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**Marine Spatial Planning: How to Manage the Sea and Coast?**  
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**Teaching Material – A**

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# 中国的海洋空间规划

## Marine spatial planning in China

### 1 中国海洋空间规划简介（30 分钟）

Introduction of comprehensive marine spatial planning in China (30mins)

#### 1.1 海洋空间规划的背景

Background of marine spatial planning

##### 1.1.1 《联合国海洋法公约》的制定

United Nations' Convention on the Law of the Sea

为海洋空间规划提供了规划范围。

It provides a scope of marine spatial plan

国家在内水、领海、专属经济区和大陆架有不同的权利

Countries have different rights on internal waters, territorial sea, exclusive economic zone and continental shelf.

为海洋空间规划提供了内容依据。

It provides a content basis to marine spatial plan.

##### 1.1.2 海洋开发利用的矛盾和冲突

Contradiction and conflict of sea exploitation and use

传统利用方式：捕捞、运输、制盐等

Traditional use patterns: fishing, transporting salt and so on.

新的利用方式：养殖、港口开发、临海工业、油气开采、滨海旅游等

New use pattern: culturing, development of the port, maritime industry, oil and gas extraction, coastal tourism and so on.

近岸海域开始成为稀缺资源，海洋开发利用出现矛盾和纠纷：港口航道、水产养殖、石油勘探、盐业生产、滨海旅游、军事设施之间的矛盾和纠纷。

Inshore waters start to become scarce resources, and contradictions and disputes which among channel ports, aquaculture, oil exploration, salt production, coastal tourism, military facilities appear in ocean exploitation and use.

### 1.1.3 近岸海域污染和生态恶化

Inshore water's pollution and ecological deterioration

近岸海域污染严重，局部海域已丧失使用功能；

Inshore water's pollution is very serious, and partial area has lost the utility function.

海岸生态系统退化，重要渔业资源衰竭；

Coastal ecosystem has degraded and important fishery resources have failed.

海岸自然景观遭到破坏，海洋防灾减灾能力降低

Natural landscapes of sea coastal have suffered destruction, and the disaster prevention and mitigation capacity of marine has reduced.

### 1.1.4 涉海管理部门之间的冲突

The conflict among sea involving managements

中国在海洋管理上是多部门管理，涉海部门众多，包括外交、国防、农业、交通、国土、环境、石油、船舶等十几个部门。经过几十年的演变，逐步形成了以分部门、分行业管理为主要特点的现行分散管理体制。

China's ocean management is multisectoral management, and has many departments of sea involving, including about 10 departments such as foreign affairs, national defense, agriculture, transportation, land, environment, oil, ships and so on.

在实际工作中带来很多弊端：缺乏统一的海洋发展战略、政策和发展规划；造成部门间工作的不协调甚至互相制肘和扯皮，使效率低下，资源浪费，投入重复，许多工作推进困难。

There are some disadvantages in practical work: it lacks a unified marine development strategy, policy and plan and it creates inter-departmental working uncoordinated even constraints and the buck. As a result it brings inefficiency, waste of resources, duplication of input, and many difficulties ahead.

#### 1.1.5 海洋管理部门依法行政的需要

The needs of marine management agency's exercising regime according to the law  
1999 年，新修订了《海洋环境保护法》  
《Marine Environmental Protection Law》 was amended in 1999.

2001 年，新制定了《海域使用管理法》  
《Sea Use Management Law》 was established in 2001.

两部法律明确规定海洋功能区划是海洋管理的科学依据。

The two laws clearly stipulate that marine function zoning is the scientific basis of marine management.

#### 1.2 指导性规划：海洋功能区划

##### Guiding plan: marine functional zoning

海洋功能区划，是指根据海域的区位条件、自然环境、自然资源、开发保护现状和经济社会发展的需要，按照海洋功能标准，将海域划分为不同使用类型和不同环境质量要求的功能区，用以控制和引导海域的使用方向，保护和改善海洋生态环境，促进海域的合理开发和海洋经济的可持续发展。海洋功能区划按照行政区划分分为：

Marine function zoning, means that according to the sea conditions, the natural environment, natural resources, status of development and protection ,and the needs of economic and social development, we divide the sea into different function zones with different use types and environment quality requires in order to control and guide the direction of the use of the sea , protect and improve the marine ecological environment, and promote the rational development of the sea and marine

economic sustainable development. From the angle of administrative regions marine function zoning may be classified:

——全国海洋功能区划：国家海洋局会同国务院有关部门和沿海省、自治区、直辖市人民政府编制，报国务院批准。区划范围为中华人民共和国内水、领海、海岛、大陆架、专属经济区。

National marine function zoning: It is made by State Oceanic Administration, in conjunction with the departments concerned and the coastal provinces, autonomous regional and municipal governments, and must be submitted to the State Council for approval. Zoning scope are the PRC's internal waters, territorial sea, islands, continental shelf, exclusive economic zone.

