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WORLD MARITIME UNIVERSITY

Dalian, China

**Study on China's Dual Maritime Law Enforcement
System**

By

CHENYU

The People's Republic of China

A research paper submitted to the World Maritime University in partial
fulfillment of the requirements for the award of the degree of

MASTER OF SCIENCE

(MARITIME SAFETY AND ENVIRONMENTAL MANAGEMENT)

2014

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DECLARATION

I certify that all the material in this research paper that are not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this research paper reflect my own personal views, and are not necessarily endorsed by the University.

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This paper is developed as part of my studies to apply for the master degree of Maritime Safety and Environmental Management (MSEM) at WMU and DMU.

The study in more than one year is written in water. Looking back the life in this year, I am filled with emotion.

Now, I'd like to thank WMU first. It is WMU which gives me a god-given study and promotion opportunity, and in where I have spent a most meaningful wonderful time. First of all, I want to thank all the teachers. I have benefited a lot from their profound knowledge and rich practical experience. For a year, every teacher gives me meticulous care and guidance. With teachers' inculcation and ardent expectation, I set strict demands on myself with higher standards, and I cannot afford to slacken my efforts in the slightest.

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ABSTRACT

Title of Research Paper: **Study on China's Dual Maritime Law
Enforcement System**

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The institutional reform of the State Council of China in 2013 re-established the State Oceanic Administration (SOA). The teams and duties of the original SOA, China Marine Surveillance, China Coast Guard, China Fishery of the Ministry of Agriculture, the Customs Suppress Smuggling Police of General Administration of Customs were integrated to rebuild the SOA. At the same time, set up high-level deliberation and coordination agency - the National Ocean Council (NOC), whose specific work was borne by the SOA. China Maritime Safety Administration (MSA) and its maritime law enforcement team were maintained in this reform, and the dual maritime law enforcement system between SOA and China MSA came into being.

The writer through analyzing ocean management system and maritime law enforcement system of main coastal countries of the world, summarize basic rules of maritime law enforcement system of coastal countries, insist to proceed from China's national conditions to analyze strength and weakness of China's current dual maritime law enforcement system and then expound specific countermeasures from the aspects of legislation work, maritime law enforcement collaboration, etc.

**Key Words: Ocean; Management System; Coastguard; Maritime; Maritime
Law Enforcement**

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LIST OF ABBREVIATIONS

CCG	China Coast Guard
CMS	China Marine Surveillance
CMSRC	Chinese Marine Search and Rescue Center
CSSP	China Fishery and Custom Suppress Smuggling Police
DHS	Department of Homeland Security
MARPOL 73/78	The International Convention for the Prevention of Pollution From Ships
MOT	Ministry Of Transport
MSA	Maritime Safety Administration
NOAA	National Oceanic and Atmospheric Administration
NOC	National Ocean Council
NPC	National People's Congress
NPMSR	National emergency Pre-plans for Maritime Search and Rescue
RCMP	Royal Canadian Mounted Police
RMB	Ren Min Bi
SOA	State Oceanic Administration
SOLAS	International Convention for Safety Of Life At Sea
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
UNCLOS	United Nations Convention on the Law of the Sea

Chapter 1 Introduction

In 1992, *Agenda 21* was passed at the United Nations Conference on Environment and Development (UNCED), which shows the international community's basic ideas and strategic tendency of fully developing and utilizing marine resource. The innovation of marine management system has become an increasingly important role, and whether the concept structure, system design, and operation mechanism of the marine management system are in good condition or not will directly affect the effective implementation and sustainable development of marine strategy of the coastal countries. Therefore, coastal countries of the world will establish and improve marine management system of their own country, and take it as the first priority to enhance their competitiveness and comparative advantage in the new round of ocean exploitation and marine rights and interests competing (Burke, 2005). Due to the different national conditions and development stages, together with the reciprocal action and continuous evolution between the international political and economic change and a variety of sudden serious marine events, the coastal countries have gradually formed a marine management system suitable for their own characteristics.

China is a country of vast marine territory and has a long coastline. Since China's reform and opening up, China's marine business and marine economy has been

developing rapidly. Marine economic output has developed from 6 billion (RMB) in 1978 to 3.1964 trillion (RMB) in 2009, and the status of marine economy in the national economy has been increasingly growing, and marine economy has become a new growth point of national economy in China (Li, 2010).

In the aspect of maritime law enforcement, since 1990s, China's maritime law enforcement function has been exercised respectively by China Maritime Safety Administration (MSA), China Marine Surveillance (CMS), China Coast Guard (CCG), China Fishery and Custom Suppress Smuggling Police (CSSP), commonly known as "Five Dragon Water Conservancy". "Five Dragon Water Conservancy" plays a positive role while highlighting drawbacks such as functions dispersion, overlapped rights and responsibilities, duplicated law enforcement and law enforcement blank.

On March 14, 2013, a plan concerning the State Council reform and function change, and to rebuild the State Oceanic Administration (SOA) were approved at the fourth plenary meeting of the First Session of the 12th National People's Congress (NPC). The plan is proposed to integrate the team and duty of the original SOA, CCG, China Fishery of Ministry of Agriculture, the CSSP of General Administration of Customs, and to rebuild the SOA managed by the Ministry of Land and Resources. The main responsibility is to draft marine development plan, carry out maritime law enforcement of rights protection, supervise and manage the marine use, marine environment protection, etc. The SOA, in the name of China Coast Guard, carries out maritime law enforcement to safeguard legal rights, receiving professional guidance from Ministry of Public Security; set up high-level deliberation and coordination agency - the National Ocean Council (NOC), whose specific work is borne by the SOA.

China MSA and its maritime law enforcement team has been maintained in this reform, and the dual maritime law enforcement system between SOA and China MSA has come into being.

This reform is an important turning point for China to change from the dispersing type of maritime law enforcement system to the integrated law enforcement system. It can be seen from this institution reform that both similarities and differences exist in the law enforcement system of the SOA, China MSA and the CCG implemented for years by many countries. At the same time, some experts believe that the maritime law enforcement system needs further reforming to achieve the goal of finally unified as one law enforcement team; while other experts think that according to the current plan, to strengthen the good cooperation between the SOA and China MSA, to clarify responsibilities, to avoid overlapping and blank responsibilities, and to establish efficient dual maritime law enforcement system are the optimum state for maritime law enforcement.

The writer believes that to study China's maritime law enforcement system, we cannot be simply talking about "unity" or "dispersion". Through analyzing ocean management system and maritime law enforcement system of main coastal countries of the world, we should summarize basic rules of maritime law enforcement system of coastal countries, insist to proceed from China's national conditions to analyze strength and weakness of China's current dual maritime law enforcement system and then expound specific countermeasures from the aspects of legislation work, maritime law enforcement collaboration, etc.

At the beginning, the writer needs to define marine management system with maritime law enforcement system. Marine management system refers to the professional and industry department system proceeded in the process of managing marine affairs by the relevant state organs, which has the right to exercise state management function. Maritime law enforcement system refers to the system of law enforcement team to carry out law enforcement activities (Yan, 2013).

Chapter 2 Marine management system and maritime law enforcement system of the world's main coastal states

2.1. Marine management system of main coastal states

At present, the marine management system of some main coastal states can be roughly divided into three types: dispersing type, relatively centralized type and centralized type.

2.1.1. The Dispersing Type

Countries implementing dispersing type of marine management system are Japan, Australia, Indonesia, Malaysia, Britain, Germany and Sweden, etc. The characteristics of dispersing type of marine management system are:

First, the central government of these countries have no centralized functional department to take responsibilities for marine affairs and the their marine work disperses over different government departments.

Take Britain for instance. The Ministry of Foreign Affairs is in charge of diplomatic negotiation of the issues related to marine policy and legal nature of different

government departments; the Ministry of Communications is in charge of ocean lifesaving, maritime traffic safety, maritime pollution from ships and oil pollution treatment; the Ministry of Agriculture, Fishery and Food is in charge of marine fishery resources conservation and management within the exclusive economic zone of 200 nautical miles; the Department of Energy is in charge of the oil and gas development of the continental shelf; the Royal Property Management Committee is responsible for managing the gravel mining of the seabeach and seafloor. The rest of the marine affairs are respectively taken charge of by different departments like the Ministry of Science and Education, the Ministry of Trade and Industry, the Ministry of Environment, the Ministry of National Defense, Natural Environment Research Council, Engineering and Physics Research Council (Zhang, 2009, P. 38), etc.

The marine work of Japan is managed by the Ministry of Construction, the Ministry of Transport, the Ministry of Agriculture and forestry, the Ministry of Trade and Industry, Science and Technology Department, Environment Department and other departments. In Sweden, the marine work is taken charge of by Department of Industry, Foreign Affairs, National Defense, Transportation, Education, Housing and Natural Planning, etc.

Marine affairs in German involve the Ministry of Education, Science, Research and Technology, the Ministry of Environment, Nature Protection, Nuclear Safety, the Ministry of Transportation, the Ministry of Economy, the Ministry of Food, Agriculture and forests, the Ministry of National Defense and others. Among these, the Ministry of Education, Science Research and Technology are in charge of coordinating marine research and external cooperation.

Second, in order to coordinate the work between government departments, government departments and enterprises as well as the management departments and research agencies, to strengthen the government's macro management of national marine activities, most of the countries mentioned above have a special committee or a similar coordinating agency. For instance, Sweden has set up a Marine Resources Committee; Indonesia has an Ocean Technical Committee; Malaysia has a Marine Science Committee; and Britain set up the Ocean Science and Technology Coordinating Committee in 1986, etc.

