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# 中华人民共和国海事诉讼特别程序法

# Special Maritime Procedure Law of the People's Republic of China

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主席令第二十八号

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《中华人民共和国海事诉讼特别程序法》已由中华人民共和国第九届全国人民代表大会常务委员会第十三次会议于1999年12月25日通过，现予公布，自2000年7月1日起施行。

The Special Maritime Procedure Law of the People's Republic of China which has been adopted at the 13th Meeting of the Standing Committee of the Ninth National People's Congress on December 25, 1999 is promulgated now, and shall enter into force as of July 1, 2000.

中华人民共和国主席 江泽民

President of the PRC: Jiang Zemin

1999年12月25日

December 25, 1999

中华人民共和国海事诉讼特别程序法

Special Maritime Procedure Law of the People's Republic of China

(1999年12月25日第九届全国人民代表大会常务委员会第十三次会议通过)

(Adopted at the 13th Meeting of the Standing Committee of the Ninth National People's Congress on December 25, 1999)

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第一章 总 则

Chapter 1 General Provisions

第一条   为维护海事诉讼当事人的诉讼权利，保证人民法院查明事实，分清责任，正确适用法律，及时审理海事案件，制定本法。

Article 1. This Law is formulated in order to safeguard the procedural rights of parties to maritime litigation and to ensure that the people's courts ascertain the facts, distinguish liability, apply the law correctly and hear maritime cases promptly.

第二条   在中华人民共和国领域内进行海事诉讼，适用《中华人民共和国民事诉讼法》和本法。本法有规定的，依照其规定。

Article 2. The Civil Procedure Law of the People's Republic of China and this Law shall apply to maritime litigation conducted within the territory of the People's Republic of China. Where there are provisions in this Law, such provisions shall apply.

第三条   中华人民共和国缔结或者参加的国际条约与《中华人民共和国民事诉讼法》和本法对涉外海事诉讼有不同规定的，适用该国际条约的规定，但中华人民共和国声明保留的条款除外。

Article 3 If an international treaty concluded or acceded to by the People's Republic of China contains provisions that differ from provisions of the Civil Procedure Law of the People's Republic of China and this Law in respect of foreign-related maritime proceedings, the provisions of the international treaty shall apply, except those on which the People's Republic of China has made reservations.

第四条   海事法院受理当事人因海事侵权纠纷、海商合同纠纷以及法律规定的其他海事纠纷提起的诉讼。

Article 4 The maritime courts shall entertain actions brought by the parties in respect of maritime tort, disputes over maritime contracts and other maritime disputes as provided for by law.

第五条   海事法院及其所在地的高级人民法院和最高人民法院审理海事案件的，适用本法。

Article 5 In trying maritime cases, the maritime courts, the higher people's courts of the places where they are located and the Supreme People's Court shall apply this Law.

第二章 管 辖

Chapter 2 Jurisdiction

第六条   海事诉讼的地域管辖，依照《中华人民共和国民事诉讼法》的有关规定。

Article 6 The relevant provisions of the Civil Procedure Law of the People's Republic of China shall apply to territorial jurisdiction of maritime lawsuits.

下列海事诉讼的地域管辖，依照以下规定：

The territorial jurisdiction of the maritime actions listed below shall be determined as follows:

(一)因海事侵权行为提起的诉讼，除依照《中华人民共和国民事诉讼法》第二十九条至第三十一条的规定以外，还可以由船籍港所在地海事法院管辖；

1. A lawsuit brought on maritime tortious may be, in addition to the provisions of Articles 29 to 31 of the Civil Procedure Law of the People's Republic of China, under jurisdiction of the maritime court of the place of its port of registry;

(二)因海上运输合同纠纷提起的诉讼，除依照《中华人民共和国民事诉讼法》第二十八条的规定以外，还可以由转运港所在地海事法院管辖；

2. a lawsuit brought on maritime transportation contract may be, in addition to the provisions of Article 28 of the Civil Procedure Law of the People's Republic of China, under jurisdiction of the maritime court of the place of its port of transhipment;

(三)因海船租用合同纠纷提起的诉讼，由交船港、还船港、船籍港所在地、被告住所地海事法院管辖；

(III) A lawsuit brought on maritime charter parties may be under jurisdiction of the maritime court of the place of its port of ship delivery, port of ship return, port of ship registry, port where the defendant has its domicile;

(四)因海上保赔合同纠纷提起的诉讼，由保赔标的物所在地、事故发生地、被告住所地海事法院管辖；

(IV) a lawsuit brought on a maritime protection and indemnity contract shall be under the jurisdiction of the maritime court of the place where the subject-matter of insurance is located, where the accident occurred or where the domicile of the defendant is located;

(五)因海船的船员劳务合同纠纷提起的诉讼，由原告住所地、合同签订地、船员登船港或者离船港所在地、被告住所地海事法院管辖；

(V) an action arising from a dispute over the service contract of the crew of a sea-going ship shall be under the jurisdiction of the maritime court of the place where the domicile of the plaintiff is located, where the contract is signed, where the port of embarkation or disembarkation of the crew is located, or where the domicile of the defendant is located;

(六)因海事担保纠纷提起的诉讼，由担保物所在地、被告住所地海事法院管辖；因船舶抵押纠纷提起的诉讼，还可以由船籍港所在地海事法院管辖；

(VI) A lawsuit brought on a maritime guaranty shall be under jurisdiction of the maritime court of the place where the guaranteed property is located or where the domicile of the defendant is located; a lawsuit brought on a ship mortgage may also be under jurisdiction of the maritime court of the place of its port of registry;

(七)因海船的船舶所有权、占有权、使用权、优先权纠纷提起的诉讼，由船舶所在地、船籍港所在地、被告住所地海事法院管辖。

(VII) an action arising from a dispute over the ownership, possession, use and priority of a sea-going ship shall be under the jurisdiction of the maritime court of the place where the ship is located, where the ship's port of registry is located, or where the domicile of the defendant is located.

第七条   下列海事诉讼，由本条规定的海事法院专属管辖：

Article 7 The following maritime actions shall be under the exclusive jurisdiction of the maritime courts specified in this Article:

(一)因沿海港口作业纠纷提起的诉讼，由港口所在地海事法院管辖；

1. a lawsuit brought on a dispute over harbour operations shall be under the jurisdiction of the maritime court of the place where the harbour is located;

(二)因船舶排放、泄漏、倾倒油类或者其他有害物质，海上生产、作业或者拆船、修船作业造成海域污染损害提起的诉讼，由污染发生地、损害结果地或者采取预防污染措施地海事法院管辖；

(II) an action brought against pollution damage to sea areas caused by discharge, leakage or dumping of oil or other harmful substances from vessels, by production or operation at sea or by ship dismantling or repairing shall be under the jurisdiction of the maritime courts of the place where the pollution occurred, where the damage resulted was caused or where pollution prevention measures were taken; and

(三)因在中华人民共和国领域和有管辖权的海域履行的海洋勘探开发合同纠纷提起的诉讼，由合同履行地海事法院管辖。

(III) A lawsuit brought on a dispute over a performance of a maritime exploration and development contract within the territory of the People's Republic of China and the sea areas under its jurisdiction shall be under the jurisdiction of the maritime court of the place where the contract is performed.

第八条   海事纠纷的当事人都是外国人、无国籍人、外国企业或者组织，当事人书面协议选择中华人民共和国海事法院管辖的，即使与纠纷有实际联系的地点不在中华人民共和国领域内，中华人民共和国海事法院对该纠纷也具有管辖权。

Article 8 Where all the parties to a maritime dispute are aliens, stateless persons, foreign enterprises or organizations and have agreed in writing to be subject to the jurisdiction of a maritime court of the People's Republic of China, even if the place that has practical connections with the dispute is not within the territory of the People's Republic of China, the maritime court of the People's Republic of China shall have jurisdiction of the dispute.

第九条   当事人申请认定海上财产无主的，向财产所在地海事法院提出；申请因海上事故宣告死亡的，向处理海事事故主管机关所在地或者受理相关海事案件的海事法院提出。

Article 9 An application for determining a maritime property as ownerless shall be filed by the parties with the maritime court of the place where the property is located; an application for declaring a person as dead in a maritime accident shall be filed with the maritime court of the place where the competent organ responsible for handling the maritime accident is located or with the maritime court that accepts the relevant maritime cases.

第十条   海事法院与地方人民法院之间因管辖权发生争议，由争议双方协商解决；协商解决不了的，报请他们的共同上级人民法院指定管辖。

Article 10 In the event of a jurisdictional dispute between a maritime court and a local people's court, it shall be resolved by the disputing parties through consultation; if the dispute cannot be so resolved, it shall be reported to their common superior people's court for the designation of jurisdiction.

