the title of "Qingdao Municipal Patriotism Education Base" by Qingdao Municipal Propaganda Department and the title of "Qingdao Legal Propaganda Education Demonstration Base" by Qingdao Legal Office. Since its establishment, the base has hosted the SCO Grand Judges Forum, government agencies, enterprises, higher education institutions, research institutes, and various primary and secondary schools young press corps in Qingdao.

The establishment of the base has led the integration and development of maritime education and legal education, enriched legal education resources, opened new professional fields of legal education, imparted new meanings to maritime education, and enhanced the brand influence of maritime education, all with a distinct patriotic education color.

2. Exhibition areas

The base is divided into three major exhibition areas spanning from the first to the third floor: the World Maritime Section, the Ship Development History Section, and the Chinese Maritime Civilization History Section. The World Maritime Section on the first floor presents iconic events of countries around the globe exploring and venturing into the sea, narrating the development stories of world maritime civilization and law. The Ship Development History Section on the second floor displays different types of ships like canoes, rafts, sailboats, steamships, and internal combustion engine ships, conveying the development history of both Chinese and foreign ships and the history of New China's shipbuilding industry. The Chinese Maritime and Ship Development History Section on the third floor showcases the splendid achievements made by ancient Chinese people venturing into the sea, along with the brilliant journey from weakness to strength of New China's maritime endeavors under the leadership of the Communist Party of China, and the gradual perfection of maritime law. It also highlights the significant contributions of Qingdao Maritime Court since its inception in ensuring maritime transportation, foreign trade development, and ocean environment protection.

(1) Floor 1: History of World Maritime Civilization and Maritime Law Development

1. Main Hall: At the very center of the first-floor main hall, the perfect integration of ocean and Mount Tai stone underscores the fairness and justice of judicial judgment. On the left side of the court is a picture symbolizing "Great winds and waves will be conquered in time", and on the right is a depiction of " Hundreds of boats racing in the vast sea". The world sea map on the left side of the hall showcases famous port cities,

canals, and straits around the world, as well as shipping routes departing from Qingdao Port and the maritime Belt and Road trade lines. On the right side, videos introducing the 11 maritime courts across the country are played in a loop.

2. Corridor: The history of humanity's exploration of the sea is told through the exhibition of the world's maritime transport and legal development history. Of these, the three medieval maritime laws - *Roles of Oléron*, *Consolato del Mare*, and *Wisby Sea Law* are the most representative.

(2) Exhibition area on the second floor: ship development history and "Mountain-Water-Saint" combination

1. History of ship development: It introduces the development of the world's ships from the boat raft era to the era of sailboats, steam engine ships and diesel engine ships, and also focuses on the history of ship development in the more than 70 years since the founding of New China. At the same time, the exhibition area focuses on the development and application of ship power systems, such as the development and application of ship internal combustion engines.

2. "Mountain-Water-Saint": The relief sculpture of "Mountain-Water-Saint" on the right side of the hall is integrated and magnificent, which means that the Chinese blood is endless, and the Chinese culture has a long history. The mountain, that is, Mount Tai, the head of the five mountains, symbolizes social stability, national prosperity, and national unity; Water, the Yellow River, the mother river of the Chinese nation, is the "root" and "soul" of Chinese civilization; Saint, that is, Confucius, the founder of the Confucian school, the representative of traditional Chinese culture.

(3) Exhibition area on the third floor: China's integrated management of maritime history

It introduces the course of China's exploration of the sea from the Paleolithic period to the founding of New China. By showing the changes in the production and life of Chinese ancestors and the coastal environment, it confirms the time point when Chinese residents explored and used the sea, from Xu Fu's eastward voyage to Zheng He's voyage to the West, systematically and completely showing the development and progress of China's ancient navigation technology and its important contribution to world navigation. Since the founding of New China, the connotation of sea power has been continuously enriched, and the practice of maritime development has continued to develop and deepen, showing the glorious achievements of the Chinese nation in moving towards the sea.

第四部分 典型案例

案例一：公益诉讼起诉人山东省日照市人民检察院诉被告丁某某、韩某生态环境保护民事公益诉讼案

【基本案情】

为谋取非法利益，日照渔民丁某某于夏季休渔期内在日照近海禁渔区以下流网的方式实施违法捕捞，共捕获鲅鱼、鲈鱼及其他杂鱼 4000 余斤。韩某在明知丁某某的渔获系非法捕捞的情况下仍予以收购买卖，两人的行为影响了海洋渔业资源的正常生产繁殖和生殖群体的补充，对海洋渔业资源造成了损害，破坏了海洋生态。日照市检察机关对两人违法行为的损害后果进行鉴定并在确定损失后提起诉讼，要求两被告承担渔业资源生态损害恢复费用 186,917 元或增殖放流相应规格鱼类。

【裁判结果】

经本院主持调解，公益诉讼起诉人与两被告达成调解协议：2023 年 6 月-10 月期间，由检察机关、海洋渔业部门监督，两被告在日照近海海域采用放流全长大于 40 毫米的苗种 233464 尾的增殖方式修复被破坏的海洋生态和渔业资源。如不能增殖放流，则承担海洋渔业资源生态损害恢复费用

186917 元，两被告承担鉴定费 2588 元。

【典型意义】

本案是青岛海事法院首次受理由检察机关以公益诉讼起诉人身份提起的涉海民事公益诉讼案件，也是自 2022 年 5 月 11 日《最高人民法院、最高人民检察院关于办理海洋自然资源与生态环境公益诉讼案件若干问题的规定》（以下简称《规定》）发布后，山东省首例由人民检察院作为公益诉讼起诉人提起的海洋渔业资源生态环境损害赔偿案件。

党的十八大作出了海洋强国的重大决策部署，作为海洋大省，山东省委、省政府也提出了海洋强省建设行动计划。青岛海事法院作为审理海事海商案件的专门法院，对辖区内海洋自然资源 and 生态环境进行司法保护是义不容辞的责任。保护海洋生态环境，实现“蓝色发展，人海和谐”是海洋强国强省建设的根本要求，也是维护海洋经济可持续发展的基础保障和重要手段。《规定》实施后，青岛海事法院积极关注相关案件，与管辖区域内的检察院开展海洋自然资源与生态环境公益诉讼业务对接通过本案的审理，将《规定》精神有效落到实处，充分发挥了海事司法的专业优势。

党的二十大报告要求，提升生态系统多样性、稳定性、持续性，加快实施重要生态系统保护和修复重大工程。本案坚持海洋生态环境修复司法导向，将海洋环保司法审判工作与海洋生态保护有机融合，突出恢复性司法理念。“在哪里

破坏，就在哪里修复”，针对海洋渔业资源破坏行为提起的公益诉讼，杜绝以罚代管，以“增殖放流”的海洋生态恢复措施作为核心条款，促成原被告双方达成和解，既对非法捕捞行为进行了依法惩处，避免了财产性惩罚执行的单一性，又对受损害的生态环境进行有效修复，是探索生态环境保护补偿制度的有益实践。后续将与检察机关、海洋渔业部门一同对被告增殖放流的过程进行监督、检查，确保生态修复真正到位。

Part IV Typical Cases

Case One: Rizhao People's Procuratorate v. Ding and Han (Case about Civil Public Interest Litigation over Ecological and Environmental Protection)

【Basic Facts】

In pursuit of illegal profits, Rizhao fisherman Ding carried out illegal fishing in the prohibited fishing areas off the coast of Rizhao during the summer fishing ban period, netting over 2,000kg of *Scomberomorus niphonius*, *Scomber japonicus*, and other assorted fish. Despite knowing that Ding's catch was the result of illegal fishing, Han still purchased and sold the fish. Their actions interfered with the normal production and replenishment of marine fishery resources, causing harm to the resources and damage to the marine ecology. After appraising the consequences of the two's illegal actions and determining the losses, the Rizhao Procuratorate initiated litigation, demanding the two defendants bear the cost of ecological damage recovery to the fishery resources of RMB 186,917, or the release of fish of the corresponding size to enhance the population.

【Judgement】

Under the mediation presided over by this court, the plaintiff in the public interest litigation and the two defendants reached a settlement agreement. From June to October 2023, under the supervision of the Procuratorate and the Department of Marine Fisheries, the two defendants will restore the damaged marine ecology and fishery resources by releasing

233,464 fingerlings that are more than 40 mm in length into the waters off the coast of Rizhao. If they are unable to release the fingerlings, they must bear the cost of ecological damage recovery for the marine fishery resources of RMB 186,917. The two defendants also have to pay the appraisal fee of RMB 2,588.

【Significance】

This case represents the first maritime civil public interest litigation case brought by the Procuratorate as the plaintiff, which was accepted by Qingdao Maritime Court. It is also the first case in Shandong Province since *Provisions of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues concerning the Handling Maritime Natural Resources and Ecological Environment Public Interest Litigation Cases* (hereinafter referred to as the Provisions) was issued on May 11, 2022. In this case, the People's Procuratorate acts as the plaintiff in a public interest lawsuit for compensation for damage to the marine fishery resource ecology.

Following the 18th National Congress of the Communist Party's major decision and deployment towards becoming a maritime power, Shandong Province, being a large maritime province, has also initiated an action plan to become a powerful maritime province. As a specialized court handling maritime and commercial cases, Qingdao Maritime Court holds an unshirkable responsibility to judicially protect the marine natural resources and ecological environment within its jurisdiction. Protecting the marine ecological environment and realizing "Blue Development, Harmony Between People And The Sea" is not only a fundamental requirement for the construction of a powerful maritime province and country, but also a basic guarantee and important means to maintain the sustainable development of the marine economy. After the implementation of the

Provisions, Qingdao Maritime Court has actively monitored related cases and cooperated with the procuratorates within its jurisdiction on public interest litigation business concerning marine natural resources and ecological environment. Through the trial of this case, the spirit of the Provisions was effectively implemented, and the professional advantages of maritime judicature were fully leveraged.

The Report of the 20th National Congress of the CPC calls for enhancing the diversity, stability, and sustainability of ecosystems and accelerating the implementation of major projects for the protection and restoration of important ecosystems. This case adheres to the judicial orientation of marine ecological environment restoration, integrating maritime environmental judicial work organically with marine ecological protection, highlighting the concept of restorative justice. "Where it's damaged, Where it's restored." Public interest lawsuits brought against damaging actions to marine fishery resources aim to eliminate governance through penalties, making "population enhancement and release" the core term in marine ecological restoration measures. This leads to a settlement between the original plaintiff and defendant. It not only legally punishes illegal fishing activities, avoiding the singularity of property penalties, but also effectively restores the damaged ecological environment, serving as a beneficial practice in exploring the compensation system for ecological environment protection. Follow-up supervision and inspection of the defendants' enhancement and release process will be conducted together with the Procuratorate and the Department of Marine Fisheries to ensure true ecological restoration.