2.1.2. The Relatively Centralized Type

Countries implementing relatively centralized type of marine management system are the United States, France, etc. In the system of relatively centralized management, each of the central governments of these countries has a special marine administrative department that is in charge of only certain, not all, aspects of marine affairs of the whole nation.

The most typical country of this relatively centralized management system is the United States.

National Oceanic and Atmospheric Administration (NOAA), the sub-coordinated Ministry of Commerce of the United State, is a functional department in charge of the work of marine management, marine science research, marine environment protection and services, ocean resources management, development and utilization, space and ocean resources protection and so on within the ocean area of the United States. Its function covers the business of China SOA, China Meteorological Administration and Marine Products Bureau of the Ministry of Agriculture.

Besides the NOAA, Maritime Administration in the Ministry of Commerce is also involved in marine management, presiding over the management of shipping subsidy program and relevant ocean research.

The rest marine-relevant departments are as follows: The President's Office of Science and Technology is responsible for formulating marine policies; the State Council is in charge of international fishery planning and foreign fishery negotiations, as well as distributing fishing share to foreign countries; Army Corps of Engineer in the Ministry of National Defense is in charge of managing navigable waters, presiding over the construction, pollution and ocean dumping in this type of water area to protect the port facilities, coastlines, channels, etc. Navy is engaged in ocean data collection, services, marine science, marine engineering, diving medical research and the underwater topographic survey, chart surveying and mapping, etc; the Ministry of Transportation is in charge of offshore deep water port site selection, construction and the use management, maritime oil and gas pipeline construction and safety standards formulation; Bureau of land management and geological survey in the ministry of the interior are in charge of leasing out outer continental shelf oil, gas and so on, investigating and collecting the geological and geophysical data of relevant sea area, analyzing the environmental conditions and restrictive factors of the lease area, implementing offshore safety rules and regulations with the Coast Guard. Bureau of Fish and Wild Animal and National Parks and Woods in the ministry of the interior are in responsible for inland fish and lake beach resource management; Department of Energy is responsible for releasing the plans concerning the petroleum and natural gas index and production rate of the outer continental shelf area (Ma, 2006, P. 58).

In addition, the National Science Foundation, the Environmental Protection Agency, the National Air and Space Agency, Health and Education Welfare, Bureau of Energy Research and Development and other departments all have different management functions. Other countries, take French government for example, Ocean Development Department is the functional department engaged in marine management, presiding over coordinating the development and research of ocean science and technology, and marine industrial activity is coordinated by a French marine development of science and technology association composed of more than 100 companies.

2.1.3. The Centralized and Unified Type

Countries implementing the centralized and unified type of marine management system are South Korea and Poland. Its characteristics are to carry out highly concentrated and unified integrated management of the national marine affairs. South Korea has always attached great importance to the marine business. Early in 1955, South Korea established the department to manage the ocean called “Ocean Administration Bureau”. In 1989, Ocean Development Committee presided by the Premier was set up to coordinate and promote national marine policies and research and development projects. In order to adapt to a new situation after the United Nations Conference on the Law of the Sea (UNCLOS) coming into effect and more effectively strengthen the marine management and maintain its marine rights and interests, through investigating and analyzing the marine management systems of China, India, the United States and so on, in August 1996, South Korea merged 10 marine-related government departments, including Fisheries Agency, Maritime Coast Guard and the Department of Science, Environment, Construction, Transportation, etc, setting up the Ministry of Maritime Affairs and Fisheries

(MOMAF), to carry out highly concentrated and unified integrated management of the national marine affairs. In Poland, marine transportation, marine fishery, ocean environment protection, maritime search and rescue, the investigation of the marine hydrology and the biological resources are concentrated in the Department of Marine Economy Administration. Territorial waters and exclusive economic zone are managed by Navy and Frontier Force with the coordination of the Department of Marine Economy Administration.

2.2. Maritime Law Enforcement System of Main Coastal Countries

2.2.1. Maritime Law Enforcement System of Russia

Russia manages the ocean separately by different departments according to different industries, and there exist high-level decision-making coordinating mechanism and many maritime law enforcement teams. The Departments include: the Ministry of Transportation, the Ministry of Agriculture, the Ministry of Natural Resources, the Ministry of Trade, the Ministry of the Interior, the Ministry of Disaster Relief, the Ministry of National Defense, the Ministry of Foreign Affairs, Administration of the Frontier, Customs, etc.

President Putin issued No.314 Executive Order in 2001, which said that Ocean Committee was established as the high-level decision-making coordination institution in ocean area across departments. The Chairman of the committee is the Prime Minister, and its members include principals or representatives from President Office, National Safety Committee, all ministries, State Duma, local governments and non-governmental organizations. The commission sets up Secretariat separately in the Premier House and the assistant of the Prime Minister is the head of the secretariat, taking responsibilities of daily work. There are mainly three

responsibilities of the Committee: the first one is to formulate integrated marine development strategy programming, distribute the work to relevant departments and units, and supervise their implementation; the second one is to coordinate marine affairs across the departments and across the region; the third is to carry out personnel training and offer business consultant. The documents of the Ocean Committee have the administrative binding to the marine-related affairs. Three federal districts subordinating Russia set up Marine Board whose chairman is the Chief Executive of federal districts, and next, some other federal districts will also set up Marine Board. Russian most marine-related departments have their own maritime forces, such as the maritime transportation management team and Pollution Control and Salvage Team in the Ministry of Transportation, the fishery law enforcement team in the Ministry of Agriculture, the anti-terrorism security team in the Ministry of the Interior, the environmental monitoring team in the Ministry of Natural Resources, the maritime security and border protection management team in the Bureau of Customs and Border Protection, the maritime salvage team in Disaster Relief Department, etc. The maritime law enforcement teams have a basic rule of taking responsibilities, while cross-department cooperation and coordination mechanism is set up in the aspects of maritime anti-smuggling, salvage and so on. Local governments have no law enforcement team.

2.2.2 Maritime Law Enforcement System of Canada

Canada implements the relatively centralized type of marine management system and separate departments of maritime law enforcement system. Main marine-related departments in Canada are the Ministry of Fishery and Ocean and the Ministry of Transportation, while the former is mainly responsible for planning and coordinating comprehensive marine affairs, formulating comprehensive marine policies and

program, managing fishery resources, protecting the ocean and ecosystem, etc; and the latter is mainly responsible for maritime transportation and shipping, maritime safety and security and prevention of marine pollution of ships, etc.

In addition, in other aspects of marine-related work, cross-department coordinating mechanism is also established. For instance, Maritime Safety Working Group is organized by the Ministry of Transport, whose members include the Ministry of Transport, the Coast Guard, Royal Canadian Mounted Police (RCMP), Border Service Department, Immigration Department, the Ministry of National Defense, etc. The daily work is undertaken by the Ministry of Transport, and mainly includes formulating maritime safety policies and coordinating relevant departments.

Canadian maritime law enforcement forces mainly include the Coast Guard, RCMP and the local agencies sent by the Ministry of Transport, etc. The Coast Guard is subordinate to the Ministry of Fishery and Ocean, and is upgraded to department Level One (Vice-ministerial level), and it has relatively independent business and budget, mainly providing technical support and services for the management and law enforcement of relevant marine-related departments, and is in charge of maritime security services, marine pollution removal, maritime salvage, icebreaking, etc. The Coast Guard sets up five branches in the local place, including a total of 4500 people, among them, there are more than 300 people in the headquarters and the rest are distributed at the front, with 107 ships, 22 aircrafts and apart from the six icebreakers. Most of the ships and aircrafts can meet the needs of different law enforcement and service work.

RCMP is subordinate to the Ministry of National Emergency and Security Affairs, and is mainly in charge of keeping away organized crime and anti-terrorism in the

aspect of maritime law enforcement, with 22,000 employees all over the nation, including 17,000 land police, more than 200 coastguard, and the rest are personnel of technology and service. RCMP has 6 small tonnage of law enforcement vessels.

The Ministry of Transport has local agencies in the Pacific Ocean, the Atlantic ocean and Grate Lakes region, and in the aspect of maritime law enforcement, the agencies are mainly responsible for maintaining traffic order and safety, safety inspection of ships and prevention of marine pollution by ships, etc.

The Coast Guard is not a law enforcement agency since the lack of law enforcement power, but due to the concentration of Canadian main maritime law enforcement ships and relevant technical equipment, the Coast Guard has the function of maritime “law enforcement platform”, so it can be considered as a part of “law enforcement power”.

Departments including RCMP and the Ministry of Transport have established coordination mechanism with it to get the support of transportation, technique, etc. Furthermore, in the aspect of the law enforcement, departments including the Coast Guard, RCMP, the Ministry of Transport, Canada Border Services Agency have also established coordination mechanism, and they have regular meetings, analyze and research maritime situation, and coordinate maritime law enforcement activities of relevant institutions.

2.2.3. Maritime Law Enforcement System of Korea

South Korea implements unified management and relatively centralized law enforcement system. In August 1996, South Korea integrated 13 marine-related

functional institutions (including the Ministry of Agricultural Forestry and Fisheries, the Ministry of Communications, the Ministry of Environment, the Ministry of Science and technology, the Ministry of Industry Resources, the National Police Agency, etc), and Marine and Fishery Department was formed to be responsible for marine-related affairs of aquatic product, maritime transport, maritime safety, marine environment protection, ocean science research and investigation, marine resources development and utilization, etc.

