

THE CONSTRUCTION OF INTERNATIONAL MARITIME JUSTICE CENTER UNDER THE BACKGROUND OF THE BELT AND ROAD INITIATIVE

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ABSTRACT: With the Belt and Road Initiative put forward and promoted, maritime justice of China is facing new opportunities and challenges. In 2016, China set its goal on building an international maritime justice center. Under the background of the Belt and Road Initiative, there are new requirements for the maritime justice in the process of building the international maritime justice center, that are, safeguarding maritime rights and interests of the Nation, improving the law-based business environment and participating in the formulation of international rules and regulations. Based on the practices of London and Singapore, the following fields of the maritime justice could be improved for the construction of international maritime justice center: the jurisdiction of maritime courts, the proof of foreign law, the professional trial mechanism, the varied dispute settlement mechanism, the judicial assistance and cooperation mechanism and the transparency of maritime justice. Meanwhile, through strengthening the training of maritime legal talents, accelerating the digitalization of maritime justice, pushing forward the reform of maritime judicial system and improving the decision-making mechanism, the maritime justice could better serve the Belt and Road Initiative.

KEYWORDS: maritime justice, international maritime justice center, the Belt and Road Initiative, judicial soft power

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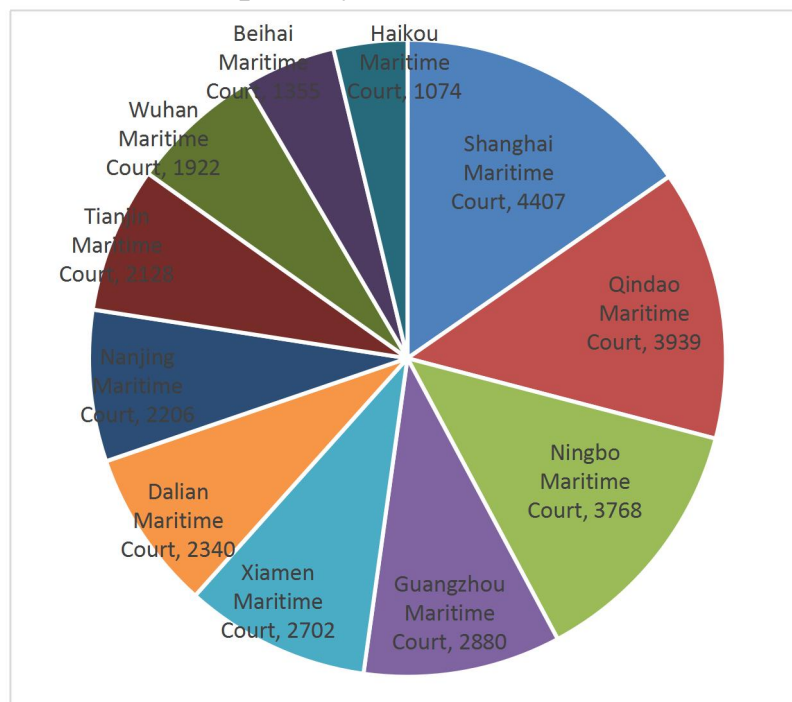
INTRODUCTION

In 2103, the Belt and Road Initiative was proposed by President Xi Jinping as a way to boost global trade and connectivity. By the end of 2020, China had signed 201 cooperation documents with 138 countries and 31 international organizations on building the Belt and Road together. The Initiative involves multiple modes of transport and intermodal transport. Given the fact that China has become an open economy which highly dependent on the ocean, shipping and "shipping +" will play an important role in the construction of the Belt and Road. As special institutions for maritime jurisdiction in China, maritime courts play a pivotal role in safeguarding national maritime rights and interests, promoting the high-quality development of marine economy. Since 1984, China has successively set up 11 maritime courts, forming a special court system of "three-level and two-tiered", which makes China the country with the largest number of maritime judicial organs, the largest number of maritime judges and the largest number of maritime cases around the globe. In 2020, Chinese maritime courts accepted 28721 cases in total(See Chart 1)¹. In terms of legislation, China has formed a special legal system for maritime adjudication. It consists of the Maritime Code, the Special Maritime Procedure Law and a series of maritime judicial interpretations. The report to the 19th National Congress of the Communist Party of China (CPC) calls for a coordinated approach to turn China into a maritime power. In order to give full play to the judicial functions of the people's courts and boost the construction of a maritime power, Zhou Qiang, the president of the Supreme People's Court, proposed building China into an international maritime justice center in his report on the work of the Supreme People's Court which was

1 The statistics are from the website of China Maritime Judiciary of the Supreme People's Court.

delivered at the National People's Congress in 2016. It embodies a strategic turning of China's maritime justice from being large to being strong. To build the Silk Road Economic Belt and the 21st Century Maritime Silk Road, promote the high-quality development of the economy, especially the marine economy, there are new requirements for the maritime justice of China. As an important way to manage and protect the ocean, it is high time to comprehensively strengthen maritime justice and build China into an international maritime justice center.