第十一条   当事人申请执行海事仲裁裁决，申请承认和执行外国法院判决、裁定以及国外海事仲裁裁决的，向被执行的财产所在地或者被执行人住所地海事法院提出。被执行的财产所在地或者被执行人住所地没有海事法院的，向被执行的财产所在地或者被执行人住所地的中级人民法院提出。

Article 11 Any party who wishes to apply for the enforcement of a maritime arbitration award, the recognition and enforcement of a judgment or order of a foreign court or a foreign maritime arbitration award shall file an application with the maritime court of the place where the property against which enforcement is sought or the domicile of the person against whom enforcement is sought is located. In the absence of a maritime court at the place where the property for execution is located or at the domicile of the person against whom execution is sought, an application shall be filed with the intermediate people's court of the place where the property for execution is located or at the domicile of the person against whom execution is sought.

第三章 海事请求保全

Chapter III Maritime Claims Preservation

第一节 一般规定

Section 1 General Provisions

第十二条   海事请求保全是指海事法院根据海事请求人的申请，为保障其海事请求的实现，对被请求人的财产所采取的强制措施。

Article 12 Preservation of maritime claims means the compulsory measures taken by a maritime court on the application of a maritime claimant against the property of the person against whom a claim is made, for the purpose of ensuring fulfillment of the claim of the maritime claimant.

第十三条   当事人在起诉前申请海事请求保全，应当向被保全的财产所在地海事法院提出。

Article 13. Litigants who apply for security for a maritime claim before commencing proceedings shall submit the matter to the maritime court at the place where the property subject to security is located.

第十四条   海事请求保全不受当事人之间关于该海事请求的诉讼管辖协议或者仲裁协议的约束。

Article 14 Maritime claims shall not be bound by jurisdiction agreements or arbitration agreements relating to the maritime claims between the parties.

第十五条   海事请求人申请海事请求保全，应当向海事法院提交书面申请。申请书应当载明海事请求事项、申请理由、保全的标的物以及要求提供担保的数额，并附有关证据。

Article 15. Maritime claimants applying for security for a maritime claim shall submit an application in writing to the maritime court. The application shall clearly state the particulars of the maritime claim, the reasons for the application, the subject matter of the security and the amount of security required, with relevant evidence attached.

第十六条   海事法院受理海事请求保全申请，可以责令海事请求人提供担保。海事请求人不提供的，驳回其申请。

Article 16. Where a maritime court accepts an application for security for a maritime claim, it may order the maritime claimant to provide a guarantee. Where the maritime claimant fails to provide guarantee, the application shall be rejected.

第十七条   海事法院接受申请后，应当在四十八小时内作出裁定。裁定采取海事请求保全措施的，应当立即执行；对不符合海事请求保全条件的，裁定驳回其申请。

Article 17 The maritime court, having accepted an application, shall make an order within 48 hours. If the ruling grants the security for the maritime claim, it shall be enforced immediately; if the application does not conform with the conditions of the security for the maritime claim, the ruling shall reject the application.

当事人对裁定不服的，可以在收到裁定书之日起五日内申请复议一次。海事法院应当在收到复议申请之日起五日内作出复议决定。复议期间不停止裁定的执行。

Litigants who object to the ruling may apply for a review within five days of the date on which the ruling was received. The maritime court shall give the result of the review within five days after receipt of the application therefor. Enforcement of the ruling shall not be suspended during the review period.

利害关系人对海事请求保全提出异议，海事法院经审查，认为理由成立的，应当解除对其财产的保全。

Where an interested party raises an objection to the security for the maritime claim, the maritime court, having examined the objection and considering the reasons justified, shall cancel the property security.

第十八条   被请求人提供担保，或者当事人有正当理由申请解除海事请求保全的，海事法院应当及时解除保全。

Article 18. If the person against whom the claim was made provides a guarantee or the litigant has reasonable grounds to apply for the discharge of the security for the maritime claim, the maritime court shall discharge the security promptly.

海事请求人在本法规定的期间内，未提起诉讼或者未按照仲裁协议申请仲裁的，海事法院应当及时解除保全或者返还担保。

If within the time limit prescribed by this Law a maritime claimant fails to bring an action or apply for arbitration in accordance with an arbitration agreement, the maritime court shall discharge the preservation or return the security promptly.

第十九条   海事请求保全执行后，有关海事纠纷未进入诉讼或者仲裁程序的，当事人就该海事请求，可以向采取海事请求保全的海事法院或者其他有管辖权的海事法院提起诉讼，但当事人之间订有诉讼管辖协议或者仲裁协议的除外。

Article 19 Where legal proceedings or arbitral proceedings are not commenced in respect of a maritime dispute after execution of the preservation of a maritime claim, any party may bring an action in respect of the maritime claim in the maritime court that adopts measures for preservation of the maritime claim or another maritime court that has jurisdiction, unless a jurisdiction agreement or arbitration agreement has been concluded between the parties.

第二十条   海事请求人申请海事请求保全错误的，应当赔偿被请求人或者利害关系人因此所遭受的损失。

Article 20. Maritime claimants who make an error in applying for security for a maritime claim shall compensate the person against whom the claim was made or interested parties for losses consequently sustained.

第二节 船舶的扣押与拍卖

Section 2 Arrest and Auction of Ships

第二十一条   下列海事请求，可以申请扣押船舶：

Article 21 The following maritime claims may apply for arrest of a ship:

(一)船舶营运造成的财产灭失或者损坏；

1. loss of or damage to property caused by ship operation;

(二)与船舶营运直接有关的人身伤亡；

2. Loss of life or personal injury in direct connection with ship operation;

(三)海难救助；

(III) salvage at sea;

(四)船舶对环境、海岸或者有关利益方造成的损害或者损害威胁；为预防、减少或者消除此种损害而采取的措施；为此种损害而支付的赔偿；为恢复环境而实际采取或者准备采取的合理措施的费用；第三方因此种损害而蒙受或者可能蒙受的损失；以及与本项所指的性质类似的损害、费用或者损失；

(IV) the damage or threat of damage caused by the ship to the environment, seashore or the relevant interested parties; the measures adopted for the prevention, reduction or elimination of such damage; the compensation paid for such damage; the expenses for the reasonable measures actually adopted or to be adopted for restoring the environment; the loss suffered or likely to be suffered by the third party due to such damage; and the damage, expenses or losses similar in nature to those specified in this Item; and

(五)与起浮、清除、回收或者摧毁沉船、残骸、搁浅船、被弃船或者使其无害有关的费用，包括与起浮、清除、回收或者摧毁仍在或者曾在该船上的物件或者使其无害的费用，以及与维护放弃的船舶和维持其船员有关的费用；

(V) expenses related to re-floating, removal, reclamation or destroying of a sunken ship, wreck, aground ship, abandoned ship or to making them harmless, including the expenses related to re-floating, removal, reclamation or destroying of the things which have or no longer remained on board the ship or to making them harmless and expenses related to maintaining of an abandoned ship and her crew;

(六)船舶的使用或者租用的协议；

(VI) agreements for the employment or chartering of ships;

(七)货物运输或者旅客运输的协议；

(VII) agreements of carriage of goods or passengers;

(八)船载货物(包括行李)或者与其有关的灭失或者损坏；

(VIII) goods (including luggage) on board or loss or damage related thereto;

(九)共同海损；

(IX) general average;

(十)拖航；

(X) Towage;

(十一)引航；

(XI) pilotage;

(十二)为船舶营运、管理、维护、维修提供物资或者服务；

(XII) provision of materials or services for operation, management, maintenance and repair of ships;

(十三)船舶的建造、改建、修理、改装或者装备；

(XIII) building, rebuilding, repairing, refitting or equipping of ships;

(十四)港口、运河、码头、港湾以及其他水道规费和费用；

(XIV) prescribed fees or fees for ports, canals, wharves, harbours or other waterways;

(十五)船员的工资和其他款项，包括应当为船员支付的遣返费和社会保险费；

(XV) crew's wages and other payments, including repatriation expenses and social insurance premiums payable for crew members;

(十六)为船舶或者船舶所有人支付的费用；

(XVI) expenses paid for a ship or a shipowner;

(十七)船舶所有人或者光船承租人应当支付或者他人为其支付的船舶保险费(包括互保会费)；

(XVII) insurance premium for a ship (including mutual insurance membership fee) payable by or paid for a ship-owner or bareboat charterer;

(十八)船舶所有人或者光船承租人应当支付的或者他人为其支付的与船舶有关的佣金、经纪费或者代理费；

(XVIII) commission, brokerage or agency fee related to a ship paid by the shipowner or bareboat charterer, or paid on his behalf;

(十九)有关船舶所有权或者占有的纠纷；

(XIX) a dispute over ownership or possession of a ship;

(二十)船舶共有人之间有关船舶的使用或者收益的纠纷；

(XX) a dispute between the joint owners of a ship over the employment or earnings of the ship;

(二十一)船舶抵押权或者同样性质的权利；

(XXI) ship mortgage or rights of a similar nature; and

(二十二)因船舶买卖合同产生的纠纷。

(XXII) a dispute arising from a ship sales contract.

第二十二条   非因本法第二十一条规定的海事请求不得申请扣押船舶，但为执行判决、仲裁裁决以及其他法律文书的除外。

Article 22 No application may be made for the arrest of a ship on account of maritime claims other than the ones specified in Article 21 of this Law, except for the enforcement of a judgment, an arbitral award or other legal documents.

