



THE SERIES OF "CHINA'S MARITIME DEVELOPMENT"

CHINA'S MARITIME LAWS AND MARITIME RIGHTS & INTERESTS



Authors: Zhang Ying, Mi Chenxi



China Intercontinental Press



CHINA'S MARITIME DEVELOPMENT

CHINA'S MARITIME LAWS AND MARITIME RIGHTS & INTERESTS

AUTHORS: ZHANG YING, MI CHENXI



China Intercontinental Press

图书在版编目 (C I P) 数据

平安海洋: 中国的海洋法律与海洋权益: 英文 / 张颖, 密晨曦编著; 吕斌, 张亚娟译. -- 北京: 五洲传播出版社, 2014.9 (中国海洋丛书)

ISBN 978-7-5085-2945-5

I. ①平… II. ①张… ②密… ③吕… ④张… III. ①海洋法—研究—中国—英文 ②海洋权—研究—中国—英文 IV. ① D922.694 ② D993.5

中国版本图书馆 CIP 数据核字 (2014) 第 256810 号

“中国海洋”丛书

策 划: 付 平
出 版 人: 荆孝敏
主 编: 张海文 高之国 贾 宇

平安海洋——中国的海洋法律与海洋权益 (英文)

作 者: 张 颖 密晨曦
特 约 编 辑: 何北剑
责 任 编 辑: 黄金敏 姜 超
翻 译: 吕 斌 张亚娟
审 校: 郑惠贞
图 片 提 供: 国家海洋局海洋发展战略研究所 中国新闻图片网
东方 IC FOTOE CFP
装 帧 设 计: 丰饶文化传播有限责任公司
出 版 发 行: 五洲传播出版社
社 址: 北京市海淀区北三环中路 31 号生产力大楼 B 座 7 层
电 话: 0086-10-82007837 (发行部)
邮 编: 100088
网 址: <http://www.cicc.org.cn> <http://www.thatbooks.com>
印 刷: 北京市艺辉印刷有限公司
开 本: 710mm×1000mm 1/16
字 数: 145 千字
图 数: 120 幅
印 张: 15.25
印 数: 1—5000
版 次: 2014 年 12 月第 1 版第 1 次印刷
定 价: 86.00 元

Preface

The Shang Dynasty (1600 BC-1046 BC) was founded as the first recorded Chinese dynasty, which is also called the Yin Dynasty (or Yin-Shang). It is in this period that the earliest records on marine activities were found, “The sea benefits fishery and salt production and facilitates water transport”, which is the best portrayal of the understanding and utilization of the sea by ancient Chinese people.

After long-term development, marine fisheries, marine salt industry, ocean shipping and maritime trade became one of the major economic and social activities in ancient China.

The ancient Chinese governments formulated a unique management system for the sea by gradually strengthening administration of marine activities. In modern times, with the introduction of modern legal civilization, China also ushered in development of its marine legal system although it is still in the embryonic stage, which however, developed slowly subject to the domestic and international environment.

Not long after the People’s Republic of China was founded, China attached great importance to building its legal system, and also brought building of its marine legal system to a rapid development stage. With vigorous development of the machine industry, China promulgated a series of regulations and laws on the sea, covering sea waters use and administration, marine resources exploration and protection, marine ecological environmental protection, maritime traffic safety, and marine scientific research, etc. Under the influence of the international law of the sea, China has established its marine legal system with the framework of UNCLOS as its basic pattern, to administrate different sea areas in accordance with their corresponding legal status and legal regime, which has played a vital role in safeguarding national maritime rights and interests, and standardizing the order of marine activities.

In accordance with the relevant provisions of international and Chinese laws, China enjoys extensive maritime rights and interests in its territorial seas, high seas, oceans and in the Polar Regions. In recent years, affected by historical, political, economic and other factors, China's surrounding oceans have seen frequent hot issues, and among them, the disputes over the Diaoyu Islands and the Huangye Island (Scarborough Shoal) have raised concerns both at home and abroad. To resolutely safeguard maritime rights and interests against any infringement and maintain stable relations with maritime neighbors for mutual development, China has always pursued the basic principle of peaceful settlement of maritime disputes to properly handle contradictions with the countries concerned, making active contributions to creating a peaceful and stable regional environment.

