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**Typical Cases**

## A. Marine Nature Resources and the Ecological Environmental Protection

### Case No.1: Ocean and Fisheries Bureau of Fu'an County (Enforcement Applicant) v. Chen Zhongyi (Enforcement Respondent) et al. (case regarding Maritime Administrative Non-litigation Enforcement)

**[Basic Facts]**

Fujian Ningde Sandu Bay Wetland is a typical representative of coastal wetland in Fujian Province and is listed in the “Directory of Major Wetlands in China” in the Action Plan for Wetland Protection in China. Ningde Central Sandu'ao Wetland Waterfowl Mangrove Nature Reserve is the core area of the Sandu Bay National Key Wetland. Without the approval of the oceanic administrative authority, Chen, Fang, Huang, and other persons occupied the wetland sea areas and engaged in marine aquaculture, which has seriously encroached upon the natural reserve, resulted in damage of partial marine ecosystem On August 31, 2016, the Ocean and Fisheries Bureau of Fu'an County issued a written decision of administrative penalty, in which Chen and other persons were ordered to return the illegally occupied sea areas and restore the sea areas to the original state and fines were imposed on them. Chen and other persons neither applied for administrative reconsideration nor filed administrative lawsuits within the statutory time limit. After being urged by the Ocean and Fisheries Bureau of Fu'an County, Chen and other persons still refused to perform obligations and the Ocean and Fisheries Bureau of Fu'an County filed an application with the Xiamen Maritime Court for enforcing the decision of administrative penalty.

**[Outcome]**

The Xiamen Maritime Court held that the Ocean and Fisheries Bureau of Fu'an County was the administrative organ exercising the functions of supervision and administration in the use of sea areas. The written decision of administrative penalty made by it was irrefutable in main evidence, clear in fact-finding, accurate in application of law, and legitimate in administrative procedure. Therefore, the Xiamen Maritime Court ruled to approve the enforcement of such decision of administrative penalty. Afterwards, the Xiamen Maritime Court initiated the mechanism of “separation of adjudication and enforcement” for non-litigation administrative cases, determined that the Ocean and Fisheries Bureau of Fu'an County was responsible for organizing and implementing the return of sea areas and restoration of the sea areas to the original state. Concurrently, the court coordinated participation of multiple departments in the joint law enforcement as organized by the People's Government of Fu'an County From July 31 to August 3, 2018, under the supervision of the court, the relevant administrative departments organized over 1,100 persons and 12 excavators to conduct enforcement，dismantled the illegally constructed housesand restored the occupied sea areas to natural state. Guided and driven by this case, the aquaculture facilities of 170 hectares not conforming with the planning of the ecological nature reserve were finally all cleared, and the ecological environment of the nature reserve after restoration of the aquaculture area to wetland has been further optimized, the ecological species have been further enriched, and the ecological benefits have preliminarily appeared.

**[Implications]**

Illegal occupation of sea areas and land reclamation are key causes to damage of the marine ecosystem in coastal waters and the main hurdle in the tough battle of marine pollution prevention and control. It is often difficult to effectively enforce the reclamation of illegally occupied sea areas and restoration of the sea areas to the original state due to the vast sea areas involved, a large number of responsible parties, and huge workload in the dismantlement of structures and earthwork removal. The people's court made the optimal use of both adminitrative and judical resources and strictly follow the “separation of adjudication and enforcement ”standardized procedure, mobilised multiple departments to restore the sea to be a peaceful, harmonious, and beautiful place. The efforts of the people's court have achieved good ecological effects. The smooth conclusion of this case has provided a referential example that can be replicated and popularized. By supervising and giving support to the maritime administrative department in administration by law, the mechanism of effective connection between environmental justice and administrative law enforcement has been improved and the maritime administrative department has been guided in its standardized administrative law enforcement, and the rule of law in the marine ecological protection has been enhanced.