Chart 1: Cases Accepted by China's Maritime Courts in 2020



I. NEW REQUIREMENTS FOR MARITIME JUSTICE UNDER THE BELT AND ROAD INITIATIVE

A. Safeguarding maritime rights and interests of the Nation

China is a large maritime nation with a continental coastline of 18,700 kilometers, an island coastline of 14,000 kilometers and a sea area of

more than 3 million square kilometers under its jurisdiction. In 2020, China's gross ocean production has reached 8001 billion yuan, accounting for 9.0 percent of the State's gross domestic product (GDP).² China has developed into an open economy highly dependent on the ocean. Its dependence on marine resources, ocean territory and shipping industry has gradually increased. High-quality development of the marine economy requires the protection of maritime rights and interests. However, in recent years, China and its neighboring countries have various degrees of friction over the control of islands, exploitation of marine resources, maritime borders and maritime transport corridors. China's maritime rights and interests are facing with multiple challenges. In addition, the 21st Century Maritime Silk Road Initiative lays an emphasis on building a maritime community with a shared future, thus, it calls for the protection of marine ecological environment. At present, China's marine fishery resources are over exploited, marine pollution is getting worse, the marine ecological environment is facing severe challenges. The 18th National Congress of the CPC put forward the strategy of building China into a maritime power. The Fifth Plenary Session of the 18th Central Committee of the CPC further proposed "persisting overall management on land and sea, strengthening marine economy, developing marine resources scientifically, protecting marine ecological environment, safeguarding China's maritime rights and interests, and building China into a maritime power". In 2015, China issued the *Vision and Actions Jointly Building Silk Road Economic Belt and the 21st Century Maritime Silk Road*, which made a comprehensive plan for the implementation of the Belt and Road Initiative, officially launched the construction of the Belt and Road. On building the Belt and

2 Ministry of Natural Resource of the People's Republic of China, ' statistical bulletins of marine economic 2020 ' <http://m.mnr.gov.cn/sj/sjfw/hy/gbagg/zghyjttjgb/202103/t20210331_2618719.html> accessed 25 July 2021.

Road, the rule of law is important, and the justice plays an indispensable role. In 2015 and 2019, the Supreme People's Court issued *Opinions on Providing Judicial Services and Safeguards for the Belt and Road Initiative* twice, calling for timely and proper handling of maritime cases in line with laws, promoting the strategy of building China into a maritime power. For quite a few maritime disputes involving foreign elements, maritime justice is an important window of China's judicial system to the world. It is related to the credibility of China's judicial system and the high-quality opening up to the rest of the world. The protection of national maritime rights and interests, the implementation of national strategies cannot be separated from the service and safeguards of maritime justice.

*B. Improving the Law-based Business Environment
and Serving the Open Economy*

Business-friendly environment is essential to the survival and development of enterprises, more over, an important manifestation of a nation's competitiveness. Creating a law-based, internationalized and convenient business environment is of great significance to the new pattern of all-round opening up and the integration of China's economic and the global economic. According to the *Doing Business 2020* report released by the World Bank, China ranks 31st in the world in terms of business environment and has been rated as one of the 10 economies with the largest improvement on the business environment for two consecutive years.³ Such an achievement mainly thanks to the opening-up measures adopted by China since the 19th National Congress of the CPC, such as expanding market access, establishing a negative list for foreign

³ The World Bank, 'Doing Business 2020' <www.worldbank.org> accessed 25 July 2021.

investment, reducing import tariffs, speeding up the opening of the service sector, expanding the use of foreign investment, speeding up the construction of free trade zones and so forth. As a special judicial authority for handling maritime cases including foreign related maritime cases, the maritime courts play an important role in serving and improving the internationalized business environment. Take the construction of free trade zones as an example. Since the establishment of the Shanghai Pilot Free Trade Zone in 2013, China has approved 18 pilot free trade zones all around the country. During the process of building the free trade zones, a series of innovative arrangements on shipping industry have been made, such as the development of coastal piggybacking service, the improvement of ship registration system, and the application of blockchain technology that changes the circulation of B/L. The maritime justice should make adjustments for all these new changes in time. In addition, the development of export-oriented economy is likely to increase foreign-related maritime disputes, the application of international rules and regulations, foreign law will be more and more common in maritime cases. Hence, the maritime courts should be familiar with the international treaties, statute law and case law of the foreign countries, meanwhile, deliver our judicial achievements and opinions to the rest of the world, enhance the world's understanding on our maritime disputes settlement.

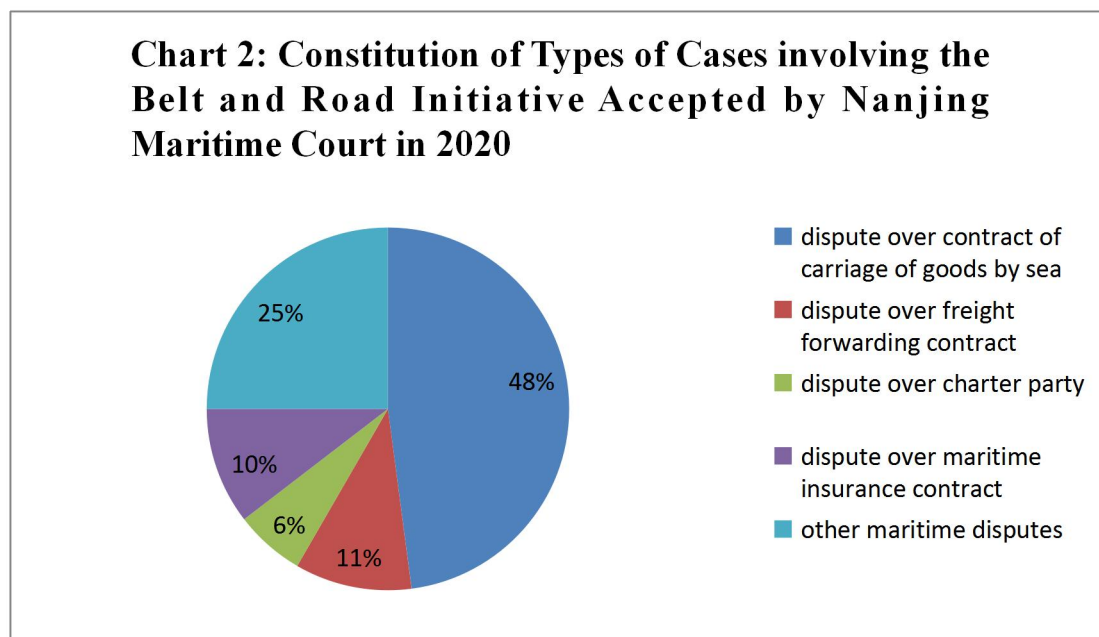
C. Participating in the Formulation of International Rules and Regulations

