



Fish farm claims in China: lessons from a recent court judgement

Fish farm contact incidents remain a recurring issue for vessels trading to Chinese coastal waters. Traditionally, such claims can be difficult for owners to defend, particularly where liability is argued from the mere fact that a vessel entered an aquaculture area. A recent Chinese maritime court judgment offers a more encouraging development, showing why liability should turn on the evidence rather than on entry alone.

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Given the frequency and severity of such incidents, the judgment is a useful reminder of the importance of careful passage planning, prudent navigation, and timely evidence preservation if a contact incident is alleged.

What happened

In June 2023, a bulk carrier was alleged to have transited through a fish farm at night, causing damage to oysters, aquaculture rafts and related facilities. The farm owner claimed approximately CNY 1 million and submitted a report prepared by his own appointed surveyor.

The claimant did not hold a valid sea area use right certificate or aquaculture licence. A joint site inspection also found no dedicated warning or signalling facilities at the fish farm, such as net-position markers or lighted buoys.

The Court's approach

The Court found that the vessel had indeed entered the fish farm and caused some damage, so the owners were not entirely free from liability. However, it did not assume that physical entry into the fish farm made the owners primarily or fully liable. Instead, it examined each party's fault and causal contribution.

- **Lack of navigational information:**The claimant should have applied to the competent maritime authority for an appropriate navigational warning or notice covering the fish farm. The eleven-year-old navigational warning relied on by the claimant was insufficient to show that this obligation had been properly discharged. A new navigational notice concerning fishing gear obstructing navigation was not issued until after the incident.
- **On-site warnings:**No dedicated warning marks, lighted buoys or other lighting indications had been installed at the fish farm. The Court therefore considered that it would have been difficult for a vessel approaching at night to identify the fish farm in time.
- **Vessel's own precautions:**Although the chart did not show the precise boundaries of the fish farm, it did contain a general caution that numerous fish farms were present in the area. The vessel was therefore expected to remain alert and navigate prudently in light of that general warning.

The Court held the fish farmer 80% liable and the owners 20% liable. It accepted the vessel owners' surveyor's assessment of recoverable loss, which resulted in a substantially lower award than the claimant's original claim.

Why the judgment is noteworthy

The decision adopts a more fact-specific approach than some earlier cases, where vessels were allocated 70% or more of the liability even when the aquaculture activity was unlawful or affected by licensing or procedural defects. Here, the Court focused on the warnings reasonably available to the vessel, the fish farmer's ability to control the risk, and the causal effect of each party's conduct.

The judgment was issued by the Nanjing Maritime Court. It remains to be seen whether other Chinese maritime courts will take the same approach. It should therefore be treated as a helpful persuasive development rather than as a uniform rule for all fish farm contact claims.

Recommendations

- Plan for aquaculture risks early. Passage planning should include a review of updated charts, sailing directions, notices to mariners, navigational warnings and locally available information, particularly where the route passes close to shallow coastal waters or known fishing and aquaculture zones.
- Navigate prudently and keep a record. Maintain a proper lookout, safe speed, effective radar and visual monitoring, careful routing decisions and timely use of available navigational information. Entries in the bridge log and other contemporaneous records should reflect the precautions taken.
- Preserve evidence immediately. This includes ECDIS data, VDR data, AIS records, bridge logbooks, passage plans, charts actually used, chart correction records, radar screenshots where available, weather and visibility records, and any communications with VTS, agents or local authorities. Early preservation is important because this evidence may be central to showing what information was available to the bridge team at the time.
- Check warnings, markings and visibility. Establish whether a valid navigational warning or notice was in force, whether it covered the relevant coordinates and boundaries, and whether the farm had lighted buoys, luminous floats, net-position indicators or other visible boundary markers. Photographs, video, local survey evidence and records of the lighting and visibility conditions can be critical.
- Test causation and quantum. An independent surveyor should be appointed early where appropriate. The claimed loss should be tested against the physical damage observed, the location and extent of the alleged contact, the claimant's supporting documents, and whether other vessels or pre-existing conditions may have contributed to the alleged damage. Unsupported items should be carefully challenged.
- Notify the P&I club and local correspondent promptly. This allows evidence to be preserved, suitable survey and legal support to be arranged, and communication with local authorities and claimants to be managed in a coordinated way. Early engagement can also help owners assess whether the claim should be resolved commercially or defended on the evidence.

This article summarizes one judgment for loss prevention purposes. The allocation of liability will depend on the facts, evidence and applicable law in each case. Owners should seek case-specific legal advice following an incident.

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