

Improvement of China's Marine Environment Protection Law

—From the Perspective of Connection with Relevant International Conventions

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Abstract: Faced with the difficulties in protecting the marine environment, China has acceded to a large number of international conventions on marine environment protection, covering marine pollution prevention and control, resource protection and ecological protection. Since the *Constitution of China* does not stipulate the mode of application of international conventions, there are implementation gaps between China's Marine Environment Protection Law and international conventions. Coinciding with the revision of the *Marine Environment Protection Law*, this paper proposes further improvements in the said law, by connecting it with relevant international conventions. It sorts out the marine environment protection conventions that China has concluded and acceded to, and points out the loopholes in their implementation and application in China. Suggestions and measures to improve the effective connection between China's Marine Environment Protection Law and relevant international conventions are put forward.

Keywords: marine environment protection law; international conventions; improvement; connection

1. Introduction

The ocean is the world's largest environmental purifier, and its vastness and fluidity can clean up pollution and thus maintain ecological balance. China is a large maritime country. With the shortage of land resources, people have further extended their activities to the ocean, and the economic value of the ocean has rapidly increased. Since the 1990s, China's marine economy has developed rapidly at a double-digit growth rate. The maritime industry has also made outstanding contributions to the development of the national economy, including marine fisheries, marine shipbuilding, and marine transportation. However, the conflict between human economic interests and marine ecological interests is inherent in any society. With the increase in people's exploitation and utilization of the ocean, the amount of resources continuously obtained from the marine environment exceeds the regeneration capacity of natural resources, and the amount of pollutants discharged into the ocean exceeds the self-purification ability of the marine environment. Thus, the marine environment is destroyed and resources are seriously short. In order to deal with the problems of marine environment pollution, ecological damage and shortage of marine resources, China has formulated laws, regulations and departmental regulations based on *the Marine Environment Protection Law*, and has acceded to a large number of international conventions on marine environment protection. However, the law has inevitably lagged in implementation since its enactment. Therefore, there has also been a gap between the connection of China's Marine Environment Protection Law and international conventions. According to the *Report on the Handling of Proposals by Deputies at the Second Session of the Thirteenth National People's Congress*, it was pointed out that, in order to promote the ecological civilization construction and green development, it agrees to the proposals proposed by deputies on revising the Law on the

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Prevention and Control of Environment Pollution by Solid Waste and Marine Environment Protection Law.¹Therefore, China is currently revising the *Marine Environment Protection Law* so as to take this opportunity to fully integrate it with the contents of the international marine environment protection conventions and make up for the loopholes that appeared in the process of application and implementation.

2.The Relationship between International Law and Domestic Law

The relationship between international and domestic laws has always been the focus of international law scholars. The solution to this problem is of great importance to whether international conventions and international practices can be applied in China and how to apply them, as well as to the establishment of good international order. International law is a kind of soft law, which is a compilation of agreements made by the international community through consultation concerning rights and obligations on various matters. However, in the international community, there is no law enforcement institution that is above all sovereign states. Therefore, the key to the effective implementation of international law in China lies in the nature of the relationship between international law and domestic law. Taking the international marine environment protection conventions that China has concluded and acceded to as an example, China has formulated a large number of laws and regulations on marine environment protection, such as *Marine Environment Protection Law*, *Fisheries Law*, and *Regulations on the Prevention of Vessel-induced Sea Pollution*. However, if the important provisions of the relevant international conventions do not correspond to the provisions of the China's Marine Environment Protection Law, especially those cases where an issue or a matter is not stipulated in Chinese laws but is clearly stipulated in the international conventions, can we directly apply the international conventions to comply with the legal obligations by bypassing the domestic laws? Or is it necessary to supplement the gap through the domestic legislative process, so as to take an action based directly on the relevant provisions of the domestic law? The answer to this question illustrates the two views of international law scholars on the relationship between international law and domestic law, namely monism and dualism. However, both of these theories have their own defects, and neither of them satisfactorily connects the international law and domestic law. Therefore, a new theory - Linkage Theory has emerged. At present, most scholars in China agree with Linkage Theory, believing that international law and domestic law are interrelated and inseparable.

2.1 Monism

Scholars who support monism believe that international law and domestic law belong to the same legal system, both of which are covered by natural law, consider that there is no essential difference between the two, but just a matter of time sequence.²The issue that arises with monism is that, since international law and domestic law belong to the same legal system, which one should have the priority in application, namely, international law or domestic law.

2.2 Primacy of international law

The doctrine of primacy of international law first appeared after World War I, but it did not become popular until after World War II. This doctrine holds that international law is superior to domestic law. The legal effect of domestic law is determined by international law. Only with the support of international law can domestic law exert its effectiveness.³When there is a conflict between international law and domestic law, the relevant provisions of international law shall prevail. If there are provisions in international law for a certain matter and there are loopholes in domestic law, international law can be

1 *Report on the Handling of Proposals by Deputies at the Second Session of the Thirteenth National People's Congress*, the Third Meeting of the Presidium of the Second Session of the Thirteenth National People's Congress(2019). http://epaper.gmw.cn/gmrb/html/2019-03/15/nw.D110000gmr_20190315_1-03.htm.

2 XU Duanhong&DUDongze, *Analysis of the relationship between international law and domestic law*, Sociological Perspectives(2019).

3 HUANG Junying, *Thoughts on the relationship between international law and domestic law*, Chinese Journal of Law(2019).

directly applied in the domestic courts, without the permission of the relevant department, and there is no need to transform it into domestic law. However, to some extent, this doctrine denies state sovereignty and the right of states to make and implement laws independently without interference. Since the purpose of international law is to maintain peace and stability of international order, the doctrine of priority of international law not only runs counter to that purpose, but also goes against the basic principles of inviolability of state sovereignty and non-interference in internal affairs of states.

2.3 Primacy of domestic law over international law

The doctrine of primacy of domestic law is bound to exist. On the premise that international law and domestic law belong to the same legal system, this doctrine holds that domestic law is superior to international law, and the legal effect of international law depends on the authorization from domestic law, and that without the support of domestic law, international law can not have a legal effect. Some scholars even argue that international law is a branch of domestic law and call it "Public Foreign Law of the State". However, the doctrine of primacy of domestic law denies the role of international law in maintaining and establishing international order, and it is easy to become a tool of hegemonism and power politics, which makes international law seem meaningless. This doctrine completely denies the value of international law and makes international law become the vassal of domestic law, which is gradually abandoned by modern society.