At present, China has developed into the world's second largest economy, the largest cargo trading country. The port throughput, container throughput and shipbuilding volume of China have ranked the first in the

world for many years. Its international shipping volume has accounted for one third of the world. China has been elected 16 times as an A Class member of the International Maritime Organization (IMO). There is a trend for China to become an international shipping center. But with the growth of China's "hard power" in maritime, its "soft power" is yet to be strengthened. Although the volume of maritime cases concluded by China's maritime courts has ranked the first in the world for many years, there is little maritime judgment which has influence on the formulation of international rules and regulations. In the foreign-related maritime disputes, investors from home and abroad are not quite likely to choose China's maritime courts or arbitration institutions to resolve their controversy. London still dominates the international maritime arbitration, with 75% of the maritime arbitration around the globe taking place at it, over 90% of shipbuilding contracts are governed by English Law, and over 80% of shipbuilding contracts choose to be arbitrated at London. The current international shipping and maritime rules are mostly formulated by the policies of western shipping powers. China's role as a follower of the current international rules and regulations has not changed, which is not coincide with its status as a large shipping country. To improve China's influence on international maritime dispute settlement, the maritime courts of China should continuously improve judicial transparency, unify judgments of similar cases and enhance judicial credibility. It also calls for strengthening exchanges and cooperation with judicial authorities of other countries and actively participating in making the rules and regulations of international maritime.

II. THE CHARACTERISTICS OF THE MARITIME CASES INVOLVING THE BELT AND ROAD INITIATIVE

The cases involving the Belt and Road Initiative include the cases to which the parties are from the Belt and Road countries, those of which the facts are related to the Belt and Road countries, and those of which the subject matters are related to the Belt and Road countries. By nature, such cases belong to foreign-related cases. Take the cases tried by Nanjing Maritime Court as an example, in 2020 Nanjing Maritime Court accepted a total of 50 cases involving the Belt and Road Initiative, the total amount of the subject matters is RMB 25.69 million. By analysis, we can see the cases involving the Belt and Road Initiative share some characteristics (See Chart 2).



Firstly, the types of cases are diversified, but the mostly occurring cases are still two traditional types, that are, disputes over contracts of carriage of goods by sea, taking up 48%, and disputes over maritime freight forwarding contract, taking up 11%. Secondly, a large portion of the cases

are intricate, it takes a judge's efforts to find the facts. The maritime cases involving the Belt and Road Initiative are normally more complicated than the cases at home. There are loads of evidences generated outside the country, many of them are in foreign languages, some of them are digital, the formation of these evidences are confusing, which makes it harder for the judge to confirm the facts of the cases. Thirdly, the trial process usually takes longer time than other cases. In those cases, some parties, normally the defendants, are foreign companies, when the plaintiff cannot provide accurate contact information of the defendant, it would be difficult for the maritime courts to reach the defendant and deliver the legal documents. In that case, according to the *Civil Procedure Law of the People's Republic of China*, the court have to serve the legal documents through diplomatic ways, which would probably take one or two years, give the effect of the COVID-19, the time would take much longer. Hence, "difficult service" is a great challenge for the maritime trial involving the Belt and Road Initiative. Fourthly, the application of foreign laws is getting common in these cases. According the article 3 of the *Law of the Application of Law for Foreign-related Civil Relations of the People's Republic of China*, the parties may explicitly choose the laws applicable to foreign-related civil relations in accordance with the provisions of law. As mentioned above, the cases involving the Belt and Road Initiative is by nature foreign-related cases, in quite a few of them, there is an agreement which stipulate the application of foreign laws on given issues. For instance, in the disputes over the maritime insurance contract, the parties would probably choose to apply the Marine Insurance Act (MIA) of 1906, because of the wide impact of the English law on the shipping industry of the world. Hence, ascertaining foreign laws would be one of the most important job for the Chinese judges in dealing with the maritime cases involving the Belt and Road Initiative.

III. THE PRACTICES OF OTHER COUNTRIES IN BUILDING AN INTERNATIONAL MARITIME JUSTICE CENTER

A. The Practices of Britain

London is not only the capital of Britain, but also a renowned international shipping centre. Since mid-1970s, London suffered a decline in container shipping. According to the *One Hundred Ports 2020* released by the Lloyd's List, the container throughput of the Port of London only ranks the 70th around the globe. In the same period, China has 7 ports rank in the world's top 10, with the Port of Shanghai ranks the first. Containerized trade moved through China represented nearly 40% of the overall teu total.⁴ However, London has loads of high-end shipping service agencies in all kind of maritime fields, such as shipping broking, shipping rate index and derivatives, maritime insurance, maritime trial and arbitration, maritime valuation, shipping finance services and consulting. All these shipping services endow London's unsurpassed soft power in the maritime market. London has thus become the world's only shipping center and maritime justice center that is not based on a large port.