——省级海洋功能区划：省级人民政府海洋行政主管部门会同本级人民政府有关部门编制，报国务院批准。省级海洋功能区划的依据是全国海洋功能区划，区划范围为本级人民政府所辖海域及海岛，其范围自海岸线（平均大潮高潮线）至领海的外部界限，可根据实际情况向陆地适当延伸。

Provincial marine function zoning: It is made by ocean administrative departments of provincial government in conjunction with the departments concerned in this government and must be submitted to the State Council for approval. The basis of provincial marine function zoning is national marine function zoning, zoning scope which is from coastline(high tide line of an average high tide)to the outer limits of the territorial sea and may have appropriate extension to the land according to actual situation are the sea and islands regulated by this government.

——市、县级海洋功能区划：市、县级人民政府海洋行政主管部门会同本级人民政府有关部门编制，报省级人民政府批准。区划范围为本级人民政府所辖海域及海岛。

City, county marine function zoning : It is maked by marine administration departments of City and county governments in conjunction with the departments

concerned in this government and must be submitted to the provincial government for approval. Zoning scope is the sea and islands regulated by this government.

### 1.3 决策性规划：海岸保护与利用规划

Deciding plan: coastal sea protection and use planning

海洋功能区划解决的问题：特定海域适宜干什么，不适宜或禁止干什么

The problem that marine function zoning can resolve: what are the special sea suitable for, not suitable for and what are prohibited.

海洋功能区划未能解决的问题：特定海域，尤其是近岸海域的用海方式（填海、围海、不改变海域自然属性）及开发利用计划。

The problem that marine function zoning cannot resolve: the sea use way (reclamation, sea enclosing, not change the natural attributes )and development and utilization Plan of special sea especially the inshore waters of the sea.

海岸保护与利用规划是海洋功能区划的具体贯彻和落实，是海洋功能区划体系的重要组成部分。

Coastal protection and utilization plan is implementation of the marine function zoning and the key component of marine function zoning system.

开展海岸保护与利用规划工作的主要目的：

The main purpose of coastal protection and utilization plan:

——实行海岸功能管制，严格控制填海造地的范围；

Implement coastal function administration into practice and strictly control the scope of reclamation.

——实行海岸保护定级，严格按照规定的级别使用；

Implement coastal protection rating and use it strictly in accordance with the provisions of the level

——实行填海总体控制，严格控制填海造地的数量；

Implement overall control of and strictly control the quantity of reclamation.

#### 1.4 规划的应用：海域使用管理

##### Application of plan: sea use management

任何一个规划的应用都要有法律依据，都要有管理平台。为了保证海洋空间规划的应用，全国人大于 2001 年出台了《海域使用管理法》。《海域使用管理法》建立了三项基本制度：

Any application of a plan must have a legal basis and must have management platform. In order to guarantee the application of the sea space plan , the National People's Congress appear the 《Sea area Use Management Law》 in 2001. 《Sea area Use Management Law》 has established three basic systems:

海域权属管理制度：单位和个人使用海域，必须依法取得海域使用权。海域使用权除采取申请审批方式取得外，也可以通过招标或者拍卖的方式取得。

The sea ownership management system: The sea using of unit and individual, must legally obtain the sea use right. The sea use right may be obtained not only by the way of application examination and approval, but also the tender or the auction.

海洋功能区划制度：国家实行海洋功能区划制度，海域使用必须符合海洋功能区划。国家严格管理填海、围海等改变海域自然属性的用海活动。

Marine functional zoning system: The country implements marine functional zoning system, the sea use must conform to the marine functional zoning. The nation strictly administrates the sea using activities which will change the sea's natural attribute such as reclamations, sea enclosing and so on.

海域有偿使用制度：国家实行海域有偿使用制度。单位和个人使用海域，应当按照国务院的规定缴纳海域使用金。海域使用金应当按照国务院的规定上缴财政。

The sea paid use system: The national practices the sea paid use system. The sea using of unit and individual, must pay for the use according to the State Council's regulations . The sea use money must be turned over to the finance according to the State Council's regulations.