案例二：中国某财产保险股份有限公司大连分公司诉英国某航运有限公司海上货物运输合同纠纷案

【基本案情】

2020 年 7 月，中国某进出口公司自巴西购买 68,599.91 公吨巴西大豆，由“TALIMEN”轮（“塔利门”轮）承运。2020 年 9 月 5 日，“塔利门”轮在日照港开始卸货，卸载期间，收货人发现案涉货物遭受热损霉变，经第三方检验，发现货物受损系由于船方管货不当所致。原告依据保险合同约定赔付被保险人该进出口公司人民币 725 万元并取得代位求偿权。随后向青岛海事法院提起诉讼，要求承运人对损失承担赔偿责任。

2021 年 9 月 30 日，青岛海事法院立案后，被告提出管辖权异议，认为提单相关争议应提交伦敦仲裁，请求依法驳回起诉。随后，青岛海事法院裁定驳回被告提出的管辖权异议。被告不服该裁定提起上诉，山东高院二审依法维持原裁定。

2021 年 12 月 15 日，被告又向英国高等法院英格兰和威尔士商事与财产法院商事法庭申请“塔利门”轮禁诉令，2022 年 1 月 21 日雅各布斯法官签发了 CL-2021-000734 号禁诉令，禁止原告继续进行在青岛海事法院提起的诉讼；除在伦敦仲裁庭外，原告不得就因以“塔利门”轮船东和船长名义于 2020 年 7 月 2 日就 68,599.91 吨散装巴西大豆签发的

两份提单而产生的或与之相关的任何索赔提起任何民事或其他诉讼。

随后，青岛海事法院于 2022 年 6 月、8 月、9 月多次公开开庭进行了审理，审理过程中，被告抗辩称，一是涉案货物并未发生所称热损，因为货物的热损粒符合巴西标准的要求、温度未出现异常、色泽和气味正常以及加工成品豆油的酸值和豆粕的蛋白质氢氧化钾溶解度正常，所称热损是由于中国国家标准和巴西标准对热损粒的定义不同所造成的。二是对存在热损这种情况被告予以否认，并表示即便存在热损，也是由于船载大豆的固有缺陷造成的，与被告的管货措施无关，被告依法不应承担责任。“塔利门”轮船在整个航程中已经尽职尽责地对货物进行保管和照料，符合散装大豆运输的行业实践，不存在过失。被告对大豆的固有缺陷及迟延卸货所致的损失没有过错，有权援引上述中国《海商法》第五十一条的规定免除货物损坏的赔偿责任。三是原告委托的青岛大华保险公估有限公司出具的《公估报告》对货损金额的认定缺乏事实和法律依据，不应作为认定货物损失的依据。

【裁判结果】

审理过程中，法庭准许被告申请的英国专家证人科学家 Nicholas P Crouch 以远程视频方式出庭作证，接受双方当事人的质询，整个庭审跨越了半个地球，并全程网上直播，取得了良好的庭审效果，为案件事实查明鉴定了基础，也体现

了中国海事司法的国际化、专业化、职能化水平。

四次庭审中，原被告委托的两位中方鉴定人和被告委托的一位中方航海专家、一位外方大豆专家均出庭作证，耗时四个工作日，四位专家从大豆本身品质是否适合海上运输要求、船方责任期间的通风措施是否得当、收货人目的港延迟卸货对货损发生的影响等三个方面进行了充分的论述，使原被告双方可以充分问询、阐述诉辩主张，合议庭组成人员全程完整倾听，平等给予中外双方当事人充分、完整的陈述权利，为查明事实、厘清责任打下了坚实的基础。

庭审结束后，承办人耐心向双方当事人释法辩理，对四位专家关于影响货损的三个因素进行了深入分析论证，以事实为依据，以法律为准绳，经过多轮背靠背的沟通，在法庭主持下，双方当事人最终达成和解。青岛海事法院 2022 年 11 月 2 日作出（2021）鲁 72 民初 1983 号民事调解书，被告同意支付、原告同意接受人民币 438 万元作为原告索赔及被告在英国法院提起的 CL-2021-000734 号禁诉令的全部和最终的解决方案，包括利息和费用。

【典型意义】

虽然被告向英国法院提出了禁诉令，但案件管辖权是国家司法主权的核心组成部分，该案中，被告主张涉案租约中的仲裁条款已有效并入提单，缺乏事实和法律依据。原告作为保险人，依法取得请求赔偿货物损失的代位求偿权，其并

非涉案运输合同的当事人，未明示接受租约中的仲裁条款，故该仲裁条款对原告没有约束力。参照最高人民法院同类案件的裁判规则，青岛海事法院对本案享有管辖权。

在我国法律体系就此缺乏反制措施的情况下，我国当事人在涉外案件中屡因禁诉令而至利益受损。（2021）鲁 72 民初 1983 号民事调解书中特别对英国法院 CL-2021-000734 号禁诉令事宜给予一揽子解决，避免双方当事人因平行诉讼在中国法院、英国法院、英国仲裁庭进一步产生高昂的诉讼与仲裁费用，为当事人减轻了诉累，较好地平衡了双方当事人的利益。

大豆是目前海运散粮货物的主力军，一旦发生货损索赔，常常金额巨大，并且涉及船东、光租租家、期租租家、承租租家等一系列租船合同下的法律主体，租船合同中往往约定仲裁条款。船东为达到向下家顺利追偿的目的，往往在中国法院应诉的同时，在英国法院提起禁诉令，以证明其程序权利利用尽，便于索赔追偿诉讼。

本案是青岛海事法院发挥全球争端解决机制功能，打造国际海事争端解决优选地的生动范例。该案能够在法院主持下顺利调解，一方面，证明中国法院对国际海运下大豆货损责任裁判规则的正确认定，获得外方当事人的认可。另一方面，法院调解集合了诉讼、仲裁与当事人和解的优势，系对涉外海运纠纷中普遍存在的平行诉讼问题较好处理的典型

代表，体现了中国法院处理国际海事纠纷的权威性，不仅捍卫了国家司法主权，反制了西方长臂管辖，也提升了中国法院的国际话语权，凸显了中国法院在参与国际规则制定中发挥的作用，为解决禁诉令案件提供了新路径。

**Case Two: A Dalian Branch of a China Property Insurance Co.,
Ltd v. A UK Shipping Limited Company (Case about Dispute over
Maritime Cargo Transportation Contract)**

【Basic Facts】

In July 2020, a Chinese import and export company purchased 68,599.91 tons of Brazilian soybeans from Brazil, which were transported by the ship "TALIMEN." On September 5, 2020, the "TALIMEN" began unloading at Rizhao Port. During the unloading process, the recipient found the goods in question had suffered from heat damage and mold. A third-party inspection revealed the damage was due to the ship's improper handling. The plaintiff paid the insured, the import and export company, a compensation of RMB 7.25 million according to the insurance contract and obtained the right of subrogation. It then filed a lawsuit with Qingdao Maritime Court, demanding the carrier bear compensation for the loss.

On September 30, 2021, the defendant raised jurisdiction objections after Qingdao Maritime Court accepted the case, arguing that the dispute over the bill of lading should be submitted to London arbitration and requested to dismiss the lawsuit. Qingdao Maritime Court ruled to reject the defendant's jurisdiction objections. The defendant appealed against this ruling, and the Shandong Higher People's Court upheld the original ruling on appeal.

On December 15, 2021, the defendant applied to the Commercial Court of the England and Wales High Court of Justice for an anti-suit injunction against the "TALIMEN". On January 21, 2022, Judge Jacobs issued the anti-suit injunction numbered CL-2021-000734, prohibiting the plaintiff from proceeding with the lawsuit filed in Qingdao Maritime Court.

Besides the London Arbitration Court, the plaintiff is not allowed to initiate any civil or other proceedings for any claim arising from or related to the two bills of lading issued on July 2, 2020, for 68,599.91 tons of bulk Brazilian soybeans in the name of the shipowner and captain of the "TALIMEN".

Subsequently, Qingdao Maritime Court publicly heard the case multiple times in June, August, and September 2022. During the trial, the defendant argued: Firstly, the goods in question did not experience the alleged heat damage. The defendant pointed to the fact that the heat-damaged grains met Brazilian standards, exhibited no unusual temperature, normal color, and smell, and that the final product's oil acidity and the solubility of protein in potassium hydroxide in soybean meal were within normal limits. The alleged heat damage was a result of differing definitions of heat-damaged grains between Chinese national standards and Brazilian standards. Secondly, the defendant denied the existence of heat damage and argued that even if it did exist, it was due to the inherent defects of the soybeans transported by the ship, unrelated to the defendant's cargo management measures. Therefore, the defendant should not bear responsibility as per the law. The crew of "TALIMEN" fulfilled their duties in cargo care and maintenance throughout the entire journey, in line with the industry practice for bulk soybean transport, and there was no negligence. The defendant argued that they bore no fault for the inherent defects of the soybeans and the loss caused by delayed unloading. They had the right to invoke Article 51 of the Maritime Code of the People's Republic of China to exempt themselves from liability for goods damage. Thirdly, the defendant argued that the Assessment Report provided by Qingdao Dahua Insurance Surveyors and Loss Adjusters Co., Ltd., commissioned by the plaintiff, lacked factual and legal basis for determining the amount

of goods damage, and should not serve as the basis for identifying goods loss.

【Judgement】

During the trial process, the court allowed the defendant's requested British expert witness, scientist Nicholas P. Crouch, to testify remotely via video link, subject to cross-examination by both parties. The trial spanned half the globe, was broadcast live online, and achieved favorable court effects. It laid the foundation for fact-finding in the case and demonstrated the internationalization, specialization, and functionalization level of China's maritime judicature.

In the four court sessions, two Chinese appraisers appointed by both parties, a Chinese maritime expert appointed by the defendant, and a foreign soybean expert all appeared to testify. The proceedings took four workdays. The four experts thoroughly discussed whether the quality of the soybeans themselves was suitable for maritime transport, whether the ventilation measures during the carrier's responsibility period were appropriate, and the impact of delayed unloading at the consignee's port of destination on cargo damage. This allowed both the plaintiff and defendant to fully inquire and present their claims. The collegial panel listened completely throughout, granting equal and full rights of statement to both Chinese and foreign parties, which laid a solid foundation for fact-finding and responsibility clarification.

After the trial ended, the presiding judge patiently explained the law and argued the reasoning to both parties, and gave an in-depth analysis and discussion of the three factors affecting cargo damage brought up by the four experts. Basing on facts and guided by law, and after many back-to-back communications under the supervision of the court, both parties eventually reached a settlement. On November 2, 2022, Qingdao Maritime

Court made a civil mediation document of (2021) Lu 72 civil first instance No. 1983. The defendant agreed to pay, and the plaintiff agreed to accept, RMB 4.38 million as a full and final solution for the plaintiff's claim and the CL-2021-000734 anti-suit order initiated by the defendant in the UK court, including interest and costs.

【Significance】

Though the defendant applied for an anti-suit order in the UK court, jurisdiction is a core component of national judicial sovereignty. In this case, the defendant's claim that the arbitration clause in the involved lease had been validly incorporated into the bill of lading lacks factual and legal basis. The plaintiff, as an insurer, legally obtained the subrogated right to claim compensation for cargo loss and is not a party to the involved transport contract. They did not explicitly accept the arbitration clause in the lease, so the arbitration clause does not bind the plaintiff. Referencing the Supreme People's Court's adjudicatory rules on similar cases, Qingdao Maritime Court holds jurisdiction over this case.

In the context of the lack of countermeasures in our legal system, Chinese parties in foreign-related cases have repeatedly suffered from losses due to anti-suit orders. In the civil mediation document of (2021) Lu 72 civil first instance No. 1983, a comprehensive solution was provided for the CL-2021-000734 anti-suit order issued by the UK court. This solution avoids both parties from further incurring high litigation and arbitration costs due to parallel litigation in Chinese, UK courts and the UK arbitration tribunal. It alleviates the parties' litigation fatigue and effectively balances the interests of both parties.