The advantages of London in becoming an international maritime justice center mainly reflect in the following aspects: Firstly, there is a large number of official and unofficial international maritime organizations headquartered in London. London has many maritime research institutions and arbitration authorities which have a long history and worldwide reputation, such as the International Maritime Organization

⁴ Lloyd's List, 'One Hundred Ports 2020' <<https://lloydslist.maritimeintelligence.informa.com/one-hundred-container-ports-2020/>> accessed 25 July 2021.

(IMO) and the London Maritime Arbitrators Association (LMAA). The IMO is the only organ specialized in maritime under structure of the United Nations. It has 174 member states and three associated members. It mainly focus on the formulation of treaties and rules on maritime personnel safety, maritime technical cooperation and innovation, maritime financial and insurance mechanisms. Those international conventions, rules and resolutions adopted by the IMO are usually followed by its member states when they making domestic laws and rules for shipbuilding, inspection and maritime transport. LMAA is composed of arbitrators specialized in resolving disputes over shipping and trade. Its arbitration rules for shipping and trade have widely adopted by the parties from various countries. The standard contract drawn up and recommended by LMAA usually stipulate "governed by English law" and "arbitration in London", therefore, loads of maritime cases are concentrated in London. According to the *Statistics For 2020* published by the LMAA Committee, in 2020 LMAA arbitrators received a total of 3010 arbitration appointments (up from 2952 in 2019). This reflects an overall increase in new cases in 2020 to 1775 (up from 1756 new references in 2019).⁵ By contrast, the China Maritime Arbitration Commission (CMAC) accepted only 111 cases in 2020.⁶ This indicates that London-seated arbitration, conducted under LMAA Terms and Procedures, remains ever popular as the world's leading choice for the resolution of disputes involving the maritime industry and related commercial sectors. The credibility of LMAA comes from its reasonable staff setting and superior design of its system. All the LMAA arbitrators are lawyers with professional knowledge and sufficient experiences on

⁵ LMAA, 'LMAA Numbers Continue to Rise' <<https://lmaa.london/lmaa-numbers-continue-to-rise/>> accessed 25 July 2021

⁶ CMMA, 'China Maritime Arbitration Annual Report 2020' <<http://www.cmac.org.cn/%e5%b7%a5%e4%bd%9c%e6%8a%a5%e5%91%8a>> accessed 25 July 2021

maritime affairs, which can ensure the fairness and impartiality of the arbitration. LMAA has various arbitration terms, which offer the parties involved in maritime matters a wide range of choice for the resolution of disputes referred to arbitration. The Terms have been revised from time to time, the current version is the LMAA Terms 2021. Besides, LMAA adopts ad hoc arbitration, which is more flexible than institutional arbitration and greatly improves the efficiency in resolving maritime disputes.

Secondly, the English laws and rules are constant and the results of maritime verdicts are predictable. The United Kingdom is a common law country, the case law is the basic legal sources. Under the legal system of case law, each verdict made by a judge must be elaborated with meticulous explanations, which not only conforms to the precedents, but also offer guidelines to the judgments on similar cases afterwards. Therefore, the verdicts or awards made by the British courts or arbitration institutions are usually very detailed, thus make them quite persuasive to the parties. The doctrine of precedent in case law system ensures that similar disputes are resolved with similar results. The parties can roughly predict the outcome of the verdict or award based on the similar cases in the past. In some important shipping contracts such as charter party, there are legal precedents behind almost every clause, so the shipowner, charterers and owners of cargo are willing to choose arbitration in London and be governed by English law. Because they can be sure about the terms of the contract, understand their respective rights and obligations without a mistake. For the constancy of laws and the predictability of ruling, the application of English law is more extensive than the laws of other countries in the world, which is also an important reason for London turning into an international maritime justice center.

Thirdly, maritime talents concentrate, maritime cluster play a synergistic effect. The maritime universities in the United Kingdom cultivate a large number of professional talents for maritime service sectors each year, ensuring London's dominant position as an international shipping center and an international maritime justice center. London has a world-leading system of shipping education and training: loads of universities, colleges and business schools provide pre-service education about maritime service. These institutions have not only trained talents for the shipping industry, but also cultivated lots of excellent maritime lawyers and arbitrators in London. There are more than 30 maritime law firms in London alone, providing sufficient legal service support for the British shipping industry. The integrated maritime industry chain has turn into a cluster of maritime service, every member in the cluster can work together to resolve all kinds of maritime disputes efficiently and economically, which is also a strong catalyst for London turning into an international maritime justice center.

