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Research Article

The Institutional Logic and Practical Significance of the Revision of China Maritime Code

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Abstract

The first comprehensive revision of China's Maritime Law in over three decades directly responds to the practical demands of digitalization and green transformation in the shipping industry. Focusing on institutional innovation, this revision undertakes systematic adjustments. Through analyzing legal provisions, comparing different laws, and assessing policy impacts, four core institutional innovations have been identified: the unification of domestic and international cargo transport rules to resolve the institutional fragmentation arising from "different laws governing the same cargo"; the clarification of the legal status of electronic transport records, applying the "functional equivalence" principle to address rights attribution and transfer issues in the absence of paper documents; the addition of a dedicated chapter on vessel-source oil pollution damage, establishing a tripartite compensation system integrating strict liability, compulsory insurance, and a compensation fund; and the readjustment of rules on carrier liability to accurately address challenges arising from new business practices. The study shows that the revision significantly enhances legal applicability, promotes digital transformation and green development in the industry, and strengthens China's capacity in foreign-related maritime legal affairs. However, attention must be paid to implementation risks such as the formulation of technical standards, uniform judicial application, and the capacity of the insurance market. To ensure the smooth implementation of the new law, supporting systems should be improved, and judicial guidance refined to advance the modernization of China's maritime legal system. This revision marks a profound shift in China's role from an adapter to a leader in international maritime rule-making, providing a solid institutional foundation for the nation's strategy of building a strong maritime country.

Keywords

Revision of the Maritime Law, Electronic Bill of Lading, Liability for Vessel-source Oil Pollution Damage, Unification of Cargo Transport Rules, Greening, Determination of Liability

1. Introduction

China Maritime Code is a significant piece of legislation concerning foreign affairs that governs maritime transport and vessel-related relationships. It plays a foundational role in promoting maritime transport and economic trade development, as well as safeguarding the legitimate rights and interests of

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parties involved. Since its implementation in 1993, substantial changes have occurred both in the international shipping landscape and within China's shipping industry: the advancement of the "Belt and Road" Initiative and the strategy to build a strong maritime nation have led to increasingly integrated multimodal transport and international cooperation; the global shipping industry is transitioning towards digitalization, greening, and intellectualization; international maritime conventions and industry practices are constantly evolving; and the domestic civil and commercial legal system has been continuously refined. Against this backdrop, the current Maritime Code's inadequacies in terms of rule appropriateness, institutional coherence, and foreign-related responsiveness have become increasingly prominent, failing to fully meet the legal requirements for building a strong maritime nation and promoting high-level opening-up in the new era.

This revision of the Maritime Code represents its first comprehensive overhaul in over three decades. It aims to keep pace with the times, proactively align with international rules, and establish a more robust maritime legal system. The revision draft systematically expands and refines provisions based on the original code, increasing the number of articles from 278 to 310. The focus is on unifying domestic and international rules, filling institutional gaps, facilitating digital shipping, strengthening ecological and environmental protection, and enhancing the capacity for foreign-related legal affairs. This will promote the high-quality development of China's shipping trade, contribute to the modernization of the maritime legal system, and provide a solid legal foundation for achieving the strategic goals of building a strong maritime nation, a strong transportation nation, and a nation governed by the rule of law.

2. Background and General Approach to the Revision

2.1. Historical Evolution and Contemporary Demands

In retrospect, the Maritime Code enacted in 1993 played a significant role at that time. It incorporated many sound institutions from the international maritime conventions of the era. For instance, it drew upon the Hague-Visby Rules to establish the framework for contracts of carriage of goods by sea and integrated unique Maritime Code principles such as general average and limitation of liability for maritime claims. This laid a crucial legal foundation for the regulation and internationalization of China's shipping market following reform and opening-up, significantly promoting the rapid development of China's shipping economy. However, this law also bore distinct transitional characteristics. It was formulated at a time when China had just established a socialist market economy system and could not have foreseen the subsequent complexities. The legislative approach at that time, which primarily relied on macro-level rules, also resulted in a "dual-track system" where different rules applied to domestic and international maritime affairs [1].

