

Study on the Freedom of Navigation in the South China Sea under the New International Ocean Order

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Keywords: New international ocean order, Freedom of navigation in the South China Sea, Current situation, Development path.

Abstract: Since China advocated the implementation of the Maritime Silk Road with ASEAN countries, it has aroused the security concerns of neighboring countries, and the constant involvement of large countries outside the region has brought new challenges to the South China Sea issue and has had a certain impact on the existing international relations. The clarity and resolution of the freedom of navigation in the South China Sea is directly related to China's maritime interests and the future international order of the South China Sea. On the basis of expounding how the new international ocean order is formed, this paper analyzes the current status of freedom of navigation in the South China Sea under the new international ocean order, and strengthens international cooperation with ASEAN countries, focusing on international public opinion concerning the South China Sea issue, and conveying development and mutual benefit. In terms of the concept of win-win, the paper proposes the realization path of freedom of navigation in the South China Sea under the new international ocean order, with a view to providing some reference and reference for the effective settlement of the South China Sea dispute.

1. Research background

1.1 Literature review

Wang Chuanjian and Li Jun believe that the focus of legal issues involved in freedom of navigation in the South China Sea is mainly reflected in the following points: Are foreign military aircraft and ships in the exclusive economic zone have the right to freedom of military activities, and whether foreign military vessels before the innocent passage of territorial waters? It is necessary to obtain prior permission or prior notice, whether there is security jurisdiction over the navigational coastal state in the contiguous zone, etc., and proposes several strategies for China to deal with freedom of navigation in the South China Sea (Wang and Li, 2018). Huang Wei expounded the emergence and warming process of the “freedom of navigation” discourse in the South China Sea, analyzed China's cognition and attitude towards the “freedom of navigation” discourse in the South China Sea, and analyzed the reasons for China's cognition of the “freedom of navigation” in the South China Sea. (Huang, 2017). Liu Yanfeng and Xing Ruili believe that the United States adopts a top-down “educational” model for the proliferation of the “Freedom of Navigation in the South China Sea”. This normative diffusion ignores the variability of the norm itself and the complex process of normative communication. China can pass The ASEAN+” South China Sea Regional Mechanism, together with the ASEAN countries, promoted the “South China Sea Code of Conduct” consultations and put them into practice, and promoted the new norms of “freedom of navigation in the South China Sea” by means of two-way norm diffusion (Liu and Xing, 2018). Feng Liang and Du Bo pointed out that analyzing the impact of freedom of navigation in the South China Sea on China's sovereign security and regional security, and proposing some countermeasures to ensure navigation safety in the South China Sea, it is of positive significance for maintaining peace in the South China Sea and safeguarding the rights and interests of the South China Sea (Feng and Du, 2016). Cao Qun proposed the origin of the “jurisprudence” dispute between China and the United States in the South China Sea. He believed that the core of the “legal theory” dispute was the “rule” discourse power and proposed China's relevant countermeasures

(Cao, 2015). Su Xiaohui believes that China and the United States are major countries affecting the development of the South China Sea. The EU believes that the South China Sea may have unexpected circumstances, but will not lose control, and pointed out that the EU will be more involved in the handling of the South China Sea issue (Su, 2016). Zhang Wei analyzed the significant changes in the US “Freedom of Navigation” operation in the South China Sea after Trump took office and the impact on China's maritime security. In response to changes in the US freedom of navigation in the South China Sea, it is proposed that the military should insist on China's military equality. Counter-measures and precise counterattacks; in public opinion, China should exercise moderate restraint and grasp the rhythm and intensity of response measures (Zhang, 2018).

1.2 Purpose of research

As a major transportation link connecting the Indian Ocean and the Pacific Ocean, the South China Sea is an important channel for maritime navigation in Northeast Asia, China, South Korea and Japan, Southeast Asia, South Asia, and West Asia. It is also an important lifeline for maritime transportation and international trade. Since World War II, ocean freedom has gradually deviated from the original development track and gradually became a tool for the United States to strengthen its maritime hegemony and expand its influence on maritime order. The South China Sea dispute and the clarity and resolution of the freedom of navigation around the South China Sea have a very important impact on China's safeguarding its national sovereignty and maritime interests. In view of this, based on the process of forming a new national ocean order, this paper studies the development of the freedom of the South China Sea under the new international ocean order and the development path of freedom of navigation in the South China Sea under the new international ocean order, and strives to build new cooperation between China and ASEAN countries. Provide a reference for the strategic implementation of the Maritime Silk Road and the proper settlement of the South China Sea dispute.