## 2 海洋功能区划（60 分钟）

### Marine functional zoning (60mins)

#### 2.1 海洋功能区划的法律法规依据

##### Laws and regulations of marine functional zoning

###### 法律依据

###### Law basis

——中华人民共和国海域使用管理法

The People's Republic of China Sea Use Management Law

——中华人民共和国海洋环境保护法

The People's Republic of China Marine Environmental Protection Law

——中华人民共和国港口法

The People's Republic of China Port Law

###### 法规依据

###### Regulation basis

——防治海洋工程建设项目污染损害海洋环境管理条例

Prevent and govern marine construction project pollution damage marine environment management ordinance

——河北、山东、江苏、福建、广东、海南海域使用管理条例

Sea use management ordinance of Hebei, Shandong, Jiangsu, Fujian, Guangdong and Hainan

###### 国务院文件依据

###### State Department document basis

——国务院关于全国海洋功能区划的批复

State Department reply of national marine function zoning

——国务院批准的省级海洋功能区划审批办法

Provincial marine function zoning examining and approving approach that sanctioned by State Department

——国务院关于辽宁、河北、山东、江苏、浙江、福建、广西、海南海洋功能区划的批复



State Department's reply about marine function zoning of Liaoning, Hebei, Shandong, Jiangsu, Zhejiang, Fujian, Guangxi and Hainan.

## 2.2 海洋功能区划的编制原则

### Principle of marine functional zoning

#### 2.2.1 按照自然属性，科学确定海域功能。

##### Determining the function of the sea Scientifically in accordance with the natural attributes

——区位条件：是指开发活动占有的场所及场所具有的属性；

——自然环境：是指海域的地质、地貌、气候、水文、生物、化学环境、自然灾害等；

——自然资源：是指港口资源、渔业资源、矿产资源、海水资源、可再生能源、旅游资源、滩涂资源等，

Area place condition: Be to refer to the places that the developing activity occupy and attributes that places have.

Natural environment: Be to refer to geology , the general configuration of the earth's surface , the climate , hydrology , living things , chemistry environment , natural calamities and so on..

Natural resources: Be to refer to port resources, fishery resources , mineral resources , seawater resource , regenerative energy, tourism Resources, shoal resources and so on.

#### 2.2.2 根据经济社会发展需要，统筹安排各有关行业用海；

##### Making arrangements for sea use of various sectors in accordance with economic and social development needs

优先保证

##### Priority ensuring

——保障公共利益和国防建设项目；

Protect public interests and national defense construction projects

——保障国家重点建设项目；

Protect national key construction projects

——保证传统渔民用海；

**Ensure sea use of traditional fishermen**

——保障海上交通安全；

**Ensure the safety of transport at sea**

**2.2.3 保护和改善生态环境，保障海域可持续利用；**

**Protecting and improving the ecological environment ,in order to keep sustainable use of the sea**

根据海洋资源再生能力和海洋环境的承载能力，科学设置海域和海岛的功能，保障海洋生态环境的健康，实现海域和海岛的可持续利用。

According to marine resources' regeneration and the marine environment's carrying capacity, scientifically establishing the sea and islands' function, keeping the marine environment healthy, achieving sustainable use of the sea and islands.

优先划定：海洋保护区、重要渔业品种保护区，保留区

**Priority division: Marine protected areas、 Important fisheries species protected areas、 reserved areas**

严格限制：围海造地区、排污区、倾倒区

**Strictly limited: reclamation area 、 sewage area、 Dumping area**

**2.2.4 协调与协商原则**

**Principles of coordination and consultations**

海洋功能区划应在充分协商基础上，合理反映各部门和地区关于海洋开发与保护的主张，协调与其它涉海规划的关系，解决各涉海行业的用海矛盾，避免相邻海域的功能冲突。

Marine function zoning should be a reasonable reflection of the marine development and protection idea from all departments and areas, coordinate relations with other planning sea involving , solve contradictions among all sea involving sectors and prevent the function conflict of adjacent waters of the sea on the basis of full consultation.

### 2.2.5 备择性原则

#### Optional principle

在具有多种功能的区域，当出现某些功能相互不能兼容时，应优先设置海洋直接开发利用中资源和环境等条件备择性窄的项目。同时也应注意考虑海洋依托性开发利用功能以及非海洋性配套开发利用功能。

In the region With a variety of functions, where there are some functional mutual incompatibility, priority should be given to setting up the projects in direct marine exploitation and utilization whose resources and environmental conditions are narrowly optional. While also paying attention to the oceans' exploitation and utilization functions both of relying on marine nature and non-maritime matching.

### 2.2.6 前瞻性原则

#### Prospective principle

海洋功能区划应在客观展望未来科学技术与社会经济发展水平的基础上，充分体现对海洋开发与保护的前瞻意识，应为提高海洋开发利用的技术层次和综合效益留有余地。

Marine function zoning should fully reflect the prospective awareness of marine development and protection and have some flexibility for enhancing technical level of marine development and utilization and comprehensive benefits on the basis of objectively looking to the future of science and technology and the level of socio-economic development.

