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2023 年审判工作白皮书

一、总体情况

（一）基本数据

1. 收结案

全年共受理各类案件 2792¹件。其中新收 2418 件，旧存 374 件，新收案件数同比下降 15.75%。审结 2543 件，结案数同比下降 8.89%，结案率 91.08%，同比上升 2.9%。

全年受理诉讼案件 2030 件，其中新收 1715 件（一审海事海商案件 1198 件、海事行政案件 152 件、刑事案件 1 件、其他 364 件），新收诉讼案件标的额 290004.17 万元。审结诉讼案件 1838 件（一审海事海商案件 1323 件，海事行政案件 68 件，刑事案件 1 件，其他案件 446 件）。结案方式为判决 653 件，调解 296 件，撤诉 359 件，其他 530 件。累计诉讼结案率 90.54%，同比上升 3.4%。

全年累计受理执行案件 762 件，其中新收执行案件 703 件，新收申请执行案件标的额 76218.45 万元。执结 705 件，累计执结标的金额 127236.82 万元。执行结案率 92.52%，同比上升 0.76%。

全年实际扣押船舶 80 艘，拍卖成交船舶 45 艘，拍卖成交房产 26 套，拍卖成交厂房、海域使用权各 1 宗，总成交金额 2.8 亿，拍卖数量同比增长 104%，成交金额同比增长 47%，执行标的到位率 69.23%。

2. 审执质效

¹ 该数据不含司法协助案件，含执恢执保案件。

- (1) “案-件比”（综合指标）1:1.74。
- (2) 上诉率（负向指标）21.74%。
- (3) 一审裁判被发回重审率（负向指标）0.654%。
- (4) 审限内结案率 89.59%。
- (5) 平均结案时间（负向指标）92.47 天。
- (6) 诉前调解成功分流率 22.55%，调解率 21.37%。
- (7) 民事裁判申请执行率（负向指标）68.37%。
- (8) 案-访比（负向指标）1:0.0064。

3. 其他数据

- (1) 裁判文书网上公开 964 件。
- (2) 庭审直播率为 65.89%。
- (3) 电子卷宗制作率达 99.59%。

（二）工作亮点

一是贯彻新发展理念，高水平服务海洋经济高质量发展。积极融入“海上福建”建设，制定《关于强化海事司法服务保障促进民营经济发展壮大的工作意见》，发布服务民营经济发展典型案例，助推现代海洋产业体系构建。审结的 1 起海上货物运输合同纠纷案获评福建法院十大精品案例，相关司法建议促推《中华人民共和国国际海运条例》作相应修改，入选福建法院十大司法建议。打造国际海事纠纷解决优选地，制定《关于全面融入海丝中央法务区建设的工作意见》，成立全国首个 21 世纪海上丝绸之路国际海事纠纷诉调对接中心。审理马士基等知名国际航企的涉疫纠纷系列案，促成 85% 案件调撤化解，被写入省法院两会工作报告。倾力护航海洋生态文明建设，与厦门中院联合检察、公安、司法、自然资源、生态环境等单位成立厦门市生态司法协同保护平台。审结全省首例由检察机关提起的海洋生态损害赔偿民事公

益诉讼案，创新“海洋碳汇+替代性修复”履行方式，获评最高人民法院发布的全国海事审判典型案例。

二是锚定两岸融合发展，高站位优化涉台海事司法供给。立足专门法院职能和区位优势，推动设立两岸海事司法研究中心，完善涉台海事审判组织体系改革。审结全国首例直接采信台湾地区共同海损理算机构报告案件，同时该案因准确适用国际惯例，获评最高人民法院涉外民商事案件适用国际条约和国际惯例典型案例。调处台企派遣至大陆远洋渔业公司的165名船员薪酬纠纷，增进台湾地区当事人司法认同。与厦门海事局、市司法局等11家单位，联合成立全国首个涉台海事纠纷解决中心，为两岸民众提供一站式、多元选择、高效便捷服务，助力两岸融合发展示范区建设。

三是践行司法为民宗旨，高质效提升群众司法获得感。完善“地域+行业”双网格化源头解纷体系，福州法庭与多家单位共同成立福州船员权益保护中心，宁德法庭、东山法庭发挥“桥头堡”作用，与当地涉海部门等成立多个海上调解中心、一站式解纷中心，诉前调解纠纷同比增加21.8%，相关机制获评厦门市改革优秀案例。回应群众司法需求，分别在平潭综合实验区、连江黄岐增设巡回审判点和办案点，提供“家门口”式便民诉讼服务。强化民生权益保障，拍卖各类财产2.55亿元，拍卖散货船、渔船等各类船舶45艘，同比上升近19.2%。为83名船员追讨660万元工资的案件获评最高人民法院涉农民工工资案件“十大”执行典型案例，系福建法院唯一入选案例。

四是围绕公正与效率主线，高标准推进审判体系现代化。聚焦全面准确落实司法责任制，注重建章立制，认真落实院庭长阅核制度，持续推动院庭长带头办案。组织案件质量评查、召开发

回改判案件分析会、整治长期未结案件、加强专业法官会议和审委会审判资源供给，有力促进审判质量提升和衍生案件治理。深入实施海事审判精品战略，共有 3 个案件获评全国典型案例，17 个案件获评全省各类典型案例、优秀案例分析。

五是全面从严管党治院，高起点夯实海事司法发展根基。扎实开展习近平新时代中国特色社会主义思想主题教育，深入实施“海海人生 事事有为”年轻干部培养工程，书记员队伍管理“四堂课”的工作机制获评“政治建设创新举措”，集体和个人获得全国法院先进个人等国家级荣誉 2 次，全省法院先进集体、全省优秀法官等省级荣誉 8 次。建成厦门海事法院文化展示中心、全国首个以海商法为主题的开放式公园——海法园，连续六年公开发布中英文双语海事审判白皮书，工作成效获《央视新闻》《人民法院报》《法治日报》等央媒报道 15 篇次，积极传播海事司法好声音。

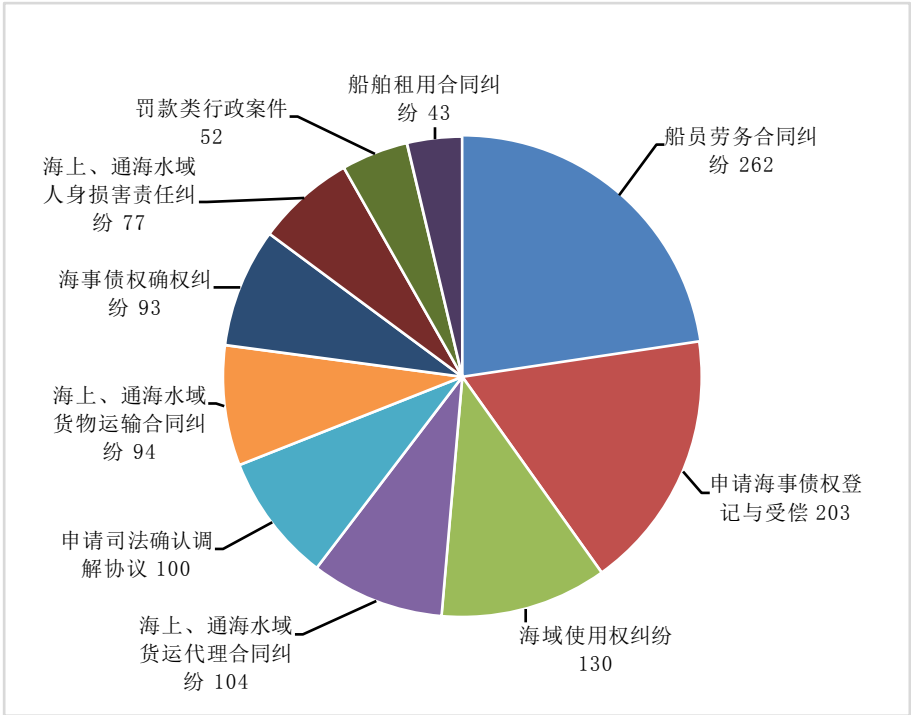
二、案件特点

（一）新收诉讼案件类型分布发生变化，首次受理海事刑事案件

2023 年新收诉讼案件 1715 件，同比下降 23.33%。案件类型分布较去年有若干明显变化。一是海事海商案件数量减少，为 1198 件，同比下降 17.55%。较为明显的变化是 2022 年数量第一的海上货物运输合同纠纷，下降至第 5 名，船员劳务合同纠纷跃居 2023 年第 1 位，主要原因为 2022 年受理的大部分海上货物运输合同纠纷，均源于目的港因采取新冠疫情防控措施产生滞箱费，承托双方对滞箱费承担主体分歧较大，据而成讼。随着 2023 年疫情管控措施的改变，上述原因已基本消失，导致纠纷数大大下降。二是海事行政案件大幅增长，达 152 件，同比上升 85.37%，

数量跃居诉讼案件第 3 位。该增长现象一方面反映出随着海洋强省建设的深入,海洋管理进一步加强、海洋生态保护进一步强化,同时海上产业的发达也令海上财富聚集,导致相关利益纠纷增多,另一方面亦体现我院行政诉讼服务更加专业化、公信力进一步提升等向好趋势;三是涉船类案件有所增长。船舶租用合同纠纷、船舶修理合同纠纷、航次租船合同纠纷与 2022 年相比,数量均有明显增长,重新回到案由前十行列,反映出船舶租赁、修造市场进一步复苏的良好趋势;四是首次审理海事刑事案件。经最高人民法院批准,2023 年我院受理并当庭宣判由厦门市人民检察院移送起诉的一起非法采矿罪附带民事公益诉讼案。该案是我院开展民事、行政、刑事“三合一”审判试点改革以来,经最高人民法院批复的第一起刑事附带民事公益诉讼案件,有力震慑盗采海砂违法犯罪,促进海洋生态环境的修复和保护,进一步拓展了海事司法服务保障海洋强国的职能,加强对海洋安全与秩序的司法管控。

