

商港區域內船舶所生債權之執行相關法律問題研究

A study of relevant legal issues concerning claims arising from those ships in Taiwan commercial port areas

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摘 要

本文探討臺灣港區船舶所生債權之法律性質。此等債權發生之主要為長期滯港所生之港埠費用之請求權，以及船舶撞損港埠之損害賠償請求權。本文分析長期滯留港區船舶債權之強制執行方式，並以「海上皇宮」及「海上御廚」二艘長期滯港船舶為例，分析其強制執行無法順利拍定之原因；港務公司向法院聲請變賣須檢具之事證；保障港務公司債權之方式；港務公司在船舶強制執行時，其債權承受或應買之評估準則。對於處理船舶撞損商港設施，本文分析「臺灣港務公司船舶撞損公有商港設施作業程序」之適用性，並提出修正建議，包括對於船舶撞損約定興建或租賃經營之商港設施之處理方式。本文亦基於公共利益，以加速處理長期滯港船舶之立場，提出處理長期滯港船舶有關之商港法條文的修正建議。期待未來有更完善之方式處理滯港船舶及遭船舶撞損商港設施之債權。

關鍵詞：

船舶強制執行、滯留港區船舶、港區船舶所生債權、船舶撞損商港設施

Abstract

This article explores the procedures and the relevant issues concerning the outstanding claims arising from those ships in port areas. These claims are mainly arising from the port charges for those ships staying in ports over a long period of time, or damages relating to ships' collision with port facilities. This article analyses the measures of compulsory enforcement for these claims. It uses the case of the ships named "Ocean Palace" and "Ocean Royal Kitchen" as an example in order to analyse the reasons why they cannot be smoothly sold in public biddings, as well as the legal procedure and considerations while the court eventually dealing with them by virtue of auction of movable property. This article also discusses the guidelines while Taiwan International Ports Corporation (TIPC) evaluating whether or not to take over those ships in the public bidding in order to accelerate the procedures of compulsory enforcement. As to the issue of ships' collision with port facilities, this article reviews the applicability of prevailing operation procedures of TIPC, and provides suggestions for their future modification. The article also provides suggestions relating to the way of modifying Commercial Port Law based on public interest concept. It aims to provide reference for dealing with claims arising from those ships staying in ports areas for a long period, or the claims against ships' collision with port facilities.

Keywords: ship compulsory enforcement, ships staying in port for a long period, claims relating to ships in port areas, ships' collision with port facilities