### Case No.2: Compensation Dispute between the Xiuyu District Ocean and Fisheries Bureau of Putian City and Jaspero Shiptrades S.A. for Damage to Marine Natural Resources and Ecological Environment

**[Basic Facts]**

On September 22 2018, the ship Zhengli-Los Angeles registered in Panama, owned by the Greek company Jaspero Shiptrade S.A. (herby as “Jaspero Shiptrade”) ran aground on a reef during its departure from the Jiangyin port in Fuzhou. The ship hull crack caused fuel leakage, and brought damage to the aquaculture industry, marine ecological environment and fishery resources in the coastal waters. Jaspero Shiptrade constituted a limitation fund of liability for maritime claims at the Xiamen Maritime Court. The Xiuyu District Ocean and Fisheries Bureau of Putian City filed a compensation claim for damage to marine natural resources and ecological environment. The 905 fishermen who suffered loss from the pollution caused by fuel leakage brought separate proceedings for damaged aquaculture installations and loss of income.

**[Outcome]**

Upon accepting the case, the Xiamen Maritime Court arranged a mediation for the Xiuyu District Ocean and Fisheries Bureau of Putian City, Jaspero Shiptrade and the fishermen. The court facilitated the three parties in reaching a mediation agreement that Jaspero Shiptrade shall compensate for the damage to marine natural resources and ecological environment, as well as the fishermen’s aquaculture installations and loss of income. After publishing the notice regarding the conciliation agreement, the Xiamen Maritime Court issued a civil mediation judgement. Jaspero Shiptrade paid in full the amount of compensation in accordance with the conciliation agreement.

**[Implications]**

This is a case brought by a Chinese marine administrative organ, for compensation of damage to marine natural resources and ecological environment. The court formed a collegiate bench in accordance with the law, which was composed of three judges and four People’s Assessors, and invited eco-environmental experts to participate in the mediation. Information regarding the acceptance of the case and the contents of the mediation agreement was made available to the public. All these helped to expand judicial democracy, ensure and prompt public participation in marine environmental governance and advance the professional trial of case, while enhancing the public credibility of marine ecological trials, and at the same time, improving optimizing and reinforcing judicial protection for marine ecology from an overall aspect.

The proper handling of this case in accordance with the law has on the one hand, enabled the marine administrative organ to obtain timely and reasonable compensation for ecological environment losses and restoration costs, which provides strong support for the restoration of ecological environment and fishery resources of the accident waters, while safeguarding the beautiful ocean; on the other hand, in equally protecting the rights of the Chinese parties and the foreign party in accordance with the law, highlighted the level of professionalism and modernization of China’s marine ecological judicial protection. This case fully demonstrated and made known China’s judicial concept, judicial systems and achievements in protecting marine natural resources and ecological environment.

（本案例英文资料由上海政法学院提供)

(The English Version of this Case provided by Shanghai University of Political Science and law）

## B. The Protection of Crew's Interests under the COVID-19

### Case No.1: Ship Mortgage Loan Contract Dispute between DVB BANK SE and SAM LION Limited

**[Basic Facts ]**

Since April 30 2020, seven foreign parties from Germany, Sweden and other countries and one Hong Kong based company have applied to the Qingdao Maritime Court for detention of the Liberian-registered SAM LION ship. The ship owner failed to provide guarantee within the statutory period and eventually abandoned the ship. DVB Bank SE filed a claim to the Qingdao Maritime Court for auction of the ship. The eight parties set out above and 21 foreign crew members of the SAM LION ship applied to the Qingdao Maritime Court for registration of maritime creditor’s rights and filed suits. The subject matter amount of the cases is over USD 20 million.

**[Outcome]**

At first instance, the Qingdao Maritime Court ruled in favor of DVB Bank SE and ordered that SAM LION Limited shall repay loans from the bank the principal, the interest of the loan and penalty interest with a total of USD 17,134,455.69. The court confirmed that the DVB Bank SE’s mortgage on SAM LION and is entitled to first payment from the sale proceeds of the auction. After the judgment was made, neither party applied for an appeal. Other cases involving the insurance contract, the supply contract for ship materials and spare parts and the affirmation of the wages of the 21 crew members have been confirmed. The wages of the 21 crew members are considered maritime lien, thus they are entitled to priority of compensation from the auction proceeds of the ship. The ship involved was successfully auctioned at a premium through the judicial auction website.