2023年新收诉讼案件前十名案由



（二）海域使用权纠纷增幅明显，法庭参与地方治理更为深入

2023 年新收海域使用权纠纷增幅明显，数量为 130 件，同比增幅 42.86%。该类纠纷收案主要集中在派出法庭，其中宁德法庭收案 66 件、东山法庭收案 47 件。宁德法庭该类纠纷具有原告多为公司且诉讼请求为追讨海域使用权租金的特点，纠纷增加的主要原因是疫情后经济处于恢复阶段，水产品买卖有周期性，易产生租客拖欠租金现象，故企业选择在渔业淡季集中追讨海域使用权租金。针对该类涉群体、涉民生纠纷，宁德法庭加大调解力度，最终纠纷基本以调撤结案，妥善处理好了企业和租户之间纠纷。东山法庭该类纠纷大多来自漳浦县旧镇一带，涉及新旧承包户、村集体等多方利益，也关系着地方重点工程建设及“三资”清理工作的开展，矛盾复杂且涉及历史遗留问题。东山法庭三下村镇协调多方努力做调解工作，同时积极探索海域使用权矛盾纠纷的长效预防机制，力求从根源上化解海域使用管理、收益过程中引发的矛盾问题，积极发挥派出法庭在加强诉源治理、维护地方稳定的桥头堡作用。

（三）涉自贸案件数量递增，示范性裁判促推法治化营商环境建设

2023 年涉自贸海洋建设工程案件数量攀升，全年共受理 17 件，涉及滨海湿地公园、渔港建设、海上风电设施安装及疏浚吹填等省市重点工程建设内容。法院通过依法审理，进一步明确当事人各方权利边界，推进涉海工程建设行业的规范运作，充分发挥以海事司法服务护航海洋工程建设的职能作用。同时，由于自贸区注册登记的从事海难救助的企业增多，海难救助案件也逐年递增。全年共受理 6 件涉及海难救助及防清污作业纠纷。该类纠

纷具有诉讼主体复杂、诉讼标的金额高、救助人举证较弱等特点，且获救方在救助后常援引《中华人民共和国海商法》第一百七十六条要求变更救助合同。救助合同是一种“弱合意”的合同，事发突然，海事局强势介入，船东和保险人对投入多大救助力量可能意见也不一致，当事人若出于种种考虑没有以明确的方式表意，则可能导致权利外观、表示意思与实际权利、内心意思的不符。在此种情形下，救助人如果基于信赖而进行救助，并成功救助了遇险财产，法院应依法保护其信赖利益和期待利益。我院在审理该类案件时，尊重和强化雇佣救助的合同意思自治，基于客观主义的立场保护相对人的信赖利益，及时下判，实现行为人与相对人的利益平衡，有力维护交易安全、鼓励海难救助。

三、年度案件中的专项问题和建议

（一）加强对海钓新型观光休闲业态的规范与监管

海钓是近年来在沿海各地兴起的新型业态，同时也是具有一定风险性的户外休闲活动，因海钓引发的人身伤亡事故近年来并不罕见。从我院审理的相关海上人身损害责任纠纷案件中，法官发现海钓行业存在经营者未履行安全保障义务、出海距离过远、海钓人员缺乏安全防范意识等问题。从引导海钓新型业态良性、健康发展的角度出发，建议：一是加强地方立法。结合地方特色，以规范海钓行为、保护海洋资源、确保海钓活动的安全有序为目的制定相关地方规范性文件，从管理体制、行为规范、船舶管理、产业发展及法律责任等方面对海钓进行全面规范，加强对海钓行业的引导和监管。目前，已有地市出台相关文件，作出有益探索，如浙江省舟山市出台了《舟山市国家级海洋特别保护区海钓管理办法》；二是强化行业规范。设立专门的海钓产业管理机构，落实牵头部门，明确相关单位职责分工，全面统筹、指导和督察海

钓产业集体发展。进一步发挥海钓协会的作用，赋予海钓协会一定的行业管理职能，就海钓的安全范围、安全措施等制定相关行业标准，协助主管机关强化行业管理；三是加大研发海钓保险险种力度。一方面，保险机构应加大研发适用于海钓活动的专项意外保险产品，鼓励海钓人员购买专项保险，提升保障的精确度；另一方面，应探索研发针对经营者的责任险与针对船舶的综合险等，提升海钓抗风险水平。同时，海钓人员应充分认识海钓的危险性，加强安全防范意识，量力而行，根据自身状况参加适宜的海钓活动。

（二）行政处罚应注意“过罚相当”

在我院审理的涉非法占用海域海事行政案件中，法官发现有的行政机关未区分具体情况，僵化适用《中华人民共和国海域使用管理法》第四十二条关于“责令退还非法占用的海域，恢复海域原状”的规定，如：已建成的大桥因为部分桥墩超出已取得海域使用权证的用海范围被责令恢复原状；投资数十亿的海上风电设施因为用海手续还没有审批下来被责令恢复原状；财政资金投入的作为为民办实事项目的海上避风坞设施因为暂未取得海域使用权证被责令恢复原状；已办理初步用海手续，可能取得海域使用权证的渔港公益设施被责令恢复原状……上述处罚违背了行政处罚的“过罚相当”原则。“过罚相当”指的是在行政处罚中，所施加的处罚应当与违法行为的事实、性质、情节以及社会危害程度相匹配。上述案件中，由于未就违法占海行为的性质、情节等个案情况予以充分考虑，一律适用“恢复原状”的处罚，从法律效果上说不符合行政处罚的合法性、合理性和有效性，从社会效果来说可能造成资产的浪费，亦不利于构建民生和海洋生态保护相互增益、相互促进的关系。建议行政机关对尚能补办完

整用海手续等违法情节轻微、社会危害后果不大的非法占海行为作出处罚时，增加执法的柔性温度，综合考虑法律实施的目标、行政处罚的合理性原则、民生与生态保护相互协调、相辅相成的理念等方面，在适用《中华人民共和国行政处罚法》关于减轻或免于处罚的规定后，结合上述海域适用管理法第四十二条的规定，作出公平合理的处罚，进而引导群众增加生态保护的思想自觉与行动自觉。

（三）进一步提升远洋渔业综合实力

福建省是传统的渔业大省，远洋渔业是海洋经济的传统产业，也是福建的优势产业，综合实力保持全国领先。但近年来，受入渔国政策变化、新冠疫情、船员缺乏、资金不足等因素制约，远洋渔业生产和发展遇到严重困难，远洋渔企出现“倒闭潮”。2023年，我院受理的涉远洋渔业执行案件增多，拍卖船舶中远洋渔船占比加大，也从侧面反映出上述远洋渔业面临的危机。为及时化解问题，进一步做大做强我省远洋渔业，促进渔业转型升级，建议：一是建立和完善渔业信息综合服务平台。由相关部门牵头，建立涵盖渔场、渔港、渔业政策法规、渔业价格、渔业企业、渔业服务机构和气象等信息的网络平台，让远洋渔业企业能够掌握政策、了解行情、预判市场，助力提升远洋渔企特别是小微民企的专业性与抗风险能力。二是加大新型现代化渔船的技术研发与更新升级。以高效、节能、环保和安全为目标，积极推动远洋渔船及配套设备的更新、改造和升级。加强对远洋渔企贷款用途的监管，切实保障企业将资金用于渔船现代化能力的建设上。大型船舶建造企业可加快远洋渔船船型的引进、技术的消化和建造水平的提高，建造符合国际市场准入的大型自动化节能化渔船。高校可借助科研力量，在科研经费、人才培养、实验室建

设等方面给予重点扶持，促进新型渔船、新渔具、探鱼装备等硬件设备的技术研发，带动远洋渔业装备自主创新能力的提升；三是提升远洋渔企抗风险水平。引导远洋渔企建立专业化、国际化的法务团队，通过收集、研究作业海域沿岸国和地区的法律，有的放矢的对员工开展法律知识、法律风险培训教育，提升经营管理的科学化、法制化水平。加大对远洋渔业相关国际公约、法律法规的宣传力度，同时通过剖析典型案例，提示法律风险，规范远洋捕捞行为。探索建立不定期信息通报机制，及时掌握远洋渔业的发展动态、司法服务需求，准确预判可能出现的矛盾纠纷，从源头上减少相关案件的发生。

White Paper (2023): Cases and Statistics

I. Overview

(I) Basic statistics

1. Statistics on cases accepted and concluded

Throughout the year of 2023, the Court in total handled 2792 cases¹, including 2418 cases newly accepted and 374 cases left over from previous years. Compared with the statistics of 2022 on a year-on-year basis, the number of newly-accepted cases decreased by 15.75%. 2543 cases were concluded, down 8.89% on the previous year, but the clearance rate was 91.08%, up 2.9% over the previous year.

In 2023, the Court in total handled 2030 contentious cases, 1715 of which were newly accepted (consisting of 1198 first-instance admiralty and maritime cases, 152 maritime administrative cases, 1 criminal case, and 364 other cases). The subject matters of the newly-accepted contentious cases valued in aggregate at about RMB 2,900,041,700. 1838 contentious cases were concluded in the year (consisting of 1323 first-instance admiralty and maritime cases, 68 maritime administrative cases, 1 criminal case, and 446 other cases), amongst which 653 cases were concluded by judgment, 296 settled through mediation, 359 withdrawn and 530 concluded by other means, making the clearance rate of contentious cases reach 90.54%, up 3.4% over the previous year.

