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中国海洋法学评论

China Oceans Law Review

2012 年第 1 期 总第 15 期
(2012 Number 1, Issue 15)

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卷首语

《中国海洋法学评论》本期的五篇文章内容丰富、各具特色,于此我们一一将之呈现给各位读者。

公元4世纪时,阿拉伯人就开辟了从印度洋穿过马六甲海峡,经过南海到达中国的航线,如今,马六甲海峡和新加坡海峡已位列世界最重要的海上咽喉,也被马来西亚和印度尼西亚视为重要的经济命脉。最近,拟建横跨马六甲海峡大桥的计划引起了各方褒贬不一的反应,马来西亚学者 Mohd Hazmi bin Mohd Rusli 对此提出了自己的看法,大桥的建设可能会刺激周围地区经济发展,但是对马六甲海峡海洋环境、国际航运交通流都可能造成不利影响,观点独到,值得深思。

20世纪,国际海洋法迅速发展,国际社会围绕各种海洋问题展开讨论,沿海群岛和群岛国问题已得到妥善解决,但是大陆国家的远洋群岛问题一直悬而不决,贾楠的文章则重点讨论了大陆国家远洋群岛的直线基线划定和基线内水域的法律制度这两个问题。

潘军通过联合国大陆架界限委员会对俄罗斯200海里以外大陆架划界案的审议结果,分析了沿海国家期望将本国大陆架扩展至200海里以外的复杂性和艰巨性,并提出可以在积极营造国际氛围、加强科学数据勘测两方面做文章,这对于海洋划界困难重重的中国来说,是值得借鉴的法律实践。

爱沙尼亚海事院校长 Lindpere Heiki 从爱沙尼亚国内立法及实践出发,介绍了相关国际公约和爱沙尼亚海商法发展的概况,主要

涉及海事请求、船舶优先权和船舶扣押。同时,本文也讨论了爱沙尼亚法下船舶扣押和释放被扣押船舶的一些实践问题,这些问题对于海事业务中所涉船旗国或个人有重要参考价值。

台湾学者刘文宏和高瑞钟两位,立足于台湾本身四面环海、人口密集的地理特征和因海岸地区规划不善、使用不当造成一系列问题的现实情况,分析了台湾海洋与海岸管理的背景与发展史,理清海岸管理的思路,并使用海岸带综合管理原则来检视台湾海岸管理的架构。在理论的基础上同时对台湾海岸管理的实践提出了一些建议。

《中国海洋法学评论》将坚持中英对照出版,为中国海洋法的国际化、多元化建立一个更加广阔的平台。非常感谢在我们面对困难和收获荣誉时,始终陪伴在我们身边的众多专家学者们,正是你们的关心与鼓励,鞭策我们肩负着促进海洋事业发展的使命,继续前行。

编辑部 谨识

EDITOR'S NOTE

This issue of *China Oceans Law Review* comprises five articles of knowledgeable insight addressing a number of important issues of oceans laws and policies ranging widely in scope.

As early as the 4th century, Arabians opened the shipping route from the Indian Ocean to China through the Strait of Malacca and the South China Sea. The Straits of Malacca and Singapore have now become two of the most important maritime chokepoints in the world and are also regarded as important economic lifelines for Malaysia and Indonesia. The recent proposal to build a bridge across the Strait of Malacca has triggered different reactions. Malaysian scholar Mohd Hazmi bin Mohd Rusli presents his original and thought-provoking view on this issue by asserting that despite the potential positive benefit for the economic development of the surrounding areas, the construction of the bridge would have adverse impact on the marine environment of the Strait of Malacca and the flow of international shipping traffic.

The 20th century witnessed the rapid development of the international law of the sea. Numerous discussions have been held by the international community concerning various maritime issues. The disputes caused by coastal archipelagos and archipelagic States have been well addressed. However, the regime concerning outlying archipelagos of continental countries remains unsettled. JIA Nan's article focuses on analyzing the baseline system and the legal regime applicable to the outlying archipelagic waters.

PAN Jun's article, by analyzing the results of the UN CLCS's deliberations on Russia's submission concerning the continental shelf beyond 200 nm, addresses the complexity and difficulty in coastal States' attempts to extend their continental shelf beyond 200 nm from the baseline of their territorial sea under international law, and proposes that proactive efforts may be made to create an international atmosphere and conduct further survey for geo-scientific data. This case also serves as a worthwhile reference for the legal practice of

China, which is confronted with great difficulty in maritime delimitation.