Over the past three decades, the international shipping landscape has undergone significant changes, and the construction of a domestic system for foreign-related rule of law has been vigorously advanced. The institutional deficiencies of the old law have become increasingly apparent. For many consecutive years, China has maintained its status as the world's largest trader in goods and a major shipping nation, with port throughput and fleet size ranking among the top globally. The shipping industry, undertaking over 80% of global trade volume, is a crucial pillar industry. [2] Given its complex industrial chain and high degree of internationalization, higher demands are placed on the scientific nature, coordination, and international compatibility of the legal system. The global shipping industry is accelerating its transformation towards digitalization, greening, and intellectualization. New transaction methods, such as electronic bills of lading and blockchain-based documents, are constantly emerging. The existing law lacks corresponding institutional support and rule guidance to meet the actual legal needs of digital shipping.

The system of international maritime conventions and related international practices is continuously being refined. Bodies like the United Nations Commission on International Trade Law (UNCITRAL) and the International Maritime Organization (IMO) have successively introduced multiple new rules and model laws, promoting greater unification and digitalization of international maritime rules. China's current Maritime Code exhibits deficiencies in areas such as aligning with international rules, filling institutional gaps, the application of law in foreign-related contexts, and the protection of the marine ecological environment. It can no longer fully satisfy the practical needs of building a strong maritime nation and promoting high-level opening-up in the new era.

At the national level, the State Council of China have prioritized the construction of foreign-related rule of law. The revision of Maritime Code emphasized the importance of improving the system of foreign-related laws and regulations to enhance China's capacity to engage in international affairs through legal means, safeguard national sovereignty, security, and development interests. The Third Plenary Session of the 20th Central Committee systematically deployed the improvement of China's foreign-related legal system, explicitly requiring accelerated revision of foreign-related legislation to enhance the systematicness, integrity, and coordination of the foreign-related rule of law framework. The 2024 Government Work Report further mandated proactive alignment with high-standard international economic and trade rules, steady advancement of institutional opening-up, and enhanced synergistic effects between domestic and international markets and resources. The revision of China's Maritime Code represents a critical task in improving China's foreign-related legal system, serving as an inevitable choice to support national strategic objectives and strengthen maritime governance capabilities [3].

2.2. General Approach to the Revision

Focusing on the modernization and internationalization of the maritime legal system, the revision primarily follows these general approaches:

2.2.1. Oriented by Practical Needs, Meeting the Requirements of Modernization of Maritime Legal System

The revision addresses practical problems based on the actual needs of maritime transportation and ship operations, primarily resolving the prominent issues of outdated rules and institutional gaps. In terms of article structure, this revision expands upon the original framework by adding new provisions, comprehensively improving key areas such as maritime cargo transportation, ship operation, salvage and wreck removal, general average, and maritime liability limitation. This enhances the law's specificity and operability, ensuring that legal rules better serve industry development and judicial application.

2.2.2. Balancing Rights and Obligations, Taking into Account China's Dual Positioning as a Major Shipping and Trading Nation

By inheriting and absorbing mature experiences from international conventions while considering China's shipping industry structure and market realities, the revision balances the rights and obligations of multiple stakeholders, including carriers, shippers, ports, and insurers. It optimizes the allocation of liability and relief mechanisms, maintains the security of shipping transactions and legitimate expectations, stimulates market vitality, and establishes a fair and transparent legal environment for the high-quality development of shipping and trade.

2.2.3. Integrating Domestic and International Rules to Establish a Compatible and Development-Oriented Maritime Legal System

Building upon the summary of three decades of maritime judicial practice in China, the revision actively aligns with international rules and model laws developed by institutions such as the IMO and UNCITRAL. It strives to achieve international compatibility of institutions and harmonization of rules, aiming to eliminate the "fragmentation between domestic and international rules." The revision promotes the unified application of systems such as the rules governing the carriage of goods by sea, ship registration, and oil pollution compensation. It clarifies the legal status of electronic transport documents, adds a dedicated chapter on ship-source oil pollution and environmental liability, and strengthens mechanisms including compulsory insurance and compensation funds. These efforts collectively enhance the international competitiveness and governance capacity of China's maritime legislation.

2.2.4. Enhancing Foreign-Related Legal Capacity to Serve a Higher Level of Opening-Up

The revision improves the provisions on the application of law and mechanisms for resolving foreign-related disputes, thereby strengthening China's capacity to respond to international maritime affairs and to export its rules. It supports shipping enterprises in safeguarding their rights and interests in international maritime disputes in accordance with the law. Through institutional alignment and optimization of the legal environment, it provides rule-of-law support for China's participation in the reform of the global shipping governance system and the contribution of "Chinese solutions."