B. The Practices of Singapore

According to the *2020 Xinhua-Baltic International Shipping Center Index Report*, the evaluation results show that the top 10 international shipping centers in 2020, by order of ranking, are: Singapore, London, Shanghai, Hong Kong, Dubai, Rotterdam, Hamburg, Athens, New York-New Jersey and Tokyo. Singapore maintained its leading position as the most important shipping hub in the Asia-Pacific region, ranking first for seven consecutive years. Besides, Singapore remains the second best in shipping services in the world with edge accumulated over the years,

just after London.⁷Home to over 140 of the world's top international shipping groups and a diverse range of maritime service providers, Singapore is a comprehensive hub for shipping and maritime services such as ship management, agency, finance, insurance, broking, and surveying. This is complemented by the presence of international maritime-related organizations and associations, such as the Baltic Exchange, Asian Shipowner's Forum, International Bunker Industry Association, International Association of Independent Tanker Owners and Baltic and International Maritime Council.

There many factors facilitate Singapore to develop into an international shipping center and maritime justice center. Singapore grasped the historical opportunity of the relocation of the world's shipping industry to the Asia-Pacific region, spare no effort in improving the hardware facilities of the port. More importantly, Singapore keeps strengthening its soft power on shipping service. Firstly, the government introduced a series of policies to promote the transformation of the port. Singapore is not content with being an international shipping hub. The government has done a tremendous amount of work on shipping services, such as shipping finance, shipping brokerage, maritime legal services, shipping business services and shipping engineering. It grants 10 years duty-free treatment to qualified International Shipping Enterprises to encourage them to set up their business in Singapore. It withheld tax exemption on interest payable on loans obtained from foreign lenders to finance the purchase or construction of ships. It also set up a Maritime Cluster Fund to help the shipping enterprises to cultivate talents and reduce the management costs. These policies have promoted the formation of

7 Xinhua Finance , '2020 Xinhua-Baltic International Shipping Center Index Report' <<http://index.xinhua08.com/a/20200722/1947514.shtml>>, accessed 25 July 2021

shipping cluster in Singapore, and various maritime services have blossomed all over the country. As a result, that offers loads of legal practice for the development of maritime justice.

Secondly, the courts in Singapore help to create a world-class legal environment with a series of sound judgments. Singapore offers a comprehensive legal framework based on an internationally accepted practice. It is a center of maritime legal expertise and a favorable jurisdiction for parties seeking impartial resolution. The courts have played a key role in turning Singapore into a well-respected jurisdiction for the resolution of maritime disputes. Over the years, the courts have thoughtfully developed Singapore's admiralty jurisprudence and, in the process, Singapore established its role as a mature and respected maritime jurisdiction. Many leading cases have influenced and enriched the law on admiralty across the Commonwealth. As early as 1977, in *The Permina 108*⁸, the Court of Appeal of Singapore delivered a judgment which clarified the scope of admiralty jurisdiction, in particular, the scope of sister ship arrest rule. After it was decided, *The Permina 108* has gone on to be endorsed by the courts in Hong Kong, New Zealand and the United Kingdom.⁹ An empirical study of the entire corpus of local cases between 1965 and 2013 shows that more than 70 of Singapore's judgments in the area of "maritime, shipping and air law" have been cited by foreign courts.¹⁰ Besides, the courts in Singapore have helped to create a more attractive business environment through judgments. In *The Arcadia Spirit*,¹¹ the court made a judgment departed from the established English position and held a more liberal position on the form of security to

8 [1977] 1 MLJ 49

9 Steven Chong: "Maritime Singapore: Our Arc, Anchor And Aspiration", Keynote Address in Asian Maritime Law & Insurance Conference, 24, October 2018

10 Goh Yi-han and Paul Tan, *Singapore Law: 50 Years in the Making* (Academic Publishing 2015) 16.

11 [1988] 1 SLR (R) 73

procure the release of an arrested vessel. This greatly enhanced the sense of security of shipowners or charterers, they don't have to worry about huge economic losses caused by delayed release of their vessels. The establishment of the Singapore International Commercial Court (SICC) in 2015 has also internationalized the maritime justice of Singapore. What's more, in 2018 the Supreme Court of Singapore and the Supreme People's Court of China signed a *Memorandum of Guidance On Recognition and Enforcement of Money Judgments in Commercial Cases*, which effectively facilitate the mutual recognition and enforcement of maritime judgments between the two countries.

Thirdly, a thriving maritime arbitration scene enhances Singapore's attractiveness as a maritime hub. In 2009 the Singapore Chamber of Maritime Arbitration (SCMA) was established. In just a few years, it has developed into one of the leading maritime arbitration institutions in Asian-Pacific region, even around the world. The rapid development of SCMA lies in its continuous self-innovation. First of all, since its inception, SCMA has been striving to be international. Its arbitrators come from all over the world. Foreign arbitrators do not need a work permit or bear no withholding tax to do their job in Singapore. The diversity of arbitrators can not only meet the needs of parties from different countries, but also ensure the selection of the best arbitrators from all over the world. In additions, SCMA try the best to expand its international influence through a variety of ways. In 2012 SCMA successfully persuaded BIMCO to include Singapore as the third seat of arbitration in all its standard forms alongside London and New York. This is a milestone for the maritime arbitration in Singapore given the fact that around 70% of the world's contracts for maritime trade using BIMCO standard forms as their basis. For another example, in 2013 SCMA

introduced expedited arbitration rules on the settlement of ship collision damages, which greatly improved efficiency of arbitration and enabled the infringed party to obtain the claim in time. As a result, many cases of maritime infringement are gathered in Singapore. What's more, in 2017 SCMA entered into an agreement with prestigious maritime publication the *Lloyd's Maritime Law Bulletin*, the cases arbitrated by SCMA would be rewritten and published in the Bulletin. These fruitful efforts have contributed to the rise of the maritime arbitration of Singapore.