## 2.3 海洋功能区划的分类体系

### Classification system of marine functional zoning

#### 2.3.1 港口航运区

**Port and shipping area**

港口区

**Harbour area**

航道区

**Channel area**

锚地区

**Anchor ground area**

**2.3.2 渔业资源利用和养护区**

**Fishery resource use and conservation area**

渔港和渔业设施基地建设区

**Fishing port and Fishery facilities basic building area**

养殖区：港湾养殖区、滩涂养殖区、浅海养殖区

**Breed area: Harbour area、Shoal area, Shallow sea area**

增殖区

**Proliferate area**

捕捞区

**Catch area**

重要渔业品种保护区

**Important Fishery breed protected area**

**2.3.3 矿产资源利用区**

**Mineral resources use area**

油气区

**Oil gas area**

固体矿产区

**Solid mineral area**

#### 2.3.4 旅游区

**Tourist area**

风景旅游区

**Scenery tourist area**

度假旅游区

**Travel resort area**

#### 2.3.5 海水资源利用区

**Sea resources use area**

盐田区

**Salina area**

特殊工业用水区

**Peculiar industrial water area**

一般工业用水区

**General industrial water area**

#### 2.3.6 海洋能利用区

**Marine power use area**

潮汐能区

**Tidal energy area**

潮流能区

**Tidal current energy area**

波浪能区

**Wave energy area**

温差能区

Temperature difference energy area

2.3.7 工程用海区

Project sea use area

海底管线区

Submerged pipeline area

石油平台区

Petroleum platform District

围海造地区

Make area around the sea

海岸防护工程区

Coast protected project area

跨海桥梁区

Bridge area across the sea

其他工程用海区

other protective sea use area

2.3.8 海洋保护区

Sea protection area

海洋自然保护区

Marine nature reserve

海洋特别保护区

Special protection area of ocean

2.3.9 特殊利用区

Special use area

科学研究试验区

Experimental area of science and study

军事区

Military affairs area

排污区

Drain contamination area

倾倒地

Dump area

### 2.3.10 保留区

Reserved area

是指目前尚未开发利用，且在区划期限内也不宜开发利用的海域。

It refers to the sea area which is not exploited at present and should not exploit in the limit time of area's divide.

## 2.4 海洋功能区划的方法

Methods of marine functional zoning

### 2.4.1 指标法

Indicator method

海洋功能区的划定主要采用指标法，根据海洋功能区分类体系和指标体系，综合考虑海洋不同区域的自然属性、社会属性和环境保护要求划出各类具体的海洋功能区。

Delineating marine functional areas mainly use indicator method, and identified specific types of marine functional areas according to marine functional classification system and the indicator system and considering natural attributes, social attributes and environmental protection requirements of different zones of the marine.

## 2.4.2 叠加法

### Superposition method

应将所收集到的各类资料编绘成图件，并与已收集到的各种图件进行叠加（所有图件应缩放成相同的比例尺），依据功能区划的原则进行分析比较。保留合理的功能，舍去不合理的功能，比较、确定主导功能。

Superposition method should compile collected different types of information into a map, superpose with collected various maps (all maps should zoom into the same scale)

and make analysis and comparison based on the principles of function zoning.

Reserving reasonable functions, throwing out the unreasonable ones, comparing and determining the leading functions.

## 2.4.3 综合分析法

### Comprehensive analysis method

按照区划原则，利用第 6 章的形势分析结果，综合考虑海域自然属性、社会属性和环境保护要求，协调各种用海关系，确定海洋功能区类型及功能的主次关系。

Comprehensive analysis method is to coordinate all relations of sea involving and identify types of marine functional areas and prioritizing relations of the functions according to the principle of zoning, using the situation's analyzes results of Chapter 6 and considering the sea natural attributes, social attributes and environmental protection requirements.

## 2.4.5 海洋功能区划步骤

### Steps of marine functional zoning

——按自然属性确定出每个区域所有功能类型；

——Identify the functional type of each area based on natural attributes



——对于多功能区，进行功能的分析比较，确定主导功能；

——For multifunctional, making analysis and comparison and identifying the leading functions.

——主导功能（单一功能）与开发现状和规划作比较，如果一致，则确立此功能区；如果不一致，但无根本矛盾，可保留开发现状，引导开发活动向主导功能方向发展；如有根本矛盾，通过相关部门、行业、政府协调，调整开发现状和规划。

——Make comparison between mainly function(single function) and the status quo of development and planning, if agreed, this function area is established; If not, but having no fundamental contradiction the status quo of development may be retained and the development activities should be leaded to the direction of mainly function; if having fundamental contradiction, coordination between the status quo and plan should go along through the relevant departments, industry, government.