Soybeans are currently the mainstay of bulk grain cargo in maritime transport. When cargo loss claims occur, the amounts are often enormous and involve a series of legal entities under charter contracts, such as

shipowners, bareboat charterers, time charterers, and lessees. Arbitration clauses are often stipulated in charter contracts. To achieve successful claims against sub-charterers, shipowners often apply for anti-suit injunctions in UK courts while also responding to lawsuits in Chinese courts, to prove that their procedural rights have been exhausted and to facilitate claim lawsuits.

This case is a vivid example of Qingdao Maritime Court playing a role in the global dispute resolution mechanism and serving as a preferred destination for resolving international maritime disputes. The successful mediation of the case under the auspices of the court demonstrates, on the one hand, the correct recognition of the rules of adjudication for the liability for soybean cargo damage under international maritime transport by Chinese courts, which has been acknowledged by foreign parties. On the other hand, the court's mediation combines the advantages of litigation, arbitration, and party reconciliation. It is a representative case of handling parallel litigation issues common in foreign-related maritime disputes. It reflects the authority of Chinese courts in handling international maritime disputes. Not only has it defended national judicial sovereignty and countered Western long-arm jurisdiction, but it has also enhanced the international discourse power of Chinese courts. It highlights the role that Chinese courts play in participating in the formulation of international rules, providing a new path for the resolution of anti-suit injunction cases.

案例三：长岛某水产公司诉 BF 某船舶公司海上养殖损害责任纠纷案

【基本案情】

2020 年 10 月 3 日，BF 某船舶公司（以下简称 BF 公司）所属的“BF MAHIA”轮进入长岛某水产公司（以下简称水产公司）经营的养殖海域造成其养殖的鲍鱼、牡蛎及扇贝等养植物受到损害。事发后，水产公司报告了当地海事部门，并委托评估公司对其养殖损失情况进行了评估。BF 公司亦委托评估公司进行了损失评估。双方就损失赔偿事宜未能协商一致，因此而产生养殖损害责任纠纷。

【裁判结果】

青岛海事法院经审理认为，根据海事部门在事发后现场勘查并作出的调查报告可以认定，BF 公司所属的“BF MAHIA”轮进入了水产公司的养殖区，存在侵害水产公司诉称的养殖区的侵权行为，且“BF MAHIA”轮在航行中疏忽未尽到注意义务，BF 公司对此存在过错，应当对其行为与结果存在因果关系的损害后果承担赔偿责任。但根据法院调取的船舶轨迹亦可以发现，在“BF MAHIA”轮进入涉案养殖区前有他船进入部分本案争议的养殖区，水产公司不能证明案外船舶对该部分养殖区的损害比例或证明其已于本案船舶进入该部分养殖区前对案外船舶造成的损害恢复原状，即不能证明该部分养殖区的损害结果与本案船舶进入养

殖区的行为全部存在因果关系，故 BF 公司仅应在其认可范围内对该部分养殖区的损害结果承担赔偿责任。关于水产公司的损失认定，根据《中华人民共和国渔业法》与《中华人民共和国海域使用管理法》的规定，水产公司对其已取得海域使用权证和养殖证的养殖区内损失有权主张养殖收益以及受损养殖区整修、清理、恢复养殖设施的费用，同时还应扣除生产中止后无需继续投入的费用；对于未取得前述两证的养殖区，养殖户无权获得养殖收益，但其投入到海区的苗种及养殖物资为其所有，在其物权遭受损害的情况下，有权主张损害赔偿。关于损失数额，双方均提交了损失评估报告，虽然双方对对方的报告均有异议，但均未提供否定报告效力的充足理由与证据，法院结合全部在卷证据，对于两份结论不同的报告分别采信了合理部分，并作为认定损失数额的依据，最终判决 BF 公司向水产公司赔偿养殖损失 2877271 元。

【典型意义】

海上养殖损害责任纠纷因事故现场不易保存、调查取证难、损失认定难而成为一类疑难复杂海事案件。本案是一起境外船舶因未全面掌握我国海域海况误入养殖区而发生的海上养殖损害责任纠纷，典型意义在于：一、本案是青岛海事法院长岛海洋生态文明综合试验区巡回审判庭设立后审结的第一起案件，运用“马锡五审判方式”充分发挥巡回审判庭的前沿阵地作用，打通了便民诉讼服务“最后一公里”，

是青岛海事法院服务保障海洋生态文明建设、主动融入基层社会治理大格局、积极回应人民群众司法需求的生动体现。一审判决作出后双方当事人均未上诉,被告及时履行了付款义务,判决起到了良好的法治宣传与裁判指引作用。二、明确了合法养殖与非法养殖的损失赔偿范围,重申了未同时取得养殖许可证和海域使用权证的情况下养殖收益不能受到法律保护的基本原则,但对养殖户在非法养殖区投入的养殖物苗种和养殖设施等财产权益予以适当保护,对于规范海上养殖行为、维护海洋开发秩序,保障海上通航安全,促进海洋经济健康发展具有积极推动作用。三、本案对海上养殖损害责任纠纷案件中的损失认定方法这一难点问题进行了积极探索,在双方当事人均提交了损失评估报告,但两份报告各自存在瑕疵又相互矛盾、无法作为认定损失数额的直接依据、不具备重新鉴定评估条件的情况下,法院对评估报告中的客观统计数据予以认定,同时参照同类养殖物的养殖规范与市场价值,酌定损失赔偿数额,依法作出公平合理的判决,妥善高效化解了国际海事纠纷,平等保护了中外当事人的合法权益。

Case Three: A Long Island Fisheries Company v. A BF Shipping Company (Case about Dispute over Liability for Damage of Breeding at Sea and Sea Waters)

【Basic Facts】

On October 3, 2020, the vessel "BF MAHIA" owned by BF Shipping Company (hereinafter referred to as BF) entered the aquaculture area operated by a Changdao Aquaculture Company (hereinafter referred to as the Aquaculture Company), causing damage to the aquaculture objects such as abalone, oysters, and scallops. After the incident, the Aquaculture Company reported to the local maritime safety department and commissioned an appraisal company to assess its aquaculture losses. BF also commissioned an appraisal company to assess the losses. The two parties were unable to reach an agreement on the issue of loss compensation, resulting in a dispute over aquaculture damage liability.

【Judgement】

After the trial, Qingdao Maritime Court believed that, according to the investigation report made by the maritime safety department after the scene investigation, it can be determined that the "BF MAHIA" owned by BF entered the Aquaculture Company's farming area. The vessel infringed upon the Aquaculture Company's claimed farming area, and the "BF MAHIA" was negligent in its navigation duties. BF was at fault and should bear compensation liability for the damage consequences that have a causal relationship with its actions. However, based on the ship's trajectory obtained by the court, it was observed that other vessels had entered part of the disputed farming area before the "BF MAHIA". The Aquaculture Company could not prove the damage proportion of the external vessels to

that part of the farming area, nor could they demonstrate the damage was restored to its original state before the "BF MAHIA" entered. That is, the Aquaculture Company couldn't establish a full causal relationship between the damage to that part of the farming area and the entry of the vessel involved in this case. Therefore, BF should only bear compensation liability for the damage to that part of the farming area within the scope of its recognition. Concerning the determination of the Aquaculture Company's losses, according to *Fishery Law of the People's Republic of China* and *Law of the People's Republic of China on the Administration of Sea Areas*, the Aquaculture Company has the right to claim aquaculture income and the cost of repair, cleanup, and restoration of aquaculture facilities in the aquaculture area for which it has obtained sea area use rights and aquaculture licenses. The company should also deduct the costs that no longer need to be incurred after production stops. For aquaculture areas that have not obtained these two certificates, aquafarmers are not entitled to aquaculture income, but the seedlings and aquaculture materials they invested in the sea area belong to them. If their property rights are damaged, they have the right to claim damage compensation. Regarding the amount of loss, both parties submitted loss assessment reports. Although both parties had objections to each other's reports, they did not provide sufficient reasons and evidence to deny the effectiveness of the reports. The court, in conjunction with all the evidence on record, accepted the reasonable parts of the two reports with differing conclusions and used them as the basis for determining the amount of loss. In the end, the court ruled that BF must compensate the Aquaculture Company RMB 2,877,271 for aquaculture losses.

【Significance】

Disputes over damages to maritime aquaculture are a complex

category of maritime cases, due to the difficulty in preserving the scene of the incident, gathering evidence, and determining the losses. This case, which involved a foreign vessel mistakenly entering an aquaculture area without fully understanding the maritime conditions of our country's sea areas, holds typical significance for the following reasons: Firstly, this case was the first to be concluded after the establishment of Langisland Circuit Court for Marine Ecological Civilization Comprehensive Test Area under Qingdao Maritime Court. The court utilized the "Ma Xiwu Trial Mode" to maximize the forefront role of the Circuit Court, connecting the "last mile" of convenient litigation services. This is a vivid embodiment of Qingdao Maritime Court's efforts to serve and guarantee the construction of marine ecological civilization, actively integrate into the grand pattern of grassroots social governance, and positively respond to the judicial needs of the people. After the first-instance judgment, both parties did not appeal, and the defendant promptly fulfilled the obligation to pay. The judgment played a good role in promoting rule of law and providing judicial guidance. Secondly, the case clarified the scope of compensation for damages in legal and illegal aquaculture, reaffirming the basic principle that the profits from aquaculture are not legally protected without obtaining both the aquaculture license and the sea area use right certificate. However, it provided appropriate protection for the property rights and interests of the aquafarmers invested in the illegally cultivated area, such as the seedlings and aquaculture facilities. This ruling plays a positive role in regulating marine aquaculture activities, maintaining the order of marine development, ensuring maritime navigation safety, and promoting the healthy development of the marine economy. Thirdly, the case actively explored a difficult issue in disputes over damages to maritime aquaculture: the method of determining losses. Both parties submitted loss assessment

reports, but each report had its own flaws and contradictions, making them inadequate as direct bases for determining the amount of losses. Also, the conditions for re-assessment and re-identification were not met. Under these circumstances, the court acknowledged the objective statistical data in the assessment reports. At the same time, it referenced the cultivation norms and market value of similar aquaculture products, determined the amount of compensation for losses, and made a fair and reasonable judgment in accordance with the law. This efficiently and appropriately resolved the international maritime dispute, and equitably protected the legal rights and interests of both domestic and foreign parties involved.

