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## A comparative study on the function of marine management between China MSA and China Coast Guard

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**WORLD MARITIME UNIVERSITY**

**Dalian, China**

**A Comparative Study on the Function of Marine  
Management between China MSA and China Coast  
Guard**

By

**WANG MENG**

**The People's Republic of China**

A dissertation submitted to the World Maritime University in partial Fulfillment of  
the requirements for the award of the degree of

**MASTER OF SCIENCE  
In  
MARITIME AFFAIRS  
(SHIPPING MANAGEMENT)**

2016

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## **DECLARATION**

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

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

Signature: Wang Meng

Date: 5 August 2016

Supervised by: Dr..  
Professor Tieyi Yan  
Dalian Maritime University

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Assessor:

Co-assessor:

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Last but not least, I am deeply grateful to my old parents who are always offering their full support and telling me to study with my whole heart. I am especially grateful to my old brother who is taking all the pressures on his shoulders to keep me far away from trifles and economic pressure. He is the great source of inspiration and confidence for me to complete my study.

## **ABSTRACT**

Title of Dissertation:       **A Comparative Study on the Function of Marine Management between China MSA and China Coast Guard**

Degree:                               **MSc**

The purpose of the dissertation is to provide an overview of historical development of China's Marine management and law enforcement system. There was a huge reform about China's marine management and law enforcement system in 2013. Since then, China only has two law enforcement teams, namely MSA and CCG.

There are three kinds of models about marine management and law enforcement in the world. We will begin with the overview on the world and then analyze the models of USA, Korea, Japan, Hong Kong and Taiwan.

Comparative analysis is conducted on the marine management of MSA and CCG, in terms of the definition of scope, division, the practice characteristics and attributes.

Comparative analysis is also conducted on law enforcement of MSA and CCG in terms of right as principal, measures, object and the size of personnel force.

Finally the conclusion is the model of marine management and law enforcement in China is half centralized type, and the coexistence of MSA and CCG is rational.

**Key Words: MSA, CCG, SOA, marine management, law enforcement.**

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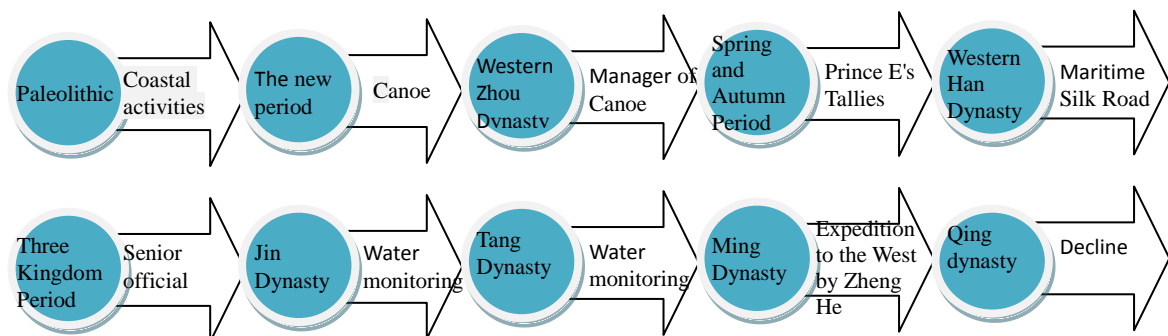
## **LIST OF ABBREVIATIONS**

PET	Prince E's Tallies
SOA	the State Oceanic Administration
CMS	China Maritime Surveillance
CCG	China Coast Guard
CFA	Chinese Fishery Administration
GAC	General Administration of Customs
MSA	Maritime Safety Administration
CPC	Communist Party of China
NPC	the National People's Congress
CNTA	The China National Tourism Administration
CAS	Chinese Academy of Sciences
ASEAN	Association of Southeast Asian Nations
IMO	International Maritime Organization
NOC	National Ocean Council
IEA	International Energy Agency
IMO	International Maritime Organization
MFA	Ministry of Foreign Affairs
MPS	Ministry of Public Security
MOA	Ministry of Agriculture

## Chapter I An Overview of China's Marine Management and Law Enforcement System.

China's Marine management and law enforcement has a long history, it is thousands of years from the ancient "Prince E's Tallies" to the establishment of "the Department of Shi Bo Si". After the founding of the state, marine management and law enforcement had been reformed three times, and in 2013, State Council implemented giant department reform, the new State Oceanic Administration had been established to integrate State Oceanic Administration, China Maritime Surveillance, China Coast Guard, Chinese Fishery Administration and General Administration of Customs. The new SOA will enforce the law in the name of China Coast Guard. Then there are two law enforcement teams in China namely MSA and CCG<sup>1</sup>.

### 1.1. Historical development of China's marine management and law enforcement System.



**Figure 1.1(a) Historical development of China's marine management**

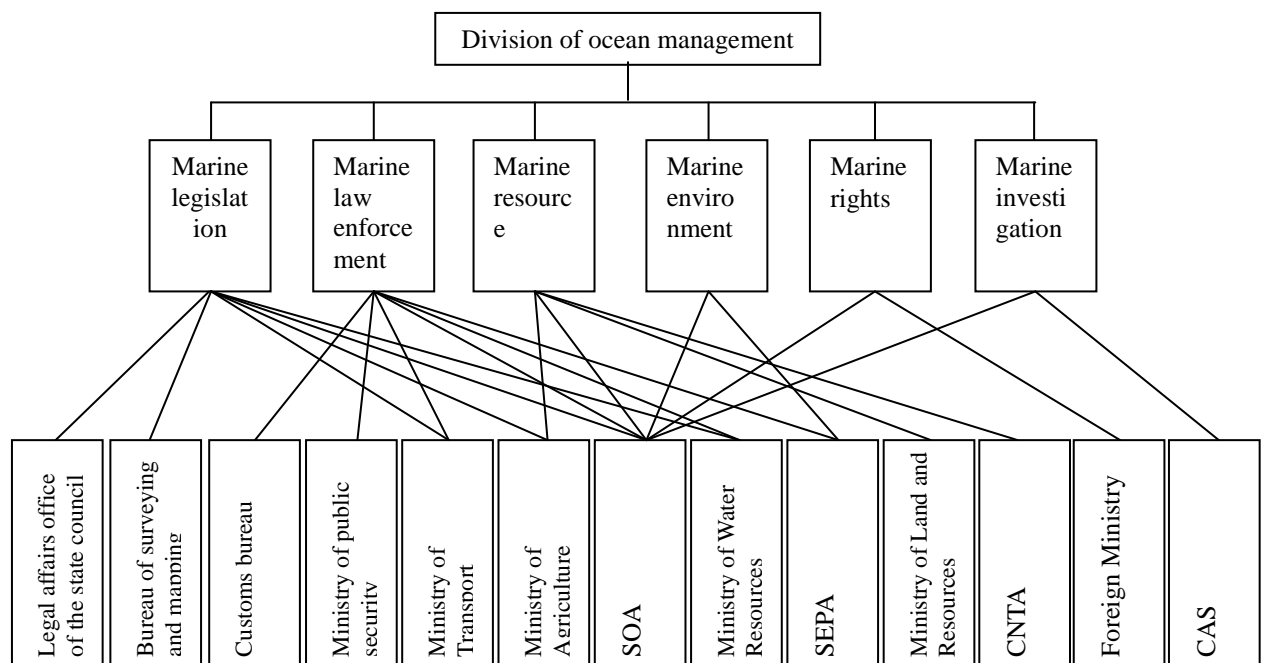
Source : Xu, Z. P., Song, Y. Q. (2010). *maritime culture*. People's Communications Press, Beijing, China.