## 2.5 海洋功能区划编制、审批程序

Making and permission procedures of marine functional zoning

### 2.5.1 编制程序

Making procedures

### 2.5.2 审批程序

Examine and approve procedures

### 2.5.3 修改程序

Modification procedures

## 2.6 海洋功能区划的实施

Administration of marine functional zoning

2.6.1 强制执行：所有一级类和二级类海洋功能区必须确定为严格执行的强制性内容。  
Mandatory administration: all I -level and II -level marine functional zones must make certain the content that strictly enforced and mandatory

2.6.2 规划依据：养殖、盐业、交通、旅游等行业规划应当符合海洋功能区划。土地、城市、港口等规划应当与海洋功能区划相衔接。

Plan gist : Culturing, salt, transport, tourism and other sectors should be planned to meet the marine function zoning . Land, city, port planning should link up with marine function zoning.

2.6.3 海域管理：不符合区划的项目用海，海洋部门不受理用海申请。不按区划批准使用海域的，按照《海域法》第 43 条的规定处罚。不按区划的功能使用海域的，按照《海域法》第 46 条的规定处罚。

Sea management: marine sectors will not accept the project sea use applications which are not inconsistent with the zoning. Someone will be punished according to the 《Sea Law》 section 43 who use the sea without approved by zoning and also Someone will be punished according to the 《Sea Law》 section 46 who use the sea obeying the function of zoning.

2.6.4 环境保护：编制海洋环境保护规划，选择入海排污口位置、设置陆源污染物深海离岸排放排污口、审批涉海工程建设项目、选划海洋保护区、选划海洋倾倒区等必须依据海洋功能区划。

Environmental protection: making plan of marine environment protection, deciding the location of outlet, setting deep-sea and offshore outlet of land-based pollutants, Examining and approving sea involved project, electing and dividing marine protected and Ocean Dumping areas and so on must be in accordance with marine functional zoning.

2.6.5 调整计划：省级政府要组织制定重点海域使用调整计划，明确不符合海洋功能区划的用海项目停工、拆除、迁址或关闭的时间表，并提出恢复海域环境的整治措施。

Rectify plan: provincial governments must focus on organizations to develop the rectify plan of major sea use and clearly identify the projects' timetable of suspension , removal, relocation or closing which do not meet the marine function zoning.

2.7 海洋功能区划工作需要进一步研究的问题

Further study about the issue of marine function zoning

2.7.1 如何提高海洋功能区划编制水平？

How to improve the level of marine function zoning

2.7.2 如何杜绝海洋功能区划批准后频繁修改的问题？

How to prevent marine function zoning from frequently rectifying after being approved

2.7.3 如何限制填海造地区的盲目扩大范围的问题？

How to restrict on blind expansion of the land reclamation area

2.7.4 如何严格实施海洋功能区划？防止不按照海洋功能区划批准和使用海域。

How to administrate marine functional zoning strictly to prevent from approving and using the sea unaccording to it.

2.7.5 如何协调海洋功能区划与专业规划的关系？

How to coordinate the relationship between marine function zoning and professional planning?

4 海域使用管理（90 分钟）

Sea use management (90mins)

#### 4.1 海域使用管理的回顾

##### Recall of sea use management

##### 4.1.1 人类对海洋及其价值的认识分为四个阶段：

Human being's cognition to sea and their value is divided into four stages

——15 世纪以前，海洋有鱼盐之利和舟楫之便；

The 15th century ago, human being can transport in sea and attain foods such as fish and salt advantageously.

——15 世纪至 20 世纪初期，海洋是世界交通的重要通道；

From the 15th century to the 20th century, Ocean is important world traffic passage.

——第一次世界大战以后至 20 世纪 80 年代，海洋是人类生存的重要空间；

From World War I to the eighties of the twentieth century, Ocean is important human being survival space.

——1992 年的世界环境与发展大会认为，海洋是人类生命支持系统的重要组成部分，可持续发展的宝贵财富。

The world environment and development conference in 1992 believes, ocean is an important component of human being life support system, and is precious wealth of sustainable development.

第一、二阶段，海域使用管理主要是“兴渔盐之利，行舟楫之便”（捕鱼、晒盐、运输）。《罗马法》认为：海洋与阳光、空气等自然界的事物一样，尽管能满足人们的某种需要，但终究不能直接以金钱衡量其价值，所以并未被确认为私法上的物。

At the first and second stages, sea use management is mainly in fishing, salt manufacturing, and transport. "Roman law" thinks: just like the sunlight and air, sea can satisfy human beings certain needs, But it can not measure with money directly, therefore sea had not been confirmed as object in private law.