2.4 Dualism

In contrast to monism, dualism holds that international law and domestic law are two independent and completely different legal systems, which have no subsidiary relationship and are in an equal legal position. International law is the sum of legal norms that regulate relations among countries, while domestic law regulates the legal relations among domestic natural persons, legal persons, and other organizations. Therefore, there is no connection between the two, showing parallel characteristics. No domestic court may directly apply international conventions or international practices as the basis for determining the facts of the case. Only after the content of an international convention is transformed into domestic law through the legislative process of the domestic legislature, or the international practice is generally recognized and accepted by the country, the relevant content of international law can be applied by the domestic court, which is still essentially applicable to domestic law rather than international law. To some extent, dualism has been supported by many countries, because it can effectively safeguard national sovereignty, prevent the infringement of internal affairs, and get rid of the control of powerful countries. However, dualism overemphasizes the opposition between international law and domestic law, which cuts off the connection between them and makes the contradiction between international law and domestic law more prominent.

2.5 Linkage Theory

Both monism and dualism have their own shortcomings and deficiencies, and neither can fully and effectively connect international law and domestic law, thereby promoting the sound development of the international order. In fact, international law and domestic law are not completely independent and parallel. Both are laws, and the enacting entities are states, so there is a close relationship between the two.

To begin with the perspective of domestic law. First, the international community is a whole, and the formulation of domestic law needs to pay attention to the provisions of international law on this issue. If the contents of the two laws are very different, inevitably there will be conflicts with international law in the related cases. This will not only cause a large number of contradictions, but also waste judicial resources and reduce the efficiency of litigation. Second, international law has a legal effect at home. When some provisions of international conventions or international practices are generally adopted by China, then in order to implement the rules and institutions of international law at home, international law can be adopted into domestic law through legislative procedures. Next, from the perspective of international law. First, the formulation of international law should not interfere with the right of other countries to formulate their domestic laws, and at the same time, it should be consistent

with the prevailing practices and principles stipulated in the domestic laws of other countries. Otherwise, international law will become an empty shell, which will not be observed in the international community. Second, if international law only stipulates guiding principles on a certain issue, domestic law needs to make corresponding specific provisions.¹ Take for example, the international conventions on marine conservation to which China has acceded, China acceded to *International Convention on Civil Liability for Oil Pollution Damage* in 1999, which addresses the liability of cruise ship owners for oil pollution damage arising from accidents at sea. Article 66 of China's *Marine Environment Protection Law* is closely linked to *this Convention*, stipulating specific principles and methods for assuming responsibility. This shows that international law and domestic law are inseparable and interrelated. There is no issue of priority, nor there is any issue of separating the then from each other. An another example, jurisdiction is the primary right of a sovereign state. According to the principle of primary jurisdiction, when the pollution of the sea area under national jurisdiction is caused by the sea area outside the national jurisdiction, the state facing the damage has the jurisdiction of course. This international practice and principle have been recognized and accepted by most sovereign states. The *International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties and Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil* also stipulate this, which is indicative of the intention that international law will be in conjunction with the domestic law to achieve the maximum degree of compliance and enforcement of international law, so as to realize the objective of international law to maintain international order.

3.Implementation of Marine Environment Protection Convention in China

3.1 Marine Environment Protection Convention concluded or acceded to by China

In order to prevent the further deterioration of the marine environment, China has gradually acceded to various international conventions conducive to the protection of the marine environment, and has formulated a large number of laws and regulations on the protection of the marine environment. China has so far acceded to 38 international conventions on marine environment protection, which can be roughly divided into four categories: comprehensive protection, pollution prevention and control, ecological protection and resource protection. Among them, there are 9 categories of basic protection, 12 categories of pollution prevention and control, 2 categories of ecological protection and 15 categories of resource protection. In order to realize the sustainable utilization of marine resources and the sustainable development of the marine environment, China focuses on the prevention and control of marine environment pollution and the protection of existing marine living resources and at the same time pays attention to the basic protection of the marine environment. The specific content of the above-mentioned international conventions, the accession of China, the connection with domestic law and the need for improvement will be analyzed in detail below.

3.2 Application of Marine Environment Protection Convention in China

China does not make the stipulation in the *Constitution* on how to apply the international conventions in China and their effect, so the implementation process in China often appears confusing. As to the issue of how international law can be applied in China, it is worthy to have a relook at the above explanation of monism and dualism. The monists postulate that international law does not need to be converted into domestic law and supported by the legislature or law enforcement agencies, meaning thereby, it can be directly applied, while the dualists postulate that international law can only be applied in domestic courts after being transformed by domestic legislative procedures, that is, it can be applied only by the transformation. However, this classification is only a theoretical classification, which provides a theoretical basis and a solution strategy for the specific application of marine environment protection conventions in China. Therefore, we should take into considerations of the advantages of both monism and dualism, so that international conventions can play a full role in their application in China.²

1 WANG Tiejia, *International Law*, Beijing: Law Press·China, 1995.

2 LUO Man, *Research on the Issues Related to the Application of the Treaty in China*, Shenyang: Shenyang University

Therefore, with regard to the application of the treaties on marine environment protection, the author believes that we should take the advantage of both the methods, and combine the indirect application through transformation and the direct application of conditional nesting should both be adopted. The conditions for direct application include: first, to check whether the contents of the convention are sufficiently detailed and complete; second, whether China has authorized its applicability, which means that it has been accepted by China, the object will be mainly international custom. The reason why the author argues for taking the advantage of each of the two methods is that: first of all, international law is mostly comprises of agreement on rights and obligations reached through the negotiation between the main bodies of international law. International law, unlike domestic law, is not enforceable, and international practices can only be implemented with the approval of the competent authority or after the general practice in China; some international conventions must be transformed into domestic laws through domestic legislative procedures. Secondly, some international conventions only contain principled provisions and systems, and their specific implementation methods and requirements need to be specified in detail through domestic laws. Finally, if the content of an international convention on a certain issue is sufficiently detailed and complete, and taking into account the reservations that China may have made while accepting, especially in areas that require timely implementation and efficient implementation, such as United Nations Framework Convention on Climate Change, then the international convention can be directly applied to solve China's foreign-related issues after it has been approved by the competent authority. Therefore, the marine environment protection convention is either approved by the competent authority or generally adopted in practice to ensure its compliance and enforcement in China, or the convention is transformed into domestic law and the effect of implementing the international convention is achieved through the application and implementation of the domestic law system. For example, *Law of the People's Republic of China on the Protection of Wildlife* has applied the contents of *Convention on International Trade in Endangered Species of Wild Fauna and Flora* and *Convention on Migratory Species* into domestic laws for implementation. Article 35 of *Law of the People's Republic of China on the Protection of Wildlife* stipulates that the list of wildlife or their products prohibited or restricted by international conventions which China has signed or ratified, shall be formulated, adjusted accordingly and published by the Nationally Endangered Species Import and Export Management Agency. This regulation further implements the content of international conventions. China's *Convention on the Territorial Sea and the Contiguous Zone* and *Exclusive Economic Zone and Continental Shelf Act* was formulated in combination with the *United Nations Convention on the Law of the Sea* and China's actual conditions.