案例四：烟台某码头公司诉王某某等船舶触碰损害责任纠纷案

【基本案情】

“航海之祥”轮的登记船舶所有人为王某某，实际经营人为安徽某海运公司。2019年12月13日，“航海之祥”轮在烟台港西港区靠泊时触碰318#泊位，造成该泊位的岸边设施、设备等严重受损，停止生产经营。2019年12月17日，各方当事人对事故损失现场进行了联合勘验，共同确认了事故损失范围。2020年1月2日，“航海之祥”轮的船舶保险人就本次碰撞事故为“航海之祥”轮的船东向码头公司出具了《担保函》，担保金额为300万元。码头公司就本次事故向王某某、海运公司以及“航海之祥”轮的船舶保险人主张经济损失5,411,236.67元。

【裁判结果】

青岛海事法院审理认为，本案系因船舶靠泊而触碰码头设施引起的侵权损害赔偿纠纷案。关于侵权责任的承担，我国《海商法》第八章专章规定了船舶碰撞的定义和归责原则，对船舶碰撞损害赔偿的责任主体使用了船舶一词。由于我国不存在“对物诉讼”，船舶的责任在诉讼中仍需要转化为人的责任，船舶碰撞损害赔偿责任应由何主体承担，《海商法》没有明确的规定。2008年施行的最高人民法院《关于审理船舶碰撞纠纷案件若干问题的规定》第四条规定，“船舶碰

撞产生的赔偿责任由船舶所有人承担,碰撞船舶在光船租赁期间并经依法登记的,由光船承租人承担。”本案已查明,王某某为“航海之祥”轮的登记船舶所有权人,海运公司系“航海之祥”轮光船租赁登记证明书记载的光船承租人(已对外公示),船舶年审合格证记载的船舶经营人。“航海之祥”轮在涉案船舶触碰事故中导致原告的经济损失,应由海运公司根据“航海之祥”轮在涉案触碰事故中所承担的事故责任比例承担赔偿责任。案涉事故发生时,该轮持有有效的船舶检验、适航及安全管理证书,本案没有证据证明“航海之祥”轮的登记船舶所有人王某某未妥善装备“航海之祥”轮/未保证船舶处于适航状态,或王某某参与了船舶的驾驶与营运。本案没有证据证明王某某对于案涉事故中侵权行为的发生存在过错,王某某不承担赔偿责任。

被告有关原告未尽合理提示而存在过错的主张,首先,海运公司作为“航海之祥”轮的光船租赁人、实际经营人,对于“航海之祥”轮在航行过程中谨慎驾驶,安全航行负有经营管理职责。其次,“航海之祥”轮作为内贸船舶,在狭小港池水域内自引自靠时,所属航运公司海运公司应提供及时有效的岸基支持,提高船长的安全意识和技能水平。船长应在进港前做好风险预判,必须掌握本船的操纵性能;同时还应充分考虑各种突发因素,谨慎驾驶,避免盲目冒险操作,造成海事事故。根据本案现有证据,案涉评估报告认定的事

故发生原因的关键因素为“船舶遭遇强风、船舶空载、船舶操纵性能较差、船舶推进力弱”，将上述因素归因于原告方未尽提示职责，缺乏事实依据与法律依据，不予采信。综上，应认定案涉触碰事故由“航海之祥”轮光船租赁人海运公司对案涉触碰码头设施事故承担 100%的侵权损害赔偿责任。

【典型意义】

近年来，国际上发生了多起船舶触碰码头或岸吊的案件，造成巨额经济损失。究其原因系船舶的大型化、巨型化，导致船舶在靠泊、离泊以及通过相对狭窄航道或运河时，稍有不慎，便有可能发生触碰事故。船舶实际经营人对船舶在航行过程中的谨慎驾驶、安全航行负有经营管理职责。碰撞船舶持有有效的船舶检验、适航及安全管理证书，登记船舶所有人在妥善装备船舶以保证船舶处于适航状态，或未参与船舶的驾驶与营运的情况下，应认定其对于案涉事故中侵权行为的发生不存在过错，不承担赔偿责任。

本案一审判决送达后，双方均服判息诉，未上诉。

Case Four: A Yantai Terminal Company v. Wang and etc (Case about Dispute over Liability for Damage of Collision between Ship with Fixed Object)

【Basic Facts】

The registered owner of the vessel "Nautical Auspice" is Wang, and the actual operator is Anhui Marine Transportation Company. 13 December 2019, the "Nautical Auspice" collided berth 318# when berthing in the west port area of Yantai Port, causing serious damage to the berth's shoreline facilities and equipment. On 17 December 2019, the parties conducted a joint survey of the accident site and confirmed the scope of the accident damage. On January 2, 2020, the ship insurer of the " Nautical Auspice " issued a letter of guarantee to the dock company regarding the collision accident for the ship owner of the " Nautical Xiang ", with a guarantee amount of 3 million yuan. The terminal company claimed economic losses of RMB 5,411,236.67 from Wang, the shipping company and the vessel's insurer in respect of the accident.

【Judgement】

Qingdao Maritime Court held that the case was a dispute over tort damages arising from the ship's berthing and collision with the dock facilities. On the assumption of tort liability, the chapter 8 of *Maritime Law of the People's Republic of China* provides the definition of ship collision and the principle of attribution of responsibility, the collision of the ship damages to the liability of the main body of the use of the word "ship". Because our country does not exist "action in rem", the ship's responsibility in the litigation still needs to be transformed into human responsibility. There is no clear stipulation in the Maritime Law as to which party should

bear the liability for damage caused by collision. However article 4 of *Provisions on Several Issues Concerning the Trial of Ship Collision Dispute Cases* issued by the Supreme People's Court which went into effect in 2008 stipulate "The compensation liability resulted from ship collision shall be borne by ship owners, or shall be borne by the bareboat charterer if the ship collision occurs during the bareboat charter period and the bareboat charter is registered according to law. " The case has been found that Wang is the registered ship owner of the vessel, and the shipping company is the bareboat charterer of the vessel (which has been publicly announced) as well as the operator of the ship as recorded in the ship's annual certificate. The Plaintiff's economic loss caused by the "Nautical Auspice" in the incident should be compensated by the shipping company according to the proportion of responsibility of the "Nautical Auspice" in the incident. At the time of the accident, the vessel held a valid certificate of survey, seaworthiness and safety management. There was no evidence to prove that Wang, the registered owner of the vessel, had failed to properly equip the vessel or ensure that the vessel was in a seaworthy condition, or that Wang had participated in the vessel's driving or operation. There is no evidence to prove that Wang was at fault for the occurrence of the tort in the accident. Thus Wang is not liable for compensation.

The defendant's claim that the plaintiff was at fault for failing to give reasonable notice. Firstly, the shipping company, as the bareboat charterer and the actual operator of the "Nautical Auspice", has the responsibility of managing and administering the vessel "Nautical Xiang" in the course of sailing with caution and safety. Secondly, the vessel was a bareboat charterer and the actual operator of the vessel. Secondly, as a domestic trading vessel, when the vessel is self-piloted and self-docked in the narrow harbour basin, the shipping company should provide timely and effective

shore-based support to enhance the captain's safety awareness and skill level. The captain should make a good risk prediction before entering the harbour, and must master the ship's manoeuvring performance. At the same time, he should also give full consideration to all kinds of unexpected factors, and drive cautiously to avoid blind risky operation, which may cause maritime accidents. According to the existing evidence in this case, the assessment report identified the key factors of the cause of the accident as "the ship encountered strong winds, the ship was empty, the ship's manoeuvrability is poor and the propulsion is weak", the above factors shouldn't be attributed to the plaintiff did not do their duty to prompt. The defense lacked factual and legal basis and was not accepted by the court. In conclusion, it should be concluded that the "Nautical Auspice" bareboat charterer, the maritime transport company, should be held liable for 100 per cent of the tort damages in respect of the incident of the vessel touching the pier facilities.

【Significance】

In recent years, there have been a number of international cases of ships collided piers or shore cranes, resulting in huge economic losses. The reason for this is the large-scale and gigantic ship, which leads to the possibility of collision with a bit carelessness when the ship berths, unberths and passes through relatively narrow channels or canals. The actual operator of the ship has the management responsibility for the prudent driving and safe navigation of the ship during the voyage. The colliding vessel held a valid certificate of survey, seaworthiness and safety management, and the registered owner of the vessel, having properly equipped the vessel to ensure that it was seaworthy or not involved in its steering and operation, should be deemed not to be at fault for the occurrence of the tort in the accident in question, and should not be held

liable for compensation.

After the judgement of the first instance was delivered, both parties accepted the judgement and did not appeal.

案例五：日照某物流公司与上海某物流公司多式联运合同纠纷案

【基本案情】

日照物流公司将 12 个集装箱的牛仔布委托上海物流公司运输，发运地为邹平三园，目的地为广州增城新塘镇，运输方式为海陆联运门到门，运费共计 74 940 元。案涉货物先由一程船运至京唐港，又由二程船运至南沙港，于 9 月 11 日存放于南沙港码头。当日气象部门即发布超强台风预警，此后连续发布超强台风预警，9 月 16 日超强台风“山竹”在广东沿海登陆。9 月 18 日，案涉货物由三程船运离南沙港，并于 9 月 25 日交付收货人。拆箱交接时发现其中 8 个集装箱共计 474 匹牛仔布湿损。经评估，定损金额为 431 893.57 元人民币，货损系因集装箱在南沙码头存放期间堆放不当且未采取任何防范措施致使箱底进水所致。

【裁判结果】

青岛海事法院审理认为，本案系包含海运区段的多式联运合同纠纷，案涉货物因泡水导致货损发生在上海公司承运期间，上海公司作为承运人应承担赔偿责任。在本案中，台风“山竹”并不符合不可抗力的构成要件。首先，案涉货物运至南沙港时间为 9 月 11 日，当日已经启动气象灾害（台风）IV 级应急响应，此后，各级气象部门对超强台风“山竹”的应急响应连续升级，并进行滚动预报，均预报 16 日

严重影响广东，因此，台风“山竹”对案涉货物会造成损害是可以预见的，上海公司曾通知日照公司堆放在底层的8个集装箱可能进水、可以拆柜查验这一点也可以印证上海公司实际对此也有预见；其次，案涉运输方式门到门，运输合同及运单既无中转南沙港的内容也无三程船转运的内容，案涉货物运至南沙港时间为9月11日，直至9月16日台风“山竹”对广东产生严重影响，中间间隔5天，南沙港距离目的地广州增城新塘镇路程不足100公里，上海公司完全有时间通过陆路运输或其他方式将货物运至目的地，也可通知港口对堆放在底层、应当避免水浸的集装箱进行翻倒，通过以上措施，货损完全可以避免、克服。因此，就本案而言，台风“山竹”并不符合不可抗力的构成要件，上海公司不能免责。遂判决：上海公司赔偿日照公司损失431893.57元及相应利息。

上海公司不服一审判决，以台风“山竹”系不可抗力为由提起上诉。山东省高级人民法院二审判决驳回上诉，维持原判。

上海公司又以台风“山竹”系不可抗力为由向最高人民法院申请再审，最高法院经审查驳回其再审申请。

【典型意义】

在海上货物运输中，承运人以台风构成不可抗力为由主张对货损免责的情形比较常见。超强台风“山竹”登陆后引

发了大量的海事纠纷,承运人援引不可抗力免责的主张也大多得到了法院的支持。但同样对于台风“山竹”,本案并未支持承运人的免责主张。三级法院均认定,存在多种运输途径时,承运人未采取最有效途径的,不能以台风为不可抗力为由主张免责。该案典型性在于进一步厘清了不可抗力的裁判规则,台风等自然灾害并不当然就是不可抗力,而应从事件的客观特征与承运人的主观行为两方面进行综合判断。如果承运人存在消极不作为、怠于履行管货义务的情形,则不能援引不可抗力的法律条款主张免责。

Case Five: A Logistics Company in Rizhao v. A Logistics Company in Shanghai (Case about Dispute over Multimodal Transport Contract)

【Basic facts】

A Rizhao logistics entrusted a Shanghai logistics with the transport of 12 containers of denim, shipped from Zouping Sanyuan and destined for Guangzhou Zengcheng Xintang Town, with the mode of transport being door-to-door sea-land intermodal transport, and the total freight cost of 74,940 yuan. The goods were first transported to Jingtang Port by a ship, and then transported to Nansha Port by second ship, and stored in Nansha Port Terminal on 11 September. On the same day, the meteorological department issued a super typhoon warning, and thereafter issued a succession of super typhoon warnings, and on 16 September, super typhoon "Mangosteen" made landfall on the coast of Guangdong. 18 September, the goods in question were transported away from the port of Nansha by the third vessel, and were delivered to the consignee on 25 September. When unpacking and handing over, it was found that 8 containers totaling 474 pieces of denim were wet damaged. The damage was assessed to be RMB 431,893.57, and was caused by water ingress into the bottom of the containers as a result of improper stacking of the containers during storage at Nansha Terminal and the failure to take any precautions.