IV. SUGGESTIONS ON IMPROVING THE MARITIME JUSTICE FOR THE CONSTRUCTION OF INTERNATIONAL MARITIME JUSTICE CENTER

A. The Jurisdiction Of Maritime Courts

Firstly, the maritime courts of China should actively strive for the jurisdiction over new types of cases. While fully respecting the parties' agreement on jurisdiction, the maritime courts should accept all the maritime cases which have connection with ports in China. Through such a way, gradually expand our jurisdiction over foreign-related cases. With the trial on the new maritime cases which have international influence, we can provide efficient and convenient services for the parties from all around the world, build China into a preferable place for the parties at home and abroad to settle their disputes, extend the worldwide influence of the maritime justice of China.

Secondly, the maritime courts should prudently handle the disputes over jurisdiction. In the foreign-related cases, when one party choose a Chinese court, while the other choose a foreign court, the court should, on

the one hand, maintain our jurisdiction, respect the parties' agreement on the jurisdiction, on the other hand, properly handle the issues of parallel proceedings. Accurately grasp the practice of the principle of international comity and coordination, the principle of party autonomy and forum non convenience, the maritime courts could set up an operable mechanism which conform with our legal tradition to handle the issues of parallel proceedings, reduce jurisdictional conflicts with other countries, work together with the rest of world to build a maritime community with a share future.

Thirdly, the maritime courts should gradually expand the pilot practice of the maritime trial model of "three in one" under the instruction of the Supreme People's Court. In February 2017, Ningbo Maritime Court was designated by the Supreme People's Court as the country's first maritime criminal case jurisdiction pilot court. In August 2017, the Court concluded the country's first foreign-related maritime criminal case (the case of traffic offense committed by Allan Mendoza Tablate, second mate of the ship "Catalina"), which open a new chapter of "three in one" for maritime trials in China. The maritime trial mode of "three in one" enables the maritime courts to give full play to its professional advantages of maritime trials and shipping expertise in criminal cases and administrative cases, just as they do in civil cases. The maritime trial model of "three in one" is conducive to the optimization of judicial resources and the improvement of judicial efficiency.

B. The Ascertainment of Foreign Law

Firstly, strengthening the ascertainment of foreign law is an important way to improve the quality and efficiency of foreign-related trials and

enhance the credibility of the maritime justice of China around the world. On the one hand, it is necessary to improve the provisions on the liability of the parties to provide foreign laws. On the basis of article 10 of the *Law of the Application of Law for Foreign-related Civil Relations of the People's Republic of China*, if any party chooses the applicable foreign laws, he shall provide the laws of this country. If the party fails to provide the foreign law without justified reasons within a reasonable time limit specified by the court, it may be deemed that the foreign law cannot be ascertained or there are no provisions in the laws of this country. However, the provision above is too abstract and lack of maneuverability in practice, so it is not conducive to provide clear guidelines when the judge decides a case. Given the fact that the proof of foreign law may affect the outcome of the case, it is necessary for the laws or rules to specify the court's obligation to clarify the time limit for the parties to provide the foreign law and whether any supplementary can be made when the parties fails to provide the foreign law initially. In such a way, the litigation rights of the parties would be safeguarded to the maximum extent. On the other hand, it is also necessary to restrict the court's determination on reckoning the foreign law cannot be ascertained. The laws and rules could be supplemented, by stipulating that the court should try to ascertain the foreign law through at least two ways, prevent judges from rashly deciding that "the foreign law cannot be ascertained".

Secondly, the maritime courts should expand cooperation with other institutions to study the ascertainment and application of foreign law. Since 2015, the Supreme People's Court has cooperated with the Southwest University of Political Science and Law and four other institutions respectively to establish a platform for the proof of foreign law. On November 29, 2019, the foreign law ascertainment platform of

the Supreme People's Court was launched on the website of China International Commercial Court (<http://cicc.court.gov.cn/>), marked a nationwide unified platform for the proof of foreign law was established officially. However, this still cannot meet the increasing demand of the foreign-related maritime trial. The maritime courts needs to further broaden the channels of foreign law ascertainment, strengthen the connection with academic institutions domestic and abroad, gradually build a self-service foreign law ascertainment platform which covers the laws and rules of the world's main shipping countries and the Belt and Road countries, improve the efficiency of foreign law ascertainment in the foreign-related maritime trial.

Last but not least, the maritime courts should strengthen reasoning in their judgments. The quality of reasoning and soundness of judgment in the maritime case have led Singapore to a well-respected jurisdiction for the resolution of maritime disputes. That is what we should learn. Specifically, the reasoning of a judgment can be improved by illustrating the following factors in the text: (a) whether the parties choose to apply a foreign law in their contract; (b) when the parties do not have an agreement on the governing law, whether there is a situation which may lead to the application of a foreign law; (c) the ways, forms, contents and authentication of the foreign laws ascertained by the maritime court or the parties; (d) the parties' cross-examination on the foreign laws; (e) the court's reasoning and conclusion on whether a feign law shall apply or not.