This revision represents not only a technical refinement of the 1993 Maritime Code but also a significant legislative practice for China in advancing the modernization of its foreign-related rule-of-law system. Its objective is to promote the digitalization, greening, and intellectualization of China's shipping industry through legal means, proactively engage with the international community, and provide enduring institutional safeguards for building a strong maritime nation, a strong transportation nation, and a strong trading nation.

3. Core Elements and Institutional Innovations

This revision is not a mere addition of provisions but a systematic and reconstructive legislative project grounded in China's actual conditions, aimed at addressing current issues and guiding future development. Its core essence lies in transitioning from "adapting to rules" to "leading rules," and from "resolving disputes" to "constructing order," thereby enhancing China's discursive power in global maritime governance. The content is systematically organized around the following four dimensions.

3.1. Unification of Cargo Transport Rules: Ending the Institutional Dilemma of "Different Laws for the Same Cargo"

A major breakthrough in this revision is the unification of the legal rules governing domestic and international maritime cargo transport. Article 2, paragraph 2 of the current Maritime Code stipulates that "the provisions of Chapter IV of this Code concerning contracts of carriage of goods by sea shall not apply to maritime transport between domestic ports", which results in different legal rules applying to the same ship operating on domestic routes versus international routes, creating the anomalous situation of "different liabilities for the same cargo". [4] While this institutional bifurcation had some rationale in the early stages of the market economy, its drawbacks have become increasingly apparent as China's unified national market has matured and the shipping industry has developed rapidly: shipping companies must simultaneously contend with two sets of legal rules, leading to higher compliance costs and greater operational uncertainty. When adjudicating cases, courts frequently encounter disputes over which set of rules should apply, slowing down the resolution of disputes.

The new law deletes this exclusionary clause, formally bringing domestic coastal cargo transport under the unified governance of the Maritime Code. This aligns with the strategic need to build a unified national market. The unification of rules eliminates institutional transaction costs and provides shipping enterprises with a stable, transparent, and predictable legal environment. In terms of legal system integration, it achieves internal consistency in the application of law to maritime cargo transport, resolves the long-standing dilemma of rule selection that has plagued maritime adjudication, and enhances the certainty and consistency of legal application [5].

This unification is not a simple replication of international standards. It involves absorbing beneficial provisions from international rules while taking into account China's judicial practice and the bearing capacity of the industry. A certain degree of institutional adaptability is retained. For example, the duty of seaworthiness is assessed by stages, and the standards for determining delay in delivery, along with related exemption rules, are designed with differentiation. This achieves the goal of "integrated unification with flexibility," enhancing the portability of the rules while safeguarding the domestic market and the viability of small and medium-sized shipping enterprises.

The objective of this revision lies in the integration of legal domains and the unification of rules, resolving persistent conflicts in application and judicial uncertainty, and improving the legal order for shipping. It lays the legal foundation for China's coordinated approach to both domestic and international markets and for promoting the high-quality development of shipping and trade.

3.2. Digital Governance of Shipping: Legal Confirmation and Regulatory Innovation of Electronic Transport Records

In response to the practical reality of electronic shipping documents, the new law specifically adds a section on "electronic transport records," theoretically integrating electronic documents into the legal framework for maritime cargo transport. Comprehensive legal provisions govern the entire process of issuance, use, transfer, preservation, and evidentiary effect of electronic bills of lading, establishing the fundamental conditions for the legal foundation of digital shipping.

The new law explicitly establishes the legal status and validity conditions of electronic bills of lading. Provisions clearly stipulate that electronic bills of lading shall have the same legal effect as paper documents when they meet verifiable and controllable conditions such as information integrity, ready retrievability, identifiable issuer identity, and verifiable holder identity. It specifically provides for the transfer methods and legal consequences of "negotiable electronic bills of lading." The legislation adheres to the principle of technological neutrality, reserving compatibility space for potential future adoption of new technologies. [6] By establishing these verifiable and controllable standards, the new law institutionally ensures the security and traceability of electronic bills of lading, providing a clear legal basis for the standardized application of technologies such as blockchain and the Internet of Things in the shipping sector [7].

