# A Study on the Marine Interests and Marine Force Theory

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# 해양의 이익과 해양력에 관한 연구

## 염철의\*·김상구\*\*\*

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Abstract : The oceans are the largest body of water geographical unit in the earth. In accordance with the general said of the international law, countries on the international law must have four elements: 1) settled residents; 2) determined territory; 3) a certain degree of government organizations; 4) the sovereignty. The country's basic rights are: 1) the right to independence; 2) the right to equal; 3) the right to jurisdiction; 4) the right to self-protection. UNCLOS as the only one of the "Constitution of the Earth" on the earth, the implementation of its entry into force make about 1/3 of the world's oceans should be assigned to the coastal states, in the use and management of ocean gave the coastal states the center jurisdiction, the coastal states' jurisdiction sphere had been expanded, the power comparison among all countries in the world had new changes. The ocean territory, like the land territory, is the most major material condition of a country. The ocean's strategic status is extremely important, is the important stage of the international political, economic and military struggle, there are many disputes about the rights and interests, resources and the development and utilization on the oceans. To resolve these disputes is bound to depend on a strong comprehensive national strength, including politics, economy, science and technology, as well as the powerful marine force, in which maritime police plays an important role.

### Key Words: Ocean, UNCLOS, Marine Interests, Marine Force, Integrity Characteristics of the Marine Force

**요 약**: 해양은 지구상에서 제일 큰 물의 지리적 단위이다. 해양에 관한 국제법은 <유엔 해양법협약>으로 이는 지구상에서 유일한 <지구 헌법>이다. 동 협약에 의하여 세계 1/3의 해양이 연안국에 속하게 되었다. 다시 말해 해양의 이용권과 관리권을 연안국 중심으로 관할권을 주어 서 연안국의 관할범위가 넓어지게 된 것이다. 이에 따라 세계 각국의 권력범위는 새로운 변화를 가져오게 되었다. 즉, 해양국토도 육지국토와 마 찬가지로 한 국가의 중요한 물질적 조건이 된 것이다. 따라서 현재는 해양에 대한 전력이 그 어느 때 보다도 중요하게 되었다. 이제 해양은 국제 경제와 국제정치 및 군사투쟁의 중요한 무대로서 한 국가의 권익, 자원개발 및 이용에 관한 분쟁이 많이 나타나게 되었다. 이러한 분쟁을 해결 하려면 강대한 종합적 국력과 함께 해양력이 필요한 것으로 분석되었고, 해양력에서 가장 큰 비중을 차지하는 것은 해양경찰력으로 나타났다.

핵심용어 : 해양, 유엔 해양법협약, 해양이익, 해양력, 해양력의 전체성

## 1. Introduction

Concept of marine rights and interests is an important part of the modern concept of sea power. Maritime rights and interests, including the country's marine rights and interests, are important connotation of national sovereignty and the important manifestation of national interests in a new marine era. Maritime rights owned by sovereign states, which are recognized by the UNCLOS(United Nations Convention on the Law of the Sea), international law, are all called the marine rights, and various political, economic and cultural interests derived from maritime rights are known as the marine interests. But we should have the idea that the marine interests may be included in the sovereignty, or beyond the sovereignty, and the part beyond the sovereignty is obtained by possessing the legal marine interests of other countries with compelling force. In the article On China's Maritime Rights, Dr. Zhang(2003) pointed out that, in general, the marine interests of traditional great countries and emerging great countries would be greater than that of small countries and declining countries.

With human's the conquest of the ocean, people's

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understanding of the ocean has got a new leap. The leap lies in that people's concern about transferred from the economic medium value of using the ocean as a channel of commodity circulation to the value of the ocean itself Zhang, 2001). The emergence and development of views on the modern maritime rights and interests made people profoundly realize that the ocean is bound to be the new space of survival and development for human, and marine force is the way to protect it. Therefore, it has been a significant goal of national ocean strategy to occupy marine territorial, to develop marine resources and to improve marine science and technology. So the contest for the marine rights and interests must be the subject of modern maritime rights(Zhang, 2003).

## 2. Marine Interests

A country's marine interests should be taken as the summation of political, economic, military and other interests of the country which has the wealth of the world's oceans and carry on scientific, production and military activities<sup>1)</sup> by using these waters. It has a great impact on the status of one country and the role it plays in the world. A country's marine interests include four aspects. Mr. Jeong In-Je from Korea expresses his view of Northeast Asia from the perspective of ocean issues, that is, although there are great oceans connected with the Pacific ocean, Northeast Asia has the geographical characteristics of closed sea and include semi-closed sea, as well as the general attributes of the ocean, then the main ocean issues of Northeast Asia are, (1) disagreement on the ownership of islands. (2) friction of maritime delimitation. (3) sailing and maritime traffic safety, (4) crimes on the sea, (5) protection of the marine environment and so on(Jeong, 2005).