3.3 Examining the Replication of the Provisions of the Convention in the Domestic Law and the Necessity to Modify THE Marine Environment Protection Law

As far as the relationship between international law and domestic law is concerned, most scholars in China agree with the view of Linkage Theory, believing that the two neither belong to the same legal system nor are they mutually exclusive and independent. Therefore, the application of the international marine environment protection convention in China should adopt both the transformational and the nested methods. Only through the legislative process the contents of the international marine environment protection conventions signed and ratified to by China can implemented into the domestic law in combination with the actual situation of China, or if it is provided in certain laws the direct application of some international treaties or international practices, can the specific principles, rules and systems of international law be implemented in the legal domain of China.

Category	Name	Main contents	Specific manifestations in domestic law	Whether the domestic law with <i>Marine Environment Protection Law</i> as the main body needs to
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Basic guarantee	United Nations Convention on the Law of the Sea	The Convention defines important concepts such as internal waters, territorial sea, adjacent sea, continental shelf, exclusive economic zone, high seas and islands. It plays an important role in guiding and adjudicating the sovereignty disputes of territorial sea, the management of natural resources at sea, the treatment of pollution and so on.	China ratified the Convention on May 15, 1996. Provisions are made in <i>Convention on the Territorial Sea and the Contiguous Zone</i> and <i>Exclusive Economic Zone and Continental Shelf Act</i> .	No. But the issues relating to the outer mainland shelf, the remaining rights of the exclusive economic zone and the historical rights of the sea area can be further regulated in <i>Convention on the Territorial Sea and the Contiguous Zone</i> and <i>Exclusive Economic Zone and Continental Shelf Act</i> . Regarding the definition of islands, China can modify the definition in the <i>Island Protection Law</i> according to China's specific conditions and grant artificial islands legal status.
	International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1996	The Convention is used to deal with cases of oil pollution casualties on the high seas.	China formally acceded to the Convention in 1990, and the Convention entered into force for China on May 24, 1990. Article 2 of the <i>Marine Environment Protection Law</i> covers the scope of the Convention.	No. Because the connection is very good.
	Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973	The Convention is mainly used to deal with marine pollution by substances other than oil that occurred on the high seas.	China acceded to the Convention in 1990, and the Convention entered into force for China on January 9, 1990. Article 2 of the <i>Marine Environment Protection Law</i> covers the scope of	No. Because the connection is very good.

			the Convention.	
International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990	The purpose of the Convention is to promote countries to strengthen oil pollution prevention and control work, emphasize the importance of effective emergency preparedness, strengthen regional or international cooperation in the event of major oil pollution accidents, and take quick and effective actions to reduce the damage caused by oil pollution.	China deposited the instrument of accession on March 20, 1998, and the Convention entered into force for China on June 30, 1998. Articles 17, 18, 50 and 52 of the <i>Marine Environment Protection Law</i> and Chapter 8 "Prevention and Control of Pollution Damage to the Marine Environment by Ships and Related Operation Activities" make the connection.	Yes. The <i>Marine Environment Protection Law</i> has a good connection in dealing with oil pollution from ships, but there should also be corresponding measures to deal with other marine disasters, such as storm surge, red tide, sea ice and sea erosion.	
The 1984 Protocol to the 1971 Convention Establishing an International Oil Pollution Compensation Fund	It was signed to enable <i>The 1984 Protocol to the 1971 Convention Establishing an International Oil Pollution Compensation Fund</i> to take effect as soon as possible.	China deposited the instrument of accession on January 5, 1999, but the protocol currently only applies to Hong Kong.	No. China has its own fund, and the <i>Marine Environment Protection Law</i> also stipulates the oil pollution damage compensation fund system. The State Council also issued the <i>Administrative Measures for the Collection and Use of Compensation Funds for Vessel-Induced Oil Pollution Damage</i> .	
Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency	The purpose of the Convention is to strengthen international cooperation in the safe development and use of nuclear energy, and to establish an international assistance system	The Convention entered into force for China on October 14, 1987. Article 33 of the <i>Marine Environment Protection Law</i> , the <i>Nuclear Safety Law</i> , and the <i>State</i>	No. Because the connection is very good.	

		that will facilitate the rapid provision of assistance in the event of a nuclear accident or radiation emergency in order to minimize its consequences.	<i>Council's Reply on the Issue of Liability for Compensation for Damage in Nuclear Accidents</i> make the connection.	
Convention on facilitation of International Maritime Traffic, 1965		The Convention mainly provides convenience for international maritime transportation.	China decided to accede to it on December 29, 1994, and it became effective for China on March 16, 1995. <i>Notice of the China Maritime Safety Administration on the Issuance of the Key Work Points of Crew Management in 2012</i> and other three departmental regulations make provisions.	No. Although the <i>Marine Environment Protection Law</i> does not stipulate the international convenience of maritime transportation, international maritime transportation is not regulated by the law, and other laws in China have made provisions on it. Moreover, it has been an international practice for countries to provide convenience for international maritime transportation.
North Pacific Ocean Science Organization Convention		The Convention intends to better scientifically understand the North Pacific waters through international scientific cooperation on the basis of mutual benefit, and hopes to establish an appropriate intergovernmental organization to promote and facilitate scientific cooperation.	China signed this Convention on October 22, 1991, and it entered into force for my country on March 24, 1992. <i>Outline of the National Eleventh Five-Year Plan for Marine Science and Technology Development</i> makes the connection.	Yes. The <i>Marine Environment Protection Law</i> does not stipulate the marine scientific organizations and cooperation issues.
Convention on Nuclear Safety		The Convention is to enable countries that use nuclear energy to	China ratified the Convention on April 9, 1996. The	No. Because the connection is very good.

		take measures to strengthen nuclear safety, and to achieve and maintain a high level of nuclear safety worldwide through international cooperation, so that human society can protect its own living environment while developing.	<i>Nuclear Safety Law</i> , the <i>Regulations of the People's Republic of China on the Administration of Supervision over Safety of Nuclear Facilities for Civilian Use</i> and other laws and regulations as well as departmental rules provide for specific provisions.	
Pollution prevention and control	International Convention on Civil Liability for Oil Pollution Damage	The Convention mainly deals with the liability of cruise ship owners for oil pollution damage caused by maritime accidents.	China acceded to it on January 5, 1999, and it entered into force on January 5, 2000. Article 66 of <i>China's Marine Environment Protection Law</i> makes a corresponding connection.	No. Because the connection is very good.
	Stockholm Convention on Persistent Organic Pollutants	The Convention mainly takes international actions to protect human health and the environment, including measures aimed at reducing and eliminating the discharge and release of persistent organic pollutants.	It officially entered into force for China on November 11, 2004. Chapter 2 and Chapter 4 of the <i>Marine Environment Protection Law</i> make provisions for the supervision, management and effective prevention and control of pollutants.	No. Because the connection is very good.
	Convention on the Prevention of Marine Pollution by Dumping of Wastes and	The purpose of the Convention is to prevent the pollution of marine by dumping of wastes and other matter.	It entered into force for China on December 15, 1985. Chapter 7 "Prevention and	Yes. The list of wastes that can be dumped into the ocean stipulated in Article 56 of the <i>Marine Environment</i>