【Judgement】

Qingdao Maritime Court held that the case was a multimodal transport contract dispute involving maritime transport, and that the loss of the goods in question due to soaking occurred during the period of Shanghai's carriage. So the Shanghai company, as the carrier, should bear the liability for compensation. In this case, typhoon "Mangosteen" does not meet the

force majeure elements. First of all, the goods transported to Nansha port time on September 11, the day has been launched meteorological disaster (typhoon) level IV emergency response, since then, the meteorological departments at all levels of super typhoon "Mangosteen" emergency response to the successive upgrades, and rolling forecasts, are predicted to be 16 days serious impact on Guangdong. Therefore, typhoon "Mangosteen" on the goods involved in the case will cause damage is foreseeable. The Shanghai company had notified the Rizhao company stacked in the bottom of the eight containers may be water, can be dismantled to check this point can also be proved that the Shanghai company actually foresee this. Secondly, the case involves the mode of transport door-to-door, the contract of carriage and the waybill transit Nansha port content nor the content of three-way ship transfer. The goods involved in the case were transported to Nansha Port on September 11, until typhoon "Mangokhut" had a serious impact on Guangdong on September 16. The interval was 5 days, and Nansha Port was less than 100 kilometers away from Xintang Town, Zengcheng, Guangzhou, the destination. Shanghai Company had time to transport the goods to the destination by land transport or other means. It can also inform the port to tip over the containers stacked on the bottom and should avoid flooding, and through the above measures, the cargo damage can be completely avoided and overcome. Therefore, as far as this case is concerned, typhoon Mangosteen does not meet the constitutive elements of force majeure, and Shanghai Company cannot be exempted from liability. The judgement was: Shanghai Company compensated Rizhao Company for the loss of RMB 431,893.57 and the corresponding interest.

The Shanghai Company appealed against the judgement of the first instance on the ground that typhoon "Mangosteen" was force majeure. The

Shandong Higher People's Court rejected the appeal and upheld the original judgement.

The Shanghai company also applied to the Supreme People's Court for a retrial on the grounds of force majeure due to typhoon "Mangosteen", and the Supreme People's Court rejected its application for retrial after review.

【Significance】

In the carriage of goods by sea, it is relatively common for carriers to claim exemption from liability for cargo damage on the grounds of force majeure caused by typhoons. Super typhoon "Mangosteen" landfall triggered a large number of maritime disputes, the carrier invoked force majeure exemption claims have mostly been supported by the court. But also for typhoon "Mangosteen", this case did not support the carrier's exemption claim. Three levels of courts have found that there are a variety of transport routes, the carrier did not take the most efficient way, can not claim exemption on the grounds of force majeure typhoon. The typicality of the case is to further clarify the rules of force majeure, typhoons and other natural disasters is not of course force majeure, but should be from the objective characteristics of the event and the carrier's subjective behaviour of the two aspects of a comprehensive judgement. If the carrier exists negative inaction, negligence in the performance of the obligation of the goods, the legal provisions of force majeure can not be invoked to claim exemption from liability.

案例六：中国某通信有限公司青岛市分公司诉马绍尔群岛某航运公司、韩国某航运公司船舶损坏水下设施损害责任纠纷案

【基本案情】

2018年6月13日，被告马绍尔群岛某航运公司所属的“Stellar Topaz”轮在青岛朝连岛水域触碰原告中国某通信有限公司青岛市分公司（以下简称青岛某通讯公司）所维护和管理的中美跨太平洋直达光缆 S1N 段，造成至美国方向的国际海缆通信中断。2020年6月1日，原告青岛某通讯公司诉至青岛海事法院，请求判令被告马绍尔群岛某航运公司和被告韩国某航运公司赔偿上述事故导致的光缆修复费用 379 万元、通信阻断业务损失 3573.8 万元及相应利息。

【裁判结果】

2021年3月，经青岛海事法院主持调解，原被告三方达成调解协议。被告马绍尔群岛某航运公司同意向原告青岛某通讯公司一次性支付 65 万美元，作为本案中青岛某通讯公司向被告马绍尔群岛某航运公司、韩国某航运公司提出的一切索赔的最终解决方案，包括所有费用和利息。现已履行完毕。

【典型意义】

涉案海底光缆承担着我国对日韩和北美方向重要的通信任务，光缆受损给国家造成了巨大损失，并产生了一定的

政治影响。由于案涉海底光缆的数据信息十分复杂，修复过程、修复费用计算及通信业务阻断损失等方面的证据均具有很强的专业性，加之受到疫情影响，两被告的委托代理人无法及时获得授权委托书及公证认证手续，案件面临搁置风险，审理难度极大。针对原告一度提出的近 4000 万元人民币的索赔请求，青岛海事法院引导中外双方当事人准确界定受损光缆的实际损失数额，划分责任归属，促成双方就实际损失及赔偿达成一致意见。一方面，使原告尽快获得了赔付，防止损失进一步扩大，为国家挽回了重大损失；另一方面，也避免了外方当事人对超过实际损失部分的不合理高额赔偿，平等保护了中外当事人的合法权利。当事人各方及社会各界对本案处理结果均认可，青岛电视台等 17 家媒体对本案竞相予以报道。

在整个通讯行业，类似案件的获赔几率微乎其微。本案的顺利审结对保护海底光缆、保障我国的国际通信安全具有重要意义，为自贸试验区建设、海洋强省建设提供了有力的司法保障。

Case Six: A China Communications Co., Ltd., Qingdao Branch v. A Shipping Company of the Marshall Islands and A Korean Shipping Company (Case about Dispute over Liability for Damage of Underwater Facilities Caused by Vessel)

【Basic Facts】

On 13 June 2018, the vessel “Stellar Topaz” belonging to a shipping company of the Marshall Islands touched the S1N section of the U.S.-China Trans-Pacific Direct Fibre Optic Cable (TPDC), which was maintained and managed by the Plaintiff, A China Communications Company Limited, Qingdao Branch (hereinafter referred to as Qingdao Communications Company), in Qingdao's Chao Lian Dao waters. As a result, international submarine cable traffic to the United States was disrupted. On 1 June 2020, the Plaintiff sued Qingdao Maritime Court, requesting that the Defendant Marshall Islands Shipping Company and the Defendant South Korea Shipping Company compensate for the repair costs of 3.79 million RMB for the cable, 35.738 million RMB for the loss of communication services, and the corresponding interest due to the above accident.

【Judgement】

In March 2021, through mediation conducted by Qingdao Maritime Court, the plaintiff and defendant reached a mediation agreement. The defendant, a Marshall Islands shipping company, agreed to pay a lump sum of USD 650,000 to the plaintiff as the final settlement of all the claims made by Qingdao communications company against the defendants, including all the costs and interest. This has now been fulfilled.

【Significance】

The submarine cable in question bears an important communication task for China towards Japan, Korea and North America, and the damage

to the cable has caused huge losses to the country and produced certain political impacts. Due to the submarine cable data information is very complex, repair process, repair cost calculation and communication business blocking loss and other aspects of the evidence are very strong professionalism, coupled with the impact of the COVID-19 pandemic, the two defendants' proxy can't get the power of attorney and notary authentication procedures in a timely manner. The case is faced with the risk of shelving, the trial is extremely difficult. For the plaintiff once put forward nearly 40 million yuan of claims, Qingdao maritime court guided the Chinese and foreign parties to accurately define the amount of actual loss of the damaged cable, the division of responsibility belongs to both parties to contribute to the actual loss and compensation to reach an agreement. On the one hand, it enabled the plaintiff to obtain compensation as soon as possible, prevented the loss from further expanding, and saved the country significant losses; on the other hand, it also avoided the foreign party's unreasonably high compensation for the portion that exceeded the actual loss, and protected the legitimate rights of the Chinese and foreign parties on an equal footing. The parties and the community recognised the outcome of the case, and 17 media outlets, including Qingdao TV, reported on the case.

In the communications industry as a whole, the chances of obtaining compensation in similar cases are negligible. The successful conclusion of this case is of great significance to the protection of submarine fibre-optic cables and the safeguarding of the security of China's international communications, and provides a strong judicial guarantee for the construction of the Pilot Free Trade Zone and the construction of a strong maritime province.

案例七：青岛某海上旅游有限公司与青岛某游艇有限公司等船舶泊位租赁合同纠纷案

【基本案情】

2010 年至 2015 年，旅游公司与游艇公司签订了三份《泊位租赁合同》。2017 年 10 月 26 日，游艇公司因政府文化活动进行升级改造，要求 2017 年 11 月 10 日前将船只驶离奥帆中心泊位。2017 年 11 月 17 日，旅游公司船艇离港。2018 年 6 月 19 日，旅游公司申请船艇回港并续约，未获许可。

旅游公司的“××”轮 2016 年船舶营运证中载明，船舶经营范围为“奥帆中心码头至海军码头双向对开”，2020 年船舶经营范围为“海军码头至奥帆中心折返海军码头”，即单项折返。2017 年度旅游公司奥帆项目主营业务收入总额为 5797782.26 元，归属于奥帆项目的成本费用为 4908819.99 元，奥帆项目营业利润为 888962.27 元。

2020 年 12 月 30 日，游艇公司进行了改制，改制前为全民所有制企业，改制后名称为青岛某游艇俱乐部有限责任公司，公司类型为有限责任公司，某集团系游艇俱乐部唯一股东。

旅游公司本诉称，请求判令解除《9 米泊位租赁合同》及《120 米泊位租赁合同》；游艇公司与某集团退还泊位剩余租期租金 389268.49 元及逾期退款利息、支付违约金

183600 元、赔偿可得利益损失 2362249.05 元、赔偿船舶维护维修费、人员成本费、船舶折旧费、运输损失费共计 4735094.12 元。游艇公司反诉称，请求依法判令旅游公司支付泊位租金 28.8 万，承担违约金 14.4 万元。

【裁判结果】

法院生效裁判认为，多份泊位租赁合同因政府行为而不再履行，合同解除、租金退还、违约金应严格依照合同约定进行认定。对于因政府行为导致的合同解除免除违约金责任时，不影响可得利益损失的审查认定。我国法律确定的违约损害赔偿是全部赔偿原则，在当事人有证据证明其实际损失大于约定的违约金时，不应排除当事人该项权利的行使。本案中即使合同系因政府举行文化活动原因导致不能履行也应依法承担相应责任。对于本案而言，因泊位不能正常使用导致旅游公司产生了可得利益损失。旅游公司的可得利益损失应为泊位租赁合同正常履行情况下，旅游公司可以获得的纯利润，而非收入，成本费用应当予以扣除。9 米泊位可得利益损失为 153777.60 元，120 米泊位可得利益损失为 208435.20 元。船舶维护维修费、人员成本费、船舶折旧费、运输损失费等费用属于旅游公司的费用支出，不予支持。宣判后，双方均未上诉，本诉被告自动履行了付款义务。