¹ This figure does not count in judicial assistance cases, but counts in enforcement resumption cases and property preservation enforcement cases.

In the year, the Court in total handled 762 enforcement cases, 703 of which were newly accepted and involved a total value of about RMB 762,184,500. The year also saw the Court concluding 705 enforcement cases, with effective enforcement value totaling about RMB 1,272,368,200. The clearance rate of enforcement cases reached 92.52%, up 0.76% over the previous year.

In the year, the Court actually arrested 80 vessels, and sold at auction 45 vessels, 26 house properties, one factory building and the right to use sea areas in one case, with the hammer prices totaling up to RMB 280 million, showing an increase of 104% in the number of auctions and an increase of 47% in the total amount of hammer prices on a year-on-year basis. The rate of cases in which the enforcement objects are realized reached 69.23%.

2. Quality and efficiency of trial and enforcement

- (1) The case-to-proceeding ratio (composite indicator) was 1:1.74.
- (2) The appeal rate (negative indicator) was 21.74%.
- (3) The rate of first-instance decisions being remanded for retrial (negative indicator) was 0.654%.
- (4) The rate of clearance within statutory period for trial was 89.59%.
- (5) The average time to conclude a case (negative indicator) was 92.47 days.
- (6) 22.55% of cases were successfully diverted to pre-litigation mediation and the rate of mediation was 21.37%.
- (7) The rate of application for enforcement of civil judgments (negative indicator) was 68.37%.

(8) The case-to-complaint ratio (negative indicator) was 1:0.0064.

3.Other statistics

(1) 964 judgments were published online.

(2) The rate of live broadcast of hearings was 65.89%.

(3) The rate of electronic filing reached 99.59%.

(II) Highlights

1.The Court implemented the new development philosophy and served the high-quality development of the marine economy at a high level. It actively integrated into the building of “Maritime Fujian”, formulated the “Working Opinions on Strengthening Maritime Judicial Service Guarantee to Spur the Growth of the Private Sector”, issued model cases of serving the development of the private sector, and promoted the building of a modern marine industrial system. One case concluded by it concerning dispute over a contract of carriage of goods by sea was listed in the top ten high-quality cases of Fujian courts, and its relevant judicial suggestion promoted the corresponding amendments to the Regulations of the People's Republic of China on International Marine Transport, which was selected as one of the top ten judicial suggestions of Fujian courts. It created a preferred forum for the resolution of international maritime disputes, formulated the “Working Opinions on Comprehensively Integrating into the Building of the Maritime Silk Road Central Legal District”, and established China’s first 21st Century Maritime Silk Road International Maritime Dispute Mediation-Litigation Coordination Center. In the serial cases related to the COVID-19 epidemic which involved Maersk and other well-known international shipping companies, the Court facilitated the settlement and

withdrawal of 85% of the cases, which was written in the report on the work of Fujian courts delivered at the 2024 Fujian Two Sessions. The Court committed itself to escorting the building of marine ecological civilization and, together with Xiamen Intermediate People's Court, established the Xiamen Judicial and Governmental Collaboration Platform for Ecological Protection in conjunction with the procuratorate, the public security bureau, the bureau of justice, the bureau of natural resources, the bureau of ecology and environment, etc.. The Court concluded Fujian's first civil public interest litigation case filed by a procuratorial authority to claim for compensation for damage to marine ecology where the Court innovatively ordered for performance by "ocean carbon sink & alternative restoration", which was listed in the Model Maritime Trial Cases of Chinese Courts published by the Supreme People's Court.

2.The Court focused on the integrated development across the Taiwan Strait and optimized the supply of Taiwan-related maritime justice from a big picture. Based on the functions and regional advantages of it as a specialized court, the Court promoted the establishment of the Cross-Strait Maritime Judicial Research Center and improved the reform of the Taiwan-related maritime trial organization system. It concluded China's first case in which an adjustment report issued by a Taiwanese GA adjuster was directly admitted, and for its accurate application of international practice, the case was selected as one of the model cases of application of international treaties and practices to foreign-related civil and commercial cases published by the Supreme People's Court. It mediated a series of disputes over the remuneration of 165 crew members dispatched by a Taiwanese enterprise to a distant-water fishing company in Mainland China,

enhancing the judicial recognition of Taiwanese litigants. Joint with MSA Xiamen, Xiamen Municipal Bureau of Justice and other 9 authorities, the Court established the China's first Taiwan-related maritime dispute resolution center, providing one-stop, multi-option, efficient and convenient services for people on both sides of the Taiwan Strait and assisting in the building of a demonstration zone for the integrated development across the Taiwan Strait.

3.The Court adhered to the tenet of “Justice for the People” and efficiently increased the people’s sense of fulfillment with high quality. In improving the litigation sources governance system based on the double grids “territory + industry”, the Court’s Fuzhou tribunal established the Fuzhou Seafarers’ Rights Protection Center in conjunction with other relevant authorities, and its Ningde tribunal and Dongshan tribunal played the role of “bridgehead” in setting up a number of maritime mediation centers and one-stop dispute resolution centers with local sea-related authorities, making the number of disputes resolved by pre-litigation mediation increase by 21.8% over the previous year and the relevant mechanism awarded a Good Case of Reform in Xiamen. In responding to the people’s expectation for judicial service, the Court set up circuit trial stations and case handling stations in the Pingtan Comprehensive Experimental Zone and Huangqi Town, Lianjiang, providing convenient litigation services for the people at their doorsteps. The Court strengthened its protection of the people's rights and interests, e.g., it sold various properties at auction in a total amount of RMB 255 million, including 45 vessels inclusive of bulk carriers and fishing vessels, showing a year-on-year increase of nearly 19.2%. The case in which the Court recovered RMB 6.6 million of wages for 83 crew

members was selected as one of the “Top 10” model cases of enforcement involving migrant workers’ wages published by the Supreme People’s Court and it was the only case selected from Fujian courts.

4.The Court focused on the main theme of impartiality and efficiency and promoted the modernization of the trial system at a high standard.

With a focus on the full and faithful enforcement of the judicial accountability, the Court paid particular attention to formulating rules and regulations, conscientiously implemented the system of review by the president or the chief judge and continued to promote the president or the chief judge to take the lead in handling cases. The Court organized case quality assessments, held analysis meetings on its cases remanded for retrial or its decisions amended by a superior court, took actions to address long pending cases, and strengthened the supply of trial resources from judges conference and the adjudication committee, which have strongly contributed to the improvement of the quality of trials and the governance of derivative cases. By deepening the implementation of the strategy of high-quality maritime trial, the Court had 3 cases selected as model cases throughout the country and 17 cases selected as model cases or good cases in Fujian Province.

5.The Court implemented full and rigorous self-governance over the Party and the court and strengthened the foundations for the development of maritime justice from a high starting point.

By steadily launching theoretical study of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era and deepening the implementation of the young official training project, the Court’s working mechanism of “Four Classes” on

clerk management was awarded “Innovative Initiative in Political Building”, and the Court and its officials won two national-level honors such as outstanding individual in the courts throughout the country and eight provincial-level honors such as outstanding collective in Fujian courts and outstanding judge of Fujian. By setting up China’s first legal culture park themed on maritime law as its culture exhibition center, releasing a bilingual white paper on maritime trial in Chinese and English for six consecutive years, and having its work achievements reported for 15 times by “CCTV News”, “People’s Court Daily”, “Legal Daily” and other central media, the Court actively spread the good voice of maritime justice.

II. Main features of cases

(I) Newly-accepted contentious cases changed in their types and the Court accepted the first maritime criminal case

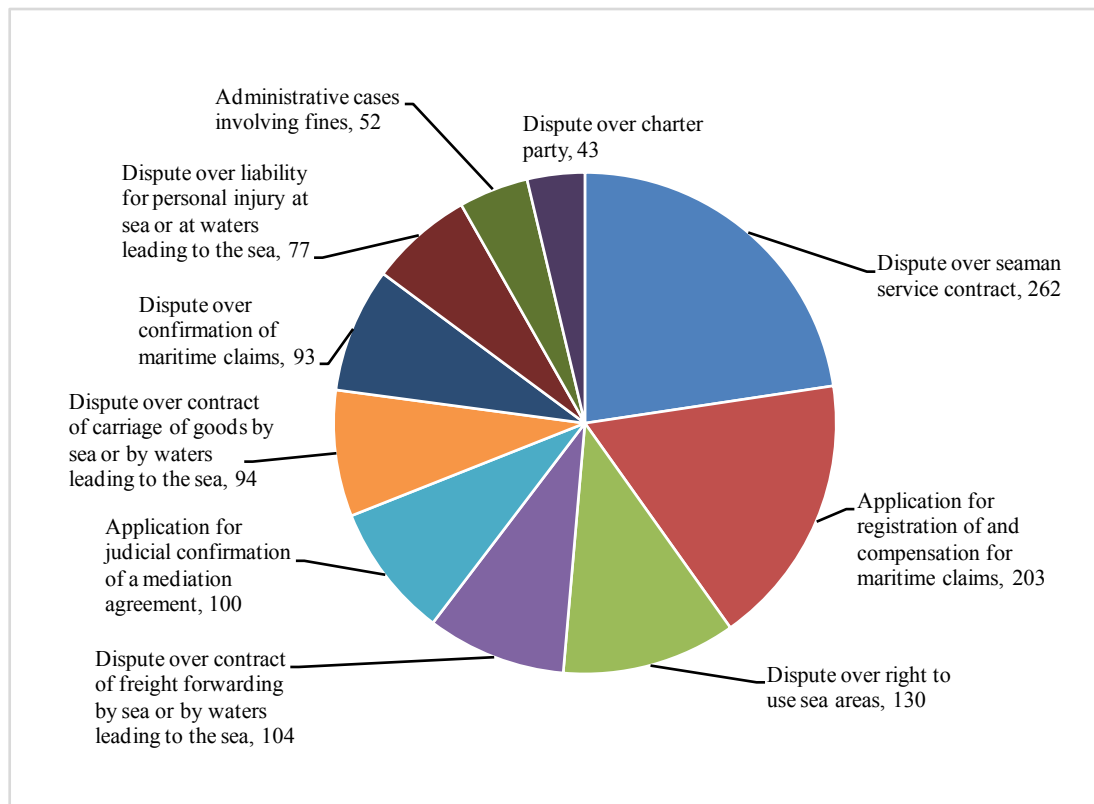
In the year of 2023, 1715 contentious cases were newly accepted by the Court, down 23.33% on the previous year. The year also witnessed some remarkable changes in the types of the newly-accepted contention cases: (1) the number of admiralty and maritime cases decreased to 1198, down 17.55% on the previous year, particularly the number of cases concerning dispute over contract of carriage of goods by sea which rank top 1 in 2022 fell down to No.5, while the number of cases concerning dispute over seaman service contract sharply rose to the first place. The main reason for such change is that most of the cases concerning dispute over contract of carriage of goods by sea in 2022 arose from the incurrence of demurrage due to the COVID-19 epidemic prevention and control measures taken by the port of destination, which led to great dispute between the carrier and the shipper on who should be