Other Matter		Control of Dumping of Wastes" of China's <i>Marine Environment Protection Law</i> and <i>Regulations on Control over Dumping of Wastes</i> make the connection.	<i>Protection Law</i> is inconsistent with the Convention. According to the 96 Protocol, only matters in the dumpable waste list can be dumped.
MARPOL	It is used internationally to prevent ships from causing pollution to the marine environment and deal with the pollution in a timely manner.	China acceded to it on March 15, 2006, and it officially took effect on August 23, 2006. Chapter 8 "Prevention and Control of Pollution Damage to the Marine Environment from Ships and Related Operations" of <i>China's Marine Environment Protection Law</i> provides specific provisions.	Yes. The mandatory energy efficiency design index (EEDI) and ship energy efficiency management plan (SEEMP) for new ships in this convention are not stipulated in <i>China's Marine Environment Protection Law</i> .
The 1992 Protocol to amend the 1969 International Convention on Civil Liability for Oil Pollution Damage	The Convention puts international civil liability for oil pollution damage into practice.	China acceded to it on January 5, 1999 and it entered into force on January 5, 2000. Article 66 of <i>China's Marine Environment Protection Law</i> .	No. Because the connection is very good.
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal	It is used to control the transboundary movement of hazardous wastes and it stipulates the disposal method.	China signed the Convention on March 22, 1990 and ratified it on September 4, 1991. Chapter 7 "Prevention and Control of Pollution Damage to the Marine	No. Because the connection is very good.

			Environment from Ships and Related Operations” of China’s <i>Marine Environment Protection Law, Regulations on Control over Dumping of Wasters, and Provisions on Safety Supervision and Administration of the Carriage of Dangerous Goods by Vessels</i> provide specific provisions.	
International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001	It unifies international rules and procedures for determining liability and providing appropriate compensation in the event of oil pollution.	China ratified and acceded to it on November 17, 2008. Article 66 of China’s <i>Marine Environment Protection Law</i> provides specific provisions.	No. Because the connection is very good.	
International Conference on the Removal of Wrecks, 2007	An international convention was signed to solve the problem of removing the wreckage of international ships.	The State Council decided to accede to it on July 12, 2016. Chapter 8 “Prevention and Control of Pollution Damage to the Marine Environment from Ships and Related Operations” of China’s <i>Marine Environment Protection Law</i> provides no specific provisions for the removal of international shipwrecks.	Yes. It needs to make amendments and supplements in the <i>Marine Environment Protection Law</i> with reference to the Convention.	
Treaty Prohibiting the Placement of	The convention stipulates that the contracting parties	China acceded to it on February 28,	No. Because the connection is very good.	

<p>Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed, Ocean Floor and Its Subsoil</p>	<p>undertake not to install or install any nuclear weapons or any other types of weapons of mass destruction on the seabed, ocean floor and its subsoil beyond 12 nautical miles.</p>	<p>1991. China's <i>Nuclear Safety Law</i> is well connected, and the <i>Marine Environment Protection Law</i> provides provisions for the protection of marine safety in the general provisions.</p>	
<p>International Convention on Control of Harmful Anti-fouling Systems on Ships</p>	<p>The Convention calls on all countries to take measures to reduce pollution caused by the use of organotin compounds in anti-fouling systems.</p>	<p>The Convention entered into force for China on June 7, 2011, and it applies to the Macau Special Administrative Region, but not to the Hong Kong Special Administrative Region. Chapter 8 "Prevention and Control of Pollution Damage to the Marine Environment from Ships and Related Operations" of China's <i>Marine Environment Protection Law</i> does not contain the contents of ship construction such as the pollution of marine environment by ship anti-fouling site.</p>	<p>Yes. The contents concerning the ship construction should be added to Chapter 8 "Prevention and Control of Pollution of the Marine Environment by Ships" of the <i>Marine Environment Protection Law</i>.</p>
<p>Minamata Convention on Mercury</p>	<p>The main purpose of the Convention is to ban the production, import and export of mercury-added products on a global scale to protect the</p>	<p>China signed the Convention on October 11, 2013 and ratified it on April 30, 2016. Chapter 4</p>	<p>No. Because the connection is very good.</p>

		health of citizens of all countries.	"Prevention and Control of Pollution Damage to Marine Environment by Land-based Pollutants" in China's <i>Marine Environment Protection Law</i> makes specific provisions.	
	Convention for the Control and Management of Ships' Ballast Water and Sediments	The Convention is used to control and manage ships' ballast water and sediments to prevent, reduce and eliminate harmful aquatic organisms and pathogen transfer rules.	China acceded to it on October 22, 2018, and it officially entered into force for China on January 22, 2019. Section 5 of "Prevention and Control of Water Pollution by Ships" of <i>Law on Prevention and Control of Water Pollution</i> and Chapter 3 "Discharge and Receiving of Marine Contaminants" of <i>Management Regulations on the Prevention and Control of Marine Environment Pollution by Ships</i> make the provisions	No. Because the connection is very good.
Ecological protection	Protocol to the Antarctic Treaty on Environment Protection	Detailed regulations have been made to protect the Antarctic environment.	China signed the Protocol on October 4, 1991. <i>Regulations on Environment Protection for Antarctic Activities</i> make the connection.	No. Because the connection is very good.