第二十三条   有下列情形之一的，海事法院可以扣押当事船舶：

Article 23 The maritime court may arrest the ship concerned under any of the following circumstances:

(一)船舶所有人对海事请求负有责任，并且在实施扣押时是该船的所有人；

1. the shipowner is liable for the maritime claim and is the owner of the ship at the time of the arrest;

(二)船舶的光船承租人对海事请求负有责任，并且在实施扣押时是该船的光船承租人或者所有人；

2. the bareboat charterer of the ship is liable for the maritime claim and is the bareboat charterer or the owner of the ship at the time of the arrest;

(三)具有船舶抵押权或者同样性质的权利的海事请求；

3. a maritime claim that gives rise to ship mortgage or to rights of a similar nature;

(四)有关船舶所有权或者占有的海事请求；

(IV) a maritime claim related to ownership or possession of a ship; and

(五)具有船舶优先权的海事请求。

(V) a maritime claim that gives rise to maritime lien.

海事法院可以扣押对海事请求负有责任的船舶所有人、光船承租人、定期租船人或者航次租船人在实施扣押时所有的其他船舶，但与船舶所有权或者占有有关的请求除外。

A maritime court may arrest other ships owned by the shipowner, bareboat charterer, time charterer or voyage charterer who is held responsible for a maritime claim, when the arrest is executed, with the exception of the claims related to ownership or possession of the ship.

从事军事、政府公务的船舶不得被扣押。

No ship engaged in military affairs or government business may be arrested.

第二十四条   海事请求人不得因同一海事请求申请扣押已被扣押过的船舶，但有下列情形之一的除外：

Article 24 A maritime claimant may not apply to arrest a ship having been arrested for the same maritime claim, except that any of the following circumstances exists:

(一)被请求人未提供充分的担保；

1. the respondent fails to provide sufficient security;

(二)担保人有可能不能全部或者部分履行担保义务；

(II) the guarantor may not be able to perform all or part of his obligations under the security;

(三)海事请求人因合理的原因同意释放被扣押的船舶或者返还已提供的担保；或者不能通过合理措施阻止释放被扣押的船舶或者返还已提供的担保。

3. the maritime claimant agrees, on reasonable grounds, to release the arrested ship or to return the security provided; or the maritime claimant cannot, by reasonable means, stop the release of the arrested ship or the return of the security provided.

第二十五条   海事请求人申请扣押当事船舶，不能立即查明被请求人名称的，不影响申请的提出。

Article 25. Where a maritime claimant applies for the arrest of the vessel concerned and the name of the person against whom the claim was made cannot be immediately ascertained, it shall not affect the submission of the application.

第二十六条   海事法院在发布或者解除扣押船舶命令的同时，可以向有关部门发出协助执行通知书，通知书应当载明协助执行的范围和内容，有关部门有义务协助执行。海事法院认为必要，可以直接派员登轮监护。

Article 26 A maritime court may issue the relevant departments with a notice for assistance in execution at the same time it issues or cancels an order for arrest of a ship, and the notice shall clearly set forth the scope and contents of the assistance in execution and the relevant departments have the obligation to assist in execution. The maritime court may, if it deems necessary, directly send persons to board the ship for supervision.

第二十七条   海事法院裁定对船舶实施保全后，经海事请求人同意，可以采取限制船舶处分或者抵押等方式允许该船舶继续营运。

Article 27 After ordering to preserve a ship, the maritime court may, with the consent of the maritime claimant, allow the ship to continue the operation by means of restraining the disposition or mortgage of the ship.

第二十八条   海事请求保全扣押船舶的期限为三十日。

Article 28 The time limit for ship arrest in preservation of a maritime claim is 30 days.

海事请求人在三十日内提起诉讼或者申请仲裁以及在诉讼或者仲裁过程中申请扣押船舶的，扣押船舶不受前款规定期限的限制。

If a maritime claimant initiates proceedings or applies for arbitration within 30 days and, in the course of proceedings or arbitration, applies for the arrest of a ship, the arrest of the ship is not subject to the limitation period stipulated in the preceding paragraph.

第二十九条   船舶扣押期间届满，被请求人不提供担保，而且船舶不宜继续扣押的，海事请求人可以在提起诉讼或者申请仲裁后，向扣押船舶的海事法院申请拍卖船舶。

Article 29 If, on the expiration of the period of arresting a ship, the party who opposes the claim fails to provide guarantee, and the ship is not suitable for being arrested longer, the maritime claimant may apply to the maritime court arresting the ship for auction of the ship after bringing a law suit or applying for arbitration.

第三十条   海事法院收到拍卖船舶的申请后，应当进行审查，作出准予或者不准予拍卖船舶的裁定。

Article 30 A maritime court shall conduct examination after receiving the application for auction of a ship, and make an order approving or disapproving the auction of the ship.

当事人对裁定不服的，可以在收到裁定书之日起五日内申请复议一次。海事法院应当在收到复议申请之日起五日内作出复议决定。复议期间停止裁定的执行。

Litigants who object to the ruling may apply for a review within five days of the date on which the ruling was received. The maritime court shall give the result of the review within five days after receipt of the application therefor. The execution of the ruling shall be suspended during the period of reconsideration.

第三十一条   海事请求人提交拍卖船舶申请后，又申请终止拍卖的，是否准许由海事法院裁定。海事法院裁定终止拍卖船舶的，为准备拍卖船舶所发生的费用由海事请求人承担。

Article 31 Where a maritime claimant, having applied for auction of a ship, applies for termination of the auction, the maritime court shall make an order to approve or disapprove the application. If the maritime court orders to terminate the auction of the ship, expenses incurred in preparation for auction of the ship shall be borne by the maritime claimant.

第三十二条   海事法院裁定拍卖船舶，应当通过报纸或者其他新闻媒体发布公告。拍卖外籍船舶的，应当通过对外发行的报纸或者其他新闻媒体发布公告。

Article 32 A maritime court that orders to auction a ship shall issue a public notice through newspapers or other news media. When auctioning a foreign ship, a public notice shall be issued through newspapers or other news media distributed abroad.

公告包括以下内容：

The announcement shall include the following contents:

(一)被拍卖船舶的名称和国籍；

1. name and nationality of the ship to be auctioned;

(二)拍卖船舶的理由和依据；

(II) reasons and grounds for auction of the ship;

(三)拍卖船舶委员会的组成；

(III) composition of the ship auction committee;

(四)拍卖船舶的时间和地点；

(IV) time and place for auction of the ship;

(五)被拍卖船舶的展示时间和地点；

(V) time and place for display of the ship for auction;

(六)参加竞买应当办理的手续；

(VI) The procedures that those participating in the bidding shall handle;

(七)办理债权登记事项；

(VII) particulars necessary for registration of claims; and

(八)需要公告的其他事项。

(VIII) Other matters that need to be announced.

拍卖船舶的公告期间不少于三十日。

The period of announcement for ship auction shall be not less than 30 days.

第三十三条   海事法院应当在拍卖船舶三十日前，向被拍卖船舶登记国的登记机关和已知的船舶优先权人、抵押权人和船舶所有人发出通知。

Article 33. Thirty days before auctioning a vessel, maritime courts shall issue a notice to the registration authorities of the country of registry of the vessel to be auctioned and to the known holder of a right of priority over the vessel, the known mortgagee and the known owner of the vessel.

通知内容包括被拍卖船舶的名称、拍卖船舶的时间和地点、拍卖船舶的理由和依据以及债权登记等。

The contents of the notice shall include the name of the ship to be auctioned, time and place for auction of the ship, reasons and basis for auction of the ship, and registration of claims.

通知方式包括书面方式和能够确认收悉的其他适当方式。

The notice shall be in writing or take other appropriate forms by which receipt can be confirmed.

第三十四条   拍卖船舶由拍卖船舶委员会实施。拍卖船舶委员会由海事法院指定的本院执行人员和聘请的拍卖师、验船师三人或者五人组成。

Article 34. The auction of a vessel shall be carried out by the vessel auction committee. A ship auction committee shall consist of three or five persons, including the person of the maritime court in charge of execution designated by the court, the auctioneer and ship surveyor invited by the maritime court.

拍卖船舶委员会组织对船舶鉴定、估价；组织和主持拍卖；与竞买人签订拍卖成交确认书；办理船舶移交手续。

The ship auction committee organizes appraisal and valuation of the ship; organizes and presides over the auction; signs a letter of confirmation for conclusion of the auction with the bidder; and handles procedures for the transfer of the ship.

拍卖船舶委员会对海事法院负责，受海事法院监督。

The ship auction committee shall be responsible to the maritime court and subject to the supervision of the maritime court.

第三十五条   竞买人应当在规定的期限内向拍卖船舶委员会登记。登记时应当交验本人、企业法定代表人或者其他组织负责人身份证明和委托代理人的授权委托书，并交纳一定数额的买船保证金。

Article 35 Bidders shall register with the ship auction committee within the prescribed time limit. For registration, they shall submit for verification the identity certificates of themselves, legal representatives of enterprises or persons in charge of other organizations, as well as powers of attorney of agents, and pay a certain amount of bonds for purchase of the ship.

