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RESEARCH ARTICLE

CHINA VIOLATES INTERNATIONAL LAW BY ENROLLING THE MARIAGE LAW AND SAFETY LAW

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ABSTRACT

China has long used the tool of domestic law to carry out its plot to control the East Sea. The promulgation of two legal documents including the Law of the Sea and the Law of Maritime Safety has seriously violated international law. This article clearly indicates the purpose and content of the violations and their impact on the security situation in the East Sea.

Key words:

Law of the Sea, Maritime Safety, China, East Sea.

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INTRODUCTION

Taking advantage of the world situation facing the Covid-19 pandemic, China has secretly released two legal documents to heat up the security situation in the East Sea. These two legal documents of China are both specific to become a sharp legal tool to acquire the East Sea, but still leave enough ambiguity for relevant countries to grasp Beijing's actual behavior, as well as identify the impending danger. This article clearly shows China's intention when, respectively, releasing two legal documents regulating the coast guard and maritime safety; at the same time, clarifying the serious violations of international law in these two legal documents.

China's Purpose of Promulgating the Law of the Coast Guard and the Law on Maritime Safety: First, China deliberately maintains ambiguity in its domestic law to seek to justify its aggressive activities in the South China Sea. This is part of China's mulberry silkworm strategy to completely control the South China Sea because Beijing can invoke the new law to continue to threaten the offshore activities of other countries' ships. China's purpose in requiring foreign ships to declare their voyages may be to hit the world's perception that the South China Sea is under China's jurisdiction. If China only requires foreign ships to declare in waters determined in accordance with international law of the sea, the new regulations will hardly affect the world's maritime lifeline. However, it is likely that China will apply these provisions within the 12-nautical-mile zone around the disputed islands and within the illegal baselines that Beijing has claimed

around the Paracels and even the entire island. The set of waters within the illegal U-shaped line. The passage of vaguely inaccurate legislation allows the country to change its position on the applicability of the law based on circumstances at particular times. However, taking into account China's exaggerated claims and past law enforcement activities, the Law on Maritime Safety is likely to be formulated to apply to all seas and seabeds: the nine-dash line in the East Sea area; extending to the Okinawa Trench in the East China Sea; extending beyond Leodo Rock in the Yellow Sea. The expansion of the scope of application of the Law on Maritime Safety is inconsistent with the 2016 East Sea Arbitral Tribunal's Award, which affirmed China's claim to historic rights and claims to sovereign rights, jurisdiction over the waters within the Nine-Dash Line is contrary to UNCLOS and, therefore, has no legal effect (Thu Hien (2021)). Second, although the Maritime Safety Law ostensibly specifies five types of ships subject to restrictions, the fifth category is referred to as "other types of ships that may threaten the safety of China's maritime traffic." country under the law" is extremely vague. Therefore, there is reason to believe that the nature of this regulation is aimed at military ships and exploration ships of other countries. Even the purpose of enacting the law is like a warning for military ships or ships exploring the resources of countries. Because: (i). It is the military ships and exploration ships of other countries that are the real obstacles to China's expansion. (ii). This is a response to the continuous presence of military ships of the US and its allies in recent years. (iii).

Countries like Malaysia Indonesia and Vietnam are planning to exploit oil and gas in waters claimed by China illegally. The reason why the Law on Maritime Safety still calls out the previous four types of ships by name for the purpose of confusing public opinion, hiding the true nature and also creating an objective cover for the sake of maritime safety. For this reason, it should be noted that the regulations for non-state commercial vessels mainly recognize long-established maritime practices. Therefore, the accusations of oil tankers or other cargo ships can completely become the ignition for maritime incidents, which further facilitates external powers to deeply intervene in the East Sea situation. which China did not want.