从第三阶段开始，世界各国对海洋提出了主权权利，《联合国海洋法公约》确定了内水、领海、专属经济区和大陆架等法律制度；海洋开发逐渐从传统的捕捞、运输、制盐，引进了若干新的利用方式，包括养殖、油气开采、临海工业、滨海旅游、围垦种植等；近岸海域开始成为稀缺资源，具有独立的经济价值，能够进行具有民法意义上物的特征，应当建立与之相适应的民法物权制度。

From the third stage, all the countries in the world had brought the sovereignty right up, 《United Nations Convention on the Law of the Sea》 have ascertained some legal system such as interior waters , territorial seas , exclusive economic zones and continental shelves; Ocean exploitation have introduced some new methods from the traditional fishing, salt manufacturing, and transport , including fishery cultivation , oil gas exploit, Sea-front industry , Coastal Tourism , implode for cultivation ,and so on; Real right system should be built because that off-shore sea area has become scarce resource, has independent economic value, and has the character of object in civil law.

#### 4.1.2 上个世纪 80 年代以来，中国海洋开发利用中出现了一些新情况和问题

Since the eighties of the twentieth century, some new situation and problem have appeared in sea use and exploitation of China

一是海洋产业迅速发展。中国是世界第一养殖大国，中国港口吞吐量居世界第一，中国的滨海旅游业已经成为第一大海洋产业，中国的油气开采规模迅速扩大。

First, marine industry has developed rapidly: China is the first of the world in fishery cultivation and in port capacity, Coastal Tourism has already become the first marine industries, Chinese oil gas exploits scales expand quickly.

二是行业用海矛盾日益突出，养殖与港口航道锚地、养殖与油气开采、养殖与国防建设及盐田、排污之间的用海矛盾日渐突出；

Second, various sea use contradiction appeared gradually , especially in cultivation

and harbor channel anchor ground , cultivation and oil gas exploit , cultivation and national defense, saltpan, blowdown.

三是海域资源的价值迅速体现，一些沿海地方擅自出让、转让、出租海域，企业无偿使用海域现象突出，资源环境遭到破坏。典型案例有以下几个：实例 1：辽宁海上建堤“北方贝库”绝收。实例 2：大连港航道缘何梗阻。

Third, marine resources value encarnalized prompt, some littoral government sell, transfer or letting sea area unexcused, many enterprise use sea area uncompensated, resource and environment are destroyed. The Classic documentation as follows: Example 1: Liaoning province build sea wall, "north shellfish poll" harvesting none. Example 2: Dalian harbor channel obstruction

#### 4.1.3 《国家海域使用管理暂行规定》的出台

The promulgation of National Sea use management tentative rule

1991 年，国家海洋局、财政部专门向国务院报告《关于外商投资企业使用我国海域有关问题的报告》。

In 1991, State Oceanic Administration, the Ministry of Finance report to State Council

"Report to foreign-investment enterprise use our country sea area problem ".

1992 年 5 月，国务院批复明确要求“为加强对使用我国海域（包括内海、领海的水体、底土部及其上空）的管理，应尽快制定对国内外企业使用我国海域从事生产经营活动的行政管理办法，实行颁发海域使用许可证的制度和有偿使用海域的制度。In May, 1992, The State Council gives a written reply to ask for: In order to strengthen china's sea area use management (including inland sea, territorial water body the air space over the territorial sea as well as the bed and subsoil,), we should formulate related administration management method to the domestic and foreign enterprises who is engaged in production use our sea area as soon as possible, and we should carry out sea area use license system and use sea area remunerative system.

1993 年 5 月，财政部、国家海洋局颁布了《国家海域使用管理暂行规定》，开始在全国实施海域管理制度。

In May , 1993, the Ministry of Finance , State Oceanic Administration promulgated the sea use management tentative rule, sea area management system put into effect

in the whole nation.

#### 4.1.3 《中华人民共和国海域使用管理法》的出台

##### The law of the People's Republic of China on the Administration of Sea Areas

2001 年 10 月 27 日，第九届全国人大常委会第 24 次会议审议通过了《中华人民共和国海域使用管理法》，并于 2002 年 1 月 1 日起施行。

The law of the People's Republic of China on the Administration of Sea Areas has been passed at the twenty fourth meeting of the Standing Committee of the National People's Congress of the People's Republic of China on October 27, 2001 and is hereby promulgated for implementation as of January 1, 2002.

#### 4.2 海域使用管理的基本概念

##### Basic conception on management of water's usage

##### 4.2.1 什么是海域？

###### What's water?

海域使用管理既然是排他性的使用管理，其管理范围只能是我国享有主权利的内水和领海。《海域使用管理法》第 2 条规定，海域是指中华人民共和国内水、领海的水面、水体、海床和底土。海域是一个立体的客观实体，它不仅仅是水面，还包括水面以下的水体、海床和底土，是有厚度和垂直结构的。

Since the use and management of the sea's areas are the exclusive use management, the management of scope only to our sovereign right of the water and the seas. <<Law of the Sea's Area>>No. 2, the sea's area refers to the PRC's internal waters, territorial sea surface, water, sea-bed and subsoil. Sea's area is a three-dimensional and objective entity, it not only include the surface but also the body of water below the surface, the seabed and subsoil, including the thickness and vertical structure.