The new law achieves innovation at the jurisprudential level. In the traditional maritime law system, the documentary function of bills of lading as documents of title relied on "paper documents" and "physical possession." [8] With the development of electronic documents, the core legal challenge for electronic bills of lading becomes: how to achieve the recognition and transfer of documents of title in the absence of a physical medium. The new law introduces the "functional equivalence" principle, adopting "exclusive control" as the core criterion for determining rights attribution in electronic bills of lading, replacing the "physical possession" requirement of traditional paper bills of lading. When a party can exercise exclusive control over an electronic bill of lading and verify its identity through reliable technological means, that party is functionally equivalent in law to the holder of a paper bill of lading. [6] This overcomes the limitation of traditional bill of title being dependent on a physical medium, laying a solid jurisprudential foundation for the lawful circulation of electronic bills of lading, and represents a systematic reconstruction of the traditional maritime law system under digital conditions.

In establishing the system for electronic bills of lading, the new law also authorizes the competent transport department to formulate corresponding technical standards and management norms. This arrangement of delegated legislation ensures the stability and uniformity of the legal system while allowing flexibility for the development of technical standards. However, successful implementation will still depend on the subsequent improvement of supporting elements such as technical standards, certification mechanisms, and judicial application rules [9].

The establishment and jurisprudential innovation of the electronic bill of lading system respond to the practical needs of China's shipping digital transformation, marking significant progress in China's maritime legislation from rule transplantation to independent innovation. It lays a solid legal foundation for building a safe, efficient, and sustainable digital shipping ecosystem, demonstrating the institutional confidence and legislative wisdom of China's transition from a major shipping nation to a strong maritime nation.

3.3. Institutionalization of Green Shipping: Improving the Liability System for Vessel-Source Oil Pollution Damage

As global concern for marine ecological environmental protection continues to grow, liability for vessel-source oil pollution accidents and ecological restoration has become a focal point in the revision of the Maritime Code. Traditional maritime law primarily focused on commercial risks and compensation for damages, with insufficient attention paid to ecological restoration and remedies for environmental harm. The new law significantly reflects the concepts of green shipping and ecological civilization in both its value orientation and institutional design.

For the first time, the law incorporates "protecting the marine ecological environment" into its legislative purpose, indicating that the Maritime Code is not merely a commercial law governing maritime transport and vessel-related relationships, but also bears responsibility for safeguarding marine ecological security and promoting sustainable development. The new law adds a dedicated chapter on "Liability for Vessel-Source Oil Pollution Damage," which details the principles for determining liability, scope of compensation, requirements for compulsory liability insurance or financial security, and the compensation fund system for vessel pollution damage. This marks the initial establishment of a comprehensive ecological protection system based on risk prevention and supported by relief guarantees [10].

In terms of institutional structure, the legislation draws on the mature experience of the International Convention on Civil Liability for Oil Pollution Damage (CLC) and the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, while integrating localized elements based on China's shipping reality. It establishes a three-tier compensation system centered on the strict liability of the shipowner, safeguarded by compulsory insurance or financial security, and supplemented by the Vessel-Source Oil Pollution Damage Compensation Fund. This system implements the "polluter pays" principle, with the compulsory insurance mechanism ensuring the timeliness and adequacy of compensation, and the fund system providing ultimate relief for major pollution incidents, reflecting a legislative pattern that emphasizes both ex-ante risk prevention and ex-post remedies [11].

Regarding the scope of compensation, the revision explicitly includes ecological environmental damage within the compensable scope, and extends coverage to costs not constituting direct economic loss, such as salvage expenses and ecological restoration costs. These new provisions address the previous deficiency of the Maritime Code, which only compensated for economic loss. The law also clearly stipulates that pollution damage cannot be compensated through general average contribution, fundamentally preventing the shifting of pollution costs and effectively realizing the institutional arrangement of "internalizing pollution liability by the polluter" [12].

