大连海事法院
2023 年海事审判
白皮书

Dalian Maritime Court
White Paper on Maritime Trials (2023)

中华人民共和国大连海事法院
Dalian Maritime Court of the P.R.C

2024年3月
March 2024

CONTENTS

大连海事法院
2023年海事审判白皮书

特别说明：本白皮书以中英两种文字发布，以中文文本为准。

目　录

Dalian Maritime Court White Paper on Maritime Trials (2023)

Special Statement: This paper is released in Chinese and English, a nd the Chinese Version shall prevail.

TABLE OF CONTENTS

前言

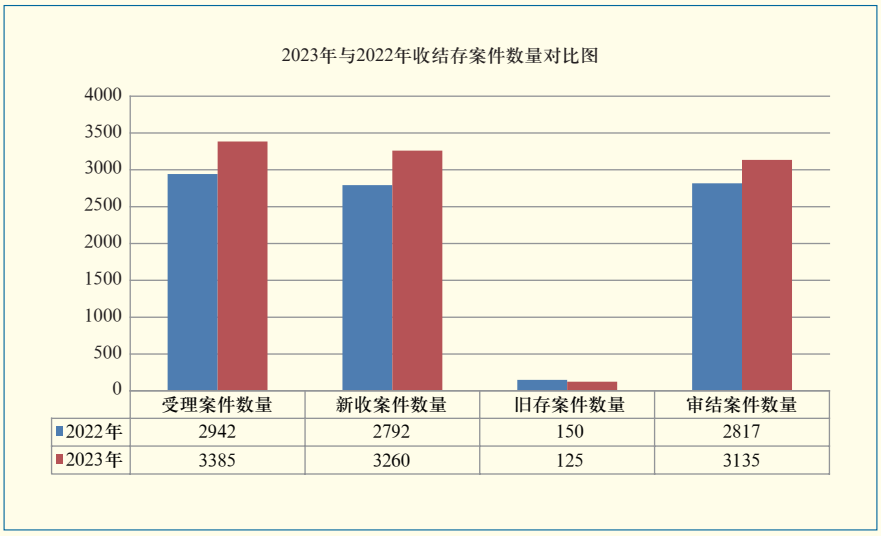
刚刚过去的2023年，是全面贯彻落实党的二十大精神的开局之年，是辽宁全面振兴新突破三年行动的首战之年，也是三年新冠疫情防控转段后经济恢复发展的一年。

一年来，大连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，全面贯彻党的二十大和二十届二中全会精神，深入贯彻习近平法治思想，认真贯彻习近平总书记在新时代推动东北全面振兴座谈会上的重要讲话精神，紧紧围绕“努力让人民群众在每一个司法案件中感受到公平正义”目标，以“公正与效率”为主题，以为大局服务、为人民司法为主线，锚定“创一流”工作定位，聚焦提高国际影响力和司法公信力，奋力推进新时代新征程大连海事法院工作现代化，努力为海洋强国建设作出新的更大贡献。

一、基本情况

（一）总体概况

1. 收结案情况。2023年，大连海事法院受理各类案件3385件，同比上升15.06%。其中新收3260件，同比上升16.76%；旧存125件，同比下降16.67%；审结3135件，同比上升11.29%；结案率92.61%，同比下降3.14个百分点，审判类案件结案率位居全国海事法院第一位，全部案件结案率位居全国海事法院第二位。



	受理案件数量	新收案件数量	旧存案件数量	审结案件数量
2022年	2942	2792	150	2817
2023年	3385	3260	125	3135

2. 质效指标情况。2023 年，大连海事法院在“辽宁法院审判质量管理平台”中院排名第一，其中：一审服判息诉率 84.19%，民事案件的一审裁判被改判发回重审率 6.07%，行政案件一审裁判被改判发回重审率 7.84%，执行标的到位率 42.3%，法官人均结案数 95 件，审限内结案率 95.44%，平均结案时间 62.99 天，没有超审限案件。

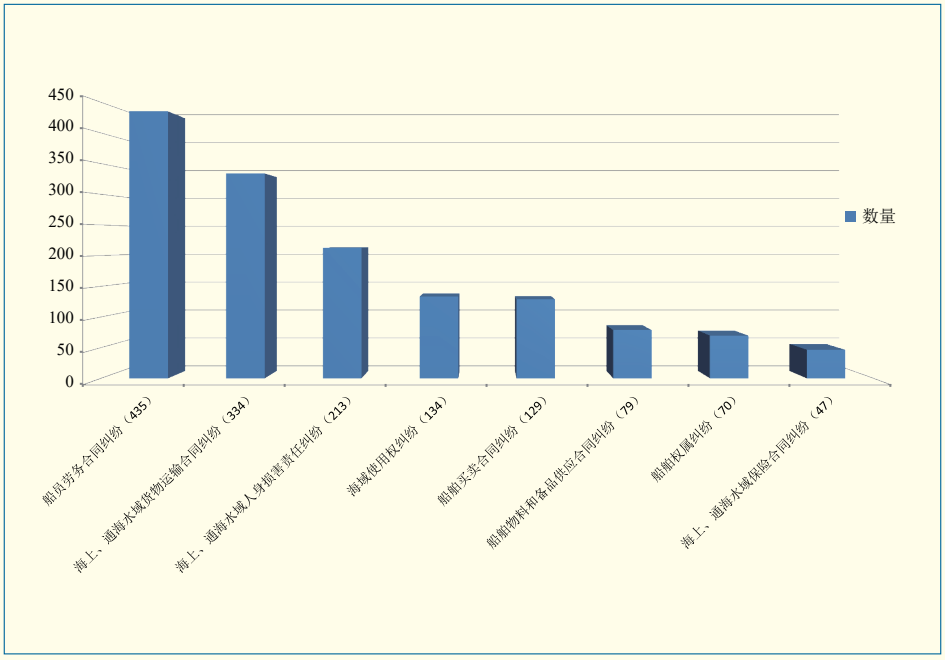
（二）案件分类

1. 民事案件[1]：受理 2138 件，同比上升 6.47%。其中新收 2051 件，同比上升 8.52%；审结 2051 件，同比上升 6.77%；结案率 95.93%，同比上升 0.26 个百分点；涉案标的额 67.9074 亿元，同比增加 39.6201 亿元。

民事案件中，受理海事海商案件 2005 件，同比上升 8.73%。其中新收 1921 件，同比上升 11.04%；审结 1919 件，同比上升 9.03%。数量居前八位的新收海事海商案件共 1441 件，其中船员劳务合同纠纷 435 件，占新收海事海商案件的 22.64%，同比下降 15.36%；海上、通海水域货物

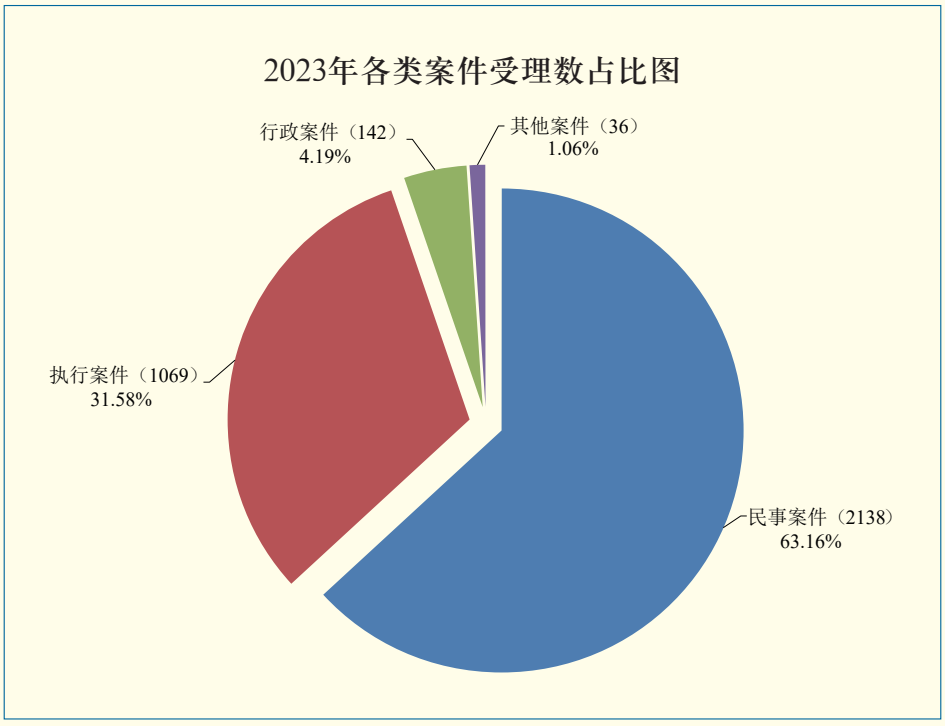
〔1〕包含海事海商案件和海事特别程序案件，不包含非诉保全审查案件、国家赔偿案件、司法救助案件、司法协助案件和执行案件。

运输合同纠纷 334 件，占比 17.39%，同比上升 12.84%；海上、通海水域人身损害责任纠纷 213 件，占比 11.09%，同比上升 54.35%；海域使用权纠纷 134 件，占比 6.98%，同比上升 8.06%；船舶买卖合同纠纷 129 件，占比 6.72%，同比上升 32.99%；船舶物料和备品供应合同纠纷 79 件，占 4.11%，同比上升 16.18%；船舶权属纠纷 70 件，占比 3.64%，同比上升 1.45%；海上、通海水域保险合同纠纷 47 件，占比 2.45%，同比上升 34.29%。具体类型如下：



2. 行政案件：受理 142 件，同比上升 59.55%。其中新收 136 件，同比上升 72.15%；审结 125 件，同比上升 50.6%；涉案标的额 5.9919 亿元，同比增加 4.1296 亿元。

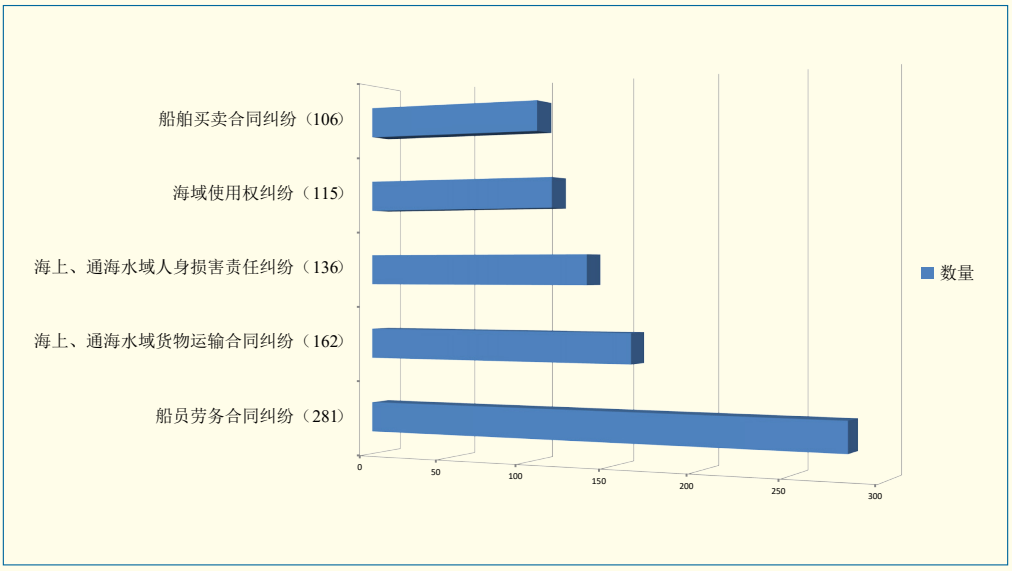
3. 执行案件：受理 1069 件，同比上升 37.05%，其中新收 1037 件，同比上升 36.81%。执结 924 件，同比上升 23.53%。执行完毕率 41.97%，首执案件终本率 38.25%，执行案件平均结案时间 58 天，执行标的到位率 42.3%。



4. 派出法庭案件：五个派出法庭受理各类案件 1283 件，同比上升 9.84%。其中新收 1248 件，同比上升 12.02%；旧存 35 件，同比下降 35.19%。审结 1248 件，同比上升 10.15%；结案率 97.27%，同比上升 0.27 个百分点。一审裁判被改判发回重审率 6.99%，高于全院 0.83 个百分点；调解率 15.74%，低于全院 0.27 个百分点；撤诉率 20.82%，低于全院 1.88 个百分点。