**[Implications]**

Although the parties involved in this case are either foreign or based in Hong Kong, and the dispute itself has no connection to Mainland China, all the parties involved applied to the Qingdao Maritime Court for detention of the ship and filed suits.

The continuous spread of the COVID-19 pandemic has severely impacted the global shipping industry and the crew group. The rearrangement of shifts and repatriation has become one of the biggest challenges for the shipping industry. The series of cases on the SAM LION ship has been properly dealt with, and has received high praises from the Embassies of Ukraine and the Philippines, which fully reflects foreign litigants’ recognition of and trust in China’s maritime judiciary. The maritime court proactively offered humanitarian assistance to the 21 foreign crew members, had taken reasonable and feasible measures to safely and efficiently repatriate the crew members while ensuring the prevention and control of the pandemic,and fully protected the lawful rights of the crew members and helped the purchaser of the ship to resume normal production and operation with the least delay possible.

The handling of this case demonstrated China’s responsibility as a major power of ships and seafarer, offered a Chinese solution to properly deal with the difficulties arising from changing shifts or repatriating crew members on a global level, helping shipping companies to resume work and production in an orderly manner.

（本案例英文资料由上海政法学院提供)

(The English Version of this Case provided by Shanghai University of Political Science and law）

### Case No.2: Application for Preservation of Maritime Claims for Charter-party Controversy Between LOTUS OCEAN TRANSPORTATION (HK) LIMITED (the Applicant) and ANGELIKI DYNAMIS INVESTMENT CORPORATION (the Respondent)

**[Basic Facts]**

On July 20 2020, the Greek-registered ship Angelic Power, arrived and anchored at the Port of Guangzhou. In April 2021, the applicant, LOTUS OCEAN TRANSPORTATION (HK) LIMITED, applied to the Guangzhou Maritime Court for detention of the said ship, on the grounds that the respondent, ANGELIKI DYNAMIS INVESTMENT CORPORATION, has defaulted on the payment of USD 110,000.

**[Outcome]**

On April 16 2021, the Guangzhou Maritime Court ordered that ship Angelic Power shall be detained and the ship owner, ANGELIKI DYNAMIS INVESTMENT CORPORATION,shall provide relevant guarantee. However, ANGELIKI DYNAMIS INVESTMENT CORPORATION failed to provide a guarantee and waived the rights for management of the ship. At the time, there were still 15 Greek and Filipino crew members that remained on the ship. These crew members had been stuck on the ship for a long time, alone and isolated; their wages had been cut off and were faced with serious shortage of living supplied. When the Guangzhou Maritime Court learned of the situation,even in the face of the pandemic, the court coordinated multiples parties and adopted a series of measures. One the one hand, the court initiated the ship escrow mechanism without delay and arranged materials, food and medicine supplies for the ship, which reinstated and ensured the normal living standards for the crew members. On the other hand, the court promoted the take over of the ship by facilitating the Greek government, the ship’s country of registration, to confirm that the crew members sent by the escrow agent are permitted to board the ship without a visa certificate, so as to speed up the process of the escrow arrangement. At the same time, the Foreign Affairs Office urged the Greek government into agreeing to pay for the wages of the repatriated crew in accordance with the *Maritime Labor Convention*. Eventually, the crew members that were stuck on the ship were successfully repatriated and were able to leave the ship and return home.