<sup>1</sup> "Agencies of the state council reform and function change", was approved by the second Plenary Session of the 18th CPC Central Committee and first session of the 12th National People's Congress (NPC).

Marine management and law enforcement came from the development of Chinese ancient navigation service from the view of the evolution. From point to surface, from regulation to legislation, from inland to coastal it continuously develops to ensure water security and shipping development.

Modern China carried about strong cloned character on marine management and law enforcement, Chinese government had nearly lost all the marine rights, and foreigner controlled customs to manage main navigation administration.

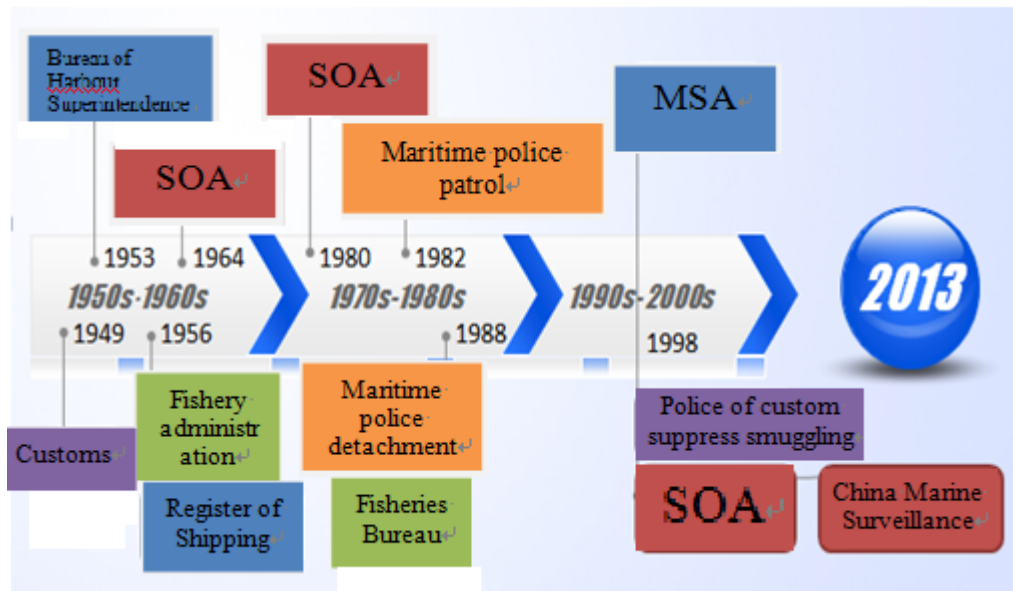
Since the founding of People's Republic of China, all the industry sectors who want to control resource development had extended their management functions to the ocean. During that time, China had established a decentralized system of marine management and law enforcement, and then the integration of the law enforcement teams and their management function came in 2013.



**Figure 1.1(b) Division of ocean management**

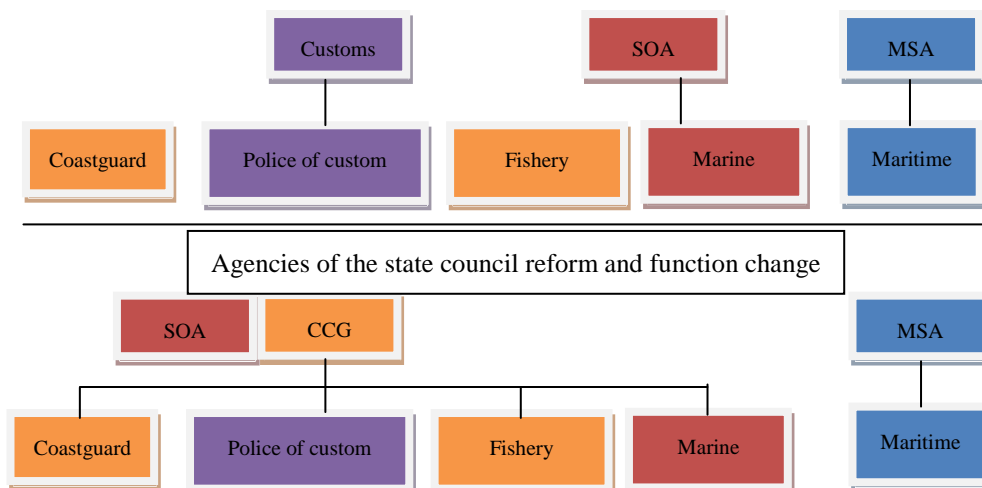
Source : Wu, Z. L. (2013), Actively Respond to marine unify law enforcement, *China Maritime*

Safety, Beijing, China.



**Figure 1.1(c) The establishment of marine departments in China**

Source : Wu, Z. L. (2013), Actively Respond to marine unify law enforcement, *China Maritime Safety*, Beijing, China.



**Figure 1.1(d) Marine management before and after 2013**

Source : Wu, Z. L. (2013), *Actively Respond to marine unify law enforcement*, *China Maritime Safety*, Beijing, China.

## **1.2. The Situation and difficulties faced in marine management and law enforcement currently.**

### **1.2.1. China is building into a maritime power**

The Eighteenth National Congress of the CPC come up with the slogan “Improving the ability of marine resources development, developing of marine economy, protecting the marine ecological environment, safeguarding the rights and interests of the state resolutely, and building into a maritime power”. The state council released the statement “Promoting vision and action of the construction of the Silk Road Economic Zone and the twenty-first Century Maritime Silk Road”. In March 2016, this strategy integrated state strategy and ocean development strategy effectively, giving rise to a natural extension on building into a maritime power, which has manifested the new ideas on overall development of China sea power and land power.

### **1.2.2. The situation of international ocean is not going well.**

The development on ocean of China has caused fear among neighboring countries and resistance mentality among world super powers,. The ASEAN countries always show their views on South China Sea. Japan is strongly against China’s stance on Diaoyu Islands. The attention on west pacific from America and G7 also poses serious challenges to the development of China’s sea rights.

### **1.2.3. The self construction and coordination capability of MSA and CCG.**

Since the State Council implemented giant department reform in 2013, the law enforcement integration of CCG has formed a complex condition when integrating

law enforcement rights and management rights. At the same time, the right of MSA and the law enforcement right of CCG across which ask a farm-out scheme to solve the problems. So China should learn from developed countries such as USA, Korea, Japan and so on.

## **Chapter II Using Typical Countries (Regions) for Reference on Marine Management and Law Enforcement System.**

### **2.1. Overview of world's marine management and law enforcement system.**

Marine management is a way to raise marine transaction to a well-organized status by means of law, policy and administration. But, law enforcement is treatment measures when the well-organized status is damaged. So law enforcement is part of marine management and it has its own unique characteristics.

### **2.2. Models of marine management and law enforcement**

There are various differences between coastal states in terms of social system, geographic location, natural environment and international relation. Thus, different countries have different tissue construction wordings for marine management. In summary, marine management system is mostly divided into three types, namely dispersing type, half centralized type and centralized type.

### **2.3. Representative national and regional marine management and law enforcement model.**

#### **2.3.1. The United States of America**

The United States of America is using the centralized sea manage model as marine management system.

For maritime affairs, many departments have the corresponding administrative authority, including the state oceanic and atmospheric administration, which is the

main management department of the United States marine affairs.

In order to have an overall planning of marine affairs, the United States has set the national maritime commission to coordinate marine affairs in 2010.

As far as the law enforcement system is concerned, the United States is using the centralized sea manage model.