It is reported that this department was the only central government cabinet of departments set up not according to industry of function but according to region. The establishment of Marine and Fishery Department solved the problem that many departments were responsible for managing the ocean with different policies or being against for each other. This department integrated relevant administrative resources, improved the management efficiency, enhanced the unified management of the marine affairs and promoted coordinating and rapid development of marine affairs.

However, the Marine and Fishery Department in South Korea does not generally manage issues related to the ocean, while the motorboat is in the charge of the Ministry of Culture and Tourism, inlands that has residents are in the charge of the Ministry of Administration and Resources, and shipbuilding is in the charge of the Ministry of Industry and Resources.

The Ministry of Marine and Fishery of South Korea has established several Marine and Fishery Agencies underground, and these agencies are responsible for specific issues within the duty of the Ministry of Marine and Fishery, mainly undertaking the responsibilities to maintain maritime traffic order and prevent ocean pollution from ships as well as providing guidance services for fishermen.

Marine Safety Trial is set up subordinate to the Ministry of Marine and Fishery, and is mainly in charge of maritime investigation. Marine Safety Trial has branches in major ports - Marine Safety Trial Court.

The Marine Police Agency is the important maritime law enforcement power of South Korea, and was originally managed by the Ministry of the Interior. In 1996, after the Ministry of Marine and Fishery was set up to plan marine and fishery management, the Agency was upgraded to sub-minister level (Vice-ministerial level), and the head of the department was suggested by the minister of the Ministry of Marine and Fishery, and appointed by the President. The responsibilities of Marine Police Agency are maritime security maintaining, ocean pollution prevention, salvage, maritime rights and interests maintaining and national security, etc. This Agency's business and budget is relatively independent, and 90% of its responsibilities can be decided by its own while 10% important issues shall be reported to the Ministry of Marine and Fishery. At present, there are total 10,034 workers divided into three kinds: 5,830 cops responsible for scene law enforcement; 612 civil servants mainly responsible for administrative management and technical service; 3592 military personnel in active service to assist the police to enforce the law. And they belong to the compulsory serviceman and do regular rotation. There are 263 ships of all kinds and most of them have a variety of functions that can satisfy the needs of different law enforcement and service work (Zhu, 2009, PP. 76-82).

Marine Police Team implements the central vertical management, and is divided into four tiers: agency - department - local police station - local police substation. Marine

Police Agency and land police department have no subordination relationship, but apply to the same rank system and treatment.

Besides Marine Police Agency, Korean Customs also has the power of anti-smuggling, and the activity area is mainly in the harbor, while at places apart from the harbor, the anti-smuggling work shall be in the charge of Marine Police Agency.

2.3. The Basic Rules of World's Major Coastal Countries' Marine Management System and Maritime Law Enforcement System

Through comparing the maritime management system of other coastal countries around the world, we can find some basic rules with no difficulty.

Marine management and maritime law enforcement system of different countries can roughly be divided into three kinds of systems: multi-departments marine management and dispersing law enforcement, multi-departments marine management and relatively centralized law enforcement, and relatively centralized both marine management and law enforcement.

Firstly, countries implementing multi-departments marine management and dispersing law enforcement are Russia, Canada and China. Different departments are responsible for marine biological resource, marine mineral resources, maritime traffic, ocean protection, maritime security and border defense, etc and each of the department has its own law enforcement agency to enforce the law professionally.

Secondly, countries implementing multi-departments marine management and relatively centralized law enforcement are Japan, the United State and Britain, etc. Although there are many departments responsible for managing the ocean, maritime law enforcement functions are concentrated on one or two departments.

Thirdly, countries implementing relatively centralized both marine management and law enforcement are rather rare. Take Korea as an example, its marine management functions are mostly in the charge of the Ministry of Marine and Fishery, and its maritime law enforcement functions are mostly centralized in Ocean Fishery Agency and Ocean Police Agency subordinate to the Ministry of Marine and Fishery. The essence of marine management system of Korea is to set up a Marine Department(the Ministry of Marine and Fishery) besides each land department (Perfektuuri). Meanwhile, no coastal country has established absolutely unified maritime enforcement system. The most notable maritime law enforcement systems of the world are in the countries such as the United States, Japan and Korea. They have not only established a strong maritime law enforcement power, but also highly integrated maritime law enforcement equipment resources of the governments. However, these countries do not have the only maritime law enforcement team, either. For instance, subordinated to the Department of Homeland Security (DHS) of the United State, besides the Coast Guard, there are also two maritime law enforcement teams serving for customs and immigration management.

Chapter 3 Status Quo and Development Direction of China's Marine Management System

3.1. Status Quo of China's Current Marine Management System

The fourth plenary meeting of the first session of the 12th NC was held in the Great Hall of the People. After voting, the meeting has approved institutional reform and functional change plan of the State Council. The government of China has set up high-level deliberation and coordinating institution NOC, whose specific work is undertaken by SOA. At present, China still has a marine management system combining a unified management and separate management, integrated management and industry management. Under the four levels of government - the State Council, province, city, and county, there are respective marine administration departments that are responsible for marine management work.

3.1.1. Combination of the Comprehensive and Separate Management of the Central Administrative Department

The SOA is the comprehensive management department managing national marine affairs, mainly organizing to draw up national marine business development strategy and policies, establishing and improving the marine management system; organizing

to formulate and supervise the implementation of marine main function area planning, maritime information and technology planning, marine science technology and the strategy to develop the ocean with technology, together with the relevant departments to formulate and supervise long-term planning, marine economy planning; organizing foreign cooperation and communication, to participate in global and regional marine affairs, etc.

Transport Department is responsible for maritime shipping and harbor management; The Environmental Department is responsible for environment protection and unified supervision and management;

The Public Security Frontier and Maritime Security is responsible for management concerning fishermen going to sea and the ship security; Meteorological Department is responsible for marine weather forecast, etc.

3.1.2. Three kinds of System formed by local administrative department

At present, every coastal province¹, city and county in China has set up the marine management department, undertaking local marine comprehensive management tasks. The local marine administrative departments mainly have three types:

The first type is the management system combining the ocean and fishery. Seven² out of 11 coastal provinces have set up the Ocean and Fishery Agency, combining the ocean and fishery business together managed by the Agency. Meanwhile, because it

¹ Including municipalities

² Guandong, Shandong, Hainan, Zhejiang, Fujian, Liaoning, Jiangsu

has dual management function of both the ocean and fishery, the Agency is led by both NOA and Fishery Bureau of the Ministry of Agriculture.

The second type is the system of national land resources management institutions. In the institutional reform, Hebei, Tianjin and Guangxi have combined the geological mining, national land and the ocean together to set up Office of Land and Resources, in which ocean department is to specially be responsible for marine comprehensive management and maritime law enforcement work.

The third type is the full-time marine administrative system. In the new round of institutional reform in Shanghai in 2009, Shanghai Ocean Bureau has been removed out from Donghai branch of China SOA, adjusted to work together with Water Supplies Bureau, implementing the unified management of rivers and oceans, fresh and salt water. This is the first example in China.

3.1.3 Problems Existing in China's Marine Management System

Since the SOA was founded, its functions has changed from simple marine science research and investigation and public service to marine management, and finally has been positioned to marine resources development, ocean environment protection, ocean science and technique, national marine rights and interests maintaining and public service performing, etc. At present, Chinese marine management system still has a big distance from the actual needs of marine career development, and these problems are as follows: the marine management system is not smooth, the marine management departments are the lower level in the government departments, and the marine-related management departments' functions are overlapping, fragment, lack of macro-control, blind development and repeated construction, etc.

It mainly shows that the subjects of Chinese marine management are too many to figure out their boundary of rights and responsibilities.

Firstly, various conflicts exist between the central and local governments and between different local governments. With different economy development levels and concepts as well as considering their own interests, local governments have different understandings of national marine policies. Sometimes paying attention to the local interests instead of the whole country's is the reason of causing conflicts.

Secondly, the roles are in chaos. The marine management departments in China undertake not only marine development function but also management and law enforcement function, causing the status of integration of government administration with industry and the integration of industry management and law enforcement supervision.

Thirdly, the ocean development planning is not sufficient. At present, the development of different regions of the ocean is based on the region's own conditions following science and regularity. However, the development focusing on local and industrial interests might derive some similar marine industry or even the conflicts, causing the waste of ocean resources. How to deal with local and overall interests conflicts? The key is to establish marine overall planning system from the national level, while giving consideration to the reasonable requirements of local governments and departments.

Fourthly, the law of Chinese marine management is imperfection. Since the implementation of Law of the People's Republic of China on the Management of Sea

Area Use, many related rules are blank, even the law itself is mostly staying on the level of principles with no specific implementation, so it still exists that the sea area is squatted or assigned, transferred, leased.

3.2. Development Direction of Marine Management System in China

3.2.1. Reference on Future Marine Management System Reform of China From the International Experience

The marine management system of the United Nation, Britain and Korea has been introduced above. Though differences exist in the management system and practical situation, their successful experience of marine management systems are worth studying when considering their applicability in China. Before serious study of successful experience in the reform of management system, we cannot simply decide which type of the management system is better, because the reason why one country chooses one particular marine management system is influenced by the nation's political system, national conditions, marine practice tradition and the status quo of marine interests.

Different types of marine management systems have something in common. According to the theory of paradoxes and contradictions, contradictions exist universally and particularly. In a similar way, in the contradictions of the reform of marine management system, there are common and individual characteristics existing in the marine management system reform of all countries. The commonality is determined by the characteristics of ocean management, and the personality is determined by different political systems, administrative systems, cultural

backgrounds and so on. Finding out the commonness has certain reference for Chinese marine management system reform.