Lindpere Heiki, Rector of the Estonian Maritime Academy, provides an overview of the related international conventions as well as the developments of maritime law in Estonia, mainly involving maritime claims & liens, and arrest of vessels. Also the article discusses some practical problems in relation to the arrest of vessels and their release in Estonia which are of importance for any flag State or person involved in maritime business.

Two Taiwanese scholars Wen-Hong LIU and Jui-Chung KAO, based on the geographical features of Taiwan, a densely populated island surrounded by sea waters, and a series of practical problems resulting from poor coastal zone planning and improper use, analyze the background and evolution of marine and coastal management in Taiwan to figure out the thread of coastal management. In addition, the ICZM principles are used to examine the coastal management framework in Taiwan, and suggestions are proposed on the practices of Taiwan coastal management in light of such theories.

China Oceans Law Review will continue to brave the challenges of producing a Chinese-English bilingual publication, and persevere in its commitment to establish a broader platform for the internationalization and diversification of China's oceans law. Finally, we wish to express our deep appreciation for all the experts and scholars who have always been at our side rain or shine, whose care and support will spur us on in our attempt to fulfill the mission of promoting the development of marine enterprise.

COLR Editorial

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跨越国际航运要道的桥梁： 对拟建马六甲海峡大桥的研究

Mohd Hazmi bin Mohd Rusli *

内容摘要:马六甲海峡和新加坡海峡是世界最重要海上咽喉中的两个,这两条水路也被视为马来西亚、印度尼西亚和新加坡这些沿岸国家的重要经济命脉。最近,建造一座横跨马六甲海峡,连接马来西亚马六甲和印度尼西亚杜迈的桥梁的提议引起了赞成和反对的各种反应。本文讨论了拟建的横跨马六甲海峡大桥带来的潜在影响,结论显示无论该桥的建造是否会为该区域和全球的经济带来整体上的积极影响,马六甲海峡和新加坡海峡都是海运要道,任何对国际航运交通流的干扰都将对全球经济不利。

关键词:国际法 马六甲海峡和新加坡海峡 海运

一、引言

马六甲海峡的入口位于苏门答腊岛最北端的乌戎巴卡和泰国普吉岛的莱姆佛兰之间,^①通往安达曼海的水道非常宽阔,大约有 200 海里宽,^②将马来西亚半岛本土和印度尼西亚的苏门答腊岛分开,由于往南部逐渐缩小而形成了漏斗形的水路。从一拓浅滩开始马六甲海峡在任意两岸之间的宽度均小于 50 海里,海峡终端位于马来西亚丹戎比艾和印度尼西亚卡里摩岛之间,此段缩窄至仅 8.4

* Mohd Hazmi bin Mohd Rusli, 所在单位:马来西亚回教科学大学回教法 & 法律学院。电子邮箱:hazmirusli@usim.edu.my。

① Executive Summary, in H. M. Ibrahim and Hairil Anuar Husin ed., *Profile of the Straits of Malacca: Malaysia's Perspective*, Malaysia: Maritime Institute of Malaysia, 2008, xiii~xvi.

② Amelia Emran, *The Regulation of Vessel-Source Pollution in the Straits of Malacca and Singapore*, University of Wollongong Master of Maritime Studies Research Thesis, 2007, p. 9.

海里,与位于新加坡南海岸东柔佛州与印尼廖内群岛之间的新加坡海峡衔接。^①

新加坡海峡长约 60.8 海里,宽度不超过 8.639 海里,向更大的连接太平洋的中国南海开放。^②尽管马六甲海峡和新加坡海峡曾被认为是一体的,但现在国际海道测量组织从水道学的角度将其看作是两个独立的海峡。^③

马六甲海峡和新加坡海峡位于巽他大陆板块珊瑚大三角内,两者都被视为重要的渔场,拥有敏感的海洋环境。^④沿岸许多美丽的岛屿、沙滩和独有的沿岸环境、海洋环境,如红树林、泥滩和泥炭沼泽,通过蓬勃发展的生态旅游产业为马来西亚、印尼和新加坡带来了很大的经济收益。^⑤

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