## 2.1 The Marine Territorial Interests

The concept of marine territorial is suggested and used step by step during the production and the approval of UNCLOS in countries. Countries' marine territorial includes not only the territorial waters, but also the UNCLOS and the historical rights(Historic ownership, acquired as a result of the historical discovery and use. To study countries' marine territorial interests, changes in the international marine system need to be known, especially the background of how UNCLOS was signed and came into force.

The traditional marine system is a customary law that the high seas are free and territorial sea is of 3 miles. Grotius, a well-known Dutch expert in international law, issued the famous Mare Librum in 1609. The book has made comprehensive expositions on the marine system of freedom. It advocates that any country shall not claim sovereignty over the ocean, and the ocean should be open to all states for their use(Jeong, 2005). However, Selden from the United Kingdom issued Mare Clausum in 1613 in order to protect British fishing rights along the coast. The book pointed out that the ocean is not public everywhere, and the coastal waters must be managed by the coastal state, including the management of navigation rights and fishing rights.

Thus the principle of freedom of the high seas and territorial waters developed together. After World War II, mechanisms of the world's oceans changed. Thus the principle of freedom of the high seas and territorial waters developed together. After World War II, mechanisms of the world's oceans changed. From Sept. 1945 when "Truman Declaration" was issued to Dec. 1982 when UNCLOS was signed, till Nov. 16, 1994 when the convention came into force after Guyana became the 60th country approved country, the new system of marine was formally established. It played an important role in promoting the formation of the concept of various countries' marine territorial(Overseas Short-term Training Result Procesverbal, 2007).

#### 2.2 The Marine Security Interests

The marine security interests of a country include the traditional security, that is, the interests of maritime national defense security and the interests of the maritime non-traditional security.

### 2.2.1 The Interests of Maritime National Defense Security

The first is to safeguard the national maritime sovereignty. A country needs to protect the sovereignty over its territory, territorial waters and jurisdiction of the ocean, to shield a country from invasion of the legitimate rights and interests in oceans as well as to safeguard national unity and so on. The country especially needs to defense the military threat and military strikes against from the sea(Dyke, 2004).

Also there is a need to prevent the infringement acts of

 <sup>&</sup>quot;Military Activities" means the operation of military vessel, aircraft and devices, including intelligence gathering, exercises, trials, training, and weapons practices(Valencia and Akimoto 2006), "Guidelines for navigation and overflight in the exclusive economic zone", Marine Policy, Vol. 30, No. 6, p. 708.).

some of the neighboring countries. Such as they may claim sovereignty over the former country and create a fait accompli, or nibble more territory and force the country to legalize their illegal acts, or exploit resources illegally and occupy these resources for a long or permanent term.

The second is to establish the strategic depth on the sea. Maritime nations need to dilate the strategic depth. Not only the focus of national defense strategy should be shifted from land to sea, but also the scope of activities of the navy should gradually expands from inshore to pelagic areas, expand the strategic territory, and turn coastal areas from the defensive frontier to the strategic rear.

The third is to make effective response to conflicts at sea. Possible causes of the conflicts at sea are as follows: the first is the dispute of territory. There is a hidden danger between countries because of a large number of disputes about the marine territory. Once a country invades another country's marine rights and interests of territory by force, the other country may be forced to fight back by force. Other maritime incidents may as well lead to conflicts at sea. And this is that if there are destructive behaviors directed to the freedom of navigation at sea the interests of the citizens in a country's sea areas or the world's oceans, the country will have to put a stop by using force.

## 2.2.2 The Interests of Non-traditional Maritime Security

The sea is the concentrated area of non-traditional security problems. Non-traditional security is relative to the traditional security which is the country's military security. Non-traditional security issues are also known as global issues, transnational issues, including environmental pollution, global warming, human trafficking, drug trafficking, international crime, pirates2), phantom ships(Cho, 2006) and terrorism and so on. Non-traditional security issues have two characteristics, one is globalization and intercommunity, and the other, in consequences, is not common difficulties and obstacles encountered during the development of human, but a threat to human survival and development. Various forms of non-traditional security threats are shown in the marine areas. They can cause a serious threat to marine safety with the ocean being their carrier and delivery channel (Jeong, 2005).