3.2.2. Strengthening the Industry Management Selectively

To emphasize the comprehensive and coordinative management is not to deny the industry management. On the contrary, the comprehensive and coordinative management is based on the industry management, and the industry management may promote the development of the comprehensive and coordinative management.

From the marine management practice abroad, we can see that maritime traffic security management, important channels and big harbors, etc are all in the charge of central government departments and maritime ship security management is unified to be in the charge of one department of the central government.

The reasons to put these important marine affairs into one or two departments to deal with are as follows: On one hand, to centralize limited marine management power is in favor of finishing major work; on the other hand, to gather marine affairs will reduce management departments, which is good for coordinating their relationships; furthermore, to handle some important marine affairs centralized to the central government department is good to break the limitation of local interests.

As you can see, with the comprehensive and coordinative development of marine management, the marine industry management will be strengthened and reinforced, and it will be different when considering different national conditions of different countries and different stages of the same countries.

3.2.3. The unity of marine management system is the inevitable trend of the reform

It can be seen from the above statement that both dispersing marine management system and the other two have strengthened marine comprehensive and coordinative management within or without the system. The reason is that the ocean is the national body integrating resources, spaces and environment together, and the ocean is high compounding. Whether the sea water, marine biology, seafloor, or the estuarine and tidal flats are all inseparable, interdependent and influencing each other. The complexity and particularity of marine management can be divided into five aspects: (1) the liquidity of the sea water; (2) the inseparability of the sea water; (3) the high compounding of the ocean; (3) the high correlation between the ocean and land; (5) the unpredictability of the ocean.

Other countries pay a lot of attention to the construction of coordination mechanism, especial the UK. Due to historical reasons, the UK has formed a relatively decentralized system of ocean management to effectively compensate the shortcomings of the existing system, and the UK has put special emphasis on formal or informal coordination between all industry management departments. Actually, despite the type of marine management system, and the degree to implement comprehensive marine management, they must all be based on the industry management. Marine comprehensive management can also be understood as the coordination for marine industry management, but this coordination is more authorized and normal. Even countries implementing unitary marine management system like Korea need the existing of coordination mechanism. For instance, the function of developing oil and gas resources in continental shelf and exclusive economic zone of Korea is in the charge of the Ministry of Industry and Energy,

which conflicts with the related function of Marine Fishery Department. The natural connection between the ocean and land, industries, regions and countries determines the objective demand of the marine coordination mechanism.

The complexity and particularity of the marine management have determined that China must implement comprehensive marine management. Take marine pollution prevention and governing for example. The source of pollution might come from the land or the ocean. If governing only by marine pollution administrations, the effect is limited, so it needs to integrate the ocean and land to govern together. Furthermore, ocean pollution governing is likely to be cross-region. It needs to combine the power of all regions. In practice, there exist many problems such as different standards of pollution discharging in different regions and the inconsistent intensity of punishment, which cause that the pollution control and prevention in the legislation by departments in the State Council and local authorities are not unified. We can see from the example above that marine management must be proceeded from the global and unified view, to see the ocean as a whole system, implementing marine comprehensive management. Marine comprehensive management is from the overall interests, considering marine sustainable development as the goal, through the means of legislation, policy, planning, law enforcement, etc, to protect the ocean's ecosystem, ensure sustainable utilization of marine resources, achieve the best unified social, economic and environmental benefits. At present, China implements a unified management system combined with separate departments and levels management.

On behalf of China, the SOA implements comprehensive management, but the SOA is the national bureau subordinate to the Ministry of Land and Resource, and its level is not high and it is not authorized enough. In addition, the functions of marine

industry management are scattered in different ministries. Marine management of China is not the strict marine comprehensive management, but lightly comprehension based on industry management. To sum up, it is an inevitable choice for China to go the way of comprehensive and coordinative management in the marine management system reform.

Chapter 4 The status quo and development direction of China's maritime law enforcement system

After the reform of the State Council in 2013, it formed the maritime administrative law enforcement institutions given priority to China SOA and MSA, and dual maritime law enforcement system was initially formed.

4.1. The institutional setup and responsibilities of China SOA and MSA

4.1.1 The institutional setup and responsibilities of China SOA and its China Coast Guard

(1) The basis of maritime law enforcement of China SOA and its China Coast Guard
The SOA's basic law of maritime administrative law enforcement mainly includes Law of the Territorial Sea and Contiguous Zone, Law of Exclusive Economic Zone and Continental Shelf, the Marine Environment Protection Law, Sea Area Utilization Management Law, etc. These laws are to define legal basis of the SOA's main responsibilities that the SOA must implement legally when enforcing the law within these areas. Besides the laws above, there are lower levels' administrative laws and regulations, department regulations, local regulations and local government regulations, such as the Management Regulations of the PRC National Offshore Oil Exploration and Development of Environmental Protection, relevant administrative

regulations such as the Measures for the Implementation of Regulations of the PRC National Offshore Oil Exploration and Development of Environmental Protection, and local regulations such as the Management Regulations of Ningbo Islands with No Residents(Sun, 2007, pp. 222-226). In addition, due to China's new SOA is integrated from multiple departments of the ministries' reform, laws and regulations do not keep up with, so the legal basis of law enforcement of the MS, Fishery Bureau, Anti-smuggling Bureau and Public Security Border Enforcement also apply to the external law enforcement work of SOA in the name of the Coast Guard, such as the Fishery law, the Customs Law, the Plan of Maritime Law Enforcement of Public Security, the Measures for Implementation of the Marine Administrative Punishment, etc.

(2) The institutional setup and responsibilities

The SOA is the national bureau of the Ministry of Land and Resources, and the SOA after restructuring has a great change in both the institutional setup and the functions. After restructuring, the SOA has set up 11 internal institutions, including the Office, the strategic planning and economy division, the policy legal system and island interests division, the coast guard division(including coast guard headquarters and China Coast Guard command center), ecological environment protection division, marine comprehensive management division, forecast and disaster prevention division, science and technology division, international cooperation division(including offices of Hong Kong, Macao and Taiwan), the personnel division(subordinate to Political Department) and financial equipment division(governing the coastguard logistics equipment department). The branch of Beihai, Donghai and Nanhai of the SOA are the administrative institutions sent by the SOA to be respectively responsible for the Bohai Sea, the Yellow Sea, the East China Sea and the South China Sea. To the external side, they carry out maritime

rights protection in the name of the branch of Beihai, Donghai, Nanhai, and China Coast Guard Bureau can directly command the Coast Guard Team to carry out the rights protection law enforcement³.

The responsibilities of the SOA after reforming include: to draft marine development plan, to supervise managing area's utilization and marine environment protection, to be responsible for marine-related international exchanges and the implementation of international conventions. Meanwhile, the SOA carries out rights protection in the name of China Coast Guard Bureau, accepting business guidance of the Ministry of Public Security. In addition, to strengthen the unified planning and comprehensive coordination of marine affairs, high-level deliberation and coordination agency the NOC has been set up to be responsible for formulating national marine development strategy and unified coordinating important marine issues. The practical work of NOC is undertaken by the SOA⁴.

4.1.2. The MSA and Maritime issues of China

(1) The basis of maritime law enforcement of the MSA and maritime issues of China
Maritime law enforcement of China MSA has a strong foreign-related character, and international treaties are also an important source of maritime administrative law enforcement. Of course, the content of the related treaties also need to be applied in the domestic law of the high contracting parties. The treaties's application in the domestic law refers to the regulations about how the legislation, judiciary and administrative institutions of the treaty parties carry out within their own countries. For this matter, in addition to establish "pacta sunt servanda", no specific provision

³ Information from China SOA website: <http://www.soa.gov.cn/zwgk/bjgk/>

⁴ Refer to the Plan of Reform and Functional Transition in State Council, March, 2013.

has been stipulated, and it will be settled by the treaty parties' discretion according to domestic laws (Mukherjee, 2013). For example, the Vienna Convention⁵ states that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."

Therefore, UNCLOS also apply to the administrative law enforcement of China MSA in the aspects of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf. In addition to UNCLOS, a series of international maritime conventions are to issue the conventional regulations in the aspect of specific business management of China MSA. At present, important international maritime conventions include the 1974 SOLAS Convention, the MARPOL 73/78 Convention and the amendment, the STCW 1978 Convention and the amendment, the 1966 international convention on tonnage measurement, etc. When the conflicts occur between international conventions and domestic laws, China take the measure of prior to apply international treaties, but maritime administrative law considered as the administrative law in maritime area is the domestic law, because it mainly modulates the administrative management relationship of ships and transport management, and these problems are inner issues of sovereign states (Wang, 2007, pp. 1-4), therefore, as long as there has specific provisions in domestic laws, the legal basis of maritime administrative law enforcement shall be domestic maritime administrative legislation. The international treaty can not be and in no need to be cited.

The administrative enforcement of China MSA is mainly legally based on the Maritime Traffic Safety Law, the Maritime space use administration, the Marine

⁵ Article 27, Section 1. Observance of treaties, Part III Observance, Application and interpretation of treaties.

Environment Protection Law, Law on Environment Impact Assessment(law of EIS), etc; administration law including Channel management regulations, Foreign nationality ship management rules, Prevention of Marine pollution management regulations, the maritime traffic accident investigation and handling rules, etc; matched departmental regulations including Sea maritime administrative punishment regulations, Waterway regulation rules for its implementation, Vessel visa rules, Ship safety inspection rules, etc; relevant local laws and regulations including Chanel management measures of Zhejiang Province, Water traffic accident treatment measures of Zhejiang Province, Ferry and Ferryboat safety management measures of Liaoning Province, etc.