	Kyoto Protocol to the United Nations Framework Convention on Climate Change	The main goal is to stabilize the amount of greenhouse gases in the atmosphere at a level that would prevent dramatic climate change from harming humans.	China signed it on May 29, 1998. <i>Resolution of the Standing Committee of the National People's Congress on Actively Addressing Climate Change</i> and a number of administrative regulations and departmental rules make specific provisions.	Yes. The ocean has an important impact on the global climate, but there are no provisions for addressing climate change in the <i>Marine Environment Protection Law</i> .
Resource protection	Convention on Biological Diversity	It is an international convention to protect the earth's biological resources.	China signed the convention on June 11, 1992 and ratified it on November 7, 1992. The 19 departmental regulations issued by the Ministry of Ecology and Environment make provisions. <i>Environment Protection Law, Wild Animal Conservation Law, Wild Plant Protection Regulations, Nature Reserve Regulations</i> and a series of laws and regulations all have provisions for biodiversity protection.	Yes. The conservation and utilization of mariculture, deep seabed genetic resources beyond the scope of national jurisdiction, and biodiversity in sea areas beyond the scope of national jurisdiction, as mentioned in the 2004 <i>Convention on Biological Diversity Secretariat Report</i> , are not mentioned in <i>China's Marine Environment Protection Law</i> .
	Convention on International Trade in Endangered Species of Wild Fauna and Flora	The Convention is mainly used to control rather than completely prohibit the international trade of wild species in order to achieve the sustainable use of the wild species	China acceded to the Convention on December 25, 1980, and it formally entered into force on April 8, 1981. China's <i>Wild Animal Conservation Law</i>	No. Because the connection is very good.

	market.	makes the connection.	
Convention on Wetlands of International Importance, Especially as Waterfowl Habitat	The Convention constitutes a framework for national measures and international cooperation for the protection and utilization of wetland resources.	China acceded to it on March 1, 1992. The Ministry of Agriculture Announcement No. 2619-List of Important National Key Protected Aquatic Wildlife Habitats (First Batch), and the International Wetland Convention Implementation Office's notice on the issuance of <i>Nomination Indexes for International Wetland Cities Certification</i> make the connection.	Yes. According to the spirit of the <i>Nomination Indexes for International Wetland Cities Certification</i> , "Building a Beautiful Coastal City and Countryside Environment" can be added to the purpose of the <i>Marine Environment Protection Law</i> .
Asia-Pacific Aquaculture Center Network Agreement	The Agreement specifies the purpose, role, rights and obligations of members, management systems, finance and other matters of the Asia-Pacific Network of Aquaculture Center.	It entered into force for China on January 11, 1990. The <i>Fisheries Law of the People's Republic of China</i> , the <i>Management Measures for Aquatic Seed Seeds</i> and the relevant local regulations, as well as the 30 departmental regulations formulated by the Ministry of Agriculture and the Ministry of Ecology and Environment make the connection.	No. Because the connection is very good.
Convention on the Conservation and	Measures are mainly taken for the conservation and management of	China ratified the Convention in September 1995.	No. Because the connection is very good.

<p>Management of Pollock Resources in the Central Bering Sea</p>	<p>China's Bering Sea pollock resources.</p>	<p>Chapter 3 "Marine Ecological Protection" of the <i>Marine Environment Protection Law</i> provides an explanation in the government's white paper <i>The Development of China's Marine Undertaking</i>.</p>	
<p>Agreement to implement the provisions of the United Nations Convention on the Law of the Sea of December 10, 1982 concerning the conservation and management of straddling fish stocks and highly migratory fish stocks</p>	<p>It aims to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks.</p>	<p>The Chinese government signed this Agreement on November 6, 1996. Chapter 3 "Marine Ecological Protection" of the <i>Marine Environment Protection Law</i> provides an explanation in the government's white paper <i>The Development of China's Marine Undertaking</i>.</p>	<p>No. Because the connection is very good.</p>
<p>Agreement Establishing the Indian Ocean Tuna Commission</p>	<p>The Agreement ensures the conservation of Indian Ocean tuna and tuna-like species, promotes their optimal use and cooperation for the sustainable development of this fishery.</p>	<p>China declared its acceptance on August 2, 1998. <i>Notice of the General Office of the Ministry of Agriculture on Regulating Tuna Fishing Logs and China Tuna Fishing Logs</i> make the connection.</p>	<p>No. Because the connection is very good.</p>
<p>Cartagena Protocol on Biosafety to the Convention on Biological</p>	<p>The Agreement assists in ensuring adequate conservation measures in the area of the safe transfer,</p>	<p>China acceded to it on April 27, 2005 and it entered into force on September 6 of the same year. It is</p>	<p>No. Because the connection is very good.</p>

	Diversity	treatment and use of living modified organisms derived from modern biotechnology that may adversely affect the conservation and sustainable use of biological diversity, while taking into account the risks to human health, with a particular focus on transboundary movements.	stipulated in 19 departmental regulations issued by the <i>Ministry of Ecology and Environment</i> , as well as in the <i>Vaccine Management Law</i> .	
	Agreement on the Prevention of Unregulated High Seas Fisheries in the Central North Ice Ocean (not yet in force)	The Agreement, jointly negotiated by the coastal and non-coastal Arctic States and the EU on an equal footing, provides governance rules for specific Arctic waters and enriches the content of international governance of the Arctic.	China signed it on October 3, 2018, but it has not yet come into force. <i>Announcement No. 108 of the Ministry of Agriculture and Rural Affairs of the People's Republic of China-Revised Instructions for Fishing Vessels and Fishing License Management Certificates, Fisheries Fishing License Management Regulations, and Chapter 3 "Fishing Industry" of the Fishing Law</i> make specific provisions.	Yes. Regulations on the fishing and control of high seas fishery resources can be mentioned in the <i>Marine Environment Protection Law</i> .
	International Convention for the Regulation of Whaling	The Convention prevents over-hunting of all species of whales. It aims to establish an international whaling control system to ensure proper conservation and development of	China became a party to this Convention on September 24, 1980. Although China does not have regulations on whale species, the overall regulations on fish	No.

		whale species.	in the <i>Fisheries Law</i> can be connected with the convention to a certain extent.	
	International Convention for the Conservation of Atlantic Tunas	It is a convention for the conservation and management of Atlantic tuna and tuna-like resources.	China acceded to it in 1996. Four departmental regulations issued by the Ministry of Agriculture and the government's white paper <i>The Development of China's Marine Undertaking</i> make provisions	No.
	Convention Concerning the Protection of the World Cultural and Natural Heritage	The Convention mainly stipulates the definition of cultural heritage and natural heritage, national protection and international protection measures for cultural and natural heritage, etc.	China became one of the parties to the Convention as early as 1985. There are 2 administrative regulations and 31 departmental regulations that stipulate the specific culture and heritage of China in accordance with the Convention.	No.
	Convention on Migratory Species	The Convention protects the active spatial scope of migratory species on land, sea and air, and protects migratory species among wild animals that pass through the borders of national jurisdiction.	It was adopted in Bonn, Germany on June 23, 1979, and entered into force for China on December 1, 1983. <i>Wild Animal Conservation Law of the People's Republic of China</i> makes the connection, but it does not involve migrating marine life.	Yes. China's Marine Environment Protection Law does not stipulate the protection of migratory marine organisms.
	Code of Conduct for Responsible	It requires countries to undertake their responsibilities in	It was adopted by the Food and Agriculture	No.