China has nearly 3 million square kilometers of waters under its jurisdiction. The vast blue territory carries China's hope to address the contradiction between population growth and resource scarcity, and achieve the goal of building a moderately prosperous society. In the future, China's marine legislation and rights safeguarding should harmonize with the international trends and its domestic situations to address relatively inadequate marine legislation and complex and challenging situations in safeguarding maritime rights, and provide solid support to protect national security, administrate marine exploration, maintain harmonious marine ecology and promote the development of the marine economy.

This book introduces the development of China's marine legal system and the progress of safeguarding its maritime rights from the development course and content of the law of the sea, the scope of maritime rights and interests, and hot issues on rights safeguarding, etc. The book is mainly composed by Mi Chenxi and Zhang Ying from the Office of the Law of the Sea of China Institute for Marine Affairs (CIMA) of the State Oceanic Administration. Wu Jilu, Zhang Dan and Shu Zhenya, to whom sincere thanks should be extended to, also provided valuable reference comments.

Contents

The Oldest Creature “Methuselah Worms”

——The origin of China’s Marine Legal System 11

The “Moniang (Silent Girl)” in 1000 AD 14

Overseas Trade Vessel Management Officials and Ao-Jia
and Chuan-Jia Systems 16

Ban on Maritime Activities during the Yuan, Ming
and Qing Dynasties: “No Ships Are Allowed at Sea” 23

Origin of Modern Law of the Sea:
the Draft of Commercial Law of the Qing Dynasty,
the Fisheries Law and the “Order of Three Sea
Miles regarding Territorial Waters” 26

Marine Legal System after the the Founding of the People’s
Republic of China in 1949 31

The Chinese Boxes

——China’s Marine Legal System within
the Framework of International Law of the Sea 39

From “Res communes” to “Res nullius”
and then to “Territorial Sea” 42

China in the Third World,
and Three United Nations Conferences on the Law of the Sea 45

China’s Voice and Stand in UNCLOS 50

The Five-star Red Flag Flying at the Sea

—China's Maritime Rights and Position

65

Internal Waters, Territorial Sea, Contiguous Zone and Innocent Passage	68
The 200-nautical-mile Exclusive Economic Zone and the Continental Shelf beyond 200 Nautical Miles	72
Maritime Rights and Interests within the Waters under Jurisdiction	77
Sovereignty over the Internal Waters and Territorial Sea, and Control over the Contiguous Zone	78
Sovereign Rights and Jurisdiction over the Exclusive Economic Zone and the Continental Shelf	80
“Historic” Rights	85
Maritime Rights and Interests over Waters beyond National Jurisdiction	87
Main Disputes on Marine Rights and Interests with Surrounding Countries	92
Marine Delimitation	99
Marine Resources	100
Marine Security	102

Laws of “Blue Economy”

—Revolution to Disorderly, Excessive
and Gratuitous Use of the Sea

105

“Ding”, the Model of the Fuding City	108
Law of the People's Republic of China on the Administration of Sea Areas	111

The Will of 1.3 Billion People

—Prevention & Treatment
of Marine Pollution Nationwide

123

- “Unified Supervision and Control,
and Assignment of Responsibility to Different Departments” — 130
- Key Supervision and Control Functions Exercised by the State — 132
- Prevention and Control System for Pollution
of Land-sourced Pollutants to the Sea ————— 136
- Prevention and Control System for Pollution of Coastal
and Marine Construction Projects to the Sea ————— 138
- Prevention and Control System for Pollution
of Waste Dumping to the Sea ————— 142
- Construction of Blue Ecological Barrier along the Coastline — 147