Thus, the maritime administrative law enforcement rights of China MSA include the right of maritime administrative imperium, such as the article 18 of the maritime traffic safety law stipulates, “the competent authority has the right to stop the arrival at port or make it departure if regarding the ships as having security threat to the port”; the right of maritime administrative conformation, such as the confirmation of liabilities of maritime traffic accidents; the right of maritime administrative permission, such as common maritime licensing based on ship visa, ship entering the port permission and so on, maritime acceptance based on ship prescribed examination, crew recognition of qualification, and relevant maritime approval, maritime register (Gao, 2010); the right of maritime administrative punishment is an important law enforcement maritime administrative law enforcement right, and chapter 10 of Maritime Administrative Punishment Regulations and Maritime Traffic Safety Law both have clear provisions about it; the maritime administrative compulsory power is generally presented by maritime administrative compulsory measures and maritime administrative enforcement and other administrative

actions(Li & Lv, 2010, p. 55), and Provisional rules of maritime administrative enforcement procedure of the People's Republic of China makes specific stipulations to maritime administrative compulsory in the form of regulatory documents.

(2) Institutional setup and responsibilities

China MSA, under the leadership of the Ministry of Transport(MOT), has been merged to establish from Traffic safety supervision bureau and ship inspection bureau of the MOT, and it is the department directly under the MOT, implementing vertical leadership. As early as in 1999, the Inform on the Maritime Institutions Directly under the Ministry of Communications Setup plan of the State Council general office has clearly stated the setup principles, levels, names and major responsibilities of maritime institutions directly under. On April 16, 2013, maritime system directly under the Ministry of Transport formally implemented the plan of “fixed quota system” (Zhao, 2013, p. 3), maritime bureaus directly under has completely finished the turning of compiling civil servants’ by the end of June 2013. China Maritime Safety is a maritime law enforcement team subordinate to China MSA, and its institutional setup is as follows:

China MSA has set up 21 internal institutions including navigation management, etc within the department office, and set up 14 maritime bureaus including Heilongjiang, Liaoning, Tianjing, Hebei, Shandong, Jiangsu, Shanghai, Zhejiang, Fujian, Shenzhen, Guangdong, Guangxi, Hainan Maritime Bureau in China’s coastal and boundary river cities(Heilongjiang does not belong to the coastal city, and its main management focuses on boundary river) and 29 local maritime bureau to management inner river areas⁶. Take responsible for exercising national maritime

⁶ Local maritime exert the administrative duties and rights in the field of inland waters. The author will spare detailed explanation due to its association with the theme of the paper.

safety supervision and preventing ship pollution, ships and offshore facility inspection, maritime security management and administrative law enforcement, and performing management functions of the Ministry of Communication including safety production.

The main responsibilities include unified management of safety and prevention of pollution, investigation and handling of traffic accidents, ship pollution accidents and maritime traffic violation cases; being responsible for ships, offshore facility legal inspection, the licensing work, and the supervision of the safety of ships carrying dangerous goods or other goods; being responsible for the crew, pilot qualification training, examination, certification management and seafarers certification management; managing navigation order, navigation environment, maintaining the order of water traffic, and managing the sunken wreck and obstruction clearing; being responsible for maritime security work, organizing, coordinating and guiding the water search and rescue, and being responsible for the daily work of the China's maritime search and rescue center; organizing the implementation of the international maritime treaty, to perform "the flag state" and "port state" regulatory obligations, to safeguard China's sovereignty in accordance with the law, etc⁷.

4.2. The forms and areas of cooperation in the dual maritime law enforcement system

In the process of practicing maritime administrative law enforcement, the good coordination between the SOA and China MSA is the foundation of efficient dual system of law enforcement. The writer will expound the forms and areas of cooperation between the two parties.

⁷ Information from China SOA website: <http://www.msa.gov.cn/>

4.2.1. The forms of cooperation of maritime administrative law enforcement between the SOA and China MSA

For now, the restructured Coast Guard simply combines together several law enforcement team including the MS, the Coast Guard, Fishery and Anti-smuggling, and has not been unified law enforcement power in a large scale, with a few administrative law enforcement institutions still fragmented, their law enforcement cooperation with China MSA is within the scope of duties, taking national maritime search and rescue emergency command system and local joint law enforcement as two major parts.

(1) The response coordination mechanism of the national maritime search and rescue

National maritime search and rescue emergency organization command system is operated under the regulation of the National emergency Pre-plans for Maritime Search and Rescue (NPMSR), the NPMSR takes laws and regulations including the Maritime Traffic Safety Law, Law on Safety in Production, national public events of overall emergency plans, and so on as the reference, and was issued and carried out by the State Council on January 22, 2006, with the purpose of performing international conventions that China has joined, realizing to carry out maritime search and rescue work independently or with other countries in the China Sea and the sea that Chinese ships wreck. Chapter 2 of NPMSR stipulates that “national maritime search and rescue emergency organization command system is consisted of the emergency leading institution, the operation and management institution, consultancy institution, emergency command institution, scene commander, emergency rescue force, etc”. Among them, the ones relating to maritime law enforcement cooperation mainly are the emergency leading institution and operation

management institution, while the form one is the joint inter-ministerial meeting of National Marine Search and Rescue Ministry and the latter one is the CMSRC.

The joint inter-ministerial meeting is one of the important forms of maritime law enforcement cooperation. Joint meetings mostly are led by one or more parties, calling together the departments that has no administrative relationship but has work contact to study, explore to guide the work and solve the problem in the form of meetings. The national maritime search and rescue joint inter-ministerial meeting is led by the Ministry of Transport, calling together 13 departments including the Ministry of Public Security, the Ministry of Agriculture, NOA, the Customs general office and the military, etc. Approved to be established in 2005 by the State Council, it is responsible for daily work of China maritime search and rescue center. China maritime search and rescue center is in the Ministry of Transport, and its main functions are unified studying on national maritime search and rescue and ship pollution emergency response, bringing up relevant policy proposals, and unifying national maritime search and rescue and pollution prevention. China maritime search and rescue center was established in 1989 according to the demands of 1979 International Convention on Maritime Search and Rescue, and its members included departments directly under the central government, professional salvage service agencies, military, etc, and it is the primary commanding department that is in charge of maritime law enforcement team to do works like maritime emergency rescue and pollution treatment, and it will directly be involved in the emergency response work.

Of course there are also maritime law enforcement cooperation joint meetings in local places, led by maritime bureaus and its subordinate branches, calling together the Coast Guard and other relevant institutions to study, cooperate maritime administrative law enforcement issues and maritime emergency response, and to

settle down problems of two parties or multi-parties in the maritime law enforcement. For example, Shenzhen maritime rescue members' joint meeting system might present this form of cooperation. It is led by Shenzhen Maritime Bureau who is the convener of the joint meeting, convening the Coast Guard Detachment and other units to establish Shenzhen maritime rescue member joint meeting system to unified coordinate the work. Base on their own legal duties, the member units contribute their own help in the maritime rescue and emergency response work and undertake emergency works including maritime search and rescue emergency, disaster relief, supporting and safeguarding, and handing the corresponding emergency work, etc.

(2) The cooperation form of local joint law enforcement

The cooperation form of local joint law enforcement is the most common form of basic level of maritime law enforcement team cooperation, mainly including dynamic state of joint law enforcement and static state of joint law enforcement.

For the aspect of dynamic state of joint law enforcement, maritime jurisdiction is the joint platform for the above departments to enforce the law in the front line. Each branch bureaus directly under the Ministry of Transport and the SOA affiliate law enforcement institutions carry out regular and irregular collaboration for the cruise, patrol and other dynamic law enforcement behaviors, and in the range of their respective responsibilities, to coordinate the law enforcement power, to centralized renovate maritime illegal behaviors and unified to deal with it. In August 2013, Shenzhen Maritime Bureau Baoan Fishery Group carried out special regulative actions of the obstructive fishing boats to establish maritime, fishery, wharf and other various information communication mechanism, and fundamentally solved the "stubborn problem" that had been plagued the ports and shipping companies for a long time(Shenzhen MSA, 2013).

In the aspect of static data sharing, because China's maritime administrative law enforcement has been in dispersing industry management phase for a long time, one division has rich, professional and comprehensive information of its jurisdiction, even some divisions have establish relatively complete databases. At the time of law enforcement collaboration, based on the static data that the two parties have, the decisions can be precise, reasonable and responses can be made rapidly. For example, Fujian frontier corps Qiaocuo frontier inspection station and Quanzhou Quangan marine office signed the cooperation agreement aiming at the common goal of detailing bilateral cooperation mechanism, according to the content of the agreement, the two parties have complementary advantages to promote efficiency of law enforcement to exchange ideas, setting up the framework of information reporting and resources sharing.

4.2.2 The fields of cooperation of maritime administrative law enforcement between the SOA and China MSA

(1) Maritime safety of life

Article 5 of the SOLAS stimulates that in order to avoid the threat to the safety of life to evacuee people, high contracting governments may allow its ships carrying more than the allowed number of other provisions of this convention. When the ship occurring sea accidents, the Convention has rigid rules that the ships received the signal for help have to rush to the accident scene to rescue and transmit the signal of distress. In the duties of China MSA, there is a provision demand it to organize, coordinate and guide the water search and rescue, being responsible for the daily work of the China maritime search and rescue center, in addition, other Marine-related life-saving equipment checking and supervision is also the relevant

responsibility of maritime safety of life. In the duties of the SOA, there is a provision demand it to participate in emergency rescue at sea, here is similar to the duties of China MSA, but China MSA is to organize, coordinate and guide, therefore, when in the rescue of maritime safety of life, under the command of rescue center(China MSA), duty officers should participate in the rescue work to carry out cooperation.