##### 4.2.2 海域使用

###### sea area usage

《海域使用管理法》第 2 条规定，“在中华人民共和国内水、领海持续使用特定海域三个月以上的排他性用海活动，适用本法。”这一定义包含了四个重要内容点：

<<Law of the Sea Area>> NO.2 provides that This law is applicable to the sustaining usage of water and territorial waters of People's Republic of China for more than three months with the exclusion. This definition includes four important elements:

一是使用特定海域：水面（海上浮标、浮码头）、水体（筏式、网箱养殖）、海床（底播增殖、人工渔礁）和底土（海底电缆、海底隧道），只要占用其中之一就是海域使用；

First, the use of specific sea's area: water surface (sea buoys and floating piers), water (RAFT, cage culture), Seabed (bottom sowing proliferation and artificial reefs) and the subsoil (submarine cable, submarine tunnels), occupying one of them is the usage of waters.

二是使用的是一个固定海域，而非偶尔进入，如船只在公用航道航行就不是海域使用；

Second, the usage is a fixed waters, rather than occasional access, such as a vessel navigating on the public channels is not the use of waters

三是使用海域的时间具有连续性，且在三个月以上；

Third, the use of waters has continuity of time, and more than three months;

四是特定的开发利用活动具有排他性，亦即只要此项利用发生后，在此海域中不能有其他的固定开发利用活动。

Fourth, the development and utilization of specific activities was exclusive, As long as such use is in the wake of this area, this area can not be fixed any other activities.

满足上述一、二点，时间不足三个月但可能对国防安全、海上交通安全和其他用海活动造成重大影响的排他性用海活动也要依据《海域使用管理法》进行管理，这就是所谓的临时海域使用。

Meet the above first and second points, the time may be less than three months, but producing significant impact on national security, maritime safety and other sea activities with exclusive use of the sea also should base "Law of the Sea Area" management, which is the so-called temporary use of the waters.

#### 4.2.3 海域国家所有权和海域使用权

海域国家所有权：指国家依法对海域享有占有、使用、收益、处分的权利。《物权法》“所有权”编第 46 条规定“矿产、水流、海域属于国家所有”。

State ownership of the sea: it refers to right of possession, use, income, management of state of the sea. <<Property Law>>"ownership", section 46 provides that "minerals, water and the sea belongs to the state."

海域使用权：是指权利人依法对国家所有的海域享有占有、使用和收益的限制物权。



《物权法》“用益物权”编第 122 条专门规定“依法取得的海域使用权受法律保护”。  
The right to use of the waters: the rights owner enjoy the sea possession, use and benefits of the restrictions property of the countries according to law. <<Property Law>>"Usufruct" section 122 specifically provides that "Rights of the water use obtained lawfully protected by law."

《物权法》规定海域所有权和海域使用权的重要意义：

——这一规定将海域从公法意义上的自然资源变成了私法上的不动产。

——在海域开发利用上建立了一种重要的激励制度。

"Property Law" stipulates the significance of ownership and the usufruct of maritime space.

—— This provision will turn the sea's area from public law of the natural resources into the private estate.

—— Building an important incentive system on exploitation of the seas

#### 4.3 海域使用管理的职责

The functional responsibility of sea use management

##### 4.3.1 保障经济和社会发展

Ensure economic and social development

##### 4.3.2 实现海域的可持续利用

Realize sea area sustainable use

##### 4.3.3 促进海域使用的公平分配和市场建设

Promote sea use fair assignment and market construction

##### 4.3.4 界定和保护海域使用权

Assure and protect the right of sea use

##### 4.3.5 维护国家的海域收益权

Maintain national interest right of sea use

#### 4.4 海域权属管理制度

##### The management system of sea area ownership

##### 4.4.1 海域使用权的取得

##### The obtain of sea use right

行政审批方式：海域使用申请审批

**Administrative approval way: Application and Approval for the Use of Sea Areas**

市场化方式：海域使用权招标投标。推进海域使用权招标投标有例外，即国家重点建设项目用海、国防建设项目用海、传统赶海区、海洋保护区、有争议的海域、涉及公共利益的海域以及法律法规规定的其他用海情形除外。

**Marketability way: Sea use right public tender and auction. we should propel the sea use right public tender and auction system except that the use of sea for projects of key construction, the use of sea for projects of national defense construction, the traditional fisherman sea area, the protection area, disputable area, involves the public interest area as well as other sea area provided by law or regulations.**

##### 4.4.2 海域使用权登记

##### The registration of sea use right

海域使用权登记是指依法对海域的权属、面积、用途、位置、使用期限等情况以及海域使用权派生的他项权利所作的登记。包括：

The registration of sea use right is a lawfully registration to sea area's ownership, area, use, situation, maximum term and other derivative rights. Including:

海域使用权初始登记

**Initial registration**

海域使用权变更登记

**Alter registration**

海域使用权注销登记。

**Cancel registration**

## 4.6 海域有偿使用制度

Sea area use remunerative system.