五个派出法庭受理海事海商案件 1177 件，占全院海事海商案件总数的 58.7%。其中新收 1144 件，占全院海事海商案件的 59.55%；审结 1142 件，占全院海事海商案件的 59.51%；涉案标的额 48.0022 亿元。

派出法庭新收海事海商案件中数量居前五位的案件共 800 件，具体类型如下：



5. 扣押、拍卖船舶情况：扣押船舶 28 艘（其中外轮 1 艘、国轮 27 艘），拍卖船舶 16 艘（其中外轮 1 艘、国轮 15 艘），加快资产处置，网拍成交船舶 11 艘，网拍覆盖率 100%，成交金额 8513.58 万元。

6. 涉外涉港澳台案件情况：2023 年全院共受理涉外涉港澳台案件 227 件，同比上升 2.71 个百分点，其中新收 208 件，同比上升 17.51 个百分点。审结 206 件，同比上升 7.29 个百分点。涉及法国、韩国、美国、新加坡、德国、丹麦、阿根廷、以色列、印度尼西亚、马绍尔群岛、利比里亚、巴拿马、日本、印度、英国、毛里塔尼亚、瑞士、越南、荷兰、埃及、加蓬、塞内加尔等 30 多个国家和地区。涉外上诉案件无被改判和被发回重审情形。

二、工作亮点

（一）强化能动司法，积极服务发展大局

一是推动法治环境更好。深入开展“1+6”专项活动，升级府院联动

机制，促进案结事了政通人和，助力营造市场化法治化国际化一流营商环境。充分运用“活封”“可售性冻结”等替代性保障措施，释放财产使用价值。深入开展“法官进企业法律服务”活动，与大连船舶重工公司等重点港航企业建立常态化沟通协调机制，全力助企纾困安心。一个案例入选“新时代推动法治进程2023年度十大提名案件”。**二是促进海洋经济更强。**妥善审结涉海经济、港口等案件，服务海洋经济强省建设，收到中国港口协会、葫芦岛市委专门发来的感谢信。完善服务海洋强国、助力民营经济健康发展等实施意见8项。举办全国首届“造船业涉诉法律风险的防范与化解”专题研讨会，促进海洋装备产业高质量发展。提出助力航运中心可持续发展的建议，得到省委领导批示。做好进口冷链航运工作的建议入选省法院优秀司法建议。**三是服务对外开放更优。**坚持平等公正保护原则，积极探索“一站式”国际商事纠纷多元化解决机制，建立跨境线上诉讼服务机制，完善外国法查明规程。加强中英双语网站建设，讲好中国法治故事，展现司法文明形象。**四是守护海洋生态更美。**扎实推进环境资源审判专业化建设，成立环境资源类专业法官团队，建立环境资源审判专家库，高效审理海洋生态环境案件，全力守护生态环境。积极参与大连开展非法违规占用海域、滩涂、岸线问题清理整顿工作。提出优化使用生态修复资金的对策建议，省委省政府决策咨询委员会《咨询文摘》予以刊载，省领导作出批示。

（二）坚持人民至上，守护群众高品质生活

一是抓前端、治未病。立足促进社会治理，坚持“止于未发”，发送司法建议，发放船员法律风险提示手册、渔船船员劳务合同范本，发布典型案例，深入社区乡村开展以案释法活动，引导公民守法而行；坚持“化于萌芽”，选派干警授课指导调解工作，与中国船东互保协会、中国渔业互保协会等9家单位建立多元解纷机制，探索与乡镇司法所联合解纷工作机制，在长海形成“镇镇能调解、诉讼不出岛”工作模式；坚持“协

力共治”，与市局沿海安全保卫局联合打造“海上枫桥地”，属全国首创。立案庭被评为全省人民调解工作先进集体，2 名干警被评为全省人民调解工作先进个人。**二是优服务、办实事。**开发法官异地庭审系统，加强网上交退费、立案保全、电子送达和跨域诉讼应用，提升线上服务品质。积极开展巡回审判，为黑、吉两省当事人在当地设立鉴定机构名册，减轻群众诉累。建立适老型诉讼服务机制，让老年人诉讼无忧。**三是勇担当、护权益。**畅通民生“绿色通道”，高效审结、执结涉民生案件。与天津、青岛海事法院建立环渤海海事执行协作机制。优化执行案款发放系统，成为全省首家实现执行案款利息随本金同步发放的法院。

（三）强化执法办案，维护社会公平正义

一是实施精品战略。开展优秀裁判文书和优秀庭审评比。香港马西马斯公司案入选全国海事审判十大典型案例，台湾万海航运公司案民事判决书入选全国涉外商事海事优秀裁判文书，6 篇案例被省法院评为精品案例。**二是以改革提质增效。**完善各类人员审判权力责任清单，规范合议庭运行机制，建立院庭长阅核机制，细化审委会议事规则，完善“类案检索初步过滤、专业法官会议研究、审判专家咨询、审判委员会讨论决定”机制，促进法律适用统一、同案同判。巩固深化“分调裁审”机制改革成果，充分释放“提速增效”活力，40.29% 民事案件通过调解、速裁、快审方式化解，推动公平正义加速实现。

（四）强化队伍建设，锻造过硬法院铁军

一是不断强化法治理念。坚持“思想引领、学习在先”和“第一议题”制度，加强司法理念、司法良知、职业道德教育，大力弘扬社会主义核心价值观，引导干警坚守法治精神。拍摄的微电影《亮剑沧海》获最高法院三等奖和省三等奖，《开学第一课 让法律为你护航》被省法院评为优秀新媒体作品。全院有 3 个集体 23 名个人获省级以上表彰表扬。1 人入

选省委政法委第五届“榜样力量”名单。**二是大力提升专业能力。**加强学习型法院建设，建立“在院、入校、上船、进海”四种模式，培养专家型法官。与大连海事大学签订审学研合作框架协议，共建卓越法律人才培养机制。组织法官登上船舶，进入海洋，提高实践能力。建立法官联系群众常态化机制，邀请全省调解专家授课，提升群众工作能力。3 人入选最高法院涉外审判精英人才名单、1 人获评全国优秀法官、1 人获评辽宁杰出中青年法律专家。我院被教育部、中央依法治国办确定为涉外法治人才协同培养创新基地的参与共建实务部门。**三是不断强化理论研究。**组建 8 个青年理论研究小组，从完善机制、弘扬氛围、加强保障入手，调动干警参与理论研究的积极性。4 人获评辽宁省审判理论研究人才。首次中标最高法院的 2 项重大课题，中标省法院 1 个重大课题。15 篇调研论文发表或获最高法院及省法院一等奖、二等奖和优秀奖，法律出版社出版了干警的专著，我院荣获全省法院“优秀组织奖”。

三、问题建议

为践行习近平法治思想，落实“抓前端、治未病”理念，发挥审判职能作用，从源头上预防和减少类案多发高发，以高质量的司法服务助推高质量发展，我们坚持能动司法，认真总结审判工作实践，在经营管理、合同订立、风险防范等方面提出以下建议。

（一）对航道疏浚项目发包方及疏浚合同主体的建议

航道疏浚工程是维护和改善航道通行能力的重要工作，通过清淤、加深和拓宽航道，可以提高船舶的通行能力，保障水运的安全和高效。而航道通畅与否，亦是影响港口经营发展质量的决定性因素之一。从法律关系看，航道疏浚合同通常为多种法律关系的集合体，一般包括项目发包或转包合同、特种船舶租赁经营合同及其他衍生的船舶物资供应服

务类合同。鉴于航道疏浚工程多主体、跨行业、高壁垒特征，对该业务领域不熟悉的合同主体参与实际项目工程时，面临涉诉纠纷的法律风险较为突出。〔2〕

建议：航道疏浚工程的项目发包方多为国有企事业单位或其关联企业，除了营利性的生产经营目标外，理应承担应有的社会责任。港口航道作为具有社会公共利益属性的经营性资产，对其进行日常的疏浚维护需要严格遵循相关法律法规和行业性规章制度的约束。考虑到当前航道疏浚领域的实际施工方多为个人船东或民营企业，且层层转包现象较为突出，建议项目发包方切实加强主体监督管理责任，严格审核项目承包人的各项资质及项目实际承接能力；个人船东或民营企业承接航道疏浚工程项目时，要审慎判断自身的软硬件实力与项目工程需求的适配情况，严控法律风险。

（二）对国际多式联运国内合同主体的建议

国际多式联运作为货物跨境运输的主要方式之一，对扩大对外开放、促进国际贸易发挥着极其重要的作用。同时，因国际多式联运通常会涉及不同国家、不同法域的法律规则适用，其法律关系具有鲜明的复杂化和网格化特征。从国际规则的文本定义来看，对多式联运经营人的法律定义基本一致，但在归责原则方面有所区别，主要围绕“统一责任制”和“网状责任制”两种归责模式进行修订和补充。如1975年《联合运输单证统一规则》归责原则适用“网状责任制”，1980年《联合国国际货物多式联运公约》归责原则适用“经修正的统一责任制”，1991年《多式联运单证规则》归责原则适用“经修正的网状责任制”，2008年《鹿特丹规则》归责原则适用“有限的网状责任制”。从国内法看，《中华人民共和国民法典》和《中华人民共和国海商法》借鉴了1991年《多式联运单证

〔2〕 例如（2022）辽72民初844号案件。

规则》“经修正的网状责任制”的归责原则，但规定的更为开放，是为“完全的网状责任制”。实践中，国内货运代理人参与国际多式联运的货损归责适用一直是案件审判的争议焦点。〔3〕

建议：国际多式联运货运代理在国内法视阈下通常具有以下一种或多种角色，其一为具有独立委托人资格的多式联运经营人，其二为发货人的代理人，其三为参加多式联运的承运人的代理人，其四为提供其他与货物运输相关辅助服务的当事人。准确识别货运代理在多式联运合同中的角色定位，是厘清货运代理合同纠纷违约责任的基础和前提。《最高人民法院关于审理海上货运代理纠纷案件若干问题的规定》第三条的规定为解决此类争议提供了指引和参考，即原则上依照书面合同约定、辅之以合同履约事实进行综合认定。因此，合同约定和履约事实是识别货运代理角色定位的基本依据，国际多式联运国内合同主体应注意防范以“货运代理合同”或“物流服务合同”之名行“多式联运合同”之实的情况，防范潜在的法律风险。

（三）对外派国际航行船舶船员劳务合同主体的建议

作为《2006年海事劳工公约》的成员国，中国始终坚持全面履行公约义务，秉持大国司法理念积极构筑海员体面工作的权利保障体系，中国海员建设工会代表中国船员、中国船东协会代表中国船东协商订立的中国船员集体协议是该体系的重要组成部分。实践中，除船员服务机构自有船员外派外，船员经船员服务机构外派至国际航行的船舶任职过程中，船员与海员外派机构之间订立的名为“上船协议”“船员雇佣协议”的合同以及船东与船员签订的合同之合同性质认定问题，通常会引发船员与外派服务机构、船东的法律纠纷，背后代表的则是船员的薪酬标准认定与合法薪酬获取权利问题。〔4〕

〔3〕 例如（2023）辽72民初653号案件。

〔4〕 例如（2023）辽72民初308号案件。

建议：船员与海员外派机构之间订立的名为“上船协议”“船员雇佣协议”的合同，性质上应认定为船员服务协议，海员外派机构在该合同关系下承担的义务不仅仅受合同约定的约束，还应当符合《中华人民共和国海员外派管理规定》的相关规定，尤其在突发紧急情况下，海员外派机构应遵守“谁派出、谁负责”的原则，做好外派海员在船工作期间及登、离船过程中的各项保障工作。船员经船员服务机构外派至国际航行的船舶任职过程中，船东与船员之间签订的合同与《2006 海事劳工公约》项下的海员就业协议具有同质性。船东为境外法人时，应适用并入该合同的集体协议来认定双方之间的权利义务关系；船东为中国境内注册的企业法人时，双方之间权利义务关系在集体协议之外，还应当受《中华人民共和国劳动合同法》的调整。