Blue Ribbon around the Islands

—Laws Protecting Thousands of Islands

151

- Blue Ribbon Ocean Conservation Society ————— 154
- Special Economic and Social Development Zone ————— 158
- Establishing Ownership of Uninhabited Islands ————— 161
- Clarifying Articles on Ecological Protection
and Utilization of Islands ————— 162
- Strict Limitations on Buildings
and Facilities Construction on Islands ————— 163
- Prohibition of All Topography
and Landform Change Activities in Territorial Sea Protection — 164
- Island Management System ————— 165

Neighborhood Disputes

—Pending Marine Disputes between China and Neighboring Countries

171

- The Diaoyu Islands: Key Variables to Affect Sino-Japanese
Relations and Stability of the East China Sea ————— 174
- The South China Sea: the Complex and Profound Situation ——— 185
- The South China Sea Arbitration ————— 200

Embracing the World

—China's Peace, Development and Win-win Principles on Marine Development 207

- China's Disapproval with the Theory
of "Big Powers always Seek Hegemony" ————— 210
- Dialogue: Solve the Land Border Issues Left
in History with 12 Neighboring Countries ————— 212
- Peace: Appreciate and Actively Participate in Bilateral
and Multilateral Negotiations ————— 213
- Common Prosperity: Value Achieved Success
and Continue the Efforts ————— 214
- Foster Amicable Relationships
and Partnerships with Neighboring Countries ————— 217

Voyage led by Truth

—China's Self-improvement in Ocean Development
and Protection

221

A big Marine Power Complying with the International Law — 224

Provide More Complete Safety Information for People at Sea — 227

Announce to the World China's Stand for its Marine Power — 228

Maritime Surveillance Department to Become
the Most Powerful Law Enforcement Force — 230

A Bluer Ocean is a Major Option for the Future of China — 232

China's "Great Ocean" Pattern — 235

Chinese Dragon's "DT" Thinking Mode in a Tangled Era — 238



CHINA'S MARITIME DEVELOPMENT

CHINA'S MARITIME LAWS AND MARITIME RIGHTS & INTERESTS

AUTHORS: ZHANG YING, MI CHENXI



China Intercontinental Press

试读结束：需要全本请在线购买：www.ertongbook.com

Preface

The Shang Dynasty (1600 BC-1046 BC) was founded as the first recorded Chinese dynasty, which is also called the Yin Dynasty (or Yin-Shang). It is in this period that the earliest records on marine activities were found, "The sea benefits fishery and salt production and facilitates water transport", which is the best portrayal of the understanding and utilization of the sea by ancient Chinese people.

After long-term development, marine fisheries, marine salt industry, ocean shipping and maritime trade became one of the major economic and social activities in ancient China.

The ancient Chinese governments formulated a unique management system for the sea by gradually strengthening administration of marine activities. In modern times, with the introduction of modern legal civilization, China also ushered in development of its marine legal system although it is still in the embryonic stage, which however, developed slowly subject to the domestic and international environment.

Not long after the People's Republic of China was founded, China attached great importance to building its legal system, and also brought building of its marine legal system to a rapid development stage. With vigorous development of the machine industry, China promulgated a series of regulations and laws on the sea, covering sea waters use and administration, marine resources exploration and protection, marine ecological environmental protection, maritime traffic safety, and marine scientific research, etc. Under the influence of the international law of the sea, China has established its marine legal system with the framework of UNCLOS as its basic pattern, to administrate different sea areas in accordance with their corresponding legal status and legal regime, which has played a vital role in safeguarding national maritime rights and interests, and standardizing the order of marine activities.

In accordance with the relevant provisions of international and Chinese laws, China enjoys extensive maritime rights and interests in its territorial seas, high seas, oceans and in the Polar Regions. In recent years, affected by historical, political, economic and other factors, China's surrounding oceans have seen frequent hot issues, and among them, the disputes over the Diaoyu Islands and the Huangye Island (Scarborough Shoal) have raised concerns both at home and abroad. To resolutely safeguard maritime rights and interests against any infringement and maintain stable relations with maritime neighbors for mutual development, China has always pursued the basic principle of peaceful settlement of maritime disputes to properly handle contradictions with the countries concerned, making active contributions to creating a peaceful and stable regional environment.