liable for the demurrage. However, with the change of the epidemic prevention and control measures in 2023, such reason was basically eliminated and the number of corresponding disputes thus significantly declined; (2) the number of maritime administrative cases increased significantly to 152, up 85.37% over the previous year, jumping to No.3 among the various contention cases. Such increase on the one hand reflects that, while ocean management was further strengthened and the protection of marine ecology was further enhanced with the deepening of the building of a powerful marine province, the development of the maritime industry also resulted in the gathering of the wealth at sea, leading to an increase in disputes between the relevant interested parties, and on the other hand reflects the positive trends that the Court's administrative litigation service became more professional and that the Court's credibility was further enhanced; (3) the number of ship-related cases increased. Compared with 2022, the number of cases concerning dispute over charter party, ship repair contract and voyage charter party all increased significantly, back to the top ten list, reflecting the good trend of further recovery of the ship leasing and repair markets; (4) The Court for the first time heard a maritime criminal case. Approved by the Supreme People's Court, in 2023 the Court accepted and pronounced judgment in court on a case of illegal sand mining and incidental civil public interest litigation transferred for prosecution by the Xiamen People's Procuratorate. This was the Court's first criminal case and incidental civil public interest litigation approved by the Supreme People's Court since the Court launched the pilot reform of "3-in-1" trial of civil, administrative and criminal matters, which effectively deterred illegal mining of sea sand, promoted the restoration and protection of the marine ecological environment, further expanded the

functions of maritime justice to provide service and guarantee for building China into a strong maritime country, and strengthened the judicial control over maritime security and order.

Causes of Action of Top 10 Contentious Cases

Newly-Accepted in 2023



(II) The number of cases concerning dispute over right to use sea areas significantly increased and the Court deepened its involvement in local governance

Among the cases newly-accepted by the Court in 2023, the number of cases concerning dispute over right to use sea areas increased significantly, reaching 130, showing a year-on-year increase of 42.86%. Such cases were mainly accepted by the Court's detached tribunals, including 66 cases accepted by its Ningde tribunal and 47 cases accepted by its Dongshan tribunal. Characterized by most of the plaintiffs being companies and claiming for rent of their right to

use sea areas, such cases before the Ningde tribunal increased mainly because the lessees failed to pay rent due to the post-epidemic economy in recovery stage and the periodicity of the sale of aquatic products, leading to companies' pursuit of rent in the low season for fishing. Considering such cases involved mass disputes and related to people's livelihood, the Ningde tribunal intensified its mediation efforts and resolved the disputes basically through settlement or withdrawal of claim to the satisfaction of both the companies and the lessees. While in such cases accepted by the Dongshan tribunal, most of the disputes originated from Jiuzhen Town which is an ancient town in Zhangpu County and involved multiple interested parties including new and original lessees and village collectives, as well as some local key projects and the work of liquidation of funds, assets and resources of village collective economic organizations, which involved complex conflicts and problems carried over from the history. In addition to visiting the villages and towns three times to coordinate the parties to accept mediation, the Dongshan tribunal actively explored a long-term preventive mechanism for disputes over the right to use sea areas, seeking to resolve from the root the disputes and problems arising from the administration of the right to use sea areas and the earnings from the use of sea areas, and actively played its role as a "bridgehead" in strengthening governance of litigation source and safeguarding local stability.

(III) The number of FTZ-related cases gradually increased and exemplary judgments promoted the building of a law-based business environment

In 2023, the number of cases concerning marine engineering related to the free trade zone (FTZ) climbed, reaching 17 throughout the

year. Such cases involved provincial-level and municipal-level key projects such as building of coastal wetland parks and fishing harbors, installation of offshore wind power facilities, and dredging and reclamation projects. By trying the cases in accordance with the law, the Court further clarified the right boundary of the parties, promoted the standardized operation of the sea-related engineering industry, and gave full play to its function of providing maritime judicial services to safeguard marine engineering. Moreover, as more enterprises engaged in marine salvage were registered in the FTZ, the number of cases concerning dispute over marine salvage also increased year by year. Throughout the year of 2023, the Court in total accepted 6 cases concerning dispute over marine salvage or pollution prevention and clean-up. Such cases were characterized by complicated parties, high amount of claim, weak evidence provided by the salvor, etc., and the salvaged parties always invoked Article 176 of the Maritime Code of the People's Republic of China to seek modification to the salvage contract after salvage. The salvage contract is considered as a "weak consensus" contract as it is often concluded in sudden and unexpected circumstances with strong intervention by MSA, and the shipowners and insurers may have different views on how many salvage resources should be deployed. If for various considerations the parties fail to clearly express their intents, this could lead to discrepancy between the appearance of right and the actual right, as well as discrepancy between the expressed intent and the real intent. In such circumstances, if the salvor performed the salvage operations in reliance on the salvaged party and successfully salvaged the property in distress, the court should protect his reliance interest and expectation interest according to the law. In the trial of such cases, the Court respected and strengthened the contract autonomy of employment salvage,

protected the reliance interest of the party to whom the intent was expressed based on objectivism, and timely handed down judgments, which achieved a balance between the interests of the party performing the act and the party to whom the intent was expressed, effectively maintained the safety of transactions and encouraged the salvage companies to undertake marine salvage.

III. Special issues in the 2023 trials and recommendations

(I) Strengthen the regulation and supervision of sea angling

Sea angling has emerged as a new type of tourism and leisure business along the coast in recent years, but it is also an outdoor leisure activity that carries certain risks. It is not rare that personal injury and death accidents have occurred due to sea angling in recent years. During the trial of cases concerning dispute over liability for personal injury at sea, our judges noted some problems in the sea angling industry, such as the operators failed to fulfill their safety obligation, the fishing spots were too far from shore, and the sea anglers lacked safety awareness. To guide a sound and healthy development of sea angling as a new type of business, it is recommended that: (1) local legislation should be strengthened. To regulate sea angling behaviors, protect marine resources and ensure the safety and order of sea angling activities, local regulations with local characteristics should be formulated to comprehensively regulate sea angling from the management system, code of conduct, vessel management, industrial development and legal responsibility and strengthen the guidance and supervision on the sea angling industry. Some prefecture-level cities have already made useful explorations in legislative efforts, e.g., Zhoushan in Zhejiang Province promulgated the Management Measures of Zhoushan Municipality for Sea Angling in the National Marine Special

Protected Area; (2) industry standards should be reinforced. A specialized sea angling regulatory body should be established to take the lead, make clear division of duties among relevant authorities, and fully coordinate, guide and supervise the collective development of the sea angling industry. The sea angling association should be given certain industry management authority to formulate relevant industry standards on the safety scope, safety measures etc. for sea angling, so that the sea angling association can better play its role and assist the competent authorities in strengthening their administration of the sea angling industry; (3) more efforts should be exerted to develop new insurance products for sea angling. On the one hand, insurance companies should intensify their research and development of specialized accident insurance products for sea angling activities and encourage sea anglers to purchase specialized insurance to improve the accuracy of protection; on the other hand, liability insurance for operators and comprehensive insurance for vessels should be developed to increase resilience to risks. Meanwhile, sea anglers should be fully aware of any danger involved in sea angling, strengthen their awareness of safety and precautions, and take part in specific sea angling trivialities that are appropriate for their individual conditions.