（四）对海上货物运输物流企业主体及行业协会的建议

物流企业是海上货物运输的基础和骨干成员，物流企业规范经营与否，会对参与海上货物运输各方合同主体的法律风险水平产生显著影响。实践中，物流企业普遍存在以下风险隐患：一是法律意识较低，风险防范意识较弱；二是合同订立形式不够严谨科学，业务操作流程不够规范；三是行业自律缺失，造成物流企业之间不良竞争。这些现象和行为不但会损害物流企业的自身利益，也对整个物流行业的健康发展埋下了隐患和痼疾。[5]

建议：充分发挥物流行业协会的桥梁纽带作用，加强对不规范作业风险隐患的法律宣传，让企业和从业者充分认识到物流行业经营中的法律风险。建立行业诚信体系，强化行业自律，倡导公平竞争，维护物流行业整体利益，促进建立公平、公正、公开的市场秩序。物流行业协会加强与政府相关部门的沟通，形成外部监管和行业自我监管的良性发展格局。

〔5〕 例如（2023）辽72民初1039号案件。

（五）对船舶建造企业的建议

船舶建造业作为一项复杂的系统工程，其产业链条包括船舶建造设计、船舶制造、船舶配套设施制备、船舶运营管理等诸多环节。在船舶建造过程中，因各种原因而进行的设计变更可能导致船舶参数发生变化无法达到合同约定的标准，或者变更设计、增加设备后无法按期交付船舶。如果船舶建造合同中未明确约定设计变更后导致船舶参数变化的处理方式和按定造人要求变更设计后延期交付船舶的责任承担问题，则可能导致违约主体不明。此时如果定造人以航速等未达到合同约定标准或未按合同约定期限交付船舶，而向船舶建造企业主张解除合同或要求其承担违约责任，则船舶建造企业极易面临诉讼风险。〔6〕

建议：船舶建造业是典型的技术密集型产业，船舶建造企业作为专业的技术提供者，即使是在签订非标准船舶建造合同的情况下，亦应在合同签订及履行过程中，谨慎对待因设计变更等发生的法律风险。在主动进行设计变更时，从技术层面整体评估变更的内容是否会对合同约定的船舶参数或交船期限产生影响；在按定造人要求进行设计变更时，应及时签订补充协议，以防止约定不明确引发相应的法律风险，推动我国船舶建造产业优化与升级。

四、典型案例

（一）全面履行公约义务，明确集体协议适用规则，保障外派海员权益

张某某诉众海公司船员劳务合同纠纷案〔7〕中，张某某与众海公司于

〔6〕 例如（2022）辽72民初1254号案件。

〔7〕 （2023）辽72民初308号。

2021 年 9 月签订《船员雇佣合同书》，对工作船舶、合同期限（9±1 月）、报酬标准等进行约定。众海公司安排张某某到巴拿马籍“MARIO”轮担任见习水手，并代表其关联公司镇海公司与张某某签订《海员就业协议》，内容与《船员雇佣合同书》基本一致，并约定适用集体谈判协议。张某某于 2022 年 7 月 10 日在船舶靠泊荷兰某港口后自行离船，并于 7 月 22 日自广州入境。张某某向法院起诉，请求判令众海公司支付其在船期间、遣返期间、隔离期间全额工资，并按照《中国船员集体协议 A 类》的最低工资标准支付固定加班费、年休假工资、法定节假日加班工资，以及上船、入境后回到住所地的交通费。众海公司以张某某提前下船构成违约为由要求张某某赔偿其垫付的回国费用、更换船员产生的损失。法院认为，通常海员外派机构与船员签订的船员服务合同并不具备劳动合同的性质，但众海公司与镇海公司为关联公司，众海公司以镇海公司的名义与张某某再行订立《海员就业协议》，故双方真实意思系张某某受众海公司雇用上船工作，双方形成船员劳动合同关系。张某某已提前一个月提出离职，符合《中华人民共和国劳动合同法》有关劳动者提前解除劳动合同的规定，故对众海公司的反诉请求不予支持。根据《中华人民共和国劳动合同法》第五十三条有关行业集体合同适用的规定，基于众海公司系中国企业法人，张某某系中国船员、案涉船舶为方便旗船舶，适用中国船员集体协议确定双方权利义务，判令众海公司支付张某某遣返期间、隔离期间的工资及入境后交通费。

（二）以合同目的和主要内容确定主合同关系，双务违约的按照原因力大小认定主次责任

梁某民诉米粒船舶租赁公司、李某兵、兴宇机械租赁中心、吴某涛航道疏浚合同纠纷案[8]中，兴宇机械租赁中心与米粒船舶租赁公司签署《船

〔8〕 一审（2022）辽72民初844号，二审（2023）辽民终671号。

机租赁合同》，以租赁两艘采砂船和一艘链斗船为名行疏浚项目工程发包之实。梁某民与由李某兵作为实际控制人的米粒船舶租赁公司签订《自卸沙船合作项目合同》，约定合作完成前述航道疏浚工程项目，同时对米粒船舶租赁公司代购两艘采砂船、船舶改造及船舶管理、工程量计价等事项进行了约定。购入的甲乙两艘船舶因不符合约定经改造后投入使用，之后，米粒船舶租赁公司弃管船舶，梁某民管理船舶期间甲船失火损坏，将乙船出售他人；米粒船舶租赁公司所有的链斗船亦不符合作业条件要求。甲乙两船在进场作业期间已完工工程款计算为 48593 元。梁某民向法院起诉，请求判令解除《自卸沙船合作项目合同》；由米粒船舶租赁公司给付航道疏浚工程款、预期可得利益损失、船舶合理改造费等相关费用，并由李某兵承担连带给付责任；判令兴宇租赁中心在未付工程款范围内承担给付责任，并由吴某涛承担连带责任。法院认为，《自卸沙船合作项目合同》虽然涉及委托船舶购买与管理的相关内容，但合同目的和主要内容是对完成航道疏浚工程项目进行的具体约定，故应按航道疏浚主合同法律关系厘清双方权利义务。从违约责任产生的原因力来看，米粒船舶租赁公司交付瑕疵船舶、链斗船不符合作业要求、弃管船舶违约行为在先；梁某民继管船舶不善导致甲船失火、擅自出售乙船违约行为在后，合同双方均应就合同不能履行承担一定的违约责任。米粒船舶租赁公司作为先行和主要违约方，应承担主要责任，梁某民承担次要责任。李某兵虽为米粒船舶租赁公司的实际控制人，但并不符合连带责任认定的法定适用条件。兴宇机械租赁中心和吴某涛作为工程项目发包人，在已向米粒船舶租赁公司支付工程价款后，无需向实际施工人梁某民承担补充责任。

（三）负有先履行义务的一方行使留置权应以完成自身主要义务，对方未履行主要义务为前提

鑫源公司诉傲博公司、顺桥公司多式联运合同纠纷案〔9〕中，买方傲博公司向卖方顺桥公司购买白砂，约定在买方傲博公司仓库交货，买方于验货无误后三日内支付相应的货款。为履行交货义务，托运人顺桥公司委托承运人鑫源公司分批运输货物，约定由收货人傲博公司验货无误后支付运费。批次运输合同履行过程中，傲博公司因对到货存在质量问题提出异议，扣减了鑫源公司的部分运费。在后续运输中，鑫源公司在要求傲博公司补齐前次运费并付清当次运费，而被拒后，其拒绝运送并留置当次到港的涉案集装箱货物，向法院起诉，请求判令傲博公司、顺桥公司支付运费，及因留置货物产生的堆存费、仓储费等费用。法院认为，鑫源公司只有在完成运输合同约定的义务后，才有权主张运费，并应对运输过程中发生的货物损失承担赔偿责任。案涉集装箱货物仅运抵至目的港，尚未完成货到仓库的运输义务，鑫源公司在未履行先负运输义务的前提下无权行使留置权，且留置的货物价值超过了有纠纷的运费数额，故对鑫源公司要求支付堆存费、仓储费的诉讼请求不予支持。

（四）保险单约定的保险责任区间与货物买卖合同中约定的收货地不一致，保险争议应当以保险单约定为依据

辽宁某医药公司诉某保险沈阳分公司海上保险合同纠纷〔〔10〕中，辽宁某医药公司与霍夫曼某化学公司签订货物买卖合同，收货地址为墨西哥瓜达拉哈拉市。辽宁某医药公司作为被保险人与某保险沈阳分公司签订货物运输保险单，约定保险责任区间自上海至墨西哥曼萨尼略，承保险别为一切险。保险条款中约定：本保险负“仓至仓”责任，自被保险

〔9〕 （2023）辽72民初44号。

〔10〕 一审（2023）辽72民初472号，二审（2023）辽民终1094号。

货物运离保险单所载明的起运地仓库或储存处所开始运输时生效，包括正常运输过程中的海上、陆上、内河和驳船运输在内，直至该项货物到达保险单所载明目的地收货人的最后仓库或储存处所或被保险人用作分配、分派或非正常运输的其他储存处所为止；如未抵达上述仓库或储存处所，则以被保险货物在最后卸载港全部卸离海轮后满六十天为止；如在上述六十天内被保险货物需转运到非保险单所载明的目的地时，则以该项货物开始转运时终止。涉案货物到达曼萨尼略港后在运往瓜达拉哈拉市途中被全部盗抢。辽宁某医药公司向法院起诉，请求判令某保险沈阳分公司支付保险赔偿款。法院认为，保险单不同于货物买卖合同，二者相互分离，某保险沈阳分公司与辽宁某医药公司之间的保险责任区间不应以货物买卖合同为依据，应当以保险单约定为依据。本案货物属于在卸货港曼萨尼略港转运情形，根据保险条款中“仓至仓”约定，保险责任应当至涉案货物启运离开曼萨尼略港时终止，涉案事故并非发生在保险责任区间内。法院对辽宁某医药公司的诉讼请求，不予支持。

（五）委托他人代办仓储的委托人可以行使合同介入权，仓储保管人应审慎处理，不得超越合同范围侵害委托人权益

萝北公司诉华粮公司、北良公司港口货物保管合同纠纷[11]中，萝北公司委托北良公司将一批玉米仓储至华粮公司处。在萝北公司支付仓储费用的情况下，华粮公司以与北良公司签有货物中转协议，北良公司拖欠港口作业费为由留置并变卖了该批玉米，价款用于偿还北良公司的债务。萝北公司向法院起诉，请求判令仓储代理人北良公司和仓储保管人华粮公司连带赔偿货物损失及利息。北良公司主张其在办理受托事务过程中不存在故意和重大过失，不应承担赔偿责任。华粮公司以其与萝北公司不存在港口货物保管合同关系，有权基于货物中转协议行使权利为

〔11〕 一审（2023）辽72民初553号，二审（2023）辽民终1802号。

由主张不承担赔偿责任。法院认为，萝北公司与北良公司构成委托合同关系。萝北公司以向华粮公司支付保管费及发送业务联系函方式行使合同介入权，其与华粮公司成立仓储合同关系。华粮公司对北良公司享有债权，但无权留置并处分萝北公司的财产，华粮公司应对萝北公司因此遭受的损失承担赔偿责任。

（六）保赔保险的会员主体发生变化，应经互保协会办理批改手续后才享有后续保赔保险合同权利保障

吴某宝诉渔业互保协会保赔合同纠纷案〔12〕中，吴某宝为案涉渔船实际所有人。吴某宝弟弟吴某库将渔船出租给案外人王某，王某向渔业互保协会办理渔船互保保险，《渔船互助保险凭证》上载明会员为王某，保险期间为2020年11月25日至2021年11月24日。王某已在保险人责任减轻、免责条款处签字。船舶租赁期限届满后，王某于2021年5月将渔船返还吴某库。2021年10月5日，该渔船遭遇大风沉没，发生全损。事故发生后王某向渔业互保协会办理保险索赔被拒，吴某宝向法院提起诉讼。法院认为，渔业保赔保险合同是一种会员合同，受《中华人民共和国民法典》调整。从合同主体看，渔业保赔保险合同的双方分别为渔业互保协会和会员（含船舶所有人、经营人、承租人）等，互助保险的受益人须是渔业互保协会的会员；在保险期间内，如发生保险渔船转让、转借、出租或改变所有人、经营人、管理人等重要信息的，会员应及时通知渔业互保协会并办理批改手续。吴某宝虽是渔船实际所有人，但未经办理批改手续，吴某宝不是渔业保赔保险合同的会员主体，渔业互保协会有权拒绝其索赔请求，法院依法判决驳回吴某宝诉讼请求。