In the mid of 20th century, the United States formed a relatively comprehensive maritime law enforcement team-the United States Coast Guard, whose role is increasing in the latter part of the development process. The function division of United States Maritime Police Department is shown in Table 2.21<sup>2</sup>.

	maritime administration	the United States coast guard
maritime security	provide maritime security data support; provide security professional knowledge for cross-departmental working group and conduct training; response port emergency and emergent events, provide the coordination and cooperation to ensure the deployment of force; Coordination and management of port facilities projects, port	crack down coastal and the sea smuggling, contraband, drug trafficking and other criminal activities, to maintain the public order in the sea; responsible for ship security examination; Responsible for the supervision and inspection of the port state and security test; Water patrol on safety water area;

<sup>2</sup> All the content in the table come from United States Maritime Police Department, [http://www.marad.dot.gov/about\\_us\\_landing\\_page/about\\_us\\_landing\\_page.htm](http://www.marad.dot.gov/about_us_landing_page/about_us_landing_page.htm).

	<p>and transportation facilities;</p> <p>Provide guidance and training for the merchant to combat piracy</p> <p>Improve the ocean transportation system, reduce the traffic jam</p>	<p>patrol the implementation of the important foundation in the port;</p> <p>implement the combat piracy related activities</p>
maritime safety	<p>responsible for crew training, examination &amp; certification;</p> <p>Development, coordination and supervision of the relevant agencies of the maritime industry safety;</p> <p>supervise the cargo transportation of the nationality of the ship in international waters;</p> <p>issue the navigational warnings &amp; notice to mariners;</p> <p>improve the management methods &amp; technologies for maritime safety</p>	<p>test ship maneuvering safety;</p> <p>cargo safety inspection onboard;</p> <p>navigation safety inspection;</p> <p>Responsible for the investigation of casualties reported at sea;</p> <p>Responsible for the issue of safety certification for leisure ship</p>
maritime rescue	nil	<p>salvage at sea</p> <p>Salvage and removal navigation obstruction</p>
maritime anti-smugglin	nil	investigate and deal with smuggling crime, maritime

g		smuggling, smuggling cases
Marine fishery	responsible for the release of fishing permit	inspect fishing boat whether it has the qualification of fisheries; perform international convention relevant fisheries protect fishery resources to prevent illegal fishing
marine environment	provide environmental support, mainly provide the laws and regulations and other documents for institutions to be complied with; responsible to study and formulate the solution to environmental problems brought by sea transport; responsible for the approval of offshore LPG and port oil receiving equipment	check ballast water to remove alien species; Test water oil separator to prevent oil spill pollution in the ocean; Responsible for other specific pollution control
Combating terrorist activities	responsible for the terrorist activities related to the safety of ship navigation	combating terrorist activities, the contents addressed in the maritime security rules

**Table 2.21 The United States Maritime Police Department function division**

Source: The United States Maritime Police Department, the function division of The United States Maritime Police Department, 18 Jun 2016,

[http://www.marad.dot.gov/about\\_us\\_landing\\_page/about\\_us\\_landing\\_page.htm](http://www.marad.dot.gov/about_us_landing_page/about_us_landing_page.htm).

### 2.3.2. Japan

Japan implements semi centralized type of sea management model. Although the management of sea affairs scattered in many sectors, there is a high-level coordination agency - the Department of Integrated Marine Policy.

In addition, Japan also has a unified maritime law enforcement team - the Maritime Security Department, with the dual nature of the armed services and administrative law enforcement (see Table 2.22)<sup>3</sup>.

	Maritime Bureau	Maritime Security Agency
Ship operation	International shipping policy, liner conference policy; Domestic sea passenger fares and other transport business license; Permission and approval of the marine cargo transport enterprise; Transport permits and approvals for coastal cargo ships; Maritime Procedure agent; The development, improvement and coordination of relevant cargo transport services	NIL

<sup>3</sup> The content comes from <http://www.kantei.go.jp/jp/singi/kaiyou/index.html>. and <http://www1.kaiho.mlit.go.jp/INFO/Admin/org.htm>.

maritime law and order	<p>ship inspection</p> <p>Responsible for the development of ship and equipment in the international and domestic safety technology standards;</p>	<p>Illegal operation or overload of the ship;</p> <p>Smuggling and illegal immigrants in the sea;</p> <p>The implementation of maritime conflict, anti terrorism, anti piracy measures;</p> <p>To defend the territorial waters and exclusive economic zone;</p>
Maritime Safety	<p>Development, improvement of shipbuilding and marine machinery industry;</p> <p>To improve the technology of shipbuilding and maintenance of ships, the registration of ships;</p> <p>To adjust the labor relations, to be responsible for the education and training of seafarers, to improve the working conditions of seafarers, compensation for accidents and other protective conditions;</p> <p>Certificate of crew qualification and other related certificates issued and inspection</p>	<p>Responsible for the maintenance of maritime order;</p> <p>Measurement of ocean channel management, navigation facilities, responsible for the establishment, maintenance and operation of navigation;</p> <p>To be responsible for the implementation of navigation safety measures;</p> <p>To provide the information management and other work required to ensure the safety of navigation;</p>

salvage	nil	Responsible for maritime rescue; reinforce emergency rescue system; Collect maritime accident information, and timely release of relevant information on accidents and disasters; Cooperate with other organizations to carry out joint rescue
maritime suppress smuggling	nil	The investigation of crime of smuggling, maritime suppress smuggling, smuggling of illegal cases
marine fishery	nil	To investigate and deal with illegal fishing
marine environment	In charge of environmental protection, the development of ships and equipment in international and domestic technical standards;	Educational activities for the protection of the marine environment; Investigation of water pollution; In order to restrain the crime of marine environment, the information sharing system of

		marine environmental crime is established; Treatment of oil spills, hazardous substances fall into the sea and ship fire accidents
Ocean exploration	nil	Explore the underwater terrain, research beneath the seabed structure, detection of crustal movement, found that the current movement to explore the composition of marine sediments

**Table 2.22: Japan Maritime Police function division**

Source : Japan Maritime Police, The introduction about function division. 25 Jun 2016,  
<http://www.kantei.go.jp/jp/singi/kaiyou/index.html>,  
<http://www1.kaiho.mlit.go.jp/INFO/Admin/org.htm>

### **2.3.3. Korea**

Initially South Korea adopted industry division management model in the management of the sea when the Ministry of Marine and Fisheries was established in 1996. At that time South Korea's maritime law enforcement team -- the Maritime Police Agency was put under the management of this department. South Korea is one of the countries with the highest concentration of sea management and law enforcement in the world. The accident of South Korea passenger ship “sewol” in April of 2014 forced the South Korean government to carry out the reform of the

management of the sea and the maritime law enforcement system. The reform has not been completed, the known content is as follows<sup>4</sup>:

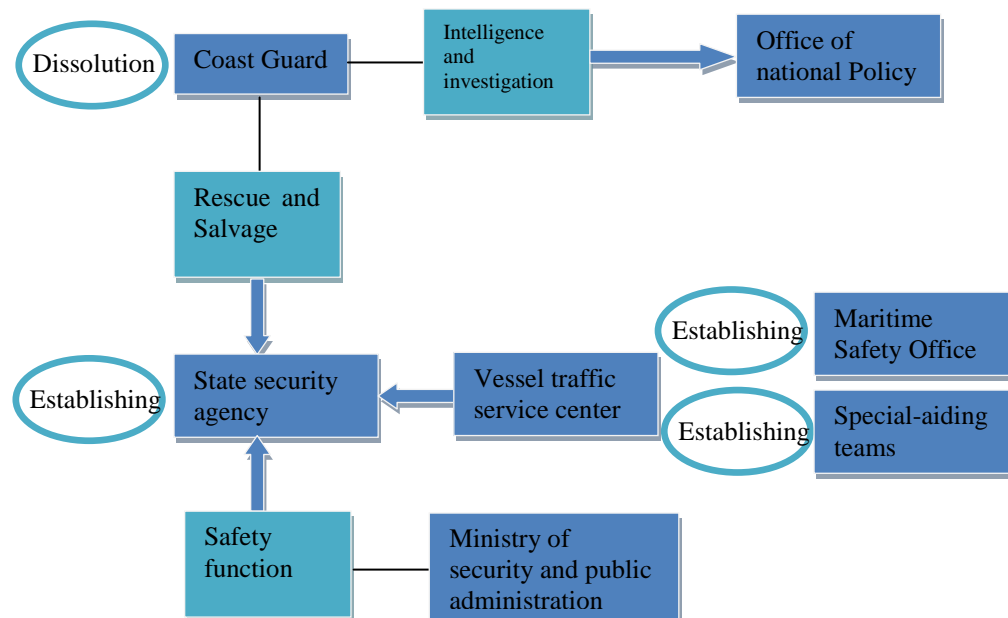


Figure 2.23 –The reform of marine management and the law enforcement system of South Korea

Source : Ministry of Marine and Fisheries, The reform of marine management and the law enforcement system of South Korea, 27 Jun 2016,  
[http://www.mof.go.kr/portal/eng/EgovReinforcing\\_front.do](http://www.mof.go.kr/portal/eng/EgovReinforcing_front.do).

Here can see the function division in the following table 2.23.

	maritime department	Marine Police Department
shipping management matter	In charge of ocean shipping and coastal shipping, ensure the smooth traffic (Maritime Logistics Bureau)	nil

<sup>4</sup> The content and figure come from Ministry of Marine and Fisheries  
[http://www.mof.go.kr/portal/eng/EgovReinforcing\\_front.do](http://www.mof.go.kr/portal/eng/EgovReinforcing_front.do).

maritime law and order	nil	<p>Revention and control of maritime robbery and violence and other crimes of the sea and the control of illegal immigrants and other international criminal activities;</p> <p>Combat and control the illegal fishing of foreign vessels entering the territorial waters and exclusive economic zones of the South Korea</p>
marine safety	<p>Mainly responsible for the safety of the sea, the maintenance of navigation facilities, measurement of waterways, to protect the ship navigation safety (Maritime Safety Administration);</p> <p>Main management of internal affairs of the port, to promote the development of the port (Harbor Bureau);</p>	<p>The implementation of safety management in key ports and sea areas so as to allow public safety to carry out their operations on the sea;</p> <p>To provide information on the accident of water recreation and set up the warning signs to prevent accidents;</p> <p>To strengthen the safety management of the operation of the water recreational activities</p>
marine rescue	nil	<p>Use of aircraft, helicopters, patrol boats and marine special</p>

		<p>attack team to build a multi-dimensional rescue system;</p> <p>Carry out rescue activities at sea</p>
marine suppress smuggling	nil	Responsible for suppress maritime smuggling, narcotics and other activities
marine fishery	nil	<p>To monitor the activities of foreign fishing vessels in the territorial waters and exclusive economic zones, to protect the South Korean fishery resources and to ensure the safety of fishing operations in the waters under the jurisdiction of the South korea;</p> <p>Using aircraft cruise, collect the information of fishing fleet, in order to strengthen the management of fishing fleet;</p>
marine environment	nil	Attach importance to marine environmental protection and strengthen the construction of pollution monitoring system
Ocean	nil	Protect the marine resources

exploration		and protect the rights and interests of the South Korea
Combating terrorist activities	nil	Training maritime special attack team to combat maritime terrorism;  Strengthen the search for ships carrying dangerous substances and ships from countries that support terrorism, and build and maintain a real time cruise surveillance system.

**Table 2.23: South Korea Maritime Police function division**

Source : South Korea Maritime Police, the function division of the department. 28 Jun 2016.  
[http://kcg.go.kr/global/menu\\_01/0101.html](http://kcg.go.kr/global/menu_01/0101.html)

#### **2.3.4. Hong Kong**

Hong Kong is typical of decentralized management as to sea related management system, involving sea affairs management and Maritime Law Enforcement Affairs respectively, by the Hong Kong water police, customs, the Marine Department, environmental protection department, food and Environmental Hygiene Department, fire department, government flying service team and the agriculture, fisheries and Conservation Department. These departments are responsible for the implementation and coordination.

Maritime law enforcement system is also a decentralized model, including the main law enforcement departments: Hong Kong water police, Hong Kong customs and marine department.

Hong Kong department involved in the management of the maritime affairs is responsible for the management of related affairs and the law enforcement of the transaction. Therefore, in the process of analyzing the Hong Kong sea management and maritime law enforcement system, it does not specify the difference between the management department and law enforcement department.

department	marine responsibility
Hong Kong water police	Law enforcement in the waters of Hong Kong; Prevention of water and land smuggling and illegal immigration activities; Be in charge of the search and rescue work in Hong Kong and adjacent waters; Transporting casualties.
Hong Kong customs	The Customs together with the police set up a joint task force at sea, committed to the fight against smuggling; for passing ships in Hong Kong, the customs will inspect to detect and prevent drug trafficking activities.
Hong Kong Marine Department	Hong Kong Marine Department has six internal departments, of which the administrative department and the maritime consultant is not responsible for the specific duties of the ocean. Planning and Maritime Services Department is mainly responsible for port expansion strategy planning, passenger terminal, pollution control, public cargo handling facilities, buoys, and auxiliary navigation equipment, hydrographic services; The port management department is responsible for the operation of the port, the safety of navigation, the maritime emergency, the coordination of search and rescue operations, the licensing and

	<p>regulation of local vessels;</p> <p>Shipping policy section is responsible for maritime accident investigation, formulation of policies, standards and legislation;</p> <p>Ship affairs;</p> <p>Management of Hong Kong ship registration, the implementation of vessel safety standards, maritime industrial safety, inspection of offshore vessels and local vessels, seafarers examination, certification and disciplinary matters;</p> <p>Government fleet, mainly responsible for the design, procurement, operation, distribution and maintenance of government vessels.</p>
Flight service team	<p>Carry out search and rescue operations at sea and land;</p> <p>Emergency air medical services;</p> <p>Support the Hong Kong police force and other disciplined services to perform their duties and provide relevant training;</p> <p>Assist in the fire fighting, and take action in the emergency of other human life and death or damage to property;</p> <p>Shooting for aerial survey;</p> <p>Approved by the Secretary for security and carriage of passengers.</p>
Environmental Protection Agency	<p>Protection of marine water quality, implementation of the relevant laws and regulations of the marine environmental protection</p>

**Table 2.24: Hong Kong department involved in the management of the sea affairs**

Source : the content come from five main government, [http://www.police.gov.hk/ppp\\_sc/](http://www.police.gov.hk/ppp_sc/),  
<http://www.mardep.gov.hk/>, <http://www.gfs.gov.hk/sch/aboutusc.htm>,  
[http://www.epd.gov.hk/epd/tc\\_chi/top.html](http://www.epd.gov.hk/epd/tc_chi/top.html), <http://www.news.gov.hk/tc/index.shtml>

the Hong Kong water police, marine department, fire department are in charge of Hong Kong maritime safety affairs; the water police, flight service team, fire department, marine department are in charge of marine salvage; the customs and the water police are in charge of anti smuggling; Marine Department, environmental protection department and food and health department are in charge of sea environment; The food and the Department of health and the agriculture and Fisheries department is in charge of marine fishery.