C. The Professional Trial Mechanism

The allocation of maritime judicial resources needs to be optimized. The

maritime cases are normally concerned with specialized issues, due to the limitations of knowledge, it is impossible for the maritime judges to be familiar with every single field of the shipping industry, so it is necessary to promote the reform and development of the professional trial mechanism. Specifically, the maritime courts should select experts and scholars with profound attainments in maritime field as jurymen and counselors to further improve the degree of specialization of the trial. The expert jurymen can provide technical support for the determination of key evidence, review of expert conclusions, ascertainment of the facts of cases, etc. In addition, for those cases which may be relevant to the construction of free trade zones (ports) and the protection of marine environment and resources, a professional, standardized and intensive trial mode can be explored, through which, the maritime courts can accumulate and sum up the trial experience of given types of cases.

Besides, the maritime justice should carry out the trial excellence strategy, establish a comprehensive and operable evaluation standard for significant cases, promote it nationwide, so as to ensure the significant cases are flawless in the procedure, fair and impartial. An incentive mechanism should be established to enhance the maritime judges' awareness and motivation in making an excellent judgment, maximize the demonstration effect of the significant cases.

D. The Varied Dispute Settlement Mechanism

The maritime justice should give support to the development of maritime arbitration. The practices of London and Singapore show that maritime arbitration plays an important role in building an international maritime justice center. At present, the maritime arbitration in China has yet to be

developed. Under this background, the maritime courts should give more support to the arbitration authorities. In terms of judicial review of foreign-related arbitration case, the maritime courts should respect the willingness of the parties involved to resort to arbitration proceedings, accurately master foreign elements involved in the cases, identify the effectiveness of foreign-related arbitration agreements. For those awards made by foreign maritime authorities, when they conform with the laws and rules of China, their recognition and enforcement should be granted in time, and through that, demonstrate the inclusion and openness of the maritime justice of China to the world.

Moreover, in order to make China a preferred place for resolution of maritime disputes, the maritime courts should give full play to the advantages of professional organizations in mediation. By cooperating with the industry associations, mediation organization and arbitration authorities, the maritime courts could entrust senior professionals in maritime industry to carry out mediation between the parties in disputes. For disputes that are concentrated in numbers and have significant group effects such as the disputes over crew labor contracts, the maritime courts could give full play to demonstration effect of justice, and specify the rules through effective judgments to guide other parties to accept mediation and expand the results. In addition, pre-litigation, lawyer mediation, online mediation is yet to be fully utilized. By establishing a varied dispute settlement mechanism based on maritime characteristics, the maritime justice could attract the Chinese and foreign parties involved to resolve disputes within the territory of China, make China a preferred place for resolution of maritime disputes.

E. The Judicial Assistance and Cooperation Mechanism

The maritime justice of China should strengthen the cross-border maritime judicial assistance, actively fulfill the obligations under the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*, *Convention on the Taking of Evidence Abroad in Civil or Commercial Matters* and other multilateral treaties, make full use of the international judicial assistance information management platform, improve the efficiency of cross-border judicial service and investigation. In addition, we should speed up the study on the ratification of the *Convention on Choice of Court Agreement*. At present, China has concluded only 35 treaties on mutual recognition and enforcement of judgments in civil and commercial cases with other countries. China has signed the *Convention on Choice of Court Agreement* in 2017, if the Convention is finally ratified by the legislature and enter into force for China, that would make up the deficiency of the current judicial assistance mechanism of China, provide new legal basis for international cooperation on the issues of the mutually recognition and enforcement of judgments between China and other countries.

Besides, a cooperation mechanism at home is also highly necessary. The maritime justice should strengthen exchanges and deepen coordination with the Maritime Safety Administration, Customs, the Entry-Exit Inspection and Quarantine Bureau, the Frontier Defense and other port organizations. Through establishing work contact mechanism, held a joint meeting regularly, they could work together to develop the governance of shipping industry, properly resolve the maritime disputes and promote the innovation in shipping industry. They could also share information and resources, such as improving the ship arrest system, sharing the transfer record of containers, the customs clearance records of the import and

export goods, export tax rebates and other information, work tighter to establish an efficient judicial detention mechanism for maritime disputes.

F. The Transparency of Maritime Justice

In order to improve the transparency of maritime justice, a mechanism for releasing white papers on maritime trials should be established. In recent years, all the 11 maritime courts and the Supreme People's Court have issued white papers on maritime trials, but they have not make it standardized and normalized. Given that the publication of maritime trial white papers is vital to the improvement of maritime judicial transparency, maritime courts should establish a mechanism to normalize the publication of maritime trial white papers, specify the contents and forms, and publish them in multiple languages, fully demonstrate the maritime justice of China to the rest of the world.

In addition, the maritime justice should strengthen the compilation and publication of maritime cases. The *Lloyd's Law Reports* have an outstanding influence on the compilation and publication of international maritime cases. Each case in the Reports have summaries and key words, which make it easy for users to see the full picture of the case and greatly save time for searching. Thanks to that, the cases in the Report are often cited by maritime scholars or lawyers in their academic literatures and legal documents of the domestic or foreign-related cases. In order to increase the transparency of the maritime justice of China and enhance the influence of the maritime judgments to the world, we can learn from the practice of the *Lloyd's Law Reports*. At present, the number of cases accepted by the maritime courts of China ranks the first in the world. These maritime cases can be sorted out in a way which is easy for the

users to retrieve and cite, and compiled them into a book every year, publish them to the world to the greatest extent.