〔12〕 （2023）辽72民初1279号。

（七）相邻关系双方应当按照有利生产、团结互助的原则，正确处理双方的相邻关系

金昱公司诉凌水公司相邻关系纠纷案〔13〕中，凌水养殖场（后变更为凌水公司）与安达公司签订协议书，约定安达公司因建设项目需要，承担凌水养殖场搬迁至新厂址的地上、地下配套设施（如独立停靠海域及码头等）的全部费用。凌水公司迁至新厂址后，需要利用厂区的周边海域作为渔船生产的进出海通道，并停靠在厂区侧的防波堤处。金昱公司此后取得案涉海域使用权证，用途为旅游娱乐用海，用海方式为旅游基础设施用海。金昱公司认为凌水公司侵占了其海域使用权项下海域0.843公顷，向法院起诉，请求判令凌水公司排除妨碍，返还侵占的海域使用权，并支付占有使用费。法院认为，在金昱公司取得涉案海域使用权前，凌水公司已在现厂址生产经营，作业船舶在涉案海域通行靠泊是凌水公司生产经营所需，有其历史原因。在金昱公司取得涉案海域使用权证后，凌水公司为涉案海域的相邻权利人。凌水公司为生产经营需要在海域通行并在厂区侧停泊属于合理利用涉案海域，金昱公司应当为凌水公司提供必要的便利，对金昱公司的诉讼请求，法院不予支持。

（八）行为人实施签约行为时无代理权外观，相对人也未尽到善意相对人的审慎注意义务，不构成表见代理

中海公司诉宝单公司航次租船合同纠纷案〔14〕中，卢某某通过微信向中海公司员工李某某发送盖有宝单公司公章的宝单公司营业执照等文件扫描件，表示宝单公司系其与朋友开办，并与李某某洽谈航次租船业务。卢某某将盖有宝单公司合同专用章的航次运输合同扫描件通过微信发送给中海公司，合同约定承运船舶为“谊诚某轮”，宝单公司应保证货源，

〔13〕 （2023）辽72民初204号。

〔14〕 一审（2023）辽72民初219号，二审（2023）辽民终1592号。

如货物落空，应支付落空费。中海公司在上述合同加盖合同专用章。为履行上述合同，中海公司又与案外人定海公司签订航次运输合同及其补充协议，约定由定海公司“谊诚某轮”负责航次运输。后“谊诚某轮”到达约定港口后，宝单公司未提供货物。中海公司向定海公司支付落空费20万元。中海公司向法院起诉，请求判令宝单公司支付落空费40万元。法院认为，依照《中华人民共和国民法典》第一百七十二条规定，相对人主张行为人的行为构成表见代理，应证明客观上行为人在订立合同时具有代理权的外观，且主观上已尽到审慎注意的义务。卢某某一直通过微信形式向中海公司发送盖有宝单公司印章的证照、航次运输合同扫描件，在宝单公司与中海公司从未有过业务往来情况下，中海公司未将上述来源不明的文件和扫描件与原件核对，亦未核实卢某某身份及代理权限，即客观上卢某某不具备代理宝单公司的权利外观，主观上中海公司也未尽到善意注意义务，不构成表见代理，不应由宝单公司承担违约责任。法院判决驳回中海公司的诉讼请求。

（九）行政机关负有行政补偿法定职责，对影响受补偿主体权利的附条件支付条款的约定无效

邹某某诉某街道办事处、某区政府未按约定履行征收补偿协议案〔15〕中，邹某某与某街道办事处于2017年1月24日签订《征收补偿协议》，对补偿款总额进行了约定，另约定协议签订后15日内某街道办事处给付补偿款30%，邹某某应自收到首付款起15日内腾空被动迁场地、房屋并交付某街道办事处，余款在相关部门征收资金拨付后七个工作日内一次性付清。协议签订后，某街道办事处仅向邹某某支付部分补偿款，邹某某遂要求某街道办事处、某区政府共同履行给付剩余补偿款的义务。某街道办事处以相关部门征收资金未拨付到位，余款支付条件未成就为由，

〔15〕 一审（2021）辽72行初37号，二审（2022）辽行终368号。

主张邹某某要求支付剩余补偿款没有事实依据。本院认为，海域征收机关负有向海域使用权人给予补偿的法定职责；邹某某作为海域使用权人，在海域使用权被收回时，有权主张征收补偿款。相关部门征收补偿款是否拨付到位不确定，某街道办事处以资金拨付到位作为付款条件有失公平。同时，根据《中华人民共和国民法典》第一百五十八条的规定，剩余补偿款根据其性质应为不得附条件的除外情形，对支付剩余补偿款附条件的约定应为无效。某街道办事处作为某区政府的派出机关，接受某区政府的委托，开展征收补偿工作。某区政府应向邹某某支付剩余补偿款。

（十）深入进行涉企评估，贯彻善意执行理念，通过恢复被执行企业的持续经营能力，实现当事人共赢

乐普公司申请执行蓝海公司海上货物运输合同纠纷案〔16〕中，执行标的720310元及利息。因蓝海公司未能及时履行生效判决，导致乐普公司经营陷入困境，员工工资无法发放。法院执行立案后，第一时间对双方企业经营状况进行调查，同时向蓝海公司送达执行通知书及报告财产令。通过系统排查，法院依法冻结蓝海公司五个银行账户。收到法院执行文书后，蓝海公司提出愿意主动偿还欠款，但因其银行账户被法院冻结而无法继续经营。法院结合调查情况认为，本案可基于善意执行理念，通过恢复蓝海公司的持续经营能力，换取其主动履行的可能。2023年5月15日，法院征得乐普公司同意后，暂时解除对蓝海公司名下四个银行账户的冻结措施，仅冻结一个主要账户。5月16日晚，蓝海公司再次致电法院求助，称法院的执行措施对其信用记录产生负面影响，导致其申请经营贷款受阻，希望法院能够尽快组织双方就后续执行利息问题协商解决。5月17日，法院高效组织双方协商并达成了一次性给付740000元执行款及利息的和解方案，最终全部执行完毕。本案中，法院坚持能动司法，

〔16〕 （2023）辽72执315号。

在依法保障乐普公司合法权益的同时，最大限度上减少执行措施对蓝海公司日常经营的影响。这不仅使蓝海公司的生产经营得以恢复，而且切实解决了乐普公司员工工资发放的难题，力保双方实现双赢、多赢、共赢。

结束语

海洋安全是国家安全的重要组成部分，海洋法治作为应对海洋安全的战略选择，是中国特色社会主义法治体系的重要组成部分。践行海洋命运共同体理念，以审判工作现代化支撑和服务中国式现代化，海事司法责任重大、责无旁贷，必须冲在前、勇争先、善作为。2024 年是中华人民共和国成立 75 周年，是实现“十四五”规划目标任务的关键一年，更是大连海事法院建院 40 周年。我们将坚持以习近平新时代中国特色社会主义思想为指导，始终坚持党对法院工作的绝对领导，以政治建设为统领，以服务大局为主线，以“公正与效率”为主题，更加充分地发挥海事审判职能作用，聚焦理念引领，以更高站位做好海事审判工作；聚焦矛盾实质化解，切实将非诉讼纠纷解决机制挺在前面；聚焦源头治理，深化海事审判一体化工作格局；聚焦提质增效，持续提升海事审判工作水平；聚焦队伍建设，着力打造高素质专业化法院队伍，以全身心投入海洋强国战略，全力服务海洋经济高质量发展姿态，为谱写中国式现代化东北新篇章提供更加有力的司法保障。

Preface

The year 2023 that has just passed was the opening year of the comprehensive implementation of the spirit of the 20th National Congress of the Communist Party of China, the beginning year of the three-year plan of Liaoning's comprehensive revitalization with new breakthroughs, and the year of economic recovery after the three-year transition in epidemic response .

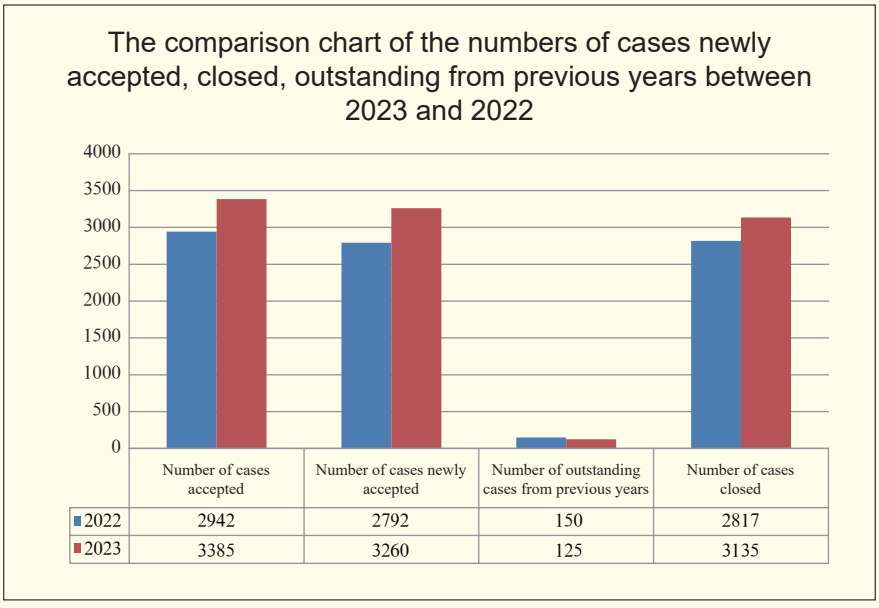
Over the past year, Dalian Maritime Court has adhered to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, fully implemented the spirit of the 20th National Congress of the Communist Party of China and the Second Plenary Session of the 20th Party Central Committee, deeply implemented Xi Jinping Thought on the Rule of Law, resolutely carried out the spirit of General Secretary Xi Jinping's important speech on the Symposium of Promoting the Comprehensive Revitalization of the Northeast in the New Era. We have held tightly to the goal of "striving to offer people fairness and justice in every judicial case", with "justice and efficiency" as the theme, and took serving the overall situation and administering justice for the people as our main mission. We focused on providing "the first-class" service and improving our international influence and judicial credibility to modernize our work at the Dalian Maritime Court in a new era and on a new journey, and make new and greater contributions to building a strong maritime nation.

I. Basic information

1. Overview

1.1 The numbers of accepted and closed cases. In 2023, the Court accepted 3385

cases of various types, an increase of 15.06% over last year. Among these cases, 3260 cases were newly accepted, an increase of 16.76% over last year; 125 cases were pending from previous years, a decrease of 16.67% over last year; 3135 cases were closed, an increase of 11.29% over last year; the clearance rate reached 92.61%, a decrease of 3.14% over last year; the clearance rate of trial cases ranked first among all the maritime courts in China; the clearance rate of all cases ranked second among all the maritime courts in China.



	Number of cases accepted	Number of cases newly accepted	Number of outstanding cases from previous years	Number of cases closed
2022	2942	2792	150	2817
2023	3385	3260	125	3135

1.2 Quality and effectiveness targets. In 2023, the Court ranked first on Liaoning Court Trial Quality and Management Platform. The ratio of satisfactory settlement without appeal was 84.19%; the ratio of civil cases reversed or set aside for retrial from the second trial was 6.07%; the ratio of administrative cases reversed or set aside for retrial from the second trial was 7.84%; the arrival rate of enforcement subject was 42.3%; the number of cases closed per judge were 95; the rate of closed cases within the statutory trial term limit was 95.44%; the average trial time of cases were 62.99 days; no cases were out of the statutory trial term limit.