(II) Apply the principle of “punishment commensurate with the offense” in administrative punishment

During the trial of maritime administrative cases involving illegal occupation of sea areas, our judges noted that many administrative authorities did not give punishment subject to the specific situation, but mechanically applied Article 42 of the Law of the People's Republic of China on the Administration of Sea Areas which states “...shall be ordered to return the illegally occupied sea areas, restore

them to their original state”. For instance, a built bridge was ordered to be restored to its original state because some of its piers exceeded the scope of sea areas for which the certificate of right to use sea areas had been obtained; a multi-billion-yuan (RMB) offshore wind power facility was ordered to be restored to its original state because the application for use of sea areas had not yet been approved; an offshore typhoon shelter facility, which was a project financed by the public treasury and designed to address the people's practical concerns, was ordered to be restored to its original state because the certificate of right to use sea areas had not been obtained; the public welfare facility of a fishing harbor, for which the preliminary formalities for using the sea areas had been gone through and the certificate of right to use sea areas was likely to be obtained, was also ordered to be restored to its original state. Such punishments violate the principle of “punishment commensurate with the offense”, which principle requires any administrative punishment should be commensurate with the facts, nature and circumstances of the relevant illegal act, as well as the degree of social harm caused thereby. In the said cases, the punishment of “reinstatement” was applied mechanically without full consideration of the nature and circumstances of the act of illegal occupation of the sea areas in specific cases. This approach, in terms of legal effect, is not in line with the principles of legality, reasonableness and effectiveness of administrative punishment, and in term of social effect, may lead to a waste of assets. Moreover, it is not conducive to the building of a mutually beneficial and promoting relationship between the people's livelihood and the protection of marine ecology. Hence, it is recommended that the administrative authorities, when imposing punishment on any act of illegal occupation of sea areas whose circumstances and consequence of social harm are both minor and

can be rectified by completing further formalities for using the sea area, should take more humane and flexible law enforcement measures, fully consider the purpose of such law enforcement, the reasonableness of such administrative punishment, and the integration and mutual reinforcement of the people's livelihoods and the ecological protection, and impose a fair and reasonable punishment pursuant to the provisions of the Administrative Punishment Law of the People's Republic of China concerning mitigation or exemption from punishment and in accordance with the said Article 42 the Law of the People's Republic of China on the Administration of Sea Areas, which in turn can lead the people to enhance their consciousness of ecological protection both in thought and action.

(III) Further increase the overall strength of distant-water fisheries

Fujian Province is a major traditional fishery hub, and the distant-water fisheries industry, as a traditional industry in marine economy, is one of its advantageous industries, with the overall strength ranking top through the country. However, in recent years, due to policy change of countries giving access to fishing, the COVID-19 epidemic, crew shortage, insufficient funding etc., the distant-water fisheries industry has faced serious challenges in its production and development and experienced “massive closedown” of distant-water fishing companies. In 2023, the number of enforcement cases involving distant-water fishing increased, and the proportion of distant-water fishing vessels to the vessels sold at auction also increased, which show the industry was facing crisis. In order to timely solve problems, further expand and strengthen Fujian's distant-water fisheries industry and promote the

transformation and upgrading of the industry, it is recommended that: (1) an integrated fishery information service platform should be established and improved. Led by relevant authorities, a network platform providing information on fishing farms, fishing harbors, fishery policies and regulations, fish prices, fishing enterprises, fishing service agencies and weather conditions should be set up to enable distant-water fishing enterprises to better understand relevant policies and anticipate the market trend and help them, especially the small and micro private enterprises, to enhance their professionalism and resilience to risks; (2) more efforts should be exerted to the research and development, updating and upgrading of technology for new modernized fishing vessels. Renewal, remodeling and upgrading of distant-water fishing vessels and their supporting equipment should be actively promoted with a focus on high efficiency, energy conservation, environmental protection, and safety. The supervision over the use of loans provided for distant-water fishing enterprises should be strengthened, to ensure that the funds are used for enhancing fishing vessels' capacity of modernization. Major shipbuilding enterprises may speed up the introduction of new-type distant-water fishing vessels, facilitate the digestion of technology and improve the shipbuilding levels, to build large-scale automated and energy-efficient fishing vessels that meet the international market access requirements. Colleges and universities may leverage their scientific research and development capacities and should be given prioritized support in respect of the scientific research funding, personnel training, laboratory construction etc., to promote the technological research and development of new-type fishing vessels, innovative fishing gear, fish-finding equipment and other hardware equipment and thereby drive the enhancement of independent innovation capacity of distant-water fishing equipment;

(3) the distant-water fishing enterprises' resilience to risks should be enhanced. Guidance should be given to the distant-water fishing enterprises to establish a specialized and internationalized legal team to collect and study the laws of any country and/or region where the operating sea area is located and carry out targeted training and education to its employees on legal knowledge and risks, to improve the scientific and legal level of its operation and management. Dissemination of international conventions, laws and regulations related to distant-water fishing should be intensified, and typical cases should be analyzed to identify legal risks and standardize the distant-water fishing operations. An irregular information notification mechanism should be explored and established, to keep abreast of the development of the distant-water fisheries industry and its need for judicial service, accurately anticipate potential disputes, and minimize the occurrence of related cases from the source.

年度海事审判典型案例

晋鑫远洋渔业有限公司与晋江市农业农村局 渔业行政给付案

（入选 2023 年全国海事审判典型案例）

【基本案情】

为助力海洋强国建设，推动构建现代化海洋产业、保护海洋生态环境，多地政府设立了海洋经济高质量发展专项补助资金，补助对象一般为具有独立法人资格的从事海洋经济产业生产、经营和研发等有关单位。其中，远洋渔业是该类专项补助资金的重点补助对象。晋鑫公司系 2012 年于晋江注册成立的远洋渔业企业，自有大型渔业船舶六艘。2022 年在印度洋海域、北太平洋海域作业，共生产捕捞渔获一万六千余吨。按照晋江市、泉州市、福建省三级地方政府的自捕渔上岸补贴政策，可申领海洋经济高质量发展补助资金一千余万元。2023 年 3 月 15 日，晋鑫公司书面向晋江市农业农村局提交了申请奖补报告，申领 2021 年 7 月至 2022 年 12 月期间上岸渔获运回泉州口岸奖补资金。该局于 2023 年 5 月 11 日以原告属于失信联合惩戒对象，如准予其申请将无法实现拨付补助资金使用效益，背离专项资金的设立目的为由，未予批准原告的申请。晋鑫公司不服，诉至厦门海事法院，请求判决撤销不予奖补的通知，并责令立即为其申报奖补。

【裁判结果】

厦门海事法院经审理认为，晋鑫公司属于具有独立法人资格的从事海洋经济产业生产、经营的企业，系海洋经济专项资金补助适格对象，其在申请补助资金时已因债务履行完毕及执行申请

人书面申请等原因被人民法院删除了原失信记录，晋江市农业农村局在对晋鑫公司之申请进行资格审查时不应将其原存在的失信记录作为可能再次发生的风险，进而扩大对禁止参与项目申报的情形理解。据此认定晋鑫公司非失信联合惩戒对象，符合申请条件。且晋鑫公司申领的奖补项目系政府鼓励远洋渔获在本地上岸，起到有效带动周边产业发展的奖励和补助，与案涉专项资金推动海洋经济产业高质量发展的设立目的不悖，并一定程度上为缓解近海水产品枯竭及缓解本地水产加工企业原材料供给等方面起到了积极作用。最终判决撤销晋江市农业农村局作出的不予奖补的通知，并责令其重新作出行政行为。判决作出后，双方当事人均服判息诉，晋江市农业农村局重新受理晋鑫公司申请并核发了专项补助资金。

【典型意义】

海洋是形成新质生产力的重要领域，远洋渔业是国家走出去的重要战略性产业。行政机关作出具体行政行为，应当遵循合法合理、正当程序等原则，更应通过依法行政，发挥积极营造法治化营商环境的职能作用。案涉行政机关未能正确解读有关法律规范和国家政策精神，存在以审查之名变相设立申领障碍的情形。厦门海事法院牢牢把握高质量发展是新时代的硬道理，秉持政通人和、案结事了理念，通过依法裁判，一方面充分运用信用修复激励机制，精准助力具有发展前景的民企重拾发展信心，为民企纾忧解困，一方面以明确清晰的裁判规则引导行政机关在行政管理中“有为有度”，准确理解相关政策精神，从两个方面依法维护民营企业的合法权益，充分发挥了专项补助资金激活海洋经济的积极作用。该案的审理，是海事法院充分发挥海事行政职能，助力打造市场化、法治化营商环境，护航民营企业健康发展，为海洋经济高质量发展保驾护航的生动实践。

**台新海运有限公司 (TAI SHING MARITIME CO. ,
S.A.) 与青山控股集团有限公司共同海损纠纷案**
(获评最高人民法院发布的涉外民商事案件适用国际条约
和国际惯例典型案例)

【基本案情】

2019 年 8 月 10 日，台新公司所属巴拿马籍“TAI HUNTER”轮在菲律宾卡拉斯卡尔港装载 54215 吨镍矿石，开往目的港中国福建宁德，青山公司系该轮所载货物的收货人。案涉运输货物提单背面记载“共同海损应当在伦敦根据《1994 年约克-安特卫普规则》进行理算、陈述和解决”。14 日，该轮因船员驾驶过失在福州连江海域触礁，造成船舱进水，船体倾斜。事发后，海事部门立即组织应急救援，后船舶经锚地减载，前往宁德港靠泊卸货。16 日，台新公司作出共同海损宣告，明确其将依据提单共同海损条款，委托理算机构根据《1994 年约克-安特卫普规则》进行理算，并多次通过台湾地区某共同海损理算机构要求青山公司提供共同海损担保，告知所选定的海损理算机构。青山公司既未提供担保，亦未对理算机构选定提出异议。嗣后，台新公司依据理算机构出具的理算报告，向厦门海事法院起诉，主张本案应认入共同海损的牺牲与费用为 1727980.03 美元，要求青山公司分摊 228853.23 美元等。

被告青山公司对原告台新公司的诉讼主体资格、理算规则和理算报告均提出异议，认为本案不适用共同海损分摊。即便纳入共同海损，防污染费、部分救助费、港口费、船员工资、燃料物

