

The Maritime Procedure Law of the People's Republic of China, 1999

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Chapter I General Principles (Arts 1-5)

Article 1 This Law is enacted to safeguard the procedural rights of parties in maritime proceedings, and to ensure that the People's courts ascertain the facts, establish liability, apply laws properly and hear maritime cases promptly.

Article 2 The Civil Procedure Law of the People's Republic of China and this Law shall apply in maritime proceedings conducted within the territory of the People's Republic of China. This Law shall prevail wherever its provisions are applicable.

Article 3 Where an international treaty concluded or acceded to by the People's Republic of China contains provisions that differ from those of the Civil Procedure Law of the People's Republic of China and this Law, those of the international treaty shall prevail, except where the People's Republic of China has declared reservations.

Article 4 The Maritime courts shall entertain actions brought up by relevant parties in respect to maritime torts, maritime contracts and other maritime disputes provided for by law.

Article 5 The Maritime courts, their local High People's courts, and the Supreme People's Court shall apply this Law in respect of maritime proceedings.

Chapter II Jurisdiction (Arts 6-11)

Article 6 The following provisions, as well as those of the Civil Procedure Law of the People's Republic of China on territorial jurisdiction, shall apply to maritime proceedings:

- 1) Jurisdiction over cases arising from maritime torts may be exercised by the Maritime Court of the place where the vessel was registered, as well as by the courts specified in Arts. 29 to 31 of the Civil Procedure Law;
- 2) Jurisdiction over cases arising from maritime contracts may be exercised by the Maritime Court of the place where the transshipment was carried out, as well as by the courts specified in Art. 28 of the Civil Procedure Law;
- 3) Jurisdiction over cases relating to contracts for the lease of sea-going vessels shall be exercised by the Maritime courts of the places where the vessel was delivered, or re-delivered, or registered or where the defendant is domiciled;
- 4) Jurisdiction over cases arising from marine insurance contracts shall be exercised by the Maritime courts of the place where the insured object was located, or the accident occurred or the defendant is domiciled;
- 5) Jurisdiction over cases arising from contracts for the employment of seafarers shall be exercised by the Maritime courts of the place where the plaintiff is domiciled, or where the contract was concluded, or where the seafarer embarked or disembarked, or where the defendant is domiciled;
- 6) Jurisdiction over cases in which maritime security is sought shall be exercised by the Maritime Court in the place where the collateral is located or where the defendant is domiciled; jurisdiction over cases arising from vessel mortgage may also be exercised by the Maritime Court of the place where the vessel is registered;
- 7) Jurisdiction over cases arising from the ownership, possession, usage, or maritime lien of a sea-going vessel shall be exercised by the Maritime Court of the place where the vessel is located or registered, or where the defendant is domiciled.

Article 7 The following maritime cases shall be subject to the exclusive jurisdiction of the Maritime courts stipulated herein:

- 1) Jurisdiction over cases arising from port operations shall be exercised by the Maritime Court of the place where the port is located;
- 2) Jurisdiction over cases relating to discharge, leaking, or dumping of oil products or other harmful substances from a vessel, and cases relating to marine pollution and damage caused by the marine activities and operations or caused by the demolition and repair of a vessel, shall be exercised by the Maritime Court of the place where the pollution occurred, or where the damage was caused or where preventative measures were taken;
- 3) Jurisdiction over cases arising from marine exploration and exploitation contracts within the territorial sea of the People's Republic of China and other sea areas over which the People's Republic of China has jurisdictional authority shall be exercised by the Maritime Court of the place where the contract was performed.

Article 8 Where all parties of a maritime case are foreign or stateless persons or enterprises or organizations, who have agreed in writing to the jurisdiction of a Maritime court of the People Republic of China, it shall thereby have jurisdiction over the case, even if the place with which the case is associated is not within the territory of the People's Republic of China.

Article 9 Applications for determining unclaimed property at sea shall be submitted to the Maritime Court of the place where the property is located. Applications for declarations of deaths of persons as a result of maritime accident shall be submitted to the Maritime Court of the place

where the competent authority in charge of handling the maritime accident is located, or to the Maritime Court that has entertained cases in relation to the accident.

Article 10 Any dispute in respect of jurisdiction between a Maritime Court and a local People's Court shall be resolved by consultation between the two courts; in the absence of which, the matter shall be submitted to their common superior People's Court for a designation of jurisdiction.