【典型意义】

本案系一起因市政府举行文化活动解除游艇泊位租赁

合同而引发的纠纷。

一般而言,泊位租赁合同的解除产生的法律后果为剩余租金的退还、违约金的支付等。对于因政府行为导致的合同解除往往合同中约定了免除违约金的条款。本案即存在这样的条款,法院也严格依照合同约定不予支持违约金。本案的特殊之处在于,旅游公司主张泊位使用权系其水路运输经营的必要条件之一,因泊位的丧失,导致其船艇经营重大利润损失,对此,涉及对可得利益损失的审查认定问题。法院应当根据以下审判思路进行正确把握:第一,守约方应当对可得利益损失赔偿请求权产生的法律事实承担举证证明责任。对于本案而言,法院裁判的关键在于船艇的营业利润损失与泊位合同的解除之间是否具有直接的因果关系。第二、对于旅游公司主张的船舶维护维修费、人员成本费、船舶折旧费、运输损失费等费用,法院认为应当视为成本费用,不应纳入履行利益的赔偿范围内。如果既赔偿旅游公司的利润,又赔偿旅游公司的费用支出,将会导致双重赔偿,有违损害赔偿的基本法理,故不予支持。第三、法院对于可得利益损失数额的确认,还应考虑可预见性规则、减轻损失规则、损益相抵规则、过失相抵规则等综合因素。

我国法对于违约可得利益损失虽有诸多条文加以规定,但法院判决却通常只是判予非违约方以实际损失而很少支持其可得利益损失的请求,可得利益损失的法律表达与司法

实践存在较为明显的脱节。通过本案确立的裁判规则，期望实现船舶泊位出租人与承租人两方面的利益平衡，从而规范当事人之间的关系。本案进一步对当事人提出的其他损失赔偿请求，从违约责任构成的角度进行了分析，更全面考虑了当事人提出的诉讼请求可能存在的合理性，从保护当事人诉讼权利的角度看，既充分保障了出租方因政府行为免除违约金的抗辩权，又依法维护了守约方的正当合法权益。需要说明的是，出租方在法院一审判决后，服判未上诉，按照一审法院判决自动履行了付款义务，并且双方达成继续合作的意向，法院的该裁判获得了政治效果、社会效果、法律效果的统一。

Case Seven: A Sea Tourism Co., Ltd. in Qingdao City v. A Yacht Co., Ltd. in Qingdao City (Case about Dispute over the Ship Berth Leasing Contract)

【Basic Facts】

From 2010 to 2015, the Tourism Co., Ltd. and the Yacht Co., Ltd. entered into three ship berth leasing contracts. On October 26, 2017, the Yacht Co., Ltd. requested the ships to leave the berths at the Olympic Sailing Center by November 10, 2017 due to upgrades and renovations for governmental cultural activities. On November 17, 2017, the Tourism Co., Ltd.'s ships left the port. On June 19, 2018, the Tourism Co., Ltd. applied for permitting the ships return to the port and renew the contract, which was not granted.

The 2016 Ship Operation Certificate of the Tourism Co., Ltd.'s ship state that the ship's scope of operation is "two-way navigation from the wharf of the Olympic Sailing Center to the Navy wharf", and the ship's scope of operation in 2020 is "from the Navy wharf to the Olympic Sailing Center and back to the Navy wharf ", i.e., a single turnback.

In 2017, the total revenue from the main business of the Tourism Co., Ltd.'s Olympic Sailing Project was 579,782.26 yuan, the cost attributable to the Olympic Sailing Project was 490,819.99 yuan, and the operating profit of the Olympic Sailing Project was 888,962.27 yuan.

On December 30, 2020, the Yacht Co., Ltd. restructured from the enterprise owned by the whole people to the Qingdao Yacht Club Co., Ltd., the type of the company is a limited liability company, a group is the only shareholder of the Yacht Club.

The Tourism Co., Ltd. claimed in the principal action to rescind the 9-Meter Berth Leasing Contract And 120-Meter Berth Leasing Contract; the

Yacht Co., Ltd. and a group to refund the remaining lease period rent of 389,268.49 yuan and interest on overdue refunds, pay liquidated damages of 183,600 yuan, compensate for the loss of acquirable benefits of 2,362,249.05 yuan, and compensate for the ship's maintenance and repair costs, personnel costs, ship depreciation, transportation losses totaling 4,735,094.12 yuan. the Yacht Co., Ltd. counterclaimed to order the Tourism Co., Ltd. to pay berth rent 288,000 yuan and liquidated damages 144,000 yuan.

【Judgement】

The court's effective judgement held that a number of berth lease contracts suspended due to government behavior, the contract rescission, rent refund and liquidated damages should be determined strictly in accordance with the contract agreement. The exemption of liquidated damages liability caused by government behavior does not affect the review and determination of the loss of acquirable benefits. The determination of the damages for breach of contract under Chinese law adheres to the principle of total compensation, and if the party has evidence to prove that the actual loss is greater than the liquidated damages by agreement, the exercise of the right of the party should not be excluded. In this case, even if the performance of the contract is impeded due to the cultural activities held by the government, the corresponding responsibility should be beard according to law. For this case, the Tourism Co., Ltd. has a loss of acquirable benefits because the berth cannot be used normally. the Tourism Co., Ltd.'s loss of acquirable benefits should be the pure profits under the circumstance that the berth lease contract is normally performed, rather than the income, i.e., the costs and expenses should be deducted. The loss of acquirable benefits of 9 meters berth is 153,777.60 yuan, and the loss of acquirable benefits of 120 meters berth is 208,435.20 yuan. The

ship's maintenance and repair costs, personnel costs, ship depreciation, transportation losses and other costs belong to the Tourism Co., Ltd. costs and expenses, which are not supported. After the judgment was pronounced, neither party appealed, and the defendant in the principal action initiatively fulfilled its payment obligation.

【Significance】

This case is a dispute arising out of the rescission of the ship berth leasing contract caused by the cultural activities held by the government.

Generally speaking, the legal consequences of the rescission of the berth leasing contract are the refund of the remaining rent, the payment of liquidated damages, etc. For the rescission of the contract caused by the government's behavior, there is often an exemption clause of liquidated damages in the contract. In this case, there is such a clause, and the court also denied the liquidated damages in strict accordance with the contract agreement. The special point of this case is that the Tourism Co., Ltd. claimed that the right to use the berth is the necessary condition of its waterway transportation business, and the loss of berths resulted in the loss of significant benefits of its business, which involves the review of loss of acquirable benefits. The court should correctly grasp based on the following ideas for the trial: first, the observant party should bear the burden of proof of legal facts of the loss of acquirable benefits. In this case, the key to the court's decision is whether there is a direct causal relationship between the loss of business profits and the rescission of the berth contract. Secondly, as to the maintenance and repair fees of the ship, personnel costs, depreciation of the ship, transportation loss fees and other expenses claimed by the Tourism Co., Ltd., the court held that the expenses should be regarded as costs and should not be included in the scope of compensation for the performance benefits. Compensation for both the

profits and expenses of the Tourism Co., Ltd. would result in double compensation, which is contrary to the basic legal theory of damages, and therefore should not be supported. Thirdly, the court should also take into account the foreseeability rule, loss mitigation rule, profit and loss offset rule, negligence offset rule and other comprehensive factors in determining the amount of loss of acquirable benefits.

Although there are many provisions in Chinese law to stipulate the loss of acquirable benefits for the breach of contract, the court judgment is usually only awarded to the observant party the actual loss and rarely support the loss of acquirable benefits, there is an obvious disconnect between legal provisions of acquirable benefits and judicial practice. It is expected to realize the balance of interests between the lessor and the lessee of the berth through the decision rules established in this case, so as to regulate the relationship between the parties. In this case, the court further analyzed other requests for compensation claimed by the parties from the perspective of the requirements of the liability for breach of contract, considered the reasonableness in the requests claimed by the parties more comprehensively, from the point of view of protecting of litigation rights of the parties, not only the lessor's right of defense to exempt liquidated damages due to the government behavior is protected, but also the observant party's legitimate rights and interests are maintained. It should be noted that, after the first instance judgment of the court, the lessor has not appealed and has initiatively fulfilled the payment obligation according to the first instance judgment, and the two parties have reached the intention to continue cooperation, the court's decision obtains the unity of the political effect, the social effect and the legal effect.

案例八：山东某建设与日照某码头公司建设工程施工合同纠纷案

【基本案情】

2017 年 1 月，建设与码头公司签订液体散货码头工程施工合同，约定建设公司为码头公司建设 3 万吨级、5 万吨级液体散货泊位各 1 个及相应的配套设施。合同签订后，建设公司于 2017 年 5 月入场施工，后因市场发生较大变化等原因，码头公司于 2017 年 12 月 4 日通知建设公司暂停施工。停工两年后，后续如何建设仍无法确定。

2020 年 4 月 24 日，包括建设公司、码头公司在内的项目设计、施工、监理等单位经会议协商形成《工程合同中(终)止会议纪要》，同意合同终止并核定具体结算工程量并办理结算手续

2020 年 12 月 25 日，监理公司作出竣工结算审核报告，审定结算金额为 38 652 380.86 元。码头公司已支付部分工程款。

【裁判结果】

青岛海事法院审理认为,建设公司、码头公司签订的建设工程施工合同合法有效。由于建设工程施工合同已经双方协商解除，且案涉工程已经竣工结算至今一年有余，码头公司应一次性支付工程款并支付相应利息。建设公司请求就其承建工程折价或拍卖的价款享有优先受偿权，该请求符合法

律规定，遂判决：一、码头公司支付建设公司工程款 11172674.67 元及利息；二、建设公司就其施工液体散货码头工程折价或者拍卖价款享有优先受偿权。

码头公司不服一审判决，以一审认定建设公司享有建筑优先受偿权有误为由，提起上诉。

二审期间，双方对于应付工程价款金额达成和解，并确认建设公司享有建筑优先受偿权。

【典型意义】

该案典型意义在于创设了建设工程价款优先受偿权行使期限新旧衔接的裁判规则。

根据 2019 年 2 月 1 日实施的《最高人民法院关于审理建设工程施工合同纠纷案件适用法律问题的解释（二）》第二十二条规定，承包人行使建设工程价款优先受偿权的期限为六个月，自发包人应当给付建设工程价款之日起算。为配合民法典的实施，最高人民法院于 2020 年 12 月 29 日公布了《关于审理建设工程施工合同纠纷案件适用法律问题的解释（一）》，作为与民法典同时实施的配套司法解释。根据该司法解释第四十一条的规定，行使建设工程价款优先受偿权最长不得超过十八个月，自发包人应当给付建设工程价款之日起算。本案竣工结算日期为 2020 年 12 月 25 日，建设公司起诉日期为 2022 年 2 月 18 日，这就涉及到新旧解释行使期限的衔接问题。根据《最高人民法院关于适用〈中华人

民共和国民法典>时间效力的若干规定》第一条、第二十条规定精神,一般应从优先受偿权履行的情况选择适用新旧司法解释。具体而言,对于民法典施行前签订的施工合同,根据 2018 年司法解释的规定六个月的优先受偿行使期限已经届满,并未持续至 2020 年司法解释施行后,优先权行使期限仍应适用 2018 年司法解释的规定,为六个月;如果 2020 年司法解释施行后,优先受偿权未满六个月的行使期限,承包人仍有权主张优先受偿权,权利还在履行期间,则应适用 2020 年司法解释关于行使优先受偿权最长十八个月期限的规定。

在无明确法律依据、检索无同类案件的情况下,本案首次就建设工程价款优先受偿权行使期限新旧衔接作出司法裁判,具有独创性和可复制性。

Case Eight: A Construction Company in Shandong Province v. A Terminal Company in Rizhao City (Case about Dispute over the Construction Contract)

【Basic Facts】

In January 2017, the Construction Company and the Terminal Company entered into a construction contract for the liquid bulk cargo terminal project, agreeing that the Construction Company would build a 30,000 ton and a 50,000 ton liquid bulk cargo berths and corresponding ancillary facilities for the Terminal Company. After signing the contract, the Construction Company started the construction in May 2017, and then the Terminal Company notified the Construction Company on December 4, 2017 to suspend the construction due to major changes in the market and other reasons. Two years after the suspension, it is still uncertain how the subsequent construction will be carried out.