The Law on Coast Guard and the Law on Maritime Safety are closely linked with each other: On February 1, 2021, the China Coast Guard Law allowed the Chinese coast guard to use weapons against foreign ships when there was an official violation accusation. Seven months later on September 1, 2021, when it was the turn of China's revised Maritime Safety Law to be applied in the field, Beijing hid the issue of maritime safety to impose some extra obligations beyond provisions of UNCLOS for foreign ships to conduct innocent passage in the territorial sea. The birth of these two laws of China is not discrete but has been calculated and closely matched. First, China's Coast Guard Law provides tools: coast guard and weapons. China's Coast Guard Law recognizes: When China's national sovereignty, sovereign rights and jurisdiction are illegally infringed upon by foreign individuals and organizations, or facing an urgent danger of illegal infringement, according to under this law and other related laws, the coast guard has the authority to take all necessary measures, including the use of weapons, to stop the infringement and eliminate the threat. With 15 repetitions of the word weapon, the main purpose when this Law was enacted was to create a legal corridor for the use of armed measures by the Chinese coast guard. Accordingly, cases where the Chinese coast guard can use weapons, including (Article 22 of the China Coast Guard Law 2021):

- Force vessels to stop moving when pursuing, stopping, checking, boarding according to the law.
- Coercive chase, coercive towage of ships according to the law.
- In the course of performing their duties according to the law, they encounter obstacles and harmful things.
- In other situations, it is necessary to stop criminal acts or crimes on the spot.

Obviously, if China's Coast Guard Law stands alone, countries will probably have little basis to object because the use of armed measures is also a natural right of maritime law enforcement forces that most countries have to rely on. also noted. Perhaps so, since the Law on Coast Guard took effect so far, there have not been any outstanding maritime incidents in the East Sea due to the impact of these regulations. Second, the Law on Maritime Safety, which corresponds to the Law of the Coast Guard, indicates the subject and the behavior of the coercion. The Law on Maritime Safety recognizes five foreign ships subject to the law, including: (i). Submarine. (ii) Ships run on nuclear fuel. (iii). Ships carrying radioactive materials or other hazardous substances. (iv). Other types of ships may threaten China's maritime traffic safety according to the law. If the above groups of foreign ships have the ability to threaten

the safety of China's internal waters and territorial waters, the law enforcement force has the power to order or coerce the suspected vessel to leave (Article 54 of the China Maritime Safety Law 2021). Thus, the Law on Maritime Safety has followed the Law on the Coast Guard to specify the objects and behaviors that can be coerced by force by China's Coast Guard. The operation of the China Coast Guard will become more convenient thanks to the support of the Maritime Safety Law.

The purported international law irregularities of both Chinese legal documents: The most ambiguous point is within the so-called territorial sea of China under the provisions of the Maritime Safety Law or the waters under China's management according to the provisions of the Coast Guard Law. It should be noted that there is no word in either law that directly mentions the South China Sea. China's waters have always been disputed even though the nine-dash line claim was refuted by a 2016 Final Award. Since these two laws are China's internal laws, as a country bordering the East Sea, the provisions on the scope of application are always understood as the waters under Beijing's claims. Meanwhile, China has never agreed to jointly delimit the disputed waters with the parties. China intentionally vaguely explains the concept of territorial sea in the Law on Maritime Traffic Safety because Article 117 of this law explains the terms, but leaves the important concept open. Likewise, the Law on the Coast Guard grants maritime law enforcement the right to open fire on foreign vessels violating China's waters under China's jurisdiction, but does not specifically explain the boundaries of the waters under China's jurisdiction. their rights.

The new law gives Chinese law enforcement the power to intercept and stop foreign ships that China determines to be harmful in its territorial waters. This can be seen as a threat to peaceful activities in the East Sea, but it is considered illegal by the Chinese side. Such disruption of the international legal order by China will lead to bad precedents, endangering global order and stability. China's new regulation on maritime declaration once again proves that it is not seriously interested in negotiations but wants to establish de facto control step by step until it achieves its ambition to monopolize the East Sea and complete it. completely contrary to the 1982 United Nations Convention on the Law of the Sea-UNCLOS (Nguyen Tien and TrungNhan 2021). UNCLOS stipulates that coastal states are not allowed to impede foreign ships if they pass through without harm in their territorial waters. China deliberately creates legal traps in areas it claims for the purpose of normalizing, or in other words, for the international community to gradually adapt to those claims (Hoang Anh (2021).