In this not long time since the Coast Guard was established, there is on case about the Coast Guard saving an injured fisherman. On October 20, 2013, “Chinese Coast Guard 1126” received a call saying 200 nautical miles from Qingdao, there was a fisherman needing to be save in an urgent because his wrist was twisted by a winch when collecting the net. After 18 hours of sailing and rescue work, the task was successfully completed (China SOA, 2013). On March 8, 2014, Malaysia airline fight MH370 lost, the SOA got a fax from China maritime search and rescue center, discussing “Snow Dragon” ship to search at the suspected area. Since it is not the professional search and rescue ship, and has no corresponding auxiliary equipment, “Snow Dragon” vessel met the China “Haixun 01” ship that is searching for the lost Malaysia airline to finish the handover of on-site command contact work of Chinese ships.

(2) The national marine rights and interests maintenance

About marine rights maintaining, the responsibilities of the SOA has clear rules: being responsible for drawing up marine rights maintenance law enforcement system and measures, formulating law enforcement standard and process, implementing rights maintenance activity in sea areas under the jurisdiction of China. Thus, the NOA is the main force of marine rights maintenance, and China MSA mainly cooperates with the SOA in this area. With the principle of prohibiting force, military force will not be able to appear easily in the situation of safeguarding the national

marine rights and interests, so the SOA, the maritime administrative law enforcement institution, can take coercive measures if necessary. Now the SOA is under the guidance of the Ministry of Public Security, and it is equipped with a certain weapons and has the power to solve some marine rights disputes. Ever since July 2013 China Coast Guard hung out its shingle, many ships teams of China Coast Guard go on patrol within territorial waters of Diaoyu Island, showing the world the determination for China Coast Guard to safeguard national marine rights and interests. During this period, our Coast Guard patrol fleet solemnly declared Chinese sovereignty of Diaoyu Island to Japanese ships who commit infringement, and ask them to leave Diaoyu Island area immediately.

By contrast, China MSA is more like an industrial management department, being responsible for the supervision and checking of maritime transport safety for shipping business, also doing some work about maintaining national sovereignty, such as Chinese ships' registration, certification, inspection and inward and outward port (country) visa, being responsible for the aspects of foreign ships entering and leaving a country and Chinese ports, water areas' supervision management, etc. If necessary, China MSA will also appear to safeguard national sovereignty and interests of national important water areas. So the responsibilities of ships inward and outward port registration and others were overlapped in the charge of two departments, which might seek for the better cooperation to guard the gate of the ocean in China.

(3) Ocean environment protection

Ocean environment safety is one of the main responsibilities of the SOA, and a lot of responsibilities mention the ocean ecological environment protection work, including drafting the law and regulations of marine ecology environment protection,

organizing to formulate the plan of supervising and implementing marine ecology environment protection, and specially be responsible for the law enforcement work of marine ecology environment protection. The Marine Environment Protection Law is the legal basis of administrative law enforcement, in the second chapter of the Marine Environment Protection Law, it explicits its responsibilities as a marine administrative management department, and it can be said that the SOA it the competent department of the maritime environment.

For China MSA, its slogan is “to make shipping safe and to make the ocean cleaner”, the latter part states that protecting the safety of ocean environment is one of the important responsibilities of China MSA. The specific responsibilities include drawing up and organizing to implement guidelines, policies, regulations and technical specifications, standards of preventing pollution from ships, as well as the description of unified management for safety on the water and prevention of pollution from ships, thus, its responsibilities mainly focus on the supervision management in the aspect of ocean pollution from ships. As one of the major international maritime conventions, the MARPOL73/78 has stipulated some responsibilities about maritime ships pollution prevention for China MSA. Therefore, in the area of maritime environment security, the SOA and China MSA have a lot space to cooperate, and boats, as the transport tool of sailing, are the important pollution source at sea, so taking control of the vessels will be very good for the whole marine environment security.

For other aspects apart from the three main cooperation fields, the SOA and China MSA have cooperations in the fields of safeguarding maritime traffic security, striking maritime illegal operation and other aspects. For example, in November 2013, to guarantee the construction process of fishing period of Nangang industrial

zone, and to maintain Dagang port's navigation order, Tianjing Dagukou Maritime Bureau elaborately prepared to organize Maritime Public Security, the border defence, the Coast Guard and other departments to carry out "joint patrol" law enforcement activity for half a month. This joint patrol law enforcement activity was to satisfy the demands of Nangang Management Committee and Nangang water-related construction enterprises, aiming at preserving normal navigation environment within the administrative area, protecting the construction progress of the water-related construction enterprises, and serving the port construction of Nangang industrial zone (Tianjin MSA, 2013).

4.3. The legal problems existing in dual maritime law enforcement system

4.3.1 The lack of marine basic law

The existing legal system in China now is lack of comprehensive adjustment to marine affairs. Current the Law of Territorial Waters and Contiguous Zone, Fisheries law, Maritime Space Use Administration Law, the Marine Environment Protection Law and some other law in all industries, and it is very hard to unify them, so marine legislative work obviously lags behind the complicated realistic situation of China's maritime security, the needs of marine rights maintenance and the needs of rapidly growing of marine development business. And these marine law only standardizes the national sovereign rights under the jurisdiction of China, the exercising of the jurisdiction, and the protection and utilization of marine resources and environment, and many important issues such as the basic policies of the ocean, marine development strategy and others are not mentioned or incomplete. (Yu & Li, 2010) Especially, China adopts the way that the administrative system reform start first and legal remedy starts latter to restructure the SOA, and at this stage, it only achieved simply combination. Through the "fixed quota system" explicit institutional setup,

functions and personnel in the form of normative documents, the laws that all subjects of law enforcement pursuant to are redundant and multifarious, being in separate systems. Therefore, a comprehensive marine basic law to integrate these laws and regulations is needed to be provided for all maritime administrative institutions and to provide the basis for the formulation and modification of other marine-related laws to settle down application problems of other marine-related law conflicts.

4.3.2 The blank of the administrative legislation

The SOA and China MSA have administrative rules and regulations in every law enforcement progress, such as AIDS to Navigation Regulations, Regulations on the Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises, etc. But there is no administrative regulation to stimulate rights and obligations and specific duties in some areas that need collaboration law enforcement, leading to a blind spot of the cooperation. For example, there existed some areas signed the frame agreement to reach the goal of effective cooperation, on December 4, 2013, Shandong Maritime Administration and Beihai Branch of the SOA signed the Frame Agreement of deepening the Communication and Cooperation to promote together the cooperation in the areas of the marine environment protection, emergency disposal, maritime search and rescue to accelerate the sustainable development of marine industry (Tianjin MSA, 2013). In accordance with the requirements of the agreement, the two sides will further deepen the communication of marine environment protection, maritime search and rescue and some other areas, strengthen management of maritime development activities, carry out the communications about identification of oil spill, oil fingerprint samples checking and others, share information of crude oil and fuel oil sample, and establish coordination

mechanism of spill information releasing; in accordance with requirements of Shandong Maritime Search and Rescue Emergency Response Plan, strengthen the communications of marine-related administrative examination and approval in aspects of maritime search and rescue emergency and ocean engineering EIA review and approval, carry out joint law enforcement actions aiming at oil pollution at sea, illegal mining of sea sand, etc to explore to establish the linkage mechanism of maritime law enforcement.

4.3.3. The lack of marine procedure law

In the aspect of maritime law enforcement cooperation, as the substantive law stated above, even if it has the basis for the responsibilities of maritime administrative law enforcement institutions, there is no corresponding procedure law to guide the comprehensive application of rights and responsibilities, so it is difficult to enforce the law with legal basis, even to go against the legislative intent when enforcing the law and lose the principles, ways and orders in practicing marine basic substantive laws. Current procedural law system in China has no special marine procedure law, and the procedural law related to marine affairs only exists special maritime procedure law belonging to civil procedural law, and the administrative procedural law about Marine are in blank. So the legal problems of law enforcement procedures occurred in the process of maritime law enforcement collaboration can only solved according to general laws and regulations like administrative procedure law, which is not good for the particular marine environment. Not only the maritime administrative litigation but also non-litigation procedure including maritime administrative legislation and rules of procedure related to maritime law enforcement cooperation are included in the scope of marine procedure law. In addition, the maritime administrative law enforcement in the long tradition of law enforcement in China,

there has always been despised phenomenon of the administrative procedure law, particularly in the maritime law enforcement cooperation areas in which substantive laws are still lacking, the situation is more serious, and these are all the results of a lack of special marine procedure law.

4.3.4. The overlap in the field of law enforcement

In the duties of the SOA and China MSA, there exists some description of a large range of containing but less practical meanings. One responsibility of China MSA is to be responsible for maintaining the navigation orders of the channel, and one responsibility of the SOA is to safeguard national maritime safety and security orders. Under the semantic understanding, maritime navigation orders include maritime safety and security orders, then whether the navigation orders is one of the responsibilities of the SOA is a question. Although in practice, navigation orders are under the supervision of China MSA, this overlap will cause troubles in legal responsibilities when cooperating. Another example is in the aspect of marine environment protection, ships pollution will cause large scale of marine pollution, at this time, the responsibility has overlap again between the SOA and China MSA about handling the accidents, and there will be no legal basis to follow when dividing the responsibilities and determining responsibilities after the event in cooperation.