Various departments in their related sea affairs and other departments have more or less coincidence. For maritime law enforcement related matters, the joint law enforcement and mutual coordination of relevant departments continuously spring up.

### **2.3.5. Taiwan**

China's Taiwan region followed semi centralized model in the implementation of the sea management system for the, mostly scattered in various relevant departments of the sea. For the management of the sea, there is a coordinating body, that is, the Promotion of Marine Affairs Group.

Taiwan sets up a special department for maritime law enforcement, Coast Guard Administration of the executive department. Coast guard department is responsible for law enforcement, maritime affairs and maritime services, etc.

	port authority	Coast Guard Administration
Ship operation	The supervision and guidance of shipping companies, ship leasing industry, shipping industry, shipping and container terminal operator;	nil

	Operation and management of commercial port service fee charged;	
Public security of marine space	<p>Responsible for the control of the port state and other issues related to the safety of maritime affairs and navigation;</p> <p>Planning and Research on navigation safety strategy;</p> <p>Responsible for safety management, check and release the ship security issues and security level of the;</p> <p>Supervise the maintenance of port facilities</p>	<p>Control and safety maintenance of the coastal zone;</p> <p>To prevent the illegal entry of Taiwan, carry out safety inspections port personnel and other criminal investigation;</p> <p>To be responsible for the coordination, investigation and handling of the maritime and Coast Guard affairs;</p> <p>Collection, disclosure and security information investigation and handling of smuggling</p>
Safety of marine space	<p>Responsible for the planning, construction, maintenance, supervision and management of route identification, and promote the safety of navigation;</p> <p>Planning, implementation and supervision of the crew's driving training, certification and assessment;</p> <p>Responsible for and supervising the inspection and measurement of the ship; and the management of the inspection of the vessel</p>	<p>Safety inspection of ships or other water transport in and out of Hong kong;</p> <p>Control and maintenance of maritime traffic order;</p> <p>Maintenance of recreational water safety, strengthen the patrol</p>

	and the surveyor;	
salvage	Supervise the salvage operations; Supervision of the disaster prevention and rescue operations in Hong Kong	Matters relating to the salvage of the sea, the rescue of marine disasters and the handling of disputes over the sea; Responsible for joint search and rescue activities across the Taiwan straits;
Suppress smuggling	nil	Responsible for the sea, coastal, estuarine and non treaty port smuggling;
Marine fishery	nil	Protection of fishery and fishery resources; To prevent foreign cross-border fishing fishing; Regular implementation of the high seas fishery patrol
ocean environment	Supervision of pollution prevention and control of port;	Marine environmental protection and conservation; In order to strengthen the ability of marine pollution prevention and control, joint Harbor Bureau and local government organized marine oil pollution emergency drills
Ocean exploration	nil	Marine affairs research and development

**Table 2.25: Taiwan Maritime Police function division**

Source : the content come from the Taiwan government websites,

<http://www.motc.gov.tw/ch/home.jsp?id=850&parentpath=0,1&unitid=35>

<http://www.cga.gov.tw/GipOpen/wSite/mp?mp=999>

## **Chapter III Comparative Analysis on the Marine Management of China**

### **Maritime Safety Administration and China Coast Guard**

#### **3.1. The definition of scope on the marine management between China Maritime Safety Administration (MSA) and China Coast Guard**

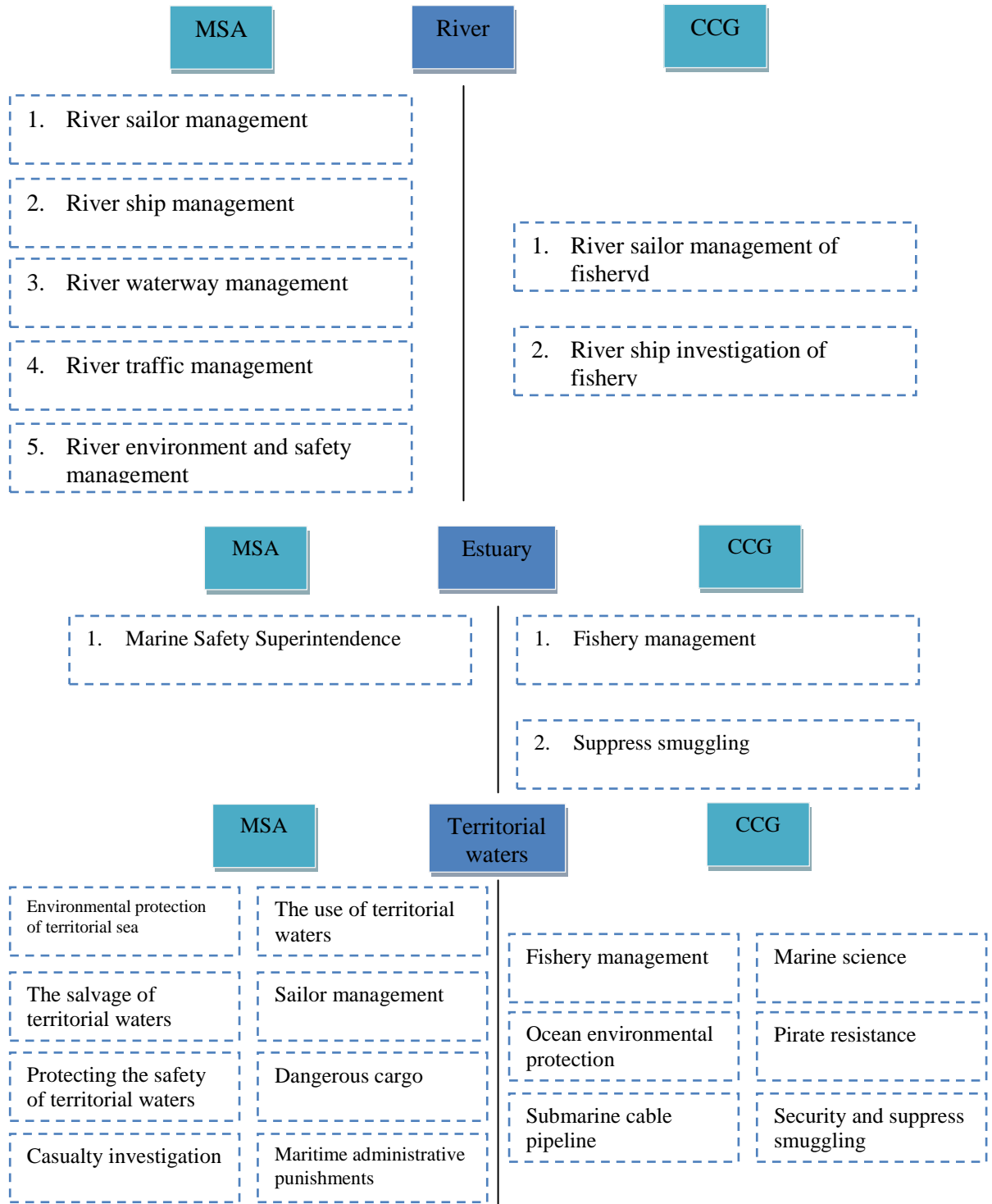
The authority is the administrative subject to manage the country's specific affairs and realize its particular functions according to the law of licensing. Marine management authority refers to the Marine administrative department in accordance with the law of Marine management authority, and responsibility, which is the extension of sea power. General Marine management refers to the investigation, policy, planning, organization, coordination and control of the government as well as the ocean development subject for the Marine resource, Marine environment, development of sea and maritime rights.