	Fisheries	activities such as fishing, breeding, processing, transportation and marketing, international trade and scientific research in fisheries.	Organization of the United Nations and entered into force in China in October 1995. 33 administrative regulations such as the <i>Fisheries Law</i> and <i>Several Opinions of the State Council on the Sustainable and Healthy Development of Marine Fisheries</i> make provisions.	
	Cancun Declaration on Mainstreaming the Conservation and Sustainable Use of Biodiversity to Enhance Well-being	It mainstreams biodiversity to enhance well-being and promote the conservation and sustainable use of biodiversity.	It was formulated in December 2016. The notice on <i>Key River Basin Aquatic Biodiversity Conservation Plan</i> issued by the Ministry of Ecology and Environment, the Ministry of Agriculture and Rural Affairs, and the Ministry of Water Resources and the notice on the Belt and Road construction maritime cooperation, as well as other departmental rules and regulations make provisions.	No.

4. Problems in the Process of Connection of the Marine Environment Protection Law with Relevant International Conventions

In order to effectively protect the marine environment and prevent marine environment pollution and facing a decrease in marine resources, China has done sufficient legislative work in marine environment protection, and formulated a large number of laws and regulations conducive to marine environment protection. If different biospheres are used as the basis for dividing China's environment legal system, the *Marine Environment Protection Law* is a regulation aimed particularly at the marine environment and becomes one of its most important components. Although China is carrying out legislation on the *Ocean Basic Law*, that law is aimed at comprehensive marine management, covering not only marine environment protection, but also political and economic aspects such as marine

economic development, marine scientific and technological innovation, and international cooperation on the ocean. Therefore, the basis of marine environment protection remains in the *Marine Environment Protection Law*. Not only should other laws relating to the marine environment be connected to the *Marine Environment Protection Law*, such as the *Fisheries Law*, and the *Regulations on the Management of the Prevention and Control of Marine Environment Pollution by Coastal Engineering Construction Projects*, but they should also reflect the contents of the relevant international conventions. The application of methods of nesting and transformation should be based on their strengths in order to promote the effective connection between the two. When there are foreign-related factors, Article 96 of China's *Marine Environment Protection Law* has stipulated the applicability of treaties, that is, in addition to China's reservations, the principle that international law is superior to domestic law shall be applied in priority to international conventions. But when there are no foreign-related factors, it generally needs to be transformed into domestic law before it can be implemented. Coinciding with the revision of the *Marine Environment Protection Law*, we should take this opportunity to make it more fully coherent with the content of relevant international conventions so as to make up for the gaps in the previous legislation. Although the content of China's Marine Environment Protection Law is relatively complete, with the increasing number of marine environment protection conventions that China has acceded to, there are still some shortcomings in the process of connection with marine environment protection conventions. The legislature needs to adjust and update the Marine Environment Protection Law in a timely manner so that the content of the relevant international conventions can be implemented.

4.1 Impact of the Narrow Scope of the Marine Environment Protection Law on its Effectiveness.

The legislative purpose of each law embodies the values its pursuits and guiding ideology of the legislator, and each legal clause is the concrete embodiment of the legislative purpose, thus the legislative purpose has the function of leading the entire law. The legislative purpose of China's *Marine Environment Protection Law* should be to cover the entire field of marine environment protection, covering not only the core concepts of the domestic marine environment protection law, but also the central theme of the relevant marine protection conventions. However, with the increasing number of marine environment protection conventions that China has acceded to, the legislative purpose of *Marine Environment Protection Law* has been unable to cover the core ideas of some international treaties concluded and acceded to by China. Therefore, the legislative purpose of *Marine Environment Protection Law* has lost its leading role and needs to be amended and supplemented with the times. For example, the *Marine Environment Protection Law* does not include "response to climate change and prevent global warming" as its legislative purpose. However, *Kyoto Protocol to the United Nations Framework Convention on Climate Change* signed by China in May 1998, China's *Air Pollution Prevention and Control Law*, and the *National Marine Functional Area Plan* issued by the State Council have all been able to actively respond to climate change and prevent global warming. Therefore, the legislative purpose of the *Marine Environment Protection Law* has been unable to effectively play a leading role.

4.2 Marine Environment Protection Law can not be adjusted in time according to the conventions, and lacks real-time performance.

Between formulation and implementation of the law, there is inevitably a time lag. In order to make up for this defect and keep pace with the times, the marine environment protection conventions that China has concluded or acceded to can be reflected in the Marine Environment Protection Law. It is necessary to timely modify the laws mainly based on the *Marine Environment Protection Law* or supplement them through judicial interpretations. At present, China's Marine Environment Protection Law cannot keep up with the international marine environment protection conventions that China has concluded or acceded to. For example, the *Convention on Wetlands* and the *Convention on Biological Diversity*, which China has acceded to, have continuously issued new rules. The United Nations has also positioned the next decade as a decade of ecological restoration. Internationally, conventions on polar environment protection and the prevention and control of marine microplastics pollution are also being

carried out, but the laws on these subjects are not currently included in China's relevant legislation.

4.3 *Marine Environment Protection Law* has not stipulated the core measures of some international conventions

International conventions on the subject of marine environment protection signed or ratified by China cover a wide range of areas, including pollution prevention, resource protection, international cooperation and environment responsibility, but China's legislations related to the protection of the marine environment are not only relatively scattered, there is no unified regulation in the *Marine Environment Protection Law*, but also there are loopholes in some areas. For example, for biodiversity conservation, China has not yet formulated the *Law on Biodiversity Conservation*, but in June 1992, China acceded to *Convention on Biological Diversity*. The *Marine Environment Protection Law* only makes general and general provisions on the protection of biological diversity and marine living resources, but it makes no specific provisions on the conservation and utilization of marine aquaculture, deep seabed genetic resources beyond the scope of national jurisdiction, and the biological diversity in sea areas beyond the scope of national jurisdiction. Therefore, the provisions concerning the protection of the marine living resources should be implemented through amendments to the *Marine Environment Protection Law*. For another example, according to the mandatory EEDI and SEEMP for new ships stipulated by the 73/78 of MARPOL, although Chapter 8 of China's *Marine Environment Protection Law* has made provisions on the prevention and control of pollution damage to marine environment caused by ships and their related operations, the two important core measures of preventing marine pollution by ships in the Convention have not been implemented. In addition, the *International Convention on Control of Harmful Anti-fouling Systems on Ships* and *Convention for the Control and Management of Ships' Ballast Water and Sediments* that China has acceded to as well as *Hong Kong Convention on Shipbreaking*, to which China has not yet acceded, all have technical requirements for environment protection relating to the construction of ships, but China's *Marine Environment Protection Law* does not make provisions for the scientific research and monitoring of marine environment such as anti-fouling systems, sediment and ballast water systems, shipbuilding, and shipbreaking. It can be seen that the degree of connection between China's *Marine Environment Protection Law* and international marine environment protection conventions is relatively low, and no specific provisions are made for core measures.