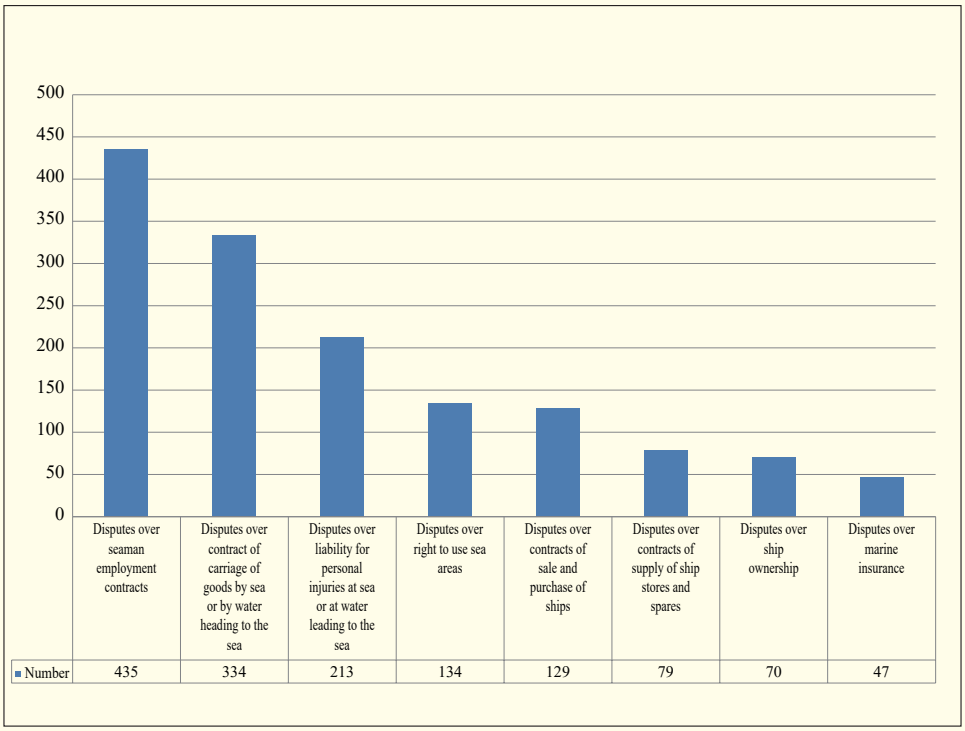
2. Classification of cases

2.1 Civil cases data [1] : 2,138 cases were accepted, an increase of 6.47% over last year. Among these cases, 2,051 cases were newly accepted, an increase of 8.52% over last year; 2,051 cases were closed, an increase of 6.77% over last year; the clearance rate reached 95.93%, an increase of 0.26% over last year; the subject matter value amount of these cases was RMB 6.79074 billion, an increase of RMB 3.96201 billion over last year.

Among these civil cases, the Court accepted 2,005 admiralty and maritime cases, an increase of 8.73% over last year. Among these cases, 1,921 cases were newly accepted, an increase of 11.04% over last year; 1,919 cases were closed, an increase of 9.03% over last year. Of the new cases accepted, the number of admiralty and maritime cases falling with the top 8 types as listed below reached 1441. Among the cases, disputes over seaman employment contracts were 435, accounting for 22.64% of newly accepted admiralty and maritime cases and a decrease of 15.36% over last year; disputes over contract of carriage of goods by sea or by water heading to the sea were 334, accounting for 17.39% and an increase of 12.84% over last year; disputes over liability for personal injuries at sea or at water leading to the sea were 213, accounting for 11.09% and an increase of 54.35% over last year; disputes over right to use sea areas were 134, accounting for 6.98% and an increase of 8.06% over last year; disputes over contracts of sale and purchase of ships were 129, accounting for 6.72% and an increase of 32.99% over last year; disputes over contracts of supply of ship stores and spares were 79, accounting for 4.11% and an increase of 16.18% over last year; disputes over ship ownership were 70, accounting for 3.64%, an increase of 1.45% over last year;

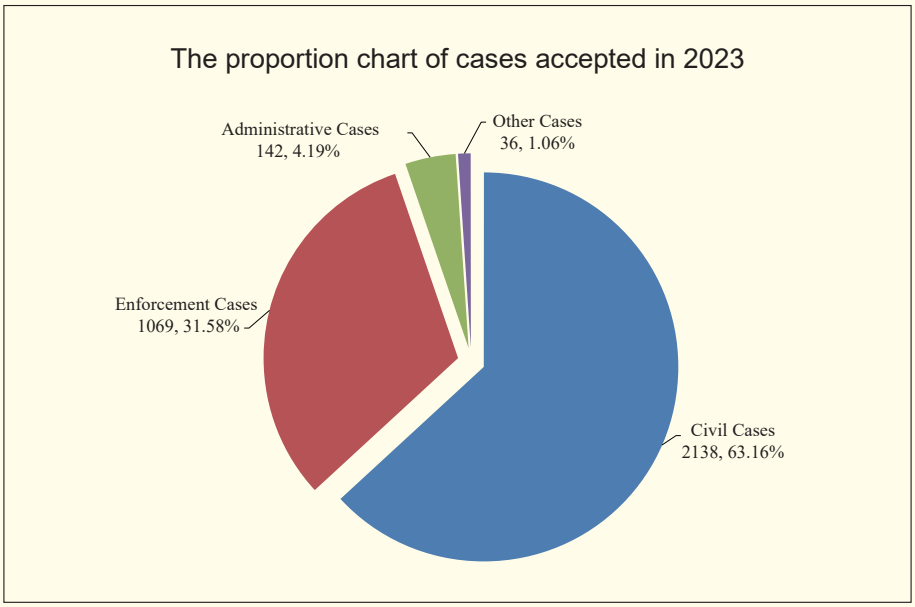
〔1〕 Including admiralty and maritime cases and maritime special procedure cases, excluding non-litigation preservation review cases, state compensation cases, judicial aid cases, judicial assistance cases and enforcement cases.

disputes over marine insurance were 47, accounting for 2.45%, an increase of 34.29% over last year. The types of the above cases were as follows:



2.2 Administrative cases data: 142 maritime administrative cases were accepted, an increase of 59.55% over last year. Among the cases, 136 cases were newly accepted, an increase of 72.15% over last year; 125 cases were closed, an increase of 50.6% over last year; the subject-matter value amount of the cases was RMB 599.19 million, an increase of RMB 412.96 million.

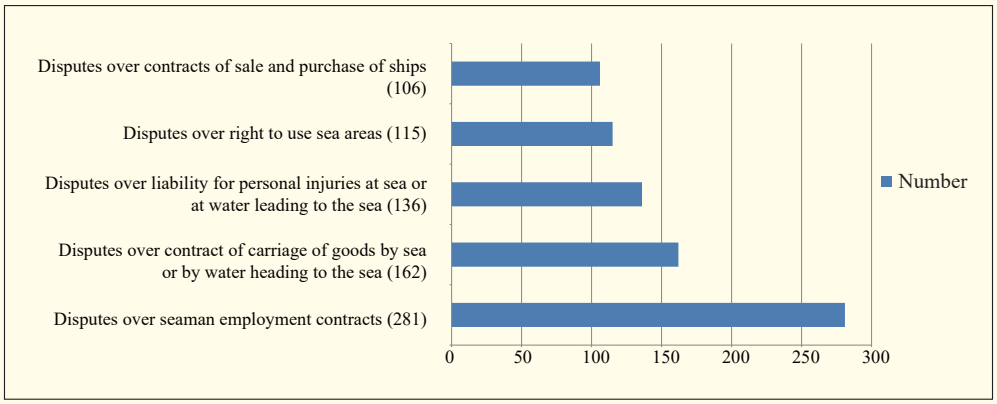
2.3 Enforcement cases data: 1069 cases were accepted, an increase of 37.05% over last year. Among the cases, 1037 cases were newly-accepted, an increase of 36.81% over last year; 924 cases were closed, an increase of 23.53% over last year. The completion rate was 41.97%; the rate of the termination of the first-time enforcement cases was 38.25%; the average completion time of enforcement cases was 58 days; the arrival rate of enforcement subject was 42.3%.



2.4 Dispatched tribunal cases data: Five dispatched tribunals accepted 1,283 cases of various types, an increase of 9.84% over last year. Among the cases, 1,248 cases were newly accepted, an increase of 12.02% over last year; 35 cases were pending from previous years, a decrease of 35.19% over last year; 1248 cases were closed, an increase of 10.15% over last year; the clearance rate reached 97.27%, an increase of 0.27% over last year. The ratio of cases reversed or set aside for retrial from the second trial was 6.99%, 0.83% higher than that across the Court; the reconciliation ratio was 15.74%, 0.27% lower than that across the Court; the litigation withdrawal ratio was 20.82%, 1.88% lower than that across the Court.

Five dispatched tribunals accepted 1,177 admiralty and maritime cases, accounting for 58.7% of the total number of admiralty and maritime cases of the Court. Among the cases, 1,144 cases were newly accepted, accounting for 59.55% of the total number of admiralty and maritime cases of the Court; 1,142 cases were closed, accounting for 59.51% of the total number of admiralty and maritime cases of the Court; the subject-matter value amount of these cases was RMB 4.80022 billion.

The number of the admiralty and maritime cases falling within the top 5 types listed below reached 800. The types of the above cases were as follows:



2.5 Ship arrest and auction data: 28 ships were arrested, 1 of which was foreign, 27 of which were Chinese. 16 ships were auctioned, 1 of which was foreign, 15 of which were Chinese. To speed up asset disposal, 11 ships were auctioned and the deals were reached online. The ratio of online auction coverage was 100%, with the total transaction amount of RMB 85.1358 million.

2.6 Foreign, Hong Kong, Macao and Taiwan-related cases: In 2023, the Court accepted 227 foreign, Hong Kong, Macao, and Taiwan-related cases, an increase of 2.71% over last year. Among the cases, 208 cases were newly accepted, an increase of 17.51% over last year; 206 cases were closed, an increase of 7.29% over last year. The cases involved nearly 30 countries and regions, including France, South Korea, the United States, Singapore, Germany, Denmark, Argentina, Israel, Indonesia, the Marshall Islands, Liberia, Panama, Japan, India, the United Kingdom, Mauritania, Switzerland, Vietnam, the Netherlands, Egypt, Gabon, Senegal. No foreign-related cases above were reversed or set aside for retrial.

II. Work highlights

1. Strengthening active administration of justice, and actively serving overall development

Firstly, we promoted a better environment for the rule of law. The Court carried out the "1+6" special activities, upgraded the joint mechanism between the government and the court, promoted the settlement of cases for logical administration and harmonious people, and helped to create a first-class business environment that is market-oriented, rule of law-oriented and internationalized. The Court fully utilized alternative safeguard measures such as "flexible seal up" and "frozen assets available sale" to release the use-value of property. The event "Judges' Legal Service for Enterprises" was held, and the regular communication and coordination mechanism with key port and shipping enterprises such as Dalian Shipbuilding Industry Company was established, to provide enterprises with relief. A case was selected as one of the "Top 10 Nominated Cases of the Year 2023 for Promoting the Rule of Law in the New Era". **Secondly, we promoted a stronger marine economy.** The Court appropriately closed cases related to the maritime economy and ports, served the construction of a strong maritime province, and received special letters of appreciation from the China Ports & Harbours Association and the Huludao Municipal Party Committee. Eight guidlines on serving a strong maritime nation and developing private economy were completed. We organized the first national seminar on "Prevention and Settlement of Legal Risks Involving Shipbuilding Industry" to promote the high-quality development of the marine equipment industry. We proposed recommendations to help the sustainable development of the shipping center, which were approved by the provincial party committee leaders. The proposal to improve the work in imported cold chain shipping was selected as an excellent judicial proposal by the provincial

court. **Thirdly, we provided better services for opening up to the outside world.** The Court adhered to the principle of equal and fair protection, actively explored a "one-stop" mechanism for the diversified settlement of international commercial disputes, established a cross-border online litigation service mechanism, and improved the ascertainment of foreign laws. We strengthened the construction of bilingual websites, told good stories about the rule of law in China, and displayed a civilized image of the judiciary. **Fourthly, we guarded the marine ecology to make it more beautiful.** The Court pushed forward the specialization of environmental resource trials, set up specialized teams of judges, established pools of experts, and efficiently brought marine ecological and environmental cases to trial, so as to guard the ecological environment with all our might. We actively participated in the cleanup and rectification of illegal and irregular occupation of sea areas, mudflats and shorelines in Dalian. We put forward suggestions to optimize the use of ecological restoration funds, which were published in the "Consultation Digest" of the Decision-making Advisory Committee of the Provincial Party Committee and the Provincial Government, with the provincial leaders offering instructions.