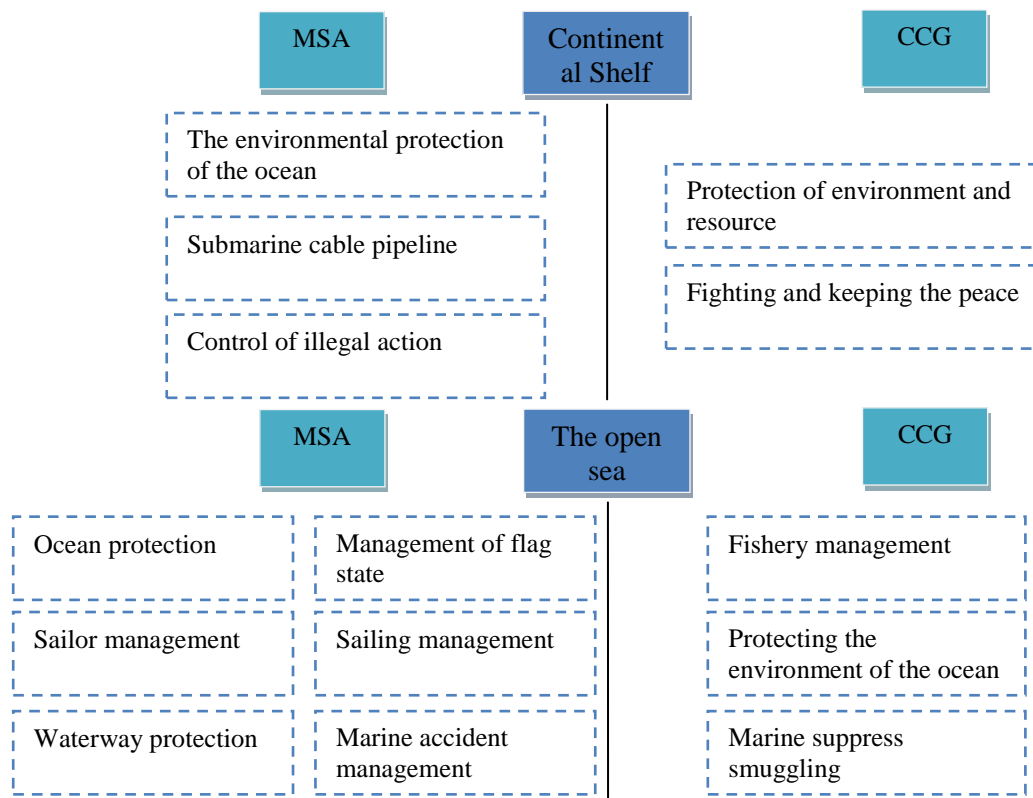
In this study, Marine management authority refers to a marine management in narrow sense, mainly about the comparison in marine management between the MSA and China Coast Guard. This authority does not contain all of the maritime management or government maritime management, and should be a maritime administration and administrative law enforcement powers. There are two characteristic of the authority: Firstly, Marine management object is the national maritime affairs management of the main administrative agencies, which belongs to the government administrative management. Secondly, this study mainly refers to the administrative law enforcement on sea of MSA and China Coast Guard.

##### **3.1.1. The division of the management authority between MSA and CCG-in the perspective of different waters**

Figure 3.11 provides the scope and basis of management authority on inland water, estuary, territorial waters, contiguous zone, exclusive economic zone, continental

shelf and high seas between MSA and China Coast Guard.





**Figure 3.11 The division of the management authority between MSA and China Coast Guard-in the perspective of different waters**

Source : Compiled by the author.

### **3.1.2. The division of the management authority between MSA and CCG-in the perspective of law enforcement jurisdiction**

This section will study the division of MSA and China Coast Guard, dividing the marine law enforcement into: sea defense, policing the waters, marine fisheries, search and rescue shipwreck, sea safety, marine environmental protection, smuggling at sea.

Management authority of China Coast Guard mainly involves the management and enforcement of marine rights management and enforcement, use of sea areas and islands, marine fisheries management and enforcement, marine environmental protection and management of law enforcement.

Firstly, the maritime rights of powers include: combating maritime crimes (illegal immigration, smuggling, drug trafficking and other criminal activities), and safeguarding China Sea security; providing supervision on foreign submarine cable laying activities; Regularly carrying out special cruise continental shelf and exclusive economic zone, and the exercise of the right of hot pursuit, boarding right, if necessary; initiating marine emergency response to violations, safeguard China's sovereignty and maritime rights and interests; Resolving disputes between China and foreign interests in marine, protection of personal and property safety of Chinese citizen; and providing supervision of foreign marine scientific research activities. Besides, the use of sea areas and islands management powers includes: the use of sea areas for law enforcement; safe management of the water; to managing and dealing with damages and security issues in the process of using marine resource; Management and protection of laying submarine cables and pipelines; Management authority for checking the sea sand mining activities. At last, the law enforcement of marine environmental protection and management includes: Ocean Dumping cruise enforcement powers; Power for Cruise law enforcement on marine engineering; Powers for Marine ecological protection law enforcement inspection and perform marine environment supervision. Marine Management authority of MSA mainly involves: maintenance of maritime navigation, traffic safety; supervision and management of national water safety; security for maritime traffic order, administrative order, public security and other waters; directing, guiding salvage; supervision and management of pollution from ships; supervision of maritime transport of dangerous goods; management power of ship and crew qualification. To sum up, the sea-related management powers of the MSA include: safeguarding maritime traffic safety, maintaining the order of navigation and navigation safety; commanding salvage, protecting the marine environment, and managing ship and

crew.

### **3.2. The practice characteristics and attributes of MSA on the marine management authority**

#### **3.2.1. Initiative, Integrity, long chain of enforcement**

Marine management authority of MSA has powers of initiative throughout all aspects of maritime activities, mainly for the "supervision", "approval", "test", "command", "Voyage Management", "law enforcement", "production safety" and, more performance for a dynamic administration and enforcement powers. Besides, Marine management authority of MSA, as compared with the China Coast Guard, is related more to ex-ante regulation, such as the inspection of ships, waterways management division. It is also related to maritime activities during, after, throughout the whole process of maritime activities, so long law enforcement chain. MSA involved in our maritime rights management is embodied in a more positive behavior of people.

#### **3.2.2. Maritime economic properties and foreign property**

From the administration and enforcement of the object, the MSA is mainly involved in the ship, cargo and crew, which is an important part of international economy and trade. Based on Article 9 of "the Territorial Sea and the Contiguous Zone Law", MSA has the right to publish the relevant provisions and specific measures relating to traffic separation schemes and ship routing system. Ship routing and Coastline-using tremendous socio-economic benefits, water, underwater operations in coastal waters also has very considerable economic value, such approval MSA closely related licensing powers and the social economy, which has obvious economic characteristics. Marine management powers of MSA include implementing the International Convention on the IMO, fulfilling ship management of non-nationals and overseas emergency management evacuation. In the Vietnam evacuation operations<sup>5</sup>, May 2014, MSA dispatched Coast Guard 22 to coordinate

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<sup>5</sup> China Transportation Paper, the record of actual events on China Ministry of Transport organize passage ships

merchant ships such as WUZHISHAN and TONGGULING.

### **3.2.3. Highly professional technology**

Marine management authority of MSA in many areas demonstrates its unique expertise, and the exercise of its powers needs professional competence and professional facilities.