A country needs to prevent and cope with possible non-traditional security threats at sea. With the increasing

of the marine activities of a country, the chance of encountering maritime non-traditional security threats have also increased. In particular, pirates and maritime terrorism acts could damage sea lanes of communication, offshore drilling platforms and ocean-going fishing ships. In 2002, the United States established the anti-terrorism policy of "preemptive strike" and cooperating with great countries (Overseas Short-term Training Result Proces-verbal, 2007).

## 2.3. The Marine Resources Interests and Environmental Benefits

The marine resources are rich. Marine resources interests are related to the security of a country's resources. The so-called resources security is the state and ability of a country or region to acquire sustainable, steady and adequate natural resources, which shows the level of protection of the country's resources. Due to the limited land resources, the emergence of the worldwide crisis of resources, the scramble for resources brought by the "centralization of the resource question" in international politics after the Cold War, the international resource security problem was increasingly outstanding(Cho, 2006).

The marine resources interests of a country include the following:

The first is the sovereignty of marine resources. The marine resources of a country's includes the territorial waters, the contiguous zones, the exclusive economic zones, the natural resources of the continental shelf, the permanent sovereignty over those resources is an important part of national sovereignty. It is one of the world recognized principles of international law and UNCLOS to protect the country's permanent sovereignty over natural resources from invasion, which is also the basis to ensure the stable supply of the necessary resources and energy for a country's development.

The second is the exploration and development right of marine resources.

Environmental benefits refers to natural resources is common wealth of the mankind, and environmental problems just emerged in the process of snatching wealth by the human being<sup>3</sup>, environmental problems and

<sup>2)</sup> Since 2008, Somali pirates began hijacking ships well outside the Gulf of Aden, so much as hijacked the arms-laden Ukrainian freighter Faina in small speed boats.

<sup>3)</sup> UNCLOS stipulates in Article 1, Use of terms and scope,1-4, "pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

environmental benefits are closely connected with each other(UNCLOS, 1995). Looking at the surface of things, we are facing environmental problems, but looking at the result of facing these problems, we have environmental benefits. The share of the distribution of environmental benefits and the obligation of resolving environmental problems inevitably leads to the problem of environmental justice(Zhang, 1999).

Environmental benefits are always having affiliation with continuous development of environmental requirement, are interests synthesis relating to environment. The content of environment interest consists of sustainable social public order and harmonious ideas of environment ethics. Environment interest often be realized through the help of individual right and the power of government plays an important role in the realization of environment interest (Wang and Zhou, 2005).

Marine environment is a very important content in UNCLOS, the phrase of "Marine Environment" in UNCLOS reached 120 places. And UNCLOS has set up a special section for marine environment, that is Part XII, protection and preservation of the marine environment.

## 2.4. The Marine Traffic Interests

Marine traffic interests are the free rights to guarantee the marine traffic of a country. With the development of foreign trade, a country's marine traffic interests kept growing and the sea route has become the lifeline of a country. Ocean transportation and ocean-related activities can't operate without ships(Cheong, 2003)<sup>4</sup>). The specific reasons which lead to the increase of the marine traffic interests are,

Firstly, volume of foreign trade and the foreign trade dependence among countries kept rising.

Secondly, the trade partners of countries of the world mainly are the world's coastal countries.

Thirdly, countries are becoming major energy import and export countries.

Basing on the achievements obtained over the past centuries and with the economic internationalization and fast increasing international trade and rapidly developing science & technology, ocean transportation and other ocean-related activities are increasing day by day. 150 states subscribed region trade agreement in 2005, thus, trade and reciprocation had been increased, exit-entry number had sostenuto enhanced(Overseas Short-term Training Result Proces-verbal, 2007).

## 3. Marine Force Theory

#### 3.1. Supportability of Marine Force

The indemnificatory of marine force means that the development of marine should aim at the guarantee of the national marine interests. Mahan once said, "It is no matter moral advantages, the international law, or the inherent justice of a specific undertaking that can not protect the martial weak countries against the aggressors who are armed to pillage(Siegfried, 1989)". Therefore, protecting the marine interests is the bounden duty of the marine force.

The standard to judge the building of national marine forces is whether it can effectively safeguard and guarantee the marine interests. Progress of the Navy can not be the criteria for the Navy's development. The criteria be the level of protection of the marine interests, because the size, capacity, the structure of the navy all depend on the marine interests. There is a direct ratio relation between national marine force and national marine interests. A dynamic balance should be maintained between the construction standard of marine force and the needs of marine interests. The development of the Navy should make a moderate advance based on the accurate judge and understanding of the marine interests of the country.