4.3.5. Poor coordination mechanism

Now China MSA is directly under the Ministry of Transport, and the SOA is the national bureau of the Ministry of Land and Resources, so the two maritime administrative law enforcement departments belong to different institutions and operate under different department regulations. From the discussion about current

forms of cooperation of maritime law enforcement, we can see that both the joint inter-ministerial meeting system and the form of joint law enforcement are all presenting the poor cooperation mechanism between the two departments.

Firstly, in terms of the joint law enforcement, when China MSA is in collaboration with the SOA law enforcement team, it is simply to two or more departments of law enforcement people and law enforcement transport together, but making the specific administrative act to the counterpart at the same time and same place. Although it has a certain effects on the deterrent force and efficiency of law enforcement, many departments often make corresponding administrative penalties to the same illegal act, which is in violation of the non-repeated penalty principle, such as ship driving without a license, China MSA and the SOA shall have the right to make administration punishment like fining, and after punishing by one department, it has often been dealing with by another department, with no cooperative spirit to continue to engage in law enforcement to the implementation of the afterwards treatment. At the same time, in the process of joint law enforcement, due to the absence of a lead agency authorized by law to unify to command and dispatch the joint law enforcement, in order to improve the efficiency of law enforcement and integrate the two sides' the law enforcement power and resources, the continuous talk is needed to exchange views, which brings great inconvenience and makes the law enforcement efficiency meet the bottleneck, and this is another aspect of poor joint law enforcement cooperation mechanism.

Secondly, compared with single joint law enforcement, maritime search and rescue center inter-ministerial joint conference system embodies the advantage in higher levels of collaboration, but subject to no high level of the meeting. Maritime search and rescue center is not the administrative authority, and has no legal authority, only

to provide platform of information exchange and organization coordination functions for maritime administrative law enforcement institution, but about how to enforce the law will be determined by the meeting member departments, and the organizing and coordinating of the joint meeting is suggestive. Furthermore, the mechanism is strongly optional and lack of standardization with no fixed time and meeting times, which also affects the cooperation. In addition, the NPMSR has no clear regulations of rights and legal duties of maritime search and rescue , only mentioned in Chapter 8 of the NPMSR, “to the units and responsible person who is not according to the provisions of this plan to perform his duties or in violation of the provisions of the NPMSR to shuffle, stall, dis-obey, disturb the cooperative command of the maritime rescue institution, and they will be notified by the maritime search and rescue institution and suggested that their superior department shall investigate the administrative responsibility or give party discipline sanctions; to give administrative punishment to those who are in violation of the maritime administrative laws and regulations; if committed a crime, to investigate for criminal responsibility according to the law.” in this regard, it makes each department enforce the law according to its own department regulations, which will reduce the cooperation efficiency of the search and rescue center.

Chapter 5 The suggestions to improve dual law enforcement system

To improve the legal basis of maritime law enforcement cooperation between the SOA and China MSA is to the benefit of perfecting the marine legal system of China, and provides legal safeguard for constructing a nation with great ocean power.

5.1. The necessity and feasibility of improving the maritime law enforcement cooperation

5.1.1. Analysis on the necessity of improving legal system of the maritime law enforcement cooperation

It's a long time for China to have multiple law enforcement power coexisting, and the phenomenon of overlapping law enforcement is serious, and the overlaps have no clear laws and regulations to guide the cooperation, only a few conflicting provisions. This situation is not only unable to adapt to the promotion of the national marine strategy, but also bringing many legal risks, thus carrying out the legislation work of maritime law enforcement cooperation between the SOA and China MSA is very necessary.

(1) To further promote administration by law of administrative organs

Administration by law is an important link in the rule by law, which requires all state organs to exercise the duties according to law. However, prosperous marine economy let the problems of overlaps or blanks in administrative law enforcement areas of the SOA and MSA expose. In pursuit of high law enforcement efficiency, the SOA and China MSA carry out law enforcement cooperation frequently, but, after all, this is the administrative behavior with no improved legal protection supervision, and facing the blank of relevant law, the will of leaders will be the basis to solve the problem of cooperation, prevailing man's will is in violation of the basic principle of ruling by law. Therefore, to standardize the law of maritime law enforcement cooperation is necessary. Through legislation to clear the law enforcement relationship and limits of authority between the SOA and China MSA, it can provide legal basis for maritime law enforcement cooperation, targeting to solve the problem mentioned above about the legal issue existing in the process of maritime law enforcement cooperation between the SOA and China MSA.

(2) To improve marine legal system of China

A complete national legal system requires that the composition of existing domestic law departments can cover all the affairs concerning the normal operation of the state and society, transverse including department laws including the criminal law adjusting criminal legal relationship and the civil law adjusting civil life and property relationship and other laws, longitudinally to cover all national laws, to standardize the regulations and normative documents of a specific issue in a village or town, and it has complete kinds, tight structure, internal coordination, and organically combined together. For the sea areas, to improve the legislation of maritime law enforcement coordination is to the benefit of enriching the content of China's maritime law and improving marine legal system of China.

5.1.2. Analysis on the feasibility of improving the legal system of the maritime law enforcement cooperation

To set up the system of maritime law enforcement cooperation is not only necessary at the theoretical level but also feasible in actual needs of maritime administrative law enforcement to improve the legal system of China's maritime law enforcement cooperation.

(1) Social development has brought the material basis of the legislation

Maritime administrative law enforcement cooperation legislation also has a certain material conditions. The tide of reform and opening gave China a lot of material wealth, which let the nation have more economic power to safeguard maritime administrative law enforcement work. In terms of the equipment, no matter how elaborate the plans, on-site cooperations and working attitudes are, the gap in equipment can not be made up. Now the equipment is renewal and advanced. After integrating four maritime administrative law enforcement institutions' power by the SOA, "China Coast Guard" ships of the the first batch of equipment is all new boats of nearly two years, the equipment is advanced and able to safeguard the sailing, meanwhile equipped with self-defense weapons upon the original ships with no weapons, and it is a brand-new. In the past two years, China MSA also equipped with a number of big tonnage new ships, the level of 120 meters of "sea patrol 01" is currently the largest, the most advanced and strongest comprehensive ability equipment of China's law enforcement equipment, being even advance in the world. With such a group of powerful law enforcement equipment, the effective maritime law enforcement cooperation can be discussed based on this to ensure to gain good benefits when cooperating and to make the legislation of relevant cooperation have the material basis.

(2) The institutional reform has brought the opportunity of legislation

Before the 18th conference of the PRC, the situation of “Five Dragon governing the ocean” let the cooperation between different departments to coordinate difficultly. Belonging to different ministries, following different department regulations, processing different administrative procedures, to find a integrating point of this five law enforcement institutions is rather difficult, and it will cause a serious problem if the channels of communication is not clear. After restructuring this four institutions into one new SOA, the major administrative law enforcement power reduced from five to two, that is the SOA and China MSA. The reducing of subject of the administration brings convenience to the cooperation between them, which is good for unified commanding when important maritime emergency occurs and reduces the unnecessary trouble.

The “fixed quota system” plan of the SOA clearly points out its assignment of responsibility with the Ministry of Transport, including the provisions, “The Ministry of Transport and the SOA establish together the cooperative mechanism of maritime law enforcement and pollution prevention and organize to implement”. In the aspect of law enforcement practice, the SOA and China MSA have law enforcement cooperation whin many fields, there has been a long time since many departments enforced the law through joint meetings, cooperation agreements, and it becoming mature gradually, which provides the opportunity of long law enforcement cooperation mechanism between the SOA and China MSA, and it also brings the opportunity for the legislation on law enforcement cooperation between the two parties.

(3) The guidance of legislation brought from international consensus

It has been nearly 20 years since the UNCLOS came into effect, and 17 years since China joined the convention. During this period, different countries implemented different marine management systems, but they all paid more and more attention to the development, utilization and protection of marine interests. Nowadays, the development direction of most countries is a trend of marine comprehensive management, to integrate the elements of the marine management into one part received a good effect, which provides demonstration effect and experience for Chinese maritime administrative law enforcement cooperation and promotes China government to accelerate the reform of maritime administration system and establish unified and perfect maritime law enforcement cooperation mechanism. China's current system reform has laws that lag behind, although there exists some unreasonable things, it is a common phenomenon in the world that some countries also began to formulate basic ocean law to authorize marine power to safeguard marine rights and interests in recent years.

(4) The organizational conditions brought by the improvement of the administrative law enforcement efficiency of the state

Since 2013 all local places were checked about formalism, bureaucracy, hedonism and luxury wind, constructing leaders' working attitude, enhancing the ability of the government's leadership, rectifying the enforcement team of administrative law enforcement team, helping to improve the quality and administrative law enforcement efficiency of the administrations, which provides the organizational conditions for the maritime administrative law enforcement institution.

In addition, civil public opinion makes the relevant legislation of maritime law enforcement cooperation feasible. Citizens are the subject of the state power, and the administrative law enforcement institution is only the subject exercising the power.

In the background of economy growth slowing down and social conflicts prominent, maritime rights and interests maintaining became a new hot issue. At present, neither the opinions of the government and academic opinion or the public opinions are basically in support of establishing effective cooperation mechanism between maritime administrative law enforcement institutions, focusing on safeguarding China's sovereignty and maritime rights and interests, it provides the necessary guarantee to improve the cooperation mechanism including organizational conditions and public opinions direction.