### **3.2.4. A large number of managed objects, high-density management**

By the end of 2014, the number of crew had grown to 131,6381, the number of registered ships had reached 304 000, and MSA had finished 11.38 million maritime visa and inspection, 8.22 million sea miles cruising mileage in 2013.

## **3.3. The practice characteristics and attributes of China Coast Guard on the finance**

### **3.3.1. Passive, Modesty**

China Coast Guard has powers of passive resistance, in addition to preventing marine dumping and preventing smuggling, the maritime rights and interests related to maintenance essentially assumes a passive role in illegal activities at sea and it always play a part in or after the event, thus MSA does not possess the whole process of the law enforcement.

### **3.3.2. Comprehensiveness, universality**

China Coast Guard has comprehensive management, compared with the law enforcement powers of the MSA's professional management, which is characterized by a wide range of areas of law enforcement. It integrates the functions of law enforcement authority maritime surveillance, fisheries, customs, border four agencies

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to take back 3567 Chinese from Vietnam.

[http://mp.weixin.qq.com/s?\\_\\_biz=MjM5NzAxNTU5Nw==&mid=200171751&idx=2&sn=29bc32519aecb776a169fb4aaa2e0a0a&3rd=MzA3MDU4NTYzMw==&scene=6#rd](http://mp.weixin.qq.com/s?__biz=MjM5NzAxNTU5Nw==&mid=200171751&idx=2&sn=29bc32519aecb776a169fb4aaa2e0a0a&3rd=MzA3MDU4NTYzMw==&scene=6#rd).

involved in many areas of administrative and criminal. China Coast Guard enforcement power is the power of an administrative and judicial attribute, which is a comprehensive law enforcement powers

### **3.3.3. Armed resistance, sovereign property**

China Coast Guard, which belongs to the national police-using object, can use a degree of military force, sea border police and customs anti-smuggling police. China Coast Guard needs to supervise and inspect ships or fishing vessels, merchant activities of neighboring countries in the surrounding waters of the sea, in particular, need to use some force to stop some of the threats of maritime safety and maritime rights violations wrongdoing. Vessels of China Coast Guard are the only ships currently equipped with weapon for maritime law enforcement. The exercise of administrative enforcement powers of MSA does not use force, nor equipped with weapons on vessels. In the prohibited area, waterways, traffic control zones and safe operating area and other waters, although MSA have the power to supervise and manage related maritime job security, is entitled to use the power of inspection and detention the ship and other administrative law enforcement measures when they violate waterway traffic order or have illegal operations, but it is not fit for military force.

## **Chapter IV Contrastive Analysis of Law Enforcement between MSA and CCG**

### **4.1. Contrastive analysis on right as principal of law enforcement.**

Administrations are the main administrative subject of law enforcement in China, and they exercise most administrative functions and powers. According to “State Council of the People's Republic of China organization law”, the State Council can set up a number of bureaus to take charge of administrative affairs in related industries or fields. Those bureaus have administrative subject because they have independent legal status and the rights to manage the affair and arbitrate disputes.

#### **4.1.1. MSA’ s right as principal on subject of law enforcement**

MSA is a member of Ministry of Communication; at the same time, it is a bureau. There is no doubt that MSA has the right as principal on the subject of law enforcement.

#### **4.1.2. CCG’s right as principal on subject of law enforcement**

After restructuring, the State Oceanic Administration can use the right of law enforcement namely CCG on the sea because CCG possesses armament, and can help the nation to settle the disputes in international ocean equities and carry out antiterrorism missions. After the restructuring of the State Oceanic Administration, MSA and CCG have become the two main maritime forces in administrative law enforcement. The new CCG’s armed forces have been strengthened by covering CCG and police of custom suppress smuggling before when MSA is also not possessing armed forces. It is thus clear that CCG is much more suitable to be charged with antiterrorism missions on the sea. So CCG to MSA, the scope of right as principal on administrative law enforcement is more extensive.

## 4.2. Contrastive analysis on means of law enforcement.

### 4.2.1. MSA's measure s of enforcement the law

MSA's measure s of administrative enforcement the law

MSA's means of admin istrati ve enforc ement the law	Admini strative penalty	Warning, penalty, revocation the inspect qualification of sailor, confiscating certificate of registry, detention the certificate of job qualification of the ship, revoking the certificate of job qualification of sailor, revoking sailor's passport, confiscating illegal gains, confiscating ships and so on.			
	Admini strative compul sory	Administrativ e compulsory measure	General Administrative compulsory	compulsory to people	interrogation and check
				compulsory to property	forced check, forced quarantine, forced destroy
				other compulsory	administrative control, make rectifications within a certain time limit.
			Urgency Administrative compulsory	compulsory to restriction of personal freedom	compulsory to infectious victim
				compulsory to property	compulsory to detain and destroy high risk goods

				compulsory to get in.	Get into the cargo position
		Administrative compulsory to enforcement	compulsory to salvage and clear away, compulsory to discharge.		
	Administrative expropriation	can ask the administrative charge for salvage charges from the owner of the shipwrecks or hypostasis			
	Administrative expropriation	such as MSA can expropriate ships and facility from relative department or individual			
	administrative licensing	general license from MSA	Such as ship certificate, portclearance.		
		special license from MSA			
		MSA accepting	Such as ship legal inspection and qualification of sailors.		
		MSA approve	Such as issue certificate of ship's inspection		
		MSA register	such as ship's international register		
	Administrative confirm	such as MSA confirm the register of ship mortgage.			
	Administrative reward	Such as if ship find or salvage hypostasis, then they should report or deliver to local MSA, then will get administrative reward.			

	Administrative guidance	MSA should help and guide relative department or person to know much more about the schema of MSA.
	Administrative contract	Such as MSA can conclude and sign administrative contract with ship company to entrust the ship's security inspection.

**Table 4.21 MSA's measures of administrative enforcement of the law**

Source : Compiled by the author.

#### **4.2.2. CCG's measures of law enforcement**

CCG's measures of enforcement the law	Measure of enforcement the law	Fishery marine surveillance CCG custom suppress smuggling	administrative licensing	Using licensing system to fishing industry.
			Administrative compulsory	Such as inquire, inspection and so on.
			Administrative expropriation	Ask for pollutant charge from ships who will discharge pollutants above proof.
			Administrative penalty	warning, penalty, confiscation of illegal gains and so on.
			Administrative	mediate some dispute.

			guidance	
			Administrative reward	
			other measures of enforcement the law	Such as Administrative confirm and Administrative contract
	criminal measure of enforcement the law	such as arrest, obtain a guarantor pending trial, supervision of residence and so on.		
	force	such as using weapons.		

**Table 4.22:- CCG's measures of law enforcement**

Source : Compiled by the author.

### **4.3. Contrastive analysis on object of law enforcement.**

#### **4.3.1. MSA's object of law enforcement**

MSA	main object of law enforcement	main legal basis
	All the ships, facility, people sailing at coastal water area or	People Republic of China Maritime Traffic Safety Law

	berthing or operation	
	Entity and individual who work on Ship-recycling on shore or water duner administering of China.	Regulation on the Prevention of Environment Pollution Caused by Vessel Dismantling
	Party work on ship or other relative work which will pollute Chinese sea areas	“Regulations on the Prevention and Control of Vessel-induced Sea Pollution From Marine Environment”
	The legitimate interest of party on all parties are effected by ship registration.	hip registration rule of PRC
	sailors	Regulations of the people's Republic of China on the crew
	ships which should sailing for-hire transport but being used for militaty affairs, fishing and physical exercise.	Rules on the Management of Visa for the Boats and Ships of the People's Republic of China
	Vessels of Foreign Nationality Navigating in China’s coastal waters or berthing and leaving China’s port.	Rules of the People's Republic of China on the Control of Foreign-registered Ships Measures for the Control of Foreign Ships on Rivers as National Borders
	Facilitating agency for sailor	Provisions of the people's Republic of China on the administration of the crew service

#### **Table 4.31: MSA's object of law enforcement**

Source : Compiled the author.