Article 11 Applications for enforcement of maritime arbitration awards, or for recognition and enforcement of foreign judgments or rulings, or foreign maritime arbitration awards shall be submitted to the Maritime Court of the place where is located the property subject to enforcement, or of the place of the respondent's domicile. Where no Maritime Court is at such a place, the application should be submitted to the relevant local Intermediate People's Court.

Chapter III Maritime Preservation (Arts 12-50)

Section 1 General Provisions (Arts 12-20)

Article 12 Maritime preservation refers to any compulsory measure, upon the request of the claimant, ordered by Maritime courts against the property of the respondent to ensure any maritime claims of the claimant can be fulfilled.

Article 13 Applications for maritime preservation prior to proceedings shall be submitted to the Maritime Court of the place where the property is located.

Article 14 Applications for maritime preservation shall not be limited by agreements between the parties as to jurisdiction or arbitration.

Article 15 Applications for maritime preservation should be submitted to the Maritime courts in writing, stating the maritime claim, the course of action, the subject matter of the preservation, as well as the amount of security required, along with relevant supporting evidence.

Article 16 Upon receipt of the application for maritime preservation, the Maritime Court may order the claimant to provide security, and the claimant's failure to comply is cause for the application to be rejected.

Article 17 The Maritime Court shall grant a ruling within forty-eight hours upon receipt of the application. The order for maritime preservation shall be enforced forthwith; the application should be rejected if it does not conform to the requirements for maritime preservation.

Within five days of receiving a ruling, parties objecting to the ruling may once and for all apply for a review, and, upon receipt of that application, the Maritime Court shall render a decision on review within five days. The execution of the preservation order shall not be affected by the review.

Any interested party may raise an objection to the maritime preservation ruling. The Maritime Court shall discharge the maritime preservation order if the objection is justified.

Article 18 The Maritime Court should discharge the maritime preservation order immediately upon the provision of securities by the respondent, or upon the request of any party on justifiable grounds.

The Maritime Court shall immediately discharge the maritime preservation order or return the security where the claimant failed to commence proceedings or to apply for arbitration in accordance with the arbitration agreement within the time limit stipulated by this Law.

Article 19 After the execution of a maritime preservation order, any party may, if he has not yet, commence proceedings on the maritime dispute before the Maritime Court which ordered

maritime preservation, or before the Court which has jurisdiction over the case, unless a jurisdiction or arbitration agreement between the parties provides otherwise.

Article 20 The claimant shall be liable for any loss sustained by the respondent or any other interested party due to a wrongful application for maritime preservation.

Section 2 Arrest and Auction of Vessels (Arts 21-43)

Article 21 The following maritime claims may include a right to the arrest of a vessel:

- 1) Property loss or damage caused by the operations of the vessel;
- 2) Loss of life or personal injury directly related to the operations of the vessel;
- 3) Salvage operations;
- 4) Damage or threat of damage caused by the vessel to the environment, coastline or related interests; measures taken to prevent, minimize or eliminate such kinds of damage; compensation paid for such kinds of damage; expenses for taking or preparing to take measures in restoration of the environment; loss incurred or likely to be incurred by third parties in connection with such damage; and damage, expenses or loss of a similar nature to those identified in this Subparagraph;
- 5) Expenses relating to the re-floating, removal, recovery, destruction or rendering harmless of a sunk, wrecked, stranded or abandoned vessel, including anything that is or has been on board the vessel, and expenses relating to the maintenance of an abandoned vessel and her crew;
- 6) Any agreement relating to the use or hire of the vessel;
- 7) Any agreement relating to the carriage of goods or passengers on board the vessel;
- 8) Loss of or damage to or in connection with goods (including luggage) carried on board the vessel;
- 9) General average;
- 10) Towage;
- 11) Pilotage;
- 12) Materials supplied or service rendered to the vessel for its operation, management, preservation or maintenance;
- 13) Construction, reconstruction, repair, conversion or equipment of the vessel;
- 14) Port, canal, dock, harbor and other waterway dues and charges;
- 15) Wages and other sums due to the crew including costs of repatriation and social insurance contributions payable on their behalf;
- 16) Disbursements incurred on behalf of the vessel or its owners;
- 17) Insurance premiums (including mutual insurance calls) in respect of the vessel, payable by or on behalf of the shipowner or demise charterer;
- 18) Any commissions, brokerages or agency fees payable in respect of the vessel by or on behalf of the shipowner or demise charterer;
- 19) Any dispute as to ownership or possession of the vessel;
- 20) Any dispute between joint-owners of the vessel as to the employment or earnings of the vessel;
- 21) A mortgage or a charge of the same nature on the vessel;
- 22) Any dispute arising out of a contract for the sale of the vessel.