2. The formation of a new international ocean order

With the continuous increase of the total population and the rapid development of the social economy, the development of land resources is more developed, but the total amount of land resources is limited, and the space for land development is shrinking. As the largest part of the earth's occupied area, the ocean has become an important resource for all countries in the world. The development of marine resources, which account for 70% of the Earth's surface, has become an important development direction and goal for the current economic development and sustainable use of resources in all countries of the world. Marine resources contain abundant fish resources and water resources, and at the same time store oil, natural gas and mineral resources that are several times higher than the Earth's reserves. Therefore, a country can maximize the development of marine resources from such resources. Gain huge advantages and benefits in all aspects. Many countries are aware of the power and interests of marine resources, so they are competing for and plundering marine resources, and even large-scale wars do not hesitate. In order to reduce and avoid such problems between countries, and to balance the economic interests between countries, the United Nations Convention on the Law of the Sea (hereinafter referred to as the “Convention”) was signed in 1982. This statute on international marine resources stipulates a comprehensive and meticulous regulation of the rights and obligations of various maritime spaces among nations, and also marks the beginning of a new international ocean order. A brief overview of the formation process of the United Nations Convention on the Law of the Sea: preparatory negotiations began in 1967, the third United Nations Conference on the Law of the Sea was held on December 3, 1973, and the final signing of the Convention on the Law of the Sea on December 10, 1982 was finalized. During the period, 16 meetings were held, and a total of 167 countries and regions participated in the meeting for a period of 9 years. In accordance with the provisions of the Convention, the time and form of the entry into force of the Convention will be officially legally effected after it has been submitted to the Secretary-General of the United Nations from the 60th instrument of ratification

(or accession). The Government of Guyana became the 60th country to submit an application on November 16, 1993, and the Convention entered into force on November 16, 1994. After a long period of 27 years, from the preparations for negotiations, negotiations, signatures and implementation, the Convention has officially come to an end, forming a maritime order law that is mutually respected by all countries. This process is a negotiation process in which various coastal countries attempt to maximize their political, economic and military interests from marine resources. It is also a process of breaking the balance of the original parties and realizing the balance of all parties under the new order. The “Convention” is the result of the mutual struggle between the coastal countries and the beginning of a new round of game of the new system of marine resources. China became a party to the United Nations Convention on the Law of the Sea. On May 15, 1996, it was decided by convening the 19th meeting of the Eighth National People's Congress. On June 7, the same year, the representative of the UN Secretary-General accepted the approval letter submitted by Wang Xuexian, the Permanent Representative of China to the United Nations. In accordance with the provisions of the Convention, the Convention entered into force on July 7, 1996.

3. The current status of freedom of navigation in the south china sea under the new international ocean order

In recent years, China has given a resolute counterattack and expressed its attitude and stance in the face of the United States’ many times in the name of maintaining the freedom of navigation in the South China Sea and sending ships to the South China Sea and airspace for military provocations.

First, the Chinese government has further clarified the nature of the United States to implement the “freedom of navigation”. In 2015, the US Asia-Pacific “rebalancing” strategy and the Nanhai series of events occurred, prompting the intensification of the South China Sea strategic game. The US government, the Congress, and the military have continued to declare that they want to “maintain” the South China Sea “freedom of navigation” and show it in a tough way by force. The Chinese government has given a tough response and has targeted the US actions on the South China Sea as “adventurous and provocative.” Although he is still relatively restrained in his statement, in the actual action, he reminded the United States of the need to resolutely respect the sovereignty of the South China Sea and regional peace and stability. After that, the US did not converge on its own behavior. The re-implementation of actions led to a deterioration of the situation in the South China Sea. The Chinese government directly criticized the follow-up actions of the United States and adopted a more serious attitude to criticize the nature of its actions. In the expressions and actions taken by the Chinese side, they unanimously and resolutely safeguard the sovereignty and international law of the South China Sea (Luo, 2012).

Second, the Chinese government has specifically pointed out the adverse effects of the US side on the South China Sea incident from various relevant perspectives. In 2015, the US side drove the US ship into the waters of the Nansha Islands in China. The US side once again disregarded the Chinese side’s repeated opposition in action, resulting in close contact between the two sides. It is a very irresponsible practice to pose a direct threat to the safety of personnel and territory between the two parties and to easily trigger an accident. Later, at the regular press conference of the Ministry of Foreign Affairs, the Chinese side stated that “the irresponsible behavior of the US side has seriously damaged China's sovereignty and security, further aggravating the tension in the South China Sea region. The fact that the US has created trouble and undermined the international order is very clear. “The US aircraft carriers and strategic bombers have repeatedly crossed the border into China's South China Sea, exerting military pressure on China, while large-scale military exercises and the construction of various military bases in the Philippines. This is militarization.” The double standards adopted by the US have seriously affected the relationship between China and the United States. The adverse effects of such actions and situations are not good for both sides, and they also uncover the legal cloak that the United States is dedicated to.