料费、律师费、专家费等也不应列入共同海损。

【裁判结果】

厦门海事法院经审理认为：案涉提单背面记载的共同海损理算条款，符合航运实践惯例并具有可操作性，亦不存在加重青山公司责任或排除权利的情形，该条款合法有效。海事主管机关等采取的应急抢险作业具有救助遇险船舶、其他财产和防止、减轻油污损害的双重目的。依据《1994 年约克-安特卫普规则》，台新公司未能证明为防止油污损害采取措施及委托律师的直接目的系为了船货共同安全，故与清污有关的费用及律师费不应被认入共同海损；船舶触礁后，为使其能够进港而必须采取的减载作业，是出于船货共同安全考虑，故航行计划的咨询工作费、额外港口费用等均应计入共同海损；此外，台新公司因共同海损事故而发生的合理利息和手续费亦应认入共同海损。据此，判决青山公司向台新公司支付共同海损分摊人民币 1038013.15 元及利息损失。

双方当事人均未上诉，判决已发生法律效力。青山公司在判决指定期限内主动履行付款义务。

【典型意义】

本案系涉外涉台共同海损纠纷，也是首例直接采信台湾地区共同海损理算机构协助作出理算报告的案件，展现了人民法院处理涉外涉台疑难海事复杂案件的专业化及精细化水平，是打造涉外涉台海事争端解决优选地的生动司法实践。

首先，本案适用了国际航运中公认并被世界大多数航运国家广泛接受和遵守的共同海损国际惯例《约克-安特卫普规则》。共同海损是海商法规中基于海上风险的特殊性而建立的一项特有的古老法律制度，在船货双方之间公平分摊风险与损失，对于保

护和促进海上运输具有重要意义。《中华人民共和国海商法》第二百零三条确立了理算规则的选择原则，规定共同海损理算，适用合同约定的理算规则，合同未约定的，适用本章规定。案涉提单背面的共同海损条款明确记载根据《1994年约克-安特卫普规则》进行理算，即应视为双方当事人约定了上述理算规则。本案充分尊重船货当事人的意思自治，精准平等保护了当事人的合法权益，对准确适用国际惯例审理共同海损案件具有示范性意义，有助于营造法治化市场化国际化的营商环境。

其次，本案首次直接采信台湾地区共同海损理算机构协助作出的报告，探索了加强对台湾地区当事人司法供给的新路径。本案中，法院在征得当事人同意的情况下，直接采信台湾地区共同海损理算机构协助作出的报告，既免除域外形成证据的认证手续，有效提升审判效率，又有助于提升台胞对大陆司法的认同感，探索了两岸融合新路径，极大提高了涉台海事司法公信力，是福建法院积极贯彻《中共中央 国务院关于支持福建探索海峡两岸融合发展新路 建设两岸融合发展示范区的意见》，以海事司法助力两岸融合发展的有益探索。

最后，本案以“一带一路”航线为背景，系台湾地区航企运营的巴拿马籍船舶触礁引起的纠纷，运输货物涉及“十四五”规划重点发展的新能源产业，本案的及时妥善裁处，有助于促进共建“一带一路”高质量发展新阶段下国际海上运输健康发展，维护国际产业链供应链安全稳定。

福安市安海水产养殖有限公司与平潭综合实验区新锦富航船务有限公司海上养殖损害责任纠纷案

(入选福建高院第八批参考性案例)

【案情简介】

“锦富航6”轮系平潭综合实验区新锦富航船务有限公司(下称船务公司)所有的船舶,船务公司就该轮投保了船舶一切险。2021年5月18日,“锦富航6”轮因过失触碰福安市安海水产养殖有限公司(下称水产公司)的养殖设施以及许建光等8名养殖户龙须菜、鱼类。

2021年7月12日,船务公司向厦门海事法院申请设立海事赔偿责任限制基金。厦门海事法院通知水产公司等利害关系人,对设立基金不论是否持有异议,都应在60日内申请债权登记,逾期视为放弃债权。水产公司和许建光提出异议。厦门海事法院经审查准许设立基金,后许建光就此提出上诉,而水产公司未提出上诉,而是直接提起本案诉讼。船务公司辩称:水产公司未在债权登记公告发布后60日内申请债权登记,依据海事诉讼特别程序法第一百一十二条规定,应视为放弃债权,其诉讼请求应予以驳回。

【裁判结果】

厦门海事法院认为,本案水产公司未在公告期间内申请债权登记,根据海事诉讼特别程序法第一百一十二条规定,依法对其他已经登记债权的债权人产生放弃在本次债权登记中平等受偿的效力。但对船务公司而言,在责任限制基金清偿已登记债权尚有剩余的情况下,其债务仍然相应存在,水产公司有权在剩余基

金范围内与目前已知的本次事故中逾期申请债权登记、最终经生效裁决认定不视为放弃债权的同类债权共同受偿。据此判决确认：水产公司渔排养殖设施损失为 993401 元以及律师费 18783 元、鉴定费 10712 元；船务公司对该债务有权限制赔偿责任，水产公司应在 636353.5 特别提款权及相应利息与已经按期登记且经法院最终确认的债权数额的差额范围内，与同类债权共同受偿；若上述特别提款权本息与已登记债权之间没有差额，则视为水产公司放弃债权；驳回水产公司的其他诉讼请求。宣判后，船务公司提起上诉。福建高院二审维持原判。船务公司后又申请再审，最高法院依法驳回其再审申请。

【典型意义】

对海事诉讼特别程序法第一百一十二条规定的“视为放弃债权”，如不作区分，一概因受害人的程序性过失而令其丧失全部实体利益，将导致受害人权利轻易丧失、责任人和第三方额外受益，裁判结果势必与法律的公平原则、社会大众对权利的朴素认知相冲突，法律效果和社会效果都不好。一审判决从立法目的出发，对海事诉讼特别程序法第一百一十二条规定的“视为放弃债权”区分情形，作限缩解释，填补法律漏洞，还原该规定的应有之义，合理平衡了双方当事人利益，实质性化解了群众纠纷，实现了法律效果和社会效果的有机统一。判决经二审、再审维持，福建高院列入第八批参考性案例，产生了“办理一案”到“治理一片”的类案效应。

宁德市腾源水产有限公司养殖海域清退强制执行案

（入选 2023 年度福建法院十大执行案件）

【基本案情】

宁德市腾源水产有限公司（以下简称水产公司）与福建省宁德市霞浦县四名养殖户约定以缴纳补偿金方式借用其养殖海域，后因水产公司未按时缴款，法院判决水产公司应每年支付海域使用赔偿金并交还案涉 36 亩海域给养殖户。法院于 2023 年 7 月强制执行后，被执行人水产公司立即履行了判决确定的支付赔偿金义务，但提出清理海上养殖设施退还涉案海域存在困难：一是该海域已转包给他人，强制清退会造成案外人合法权益受损；二是各养殖区养殖设施相连，强制拆除设施会直接妨碍周边养殖区养殖经营，产生更多纠纷。此时，养殖户坚决要求强制清退，而相关案外人又纷纷提出异议，各方矛盾尖锐，执行工作陷入两难。如何平衡各方利益诉求，避免一案引发多案成为本案的执行重点。

【执行措施】

法院在办案过程中了解到，为优化资源配置、拓展海洋经济发展空间、实现当地海洋产业可持续发展，霞浦政府自 2018 年开始启动海上养殖清理整治工作，将原本禁养区养殖渔排整体搬迁至可养区。水产公司等民营企业在清理整治过程中承担了海上养殖网格化集中管理、规模化经营等重要任务。若机械办案、强制清退案涉海域，不仅会造成相关民营企业重大利益受损，同时还会损害其他实际经营个体户利益，产生连锁反应，引发更多纠纷。因此，执行人员多次奔赴当地养殖区，克服养殖户围困、阻

拦等重重困难，释法说理多方协调，精心设计平衡各方利益的可行性方案，最终各方同意水产公司支付所欠费用继续租用养殖户海域，并协助养殖户申请办理经营权证的和解方案。在执行民企全额支付赔偿金后，法院立即裁定解除其银行账户冻结，帮助民企尽快恢复经营，同时及时出具纠纷化解证明，推进海上养殖许可证办理进程。至此，该案纠纷成功化解。

【典型意义】

本案作为我院坚持善意文明执行理念的生动案例，充分体现了法院能动司法的重要意义，为法院如何做好服务保障民营企业发展壮大工作提供了鲜活的样本，为其他法院更妥当处理海上养殖“蓝色牧场”建设过程中引发的用海协议纠纷提供了可借鉴的参考，增强了民营企业积极参与海洋经济发展、布局“蓝色牧场”建设的信心，助力民营企业在优化海上养殖产业、保护海洋生态环境方面发挥更大的作用。

福州全裕成进出口贸易有限公司等与马士基亚洲有限公司等海上货物运输合同纠纷系列案

【基本案情】

2022 年，福州全裕成进出口贸易有限公司等多家民营企业作为原告，分别以海陆马士基亚洲有限公司、达飞亚洲轮船有限公司等国际知名航企为被告，向厦门海事法院提起诉讼，主张受新冠肺炎疫情防控措施影响，进口的货物冷链食品长时间处于海关和港口部门的监管和检验检疫相关措施管控下，导致案涉集装箱超期使用，被告为此向其收取了集装箱超期使用费。原告认为上述费用的产生并非原告过错导致，不应由其承担，诉请被告退回已收取的费用。该系列案件前后累计共 548 起，单件标的金额多数在 10 万元以下。

【裁判结果】

厦门海事法院受理案件后，认真分析案情，多次召开专业法官会议研究，确立了以公平原则为指导，兼顾疫情防控影响、双方当事人履约成本、过错程度及减损义务等多种因素，分时段灵活区分处理的裁判思路。在此基础上，一方面择取其中有代表性的个案经开庭审理后作出判决，并经二审维持，确立了裁判规则。一方面以生效个案为解纷样本，组织双方当事人参照裁判规则进行调解，促使 85%案件调撤化解。