Article 22 A vessel can be arrested only in respect of a maritime claim specified in Article 21 of this Law except for enforcement of a judgment, arbitration award or other enforceable legal document.

Article 23 The Maritime courts may arrest the vessel in any of the following circumstances:

- 1) The owner of the vessel is liable for the claim, and still the owner of the vessel when the arrest is effected;

- 2) The demise charterer of the vessel is liable for the claim, and still the demise charterer of the vessel when the arrest is effected;
- 3) The maritime claim is based upon a mortgage or a charge of the same nature on the vessel;
- 4) The maritime claim relates to the ownership or possession of the vessel;
- 5) The maritime claim is based on a maritime lien.

The Maritime courts may arrest other vessels that, at the time of the arrest, are owned by the owner, demise charterer, time charterer, or voyage charterer, who is liable for the maritime claim, except in cases where the claims are in respect of ownership or possession of the vessel.

Military and public service vessels cannot be arrested.

Article 24 The claimant cannot apply for an arrest of the vessel that has already been arrested for the same maritime claim except where:

- 1) The respondent has not provided sufficient security; or
- 2) The guarantor is likely to be unable to fully or partially perform his duties under the security; or
- 3) The claimant has consented on reasonable grounds to release of the arrested vessel or return of the security already provided; or where reasonable measures cannot be taken to prevent the release of the arrested vessel or the return of the provided security.

Article 25 The claimant may apply for an arrest of the vessel concerned notwithstanding the fact that the name of the respondent cannot be immediately ascertained.

Article 26 The Maritime Court may contact relevant organizations for assistance in execution of an order to arrest or release a vessel. The notice shall state the scope and substance of the assistance required with regard to the execution. The organizations concerned are obliged to assist in the execution. The Maritime Court may, where it is necessary, send officers on board the vessel for supervision of the arrest.

Article 27 With the consent of the claimant, a vessel under maritime preservation may be allowed to resume operation, subject to restraints on disposing of the vessel or setting up a new mortgage on the vessel.

Article 28 The limit of an arrest of a vessel under maritime preservation is thirty days.

Where judicial proceedings or arbitration are commenced within thirty days of the arrest, or the arrest is made in the course of judicial proceedings or arbitration, the arrest shall not be subject to the time limit stipulated in the preceding Paragraph.

Article 29 Where the respondent has not, within the time limit, provided a security and the vessel is not in a condition suitable for continued arrest, the claimant may, after commencing proceedings or applying for arbitration, apply to the Maritime Court for auction of the vessel.

Article 30 Upon receipt of an application for auction of a vessel, the Maritime Court shall examine the case and grant a ruling so as to approve or disapprove the auction of the vessel.

Within five days upon receipt of the ruling, any party objecting to the ruling may request a review, upon receipt of which, the Maritime Court shall render a decision on the review within five days. The execution of the ruling should be suspended during the period of the review.

Article 31 Where the claimant applies to terminate the auction once it has been commenced, the Maritime Court has the power to decide as to whether or not the application is admissible. Where the Maritime Court orders the auction terminated, expenses incurred for the preparation of the auction shall be borne by the claimant.

Article 32 The Maritime Court, after ruling for the auction of the vessel, shall issue a public notice in newspapers or through other news media, or through overseas newspapers or other news media where a foreign-flag vessel is to be auctioned.

The public notice shall include the follows:

- 1) The name and nationality of the vessel to be auctioned;
- 2) Reasons for and grounds of the auction;
- 3) Composition of the Auction Committee;
- 4) Time and venue of the auction;
- 5) Time and venue for inspection;
- 6) Formality of bidding;
- 7) Formality of credit registration; and
- 8) Other matters deemed to be necessary for the notice.

The time limit of the public notice shall be no less than thirty days.

Article 33 The Maritime courts shall notify the registration authorities, holders of maritime liens or mortgages, and owners who are known to the Court thirty days prior to the auction.

The notice shall contain the name of the vessel to be auctioned, the time and the venue of the auction, the reasons and grounds of the auction, as well as the formality of credit registration, and so on.

The notice shall be in writing or other forms whereby the receipt of the notice can be confirmed.