5. Suggestions and Measures to Improve the Effective Connection between China's Marine Environment Protection Law and Relevant International Conventions

5.1 Enrich the legislative purpose of the *Marine Environment Protection Law*

5.1.1 "Building a beautiful coastal city and countryside environment" is added to the purpose of the *Marine Environment Protection Law*

On March 1, 1992, China acceded to the *Convention on Wetlands of International Importance, Especially as Waterfowl Habitat*, which establishes a framework for national measures and international cooperation for the protection and utilization of wetland resources. In order to better implement the Convention and implement the *Wetland Protection and Restoration System Plan* issued by the General Office of the State Council, the Office of the State Forestry Administration has issued the *Interim Measures for the Nomination of International Wetland City Certification*, and the International Wetland Convention Implementation Office has issued a notice on the *Nomination Indexes for International Wetland Cities Certification*. According to the spirit of these two legal documents, "building a beautiful coastal city and countryside environment" is added to the purpose of the *Marine Environment Protection Law*.

5.1.2 "Response to ocean issues caused by climate change" should be added to the purpose of the *Marine Environment Protection Law*

With the increase in the exploration and development of mineral resources, the greenhouse gases emitted by the burning of fossil fuels have far exceeded the carrying capacity and self-purification capacity of the atmospheric environment, leading to global warming and rising temperatures. The

drastic climate change not only causes harm to humans, but also causes irreversible damage to marine life. Climate change leads to global warming, which in turn melts glaciers and raises sea levels, decreasing marine biological resources and the ecological stability of the marine environment. Therefore, in order to deal with climate change, China not only signed the *Kyoto Protocol to the United Nations Framework Convention on Climate Change* in 1998, but also pointed out in many national economic and social development plans that we should actively deal with climate change and earnestly fulfill the duty of energy conservation and emission reduction. Climate change is closely related to marine environment protection, and laws and regulations on climate change are being actively formulated and implemented. Therefore, in order to better achieve the leading role of the legislative purpose of the *Marine Environment Protection Law*, “response to ocean issues caused by climate change” can be added to the purpose of the *Marine Environment Protection Law*.

5.2 Proposal for Amendments to the Marine Environment Protection Law to Enhance its Current Performance.

5.2.1 Add “principles of international cooperation” to the General Provisions of Chapter 1 of the *Marine Environment Protection Law*

Due to the peculiarity of the marine environment which is different from that of the land, marine environment problems have endangered the survival and development of the entire human society. At the same time, strengthening the construction of the Belt and Road has urgent requirements for international cooperation to protect the marine environment. Responsibilities of States for fulfilling the international marine environment protection conventions and participating in regional and global marine environment governance require close international cooperation. In addition, the principles of international cooperation for marine environment protection have been embodied in the marine environment protection conventions that China has concluded or acceded to. The *United Nations Marine Environment Protection Convention* specifically makes detailed and specific provisions on international cooperation; *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal* stipulates that all contracting parties shall cooperate with each other in order to improve and realize the environmentally sound management of hazardous wastes and other wastes.¹ The *Convention on Biological Diversity* also provides advice on scientific programs related to the conservation and sustainable use of biological diversity and international cooperation in research and development.² In addition to the above-mentioned international documents, the *International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990*, *Convention on Nuclear Safety*, *Convention on Fishing and Conservation of Living Resources on the High Seas*, and *Nairobi Declaration* also emphasize the basic concept of international and regional coordination and cooperation to jointly address marine environmental issues. Therefore, “principles of international cooperation” should be added to the *Marine Environment Protection Law*.

5.2.2 Amend other laws related to marine environment protection to enable the effective implementation of the *Marine Environment Protection Law*

The *United Nations Convention on the Law of the Sea* defines important concepts such as internal waters, territorial waters, adjacent sea areas, continental shelf, exclusive economic zone, high seas, and islands. China's *Law on the Territorial Sea and the Contiguous Zone* and the *Law on the Exclusive Economic Zone and the Continental Shelf* are concrete manifestations of the implementation of the provisions of the Convention. However, the desire of various countries to further develop marine resources is expanding. These two laws do not make provisions for such issues as the outer continental shelf, residual rights in the exclusive economic zone, and historical rights in the sea areas. Therefore, these rights issues can be resolved by amending the *Law on the Territorial Sea and the Contiguous Zone* and the *Law on the Exclusive Economic Zone and the Continental Shelf*.

1 Article 10 of the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*.

2 Article 25 of the *Convention on the Conservation of Biological Diversity*.

With the development and progress of science and technology, countries have gradually expanded their ambitions to develop and utilize the ocean, and the number of artificial islands have increased. However, the Convention does not define the legal status of artificial islands, nor does it stipulate the maritime rights of artificial islands. Since it is impossible to distinguish the natural part from the artificial part after all kinds of marine structures are assembled together by human construction, the definition of the legal status of artificial islands is controversial in academic circles. At present, there are some opinions in academic circles, such as “construction foundation theory”, “construction purpose theory”, and “construction method theory”.¹ However, the island protection and the exploitation and utilization of the resources of the surrounding sea areas are also stipulated in principle in China’s Marine Environment Protection Law, so China can amend the *Island Protection Law* according to the specific situation, and define the legal status of the artificial island, so as to fully connect with the *Marine Environment Protection Law* and implement it completely.

5.2.3 Stipulate the conservation and utilization of marine living resources beyond the scope of national jurisdiction in the *Marine Environment Protection Law*

The sharp decline in biodiversity is the result of mankind’s unrestrained exploitation of nature. The *Convention on Biological Diversity* is an international convention for the protection of the living resources of the earth, which China signed and ratified in 1992. In order to fulfill the Convention’s international obligations to protect biodiversity, China has formulated a large number of laws and regulations to protect biodiversity. For example, the *Wild Animal Conservation Law* and Chapter 3 “marine ecological protection and many years of national economic and social development plans” of the *Marine Environment Protection Law* have emphasized the protection of biological resources. In terms of biodiversity protection, China’s *Marine Environment Protection Law* is well connected. However, because various countries enjoy the freedom of fishing on the high seas, the problem of using marine living resources beyond the scope of national jurisdiction has arisen. The conservation and utilization of mariculture, deep seabed genetic resources beyond the scope of national jurisdiction, and biodiversity in sea areas beyond the scope of national jurisdiction are stipulated in the *Convention on Biological Diversity Secretariat Report* in 2004, and these provisions should also be mentioned in China’s *Marine Environment Protection Law*.

