

COUNTRY REPORT: THE PEOPLE'S REPUBLIC OF CHINA

China's National Plan for Marine Spatial Planning

Nengye Liu*

Introduction

China has a long coastline of 18 000 kilometers, which borders on vast sea areas. The country's marine ecosystems face significant pressure from human activities related to China's rapid economic growth, industrialization and urbanization. Although there are several laws in place to protect the ocean, such as the Marine Environmental Protection Law,¹ Islands Protection Law² and Environmental Protection Law,³ China's marine environment continues to deteriorate.

Ocean management in China has been sector-based for a long time, with many different authorities involved in regulating different human activities. For example, the Maritime Safety Authority is in charge of vessel-source pollution while the State Oceanic Administration ('SOA') regulates the dumping of waste. In order to achieve sustainable ocean management, the State Council (the chief administrative authority of the People's Republic of China) published China's first National Plan for Marine Spatial Planning ('MSP Plan') in August 2015.⁴ The MSP Plan was drafted by both the SOA and the National Development and Reform Commission ('NDRC'). The publication of the MSP Plan represents a shift in ocean governance in China from a sectoral approach to a holistic one. Though not enshrined in law, the MSP Plan has been officially published by the State

* Senior Lecturer, School of Law, University of New England, Armidale NSW 2350 Australia

E-mail: nengye.liu@une.edu.au

The author thanks Dr Michelle Lim for her comments on an earlier draft.

¹ 中华人民共和国主席令第 26 号 [Decree of the President of the P. R. China (No. 26)], 中华人民共和国海洋环境保护法 [Marine Environment Protection Law (revised) of P. R. China], 25 December 1999.

² 中华人民共和国主席令第 22 号 [Decree of the President of the P. R. China (No. 22)], 中华人民共和国海岛保护法 [Islands Protection Law of P. R. China], 26 December 2009.

³ 中华人民共和国主席令第 9 号 [Decree of the President of P. R. China (No. 9)], 中华人民共和国环境保护法 [Environmental Protection Law of P. R. China], 24 April 2014.

⁴ 国发〔2015〕42 号 [State Council of P.R.China, No.42 2015], 国务院关于印发全国海洋主体功能区规划的通知 [Circular on the Publication of National Plan for Marine Spatial Planning], 20 August 2015.

Council. It must, therefore, be fully implemented by all government bodies dealing with ocean affairs.

This country report provides an overview of the MSP Plan. It discusses the background, guiding principles, planning and implementation measures of this important document.

Background

China is the world's third largest ship owner by deadweight tonnage.⁵ It is also the world's largest ship builder.⁶ 90% of China's foreign trade is carried by maritime transport. In 2012, the 18th National Congress of the Communist Party of China declared China's intentions to become a maritime power. China, however, faces serious challenges to achieve sustainable ocean development.

Overdevelopment has become a big problem in coastal areas. For example, from 2002 to 2014, 1339 square kilometers of land was reclaimed from the sea.⁷ Land reclamation has caused significant loss of wetlands along China's coastal line. Moreover, China's sea areas contain abundant marine biodiversity, with 22629 recorded species and various types of marine ecosystems, such as mangroves, coral reefs, coastal wetlands, sea grass beds, islands, bays and estuaries.⁸ Biodiversity loss is, however, getting worse due to red tide outbreaks, overfishing, climate change and marine pollution. In coastal waters, especially those bordering with economic centers such as Shanghai and Shenzhen, land-based marine pollution is a serious issue that needs to be addressed.

Guiding Principles

The SOA and the NDRC list six guiding principles for marine spatial planning in China:⁹

1. Make suitable development plans for different marine areas
2. Identify the major functions and purposes of a marine area before making a development plan

⁵ United Nations Conference on Trade and Development, Review of Maritime Transport 2014, 39

⁶ United Nations Conference on Trade and Development, Review of Maritime Transport 2014, 46.

⁷ See above (n. 4).

⁸ Section 9, Current Situation of Marine Invasive Species, 2006 中国海洋环境质量公报 [2006 National Report on the Quality of Marine Environment] SOA, China.

⁹ 发改委、海洋局就全国海洋主体功能区规划答记者问 [Press Release about the MSP National Plan by the NDRC and the SOA], 7 September 2015 <http://www.sdpc.gov.cn/xwzx/xwfb/201509/t20150907_750236.html>.