Article 34 The auction shall be carried out by a Auction Committee, which may consist of four or five persons including Court Executive Officers, and by auctioneers and inspectors appointed by the Maritime Court.

The Auction Committee is in charge of appraising and evaluating the vessel, organizing and conducting the auction, signing the confirmation of auction with the bidder, and handling the transfer of the vessel.

The Auction Committee answers to and is under the supervision of the Maritime Court.

Article 35 Bidders shall register their bids with the Auction Committee within the time limit. At registration, bidders, or their legal representatives, shall submit for verification their identity certificates and power of attorney, together with payment of a certain amount of deposit.

Article 36 Prior to the auction, the Auction Committee shall make the vessel available for inspection and provide other necessary documents and information of the vessel.

Article 37 The successful bidder (buyer) shall immediately make a payment of no less than twenty per cent of the price after signing the confirmation of auction, and the remaining amount should be paid in full within seven days of the date of confirmation, unless the Auction Committee has agreed otherwise with the buyer.

Article 38 Upon payment of the full amount of the price, the original owner shall transfer the vessel in its existing condition to the buyer at the place where the vessel is berthed within a specified time limit. The Auction Committee shall arrange and supervise the transfer, and sign a confirmation of transfer of the vessel with the buyer.

Upon the completion of transfer, the Maritime Court shall issue an order to release the vessel from arrest.

Article 39 The Maritime Court, after the transfer, shall issue a public notice, through newspapers or other news media, announcing that the vessel has been auctioned and transferred to the buyer.

Article 40 Upon acceptance of the vessel, the buyer shall, with the confirmation of transfer and other relevant documents, have the vessel registered. The original owner of the vessel shall de-register his ownership. However, the transfer of ownership shall not be affected by such a de-registration.

Article 41 Where there is malicious collaboration between bidders, the auction is void. Bidders who participate in a malicious collaboration shall be liable for the costs of the auction and any losses occurred, and the Maritime Court may impose on them a fine ranging from ten per cent up to thirty per cent of the highest bid in amount.

Article 42 The relevant provisions of the Auction Law of the People's Republic of China, as well as the provisions of this Section, shall apply to auction of vessels.

Article 43 The relevant provisions of this Section may apply *mutatis mutandis* to auction of a vessel under arrest for discharge of debts in the procedure for enforcement.

Section 3 Attachment and Auction of Goods (Arts 44-50)

Article 44 A claimant may apply for attachment of the goods carried on board a vessel to ensure his maritime claims can be satisfied.

The goods to be attached shall be owned by the respondent.

Article 45 The value of the goods to be attached shall be in line with the amount of his claim.

Article 46 The time limit for attachment of goods in preservation of a maritime claim is fifteen days.

Where judicial proceedings or arbitration are commenced within fifteen days after the attachment, or the attachment is effected in the course of judicial proceedings or an arbitration, the attachment shall not be subject to the time limit stipulated in the preceding Paragraph.

Article 47 Where the respondent within the time limit fails to provide security as required and the nature of the goods makes inappropriate their continued attachment, the claimant may, after commencing judicial proceedings or applying for arbitration, apply to the Maritime Court to auction the goods.

The claimant may apply for an earlier auction where it is impossible or difficult for the goods to be kept, or where storage fees are likely to surpass the value of the goods.

Article 48 Within seven days of receipt of an application for the auction of the goods, the Maritime Court shall examine the case and grant a ruling approving or disapproving the application.

Within five days upon receipt of a ruling, a party objecting to the ruling may once and for all apply for a review, upon receipt of which, the Maritime Court shall within five days render a decision of the review. The execution of the ruling shall be suspended during the review.

Article 49 The auction of goods shall be carried out by an Auction Committee consisting of a Court Executive Officer and by appointed auctioneers, or by an organization entrusted with the matter by the Court.

The relevant provisions in Section Two of this Chapter in respect of auction of vessels may apply *mutatis mutandis* to auction of goods where appropriate.

Article 50 The provisions of this Section should apply to maritime preservation actions respecting bunkers and supplies carried on board a ship.

Chapter IV maritime injunctions (Arts 51-61)

Article 51 A maritime injunction is a coercive measure adopted by a Maritime Court, upon the request of a claimant, by the means of an order for action or omission on the part of the respondent to prevent the legitimate right and interest of the claimant from being infringed.

Article 52 An application for a maritime injunction prior to judicial proceedings shall be submitted to a Maritime Court at the place where the dispute arose.