On April 24, 2020, the project design, construction, supervision and other units, including the Construction Company and the Terminal Company, negotiated at a meeting and formed *Minutes of the Meeting on the Suspension (Termination) of the Construction Contract*, agreeing to the terminate the contract, approving the specific settlement of the engineer quantities and handling the settlement procedures.

On December 25, 2020, the Supervision Company made a completion settlement audit report with an audited settlement amount of 38,652,380.86 yuan. The Terminal Company has paid for a portion of the construction project price.

【Judgement】

Qingdao Maritime Court held that the construction contract signed by the Construction Company and the Terminal Company was legal and valid.

Due to the construction contract has been rescinded through the negotiation by both parties, and the project has been completed and settled more than a year, the Terminal Company should pay the construction project price in one lump sum and the corresponding interest. The Construction Company requested to enjoy the priority right to be paid on the discounted or auctioned price of the construction project, which was in accordance with the law, and the judgment was made that: first, the Terminal Company should pay the Construction Company the construction project price of 11,172,674.67 yuan and interest; second, the Construction Company should enjoy the priority right to be paid on the discounted or auctioned price of the liquid bulk terminal project constructed by it.

The Terminal Company refused to accept the judgment of first instance, and appealed against the judgment on the ground that the first instance found the construction company enjoyed priority right to be paid of the construction was wrong.

During the second instance, the parties reached a settlement on the amount of the construction project price payable and confirmed that the Construction Company had the priority right to be paid of the construction.

【Significance】

The typical significance of the case is to create the decision rule to connect the new and old rules on the period for exercising the priority right to be paid of the construction project price.

According to Article 22 of *Interpretation of the Supreme People's Court on Issues concerning the Application of Law in the Trial of Cases Regarding Disputes over Construction Contracts for Construction Projects (II)*, which came into effect on February 1, 2019, the period for contractor to exercise the priority right to be paid for the construction project price shall be six months, counting from the date when the contract-issuing party

shall pay the construction project price. In conjunction with the implementation of the Civil Code, the Supreme People's Court published *Interpretation on Issues concerning the Application of Law in the Trial of Cases Regarding Disputes over Construction Contracts for Construction Projects (I)* on December 29, 2020 as a supporting judicial interpretation to be implemented concurrently with the Civil Code. According to Article 41 of the Interpretation, the exercise of the priority right to be paid for the construction project price shall not exceed a maximum of eighteen months, counting from the date when the contract-issuing party shall pay the price of construction project. The date of completion and settlement of this case was December 25, 2020, and the date of the Construction Company's lawsuit was February 18, 2022, which involved the connection between the periods of exercise in the old and new interpretations. According to the Article 1 and Article 20 of *Several Provisions of the Supreme People's Court on the Retroactivity in the Application of the Civil Code of the People's Republic of China*, generally the new and old judicial interpretations should be chosen in the case of the performance of the priority right to be paid. Specifically, for the construction contract signed before the implementation of the Civil Code, the six-month period for the exercise of the priority right to be paid under the provisions of the 2018 Judicial Interpretation has expired and has not continued until after the implementation of the 2020 Judicial Interpretation, the period for the exercise of the priority right to be paid shall still be governed by the provisions of the 2018 Judicial Interpretation, which shall be six months; after the implementation of the 2020 Judicial Interpretation, if the six-month period for the exercise priority right to be paid does not expire, the Contractor should be still entitled to claim the priority right to be paid and the right is still in the period of performance, and the provisions of the 2020

Judicial Interpretation on the maximum eighteen-month period for the exercise of the priority right to be paid shall apply.

In the absence of a clear legal basis and similar cases, this case made judicial decision on the connection of new and old rules on the period to exercise the priority right for the construction project price firstly, with originality and replicability.

案例九：青岛某旅游发展公司诉山东某科技公司船舶买卖合同纠纷两案

【案情简介】

2018 年，原告青岛某旅游发展公司与被告山东某科技公司订立船舶买卖合同，购买四艘双体帆式客船。涉案船舶均通过中国船级社检验并取得检验证书，双方共同验收并办理交接、确认手续。根据《采购合同》、《双体客船使用说明书》的记载，涉案四艘船舶系双体帆船，以帆为主动力、以发动机为辅助动力（即帆船正常航行时靠帆船风力推进，当逆风或逆流时采用辅助推进系统辅助推进）。但是，原告在船舶运营期间未使用帆作为动力，一直将发动机作为动力，并且疏于对发动机进行保养，后来发动机多次出现故障。双方于 2019 年 10 月作出《会议纪要》，载明：运营期间出现的故障系发动机质量问题，应由被告履行保修义务，负责对船舶发动机出现的故障问题提出解决方案，更换性能可靠的发动机等。之后经过双方协商，由被告多次为船舶修理发动机并更换新发动机。2020 年 10 月，原告诉至本院请求解除案涉客船采购合同，经一、二审裁判，其诉请被驳回。2021 年 10 月，原告再次诉至本院，请求法院判令由被告按照《会议纪要》承担义务。

【裁判结果】

原告两次起诉的诉讼请求均被青岛海事法院判决驳回。

前一次诉讼中，判决认为，涉案船舶均通过中国船级社检验并取得船舶检验证书，合同双方共同验收，且原告在交接确认书中确认船舶满足其全部要求，至此被告依约履行了合同义务，原告采购帆船的合同目的已经实现。在船舶运营过程中，原告未使用帆为动力，而是将原本的辅助动力（即发动机）作为唯一动力，且自认对发动机疏于保养，尽管会议纪要中记载发动机存在质量问题，但该内容系协商过程中的产物，系在原告未了解被告把发动机作为唯一动力的情况下做出的，且发动机系第三方提供，在未经鉴定或者第三方确认的情况下，直接做出发动机存在质量问题的结论无疑是不准确甚至是错误的。因此，前一诉讼中原告主张交付船舶不能实现合同目的、因质量问题不能使用的合同解除条件不成就。综上，原告的诉讼请求被驳回，二审予以维持。

后一诉讼中，原告基于《会议纪要》请求被告承担义务，但该纪要从内容看，是双方就涉案四艘船舶发动机故障问题磋商的意向性文件，对于发动机故障问题的解决方案、对发动机进行更换的具体方案，双方均未达成最终合意，关于其中记载被告提出的初步方案，双方也并未达成一致意见（而且该方案已经被中国船级社在评审意见中明确予以否决），因此《会议纪要》并不具有履行性。综上，后一诉讼中，原告以《会议纪要》中的内容请求被告履行义务亦不符合法律规定。一审对原告的请求予以驳回。2022年8月，原被告双方在后一纠纷二审阶段对船舶改造的具体事项达成一致

意见，案件得以调解。

【典型意义】

通过对合同约定、涉案船舶的属性、故障原因、《会议纪要》的内容进行准确考量，得出原告订购的船舶是用于游览观光、休闲娱乐、帆船体验且受平静水域营业限制的慢动力帆船，而非需要满足快速航行条件的船舶，被告交付的船舶完全符合合同约定的判断。在对证据认定方面，《会议纪要》中对于发动机故障原因的陈述是在问题出现初期、原被告双方未经充分调查或鉴定的情况下做出的，不应作为案件审理中判断船舶发动机故障原因的依据，其中记载的保修、更换发动机方面的内容仍在磋商阶段，双方尚未达成合意，因此《会议纪要》也不具备合同的属性。原告先后诉请解除买卖合同、由被告依据《会议纪要》为其更换满足作为船舶主动力的发动机，明显是基于自身需求变化提出的超出原合同义务的主张，是对诚实信用原则的违背，对正常市场交易秩序造成了干扰。

本案中，原告意图将自身疏忽（订购船舶种类不符合自身需求，又错误将发动机作为唯一动力）导致的损失转嫁于被告，不属于民法保护的善意行使的合法权益。要准确把握诚实信用原则这一民法领域的“帝王条款”，保证原告的权利行使不致任性，维护合同正当履行方的权利，实现双方当事人合法权益的平衡，维护公平正义。

Case Nine: A Qingdao Tourism Development Company v. A Shandong Science and Technology Company (Two Cases about Disputes over the Ship Sale Contract)

【Basic Facts】

In 2018, the Plaintiff, A Tourism Development Company in Qingdao City, entered into a ship sale contract with the Defendant, A Science and Technology Company in Shandong Province, to purchase four catamaran sail passenger ships. The ships in this case all passed the inspection of China Classification Society and obtained inspection certificates, and both parties jointly conducted the examination and acceptance, and handled the handover and confirmation procedures. According to the Sale Contract and the Instruction for Catamaran Passenger Ships, the four ships in this case were catamaran sail ships, with sails as the main power and engines as auxiliary power (i.e., the ships were propelled by the wind power of the sails during normal navigation, and the auxiliary propulsion system was used to assist in the propulsion of the ships when there was a headwind or a countercurrent). However, the Plaintiff did not use sails as power during the operation but always used the engine as power, and neglected to maintain the engine, resulting in several breakdowns of engine later. The parties made a Minute of Meeting in October 2019, which set out that the breakdowns during the operation period were engine quality problems, and that the Defendant should fulfill its warranty obligation, propose solutions to resolve the breakdown problems of engine, and replace a new engine with a reliable performance, etc. Subsequently, through the negotiation between the parties, the Defendant repaired the engine and replaced the new engine of the ships for many times. In October 2020, the Plaintiff filed an action to this court requesting to rescind the sale contract of passenger

ship in this case, and its claim was dismissed after the first and second instance. In October 2021, the Plaintiff filed another action to this court again, requesting the court to order that the Defendant should bear the obligation in accordance with the Minutes of Meeting.

【Judgement】

The Plaintiff's claims in two actions were both dismissed by Qingdao Maritime Court. In the previous action, the Judgment held that the ships in the case all passed the inspection of China Classification Society and obtain ship inspection certificates, the parties of the contract made acceptance together, and the Plaintiff confirmed in the handover confirmation letter that the ships meet all requirements, so the Defendant has fulfilled the contractual obligations, and the Plaintiff's purpose of the contract to purchase the sail ships was achieved. During the operation of the ships, the Plaintiff did not use the sail as power, but use the original auxiliary power (i.e. engine) as the only power, and admitted to neglecting engine maintenance, although the Minutes of Meeting recorded the engine had quality problems, the content was the production in the negotiation process when the Plaintiff did not understand the Defendant used the engine as the only power, and the engine is provided by a third party, it is undoubtedly inaccurate or even wrong to directly conclude that there is a quality problem with the engine. Therefore, the condition to rescind the contract claimed by the Plaintiff in the previous action that the the ships could not realize the purpose of the contract and could not be used due to quality problems was not accomplished. In conclusion, the Plaintiff's claim was dismissed and the second instance upheld the Judgement.