In terms of liability assumption and incentive mechanisms, the law strengthens the environmental protection obligations of ships' masters and operators, prohibiting the use of contracts to exempt or reduce their statutory liability. Within the salvage-related provisions, it is clarified that the ability and efforts of salvors in preventing or mitigating environmental pollution shall be considered as a special compensating factor in determining salvage remuneration, thereby encouraging salvors to proactively fulfill environmental protection responsibilities. Based on the characteristics of different types of pollution, liability for vessel-source oil pollution damage and liability for vessel-source bunker oil pollution damage are addressed in dedicated sections, clearly demonstrating the direction of refinement and specialization in China's maritime legislation.

The establishment of the dedicated chapter on "Liability for Vessel-Source Oil Pollution Damage" signifies the transformation of China's maritime law from a traditional single system focused on commercial risk regulation to a dual governance model that addresses both commercial risks and ecological risks. This institutional innovation enriches the value connotation of maritime law, reflects the proactive integration of China's shipping legal system into the global green governance system, and demonstrates a distinct contemporary responsibility and awareness of international co-governance in the modernization process of maritime legal system.

3.4. Reconstruction of the Liability System: Refinement of Subject Delineation and Balancing of Rights and Interests

In this revision of the Maritime Law, the reconstruction of the liability system constitutes a key innovation. Moving away from the previous approach of determining liability solely based on contractual form, the revision establishes a criterion that considers both contractual relationships and actual conduct, clearly distinguishing between contractual carriers and actual carriers. [13] The law requires that, in determining liability, comprehensive consideration shall be given to factors such as contractual stipulations, the operator's actual control over the transport process, conduct regarding the receipt and delivery of goods, and the capacity to determine shipping routes and manage risks. This change addresses the ambiguity of liability arising from new business models prevalent in the modern shipping and logistics industry, such as subcontracting, platform-based operations, and consignment arrangements. By clarifying the rules for determining substantive liability, the law provides a clear institutional basis for joint and several liability, secondary recourse, and insurance subrogation, reducing the risk of remedies being unavailable due to unclear responsible parties or broken recourse chains, and avoiding excessive discretion in judicial application. Future judicial interpretations or trial guidelines should further specify the order of determining liability and the allocation of the burden of proof, enhancing the predictability and uniformity of the system's application [14].

Regarding adjustments to the period of responsibility and rules of exemption, the new law defines the carrier's period of responsibility as "from receipt to delivery," clarifying the commencement and termination points of liability for segments such as temporary storage, stacking, and transshipment at ports. This adjustment does not negate the traditional "tackle-to-tackle" principle but rather adapts to the practical needs of containerized transport and modern port operations, eliminating potential liability gaps during cargo handling, stacking, and transshipment at ports. The institutional design promotes a more rational allocation of risks between carriers and port operators, providing operable standards for judicial practice and preventing overlapping liability or duplicate compensation. Further clarification is needed regarding the rules for risk transfer at each stage and the order of recourse between parties, as well as specifying the circumstances under which a port operator qualifies as an actual performing party, ensuring the coordination and coherence of the liability system [15].

The revision of compensation limits and relief mechanisms maintains the overall framework of the maritime liability limitation system while appropriately increasing compensation limits, promoting the unification of compensation rules for passengers and cargo, and enhancing the availability of remedies for victims, while balancing the affordability for shipping enterprises and international liability standards. The new law establishes obligations for compulsory insurance or financial security, along with a compensation fund system, ensuring a stable source of relief funds and the sustainability of the system's operation. A dynamic adjustment mechanism for limitation amounts is established, mandating regular reviews of the insurance market's underwriting capacity by independent assessment bodies, with supporting rules specifying minimum coverage standards and claims processing timelines to avoid premium surges or market imbalances resulting from adjustments to limitation amounts.

This revision reflects institutional consideration and rule-of-law balance for specific groups and key business sectors. It increases the compensation limits for personal injury to passengers, aligning with international standards and emphasizing the value of life and fairness in remedies. [16] It permits port operators meeting statutory conditions to enjoy limitation of liability, resolving the long-standing uncertainty surrounding the application of the "Himalaya Clause" in judicial practice and providing legal protection for the stable operation of port hubs.

Overall, this revision of the Maritime Code advances the reconstruction of the shipping legal system, centering on four interconnected categories of institutional innovation. These innovations support and link with one another, collectively forming a solid foundation for China's maritime legal system in the new era and providing robust legal safeguards for the country's transformation from a major shipping nation to a strong maritime nation.