Article 53 A maritime injunction shall not be bound by the any agreement between the parties as to jurisdiction or arbitration with respect to the maritime claim.

Article 54 An application for a maritime injunction shall be submitted in writing to the Maritime Court, stating the grounds of the application, together with relevant evidence.

Article 55 Upon receipt of the application, the Maritime Court may order the claimant to provide security, and the application shall be rejected in the event of the claimant's failing to comply with the security order.

Article 56 For granting a maritime injunction, the following conditions shall be satisfied:

- 1) The applicant has a specific maritime claim;
- 2) Remedies are necessary for the violation of law or breach of a contract on the part of the respondent; and
- 3) If a maritime injunction is not granted as a matter of urgency, further damage is inevitable.

Article 57 Upon receipt of the application, the Maritime Court shall grant a ruling within forty-eight hours. A maritime injunction so granted shall be enforced forthwith, or the application shall be rejected where the conditions of granting a maritime injunction are not satisfied.

Article 58 Upon receipt of the ruling, parties objecting to the ruling may once and for all apply for a review, upon receipt of which, the Maritime Court shall render a decision after the review within five days. The execution of the ruling shall not be affected by the review.

An interested party may raise an objection to the ruling of maritime injunction. The Maritime Court shall rule to annul the maritime injunction if the objection is justified.

Article 59 The Maritime Court may in accordance with the gravity of the situation impose a fine or detention on the respondent who refuses to comply with the maritime injunction; where the act constitutes an offence, a criminal liability may be imposed.

A fine can be imposed from Renminbi 1,000 yuan up to Renminbi 30,000 yuan for an individual, from Renminbi 30,000 yuan up to Renminbi 100,000 yuan for an organization.

Detention can be ordered for up to fifteen days.

Article 60 The claimant shall be liable for any loss sustained by the respondent or any other interested party due to a wrongful application for a maritime injunction.

Article 61 After the execution of a maritime injunction, any party may, if a judicial proceeding or arbitration has not yet been commenced, commence proceedings respecting the maritime claim in either the Maritime Court where the maritime injunction was granted or the Maritime Court that has jurisdiction over the case, unless an agreement between the parties as to jurisdiction or arbitration provides otherwise.

Chapter V Preservation of Maritime Evidence (Arts 62-72)

Article 62 Preservation of maritime evidence is a coercive measure taken by a Maritime Court upon request of a claimant to discover, preserve or seal up evidence related to a maritime claim.

Article 63 Application for preservation of maritime evidence prior to commencing judicial proceedings shall be submitted by a party to the Maritime Court at the place where the evidence to be preserved is located.

Article 64 Preservation of maritime evidence shall not be controlled by an agreement of the parties as to jurisdiction or arbitration in respect of the maritime claim.

Article 65 The application shall be submitted in writing to the Maritime Court, stating the evidence to be preserved, the relationship between the evidence and the maritime claim, and the grounds.

Article 66 Upon receipt of an application for preservation of maritime evidence, the Maritime Court may order the claimant to provide security, and the application shall be rejected in the event of the claimant's failing to comply with the security order.

Article 67 For a Maritime Court to order the preservation of maritime evidence, the following conditions shall be satisfied:

- 1) The applicant is a party to the maritime claim;
- 2) The evidence to be preserved is substantially related for the maritime claim;
- 3) The respondent is the relevant person to the evidence; and
- 4) Without preservation granted as matter of urgency, the evidence will be lost or inevitably inaccessible.

Article 68 The Maritime Court shall grant a ruling within forty-eight hours upon receipt of an application. The ruling for a preservation of maritime evidence shall be enforced forthwith; or the application should be rejected if it does not conform to the requirements for a preservation.

Article 69 Within five days upon receipt of the ruling, any party objecting to the ruling may once and for all apply for a review, upon receipt of which, the Maritime Court shall within five days render a decision of the review. The execution of the ruling shall be suspended during the period of review. However, the preserved evidence shall be returned to the respondent if his application is justified.

An interested party may raise an objection to the preservation of maritime evidence. The Maritime Court shall return the relevant evidence to the interested party if the objection is justified.

Article 70 The Maritime Court may effect preservation by means of sealing the evidence, or producing a duplicate or copy, or taking photographs and video records, or producing extracts and notes where appropriate, and may seize the original evidence where necessary.

Article 71 The claimants shall indemnify any damage sustained by the respondent or any interested party as a result of a wrongful application of preservation.