2. Putting people first and safeguarding their high-quality livelihoods

Firstly, we tackled the newly-emerging problems and battened down the hatches. Based on the promotion of social governance and adhering to the principle of "offering timely intervention before it happens", the Court sent judicial advice, issued crew legal risk reminder manuals, fishing crew labor contract model, released typical cases, held activities in communities and villages to illustrate law to citizens with specific examples, guiding them to abide by the law. Adhering to the principle of "settlement of problem at its early stage", the Court sent officers to teach and guide mediation, established a multi-disciplinary dispute resolution mechanism with 9 organizations such as China Shipowners Mutual Assurance

Association and China Fishery Mutual Insurance Association, and explored joint dispute resolution mechanism with the township judicial institutions, to form a new work mode providing better mediation and litigation services in Changhai. Adhering to the principle of "joint efforts in governance", the Court practiced the "Fengqiao Experience on Sea" in joint efforts with the Municipal Bureau of Coastal Safety and Security, which was the first of its kind in China. The Court was recognized as the province's advanced group in people's mediation, and two officers were recognized as the province's advanced individuals in people's mediation. **Secondly, we optimized services and did practical work.** The Court developed an off-site trial system for judges, strengthened the application of online payment and refund, filing and preservation, electronic service and cross-regional litigation services, and upgraded the quality of online services. We actively conducted trial tours and set up a roster of local appraisal organizations for parties in Heilongjiang and Jilin provinces to alleviate the burden of litigation on the public. An age-friendly litigation service mechanism was established to make litigation worry-free for the elderly. **Thirdly, we took on the role of protecting rights and interests.** The Court cleared the "green channel" for livelihood, efficiently closed cases involving people's livelihood. We established the maritime enforcement mechanism aroun Bohai Sea Rim with Tianjin, Qingdao Maritime Court. We optimized the system for distribution of execution case funds, becoming the first court in the province to simultaneously distribute the interest and principal of execution case funds.

3. Strengthening law-enforcement and safeguarding social fairness and justcie

Firstly, we implemented the excellent works strategy. The Court carried out the evaluation of excellent judgment documents and excellent court trials. The case of Hong Kong company Maximas was selected as one of the Top 10 National

Typical Cases in Maritime Trials, and the civil judgment in the case of Taiwan company Wan Hai Lines was selected as one of the national maritime excellent judgment documents on foreign-related commercial matters, with 6 cases being recognized as high-quality cases by the provincial court. **Secondly, we carried out reforms to improve quality and efficiency.** The Court improved the list of trial powers and responsibilities of various categories of personnel, standardized the operation mechanism of collegial panels, established a mechanism for review by the president of the court, refined the rules of procedure of the trial committee, and perfected the mechanism of "preliminary filtering of case searches, research by professional judges' conferences, consultation by trial experts, and discussion and decision by the trial committee". This was aimed to promote uniformity in the application of the law and the same judgment for the same case. By consolidating and deepening the results of the reform of the mechanism of "separation of cases for different ways of adjudication and trial", and fully releasing the vitality of "speeding up and increasing efficiency", 40.29% of civil cases have been resolved through mediation, speedy adjudication and quick trial, thus accelerating to realize fairness and justice.

4. Strengthening team-building and forging a strong army of court

Firstly, we continuously strengthened the concept of the rule of law. Adhering to the systems of "leading with mind and learning at first" and "first topic", the Court strengthened the judicial philosophy, judicial conscience, professional ethics education, vigorously promoted the socialist core values, and guided the officers to stick to the spirit of the rule of law. The micro movie "Bright Sword and the Sea" won the third prize of the Supreme Court and the third prize of the province. "First Lesson at School: Protect Yourself with Law" was recoginzed by the Provincial Court as an excellent new media work. The Court had 3 groups and 23 individuals winning recognition at the provincial level and above, and 1

person was selected for the fifth "role model" list of the Provincial Political and Legal Committee. **Secondly, we made great efforts to enhance professional competence.** The construction of learning-oriented court was strengthened, with four modes applied to different scenarios of "court, school, ship, and sea", to cultivate expert judges. The Court signed a framework agreement with Dalian Maritime University on cooperation between the judiciary, academia and research, and jointly built a mechanism for cultivating outstanding legal talents. Judges were organized to board ships and sail on the sea to improve their practical ability. The Court established a regular mechanism for contact between judges and masses, invited mediation experts from across the province to give lectures, and improved the students' ability to work with the masses. 3 people were selected for the Supreme Court's list of elite talents in foreign-related trial, 1 person was awarded the National Outstanding Judge, and 1 person was awarded the Outstanding Young and Middle-aged Legal Expert in Liaoning. The Court was identified by the Ministry of Education and the Office of Commission for Law-based Governance as a substantive department participating in the collaborative training and innovation base for foreign-related rule of law talents. **Thirdly, we continuously strengthened theoretical research.** Eight youth theoretical research groups were set up to mobilize officers to participate in theoretical research by perfecting the mechanism, promoting the atmosphere and strengthening the guarantee. Four persons have been awarded the Liaoning Provincial Trial Theory Research Talents. For the first time, the Court won the bidding for 2 major projects of the Supreme Court and 1 major project of the Provincial Court. Fifteen research papers were published or won the first prize, second prize and merit prize of the Supreme Court and the Provincial Court. The Law Press published monographs of the officers. The Court won the "Excellent Organization Award" of the Provincial Court.

III. Issues and suggestions

In order to practice Xi Jinping Thought on the Rule of Law, implement the principle of "tackling the newly-emerging problems and battening down the hatches", exert trial function, prevent and reduce the frequency and amount of similar cases from the root cause, with high-quality judicial services to promote high-quality development, the Court adhered to the active administration of justice, carefully summarized the judicial practice and put forward the following suggestions in terms of operation and management, conclusion of contract, and the prevention of risk.

1. Suggestions regarding the employer of a waterway dredging project and parties under a dredging contract

Waterway dredging is an important work to maintain and improve the capacity of waterways. By dredging, deepening and widening the waterways, the traffic capacity of ships can be improved and the safety and efficiency of water transportation can be guaranteed. The smoothness of the waterway is also one of the decisive factors affecting the quality of port operation and development. From the perspective of legal relationship, waterway dredging contract is usually a collection of multiple legal relationships, generally including project contracts or subcontracts, special ship leasing contracts and other derived ship material supply service contracts. In view of the multi-subject, cross-industry and high-barrier characteristics of waterway dredging projects, contractual parties unfamiliar with this business field face a more prominent legal risk of litigation disputes when participating in actual projects. [2]

[2] For example, (2022) L72MC NO.844.

Suggestion: The employers of waterway dredging projects are mostly state-owned enterprises and institutions or their affiliates, which, in addition to the profit-making production and operation objectives, shall assume due social responsibility. Harbor waterways are an operational asset of social public interest. The daily dredging and maintenance of the waterways shall be strictly regulated by relevant industrial laws and regulations. Considering that most of the actual construction parties in waterway dredging projects are individual shipowners or private enterprises, and that the subcontracting is more universal, it is recommended that the employers effectively strengthen their supervision and management on relevant parties, and strictly review the qualifications and actual undertaking ability of the project contractors. The individual shipowners or private enterprises shall prudently judge whether their own software and hardware strengths are suitable for the given requirements when undertaking waterway dredging projects. They shall strictly control the legal risks, and comply with laws and regulations for production and operation.

2. Suggestions regarding the domestic parties under a contract of international multimodal transport

As one of the main modes of cross-border transportation of goods, international multimodal transport plays an extremely important role in expanding opening to the outside world and promoting international trade. At the same time, because international multimodal transport usually involves the application of legal rules of different countries and jurisdictions, its legal relationship is characterized by distinct complex and gridding features. From the textual definition of international rules, the legal definition of multimodal transport operators is basically the same, but there is a difference in the principle of attribution of responsibility, which is mainly centered on two modes of attribution of responsibility, the “unified liability system” and “gridding liability system”, for revision and supplementation. For

example, the Uniform Rules for Combined Transport Documents (URDT) of 1975 applied "gridding liability system" as a principle of attribution; the United Nations Convention on International Multimodal Transport of Goods (UNCMIG) of 1980 applied "modified unified liability system" as a principle of attribution; the Multimodal Transport Documents (MTD) Rules of 1991 applied "modified gridding liability system" as a principle of attribution; the Rotterdam Rules of 2008 applied "limited gridding liability system" as a principle of attribution. In terms of domestic law, the Civil Code of the People's Republic of China and the Maritime Law of the People's Republic of China drew on the principle of attribution of the 1991 Multimodal Transportation Document Rules, "modified gridding liability system", but provided for a more open system, a "full gridding liability system". In practice, the application of attribution for cargo damage by domestic freight forwarders involved in international multimodal transportation has been the focus of controversy in the trial of cases. [3]

Suggestion: An international multimodal freight forwarder usually has one or more of the following roles under the threshold of domestic law. Firstly, he is the multimodal transport operator with the qualification of independent principal; secondly, he is the agent of the consigno; thirdly, he is the agent of the carrier participating in the multimodal transport; fourthly, he is the party providing other auxiliary services related to the transportation of goods. Accurate identification of the role of the freight forwarder in the multimodal transportation contract is the basis and prerequisite for clarifying the liability for breach of contract in freight forwarding contract disputes. According to the Article 3 of the Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Sea Freight Forwarding Dispute Cases, guidelines and references for the resolution of such disputes are provided. In principle, it shall be in accordance with the

〔3〕 For example, (2023) L72MC NO.653.

written contract agreement, supplemented by a comprehensive determination based on the facts of contractual performance. Therefore, the contract agreement and performance is the basic for identifying the role of a freight forwarder. The domestic parties under a contract of international multimodal transport shall be alert to the "multimodal transportation contract" in the name of "freight forwarding contract" or "logistics service contract" to guard against potential legal risks.

3. Suggestions regarding the parties under a contract for employment of seamen on international voyages

As a member of the 2006 Maritime Labour Convention, China has always insisted on the full implementation of its obligations under the Convention, and has actively constructed a system to safeguard the rights of seamen to decent work by adhering to the justice in a major country. The collective agreements for Chinese seamen negotiated by the China Seamen's Construction Trade Union on behalf of Chinese seamen and the China Shipowners' Association on behalf of Chinese shipowners are an important part of the system. In practice, in addition to its own assignment, other seamen are assigned to international navigation ships by the seamen overseas assignment organization. The issue of determining the nature of the contract between the seamen and the seamen overseas assignment organization, known as the "on-board agreement", "seamen employment agreement" and the contract signed by the shipowner and the seamen usually leads to the legal dispute between the seamen and the seamen overseas assignment organization and the shipowner. The core issue lies in the determination of the remuneration standard and the right to obtain the legal remuneration. [4]

Suggestion: The contract between the seamen and the seamen overseas assignment

[4] For example, (2023) L72MC NO.308.

organization, known as the "on-board agreement" and "seamen employment agreement", shall be regarded as a seamen service agreement. The obligation of the seamen overseas assignment organization under the contractual relationship should not only be constrained by the contract, but also be in line with the Provisions of the People's Republic of China on the Administration of Overseas Assignment of Seamen. In particular, in the case of sudden emergencies, the seamen overseas assignment organization shall abide by the principle of "he who offers the assignment takes the responsibility", and shall guarantee the safety of the seamen during their working period on the ship as well as during their boarding and leaving the ship. When seamen are assigned to international navigation ships by the seamen overseas assignment organization, the contracts signed between the shipowner and seamen are homogeneous with the seamen employment agreements under the Maritime Labor Convention 2006. Where the shipowner is a foreign legal person, the collective agreement incorporated into the contract shall be applied to determine the relationship of rights and obligations between the two parties; where the shipowner is an enterprise legal person registered in China, the relationship of rights and obligations between the two parties shall be determined by the collective agreement and the adjustment of the Labour Contract Law of the People's Republic of China.

4. Suggestions regarding maritime cargo transportation logistics business entities and industry associations

Logistics enterprises are the foundation and backbone members of the maritime cargo transportation. Whether the logistics enterprises comply with the operation regulations will exert an impact on the legal risk levels of the parties under a maritime cargo transportation contract. In practice, logistics enterprises generally have the following risks and dangers: First, the legal awareness and risk prevention awareness are insufficient; second, the conclusion of contract is not rigorous

enough and the business operation is not standardized; third, the industry lacks self-regulation, resulting in vicious competition between logistics enterprises. These phenomena and behaviors has not only damaged the self-interest of logistics enterprises, but also posed potential risks to the sound development of the whole logistics industry. [5]

Suggestion: The logistics industry associations shall plat their roles as a bridge connecting different parties, strengthen legal publicity on the risks and dangers of non-standardized operations, so that enterprises and practitioners can fully understand the legal risks in the operation of the logistics industry. An industry integrity system shall be built, the industry self-discipline shall be strengthened, fair competition shall be advocated, and the overall interests of the logistics industry shall be safeguarded, to establish a fair, just and open market order. Logistics industry associations shall strengthen communication with relevant government departments to form a benign development pattern of external supervision and industry self-regulation.