**[Implications]**

This case concerns an application for preservation of maritime claims. Both the parties were in Hong Kong for arbitration of charter-party dispute. Upon application by the applicant, the Maritime Court detained the foreign ship involved in this case in accordance with the law and auctioned it. During the proceedings of the case and the enforcement of the judgement, the respondent, as the owner of the ship abandoned the crew members and waived the rights of management,The time of the detention was when Guangzhou was entering the Typhoon season, complicated by the COVID-19 pandemic and relevant pandemic control measures. At the same time, the case involved multiple questions: the application of international law and Chinese law, the handling of foreign affairs, safety management of the ship, appointment of an escrow agent, the repatriation and replacement of crew members. The circumstances and the environment were extremely complicated. The Guangzhou Maritime Court, Foreign Affairs Office, Maritime Authority and the Port Authority established a work communication group, formed a communication mechanism, worked closely together as one, and eventually properly settled the safety hazards and humanitarian crisis cause by the foreign ship owner’s abandoning of the ship and the crew members on board. This case has become a model case for efficiently and successfully handling international crew members being abandoned. It has enhanced the international credibility and influence of China’s maritime judiciary, and have earned widespread praise. The 15 foreign crew members sent a thank-you letters to the Guangzhou Maritime Court as they departed the ship and set off to return to their countries. They expressed their gratitude towards the Chinese Maritime Judges for their professionalism, efficiency, innovation and for upholding the concept of “Justice serves the People”. During the 108th meeting of the Legal Committee of the International Maritime Organization held on July 26 2021, representative from Greece sent their gratitude to the parties that has actively promoted the solving the incident of abandoned crew members.

（本案例英文资料由上海政法学院提供)

(The English Version of this Case provided by Shanghai University of Political Science and law）

## C. Judicial Auction of Ship

### Cae No.1: JP Morgan Chase & Co v. Seastream Shipping Inc. on Dispute over Ship Mortgage

**[Basic Facts]**

On June 19, 1997, JPMorgan Chase & Co (hereinafter referred to as “JP Morgan Chase”) and five borrowers including Seastream Shipping Inc. (hereinafter referred to as “Seastream Company”) entered into a loan agreement, which stipulated that JPMorgan Chase shoud provide a loan of 35 million USD to the five borrowers. On June 27 of the same year, JPMorgan Chase and Seastream Company signed a warranty deed, which stipulated that “M.T.Mariner” owned by Seastream Company should be mortgaged to JPMorgan Chase to establish the primary senior mortgage for the loan of 35 million USD, and both parties handled the mortgage registration formalities at the place of the registrar of the Bahamian vessel in London. On July 7, 1999, JPMorgan Chase and Maritime International Inc. entered into an overdraft loan agreement at a value of 2 million USD and Seastream Company consented to assume joint and several liability for repayment of the said overdraft loan. On July 18, 2000, both parties entered into another warranty deed, in which “M.T.Mariner” was mortgaged and registered again for the overdraft loan of 2 million USD. On March 14, 2002, JPMorgan Chase filed a petition for the arrest of “M.T.Mariner” with the Guangzhou Maritime Court on the ground that Seastream Company was in arrears of the mortgage loan principals and interest of 7,323,377.26 USD. Afterwards, the Court entered a ruling to arrest the vessel. On March 22, JPMorgan Chase instituted a lawsuit in the Guangzhou Maritime Court. Upon petition of JPMorgan Chase, “M.T.Mariner” was auctioned according to the law and was purchased by JPMorgan Chase at the price of 5.94 million USD.

**[Outcome]**

After a hearing, the Guangzhou Maritime Court held that: The loan agreement involved was legal and valid. The flag state of the vessel under mortgage in this case was the Bahamas. In accordance with the provisions of Article 271 of the Maritime Law of the People's Republic of China, the law of the flag state, namely, the Bahamas Merchant Shipping Act should apply in resolving disputes over vessel mortgage in this case. The two records of vessel mortgage registration under “M.T.Mariner” involved did not violate the provisions on vessel mortgage in the Bahamas Merchant Shipping Act and were valid mortgage registration. On July 25, 2002, the Court entered a judgment that Seastream Company should repay JPMorgan Chase the loan, the overdraft loan, and the interest thereof as well as relevant costs, and JPMorgan Chase was entitled to the vessel mortgage of “M.T.Mariner” and was entitled to claim priority in compensation from the auction proceeds of the vessel.