Article 72 After the preservation of maritime evidence, parties may, if a judicial proceeding or arbitration has not been commenced, commence judicial proceedings in respect of the maritime claim before either the Maritime Court where the evidence was preserved or the Maritime Court which has jurisdiction over the case, unless an agreement between the parties as to jurisdiction or arbitration provides otherwise.

Chapter VI Maritime Security (Arts 73-79)

Article 73 Maritime security means any security relating to maritime preservation, maritime injunction, or preservation of maritime evidence as so stipulated in this Law.

Maritime security may be provided in the forms of cash, guarantee, mortgage or pledge.

Article 74 Security provided by claimants shall be submitted to the Maritime Court; security provided by respondent may be presented either to the Maritime Court or to the claimant.

Article 75 The form and amount of security provided by a claimant shall be determined by the Maritime Court, whilst that provided by the respondent may be agreed upon by the parties; in the absence of such an agreement, the form and amount shall be determined by the Maritime Court.

Article 76 The amount of security requested by a claimant in preservation of a maritime claim shall be in line with the value of his credit, and not exceed the value of the property under preservation.

The amount of security provided by the claimant shall be in line with the loss likely to be sustained by the respondent due to claimant's wrongful application, and shall be determined by the Maritime Court.

Article 77 After provision of security, the provider may, based on justifiable reason, apply to the Maritime Court to reduce, modify or cancel the security.

Article 78 The claimant shall be liable for any loss sustained by the respondent due to demand for an excessive amount of security.

Article 79 The provision of this Chapter may apply *mutatis mutandis* to the provision of security in the establishment of a limitation fund and preliminary execution.

Chapter VII Services (Arts 80-81)

Article 80 Service of legal documents in maritime proceedings shall conform to the relevant provisions of the Civil Procedure Law of the People's Republic of China, and, where it is appropriate, legal documents may also be served:

- 1) Upon the litigation representative authorized by the person upon whom documents are to be served; or
- 2) Upon the representative or branch office established in the People's Republic of China by the person upon whom documents are to be served, or upon its agent; or
- 3) By other suitable means which can confirm the receipt of the documents.

Documents of arrest of a vessel may also be served upon the Master of the vessel concerned.

Article 81 Where the person under the obligation to accept legal documents refuses to accept or acknowledge receipt, the server shall record the fact on the receipt, which, when signed and chopped by the server and any witnesses, is deemed to have completed the service.

Chapter VIII Trial Procedures (Arts 82-100)

Section 1 Collision Cases (Arts 82-87)

Article 82 Both the plaintiff and the defendant shall complete the Maritime Accident Investigation Form in good faith at the time of bringing up an action or defending the case.

Article 83 Evidential documents will not be attached to the bill of complaint or the bill of pleadings to the parties from the Maritime Court.

Article 84 The burden of proof shall be discharged by the parties prior to the Court hearing. A party who has discharged his burden of proof shall present the Maritime Court with a Statement of Completion before he may apply for cross-examination of factual evidence concerning the collision.

Article 85 The parties are estopped from reversing statements previously made in the Maritime Accident Investigation Form and the evidence provided therewith, unless reversal is warranted by new evidence, which it can be proved was impossible to submit at the time of proof.

Article 86 Vessel inspection and valuation shall be undertaken by professional institutions or individuals approved by the Authorities. Maritime courts shall not admit as evidence any survey or valuation reports issued by others.

Article 87 Collision cases shall be concluded within one year after the filing of such cases for trial. Any extension beyond the one-year limit in special circumstances shall be approved by the President of the Court.

Section 2 General Average Cases (Arts 88-92)

Article 88 Parties may agree to submit a general average dispute to average adjusters for adjustment or to commence proceedings directly before a Maritime Court. The Maritime Court may appoint average adjusters for adjustment of the general average dispute.

Article 89 Where there is no objection from either party, the General Average Statement issued by the average adjusters can be admissible as the basis for general average contribution; in the absence of such an agreement, the Maritime Court shall decide on the admissibility of the Statement.

Article 90 A party may bring an action for a claim arising from the same maritime accident as a general average claim without being prejudiced by the general average proceedings.

Article 91 An action brought by a party against the party for liable for both general average contribution and non-general average claims arising from the same maritime accident can be consolidated by the Maritime Court in which both actions were brought.

Article 92 General average cases shall be concluded within one year after the filing of such cases for trial. Any extension beyond of the one-year limit in special circumstances shall be approved by the President of the Court.