The interest guaranteed by the national marine force is the most important, frontier and risking part of national interests.

In contemporary time, the maximization of a country's marine interests probably means the maximization of the interests of the country which are gained worldwide. Thus the marine force is placed in the central position of all the force guarantee systems of the nation. This has urged the conception of national interests guarantee to transfer from land centrism to ocean centrism, and the country needs to establish the central role the marine force played in the national interests guarantee system. With the development of a country's national power, the extension of national marine interests, the globalization of distribution space, the diversification of the interests' connotations, and the significant expansion of marine force are inevitable tendencies.

#### 3.2 Integrity Characteristics of the Marine Force

The integrity characteristics of the marine force mean the

<sup>4)</sup> The main principal of maritime activities is maritime enterprise. Maritime enterprises are economic units that pursue profits using ships as tool and using ocean as stage. Please refer to: Cheong, Yeong-seok(2003), A Basic Course of Maritime Commercial Law, Busan, Hae-in Publishing House, pp. 3–6.

diversification of the marine force's constitution, which is a complete force system with organic links. Mahan first suggested that sea power is a system, which is a complete system of the sea movement(U.S. Army Military Academy, 1986). Gorshkov illustrated this point more clearly, the state of the sea power of the state should be taken as a system. The characteristics of this system lie in that its components(The military, transporting, fishing and scientific studying fleets, and so on) are linked with each other, and that they can not be separated from the marine environment. This system shows its integrity in the relationship with the ocean(Gorshkov, 1997).

## 3.3 Priority of the Development of Marine Force

As the marine force is of strategic importance to the country, in particular, it is the premise and foundation for the development of other national powers. So the marine force should have a priority in a variety of national power development among the process of modernization. The navy should be the first in the priority ranking especially in the modernization of national defense. Specifically, the old thinking that both all army services and all law-enforcing ranks have a balanced development should be avoided. However, priority principle the navy should be implemented. Key development should be attached to the navy and the navy should be the first national service. The Maritime police will become an important law enforcement force under the direct conduct of the vertical management of central government.

Firstly, the function of the navy ranked the first in defending the national strategic interests and marine interests.

Secondly, the development of the navy needs more money. Thirdly, the economic return of the naval forces is higher than that of other army services.

Fourthly, make references to the general practice of big naval countries.

### 3.4 Continuity of the Development of the Marine Force

The continuity of the marine force development means that the marine force should develop continuously and can not be interrupted. Because the improvement of marine force is the result of the long-term accumulation, to which any interruption would bring difficulties to the later development or redevelopment. Mahan laid special emphasis on the development of naval forces especially on the continuity of naval development in his sea power theory. He introduced the history of France and history of the United States before 19th century end for examples. In these periods the development of the navy was interrupted for policy reasons, the navy had shrunk, a large number of civilian vessels had been sold or destroyed, and everything needs to start from the very beginning when the country began to develop again. In addition, the interruption has also affected the development and promotion of the marine tradition of a country as well as the perfection and development of the naval strategy theory.

### 3.5 Division and Specialty of the Marine Force

Contemporary Western naval theorist Ken Booth put forward the "triangle pattern of the sea power" (Yongliang and Lianrui, 2001) in combination with modern international situation based on Mahan's sea power theory. Despite its focus on marine hegemony, but he believes that the development of sea power should be centered on "utilization and control of the ocean" and exert its military function, the diplomacy function, and the police function, which help us a lot in understanding the important position in the sea power and sea power and the relation with sea power function of the marine economic development (Kim, 1998).

While the construction of Booth's basic triangle graphically illustrates that the relevance of the diplomatic and constabulary roles is based upon a solid military foundation, navies rarely conduct their everyday functions strictly within one single domain, especially in peacetime. To illustrate the overlap amongst the different roles that occurs in practice, Eric Grove, in his seminal work, the future of seapower, overlays each side of Booth's triangle with a circle representing a corresponding sphere of activity - respectively, "East-West confrontation" (Military role), "national interest" (Diplomatic role) and "law and order" (Constabulary role). Grove further developed Booth's construct in acknowledging that not all activities involving the use of force could be limited to the military role. For example, the constabulary duties of navies must include some recourse to the actual use of force, albeit limited at all times. This forces one into making a distinction between higher and lower level operations, peace and war(Grove, 1990).