【典型意义】

该系列案是具有典型海事特色的涉疫涉外纠纷。厦门海事法院坚持能动司法理念，总结案件规律，统一裁判规则，以“示范性裁判+调解”的做法，积极利用诉调对接平台加强调解、充分

发挥个案裁判的示范效应，不仅令大部分案件调撤化解，也促使大量类似小微纠纷因可借鉴的处理规则在前端快速就地化解。该系列案处理后，仅有 23 个类似纠纷向法院起诉，纠纷成讼率大大下降，诉源治理取得良好效果。案件审理过程中，法院深挖纠纷根源，聚焦所反映的共性问题，深入分析研判、“把脉问诊”，强化司法指引，体现了能动司法的前瞻性与主动性。该系列案的审理探索了涉外系列案贯彻双赢多赢共赢司法理念的新路径，有效维护了东南国际航运中心航运秩序，实现了从“审理一案”到“治理一片”的良好社会效果，充分发挥了海事司法护航海洋经济高质量发展的职能作用，也是厦门海事法院探索完善国际海事纠纷多元化解机制，打造国际海事纠纷解决优选地的生动实践。该案入选福建省高级人民法院向福建省人大所作的 2023 年福建法院工作报告。

中国人民财产保险股份有限公司河北省曹妃甸分公司 与江苏全强海运有限公司等追偿权纠纷案

【基本案情】

2020年10月9日，全强公司所属“中金51”轮在福建省福清兴化湾发生触礁搁浅事故，船艏前舱触礁破损，船载数千吨钢卷被海水淹没。为防止燃油泄漏、人员伤亡，全强公司根据海事局的应急抢险指令，委托正力公司进行水下探摸封堵、难船脱险和货物过驳减载。10月9日至26日，正力公司将全部钢卷从货舱驳运至码头，后因全强公司未支付货物救助报酬，货方与正力公司商定报酬金额并订立《救助担保及提货协议》，约定货方以为船方提供担保的方式支付4277486元并提取货物。该款项被正力公司作为救助报酬收取后，货方保险人曹妃甸人保向厦门海事法院提起代位求偿诉讼，主张全强公司本应向正力公司支付救助报酬，货方对船舶触礁事故没有责任，没有支付救助报酬的义务，其向正力公司提供担保、垫付报酬后，有权行使追偿权。

【裁判结果】

厦门海事法院一审认为曹妃甸人保向正力公司支付4277486元的目的在于提取货物，属于海商法第二百零七条第一款第（四）项规定的责任人以外的其他人为减少责任人本可限制赔偿责任的损失而采取的措施，全强公司对曹妃甸人保追偿的4277486元救助报酬有权限制赔偿责任，曹妃甸人保未在基金分配程序中申请债权登记，视为放弃债权，对其诉讼请求予以驳回。曹妃甸人保不服一审判决、提起上诉，二审法院判决驳回上诉、维持原判。

【典型意义】

海事赔偿责任限制是在海运业高风险、低费率的背景下平衡船货双方利益的产物，是航运业稳定和可持续发展的压舱石。本案争议的核心在于海难事故后对货物的救助报酬是否属于海事赔偿责任限制范围，对此航运业争议已久，司法实践中也存在不同认识。本案从立法精神出发，正确厘清海商法第二百零七条第一款第（四）项与第二百零八条第一款的不同适用范围，追根刨底、正本清源，明确了海难事故发生后船货双方对救助报酬的责任边界，对法律和司法解释关于救助款项和打捞起浮费用不能限制赔偿责任的规定作了契合立法目的的限缩解释，有利于推动此类案件裁判尺度的统一，同时为船货双方行为提供规范指引，从源头上减少类似纠纷的发生。裁判明确货方为提取货物而与救助单独约定的“担保”不具有担保性质，据此提出索赔时船东可以限制赔偿责任，从而维护了海事赔偿责任限制制度的稳定性，对海上运输事业的健康稳定发展具有积极作用，对类案具有较强的示范意义。

福建元成豆业有限公司、中国太平洋财产保险股份有限公司福建分公司与平克船舶有限责任公司、中国平安财产保险股份有限公司深圳分公司 海上货物运输合同纠纷案

【基本案情】

福建元成豆业有限公司（下称元成豆业）向新加坡某公司购买巴西大豆共计 69300 吨，价值约人民币 3 亿元。该票货物由平克船舶有限责任公司（下称平克公司）（登记船舶所有人为利比亚公司、实际控制船东为希腊公司）所属的“ATHINAL”轮承运，自巴西伊塔奎港运至中国福州松下港。平克公司于 2021 年 3 月签发 6 份提单。中国太平洋财产保险股份有限公司福建分公司（下称福建太保）承保该票货物运输一切险。2021 年 4 月，在松下港卸货期间，收货人发现该轮部分货舱装载的大豆发生热损，受影响的大豆 27359 吨。元成公司将受损大豆区分不同受损情况进行处理：22753.25 吨大豆与其他船正常大豆进行掺混生产，1776.12 吨大豆进行单独生产，2829.19 吨大豆因海关禁止生产，低价出售给第三方进行无害化处理。元成豆业、平克公司、福建太保各自委托公估机构、检验机构对损失作出评估。2022 年 2 月，福建太保在向元成公司支付保险理赔款后，向平克公司提起保险代位求偿权诉讼，诉请赔偿货物损失共计约 15073871 元及相应利息。元成公司以福建太保支付的保险理赔款不足以弥补全部货损为由，向平克公司提起货损索赔诉讼，诉请赔偿货物损失约 20373464 元及相应利息。平克公司以案涉提单与相关租约合并使用，租约中的仲裁条款已并入案涉提单为由，认为案涉

纠纷应提交英国伦敦仲裁，并据此提出管辖权异议。英国高等法院亦根据平克公司的申请签发了禁诉令，责令中方当事人立即终止或放弃其在厦门海事法院提起的法律程序。

【裁判结果】

厦门海事法院认为，案涉提单未载明租船合同的具体信息，元成公司并非租船合同当事人，仅凭提单记载无法知晓仲裁条款的具体约定，不能据此推定其接受仲裁条款，遂裁定驳回了被告平克公司的管辖权异议。经审理查明后认定平克公司不能证明已尽妥善谨慎的管货义务，也不能证明货损系因货物的自然特性或固有缺陷造成，就案涉货损应予赔偿。对于货物损失金额的计算，原告元成豆业主张的以大豆热损伤粒率作为大豆贬值率的损失计算方式不当。实际损失应当区分掺混生产部分的损失、无法生产而销售部分的损失、单独生产部分的损失、施救费用几个部分，按加工受损大豆的实际损失或正常大豆价值价扣除残值的方法分别计算。最终判决平克公司应付赔偿款总额 11526120.17 元。

各方当事人未上诉，判决一审生效，且被告主动履行了判决。

【典型意义】

近年来，我国与“一带一路”沿线国家的农业经贸合作越来越密切，大豆等粮食进口量增长迅猛，粮食进口贸易不仅关系我国粮食安全，也关乎国计民生。随着大豆进口量的增多，各种原因引起的进口大豆货损纠纷时有发生，如何厘清承托双方责任，引起业界广泛关注。本案系进口大豆发生热损引发的海上货物运输合同纠纷，贸易卖家为新加坡公司、承运人登记船东为利比里亚公司、实际控制船东为希腊公司，承运人背后还有英国律师及国际保赔协会，更涉及英国高等法院签发的禁诉令与伦敦仲裁程

序等，涉案金额达 2000 多万元，涉外性与专业性强，且涉及诸多专业问题，案情复杂。厦门海事法院从尊重当事人意思自治出发，明晰租约并入提单应在提单持有人清楚租约具体信息才可适用的裁判规则，依法积极行使了司法管辖权。同时，在裁判中充分说理，对于如何认定承运人对大豆货损的赔偿责任、损失金额、当事人是否妥善处理等核心争议做出明确回应，相关裁判规则具有一定示范意义。判决中区分受损大豆在不同处理方式下货物损失计算方式的认定获得了中外当事人的一致认可，平等保护了中外当事人合法权益。本案下判后，中外当事人均服判息诉，外方当事人主动履行判决，纠纷得到实质性化解，实现了“三个效果”的有机统一。该案体现了厦门海事法院在处理涉外纠纷时，积极行使司法管辖权，妥善解决涉外司法管辖冲突问题，坚定维护我国司法主权，同时注重案结事了政通人和，以充分有力的裁判说理令中外当事人服判息诉，有效提升了中国海事司法在国际上的公信力和影响力，助力营造法治化国际化一流营商环境。

交通运输部东海救助局与大连程远国际物流有限公司、天津港轮驳有限公司、大连华锐重工集团股份有限公司、烟台打捞局海难救助合同纠纷案

【基本案情】

2019年4月，大连程远租用天津轮驳“津港轮35”拖轮和烟台打捞局驳船“德浮15002”轮，用于承运大连华锐的1台岸桥和2台钢板装卸桥。5月7日，“津港轮35”拖带装载货物的“德浮15002”轮航行至厦门港附近时，拖缆因风浪过大断裂，“德浮15002”轮随风浪漂移。大连程远向东海救助局发送电子邮件称：“由我司期租的拖轮‘津港轮35’、驳船‘德浮15002’航行在厦门漳州附近水域，驳船发生险情，先委托贵司救助该船，救助费用由我司按照相关法律法规支付。”东海救助局派出“东海救115”轮，先带揽顶风滞航，风力转小后拖带“德浮15002”轮抵达目的港。“德浮15002”轮为无动力驳船，事故发生时，船上有五名随船船员，无船长。案涉船货价值上亿元，相关运费170余万元尚未支付。后各方就作业性质、费用承担主体、费用数额等产生纠纷，诉至厦门海事法院。