5. Suggestions regarding the shipbuilding enterprises

As a complex systematic project, the shipbuilding industry chain includes many links such as shipbuilding design, ship manufacturing, ship supporting facilities preparation, ship operation and management. During the shipbuilding, design changes for various reasons may lead to changes in ship parameters that may not meet the contractual standards, or the ship may not be delivered on schedule after changing the designs or adding equipment. If there is no clear agreement in the shipbuilding contract on how to deal with the changes of ship parameters caused by the design changes and how to attribute the liability after the delay of delivery caused by the design changes required by the customer, it may be unable to

〔5〕 For example, (2023) L72MC NO.1039.

identify the parties that breach the contract. In situations like this, if the customer claimed to the shipbuilding enterprise to terminate the contract or demanded it to bear the liability for breach of contract on the grounds that the speed of the ship did not reach the standard agreed in the contract or the ship was not delivered according to the agreed period in the contract, the shipbuilding enterprise would easily be faced with the risk of litigation. [6]

Suggestion: Shipbuilding is a typical technology-intensive industry, and shipbuilding enterprise, as the professional technology provider, shall be cautious about the legal risks arising from design changes during the contract signing and fulfillment, even in the case of non-standard shipbuilding contracts. When taking the initiative to make design changes, it shall assess from the technical level whether the changes will have an impact on the contracted ship parameters or delivery period; when making design changes according to the requirements of the customer, it shall sign supplemental agreements in a timely manner, so as to prevent the legal risks arising from unclear agreements and to optimize and upgrade China's shipbuilding industry.

IV. Typical cases

1. Fully implement the obligations of the Convention, clarify the rules applicable to collective bargaining agreements and safeguard the rights, and interests of seamen assigned abroad

In the case of disputes over seaman employment contracts between the plaintiff Zhang and the defendant Zhonghai Company, [7] Zhang signed the Seamen

〔6〕 For example, (2022) L72MC NO.1254.

〔7〕 The case number was (2023) L72MC NO.308.

Employment Contract with Zhonghai Company in September 2021, agreeing on the working ship, the contract duration (9±1 months) and the remuneration standard. Zhonghai Company arranged for Zhang to work as a trainee sailor on the Panamanian ship MARIO, and signed the Seamen Employment Agreement with Zhang on behalf of Zhenhai Company, its affiliate company, which was basically the same as the Seamen Employment Contract and reached consensus on the collective bargaining agreement. Zhang left the ship on July 10, 2022, after it docked at a port in the Netherlands, and entered China on July 22 from Guangzhou. Zhang sued before the Court, requesting that the company be ordered to pay him full wages for the on-board, repatriation, and quarantine periods, as well as fixed overtime pay, annual leave pay, overtime pay for statutory holidays in accordance with the minimum wage standards of the Collective Bargaining Agreement for Chinese Crew (A), and transportation costs for returning to his place of residence after embarkation and entry into China. Zhonghai Company requested Zhang to compensate for the return expenses it had advanced and the losses incurred by replacing crew members on the grounds that Zhang's early disembarkation constituted a breach of contract. The Court held that, usually the seamen service contract signed between the seamen overseas assignment organization and the seamen does not carry the nature of the labor contract. However, Zhonghai Company and Zhenhai Company are affiliated. Zhonghai Company signed the Seamen Employment Agreement with Zhang in the name of Zhenhai company. Therefore the real situation between the both parties is that Zhang was employed by Zhonghai Company to work on board. Both parties formed the seamen labor contract relation. Zhang put forward one month in advance to leave, which was in line with the Labour Contract Law of the People's Republic of China about workers' early termination of the labor contract, so the company's counterclaim is not supported. According to Article 53 of the Labour Contract Law of the People's Republic of China regarding the application of collective

bargaining contracts in the industry, based on the fact that Zhonghai Company is a Chinese enterprise, Zhang is a Chinese seamen, and the ship in the case is a flag of convenience ship, the rights and obligations of both parties were determined by the collective bargaining agreement for Chinese seamen. Zhonghai Company was ordered to pay Zhang's wages during the repatriation and quarantine periods, and the transportation costs after entry into China.

2. Determine the main contractual relationship by the purpose and main content of the contract, and attribute primary and secondary liability according to the causal force in the case of a double breach of contract

In case of disputes over waterway dredging project contract between Liang Moumin as the plaintiff and Mili Ship Leasing Company, Li Moubing, Xingyu Machinery Leasing Center, and Wu Moutao as the defendants,〔8〕 Xingyu Machinery Leasing Center signed the Ship and Machinery Leasing Contract with Mili Ship Leasing Company to lease two sand dredgers and one chain bucket dredger for dredging work as the employer. Liang Moumin and Mili Ship Leasing Company, of which Li Moubing was the actual controller, signed the Self-unloading Sand Dredger Cooperation Project Contract, agreeing to cooperate on the waterway dredging project above, and at the same time agreeing on the purchase of the two sand dredgers by Mili Ship Leasing Company, the ship modification and management, and the pricing of the works, amongst other matters. Two purchased ships A and B were put to use after design changes since they at first had not met agreed requirements. After that, Mili Ship Leasing Company abandoned the ships.

〔8〕 The case number of the first instance was (2022) L72MC NO.844, and the case number of the second instance was (2023) LMZ NO.671.

Ship A was damaged in a fire during Liang Moumin's management and he sold ship B to others; all the chain bucket dredgers of Mili Ship Leasing Company did not meet the requirements for operation either. The amount of work completed by Ships A and B during the operation was calculated to be RMB 48.593 thousand. Liang Moumin sued before the Court, requesting an order for the Self-unloading Sand Dredger Cooperation Project Contract to be terminated; for Mili Ship Leasing Company to pay for the waterway dredging project, the loss of the expected benefits, the reasonable reconstruction fee of the ships and other related expenses, and for Li Moubing to bear the joint responsibility for the payment; for Xingyu Leasing Center to bear the responsibility of paying for the works within the scope of the unpaid works, and for Wu Moutao to bear the joint responsibility. The Court held that, although the Self-unloading Sand Dredger Cooperation Project Contract involved the entrusted purchase and management of ships, the purpose and main content of the contract was a specific agreement on the completion of the waterway dredging project, so the rights and obligations of the two parties should be clarified according to the legal relationship of the main waterway dredging contract. Judging from the causal force of the breach of contract liability, Mili Ship Leasing Company breached the contract by delivering defective ships, chain bucket dredgers that did not meet the operational requirements, and abandoning the ship first; Liang Moumin breached the contract by causing an accidental fire on Ship A resulted from the poorly management, and offering an unauthorized sale of ship B later. Both parties to the contract should bear a certain degree of breach of contract liability for failing to fulfilling the contract. As the first and main breaching party, Mili Ship Leasing Company should bear the primary liability, and Liang Moumin should bear the secondary liability. Although Li Moubing was the actual controller of Mili Ship Leasing Company, he did not meet the statutory conditions applicable to the determination of joint liability. Xingyu Machinery Leasing Center and Wu Moutao, as the employers of the project, did not need to bear supplementary

liability to Liang Moumin, the actual constructor, after they paid the project price to Mili Ship Leasing Company.

3. The party with an obligation in priority should exercise the lien based on the fulfillment of its own main obligation and the failure of the other party to perform its main obligation.

In the case of disputes over multimodal transport contract between Xinyuan Company as the plaintiff and Aobo Company and Shunqiao Company as the defendants,〔9〕 the buyer, Aobo Company, purchased white sand from the seller, Shunqiao Company, agreeing on delivery of the goods in the warehouse of the buyer, Aobo Company, and the buyer to make the payment within three days after the inspection of the goods. In order to fulfill the delivery obligation, the shipper, Shunqiao Company, entrusted the carrier, Xinyuan Company, to transport the goods in batches, and agreed to pay the freight after the consignee, Aobo Company, inspected the goods. During the performance of the batch transportation contract, Aobo Company objected to the quality of the goods and deducted part of the freight charges of Xinyuan Company. In the subsequent transportation, Xinyuan Company, after failing to request Aobo Company to make up for the previous freight and pay the current freight, refused to transport and retained the containerized goods involved in the current arrival. Xinyuan Company sued before the Court, requesting that Aobo Company and Shunqiao Company be ordered to pay for the freight and the costs incurred by retaining the goods, such as storage fees and warehousing fees. The Court held that only after fulfilling the obligations agreed in the transportation contract, did Xinyuan have the right to claim for the freight, and should be liable for the loss of the goods during the transportation.

〔9〕 The case number was (2023) L72MC NO.44.

The containerized goods only arrived to the destination port, but obligations to transport the goods to the warehouse was not fulfilled. Xinyuan Company in the premise of not fulfilling the transport obligations, do not have the right to exercise the lien, and the value of the goods in retention surpassed the amount of the freight in disputes, so Xinyuan Company's request for payment of the storage fees and warehousing fees will not be supported.

4. If the insurance coverage agreed in the insurance policy is not in line with the delivery address agreed in the contract for the sale of goods, the settlement to the insurance dispute shall be based on the agreement in the insurance policy.

In the case of disputes over marine insurance contract between a pharmaceutical company in Liaoning as the plaintiff and a Shenyang branch office of an insurance company as the defendant, [10] the pharmaceutical company signed a contract for the sale of goods with a chemical company in Hoffman, with Guadalajara, Mexico as the delivery address. The pharmaceutical company, as the insured, signed a cargo transportation insurance policy with a the insurance company, agreeing that the insurance coverage was all risk insurance, from Shanghai to Manzanillo, Mexico. It was agreed in the insurance clauses that this shall be a "warehouse-to-warehouse" insurance and come into effect from the time when the insured goods left the warehouse or storage place as stated in the policy, including transportation by sea, land, inland waterway and barge in the ordinary transportation, to the time when the goods arrived at the consignee's final warehouse or storage place or other places where the goods were used by the insured for distribution, assignment or

〔10〕 The case number of the first instance was (2023) L72MC NO.472, and the case number of the second instance was (2023) LMZ NO.1094.

irregular transportation at the destination stated in the policy; if the goods did not arrive at the warehouse or storage place stated above, the insurance liability would be terminated sixty days after the goods were unloaded from the ships at their last destination; if the insured goods were to be transshipped to the destination not stated in the policy, the insurance liability would be terminated the time when the transshipment started. The involved goods arrived at the port of Manzanillo and were stolen en route to Guadalajara. The pharmaceutical company sued before the Court, requesting that the insurance company be ordered to pay the compensation. The Court held that the insurance policy was different from the contract for sale of goods and the two were separate from each other. The insurance coverage between the insurance company and the pharmaceutical company should not be based on the contract for sale of goods, but on the agreement of the insurance policy. The involved goods were transshipped in the port of Manzanillo. According to the "warehouse-to-warehouse" insurance clauses, the insurance liability should be terminated the time when the goods left the port of Manzanillo. The incident did not occur within the insurance coverage and therefore the request of the pharmaceutical company will not be supported.

5. The principal who entrusts others for warehousing can exercise the right to interfere the contract, and the warehouse keeper shall handle the matter prudently and shall not infringe upon the rights and interests of the principal beyond the contract.