Section 3 Subrogation in Marine Insurance (Arts 93-97)

Article 93 Where a third party is liable for an insured accident, the insurer by subrogation may obtain the right against the third party for indemnity within the scope of the insurance, after the insurer has indemnified the assured.

Article 94 When exercising the right of subrogation, the insurer may bring an action in his own name against the liable third party if the assured has not already commenced proceedings.

Article 95 When exercising the right of subrogation, the insurer may apply to the Court for alteration of the name of the litigating party where the assured has already commenced proceedings against the liable third party.

Where the loss caused by the third party is not fully covered by insurance, the insurer and assured may act jointly as plaintiffs against the third party.

Article 96 Pursuant to Articles 94 and 95 commencing or joining proceedings, the insurer shall submit to the Maritime Court evidence of payment of insurance indemnity, and other documents necessary for the proceedings.

Article 97 The victim of oil pollution damage caused by a vessel may bring an action directly against the insurer or financial guarantor for the vessel's oil pollution liability, as well as against the owner of the vessel causing the damage.

The insurer or financial guarantor being sued directly is entitled to request that the owner of the vessel join the proceedings.

Section 4 Summary, Supervision and Public Notice (Arts 98-100)

Article 98 The Maritime courts may apply the Summary Procedure provided in the Civil Procedure Law of the People's Republic of China when hearing small and simple cases in which the facts and merits are clear.

Article 99 Where a creditor requests payment of cash or a negotiable paper from a debtor in relation to maritime service, the creditor may apply to the Maritime Court that has jurisdiction for an Order of Payment in accordance with the Civil Procedure Law of the People's Republic of China.

Where a debtor is a foreign or stateless person, enterprise or organization with domicile, representative or branch in the territory of the People's Republic of China that can be served with an Order of Payment, the creditor may apply to the Maritime Court that has jurisdiction to issue an Order of Payment.

Article 100 A holder of a bill of lading or similar document for taking delivery of goods, which is out of control or lost, may apply to the Maritime Court in the place where the goods are located for a public invitation to assert claims.

Chapter IX Establishment of Limitation Funds (Arts 101-110)

Article 101 Following a maritime accident, the owner, charterer, operator, salvor or insurer of the vessel may apply to a Maritime Court for an order to establish a limitation fund for maritime claims.

Where oil pollution damage occurs from a vessel, the owner and the insurer or other financial guarantor of the vessel, in order to be entitled to limit their liability under relevant law, shall apply to a Maritime Court for an order to establish a limitation fund for oil pollution claims.

Application for establishment of limitation funds may be submitted prior to or during other proceedings, but application must be made prior to the delivery of the first instance judgment.

Article 102 Applications for establishment of a limitation fund prior to proceedings shall be submitted to the Maritime Court of the place where the accident occurred, or the contract was performed, or the vessel was arrested.

Article 103 Establishment of a limitation fund shall not be bound by any agreement between the parties regarding jurisdiction or arbitration.

Article 104 Applications for establishment of limitation funds shall be submitted in writing to the Maritime Court, stating the amount of the limitation fund and the grounds therefore, as well as the names, addresses and means of communications of all interested parties known to the applicant, and with relevant evidence attached.

Article 105 Within seven days of receipt of an application for establishment of limitation funds, the Maritime Court shall notify all known interested parties, and at the same time issue a public notice through newspapers or some other news media, which shall include the following:

- 1) The name of the applicant;
- 2) The facts and grounds of the application;
- 3) Claims creating the Limitation Fund;

- 4) Procedure of registering other claims; and
- 5) Other matters deemed to be necessary for the notice.

Article 106 Any objection from an interested party to the application for establishing a limitation fund shall be submitted in writing to the Maritime Court within seven days of receipt of the notification or, where a notification has not been received, within thirty days of the public notice.

Within fifteen days of receipt of a written objection, the Maritime Court shall examine the case and grant a ruling to reject the application for establishment of the limitation fund if the objection is found to be justified, or to allow establishment of the limitation fund if the objection is found to be unjustified.

Within seven days of receipt of the ruling, any party objecting to the ruling may appeal. The People's Court of second instance shall render a ruling within fifteen days of receipt of the appeal.

Article 107 Where no objection has been made by interested parties within the time limit, the Maritime Court shall grant a ruling to allow the limitation fund to be established.