第三十六条   拍卖船舶委员会应当在拍卖船舶前，展示被拍卖船舶，并提供察看被拍卖船舶的条件和有关资料。

Article 36. Before auctioning a vessel, the vessel auction committee shall display the vessel to be auctioned and shall provide facilities for inspecting the vessel to be auctioned and relevant data.

第三十七条   买受人在签署拍卖成交确认书后，应当立即交付不低于百分之二十的船舶价款，其余价款在成交之日起七日内付清，但拍卖船舶委员会与买受人另有约定的除外。

Article 37. After signing the auction confirmation, the buyer shall immediately pay not less than 20% of the purchase price, and the remainder of the purchase price shall be paid in full within seven days of the date of the auction, except where the vessel auction committee and the buyer have agreed otherwise.

第三十八条   买受人付清全部价款后，原船舶所有人应当在指定的期限内于船舶停泊地以船舶现状向买受人移交船舶。拍卖船舶委员会组织和监督船舶的移交，并在船舶移交后与买受人签署船舶移交完毕确认书。

Article 38 After the buyer has paid the purchase price in full, the original shipowner shall, within a specified time limit, deliver the ship to the buyer on the basis of the status quo of the ship. The ship auction committee shall arrange and supervise the delivery of the ship and sign a letter of confirmation of ship's delivery with the vendee after the delivery of the ship.

移交船舶完毕，海事法院发布解除扣押船舶命令。

After delivery of the ship, the maritime court shall issue an order to release the ship.

第三十九条   船舶移交后，海事法院应当通过报纸或者其他新闻媒体发布公告，公布船舶已经公开拍卖并移交给买受人。

Article 39 After the delivery of the ship, the maritime court shall issue a public notice in newspapers or other news media to announce that the ship has been sold by auction and delivered to the buyer.

第四十条   买受人接收船舶后，应当持拍卖成交确认书和有关材料，向船舶登记机关办理船舶所有权登记手续。原船舶所有人应当向原船舶登记机关办理船舶所有权注销登记。原船舶所有人不办理船舶所有权注销登记的，不影响船舶所有权的转让。

Article 40 After taking over the ship, the vendee shall go through the formalities of registration of the ownership of the ship with the ship registration authority by virtue of the Confirmation of Transaction of Auction and relevant materials. The former ship-owner shall cancel the registration with the previous ship registration authority in respect of the ownership of the ship. Failure of the original shipowner to cancel the registration of the ship's ownership shall not affect the transfer of the ship's ownership.

第四十一条   竞买人之间恶意串通的，拍卖无效。参与恶意串通的竞买人应当承担拍卖船舶费用并赔偿有关损失。海事法院可以对参与恶意串通的竞买人处最高应价百分之十以上百分之三十以下的罚款。

Article 41 Malicious collusion between bidders makes the auction invalid. The bidders who take part in malicious collusion shall bear the expenses for the auction of the ship and compensate the losses accordingly. The maritime court may impose on the bidders participating in malicious collusion a fine of not less than 10% and not more than 30% of the highest price offered.

第四十二条   除本节规定的以外，拍卖适用《中华人民共和国拍卖法》的有关规定。

Article 42 In addition to the provisions in this Section, the relevant provisions of the Auction Law of the People's Republic of China shall apply to auction.

第四十三条   执行程序中拍卖被扣押船舶清偿债务的，可以参照本节有关规定。

Article 43 Where a ship under arrest is to be auctioned for payment of debts during the procedure for execution, the relevant provisions of this Section may be referred to.

第三节 船载货物的扣押与拍卖

Section 3 Arrest and Auction of the Ship's Goods

第四十四条   海事请求人为保障其海事请求的实现，可以申请扣押船载货物。

Article 44 A maritime claimant may apply for arrest of the cargo carried by a ship to ensure fulfillment of his maritime claim.

申请扣押的船载货物，应当属于被请求人所有。

The cargo against which an attachment is applied for shall be owned by the person against whom the claim is made.

第四十五条   海事请求人申请扣押船载货物的价值，应当与其债权数额相当。

Article 45 The value of the cargo against which an attachment is applied for by a maritime claimant shall be equal to the amount of his claim.

第四十六条   海事请求保全扣押船载货物的期限为十五日。

Article 46. The time limit for impounding a vessel's cargo as security for a maritime claim is 15 days.

海事请求人在十五日内提起诉讼或者申请仲裁以及在诉讼或者仲裁过程中申请扣押船载货物的，扣押船载货物不受前款规定期限的限制。

If a maritime claimant initiates proceedings or applies for arbitration within 15 days and, in the course of proceedings or arbitration, applies to impound a vessel's cargo, the impoundment of the vessel's cargo shall not be subject to the limitation period stipulated in the preceding paragraph.

第四十七条   船载货物扣押期间届满，被请求人不提供担保，而且货物不宜继续扣押的，海事请求人可以在提起诉讼或者申请仲裁后，向扣押船载货物的海事法院申请拍卖货物。

Article 47 If, on the expiration of the period of arresting the goods on board, the party who opposes the claim fails to provide guarantee, and the goods are not suitable for being arrested longer, the maritime claimant may apply to the maritime court arresting the goods on board for auction of the goods after bringing a law suit or applying for arbitration.

对无法保管、不易保管或者保管费用可能超过其价值的物品，海事请求人可以申请提前拍卖。

For articles which cannot be stored, or are difficult to be stored, or the storage expense may exceed their value, the maritime claimant may apply for auction in advance.

第四十八条   海事法院收到拍卖船载货物的申请后，应当进行审查，在七日内作出准予或者不准予拍卖船载货物的裁定。

Article 48 A maritime court shall conduct examination after receiving the application for auction of the cargo carried by a ship, and make an order approving or disapproving the auction of the cargo carried by the ship within seven days.

当事人对裁定不服的，可以在收到裁定书之日起五日内申请复议一次。海事法院应当在收到复议申请之日起五日内作出复议决定。复议期间停止裁定的执行。

Litigants who object to the ruling may apply for a review within five days of the date on which the ruling was received. The maritime court shall give the result of the review within five days after receipt of the application therefor. The execution of the ruling shall be suspended during the period of reconsideration.

第四十九条   拍卖船载货物由海事法院指定的本院执行人员和聘请的拍卖师组成的拍卖组织实施，或者由海事法院委托的机构实施。

Article 49 Auction of the cargo carried by a ship shall be conducted by an auction organization composed of execution officers appointed, and auctioneers engaged by the maritime court, or conducted by an agency authorized by the maritime court.

拍卖船载货物，本节没有规定的，参照本章第二节拍卖船舶的有关规定。

Auction of the goods on board, if not covered by the provisions of this Section, shall be referred to the relevant provisions of Section 2 of this Chapter on auction of a ship.

第五十条   海事请求人对与海事请求有关的船用燃油、船用物料申请海事请求保全，适用本节规定。

Article 50. Where a maritime claimant applies for security for a maritime claim against the fuel and materials used by a vessel which are related to the maritime claim, the provisions of this Section shall apply.

第四章 海事强制令

Chapter 4 Maritime Injunction

第五十一条   海事强制令是指海事法院根据海事请求人的申请，为使其合法权益免受侵害，责令被请求人作为或者不作为的强制措施。

Article 51. A maritime injunction refers to coercive measures taken by a maritime court on an application by a maritime claimant ordering an act or omission on the part of the person against whom the claim was made in order to prevent the infringement of his lawful rights and interests.

第五十二条   当事人在起诉前申请海事强制令，应当向海事纠纷发生地海事法院提出。

Article 52 A party who wishes to apply for a maritime injunction before bringing an action shall file an application with the maritime court of the place where the maritime dispute arises.

第五十三条   海事强制令不受当事人之间关于该海事请求的诉讼管辖协议或者仲裁协议的约束。

Article 53 A maritime injunction shall not be bound by the jurisdiction agreement or arbitration agreement reached between the parties in respect of the maritime claim.

第五十四条   海事请求人申请海事强制令，应当向海事法院提交书面申请。申请书应当载明申请理由，并附有关证据。

Article 54 A maritime claimant applying for a maritime injunction shall submit a written application to a maritime court. The application shall clearly set forth reasons for the application with relevant evidence attached thereto.

第五十五条   海事法院受理海事强制令申请，可以责令海事请求人提供担保。海事请求人不提供的，驳回其申请。

Article 55 The maritime court, having entertained an application for a maritime injunction, may enjoin the maritime claimant to provide security. Where the maritime claimant fails to provide guarantee, the application shall be rejected.

第五十六条   作出海事强制令，应当具备下列条件：

Article 56 A maritime injunction shall meet the following conditions:

(一)请求人有具体的海事请求；

1. the claimant has a specific maritime claim;

(二)需要纠正被请求人违反法律规定或者合同约定的行为；

(II) There is a need to rectify an act committed by the party who opposes the claim, in violation of the provisions of the law or the contractual agreement; and

(三)情况紧急，不立即作出海事强制令将造成损害或者使损害扩大。

(III) in case of emergency, failure to make a maritime injunction immediately will cause damage or expand damage.