**[Implications]**This case was a model case concerning dispute over mortgage of a foreign-related vessel. “M.T.Mariner” involved was a large oil tanker, both the plaintiff and the defendants were foreign parties, and the case facts occurred overseas; however, the plaintiff JPMorgan Chase voluntarily chose to arrest the vessel and institute proceedings in China. The maritime court proactively acertained the provisions of the Bahamas Merchant Shipping Act according to the law, applied such foreign law accurately, and entered a just and fair judgment , which were widely acclaimed in the international shipping industry. The judgment of this case was of guiding significance from the perspectives of the acertainment and application of foreign law and the application of law to a foreign-related civil relation. The three step jurisprudence of “foreign elements—jurisdiction—application of law” observed in the hearing of this case has become a basic patern for the hearing of foreign-related civil or commercial cases in China, and was of great significance in regulating the judicial practice of foreign-related civil and commercial cases.

### Case No.2: Case regarding Application of Oleg et al for the Arrest of “Maxima”

**[Basic Facts]**
“Maxima” was a bulk carrier owned by Maxima Shipping B.V. and its place of registry was Willemstad Port, Netherlands Antilles. In June 2012, in the voyage in China's coastal waters, this vessel accidentally collided with another vessel and the accident caused serious damages to the other vessel. At the same time, an oil spill accident happened due to the collision, which caused pollution of surrounding waters. After the accident happened, “Maxima” was sent to Chongming Port for repair. Since then, 11 Ukrainian seamen on board, including Oleg, have not been paid wages. Afterwards, six seamen returned to their homeland at their own expenses and the other five seamen still stayed on board and guarded the vessel. In July 2013, due to long-term arrears of wages by the vessel owner, five Ukrainian seamen on board of “Maxima” filed an application for preservation of maritime claim to arrest the vessel with the Shanghai Maritime Court and instituted an action regarding service contract disputes against Maxima Shipping B.V., the vessel owner. Afterwards, other seamen also instituted actions.

**[Outcome]**
Upon receipt of the application, the Shanghai Maritime Court immediately rendered a ruling to arrest the vessel on the same day. Considering that foreign seamen were anxious to return to their homeland, the Court coordinated the supply of fresh water, materials, and subsistence articles for seamen on board, proactively contacted with the seaman service companies, agent of the vessel owner, and lawyers of abovementioned foreign seamen to entrust a domestic seaman service company and dispatch personnel to guard the vessel, and enable the foreign seamen to return to their homeland.

After a trial, the Shanghai Maritime Court promptly rendered a judgment and upheld all claims of seamen. After the judgment came into force, the defendant failed to perform the obligations as determined in the judgment within the prescribed time limit, in January 2014, Oleg and other seamen filed an application for enforcement of the judgment with the Shanghai Maritime Court. The Shanghai Maritime Court initiated the procedure for the auction of the vessel according to the law. “Maxima” was finally purchased by a Germany shipping company at the price of 39.90 million RMB and the labor remunerations of seamen were preferentially paid off from the proceeds arising from the vessel auction according to the law.

**[Implications]**In the course of handling this series of cases, the Shanghai Maritime Court, adhering to the seamen first, went aboard for multiple times to hold on-site meetings, and was concerned about the living of seamen and the safety of the vessel, effectively put forward various process, including vessel inspection, evaluation, and security regulation to ensure that the reports on vessel inspection and evaluation objectively reflected the actual circumstances and value of the vessel, and smoothly promoted the judicial auction procedure by overcoming the impacts of adverse factors such as the downturn of the shipping market. After the auction succeeded, the Shanghai Maritime Court preferentially appropriated 1.5430 million RMB from the proceeds arising from the vessel auction as the labor remunerations of 11 Ukrainian seamen. The Shanghai Maritime Court has legally exercised the judicial power and safeguarded the lawful rights and interests of domestic and foreign parties on an equal footing in accordance with the Chinese law and by following the international practice, which made foreign seamen feel the warmth of China's justice. The handling of this case was appreciated by the Consulate of Ukraine in Shanghai and a good image of Shanghai as an international shipping center.