In the latter action, the Plaintiff request the Defendant to bear the obligation based on the "Minutes of Meeting", but from the content, the Minutes is the intentional documents recording the negotiation about the

engine breakdown of the four ships by the parties, and the parties have not reached a final agreement for the solution of engine failure and the specific program to replace the engine, the parties also did not reach a unanimous agreement on the preliminary program proposed by the Defendant (and the program has been explicitly rejected in the evaluation of the opinion of China Classification Society), and therefore the "Minutes" was not enforceable. In conclusion, in the latter action, the Plaintiff requested the Defendant to fulfill its obligations based on the content of the Minutes of Meeting, which was also not in accordance with the law. The Plaintiff's claim was rejected in the first instance. In August 2022, the Plaintiff and Defendant reached an agreement on the specific matters of ship modification in the second instance of the latter action, and the case was settled.

【Significance】

By accurately considering the contractual agreement, the attributes of the ships in this case, the cause of the failures, and the content of the Minutes of Meeting, it was concluded that the ships purchased by the Plaintiff was slow-powered sailing ships used for sightseeing, recreation, sailing experience and subject to the operating limitations of calm waters, rather than the ships required to satisfy the conditions of speedy sailing, and the ships delivered by the Defendant were in full conformity with the contractual agreement. In the identification of evidence, the statement of the cause of the engine failure in the Minutes of Meeting is in the early stage of the problem, when the Plaintiff and the Defendant have not fully investigated or surveyed the situation, so should not be used to determine the cause of the breakdown of the ship's engine, and the content about the warranty, replacement of the engine were still at the negotiation stage, the parties have not yet reached a consensus, and therefore the Minutes of

Meeting does not have the nature of contract. The Plaintiff successively claimed to rescind the sale contract and replace the engine to be the main power of the ships by the Defendant based on the Minutes of Meeting, which is obviously based on their own needs change, beyond the original contractual obligations, in violation of the principle of good faith and interferes with the normal transaction order of the market.

In this case, the Plaintiff intends to transfer the loss caused by its own negligence (purchase the type of ships not meeting their own needs, and the use the engine as the only power mistakenly) to the Defendant, which does not belong to legitimate rights and interests in good faith protected by civil law. Grasp the principle of good faith which is the "Imperial Clause" in the field of civil law accurately, ensure that the exercise of the Plaintiff's rights will not be arbitrary, maintain the rights of the party who performs the contract properly, realize the balance of the legitimate rights and interests of both parties, and maintain the fairness and justice.

案例十：南通某风电技术有限公司诉山东某海洋工程有限公司航次租船合同纠纷案

【基本案情】

2021年5月31日，山东海洋公司作为出租方，与作为承租方的南通风电公司签订了一份《船舶租赁合同》，租金为195万/月。双方约定交船日期为2021年6月30日。同日，南通风电公司支付定金50万元。因货物在上一个卸货点无法卸下，6月30日山东海洋公司未能交付船舶。

2021年6月28日、7月8日、7月14日、7月16日、7月28日山东海洋公司法定代表人蒋某某与南通风电公司职员顾某某一直通过微信协商能否尽快交船事宜。7月28日下午15:44时，顾某某通过微信发给蒋某某一份《合同解除通知书》，载明合同约定“××”轮应于2021年6月底在惠州海域交给我司，但时至今日该船舶仍未按合同履行交付解除《船舶租赁合同》。要求退还定金50万元，并赔偿50万元。2021年8月11日，山东海洋公司与裕泰公司签订一份定期租船合同，约定租金每月160万元，租期3个月，2021年8月10日在福州海域交船。

南通风电公司向青岛海事法院提起诉讼，要求山东海洋公司返还定金50万元，赔偿各项损失50万元。山东海洋公司提起反诉，要求南通风电公司赔偿信赖利益损失274万元及其他物品损失4.93万元。

【裁判结果】

青岛海事法院审理认为，案涉《船舶租赁合同》双方就迟延交船未达成一致意见，山东海洋公司未按合同约定的时间履行交船义务，南通风电公司有权解除合同并请求返还定金 50 万元及损失 50 万元。但是南通风电公司行使解除权的时限较长，在一个月的时间内存在既不行使也不放弃的状态，导致山东海洋公司基于对南通风电公司的信任，一直在为继续履行合同进行准备。对此，虽不能说由此导致南通风电公司丧失合同解除权，但毕竟使得山东海洋公司的权利义务处于不稳定的状态，产生了信赖南通风电公司不再行使解除权而愿意继续履行合同的认知。这种认知导致其船舶产生信赖利益损失。法院裁判的关键在于一是认定当事人对合同的履行产生了合理的信赖，如果当事人的信赖是不合理的，则相关的损失就不应当属于信赖利益损失的救济对象。二是此种损失是指非违约方能从合同履行中客观获得的、能够合理预见的信赖利益损失。三是此种信赖利益的损失必须是因对方违约造成的，而且应当与违约行为之间具有因果关系。信赖利益的保护要求损害赔偿来弥补以回复到未信赖前的状况。因此南通风电公司行使约定解除权的行为违反诚实信用原则，应赔偿山东海洋公司在此期间的信赖利益损失，即船舶闲置损失 58.5 万元。一审判决作出后，双方均提起上诉，山东省高级人民法院二审维持原判。

【典型意义】

法安天下，德润人心。本案裁判以司法活动推动社会主义核心价值观的贯彻落实，营造有利于培育和践行的良好法治环境，遵循法律精神和原则，实行适应社会主义核心价值观要求的司法政策，增强适用法律法规的及时性、针对性、有效性，为惩治违背社会主义核心价值观行为，提供具体、明确的司法政策支持。”“用司法公正引领社会公正”。本案是一起贯彻落实《中华人民共和国民法典》诚实信用原则、保障交易公平安全的典型案例，判决合理确定在一方享有任意解除权的情形下，应当按照诚实信用原则及时行使权利，对于非善意行使解除权的行为不免除其损害赔偿义务，避免使合同相对方权利义务处于不稳定的状态。本案以公平理念来寻求维护各方利益的最佳契合点，防止合同解除权滥用，保障交易安全，达到平衡双方当事人利益且鼓励交易的目的；同时有效地运用信赖利益理论解决了当事人的争议，重申了诚实信用的基本原则，实现了对双方当事人的合理归责。法院结合信赖的合理性、信赖利益损失的法律事实及可预见性规则举证责任的分配，最终认定解除权人行使合同解除权违背诚实信用原则，应当赔偿相对方的船舶闲置损失。

**Case Ten: A Nantong Certain Wind Power Technology Co. Ltd.
v. A Shandong Certain Marine Engineering Co. Ltd. (Case about
Dispute over Voyage Charter Contract)**

【Basic facts】

On 31 May 2021, Shandong Ocean Company, as the lessor, entered into a voyage charter contract with Nantong Wind Power Company, as the lessee, at a rent of 1.95 million per month. The parties agreed that the date of delivery of the vessel would be 30 June 2021. On the same day, Nantong Wind Power Company paid a deposit of RMB 500,000 yuan. Shandong Ocean failed to deliver the vessel on 30 June because the goods could not be unloaded at the previous unloading point.

On 28 June, 8 July, 14 July, 16 July and 28 July 2021, Jiang, the legal representative of Shandong Ocean Company, and Gu, an employee of Nantong Wind Power Company, had been negotiating through WeChat on whether the ship could be delivered as soon as possible. At 15:44 p.m. on 28 July, Gu sent Jiang a notice of cancellation of contract through WeChat, which stated that the contract agreed the ship should be handed over to our company at the end of June 2021 in Huizhou waters, but to date the ship has not been delivered according to the contractual performance of the cancellation of the contract. The company demanded a refund of the deposit of RMB 500,000 and compensation of RMB 500,000. On 11 August 2021, Shandong Ocean Company entered into a time charter contract with Yutai Company, agreeing that the rent would be RMB 1,600,000 per month for a period of three months and that the vessel would be handed over to our company on 10 August 2021 in the waters of Fuzhou.

Nantong Wind Power Company raised an appeal to Qingdao Maritime Court, requesting Shandong Ocean Company to return the deposit of RMB

500,000 and to compensate for the loss of RMB 500,000 in various items. Shandong Oceanic Company filed a counterclaim, requesting Nantong Wind Power Company to compensate for the loss of reliance interest of RMB 2.74 million and the loss of other items of RMB 49,300 yuan.

【Judgement】

Qingdao Maritime Court held that the two parties to the voyage charter contract failed to reach an agreement on the delayed delivery of the ship, and Shandong Ocean Company failed to fulfil its obligation to deliver the ship according to the time agreed in the contract, and Nantong Wind Power Company had the right to terminate the contract and request the return of 500,000 yuan of deposit and 500,000 yuan of loss. But the time limit for Nantong Wind Power Company to exercise the right to terminate the contract is relatively long, within a month's time, there is neither exercise nor abandonment of the state, resulting in Shandong Ocean Company based on the trust of the Nantong Wind Power Company, has been to continue to perform the contract for the preparation. In this regard, although it can not be said that this led to the Nantong Wind Power Company to lose the right to rescind the contract, but it makes the rights and obligations of the Shandong Ocean Company is in a state of instability, resulting in the trust of the Nantong Wind Power Company no longer exercise the right to rescind the willingness to continue to perform the contract of understanding. This understanding led to the loss of reliance interests of its ships. The key to the court's decision lies in the determination that the parties to the performance of the contract has a reasonable trust, if the parties to the trust is unreasonable, the relevant loss should not be the loss of reliance on the object of relief. Secondly, such loss refers to the non-breaching party can objectively obtain from the contract performance, can be reasonably foreseeable loss of reliance interests. Thirdly, such loss of

reliance interests must be caused by the other party's breach of contract, and there should be a causal relationship with the breach of contract. The protection of reliance interests requires damages to compensate to return to the situation before the reliance. Therefore, Nantong Wind Power Company violated the principle of good faith by exercising the right to terminate the agreement, and should compensate Shandong Ocean Company for the loss of reliance interests during this period, i.e., the loss of 585,000 RMB for the idle ship. After the judgement of first instance, both parties appealed, and the Shandong High People's Court upheld the judgement of second instance.

【Significance】

Law can govern the world, and morality enriches people's hearts. The judgement in this case promotes the implementation of socialist core values through judicial activities, creates a favourable rule of law environment conducive to cultivation and practice, follows the spirit and principles of the law, implements judicial policies adapted to the requirements of socialist core values, strengthens the promptness, relevance and effectiveness of the application of laws and regulations, and provides specific and clear judicial policy support for the punishment of behaviours that are contrary to socialist core values. "Lead social justice with judicial justice." This case is a typical case which implements the principle of honesty and credit in *Civil Code of the People's Republic of China* and safeguards the fairness and safety of transactions, and the judgement reasonably determines that in the case of a party enjoying the right of arbitrary cancellation, the right should be exercised in a timely manner in accordance with the principle of honesty and credit. In order to avoid putting the rights and obligations of the other party to the contract in an unstable state, the act of exercising the right of cancellation in bad faith is

not exempted from the obligation to compensate for damages. The case seeks to maintain the best fit between the interests of all parties with the concept of fairness, prevents the abuse of the right to rescind the contract, safeguards the security of the transaction, and achieves the purpose of balancing the interests of both parties and encouraging the transaction. Meanwhile, the theory of reliance on the interests of the parties was effectively applied to solve the disputes between the parties, reaffirming the basic principle of honesty and credit, and realising the reasonable attribution of responsibility to the two parties. Taking into account the reasonableness of the reliance, the legal facts of the loss of reliance interest and the allocation of the burden of proof under the foreseeability rule, the court finally concluded that the rescuer's exercise of the right to rescind the contract violated the principle of good faith and should compensate the other party for the loss of the ship's idleness.