Third, the Chinese government's focus on mutual interests, the initiative to convey goodwill, and the best efforts to promote dialogue and control differences are based on a clear opposition to the “freedom of navigation” provocative behavior. In addition to the Chinese Ministry of Foreign Affairs' routine briefing to convey China's cognition and attitude toward the South China Sea incident, the Chinese side also used various diplomatic venues to convey goodwill to the US when appropriate, in order to ease the efforts of both sides on the South China Sea incident. At the high-level meeting between the two sides, it was proposed that China and the United States have many common interests in the South China Sea. Both sides should support and maintain peace and stability in the South China Sea. Both sides can resolve disputes through peaceful negotiations and consultations. Later, at the meeting between the Chinese and American leaders, the issue of “freedom of navigation” in the South China Sea was again raised. China respects the freedom of navigation and overflight enjoyed by all countries on the basis of international law, but does not accept any actions that undermine China's national sovereignty and security interests. It is hoped that the US will abide by the conventions on sovereignty and territory in international law and make due contributions and play a constructive role in maintaining peace, stability and development in the South China Sea.

4. The realization path of freedom of navigation in the south china sea under the new international ocean order

4.1 Strengthening maritime cooperation with ASEAN countries

Strengthening maritime cooperation is in line with the common interests of China and ASEAN countries. It is also an effective way to resolve and alleviate the contradictions between them. In order to cope with the challenges brought about by the joint construction of the new Maritime Silk Road and further promote the national strategy of the new Maritime Silk Road, China should strengthen its maritime cooperation with ASEAN countries from the following aspects: First, tsunami warning and disaster reduction and disaster prevention aspect. China and ASEAN countries should actively promote the establishment of a disaster relief cooperation framework, further deepen the cooperation between China and ASEAN countries in disaster prevention and mitigation, enhance their own disaster monitoring, early warning and rescue capabilities, and carry out cooperation and exchanges in all aspects to continuously promote tsunami warning and prevention in the South China Sea countries. Disaster mitigation capacity building. Second, combat piracy and maritime search and rescue. China is committed to strengthening its work in combating piracy and humanitarian relief involving many countries. It is conducive to enhancing the trust and recognition of ASEAN countries to China and laying the foundation for maritime cooperation between China and ASEAN countries. Third, the prevention and control of marine pollution. At present, international treaties on the prevention and control of marine pollution are relatively sound. Therefore, China and ASEAN countries have established an international basis and a practical basis for the establishment of a sound environmental protection cooperation mechanism in the South China Sea. The establishment of the South China Sea environmental protection cooperation mechanism based on the specific conditions of the South China Sea is an effective way to control and prevent marine pollution. It is also conducive to deepening the trust between the two sides and thus better stabilize the situation in the South China Sea.

4.2 Focus on international public opinion on the South China Sea issue

Given the complexity and long-term nature of the South China Sea issue, international public opinion surrounding the South China Sea issue may be normalized. China needs to take seriously the international public opinion on the South China Sea issue. In response to the relevant public opinion on the South China Sea issue, China should combine the countermeasures of the South China Sea issue with the attitudes of all parties to strengthen external publicity and reporting. First, China should further elaborate on the position of joint development and the consensus reached by relevant countries on the South China Sea issue. Second, in terms of external propaganda, China

should clearly express China's basis and position on the South China Sea rights claims, thereby reducing the misunderstanding of China by relevant countries. In terms of legal basis and historical sovereignty, China should increase its international interpretation of the South China Sea rights claims. Third, China should use a variety of forms to increase its efforts. For example, on international occasions, China clearly stated its position on the South China Sea issue.

4.3 Passing the concept of peaceful development, mutual benefit and win-win

The new Maritime Silk Road advocated by China has, to a certain extent, caused doubts from relevant countries, thus casting a shadow over the relationship between China and ASEAN countries. China needs to continue to convey China's philosophy of adhering to peace and development and is committed to building a community of destiny closer to ASEAN countries. Only by insisting on using the international platform to express the concept of peaceful rise and win-win cooperation can China gain more support and understanding from international public opinion, thus creating a better development environment for the construction of the Maritime Silk Road. In addition, while conveying the concept of peaceful development, China needs to be vigilant against the intervention of large countries outside the region to prevent major powers from joining forces to threaten the security of the South China Sea. After China proposed the new Maritime Silk Road, the United States and Japan and other big countries criticized China's actions in the South China Sea in the name of "freedom of navigation in the South China Sea" and strengthened the partnership between the two sides. In the face of the containment and containment of the United States and Japan, China should continue to adhere to both hard and soft methods, using political means, economic means and military means. China must not only strengthen its military strength, but also establish and improve its own defense system. It must also respond to the spear of the United States and Japan with a shield of peace and further promote multilateral cooperation in the South China Sea region.

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