## 4. Conclusions

Based on the requirements of the marine interests and marine force, a country needs to establish a comprehensive marine force. Sam Bateman, the well-known expert in maritime strategy and a retired Navy brigadier who currently served in the University of Wollongong in Australia<sup>5)</sup>, said, "According to historical experience, it is the pattern of developing a country's global influence to combine advanced shipbuilding industry with thriving foreign trade and combine a merchant fleet with a strong Navy". The seafaring nations in history, such as the United Kingdom in the 19th century and the United States in the 20th century, all succeeded in taking this path, which is almost typical practice(Gayla, 2003).

This shows that, at any times, the marine force of great influence must be an integrated comprehensive force.

Chinese oceanographer Yang Jinsen once suggested that in the new century, China should establish strong comprehensive marine forces, which include naval vessels, oil platforms, crafts, fishing fleets, and scientific exploration fleets and merchant fleets. This is the material force to protect and develop the ocean.

In fact, the marine forces should involve the research, development, utilization, management, protection, defense of the ocean, and other aspects. These forces not only have their own irreplaceable functions, but also can be inter – relative and interactive to compose an organic integration.

A country's comprehensive marine force should include seven aspects.

① Naval force: It refers to the navy which consists of different armies and can carry out pelagic activities with modern combat capability. This navy should have the abilities to defend a country's maritime resources and energy lanes, to shoulder the task of national strategic missions, line's and become the core of the marine force.

<sup>(2)</sup> The marine law enforcement force: The law enforcement force on sea that integrates scattered marine law enforcement forces, such as the research, development, utilization, management, protection, defense, public security of the ocean and other agencies into a unified marine law enforcement force, is called the maritime police, the Coast Guard or other names(Maritime police will be called in theory study hereinafter, Coast Guard will be called in actual appellation, such Korea Coast Guard, U.S. Coast Guard). It is responsible for the tasks of law enforcement,

security, rights protection in the coastal areas, and cooperation with the navy to take adequate actions.

③ The marine transportation force: It refers to the merchant fleets and oil transport fleets. Merchant fleets should be able to meet the needs of the development of national trade with advanced level, to possess the civil-military dual uses and duality, to switch flexibly between peaceful uses and military uses, to play the nation's "second navy" role in helping the Navy with long-distance, large-scale military actions; Oil transportation fleets can undertake more than half of the country's petroleum transport capacity, which gives the country with reliable independent oil transport capacity.

④ The fishing fleets force: It refers to the ocean-going fishing fleets that can carry on fishing, processing, and trade not only in coastal waters but also in pelagic areas, and serve national well-being and the people's livelihood.

(5) The ports force, shipbuilding force: the port force refers to the modern cosmopolitan large ports built by the country, especially the specialized ports in areas of container, oil and gas, which the form the network of ports; The shipbuilding force refers to that the shipbuilding technology has reached the world's advanced level and can build large, ultra-large civil ships, as well as advanced military vessels.

(6) The marine scientific research strength: It refers to the marine research ships, the expedition ship, exploration ships, research Institutions and equipments, the relevant marine technicians and so on.

⑦ Overseas supply points: It is needed to build overseas supply points in friendly countries or in countries located in places of strategic importance for parking, supplies of fuel and fresh water, and maintenance. Functions of the supply points will be expanded to play a role as bases and transfer stations if possible.

Owning to the focus of this paper, this paper puts the marine force in the aspect of Navy and Maritime police.

The naval force is powerful in general, which has the strategic ability and the ability of war. Its actions often reflect a country's strategic objectives. As the nation's major force to defend and preserve the marine sovereignty, when dealing with maritime disputes and implementing the national compulsory force, regardless of the size of the event, the social sensitivity is very strong, the impact is very great, and it is easy to lead contradiction or even national conflicts that may affect the relationship between countries; In the continuous development of legal concept nowadays, dealing with non-traditional maritime security

<sup>5)</sup> Dr Sam Bateman retired from full-time service in the Royal Australian Navy with the rank of Commodore(One-star) in 1993 and became the first Director of the Centre for Maritime Policy at the University of Wollongong in New South Wales where he is now a Professorial Research Fellow. Concurrently, he is a Senior Fellow and Adviser to the Maritime Security Programme at the Institute of Defence and Strategic Studies(IDSS), Nanyang Technological University, Singapore.

interests and massive traditional maritime security interests may result in a waste of resources owing to the exaggerate force and too small targets, and may conflict with the legal spirit for a lack of effective legal process. From the domestic law of the country, how will the marine force efficiently accomplish the prevention, investigation, treatment, compulsion of the marine law and supervised by the law itself at the same time, is a job that the navy can not be equal to. As a result, it is inevitable to establish a unified maritime police troop to deal with the circumstances above and cooperate with the naval force.

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