Article 22 of UNCLOS allows a coastal state to require foreign ships to pass innocently through its territorial sea to use designated routes and to divide traffic if necessary in order to ensure the safety of navigation. Furthermore, the coastal State may not impose requirements on foreign ships that would impede or restrict the exercise of the right of innocent passage, except as otherwise intended. in UNCLOS. A coastal State's reporting system of ships or passages, which applies only within its territorial sea, should take into account the recommendations of the International Maritime Organization - IMO, but not be submitted to it. IMO passed.

However, navigational and reporting systems that apply beyond the territorial sea, the part of the territorial sea within an international strait for navigation, are by nature required to be submitted to IMO for adoption and enforcement should be in accordance with IMO guidelines and criteria consistent with the General Terms of Navigation. Therefore, China's requirements regarding ship navigation, reporting, traffic control and restricted areas in its territorial sea as set forth in Article 19 of the Law will not result in impede or restrict the exercise of the right of innocent passage. In addition, the areas claimed under Article 19 of the Law that are outside China's territorial sea need to be first submitted to IMO for adoption. These zones cannot be imposed unilaterally on foreign ships by maritime authorities. Article 30 of the Law on Maritime Safety is also problematic because it imposes mandatory pilotage requirements for: Foreign-flagged ships; nuclear-powered ships, ships carrying radioactive substances and super-heavy oil tankers; large liquefied gas tankers and ships carrying dangerous chemicals that may endanger ports; Vessels whose length, width and height are close to the limits of the conditions of the straits may allow these ships to pass.

Mandatory pilotage as a condition for ships to be allowed to enter a port is a fairly common issue related to seaports and inland waters. However, it is inconsistent with international law to require compulsory pilotage of foreign ships engaged in innocent passage but not intending to enter the ports or internal waters of the coastal State. international law, including Article 24 of UNCLOS. This request results in the impediment or restriction of innocent passage.

The impact of the Law of the Sea and the Law of Maritime Safety on the freedom of navigation in the world and in the region: As the world's most important maritime lifeline, many world powers such as the US, Japan, Korea, India, UK, France, and Germany all transport goods through the East Sea. China has formulated laws to fulfill its ambition to monopolize the East Sea, impose unreasonable regulations on this sea, and violate the right to freedom in the oceans, especially the right to freedom of navigation in the sea. air and right of innocent passage in the East Sea. Currently, the ability of China to enforce this law in disputed waters, as well as the fact that ships from other countries must report to them when passing through areas such as the East Sea, is not high due to the decisive opposition. from countries. China's increased coercion in the East Sea creates a premise for the increased presence of the United States and its allies in the East Sea associated with common maritime interests and commitment to freedom of navigation in the seas to deal with the conflict.

Chinese power and influence. Specifically, before the Law on Maritime Safety officially took effect, the US affirmed that China's vast and illegal maritime claims in the East Sea pose a "serious threat to the freedom of the sea". at sea", including freedom of navigation and overflight, rights and interests of the countries bordering the East Sea. The security situation in the East Sea will become worse when the major powers simultaneously show off their power at sea. China's escalatory moves are fully capable of becoming a spark for serious maritime incidents, directly affecting the security and stability of the region and the world.

Conclusion

China has always taken advantage of loopholes in international law to carry out acts of coercion and intimidation of other countries in the East Sea. The promulgation of domestic laws unilaterally imposed on other countries' vessels is also not outside the plot to control the East Sea by gnawing bit by bit. Cooperation to jointly resist Chinese coercion is the only option other countries have in the face of China's unreasonable claims. More specifically, for the two newly promulgated legal documents, in addition to voicing objections through official diplomatic channels, countries need to implement the plan of "collective disobedience", unanimously denying the law. regulations that go beyond UNCLOS by failing to comply with notification requirements in waters that are normally free passages of navigation.

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