#### **4.3.2. CCG's object of law enforcement**

The object of law enforcement of CCG mainly includes this behavioral agents who have illegal acts in violation of laws, regulations or rules of Public Security Administration, and are wrapped up in criminal activities in China's internal waters, territorial waters, the contiguous zone, exclusive economic zone and continental shelf. Those behavioral agents also include the ones who violate maritime rights and interests, use the sea illegally, damage maritime environment and resources, destroy offshore facility and disturb the order on the sea. Included are also people or departments who work for destroying fishery resources and ecological environment in fisheries area, and those who have the act of smuggling on the sea.

#### **4.4. Contrastive analysis about law enforcement force-from the vision that size of personnel force and equipment.**

##### **4.4.1. The size of personnel force and equipment of MSA**

Up to the year 2012, there had been more than 76, 000 staffs working for MSA and more than 23,000 staffs who have grasped modern science and technology initially to adapt to the development demand of MSA.

MSA has almost activated the system of marine traffic safety and service. There are nearly 1000 ships and boats for salvation and law enforcement, which has made the patrol and duty around the coastal sea come true. In addition, VHF communication of Maritime safety administration is covering the coastal inshore waters, which can

supervise and service on the major coastal ports and waterways of ship dynamic., The shore-based AIS is the world's largest network, and the ship remote identification and tracking system (LRIT) regulation range up to 1000 nautical miles

#### **4.4.2. The size of personnel force and equipment of CCG**

CCG has three branches, namely the North Sea substation, the east sea substation and the south sea substation. They carry out the responsibility of supervision and law enforcement in the sea within the jurisdiction, and set up 11 Coast Guard Corps and detachments which are commanded by CCG directly to safeguard legal rights on the sea. There are 16,296 staffs in the system which is commanded by Central Sea Power Office. The system interflows with army and unify password Format to bring it a little higher maritime rights and law enforcement ability.

After the recombination of SOA, CCG put 10 billion RMB to build law enforcement vessels on the basis of existing ships and warships. And 116 new ships and warships were delivered at the end of 2015. By report, CCG is building a 12,000-ton law enforcement ship which will be the biggest one in the world, and her navigational speed could be 25 knots.

#### **4.4.3. The comparison of size of personnel force and equipment between MSA and CCG**

The law enforcement team of CCG has more than 16,000 staffs. Some law enforcement ships are being built, the number of the staffs will grow to nearly 30,000 according to the scale of ships. But there is prodigious disparity with MSA who has a 76,000 staffs of law enforcement team.

Marine patrol ship and communication device are the equipment of MSA with strong profession pertinence, which not only maintain marine traffic safety but also service delivery to marine traffic safety. On the other hand, the characteristic of CCG's equipment is concentrated on reflection to force, which is correspondent with striking illegal criminal activities and maintain public security order on the sea.

## **Chapter V Conclusion and Suggestions**

### **5.1. The conclusion that comparison of management and law enforcement function between MSA and CCG.**

#### **5.1.1. The model of marine management and law enforcement in China**

After the major department reform in 2013, China's marine management model began to stride forward to centralization from decentralization, but it does not reach the level of centralized marine management model like America and South Korea.

The model of marine management and law enforcement in China is not dispersing type or centralized type but half centralized type. Generally, the presentation of half centralized type is that there are numerous marine management departments but only one law enforcement team. But in China, the high level coordinating department SOA can manage the numerous departments to ensure that the departments are separated but not scattered. In addition, although there is not only one team to control the right of law enforcement, but two teams manage together already change the situation of scattered law enforcement. So, the system of marine management and law enforcement in China is half centralized type which has its own characteristics.

#### **5.1.2. The rationality of coexistence of MSA and CCG**

For the present system of marine management in China, MSA and CCG have their own scope of power, and they should perform the management power by laying particular emphasis on their personnel advantage. If there are cross and overlap on the power and sea areas, they should form resultant force through the building of corresponding coordination mechanism. So coexistence of MSA and CCG is rational from the point view of marine management.

First of all, integrating coastguard is fully necessary based on the comparison of China and foreign countries on marine management and law enforcement. It is a

tendency that developing and reforming the system of marine management and law enforcement from dispersing to centralized type, because most countries tend to integrate law enforcement teams to be the Coast Guard. Since the major department reform, Chinese coastguard teams have not only completed law enforcement mechanism to act on international convention but also integrated the equipment and force into marine law enforcement.

Secondly, the law enforcement rights of MSA should be retained and the reasons are two folds:

First, MSA is directly under Ministry of Transport in China. This is a kind of vertical management system, which helps to carry out safety surveillance, ship inspection and some other administrative management or law enforcement responsibility. Compared with CCG, the law enforcement rights of MSA have their own particularity. For example, it mainly refers to international transportation and act on international convention. So the law enforcement rights of MSA especially aim to maintain marine traffic order and navigation safety, which cannot be carried out by CCG.

Second, there is an inevitable requirement for the implementation of international convention. One of the most important responsibilities of MSA is organize and implement international maritime convention. China is Class A member council in IMO, so China is a great power on shipping. MSA is irreplaceable as the administration that implements various conventions formulated and amended by IMO; at the same time, international convention can be implemented more effectively when administration is specific.

## **5.2. Building and coordinating marine management and law enforcement system in China.**

### **5.2.1. Enhancing and improving relevant legislations**

The enhancement and improvement of relevant legislations can be achieved on the

following two levels.

The first one is domestic law level, promoting the legal hierarchy of maritime law, pushing on the legislative process of “The basic maritime law of the people's Republic of China”, making further efforts for clear assignment of responsibility between departments, improving administrative law enforcement overall. For internal marine management and law enforcement, it is important to enhance the integration of the function of MSA and that of CCG on the basis of right, and avoid the situation of the related subjects facing two or more administrations. For foreign rights protection and law enforcement, formatting the division and cooperation mechanism of two law enforcement teams base on “The United Nations Convention on the Law of the Sea”, being able to safeguard rights rational and enforce law based on evidence.

The second one is international law level. This can be realized by taking full advantage of right vesting by international convention, perfecting country internalizes international maritime law system mainly rely on “The United Nations Convention on the Law of the Sea”, perfecting basic maritime law system in China by seizing the day.

### **5.2.2. Perfecting the coordination mechanism of the national Marine affairs**

Now, there are two coordinating agencies in China, National Ocean Council and the Central Maritime Rights and Interests Work Leading Office.

NOC is responsible for studying and formulating development strategy for national ocean, planning and coordinating major events on ocean. In addition to this, there is no law or other document to define the nature and function of NOC. It is obvious that NOC is not so powerful to coordinate MSA and CCG.

MLO is a true coordinating agency belonging to the national leadership, and its function is coordinating SOA, MFA, MPS, MOA and the military to manage ocean

affairs. So Chinese marine affairs should be Coordinated and planned as a whole by MLO according to national development tendency. But at present, MLO enter into public view rarely.

So China should follow the example of Japan who has established a main coordinating agency, Japanese comprehensive Marine Policy Headquarters whose status is higher than MSA and CCG in order to have function to coordinate and lead the two teams. For the present stage, Chinese government should perfect the linkage mechanism and participation mechanism between MSA and MLO, and MLO should plan as a whole to the two marine law enforcement teams.

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