3. Prioritise development activities in the Exclusive Economic Zone ('EEZ') and high seas while controlling human activities in coastal waters
4. Enhance the sustainable fisheries management
5. Require an environmental impact assessment before any land reclamation or port construction takes place
6. Enhance protection of the marine environment

Planning

The MSP plan identifies three major functions for China's sea areas: industry and urban construction; aquaculture and fisheries; ecosystem services. Based on these functions, the Plan outlines four zones:

1. Improvement Zones: these are areas near the coast where the most human activities occur. Marine pollution is always a serious problem in these areas. To improve the marine environment in these areas, the Plan supports the replacement of high-pollutant projects, such as steel plants, with less threatening activities, for example marine tourism.
2. Key Development Zones: these are areas that can be used for urbanization, port construction, and oil and gas exploration and exploitation.
3. Restricted Zones: these zones generally refer to areas that provide seafood, especially fishery zones.
4. Prohibited Zones: these zones include marine protected areas and islands. Prohibited zones are used to protect biodiversity and unique ecosystems. Very few activities are allowed in these areas.

For the most part the MSP Plan focuses on China's internal waters and territorial sea. To date, most human activities occur in the 380 000 square kilometers that make up China's internal waters and territorial seas. It establishes 9 Improvement Zones. These include Bohai Bay, the estuaries of the Long (Yangtze) River and Pearl River, the Gulf of Tokin, west Taiwan Strait and the sea areas bordering Liaodong Peninsular, Shandong Peninsular, north Jiangsu Province and the Hainan Islands. All these areas are near China's most economically advanced regions where shipping, fisheries, offshore oil and gas operations, port construction and land-based pollution place huge pressure on marine ecosystems. The MSP Plan has divided Key Development Zones into three categories: urban development zones; ports and industrial parks near ports; and construction/marine resource development zones. Restricted Zones include fishery zones, islands and their nearby waters, and marine protected areas. Marine protected areas may also be designated as Prohibited Zones.

Protected areas include marine special protected areas and marine nature reserves. So far, China has established 23 marine special protected areas at the national level (totally 2 859 square kilometers) and 34 marine nature reserves (totally 19 400 square kilometers). The aim of these areas is to protect endangered species and unique or vulnerable ecosystems.

In the Exclusive Economic Zone ('EEZ') and continental shelf areas claimed under China's jurisdiction, the MSP Plan only designates Key Development Zones and Restricted Zones. Permissible Key Development Zone activities include scientific research, offshore oil and gas exploration and exploitation, and marine tourism. EEZ and continental shelf areas not classified as Key Development Zones are designated as Restricted Zones. In Restricted Zones, sustainable fisheries are the main concern. In the Yellow Sea and East China Sea, fisheries restoration is required. In the South China Sea, it seems that fishing is encouraged in disputed sea areas, although the MSP Plan does mention that habitat conservation is essential.

Implementation Measures

The MSP Plan includes provisions to advance its effective implementation. For example, the Plan provides for Government to increase public service funding in far-away islands. There are also tax deductions for companies conducting offshore oil and gas exploration in EEZ and continental shelf areas. Moreover, there is to be significant investment in capacity building activities, such as ocean monitoring, coral reef restoration, disaster response and marine scientific research.

The MSP Plan marks a shift in policy support for high-pollutant projects to more environmental friendly projects, such as marine tourism and renewable energy. The Plan requires that no construction or industry project be approved without an environmental impact assessment. Furthermore, fisheries will be limited in coastal waters while a number of marine protected areas will be established for the protection of marine species. In order to deal with land-based pollution, the MSP Plan refers to the Action Plan for the Prevention of Water Pollution.¹⁰ It also provides for an integrated mechanism to protect marine environment from both terrestrial and marine pollution.

Conclusions

The adoption of the MSP Plan is a positive move for sustainable ocean management in China. In particular, it marks a shift in China's ocean governance from a sectoral to holistic approach. Moreover, the MSP Plan covers sea areas and related coastal areas. The

¹⁰ 水污染防治行动计划 [Action Plan for the Prevention of Water Pollution], 国发〔2015〕17号 [No. 17, 2015, State Council], 16 April 2015.

intention is to establish an integrated mechanism for the protection of China's marine environment.

However, the MSP Plan also supports the development of China's oceans. It pays most attention to the management of human activities in internal waters and territorial seas. In the EEZ, only Key Development Zones and Restricted Zones are established. The MSP Plan mentions several times that development, such as fishing and offshore mineral exploration, should be encouraged. Thus, the question remains as to whether the Plan is sufficient to achieve sustainability in China's EEZ and continental shelf areas. Moreover, the capacity of the SOA, NDRC and other government administrations to work together to effectively implement the Plan remains a concern.