5.2. To improve the legislation of the administrative law enforcement cooperation between the SOA and China MSA

5.2.1. To formulate marine basic law

At present, relevant departements of the nation and local has reached consensus about formulating the basic law of the ocean, led by the SOA, China MSA takes active participates in formulating the Basic Law of the Sea, and it will gather around experts to review it in the drafting stage.

Firstly, this marine basic law is not a normal general law, and needs to be a law of the national level to provide standards for the whole ocean activities and marine legislation within China, so it need to include national marine policies and strategies.

Secondly, as a substantive law in the aspect of maritime law enforcement cooperation, marine basic law should include all the areas that SOA and China MSA can participate, including sovereignty, maritime rights and interests, ocean environment protection, maritime personal property safety (mainly embodying in the

aspect of maritime search and rescue), maritime traffic order maintenance, etc, and the two departments have responsibilities respectively in these areas (Shen, 2006).

Thirdly, for the stipulations about maritime law enforcement cooperation, marine basic law needs to learn the spirit of the newest international conventions and its amendments, and to study on non-reserved conventions and absorb the content that confirms to China's marine rights and interests, supporting the two departments to cooperate aiming at ocean territory disputes, illegal actions of foreign ships and citizens and other foreign affairs to avoid the situation of not finding legal basis when enforcing the law.

Fourthly, marine basic law also should explicit the conflict parts of maritime law enforcement cooperation between the SOA and China MSA, or legislate respectively about the conflicts of department regulations between the SOA and China MSA, to stipulate quick ways and procedures to solve this conflicts. Meanwhile, the marine basic law can authorize the NOC to be the permanent department to unified coordinating the issues of maritime administrative law enforcement cooperation.

5.2.2. To improve the related supporting norms including administrative laws and regulations

(1) In the aspect of administrative laws and regulations

Administrative legislation has a dual nature, on the one hand, it is to carry out the execution of the constitution and the law behavior, on the other hand, it is the behavior to formulate universal rules of behavior, and also needs the grass-roots organs to operate specifically (Ying, 2010, p. 57). Maritime law enforcement collaboration is very specific in the process of maritime law enforcement, and needs

two departments clear their functions respectively, and carry out the collaboration according to the law, administrative rules and regulations.

On the legal basis of specific law enforcement duties, the relevant legal system of China MSA is relatively perfect and has levels, nicely linked up with the international conventions with fewer conflicts, but there needs to formulate relevant administrative law in some of the areas, for example, National maritime search and rescue regulations is needed to come out soon (Wang, 2009). And the legal basis of the SOA is not followed, with many un-linked industrial management regulations and some other documents, the administrative laws and regulations need to be formulated to wholly stipulate the basis of law enforcement of the SOA, only in this way can the law enforcement officers of the SOA have laws to rule by and administrate by law. According to the reform plan of “the super-ministries” and the State Council Reform and Function Change Plan, the SOA establish a new institution whose formation is determined according to the SOA Responsibilities of Internal Institutions and Personnel approved by the State Council in 2013. In the central legislative level, the SOA needs the State Council to issued a administrative rule and regulation to clear the limits of the maritime administrative law enforcement.

(2) In the aspect of coordination of administrative rules

The SOA and China MAS are equal when existing in the process of law enforcement, to issue administrative actions to the object of administrative law enforcement within the legislative duties, in the name of both parties or either party. In such cooperation, it is necessary to define their respective responsibilities, then specific assignment of responsibilities and results are undertaken under the rules of laws and administrative regulations, and each department in the ministries formulates respective scope of duties according to the department regulations.

(3) In the aspect of normative documents

The rights and responsibilities of laws, administrative regulations, and rules can not adjust all aspects of actual work, because front-tier work has the characteristics of fresh, lively, changeable, there are a lot of areas that cannot be covered in the actual work. Therefore, it needs to stimulate details between the two parties cooperation within the current frame, including lots of technical standards, such as sea water quality, air index, ship safety index and related professionals physiological and psychological indexes and so on.

5.2.3. To formulate marine procedure law

If the marine basic law and marine-related law have basically finished forming the substantive law part of marine legal system, maritime law enforcement cooperation needs a professional marine procedure law to guide and standardize the specific process of law enforcement. Its content clears the process, the way and compulsory measures of maritime law enforcement cooperation, especially measures, and it can put the utilization conditions and procedure of the boarding, pursuit, seizure and other compulsory measures in the international conventions into China's marine procedure law in order to let the substantive law take into practice, enhance the effect of law enforcement cooperation, strongly striking illegal behavior. In order to carry out law enforcement cooperation of the two departments, marine procedure law should formulate the whole process of law enforcement, including patrol, investigation, setting up a case, forcing, penalty, filing and other procedure of law enforcement (Shi, 2009). From organizing to the afterwards treatment and supervision, urging the two department to cooperation in the whole process. Meanwhile, based on the principle of non-repeated penalty, marine procedure law should also adjust the implementation of maritime administrative punishment in the

platform of law enforcement cooperation, eliminating the problem of twice or more punishment for the same illegal fact.

5.3. To improve the cooperation mechanism of maritime administrative law enforcement between the SOA and China MSA

Maritime law enforcement cooperation system has static legal system and dynamic law enforcement cooperation mechanism. Because there is no perfect laws and regulations of maritime law enforcement cooperation, the past maritime administrative law enforcement institution is used to govern its own business, which is relatively feasible in the epoch of easy marine affairs, but facing maintenance of sovereignty, marine rights and interest is not enough. Marine affairs are complex, forcing the maritime administrative law enforcement institutions involved in the processing of the same events together often and frequently, therefore, legal basis is the basic conditions to establish long and effective law enforcement cooperation mechanism, and also plays an important role in establishing law enforcement cooperation and supervision system.

To improve the maritime law enforcement cooperation mechanism, the key point of its content should focus on the organizational coordination of the law enforcement cooperation, the newly established NOC, as high-level deliberation and coordination institution, is responsible for formulating the national marine strategy and unifying to coordinate important marine issues, and should formulate corresponding normative documents with the maritime search and rescue center(maritime oil spilling emergency response center) pursuant to the National Emergency Pre-plans For Maritime Search and Rescue, and stipulate in detail about the daily work procedure, organization coordinating procedure, process mode of marine-related emergency (Jiang, 2009), for example, in the accidents of the lost Malaysian plane or Korean

SEWOL ship overturning, how to organize a strongest law enforcement searching power in the shortest time and how to do a good job in law enforcement coordinating and communicating with the other countries are the problems in front of us.

The NPMSR itself is insufficient, while it only stipulates the rescue process and fails to clear assignment of responsibility, rights and obligations and accountability system. To ensure the effectiveness of the decision made in joint inter-ministerial meeting of cooperation between the SOA and China MSA, legal protection should be established to carry out this plan, for example , according to the national maritime search and rescue inter-ministerial joint conference system approved by the State Council, the Ministry of Public Security has issued the Plans on Maritime Search and Rescue Emergency Work to make sure that the Ministry of Public Security Coast Guard and other relevant departments participate in the specific work procedure of maritime emergency response, and the SOA can also formulate suggestions and methods relating to maritime rescue emergency work and marine oil spill emergency work.

In addition, you can establish a comprehensive database of administrative law enforcement, recording the typical cases and corresponding countermeasures of all year for the law enforcement officers and experts in related fields to study and investigate. In addition, for the law enforcement work including the administrative examination and approval and inspection and other maritime administrative law enforcement work, the two departments may study to implement a set of simple administrative process to save time in the functional shift of work, and put the projects of two departments needing to exam and approve and inspect together, through the way of cooperation to achieve streamline administration and institute

decentralization, improve the efficiency of administration and condense the administrative costs.

Chapter 6 Conclusion

Due to China's dispersing industrial maritime law enforcement system existed for a long time, and the new NOC has been established recently and the marine law is need to be improved, so where is the end of the reform of China maritime law enforcement system is still an heated discussion in academia. There are two main arguments: one is Chinese marine management system has already been unified, maritime law enforcement system will be unified at last; another one is that China MSA is in charge of rescue, focusing on the transportation safety management of international routes, and in performance of the international convention has been very mature, as long as it has reasonable assignment of responsibility and efficient cooperation, the current dual maritime law enforcement system is the best maritime law enforcement system.

The writer thinks that to get a clear understanding of the basic rule of coastal states' maritime law enforcement system and to proceed from China's national conditions are the key to study China's maritime law enforcement system. The SEWOL accidents exposed in the process of search and rescue in South Korea in 2014, the South Korea Coast Guard has fatal flaws in the aspects of ability to rescue. Centralized and unified maritime law enforcement belongs to large institutions, and because of the influence of the policy, the attention will be paid less in the field of

professional investment. Once the problems are outbreaking, it will bring the bad chain reaction. Through analyzing the marine management system and maritime law enforcement system of the world's major coastal countries, the writer proposes to establish efficient dual maritime law enforcement system under the leadership of the State Council, and analyzes the status quo of cooperation between the two main maritime law enforcement power, the SOA and China MSA to find out the problems and deficiency existing in the law enforcement cooperation, and then analyzes the feasibility and necessity to improve the relevant legal system of maritime law enforcement cooperation, focusing on the legal flaws, the writer puts forward his own recommendation of law improvement. The writer believes that with the deepening of China's administrative system reforming and relevant legislation improving, efficient dual maritime law enforcement system will make greater contribution to China's marine rights and interests maintenance, maritime environment protection, maritime traffic security, ocean technology and ocean economy development.

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