Article 108 After the ruling for the establishment of a limitation fund comes into effect, the applicant shall establish the limitation fund in the Maritime Court.

The limitation fund can be established by means of a cash deposit or the provision of security that is acceptable by the Maritime Court.

The amount of a limitation fund shall be the limit of the claim plus interest for the period from the date of the accident to the date the limitation fund is established. The amount of security to be issued shall cover the amount of the limitation fund plus interest during the period of the establishment of the limitation fund.

The date of establishment of the limitation fund should be the date that the sum is transferred into the account designated by the Maritime Court, or the date of receipt of the security by the Maritime Court.

Article 109 After the establishment of the limitation fund, parties shall commence proceedings concerning the maritime dispute before the Maritime Court of the place where the limitation fund has been established, unless an agreement by the parties as to jurisdiction or arbitration provides otherwise.

Article 110 The applicant shall be liable for any loss consequently sustained by an interested party because of his wrongful application.

Chapter X Registration and Payment of Claims (Arts 111-119)

Article 111 After a public notice of the order for auctioning a vessel has been issued by a Maritime Court, creditors shall register their claims to the vessel within the period of notice, and, if they fail to do so, their claims shall be deemed to have ceased.

Article 112 After a public notice has been issued by a Maritime Court, creditors shall register their claims relating to the maritime accident within the period of notice and, if they fail to do so, their claims shall be deemed to have ceased.

Article 113 For registration of a claim, a creditor shall apply to the Maritime Court in writing, with evidence of the claim.

Evidence of a claim includes an enforceable judgment, ruling, conciliation statement, arbitration award and notarized creditor's document, as well as other supportive evidence.

Article 114 The Maritime Court shall examine the creditor's application, and allow to be registered claims that are proved by evidence; or reject those that are not.

Article 115 The Maritime Court shall examine any judgment, ruling, conciliation statement, arbitration award or notarized creditor's document submitted by a creditor as evidence of a claim, and its evidential power where it is found to be genuine and lawful.

Article 116 Where providing other evidence for the maritime claims, creditors shall, after registration of the claims, commence proceedings before the Maritime Court of registration to confirm their titles for claims. Where an arbitration agreement exists, parties shall apply for arbitration in good time.

The judgment and ruling rendered by the Maritime Court confirming the title for claims are final and unappealable.

Article 117 After confirming the title for claims, the Maritime Court shall notify creditors and arrange a creditors' meeting.

Article 118 At the meeting, creditors may negotiate the distribution of an Auction Fund or a Limitation Fund and thereafter sign the distribution agreement.

When confirmed by an order of the Maritime Court, the distribution agreement is enforceable.

In absence of such an agreement, the Maritime Court will rule on distribution of the fund, in accordance with the ranking of the claims as prescribed by the Maritime Code of the People's Republic of China and other laws.

Article 119 The funds and the interest shall be distributed together.

Prior to distribution, litigation costs payable by a liable party, expenses incurred in preservation and auction of the vessel and distribution of the funds, as well other expenses for the common interests of the creditors shall be reimbursed first from the fund.

Chapter XI Maritime Liens (Arts 120-126)

Article 120 Where the ownership of a vessel is transferred, the transferee may apply to the Maritime Court for public invitation to assert maritime liens, in order that all maritime liens attached to the vessel can be distinguished.

Article 121 An application for a public invitation to assert maritime liens shall be submitted to the Court of the place where the vessel is to be delivered or where the transferee is domiciled.

Article 122 An application for a public invitation to assert maritime liens shall be submitted in writing, stating the name of the vessel, the facts and grounds for the public invitation, together with the contract of transfer, and technical details of the vessel.

Article 123 Within seven days upon receipt of the application, the Court, after examination of thereof, shall grant a ruling so as to approve or disapprove the application.

The transferee objecting to the ruling may apply once and for all for a review.

Article 124 After an order of approval becomes effective, the Maritime Court shall issue a public notice in newspapers and other news media. Claimants of maritime liens shall assert their maritime liens within the period of notice.

The period of notice for maritime liens is sixty days.

Article 125 Maritime liens shall be registered before the Maritime Court during the period of notice; in the event that any are not, they are deemed to have ceased.

Article 126 Where no maritime lien is asserted during the period of notice, the Maritime Court, upon request, shall award a judgment, through a public notice, declaring that the vessel transferred is clear from maritime liens.

Chapter XII Addendum (Art. 127)

Article 127 This Law will come into force as of the first day of the seventh month of the year two thousand