【裁判结果】

厦门海事法院认为，拖带属于海难救助的方式之一，本案作业属于海难救助。案涉海难救助合同不属于雇佣救助合同，海商法作为特别法应优先适用。因救助取得效果，本案救助报酬应对照海商法第一百八十条所列各项因素，结合案件事实进行认定。最终，法院判决大连程远向东海救助局支付救助报酬4300000元，大连华锐和烟台打捞局按各自财产获救价值比例在其分担的

金额范围内，承担不真正连带责任。经上诉，福建省高级人民法院二审维持原判。

【典型意义】

最高人民法院在 110 号指导案例（交通运输部南海救助局诉阿昌格罗斯投资公司、香港安达欧森有限公司上海代表处海难救助合同纠纷案）中明确了雇佣救助合同的法律适用标准，但在海难救助的理论及实践领域，仍存在混淆雇佣救助与“无效果，无报酬”救助的情况。本案准确界定雇佣救助合同性质，重申了雇佣救助的法律适用原则，进一步厘清了具体情形下海商法与合同法（民法典）的先后适用标准。本案在现有法律规定框架下，积极探索定期租船人、承运人等被救助方，为了船舶和船载货物等利益委托救助时，各直接受益的获救财产所有人分担救助报酬的合理性及可行性。案例确立的裁判规则，既尊重了当事人的意思自治，又遵循了鼓励救助的基本原则，较好地衡平了各方当事人的合法利益，符合《1989 年国际救助公约》的精神和我国海难救助立法的价值导向。

兆明航运（香港）有限公司与东海航运保险股份有限公司福建分公司海上保险合同纠纷案

【基本案情】

2021 年 10 月 16 日，“兆明”（M/V GLORY FUTURE）轮在越南岬港装货时，因恶劣天气发生走锚漂航和搁浅，自行脱浅失败后再次搁浅及触碰港口防波堤，造成防波堤损坏和船舶严重受损。援救成功后，船舶拖回广西钦州船厂修理，后因船东无力支付修理费，被变价出售。该轮属台资香港兆明公司所有，在香港注册登记，并向东海航运保险公司投保了船舶一切险，保险价值和保险金额均为 400 万美元。兆明公司提出理赔，要求保险人赔偿救助费用、施救费用、船舶损失及碰撞责任人民币 4070 万元及利息。保险人认为船舶二次搁浅系因兆明公司船舶安全管理人谨慎决定自行脱浅所致，属于被保险人的疏忽或故意行为，构成保险免责事由；即使成立保险责任，施救费用等项损失的索赔缺乏依据，且船舶救助费用和船壳损失超过保险金额，应按推定全损和申请委付进行理赔等。纠纷诉至法院。

【裁判结果】

厦门海事法院认为，本案为涉外海上保险合同纠纷，依双方当事人选择，适用中国法处理。根据国际船舶安全管理规则，应由船长而非船舶安全管理人对船舶自行脱浅进行决定和承担最终责任，本案不成立保险免责事由。保险事故发生之初，双方均未估计到实际损失将超过保险价值，不应按推定全损计算理赔。法院对照保险条款，明确救助费用和施救费用的区分标准，并逐项核定损失，判决东海航运保险公司赔偿香港兆明公司船舶损

失、救助费用及碰撞责任等 2799 万元及利息。一审宣判后，双方均未上诉，一审判决发生法律效力。

【典型意义】

航运金融作为海运支柱产业，规范和促进航运金融提高服务水平，是推进海洋强国、“一带一路”建设的重要内容。本案为涉“一带一路”国际运输的海上保险合同纠纷。厦门海事法院围绕争议焦点，详细查明事实，正确适用法律，深入释法析理，精准核定保险理赔项目，公正作出裁判，切实维护当事人的合法权益，为“丝路海运”建设的推进提供了有力的保障。同时相关规则具有类案参照意义，为我国企业拓展国际航运保险业务提供了积极的指引。裁判充分彰显了中国海事司法的公正、高效和精细化水准，进一步树立了中国海事司法的公信力、影响力。

福建省厦门轮船有限公司海运分公司 与卢某船员劳务合同纠纷案

【基本案情】

卢某系福建省厦门轮船有限公司海运分公司（下称厦船公司）聘用的二副。2021年3月5日，厦船公司“红宝石2”货轮（航行于闽台航线）靠泊莆田罗屿码头，在办理船舶入境边防检查手续过程中发现本应齐全的海员证中缺失了卢某海员证。卢某承认该海员证在其手中，但拒绝提交，要求公司当天安排其下船休假。根据罗屿港的疫情防控规定，船员下船必须提前7天提出申报。卢某对此规定系明知，仍坚持当天下船。经过紧急沟通，厦船公司出具书面函件，承诺对卢某临时大幅度调增薪酬标准，并且该标准回溯至2020年6月份开始计算。卢某接受函件后交出海员证，船舶得以办理入境手续。2021年5月，厦船公司起诉请求判决确认上述调增薪酬的书面函件无效。

【裁判结果】

厦门海事法院审理认为：因卢某拒不配合交验海员证，使船舶在入境当天陷入将被边检机关调查、处罚、拒绝入境进而损失船期的紧迫局面。卢某对以上严重后果明知，却仍拒绝交验，最终使厦船公司不得不出具函件调增其工资，已符合“胁迫”的构成要件。依照劳动合同法第二十六条第一款第（一）项，劳动合同的一部分，系以胁迫方式订立或者变更的，应认定为无效。一审法院判决支持厦船公司的诉讼请求。卢某不服上诉，二审法院维持原判。

【典型意义】

民法典第一千一百七十七条第一款创设了自助制度，允许当事人在自身合法权益受到侵害，情况紧迫且不能及时获得国家机关保护的情形下于必要范围内自行采取合理措施。海事实践中，由于船舶的流动性、船员就业的流动性，船员常需采取必要的自助行为，以维护自身合法权益。但少数船员曲解自助制度，以自助之名实现己方诉求，且实践中有相互效仿、日趋严重的现象。本案准确把握了民法典、民法典总则编司法解释对胁迫、自助构成要件的规定，通过充分说理对案涉胁迫行为给予全面否定性评价，倡导健康良好的劳务关系及诚信文明的社会主义核心价值观，发挥了小案件阐释大道理的重要作用。人民法院透过本起案例的宣教作用，引导广大船员严格遵守海事、防疫、出入境等法律法规，提倡依法发声、理性维权。在船舶出入境边检的关键时点以拒不交验海员证的方式提出诉求，该类行为既扰乱了正常的边防管理秩序，也易导致边防机关启动有关涉嫌偷越边境的执法调查，无谓地浪费国家执法资源，若予以放任亦有损我国航运大国形象。本案纠正否定此类错误行为，保障了正常的航运秩序，维护了国门的有序、祥和。

泉州市博泰国际货运代理有限公司与莆田市城厢区贝塔电子商务有限公司、钱志凡海上货运代理合同纠纷案

【基本案情】

2022 年 1 月,跨境电商业务经营企业莆田贝塔公司委托泉州博泰货代公司,代理运输三票货物至美国亚马逊电商仓库。因货物迟延交货,博泰公司起诉要求贝塔公司支付货运代理费。贝塔公司以博泰公司违反双方关于采用“快船”运输方式的约定,导致逾期交货为由,拒绝支付运费并提出反诉要求赔偿损失。双方合同条款使用“美森(双清包税)-限时达”,即使用美国美森轮船有限公司旗下的“美森”系列船舶运输货物,因美森公司船舶相对普通船舶航期较短,相应运价也较高。

【裁判结果】

法院审理认为,双方争议焦点在于被告是否使用约定的“快船”方式进行运输,因博泰公司未能提供证据证明货物通过美森公司船舶运输至目的地,不能按照“快船”运输价格计算代理费,仅能参照“普船”主张费用。关于采用“普船”方式的市场价格,鉴于双方均不能举证证明相同物流服务条件下,采用“普船”运输的市场价格,本院综合考量不同报价所包含服务项目的差异、运价季节性波动、船舶运费占物流费用比例等因素,酌定案涉两批货物的货代费为 14 元/公斤。据此,于 2023 年 10 月 27 日就本诉、反诉作出判决,判决贝塔公司支付博泰公司货运代理费 20174 元及其逾期付款利息,博泰公司支付贝塔公司逾期交货违约金 7205 元。双方当事人均未提起上诉,一审判决已生效。

【典型意义】

近年来，跨境电商贸易规模增长迅猛，跨境电商物流行业也随之快速发展。与传统跨境物流相比，跨境电商数字化与信息化更高，服务链条更长，存在包裹化、小件发货、拼箱出货的特点。提单、运单等传统运输单据也因计量单位、流转速度、缔约主体限制等原因，无法承载作为跨境电商物流运输凭证的功能。加之，跨境电商物流处于新业态发展初期，市场准入门槛低、监管缺位，行业标准自身仍处于碰撞整合阶段，不规范的经营导致行业内乱象丛生，导致纠纷多发频发。本案裁判针对跨境电商物流无书面合同、业务聊天碎片化、记录指向不明的特点，在证据认证部分着重阐述证据认定规则，引导企业提升证据意识，完善证据收集、保管方式。针对从业人员缺乏诚信意识，随意变更“快船”运输方式等行业乱象，本案从举证责任角度从严认定被告未如约提供“快船”，仅能参照“普船”计算费用，并且在综合考虑过错程度、违约情节、公平与诚信、运价波动、运费占比等因素，酌情确定了运输费用。该标准不仅充分考虑了市场价格，更注重引导跨境物流服务提供商合规经营、诚信履约。本案宣判后，双方均服判息诉，在个案纠纷化解及促进行业规范化发展方面均取得良好社会效果。