第五十七条   海事法院接受申请后，应当在四十八小时内作出裁定。裁定作出海事强制令的，应当立即执行；对不符合海事强制令条件的，裁定驳回其申请。

Article 57 The maritime court, having accepted an application, shall make an order within 48 hours. Where the order grants a maritime injunction, it shall be executed forthwith; where the conditions for a maritime injunction are not fulfilled, it shall make an order to reject the application.

第五十八条   当事人对裁定不服的，可以在收到裁定书之日起五日内申请复议一次。海事法院应当在收到复议申请之日起五日内作出复议决定。复议期间不停止裁定的执行。

Article 58 Litigants who object to the ruling may apply for a review within five days of the date on which the ruling was received. The maritime court shall give the result of the review within five days after receipt of the application therefor. Enforcement of the ruling shall not be suspended during the review period.

利害关系人对海事强制令提出异议，海事法院经审查，认为理由成立的，应当裁定撤销海事强制令。

If an interested party raises an objection to the maritime injunction and the maritime court finds justifiable grounds for the objection as a result of an investigation, it shall set aside the maritime injunction.

第五十九条   被请求人拒不执行海事强制令的，海事法院可以根据情节轻重处以罚款、拘留；构成犯罪的，依法追究刑事责任。

Article 59. If the person against whom the claim was made refuses to comply with the maritime injunction, the maritime court may impose a fine or detention in accordance with the seriousness of the circumstances; if it constitutes a crime, criminal liability shall be pursued in accordance with the law.

对个人的罚款金额，为一千元以上三万元以下。对单位的罚款金额，为三万元以上十万元以下。

A fine on an individual shall be not less than 1,000 yuan but not more than 30,000 yuan. A fine on a unit shall be not less than 30,000 yuan and not more than 100,000 yuan.

拘留的期限，为十五日以下。

The detention period shall not exceed 15 days.

第六十条   海事请求人申请海事强制令错误的，应当赔偿被请求人或者利害关系人因此所遭受的损失。

Article 60 A maritime claimant wrongfully submitting an application for a maritime injunction shall compensate losses incurred by the party who opposes the claim or an interested party.

第六十一条   海事强制令执行后，有关海事纠纷未进入诉讼或者仲裁程序的，当事人就该海事请求，可以向作出海事强制令的海事法院或者其他有管辖权的海事法院提起诉讼，但当事人之间订有诉讼管辖协议或者仲裁协议的除外。

Article 61 Where legal proceedings or arbitral proceedings are not commenced in respect of a maritime dispute after execution of the maritime injunction, any party may bring an action in respect of the maritime claim in the maritime court granting the maritime injunction or in another maritime court having jurisdiction, unless a jurisdiction agreement or arbitration agreement has been concluded between the parties.

第五章 海事证据保全

Chapter 5 Preservation of Maritime Evidence

第六十二条   海事证据保全是指海事法院根据海事请求人的申请，对有关海事请求的证据予以提取、保存或者封存的强制措施。

Article 62 Preservation of maritime evidence means the compulsory measures adopted, on the application of a maritime claimant, by the maritime court to take, preserve or seal up the evidence related to a maritime claim.

第六十三条   当事人在起诉前申请海事证据保全，应当向被保全的证据所在地海事法院提出。

Article 63. Litigants who apply for preservation of maritime evidence prior to commencing proceedings shall submit the matter to the maritime court at the place where the evidence to be preserved is located.

第六十四条   海事证据保全不受当事人之间关于该海事请求的诉讼管辖协议或者仲裁协议的约束。

Article 64 Preservation of maritime evidence shall not be bound by the jurisdiction agreement or arbitration agreement reached between the parties in respect of the maritime claim.

第六十五条   海事请求人申请海事证据保全，应当向海事法院提交书面申请。申请书应当载明请求保全的证据、该证据与海事请求的联系、申请理由。

Article 65. Maritime claimants applying for preservation of maritime evidence shall submit an application in writing to the maritime court. The application shall clearly set forth the evidence to be preserved on application, the relationship between the evidence and the maritime claim and reasons therefor.

第六十六条   海事法院受理海事证据保全申请，可以责令海事请求人提供担保。海事请求人不提供的，驳回其申请。

Article 66 The maritime court, having entertained an application for preservation of maritime evidence, may enjoin the maritime claimant to provide security. Where the maritime claimant fails to provide guarantee, the application shall be rejected.

第六十七条   采取海事证据保全，应当具备下列条件：

Article 67 The following conditions shall be met before preservation of maritime evidence is granted:

(一)请求人是海事请求的当事人；

1. The claimant is the party to the maritime claim;

(二)请求保全的证据对该海事请求具有证明作用；

(II) The evidence to be preserved on application provides proof for the maritime claim;

(三)被请求人是与请求保全的证据有关的人；

(III) The claimee is the person related to the evidence to be preserved upon request; and

(四)情况紧急，不立即采取证据保全就会使该海事请求的证据灭失或者难以取得。

(IV) in a situation of emergency, the evidence relevant to the maritime claim will be lost or difficult to obtain if the evidence is not immediately preserved.

第六十八条   海事法院接受申请后，应当在四十八小时内作出裁定。裁定采取海事证据保全措施的，应当立即执行；对不符合海事证据保全条件的，裁定驳回其申请。

Article 68 The maritime court, having accepted an application, shall make an order within 48 hours. If the ruling grants the preservation of the maritime evidence, it shall be enforced immediately; if the application does not conform with the conditions of the preservation of maritime evidence, the ruling shall reject the application.

第六十九条   当事人对裁定不服的，可以在收到裁定书之日起五日内申请复议一次。海事法院应当在收到复议申请之日起五日内作出复议决定。复议期间不停止裁定的执行。被请求人申请复议的理由成立的，应当将保全的证据返还被请求人。

Article 69 Litigants who object to the ruling may apply for a review within five days of the date on which the ruling was received. The maritime court shall give the result of the review within five days after receipt of the application therefor. Enforcement of the ruling shall not be suspended during the review period. If the reasons given by the person against whom a claim is made are justified, the evidence under preservation shall be returned to that person.

利害关系人对海事证据保全提出异议，海事法院经审查，认为理由成立的，应当裁定撤销海事证据保全；已经执行的，应当将与利害关系人有关的证据返还利害关系人。

If an interested party raises an objection to the preservation of maritime evidence and the maritime court finds justifiable grounds for the objection as a result of an investigation, it shall rule to set aside the preservation of the maritime evidence; if it has already been enforced, it shall return to the interested party the evidence related to the interested party.

第七十条   海事法院进行海事证据保全，根据具体情况，可以对证据予以封存，也可以提取复制件、副本，或者进行拍照、录相，制作节录本、调查笔录等。确有必要的，也可以提取证据原件。

Article 70. Where a maritime court carries out the preservation of maritime evidence, it may seal up the evidence, may also collect reproductions and duplicates, take photographs and video recordings or produce extracts or investigative notes, etc, depending on the circumstances. If really necessary, the original of the evidence may be obtained.

第七十一条   海事请求人申请海事证据保全错误的，应当赔偿被请求人或者利害关系人因此所遭受的损失。

Article 71 A maritime claimant wrongfully submitting an application for maritime evidence preservation shall compensate losses incurred by the party who opposes the claim or an interested party.

第七十二条   海事证据保全后，有关海事纠纷未进入诉讼或者仲裁程序的，当事人就该海事请求，可以向采取证据保全的海事法院或者其他有管辖权的海事法院提起诉讼，但当事人之间订有诉讼管辖协议或者仲裁协议的除外。

Article 72 Where legal proceedings or arbitral proceedings are not commenced in respect of a maritime dispute after preservation of the maritime evidence, any party may bring an action in respect of the maritime claim in the maritime court that adopts measures for preservation of the evidence or another maritime court that has jurisdiction, unless a jurisdiction agreement or arbitration agreement has been concluded between the parties.

第六章 海事担保

Chapter 6 Maritime Guarantee

第七十三条   海事担保包括本法规定的海事请求保全、海事强制令、海事证据保全等程序中所涉及的担保。

Article 73 Maritime guarantees include guarantees involved in the procedures for preservation of maritime claims, maritime injunction and preservation of maritime evidence provided for in this Law.

担保的方式为提供现金或者保证、设置抵押或者质押。

The guarantee shall be in form of providing cash or surety, establishing mortgage or pledge.

第七十四条   海事请求人的担保应当提交给海事法院；被请求人的担保可以提交给海事法院，也可以提供给海事请求人。

Article 74 A guaranty provided by a maritime claimant shall be delivered to the maritime court; a guaranty provided by the person against whom the application for maritime preservation is made may be delivered to the maritime court or provided to the maritime claimant.