V. SUGGESTIONS ON DEVELOPING THE ABILITY OF MARITIME JUSTICE FOR BETTER SERVE THE BELT AND ROAD INITIATIVE

A. Strengthening The Training Of Maritime Legal Talents

The maritime justice of China should establish a long-term mechanism for personnel training. The updating knowledge and broaden vision are of great significance to the growth of the maritime judges, so the training of maritime legal talents is important. The training contents could include but not limited to the latest maritime legislation of China and other main shipping countries, the development of international maritime justice and arbitration, the trend of the shipping industry domestic and abroad, the knowledge of shipbuilding industry, maritime English and so forth.

Besides, the maritime courts should strengthen the cooperation with scientific research colleges, carry out research project together, and jointly train maritime legal talents. Through inviting experts in the fields of maritime law theories and practices nationwide to hold academic seminars or give special lectures, expand the vision of maritime judges and improve their ability in handling the maritime cases. In addition, the maritime courts should strengthen the cooperation with shipping companies, select judges to board on ship to do an internship. During the internship, the maritime judge could get more familiar with the navigation practice, shipping agency, bill of lading, maritime insurance, warehousing and the international conventions, which would be quite

helpful to the maritime trial. Cultivating talents with international outlook and a compound knowledge system would lay a solid foundation for the construction of international maritime justice center.

What's more, we should improve the mechanism for the selection of maritime judges. The mechanism of selecting maritime judges from maritime lawyers and maritime law scholars shall be further improved. In the United Kingdom, there is a very smooth career transition mechanism among the professors of maritime law, maritime judges and maritime lawyers, which plays an important role in cultivating and gathering maritime legal talents. The legal profession is interrelated and complementary. The transition of career is helpful for the legal talents to broaden their horizons, flourish thinking and absorb new knowledge. Besides, such a mechanism also conforms to the current trend of China's judicial reform which is selecting judges from lawyers and legal experts.

B. Accelerating The Digitalization OF Maritime Justice

The maritime justice should strengthen the building of smart courts. Through the big data, cloud computing, artificial intelligence and chain blocks, we can expand the scope and depth of the "Internet + maritime trial". Besides, it is necessary for the maritime justice to keep improving the maritime trial auxiliary system, ship data analysis system, promote online trial, online service, integrate the function of the intelligent litigation system, carry out cross-border testimony, cross-examination, improve the intelligence of the maritime justice.

Besides, the maritime justice should construct a database of maritime trial. The present era is a "big data era". The maritime justice could integrate

the maritime trial data and information of the three level courts, create the world's largest database of the maritime trial information resource, fully realize the integration of judicial statistics and big data management, automatically generate maritime trial data reports, and provide data support and guidance for the research of the maritime trial. We could develop a big data analysis system of the "Belt And Road" maritime case, carry out thematic analysis on the data of maritime trial regularly, serve national governance and social development with the big data of maritime justice.

C. Pushing Forward The Reform Of Maritime Judicial System

The innovation of maritime litigation procedures, trial methods and rules of adjudication should be pushed forward. The maritime justice should fully implement the reform of judicial responsibility, formulate standardized trial manuals for judges, judge assistants and court clerks, promote the intensiveness and outsourcing of judicial assistance services, and explore the pattern of inter-departmental collegial for complicated cases. The maritime justice should explore measures for the allocation of cases among the president of the court, chief judge and the standing member of the adjudication committee, give full play to the exemplary role of the president and chief judge in handling major, complex maritime cases. In addition, it needs to push forward the reform of the mechanism of separating complicated cases and the simple cases, give full play to the unique function of litigation procedures of cases with small subject matters, and explore the maritime trial based on elements, better serve the resolution of maritime disputes.

In addition, the maritime justice should promote the innovation of

maritime trial management. Work rules such as trial process management, professional judges' meetings and adjudication committee should be more sophisticated. Through dynamic supervision on the trial process, case evaluation, notification and analysis of the commuted case, the quality of maritime trials could be improved. Besides, the maritime justice should strengthen the development and application of maritime judicial big data, establish a retrieval system of similar cases, give full play to the function of professional judges' conference, so as to promote the unification of the judgments on similar cases and increase the credibility of the maritime justice of China.

D. Improving The Decision-making Mechanism

The maritime justice should grasp the public's demand for judicial services accurately. No investigation, no right to speak. To improve the maritime judicial services and the maritime judicial decision-making, the maritime justice could pay visits to the ports, shipping enterprises and maritime administrative departments, consult them about their needs on maritime judicial services. Maritime courts should actively carry out prospective research in supporting the Belt and Road Initiative. Based on the research results, the courts could make trial guidelines, put forward legislative proposals, issue legal advises and unified the judgment on similar cases, by these means, facilitate the construction of international maritime justice center.

Furthermore, the maritime justice should build a high-level maritime judicial think tank. The maritime courts may, on the basis of the characteristics of the maritime cases in their regions, set up a think tank which is composed of maritime experts, give full play to the positive role

of the expert consultants in assisting judicial decision-making and resolving the complicated maritime disputes. Through holding maritime judicial forum, academic seminar or expert consultation meeting, intelligent support could be provided for the decision-making of maritime justice and the resolution of maritime legal problems.

VI. CONCLUSIONS

With nearly forty years development, the maritime justice of China has accumulated rich experiences, but compared with the western developed countries, China still have a long way to go. With the implementation of the Belt and Road strategy, the maritime justice of China has embarked on a new journey. Building China into an international maritime justice center, providing maritime judicial services for the development of marine economic and improving the influence of China's judiciary on the world, is a new proposition entrusted to the maritime justice of China in the new era, and is also a promising future in which the China's maritime judges can fully reveal their talents.

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