China has nearly 3 million square kilometers of waters under its jurisdiction. The vast blue territory carries China's hope to address the contradiction between population growth and resource scarcity, and achieve the goal of building a moderately prosperous society. In the future, China's marine legislation and rights safeguarding should harmonize with the international trends and its domestic situations to address relatively inadequate marine legislation and complex and challenging situations in safeguarding maritime rights, and provide solid support to protect national security, administrate marine exploration, maintain harmonious marine ecology and promote the development of the marine economy.

This book introduces the development of China's marine legal system and the progress of safeguarding its maritime rights from the development course and content of the law of the sea, the scope of maritime rights and interests, and hot issues on rights safeguarding, etc. The book is mainly composed by Mi Chenxi and Zhang Ying from the Office of the Law of the Sea of China Institute for Marine Affairs (CIMA) of the State Oceanic Administration. Wu Jilu, Zhang Dan and Shu Zhenya, to whom sincere thanks should be extended to, also provided valuable reference comments.

Contents

The Oldest Creature “Methuselah Worms”

——The origin of China’s Marine Legal System	11
The “Moniang (Silent Girl)” in 1000 AD	14
Overseas Trade Vessel Management Officials and Ao-Jia and Chuan-Jia Systems	16
Ban on Maritime Activities during the Yuan, Ming and Qing Dynasties: “No Ships Are Allowed at Sea”	23
Origin of Modern Law of the Sea: the Draft of Commercial Law of the Qing Dynasty, the Fisheries Law and the “Order of Three Sea Miles regarding Territorial Waters”	26
Marine Legal System after the the Founding of the People’s Republic of China in 1949	31

The Chinese Boxes

——China’s Marine Legal System within the Framework of International Law of the Sea	39
---	----

From “Res communes” to “Res nullius” and then to “Territorial Sea”	42
China in the Third World, and Three United Nations Conferences on the Law of the Sea	45
China’s Voice and Stand in UNCLOS	50

The Five-star Red Flag Flying at the Sea

—China's Maritime Rights and Position

65

Internal Waters, Territorial Sea, Contiguous Zone and Innocent Passage	68
The 200-nautical-mile Exclusive Economic Zone and the Continental Shelf beyond 200 Nautical Miles	72
Maritime Rights and Interests within the Waters under Jurisdiction	77
Sovereignty over the Internal Waters and Territorial Sea, and Control over the Contiguous Zone	78
Sovereign Rights and Jurisdiction over the Exclusive Economic Zone and the Continental Shelf	80
“Historic” Rights	85
Maritime Rights and Interests over Waters beyond National Jurisdiction	87
Main Disputes on Marine Rights and Interests with Surrounding Countries	92
Marine Delimitation	99
Marine Resources	100
Marine Security	102

Laws of “Blue Economy”

—Revolution to Disorderly, Excessive
and Gratuitous Use of the Sea

105

“Ding”, the Model of the Fuding City	108
Law of the People's Republic of China on the Administration of Sea Areas	111

The Will of 1.3 Billion People

—Prevention & Treatment

of Marine Pollution Nationwide

123

- “Unified Supervision and Control,
and Assignment of Responsibility to Different Departments” — 130
- Key Supervision and Control Functions Exercised by the State — 132
- Prevention and Control System for Pollution
of Land-sourced Pollutants to the Sea ————— 136
- Prevention and Control System for Pollution of Coastal
and Marine Construction Projects to the Sea ————— 138
- Prevention and Control System for Pollution
of Waste Dumping to the Sea ————— 142
- Construction of Blue Ecological Barrier along the Coastline — 147

Blue Ribbon around the Islands

—Laws Protecting Thousands of Islands

151

- Blue Ribbon Ocean Conservation Society ————— 154
- Special Economic and Social Development Zone ————— 158
- Establishing Ownership of Uninhabited Islands ————— 161
- Clarifying Articles on Ecological Protection
and Utilization of Islands ————— 162
- Strict Limitations on Buildings
and Facilities Construction on Islands ————— 163
- Prohibition of All Topography
and Landform Change Activities in Territorial Sea Protection — 164
- Island Management System ————— 165