4. Profound Implications and Future Prospects

This comprehensive revision of the Maritime Code signifies that China's maritime legal system has entered a new phase of development. The systematic institutional innovations in the new law address long-standing issues in the application of law and lay a stable institutional foundation for the high-quality development of the shipping industry. Its impact will be far-reaching, both for the construction of China's maritime legal system and for the landscape of global shipping governance.

At the domestic level, implementation of the new law will promote the modernization of the maritime legal system. Innovations such as clarifying the legal status of electronic bills of lading, unifying the rules for cargo transport, and improving the compensation mechanism for vessel-source oil pollution damage fill institutional gaps in emerging areas such as digital shipping and green development. These institutional arrangements enhance the certainty and predictability of legal rules, providing a clear legal basis for maritime adjudication and arbitration practices. In areas such as electronic documents and cross-border enforcement, the new law establishes uniform adjudicative standards, enhancing the international credibility of China's maritime judiciary and arbitration. [17] The unification of transport rules reduces compliance costs for market participants, while the digital provisions improve the efficiency of document circulation, thereby optimizing China's shipping business environment and strengthening the resilience and security of industrial and supply chains.

At the international level, the enactment of this new law reflects China's growing discourse power and influence in global shipping governance. As the world's largest trader in goods and a major shipping nation, the institutional innovations in China's Maritime Code will inevitably serve as a model for international shipping practices. The rule designs in areas such as electronic bills of lading and compensation for vessel-source oil pollution damage draw upon mature international experience while incorporating practical wisdom from China's context, contributing to the improvement of relevant international rules. This transformation from a "rule taker" to a "rule contributor" stands as significant evidence of China's transition from a major shipping nation to a strong maritime nation. The institutional explorations in digital shipping and green development within the new law also demonstrate China's capacity and determination to participate in international rule-making, facilitating a more prominent role for China in forums such as the International Maritime Organization and the United Nations Commission on International Trade Law.

Looking ahead, the practical effectiveness of the new law will ultimately be tested through implementation, requiring collaborative efforts from all stakeholders to establish supporting systems. Key areas of focus include: accelerating the formulation of technical standards and certification norms for electronic bills of lading, developing operational guidelines that align with judicial evidence rules; strengthening the professional development of maritime adjudication and arbitration, accumulating case precedents to unify the standards of legal application; deepening international exchanges and cooperation, promoting mutual recognition of rules in areas such as electronic documents and data governance, and enhancing the international compatibility of China's institutions; and paying continued attention to emerging issues such as green shipping and technological ethics, ensuring that legal rules remain adaptive to the evolving needs of industry development.

5. Conclusion

The revision of the Maritime Code represents a systematic legal transformation rooted in national conditions while embracing a global perspective. Through institutional innovations in unification, digitalization, and greening, the new law establishes a more comprehensive modern maritime legal system that responds to the institutional demands of shipping practice development. These innovations address current prominent challenges while reserving institutional flexibility for the future development of the industry, reflecting long-term considerations.

The transformation brought by the new law also carries multiple profound implications. At the rule of law level, it further enriches the socialist legal system with Chinese characteristics, particularly as an important component of the foreign-related rule of law system. At the national strategy level, it lays a solid institutional foundation for building a strong maritime nation and a strong transportation nation. From an economic development perspective, it optimizes the business environment and promotes high-quality development of the shipping industry. At the governance level, it enhances China's capacity and capability to participate in global maritime governance. The promulgation and implementation of the new law signify that the construction of China's maritime legal system has reached a new historical stage [18].

Looking forward, as relevant institutions are gradually refined and practical case experience accumulates, the positive effects of the new law will progressively manifest. It is anticipated that this modernized Maritime Code will inject new legal impetus into the development of China's shipping industry, give China a stronger voice in the global maritime arena, and contribute more Chinese solutions to the long-term sustainable development of the global shipping industry.

Abbreviations

UNCITRAL	United Nations Commission on International Trade Law
IMO	International Maritime Organization
CLC	International Convention on Civil Liability for Oil Pollution Damage

Author Contributions

Wu Songyu: Conceptualization, Resources
He Yutong: Writing – original draft, Investigation
Wang Deling: Methodology, Writing – review & editing
Wu Changyue: Supervision, Project administration

Conflicts of Interest

The authors declare no conflicts of interest.

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