第七十五条   海事请求人提供的担保，其方式、数额由海事法院决定。被请求人提供的担保，其方式、数额由海事请求人和被请求人协商；协商不成的，由海事法院决定。

Article 75 The type and amount of the security provided by a maritime claimant shall be determined by the maritime court. The type and amount of the security provided by a person against whom the claim is made shall be determined through consultation between the maritime claimant and the person against whom the claim is made; if consultation fails, the matter shall be determined by a maritime court.

第七十六条   海事请求人要求被请求人就海事请求保全提供担保的数额，应当与其债权数额相当，但不得超过被保全的财产价值。

Article 76 The amount of the security requested for preservation of a maritime claim by a maritime claimant from a person against whom the claim was made shall be equal to the amount of his credit, but shall not exceed the value of the property preserved.

海事请求人提供担保的数额，应当相当于因其申请可能给被请求人造成的损失。具体数额由海事法院决定。

The amount of the security provided by a maritime claimant shall be equal to the loss the person against whom the claim is made may suffer as a result of his application. The specific amount shall be determined by a maritime court.

第七十七条   担保提供后，提供担保的人有正当理由的，可以向海事法院申请减少、变更或者取消该担保。

Article 77 After a guaranty is provided, the person providing the guaranty may, for any justified reasons, apply to the maritime court for reducing, modifying or canceling the guaranty.

第七十八条   海事请求人请求担保的数额过高，造成被请求人损失的，应当承担赔偿责任。

Article 78 If the amount of the security requested by a maritime claimant is too high and has caused losses to the person against whom the claim is made, the maritime claimant shall bear liability for compensation.

第七十九条   设立海事赔偿责任限制基金和先予执行等程序所涉及的担保，可以参照本章规定。

Article 79 The provisions of this Chapter may apply mutatis mutandis to securities involved in the procedures such as constitution of a limitation fund for maritime claims liability and advance execution.

第七章 送 达

Chapter 7 Sent:

第八十条   海事诉讼法律文书的送达，适用《中华人民共和国民事诉讼法》的有关规定，还可以采用下列方式：

Article 80 In serving a maritime litigation document, the relevant provisions of the Civil Procedure Law of the People's Republic of China are applicable, and the following methods may also be adopted:

(一)向受送达人委托的诉讼代理人送达；

1. on the agent ad litem entrusted by the person on whom the litigation document is to be served;

(二)向受送达人在中华人民共和国领域内设立的代表机构、分支机构或者业务代办人送达；

(II) to serve on a representative office or branch office established in the People's Republic of China by the person on whom the service is to be made or on his business agent;

(三)通过能够确认收悉的其他适当方式送达。

(III) by any other proper means through which the receipt can be confirmed.

有关扣押船舶的法律文书也可以向当事船舶的船长送达。

Legal documents relating to the arrest of a ship may also be served on the master of the ship concerned.

第八十一条   有义务接受法律文书的人拒绝签收，送达人在送达回证上记明情况，经送达人、见证人签名或者盖章，将法律文书留在其住所或者办公处所的，视为送达。

Article 81 Where a person who is under an obligation to accept legal documents refuses to sign for them, the person serving the documents shall make a record on the receipt of service of the fact and, after the person serving the documents and the witnesses have affixed their signatures or seals to the receipt, leave the legal documents at his domicile or place of business and the service shall be deemed completed.

第八章 审判程序

Chapter 8 Trial Procedures

第一节 审理船舶碰撞案件的规定

Section 1 Provisions for Trial of Collision Cases

第八十二条   原告在起诉时、被告在答辩时，应当如实填写《海事事故调查表》。

Article 82 When a plaintiff brings an action and a defendant files a defence, the Investigation Form of Maritime Accident shall be truthfully completed.

第八十三条   海事法院向当事人送达起诉状或者答辩状时，不附送有关证据材料。

Article 83. When a maritime court serves a bill of complaint or bill of defence on a litigant, it shall not attach the relevant evidentiary material.

第八十四条   当事人应当在开庭审理前完成举证。当事人完成举证并向海事法院出具完成举证说明书后，可以申请查阅有关船舶碰撞的事实证据材料。

Article 84 The parties shall finish the provision of evidence before a court session. After a party has completed his burden of proof and furnished the maritime court with a statement to that effect, he may apply to consult the factual evidence relating to the collision.

第八十五条   当事人不能推翻其在《海事事故调查表》中的陈述和已经完成的举证，但有新的证据，并有充分的理由说明该证据不能在举证期间内提交的除外。

Article 85 The parties shall not repudiate their statements in the Investigation Form of Maritime Accident and the evidence they have presented, except that they have new evidence and full reasons that such evidence cannot be presented during the period of presentation of evidence.

第八十六条   船舶检验、估价应当由国家授权或者其他具有专业资格的机构或者个人承担。非经国家授权或者未取得专业资格的机构或者个人所作的检验或者估价结论，海事法院不予采纳。

Article 86 The inspection and evaluation of a vessel shall be undertaken by an institution or individual with authority granted by the State or with professional qualifications. The maritime court shall not accept any conclusion of the survey or appraisal made or drawn up by institutions or individuals without authorization of the State or without professional qualifications.

第八十七条   海事法院审理船舶碰撞案件，应当在立案后一年内审结。有特殊情况需要延长的，由本院院长批准。

Article 87 The maritime court trying a case involving collision of ships shall conclude the case within one year after placing the case on the docket. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required.

第二节 审理共同海损案件的规定

Section 2 Provisions for Trial of General Average Cases

第八十八条   当事人就共同海损的纠纷，可以协议委托理算机构理算，也可以直接向海事法院提起诉讼。海事法院受理未经理算的共同海损纠纷，可以委托理算机构理算。

Article 88 With respect to a dispute arising from general average, the parties may either agree to entrust average adjusters with the adjustment, or directly bring an action in a maritime court. In dealing with an unadjusted general average dispute, the maritime court may entrust average adjusters with the adjustment.

第八十九条   理算机构作出的共同海损理算报告，当事人没有提出异议的，可以作为分摊责任的依据；当事人提出异议的，由海事法院决定是否采纳。

Article 89 The general average statement made by average adjusters may be admissible as the basis for contribution if no objection is raised by any of the parties; if no objection is raised by any of the parties, the maritime court shall decide whether to accept the statement or not.

第九十条   当事人可以不受因同一海损事故提起的共同海损诉讼程序的影响，就非共同海损损失向责任人提起诉讼。

Article 90 A party may bring an action against the person liable for non- general average losses without being prejudiced by the proceedings commenced for the general average claim arising from the same maritime accident.

第九十一条   当事人就同一海损事故向受理共同海损案件的海事法院提起非共同海损的诉讼，以及对共同海损分摊向责任人提起追偿诉讼的，海事法院可以合并审理。

Article 91 An action of non general average brought by the parties in respect of the same maritime accident in the maritime court entertaining the general average case, as well as an action of recourse brought for general average contribution against the person liable, may be consolidated by the maritime court.

第九十二条   海事法院审理共同海损案件，应当在立案后一年内审结。有特殊情况需要延长的，由本院院长批准。

Article 92 A maritime court trying a case involving general average shall conclude the case within one year after placing the case on the docket. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required.

第三节 海上保险人行使代位请求

Section 3 The exercise of the subrogation claim by a marine insurer

赔偿权利的规定

PROVISION OF RIGHT TO INDEMNIFICATION

第九十三条   因第三人造成保险事故，保险人向被保险人支付保险赔偿后，在保险赔偿范围内可以代位行使被保险人对第三人请求赔偿的权利。

Article 93 Where an insured event is caused by a third party, the insurer may, upon payment of insurance compensation to the insured party, exercise subrogation rights within the scope of insurance compensation to claim for compensation from the third party.

第九十四条   保险人行使代位请求赔偿权利时，被保险人未向造成保险事故的第三人提起诉讼的，保险人应当以自己的名义向该第三人提起诉讼。

Article 94 When an insurer exercises the right to indemnity by subrogation, if the insured does not bring an action against the third party causing the insured event, the insurer shall, in the name of itself, bring an action against the third party.

第九十五条   保险人行使代位请求赔偿权利时，被保险人已经向造成保险事故的第三人提起诉讼的，保险人可以向受理该案的法院提出变更当事人的请求，代位行使被保险人对第三人请求赔偿的权利。

Article 95 When an insurer exercises the right to indemnity by subrogation, if the insured has brought an action against the third party causing the insured event, the insurer may request the court entertaining the case to change the party so as to exercise by subrogation the right of the insured to indemnity against the third party.

被保险人取得的保险赔偿不能弥补第三人造成的全部损失的，保险人和被保险人可以作为共同原告向第三人请求赔偿。

Where the insurance indemnity obtained by the insured cannot make up all the losses caused by a third party, the insurer and the insured may, as co-plaintiffs, demand indemnity from the third party.

第九十六条   保险人依照本法第九十四条、第九十五条的规定提起诉讼或者申请参加诉讼的，应当向受理该案的海事法院提交保险人支付保险赔偿的凭证，以及参加诉讼应当提交的其他文件。

Article 96 When bringing an action or applying to participate in the proceedings in accordance with the provisions of Articles 94 and 95 of this Law, an insurer shall submit to the maritime court that entertains the case the certificate evidencing the payment of insurance indemnity by the insurer and other documents that should be submitted when participating in the proceedings.

