



THE SERIES OF "CHINA'S MARITIME DEVELOPMENT"

THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA AND CHINA



Author: Zhang Haiwen



China Intercontinental Press



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Introduction

Water covers 71% of the Earth's surface with an area of nearly 360 million square kilometers. In the oceans and seas on the earth, some parts are under national jurisdiction of coastal states with an approximate area of 109 million square kilometers accounting for about 30% of the earth's water. The rest are beyond the jurisdiction of coastal states with an area of about 250 million square kilometers.

The planet's water is found in seas and oceans. An ocean refers to the central main body of the Earth's water which is vast and deep. Oceans compose approximately 89% of the Earth's water with an average depth of over 3,000 meters. There are four oceans on earth, the Pacific, Atlantic, Indian, and Arctic Oceans. The Pacific Ocean covers about one half of the Earth's water surface. The Atlantic Ocean is the world's second largest ocean, nearly half of the Pacific Ocean. The Indian Ocean is the third largest of the world's oceanic divisions with an approximate area of 79 million square kilometers.

In comparison, a sea in a narrower sense is a body of saline water (generally a division of the world ocean) partly or fully enclosed by land, covering approximately 11% of the total surface of the world ocean. In this sense, the word *sea* is used interchangeably with "gulf". Some seas or gulfs are connected to oceans through straits while some are separated from oceans by island chains. According to different locations, seas can be



In October 2009, the Republic of Maldives held world's first underwater Cabinet Meeting, reminding people of the impact of global warming on island countries.

divided into marginal seas, inland seas, and intra-continental seas and so on. However, the above classification is not exclusive since the geographical conditions of seas and oceans around the world are very complicated. Some marginal seas can also be called inland seas. A marginal sea is a sea partially enclosed by islands, archipelagos, or peninsulas, adjacent to or widely opens to the open ocean through straits or waterways, such as the Bering Sea, the Sea of Japan, the Yellow Sea, the East China Sea, and the South China Sea and so on. An inland sea is a shallow sea between continents connecting to the ocean or other seas through one or several narrow straits with the most typical examples of the Mediterranean Sea and the Black Sea. A sea deep into a continent is called intra-continental sea such as Hudson Bay, the Red Sea, the Baltic Sea and the Bohai Sea and so on.

Oceans and seas not only belong to coastal states but also to all human beings. They are vitally important for the survival and development of mankind. They are a basic component of the world's life support system. As the world's important climate regulator and a great storehouse of natural resources, they lay a solid material foundation for the survival and sustainable development of human society. Over 60% of the world population lives in coastal areas and most of the densely populated cities are located in coastal areas.

Oceans and seas have already become a hot issue in international affairs and the focus of attention of coastal states. With the development of marine scientific research and innovation of technical means, people are deepening their understanding of the strategic position and values of oceans and seas. They have developed more powerful capacities to explore and utilize the resources of oceans and seas. Various kinds of maritime disputes are gradually growing. People encounter increasing pressure to protect marine ecological environment. It has widely acknowledged among the international community that it is of paramount significance to establish and improve international marine order for the peaceful utilization and protections of oceans and seas. Therefore, the international law of the sea has become the most rapidly developed department law in modern international law. The *United Nations Convention on the Law of the Sea* (UNCLOS) passed in 1982 (hereinafter referred to as the 1982 Convention or the Convention) at the third Conference on the Law of the Sea (UNCLOS III) is a concentrated reflection of international law of the sea.

According to the rules and regulations of international law of

the sea, landlocked countries have rights in the world's sea just as coastal states do. Presently, among nearly 200 nations and regions the territory of 150 is directly connected to the sea. They are called coastal states. In contrast, the territory of some other countries is entirely enclosed by land with no direct marine outfalls. There are over 40 landlocked states in the world, such as, Kazakhstan, Mongolia, Nepal and others. The 1982 Convention explicitly stipulates that these landlocked states can also utilize seas and oceans and enjoy marine rights and interests in many aspects. For instance, they can share the surplus catch of fishery resources in the exclusive economic zones according to the regulations of Part V. They can share a certain rate of payments and contributions with respect to the exploitation of the continental shelf extending 200 nautical miles away from the baselines of coastal states according to Article 82 of Part VI. They enjoy freedom of high seas according to Part VII. They can share payments and contributions with respect to the exploitation and development of mineral resources in international sea-bed areas according to Part XI. Such instances are not uncommon.

What kind of sea waters can be put under the jurisdiction of coastal states? What rights do states in the world enjoy? What rules and regulations should people abide by when engaging in maritime activities of all kinds? What role has China played in the formulation of UNCLOS? How to settle disputes between different states? How should China use UNCLOS to understand and uphold her own maritime rights and interests? This book will address related issues around the *United Nations Convention on the Law of the Sea* (UNCLOS).



THE UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA



Formation and Development of International Law of the Sea

From the view of historical development, people's understandings of oceans and seas and their values have evolved in the following four stages. Accordingly, related rules and regulations have formed during human activities in different stages.

In the first stage, oceans and seas were open to all and people could freely use marine resources. During the thousands of years from ancient times to the 15th century, people's knowledge and utilization of oceans and seas were quite limited. By the 15th



The cruise liner *Baopingxing* docked on the port of the international cruise terminal.