In the case of disputes over port cargo storage contract between Luobei Company as the plaintiff and Hualiang Company and Beiliang Company as the defendants,[11] Luobei Company entrusted Beiliang Company to warehouse a

〔11〕 The case number of the first instance was (2023) L72MC NO.533, and the case number of the second instance was (2023) LMZ NO.1802.

batch of corn to Hualiang Company. When Luobei Company paid the storage fees, Hualiang Company retained and sold the corn to pay the debt of Beiliang Company on the grounds that Hualiang Company had signed a cargo transshipment agreement with Beiliang Company and that Beiliang Company owed port operation fees. Luobei Company sued before the Court, requesting that the warehouse agent, Beiliang Company, and the warehouse keeper, Hualiang Company, be ordered to pay joint compensation for the loss of the goods and interest. Beiliang Company claimed that it should not be held liable because it did not act intentionally or with gross negligence during the entrustment. Hualiang Company claimed that it was not liable for compensation on the grounds that it did not have a contractual relationship with Luobei Company for the storage of port goods and was entitled to exercise its rights based on the cargo transshipment agreement. The Court held that Luobei Company and Beiliang Company constituted a contractual relationship of entrustment. Luobei Company exercised the right to interfere the contract by paying storage fee and sending business contact letter to Hualiang Company, and they established the warehouse contract relationship. Hualiang Company had a claim on Beiliang Company, but had no right to retain and dispose of the property of Luobei Company, and therefore Hualiang Company should be liable for the losses suffered by Luobei Company.

6. If there is a change in the subject of protection and indemnity insurance, the subject is entitled to the subsequent insurance coverage only after the approval of the Mutual Insurance Association.

In the case of disputes over protection and indemnity insurance contract between Wu Moubao as the plaintiff and Fishery Mutual Insurance Association as the

defendant, [12] Wu Moubao was the actual owner of the involved fishing ship. Wu Moubao's younger brother, Wu Mouku, leased the fishing ship to an outsider, Wang, who applied for a fishing ship mutual insurance policy from the Fishery Mutual Insurance Association, with Wang as a member of the Mutual Insurance Policy for Fishing Ships, and with the insurance period ranging from November 25, 2020, to November 24, 2021. Wang had already signed the insurer's liability reduction and exemption clauses. After the expiration of the lease period, Wang returned the fishing ship to Wu Moukou in May 2021. on October 5, 2021, the fishing ship suffered a total loss when it was sunk by high winds. After the accident, Wang filed an insurance claim with the Fishery Mutual Insurance Association, which was rejected, and Wu Moukou sued before the Court. The Court held that the fishery protection and indemnity insurance contract was a membership contract, which was regulated by the Civil Code of the People's Republic of China. In terms of the subject of the contract, the two parties to the fishery protection and indemnity insurance contract were the Fishery Mutual Insurance Association and the members (including ship owners, operators and lessees), etc, and the beneficiaries of the mutual insurance must be the members of the Fishery Mutual Insurance Association; during the insurance period, if there are important changes in information such as transfer, subletting or leasing of the insured vessel or change of the owner, operator or manager, the members should notify the Fishery Mutual Insurance Association in a timely manner for the approval of amendment and modification. Although Wu Moubao was the actual owner of the fishing ship, without the approval from the Fishery Mutual Insurance Association, he was not a member of the fishery protection and indemnity insurance contractm and the Fishery Mutual Insurance Association had the right to reject his claim. Therefore, the request of Wu Moubao will not be supported.

〔12〕 The case number was (2023) L72MC NO.1279.

7. Neighboring parties shall correctly deal with their neighboring relations in favor of production and based on solidarity and mutual assistance.

In the case of disputes over neighboring relations between Jinyu Company as the plaintiff and Lingshui Company as the defendant,〔13〕 Lingshui Farm (later changed to Lingshui Company) and Anda Company signed a letter of agreement, agreeing that Anda Company would bear all the relocation costs of the above-ground and below-ground ancillary facilities (e.g., independent docking sea area and wharf, etc.) of the Lingshui Farm due to its own needs of the construction project. After relocating to the new factory site, Lingshui Company needed to utilize the surrounding sea area as an access to and from the sea for the production of fishing ships, and docked at the breakwater on the side of the factory. Jinyu Company thereafter obtained a certificate of right to use the sea area involved for tourism and recreation purposes with the use of relevant infrastructure. Jinyu Company considered that Lingshui Company had encroached on 0.843 hectares of the sea area under its right to use the sea area, and sued before the Court, requesting that Lingshui Company be ordered to remove the obstruction, return the right to use the encroached sea area and pay for the possession and use of the area. The Court held that, before the Jinyu Company obtained the right to use the involved sea area, Lingshui Company had been in the current site for production and operation, and it was Lingshui Company's need to operate the ships in the involved sea area. Lingshui Company managed its production and operation here in the past. After Jinyu Company obtained the certificate of the right to use the involved sea area, Lingshui Company enjoyed the neighboring rights of the

〔13〕 The case number was (2023) L72MC NO.204.

involved sea area. Lingshui Company's acts of using the sea area and docking by the factory side for production and operation purpose is the reasonable use of the involved sea, and Jinyu Company should provide the necessary facilities for Lingshui Company. Therefore, the request of Jinyu Company will not be supported.

8. When the actor does not have the power of agency at the time he signs the contract, and the attorney does not exercise the duty of care, the apparent agency is not constituted.

In the case of disputes over voyage charter between Zhonghai Company as the plaintiff and Baodan Company as the defendant, [14] Lu sent to Li, an employee of Zhonghai Company, through WeChat, a scanned copy of Baodan Company's business license and other documents stamped with the company's official seal, stating that Baodan Company was set up by Lu and his friends, and negotiated with Li on the voyage charter. Lu sent Zhonghai Company the scanned copy of the voyage charter stamped with Baodan Company's contract seal through Wechat. The contract agreed that the carrier ship was "Yichengmoulun", and Baodan Company should ensure the supply of goods and pay for the compensation in case of the failure of loading. Zhonghai Company stamped the contract with its special seal. In order to fulfill the contract above, Zhonghai Company signed a voyage transportation contract and a supplementary agreement with Dinghai Company, an outsider, agreeing that Dinghai Company should be responsible for the voyage transportation of the ship "Yichengmoulun". After the ship arrived at the agreed port, Baodan Company failed to provide the goods. Zhonghai Company paid RMB 200 thousand to Dinghai Company for the failure of loading.

〔14〕 The case number of the first instance was (2023) L72MC NO.219, and the case number of the second instance was (2023) LMZ NO.1592.

Zhonghai Company sued before the Court, requesting that Baodan Company be ordered to pay RMB 400 thousand for the failure of loading. The Court held that, in accordance with Article 172 of the Civil Code of the People's Republic of China, the attorney's act of claiming to have the power of agency constitutes the apparent agency and it should be proved that objectively the actor has the power of agency at the time when the contract is concluded, and that subjectively the actor has fulfilled the duty of care. Lu had been sending Zhonghai Company through Wechat the license stamped with Baodan Company's seal and the scanned copy of the voyage transportation contract. Without any business exchanges between Baodan Company and Zhonghai Company in the past, Zhonghai Company did not verify the documents and scanned copies, nor the identity of Lu and Lu's power of agency. That means objectively Lu did not have the power of agency to act on behalf of Baodan Company, and subjectively Zhonghai Company also failed to exercise the duty of care, which did not constitute the apparent agency. Baodan Company should not bear the liability of breach of contract. The request of Zhonghai Company will not be supported.

9. Administrative organizations bear the statutory duty to pay for administrative compensation, but the duty is invalid to the agreement on conditional payment clauses affecting the rights of the compensated subject.

In the case of disputes over failure to fulfill the expropriation compensation agreement between Zou as the plaintiff and a street office and a district government as the defendants, [15] Zou and a street office signed the Expropriation Compensation Agreement on January 24, 2017, which agreed on the total amount

〔15〕 The case number of the first instance was (2021) L72XC NO.37, and the case number of the second instance was (2022) LXZ NO.368.

of compensation. The two parties also agreed that within 15 days after the signing of the agreement, the street office shall pay 30% of the compensation, and that Zou shall, within 15 days from the receipt of the first payment, vacate the site and the house that was being relocated and deliver it to the Street office. The remaining compensation shall be paid within seven working days after the relevant departments distributed the expropriation funds to the office. After the signing of the agreement, the street office only made part of the compensation payment to Zou, who then asked the street office and the district government to jointly fulfill the obligation to pay for the remaining compensation. The street office claimed that Zou's requirement for the remaining compensation was groundless on the grounds that the remaining payment conditions were not achieved since the relevant departments had not made the distribution of expropriation funds yet. The Court held that the sea area expropriation authority has the legal duty to give compensation to the person who has the right to use the sea area; Zou, as the person who has the right to use the sea area, has the right to claim compensation for expropriation when the right to use the sea area is recovered. It is unfair for the street office to take whether the distribution of expropriation funds arrives as the payment condition since whether the relevant departments has made the distribution is uncertain. At the same time, as is stated in the Article 158 of the Civil Code of the People's Republic of China, the condition in this case for is not allowed according to the nature of the remaining compensation, and therefore the conditional payment clause for the remaining compensation payment shall be invalid. The street office as a dispatched organization of the district government was entrusted to carry out the expropriation compensation work. The district government shall pay the remaining compensation to Zou.

10. Conduct in-depth enterprise-related assessments, implementing the concept of bona fide enforcement, and realizing a win-win situation for the parties concerned by restoring the sustained operating capacity of the executed enterprises

In the case of disputes over marine cargo transport contract between Lepu Company as the plaintiff and Lanhai Company as the defendant,〔16〕 the enforcement subject was RMB 720,310 together with the interest. Because of the failure of Lanhai Company to fulfill the effective judgment in time, the operation of Lepu was in trouble and the wages of the employees could not be paid. After the court filing, investigation was carried soon on the business situation of both companies, at the same time the execution notice and order on property report were sent to Lanhai Company. Through systematic investigation, the Court froze five bank accounts of Lanhai Company according to the law. Upon receipt of the Court's execution documents, Lanhai Company proposed that it was willing to take the initiative to repay the arrears, but was unable to continue its business due to the freezing of its bank accounts by the Court. Taking into account the investigation, the Court considered that the case could be based on the concept of bona fide enforcement. The voluntary performance of Lanhai Company to repay the arrears could be possible by restoring its sustained operating capacity. On May 15, 2023, after obtaining the consent of Lepu Company, the Court temporarily lifted the freezing measures on four bank accounts under the name of Lanhai Company, and only froze one major account. On the evening of May 16, Lanhai Company made a call to the Court again for help, saying that the Court's enforcement measures had had a negative impact on its credit record, which led to its application for a business loan being blocked, and hoped that the Court could organize a negotiation

〔16〕 The case number was (2023) L72Z NO.315.

settlement between the two parties on the subsequent enforcement of the interest as soon as possible. On May 17, the Court efficiently organized the two parties to negotiate and reached the settlement of a one-time payment of RMB 740,000 together with the interests, and finally concluded the enforcement. In this case, the Court insisted on active justice, and minimized the impact of the enforcement measures on the daily operation of Lanhai Company while safeguarding the legitimate rights and interests of Lepu Company in accordance with the law. This not only enables the production and operation of Lanhai Company to be restored, but also effectively solves the problem of salary payment for the employees of Lepu Company, which ensures that both parties can realize a win-win situation.

Concluding remarks

Maritime security is an important part of national security. The rule of law of the sea as a strategic choice to deal with maritime security, is an important part of the System of Socialist Rule of Law with Chinese Characteristics. To practice the concept of Maritime Community with a Shared Future, and to support and serve the Chinese modernization with modernization in trial, maritime justice is duty bound to be in the forefront and have the courage to take the lead for good deeds. The year 2024 marks the 75th anniversary of the founding of the People's Republic of China, an important year to achieve the goals proposed by the Fourteenth Five-Year Plan, and the 40th anniversary of the founding of the Dalian Maritime Court. We will adhere to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, and the absolute leadership of the Party over the work of the court. We will prioritize political construction, take serving the overall situation as our main goal, and "justice and efficiency" as the theme to give fuller play to the function of maritime trial. We will focus on the leadership of the concept to do a better job in maritime trial from a higher position; we will focus on

the practical resolution of disputes to prioritize the alternative dispute resolution; we will focus on source governance to deepen the integration of maritime trial pattern; we will focus on improving quality and efficiency to enhance the maritime trial; we will focus on the team-building to cultivate a high-quality and specialized court team. We will be fully committed to the strategy of building a strong maritime nation, and serve the high-quality development of the maritime economy, so as to provide more powerful judicial protection for writing a new chapter of the Chinese modernization in the Northeast.

总 负 责 人：信　鑫
中文统稿人：董世华
成　　员：郭　华　王正宇　郝志鹏
　　贾正昌　黄训达　王　晶

英文统稿人：赵永飞
成　　员：杨　光　闫静茹　卞　鑫
　　郑琳琳　陈　晨　周　崇
　　李竞男