第九十七条   对船舶造成油污损害的赔偿请求，受损害人可以向造成油污损害的船舶所有人提出，也可以直接向承担船舶所有人油污损害责任的保险人或者提供财务保证的其他人提出。

Article 97 With regard to a claim for indemnity against oil pollution damage caused by a ship, the person suffering for the damage may make the claim to the shipowner causing the oil pollution damage, or directly make the claim to the insurer bearing the liability for oil pollution damage of the shipowner or to other person providing financial suretyship.

油污损害责任的保险人或者提供财务保证的其他人被起诉的，有权要求造成油污损害的船舶所有人参加诉讼。

Where proceedings have been initiated against the insurer responsible for the oil pollution damage or some other person who has provided a financial guarantee, they shall be entitled to demand that the owner of the vessel causing the oil pollution damage join the proceedings.

第四节 简易程序、督促程序

Section 4 Summary Procedure and Procedure for the Recovery of Debts

和公示催告程序

And Procedure for Public Invitation to Assert Claims

第九十八条   海事法院审理事实清楚、权利义务关系明确、争议不大的简单的海事案件，可以适用《中华人民共和国民事诉讼法》简易程序的规定。

Article 98 When trying a simple maritime case in which the facts are evident, the rights and obligations clear and the disputes trivial in character, the maritime court may apply the provisions on summary procedure in the Civil Procedure Law of the People's Republic of China.

第九十九条   债权人基于海事事由请求债务人给付金钱或者有价证券，符合《中华人民共和国民事诉讼法》有关规定的，可以向有管辖权的海事法院申请支付令。

Article 99 Where a creditor, on the basis of a maritime matter, requests a debtor to pay a debt in cash or in securities, if it is found to be in conformity with the relevant provisions of the Civil Procedure Law of the People's Republic of China, the creditor may apply to the maritime court that has jurisdiction for an order of payment.

债务人是外国人、无国籍人、外国企业或者组织，但在中华人民共和国领域内有住所、代表机构或者分支机构并能够送达支付令的，债权人可以向有管辖权的海事法院申请支付令。

Where a debtor is a foreign national, stateless person, foreign enterprise or organization, but he has domicile, representative office or branch office within the territory of the People's Republic of China and an order of payment can be served, the creditor may apply to the maritime court that has jurisdiction for an order of payment.

第一百条   提单等提货凭证持有人，因提货凭证失控或者灭失，可以向货物所在地海事法院申请公示催告。

Article 100 A holder of a bill of lading or other documents for taking delivery of goods may, if the said documents are out of his control or lost, apply to the maritime court of the place where the goods are located for publication of public notice for assertion of claims.

第九章 设立海事赔偿责任限制基金程序

Chapter 9 Procedures for Constituting a Limitation Fund for Maritime Claims Liability

第一百零一条   船舶所有人、承租人、经营人、救助人、保险人在发生海事事故后，依法申请责任限制的，可以向海事法院申请设立海事赔偿责任限制基金。

Article 101 After the occurrence of a maritime accident, the owner, charterer, operator, salvor or insurer of a ship may, in accordance with law, apply to a maritime court for constitution of a limitation fund for maritime claims.

船舶造成油污损害的，船舶所有人及其责任保险人或者提供财务保证的其他人为取得法律规定的责任限制的权利，应当向海事法院设立油污损害的海事赔偿责任限制基金。

Where a ship has caused oil pollution damage, the shipowner and the insurer of liability or other persons providing financial suretyship shall, for the purpose of obtaining the right of liability limitation provided for by law, constitute with the maritime court a limitation fund for maritime claims in respect of oil pollution damage.

设立责任限制基金的申请可以在起诉前或者诉讼中提出，但最迟应当在一审判决作出前提出。

An application for constituting a limitation fund for liability may be submitted before bringing an action or during the proceedings, but it shall be submitted at least before the judgment of first instance is made.

第一百零二条   当事人在起诉前申请设立海事赔偿责任限制基金的，应当向事故发生地、合同履行地或者船舶扣押地海事法院提出。

Article 102. Where a litigant is applying for a limited liability fund for maritime claims prior to initiating proceedings, the application shall be submitted to the maritime court at the place where the accident occurred, the contract was performed or the vessel was arrested.

第一百零三条   设立海事赔偿责任限制基金，不受当事人之间关于诉讼管辖协议或者仲裁协议的约束。

Article 103 The constitution of a limitation fund for maritime claims liability shall not be bound by an agreement between the parties on jurisdiction or arbitration.

第一百零四条   申请人向海事法院申请设立海事赔偿责任限制基金，应当提交书面申请。申请书应当载明申请设立海事赔偿责任限制基金的数额、理由，以及已知的利害关系人的名称、地址和通讯方法，并附有关证据。

Article 104 A person who wishes to apply for constitution of a limitation fund for maritime claims shall file an application in writing with a maritime court. In the application shall be stated the amount of the limitation fund to be constituted for maritime claims, the reasons therefor as well as the names, addresses and means of correspondence of the known interested parties, with relevant evidence attached.

第一百零五条   海事法院受理设立海事赔偿责任限制基金申请后，应当在七日内向已知的利害关系人发出通知，同时通过报纸或者其他新闻媒体发布公告。

Article 105 After entertaining an application for constituting a limitation fund for maritime claims liability, the maritime court shall, within seven days, issue a notice to the known interested parties, and publish an announcement in newspapers or through other news media.

通知和公告包括下列内容：

The notice and public announcement shall include the following contents:

(一)申请人的名称；

1. name of the applicant;

(二)申请的事实和理由；

(II) facts and reasons for the application;

(三)设立海事赔偿责任限制基金事项；

(III) particulars for constitution of the limitation fund for maritime claims;

(四)办理债权登记事项；

(IV) particulars necessary for registration of claims; and

(五)需要告知的其他事项。

(V) other matters that need to be informed.

第一百零六条   利害关系人对申请人申请设立海事赔偿责任限制基金有异议的，应当在收到通知之日起七日内或者未收到通知的在公告之日起三十日内，以书面形式向海事法院提出。

Article 106 Any interested party who objects to the application filed by the applicant for constitution of a limitation fund for maritime claims shall file in writing with the maritime court within seven days from the date of receipt of the notice, or within 30 days from the date of the announcement if no notice is received.

海事法院收到利害关系人提出的书面异议后，应当进行审查，在十五日内作出裁定。异议成立的，裁定驳回申请人的申请；异议不成立的，裁定准予申请人设立海事赔偿责任限制基金。

After receiving a written objection submitted by the interested party, the maritime court shall examine it and make an order within 15 days. If the objection is justified, the ruling shall reject the applicant's application; if the objection is not justified, the ruling shall allow the applicant to constitute a limitation fund for maritime claims.

当事人对裁定不服的，可以在收到裁定书之日起七日内提起上诉。第二审人民法院应当在收到上诉状之日起十五日内作出裁定。

Litigants who object to the ruling may lodge an appeal within seven days of the date on which the ruling was received. The People's Court of second instance shall make a ruling within 15 days from the date of receipt of the petition for appeal.

第一百零七条   利害关系人在规定的期间内没有提出异议的，海事法院裁定准予申请人设立海事赔偿责任限制基金。

Article 107 If no objections are raised by the interested parties within the prescribed time limit, the maritime court shall make an order to allow the applicant to constitute a limitation fund for maritime claims.

第一百零八条   准予申请人设立海事赔偿责任限制基金的裁定生效后，申请人应当在海事法院设立海事赔偿责任限制基金。

Article 108 After an order approving an applicant to constitute a limitation fund for maritime claims liability takes effect, the applicant shall constitute the fund with the maritime court.

设立海事赔偿责任限制基金可以提供现金，也可以提供经海事法院认可的担保。

A limitation fund for maritime claims may be constituted either by providing cash or security acceptable to the maritime court.

海事赔偿责任限制基金的数额，为海事赔偿责任限额和自事故发生之日起至基金设立之日止的利息。以担保方式设立基金的，担保数额为基金数额及其在基金设立期间的利息。

The quantity of a limitation fund for maritime claims shall be the sum of such an amount of the limitation of liability for maritime claims, together with the interests therefrom from the date of the occurrence of the accident until the date of the constitution of the fund. Where the fund is constituted by way of security, the amount of the security shall cover the amount of the fund and any interest accruing thereon during the period of such constitution.

以现金设立基金的，基金到达海事法院指定帐户之日为基金设立之日。以担保设立基金的，海事法院接受担保之日为基金设立之日。

Where the fund is constituted in a form of cash, the date on which the fund reaches the account designated by the maritime court shall be the date of the constitution of the fund. Where guarantees form the fund, the date of establishing the fund will be the day when the maritime court accepts the guarantees.