5.2.4 Increase the relevant provisions for dealing with marine disasters other than oil pollution

Although the ocean itself has a strong purification capacity, the pollution caused by oil spills to the marine environment is huge, and it takes a hundred or more years for the ocean to recover or even fail to recover at all. All other countries are effectively strengthening oil pollution prevention and control, stressing the importance of effective emergency preparedness. Therefore, in 1998, China acceded to the *International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990*, and the *Marine Environment Protection Law* also makes provisions for dealing with the problem of oil pollution. However, with the development and utilization of the marine environment, not only oil pollution will cause damage to the marine environment, but other marine disasters such as storm surge, red tide, sea ice and seawater erosion will also cause damage to the marine environment. Therefore, the content of dealing with other marine disasters should be added to the *Marine Environment Protection Law*.

5.2.5 Increase the regulations on the development, utilization and protection of the Arctic high seas fishery resources

In the context of global warming, the melting of Arctic Ocean sea ice has made it possible to develop and utilize the Arctic Ocean’s fishery resources. Therefore, in the waters outside the jurisdiction of the five countries along the Arctic Ocean, all countries have freedom of navigation and fishing. In order to protect the unregulated capture of Arctic fishery resources, the five countries along the Arctic Ocean and other countries including China signed the *Agreement on the Prevention of Unregulated High Seas Fisheries in the Central North Ice Ocean* in October 2018, thereby effectively preventing

¹ SUN Chao&MA Mingfei, *Legal status of artificial islands*, Hebei Law(2019).

various countries from unregulated exploitation of fishery resources in the Arctic high seas. Therefore, in order to enhance the present performance of China's *Marine Environment Protection Law*, the provisions on the exploitation, utilization and protection of fishery resources in the Arctic high seas should be increased, and then specific provisions should be made through the *Fishery Law*.

5.2.6 Add "protection of migratory marine life" to Chapter 3 of the *Marine Environment Protection Law*

The *Convention on Migratory Species* was drafted by the United Nations Environment Programme. As one of the permanent members of the United Nations, China should abide by the Convention and implement the international obligations of protecting migratory wild animal species on land, sea and air in domestic laws. Chapter 3 of the *Marine Environment Protection Law* does not stipulate the protection of migratory marine life. When the law is revised in the future, the relevant provisions of "protection of migratory marine life" should be added to this chapter.

5.3 Implement the core measures of relevant international conventions and promote the effective connection of the *Marine Environment Protection Law*

5.3.1 Delete Article 56 (3) of the *Marine Environment Protection Law* and stipulate that only the items in the list of wastes that can be dumped

The *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter* entered into force for China on December 15, 1985. In 2006, China ratified the application of its 1996 Protocol. However, the current Article 56 (3) of the *Marine Environment Protection Law* stipulate that "The list of wastes that can be dumped into the ocean shall be drawn up by the national maritime administrative department, and submitted to the State Council for approval after the review and comments made by the environmental protection administrative department of the State Council." This Article entrusts the formulation of the list of wastes that can be dumped into the ocean to the national maritime administrative department, but does not adopt the list of wastes that can be dumped as is stipulated in the Convention and its Protocol. The Convention cannot play its due role, so Article 56 (3) of the *Marine Environment Protection Law* should be amended, stipulating that only matters listed in the Protocol's list of wastes that can be dumped, which can better implement the core measures of the Convention and connect better domestic laws with international conventions.

5.3.2 Add mandatory EEDI and SEEMP for new ships to Chapter 3 of the *Marine Environment Protection Law* to prevent ship pollution and reduce greenhouse gas emissions from international shipping

Ship pollution is the main culprit of marine environment pollution. In addition to the damage to the marine environment caused by the items carried by ships, the emission of carbon dioxide and other greenhouse gases generated by the energy consumed by ships is also a great threat. In order to prevent pollution from ships, international organizations signed the *MARPOL* in London. China acceded to it in 2006, but the core measures of the Convention are not connected with China's *Marine Environment Protection Law*. Therefore, the improvement of ship performance index should be taken as an important aspect in the prevention and control of ship pollution, and EEDI and SEEMP of the Convention should be included in the revision, so as to reduce greenhouse gas emissions generated by international shipping.

5.3.3 Add provisions for the scientific research and monitoring of shipbuilding, anti-fouling systems and ballast water systems in China's *Marine Environment Protection Law*

International Convention on Control of Harmful Anti-fouling Systems on Ships and *Convention for the Control and Management of Ships' Ballast Water and Sediments* that China has acceded to as well as *Hong Kong Convention on Shipbreaking*, which China has not yet acceded to but has important reference significance for China's marine environment legislation as an international maritime organization convention, all have technical requirements for environment protection for the construction of ships, but Chapter 8 "Prevention and Control of Pollution Damage to the Marine Environment from Ships and Related Operations" of China's *Marine Environment Protection Law* lacks provisions for the

scientific research and monitoring of anti-fouling systems, ship's ballast water systems, shipbuilding, and the removal of shipwrecks. Therefore, when the *Marine Environment Protection Law* is revised, the corresponding scientific research and monitoring requirements should be added in accordance with the treaty, and the degree of connection with the national treaty should be improved.

6. Conclusion

The international conventions on marine environment protection that China has concluded or acceded to represent China's international commitment to the protection of the marine environment, which reflects China's political position. What reflects a country's sense of responsibility is to effectively connect its international commitment with its domestic laws and fulfill this commitment to protect the marine environment. The *Constitution* does not stipulate the method of application of the principles of international law in China, so the study of the relationship between international law and domestic law has laid a theoretical foundation for the completing the connection between the two and the effective implementation of international law in China. We should adopt the indirect application of transformation and the direct application of conditional nesting to promote the effective implementation of international law at home. At present, China's *Marine Environment Protection Law* has some gaps in relation to the relevant international conventions, which is reflected in the fact that the legislative purpose can not play the leading role, that the real performance is not strong, and that no specific provisions have been made on the core measures in the international conventions to which China acceded. In the face of the opportunity that China is currently revising the *Marine Environment Protection Law*, in order to make up for the loopholes in the process of the connection with international law, it is necessary to further enrich the legislative purpose of the *Marine Environment Protection Law*. It can be proposed that additions be made to the contents on issues such as building beautiful coastal cities and towns and response to climate change, amend and enhance the real-time performance of the *Marine Environment Protection Law* in due course, implement the specific core measures of the international marine environment protection convention, and enhance the connection of the *Marine Environment Protection Law*. There is courage and determination behind joining the *International Convention* on marine environmental protection. Only by turning it into practical action can we more effectively deal with the marine environment challenges. It is hoped that all countries will join hands to promote the implementation of these commitments and help improve the marine ecological environment.

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