### Case No.3: BNP Paribas v. Brightoil Gem Tanker Ltd. on Dispute over Ship Mortgage Loan Contract

**[Basic Facts]**

On October 28, 2016, BNP Paribas and Brightoil Gem Tanker Ltd. (hereinafter referred to as “Brightoil Ltd.”) signed a loan contract with the main content that BNP Paribas provided Brightoil Ltd. a loan of not more than USD52 million, if Brightoil Ltd. failed to pay the loan within the prescribed term of contract, it should pay the default fine for the overdue loan and the corresponding compound interest, and Brightoil (Holding) Co., Ltd. should serve as one guarantor for the loan. On November 1, both parties signed another mortgage contract, which stipulated that Brightoil Ltd. provided mortgage guarantee for all debts under the aforesaid loan contract with the ship “M.T. BRIGHTOIL GEM” under its name; for any dispute arising from the contract, a Hong Kong court was the most appropriate and convenient court for settling such dispute; however, BNP Paribas had the right to institute an action in any court having jurisdiction. On October 3, 2017, the stocks of the guarantor, Brightoil (Holdings) Co., Ltd., stopped trading at the Hong Kong Stock Exchange and the period of continuous stopped trading exceeded five days. On December 22 of the same year, BNP Paribas issued a notice of early maturity of loan to Brightoil Ltd. on the ground that the stock suspension event constituted an incident of breach of contract under the loan contract. Afterwards, Brightoil Ltd. paid BNP Paribas a small amount of principal, interest, and overdue interest by installments, but a majority of the loan failed to be repaid.

On January 4, 2019, BNP Paribas filed an application with the Haikou Maritime Court to arrest the ship “M.T. BRIGHTOIL GEM” under the name of Brightoil Ltd.on the ground that Brightoil Ltd. failed to repay the loan on schedule. The Haikou Maritime Court entered a civil ruling and issued an order of ship arrest. The ship “M.T. BRIGHTOIL GEM” was arrested at the Port of Yangpu in Hainan Province. On January 28 of the same year, BNP Paribas filed a lawsuit with the Haikou Maritime Court and requested it to order that Brightoil Ltd. should, within the value scope of the ship “M.T. BRIGHTOIL GEM,” assume the mortgage guarantee liability for the creditor's rights of BNP Paribas under the master creditor's rights contract; and Brightoil Ltd. should pay the interest of the debts, the overdue interest, and satisfy other claims of BNP Paribas. During the period of litigation, BNP Paribas applied for auction of the ship and the Haikou Maritime Court entered a civil ruling to put the ship “M.T. BRIGHTOIL GEM” on auction through an online judicial auction platform.

**[Outcome]**

The Haikou Maritime Court presided over mediation and both parties reached a mediation agreement that Brightoil Ltd. agreed to pay the outsanding amount of loan and interests and relevant expenses from the proceeds from the auction of the ship “M.T. BRIGHTOIL GEM”. The Haikou Maritime Court issued a judgment of civil mediation to confirm the mediation agreement. On November 20, 2019 the ship “M.T. BRIGHTOIL GEM” was purchased by a Greek buyer, Merlin Co., Ltd., at the price of CNY403.3 million. On November 28, the Haikou Maritime Court lifted the arrest of the ship “M.T. BRIGHTOIL GEM” and on December 3 the ship was handed over to the buyer. At present, the cases of creditor's rights registration and confirmation arising from the auction of the ship have been all concluded and the proceeds from the auction have been all allocated.

**[Implications]**

The parties involved have agreed on unilateral and open jurisdiction terms. Where BNP Paribas is entitled to file a lawsuit with a court in any country or jurisdiction, it voluntarily submit to the jurisdiction of the Haikou Maritime Court, which has fully demonstrated the international credibility and influence of China's maritime justice. Under several rounds of mediation presided over by the Haikou Maritime Court, the defendant Brightoil Ltd. agreed to pay off the debts with the proceeds from the auction of the ship “M.T. BRIGHTOIL GEM.” For the purpose of smoothly auctioning the ship “M.T. BRIGHTOIL GEM,” the Haikou Maritime Court conducted publicity and presentation by integrating online media and traditional media. The ship involved was finally auctioned at the price of CNY403.3 million, which ranks the highest trading amount in the history of judicial auction of ships since the opening of the Taobao Judicial Auction Platform.