第一百零九条   设立海事赔偿责任限制基金以后，当事人就有关海事纠纷应当向设立海事赔偿责任限制基金的海事法院提起诉讼，但当事人之间订有诉讼管辖协议或者仲裁协议的除外。

Article 109 After a limitation fund for maritime claims has been constituted, the parties shall bring an action in respect of the maritime dispute with the maritime court with which the limitation fund for maritime claims has been constituted, unless a jurisdiction agreement or arbitration agreement has been reached between the parties.

第一百一十条   申请人申请设立海事赔偿责任限制基金错误的，应当赔偿利害关系人因此所遭受的损失。

Article 110. An applicant who makes an error in applying for the establishment of a limited liability fund for maritime claims shall compensate the interested parties for losses consequently sustained.

第十章 债权登记与受偿程序

Chapter 10 Procedures for Registering Claims and Repayment

第一百一十一条   海事法院裁定强制拍卖船舶的公告发布后，债权人应当在公告期间，就与被拍卖船舶有关的债权申请登记。公告期间届满不登记的，视为放弃在本次拍卖船舶价款中受偿的权利。

Article 111 After a maritime court issues a public notice ordering the compulsory auction of a ship, the creditors shall, within the period of the public notice, apply to register the claims related to the ship to be auctioned. Those who have not registered when the term of public notice expires will be deemed to have renounced their rights to receive payments from the purchase price of the vessel auctioned on that occasion.

第一百一十二条   海事法院受理设立海事赔偿责任限制基金的公告发布后，债权人应当在公告期间就与特定场合发生的海事事故有关的债权申请登记。公告期间届满不登记的，视为放弃债权。

Article 112 After the maritime court's announcement of acceptance of the application to constitute a limitation fund for maritime claims, the creditors shall, within the time limit announced, apply to register the claims related to the maritime accident that has occurred on a particular occasion. Those who have not registered when the term of public notice expires will be deemed to have renounced their claim.

第一百一十三条   债权人向海事法院申请登记债权的，应当提交书面申请，并提供有关债权证据。

Article 113 When applying to register the creditors' rights with a maritime court, the creditors shall submit written applications, and shall provide evidence of creditors' rights.

债权证据，包括证明债权的具有法律效力的判决书、裁定书、调解书、仲裁裁决书和公证债权文书，以及其他证明具有海事请求的证据材料。

Evidence of creditors' rights includes written judgment, order in writing, conciliation statement, arbitration award and document evidencing creditors' rights and other evidential materials certifying the existence of maritime claims.

第一百一十四条   海事法院应当对债权人的申请进行审查，对提供债权证据的，裁定准予登记；对不提供债权证据的，裁定驳回申请。

Article 114 The maritime court shall examine the application of a creditor; where evidence of creditors' rights is provided, it shall order to approve the registration; where no evidence of creditors' rights is provided, it shall order to reject the application.

第一百一十五条   债权人提供证明债权的判决书、裁定书、调解书、仲裁裁决书或者公证债权文书的，海事法院经审查认定上述文书真实合法的，裁定予以确认。

Article 115 Where the maritime court, having examined the judgments, written orders, conciliation statements, arbitral awards, or the notarised documents concerning creditors' rights to debt provided by the creditors, firmly believe that those documents are true and lawful, it shall rule to confirm them.

第一百一十六条   债权人提供其他海事请求证据的，应当在办理债权登记以后，在受理债权登记的海事法院提起确权诉讼。当事人之间有仲裁协议的，应当及时申请仲裁。

Article 116 Where a creditor is to provide other evidence of a maritime claim, he shall, after registering the claims, bring an action for affirming the rights in the maritime court entertaining the registration of the claims. Where there is an arbitration agreement between the parties, arbitration shall be applied for promptly.

海事法院对确权诉讼作出的判决、裁定具有法律效力，当事人不得提起上诉。

The judgment and ruling made by the maritime court on an action for affirming rights shall be legally effective, no party may file an appeal.

第一百一十七条   海事法院审理并确认债权后，应当向债权人发出债权人会议通知书，组织召开债权人会议。

Article 117 After trying and affirming the claims, the maritime court shall issue a notice of the creditors' meeting to the creditors, and organize to convene the creditors' meeting.

第一百一十八条   债权人会议可以协商提出船舶价款或者海事赔偿责任限制基金的分配方案，签订受偿协议。

Article 118 The creditors' meeting may propose through consultation the proceeds of the ship or a plan for the distribution of the limitation fund for maritime claims, and sign an agreement on the repayment of debt.

受偿协议经海事法院裁定认可，具有法律效力。

The agreement on the repayment of debt shall have legal force upon approval by an order of a maritime court.

债权人会议协商不成的，由海事法院依照《中华人民共和国海商法》以及其他有关法律规定的受偿顺序，裁定船舶价款或者海事赔偿责任限制基金的分配方案。

Where the creditors' meeting fails to conclude an agreement, the maritime court shall, in accordance with the order of the repayment of debt as stipulated in the Maritime Code of the People's Republic of China and other relevant laws, decide on the plan for distribution of the proceeds from the ship or the limitation fund for maritime claims.

第一百一十九条   拍卖船舶所得价款及其利息，或者海事赔偿责任限制基金及其利息，应当一并予以分配。

Article 119 The proceeds of auction of a ship and interest thereon, or the limitation fund for maritime claims and interest thereon, shall be distributed at the same time.

分配船舶价款时，应当由责任人承担的诉讼费用，为保存、拍卖船舶和分配船舶价款产生的费用，以及为债权人的共同利益支付的其他费用，应当从船舶价款中先行拨付。

When distributing the proceeds of a ship, the litigation costs ought to be borne by the persons liable, the expenses for preserving and auctioning the ship and distributing the proceeds of ship, and other expenses incurred for the common interests of the creditors, shall be deducted and paid first from the proceeds of the ship.

清偿债务后的余款，应当退还船舶原所有人或者海事赔偿责任限制基金设立人。

The balance, after satisfaction of the debts, shall be refunded to the original shipowner or the person constituting the limitation fund for maritime claims.

第十一章 船舶优先权催告程序

Chapter 11 Procedures for Publicizing Notice for Assertion of Maritime Liens

第一百二十条   船舶转让时，受让人可以向海事法院申请船舶优先权催告，催促船舶优先权人及时主张权利，消灭该船舶附有的船舶优先权。

Article 120 When a ship is transferred, the transferee may apply to the maritime court for exigence of the maritime lien, demanding the maritime lien holder to assert his right promptly so as to extinguish the maritime lien attached to the ship.

第一百二十一条   受让人申请船舶优先权催告的，应当向转让船舶交付地或者受让人住所地海事法院提出。

Article 121 A transferee who wishes to apply for exigence of the maritime lien shall file an application with the maritime court of the place where the ship is delivered or where the domicile of the transferee is located.

第一百二十二条   申请船舶优先权催告，应当向海事法院提交申请书、船舶转让合同、船舶技术资料等文件。申请书应当载明船舶的名称、申请船舶优先权催告的事实和理由。

Article 122 When applying for publicizing notice for assertion of maritime liens, an application, the ship transfer contract, the technical information of the ship and other documents shall be submitted to the maritime court. The application shall clearly state the name of the ship, the facts of and reasons for the application for publicizing notice for assertion of maritime liens.

第一百二十三条   海事法院在收到申请书以及有关文件后，应当进行审查，在七日内作出准予或者不准予申请的裁定。

Article 123 After receiving the application and relevant documents, the maritime court shall examine them and make an order approving or disapproving the application within seven days.

受让人对裁定不服的，可以申请复议一次。

Where the transferee is not satisfied with the order, it may apply for reconsideration which could be granted only once.

第一百二十四条   海事法院在准予申请的裁定生效后，应当通过报纸或者其他新闻媒体发布公告，催促船舶优先权人在催告期间主张船舶优先权。

Article 124 After the order approving the application takes effect, the maritime court shall issue a public notice in newspapers or through other news media, so as to urge the persons enjoying maritime liens to assert their rights within the period of publication of the notice.

船舶优先权催告期间为六十日。

The period of publication of a notice for maritime liens shall be sixty days.

第一百二十五条   船舶优先权催告期间，船舶优先权人主张权利的，应当在海事法院办理登记；不主张权利的，视为放弃船舶优先权。

Article 125 Where a person enjoying maritime liens claims his rights within the period of publication of a notice for maritime liens, he shall register with the maritime court; if he fails to claim his rights, he shall be deemed to have waived the maritime liens.

第一百二十六条   船舶优先权催告期间届满，无人主张船舶优先权的，海事法院应当根据当事人的申请作出判决，宣告该转让船舶不附有船舶优先权。判决内容应当公告。

Article 126 Where no one claims the maritime lien at the expiration of the period of publication of a notice for maritime lien, the maritime court shall, in accordance with the application of the parties, make a judgment to declare that no maritime lien is attached to the transferred ship. The contents of the judgment shall be published.

第十二章 附 则

Chapter 12 Supplementary Provisions

第一百二十七条   本法自2000年7月1日起施行。

Article 127 This Law shall go into effect as of July 1, 2000.