### 4.6.1 为什么建立海域有偿使用制度

The reason for establishment of sea area use remunerative system.

只有实行海域有偿使用制度，对海域使用权引入市场机制，才有利于国家海域所有权在经济上得到实现。

Only through the Sea area use remunerative system, and introduction of market mechanisms in the right of sea use, can our country realize the sea area ownership economically.

实行海域有偿使用制度，可以促使海域开发投资商，充分考虑投入产出比，避免盲目圈占海域，有效遏制因海域无偿使用引发的开发无度、利用无序的混乱状况。

Implementation of the sea area use remunerative system may oblige the Investor take the ratio of input and output in to consideration, avoid occupy the sea area eyeless, effectively restraint the chaotic situation caused by excessive exploitation and disorder using because of sea area gratuitous use.

### 4.6.2 海域使用金征收标准

The standard of royalties imposed on sea use

海域使用金征收标准的测算：

The standards calculate for royalties imposed on sea use.

——海域空间资源占用金：是指利用和占用海域空间资源的单位和个人，需要向国家缴纳的海域纯收益。

——Royalties for occupation of the space resources: Any entity or individual who use and occupy the marine space resources, should pay their net revenue to the states

——海域自然属性改变附加金：是指国家根据开发利用活动对海域自然属性的破坏程度及国家产业政策，而向用海单位和个人收取的补偿金。

——Additional Royalties for changing the marine natural attributes : The compensation collected from the sea using entity or individual, According to the extent of damages to marine natural attributes and State's industrial policy.

海域使用分类：填海造地用海、构筑物用海、围海用海、开放式用海、其他用海。

Classification of sea area using: The use of sea for filling up the sea, the use of sea for elevated structures, the use of sea for encircling the sea, the use of the sea for opening, the use of the sea for other projects.

海域分等结果：根据海洋经济发达程度、区域经济发展水平、毗邻土地属性、区位条件、资源稀缺性和海洋环境质量等六个方面因素，把中国沿海 223 个县（市、区）的毗邻海域划分为六个等级，确定了不同海域等别、不同用海类型的海域使用金征收标准。

The results of sea use gradation: According to marine economic development levels, regional economic development levels, adjacent land properties, geographic conditions, resources scarcity and marine environmental quality and the like, the Chinese 223 coastal counties' (cities, Zone) contiguous sea area were classified into six grades. And the standard of royalties imposed on sea use was set in terms of the sea area grade and using type.

#### 4.6.3 海域使用金征收管理

##### Collection and management of royalties for using sea areas

海域使用金的缴纳方式

##### Payment way of royalties for using sea areas

——一次性缴纳：填海造地、非透水构筑物、跨海桥梁和海底隧道等；

——Pay once for all: Marine reclamation land, slack structures, cross-sea Bridge,

tunnel, and so on;

——按年度缴纳：透水构筑物、围海用海、开放式用海、其他用海等。

Pay on the yearly: water-passable structures, the use of sea for encircling the sea, the use of the sea for opening, the use of the sea for other projects.

以招标、拍卖方式取得海域使用权的项目用海，海域使用金征收金额按照招标、拍卖的成交价款确定。

The sea use project which obtained sea use right by public tenders or auctions, the number of royalties for using sea areas would be determined by the tenders or auctions price.

对不按规定及时足额缴纳海域使用金的，一律按照其滞纳日期及滞纳金额按日加收1‰的滞纳金。

As for those who will not pay the use timely and fully according to the regulation, they must pay 1‰ daily penalty for late payments in accordance with their dates and late fees.

海域使用金的缴库方式

the treasury way of sea using's payment

——地方人民政府管理海域以外以及跨省（自治区、直辖市）管理海域的项目用海缴纳的海域使用金，全额缴入中央国库；

The sea using project which is beyond the Local government's management, or interprovincial (interautonomous regions, intermunicipalities) management, the royalties for using sea areas shall be turned over to the state treasury in full;

——养殖用海缴纳的海域使用金，全额缴入同级地方国库；

All of Culturing sea using's payment will be contributed to local treasury of the same level;

——除上述两类以外的其他用海项目缴纳的海域使用金，30%缴入中央国库，70%缴入用海项目所在地的省级地方国库。

In addition to the above two categories ,other sea using projects' payment contributed 30% of the central treasury. 70% of the provincial treasury where.the sea

using projects locate.

#### 4.6.4 海域使用金减免管理

The management of the sea area using fee's relief

法定免缴范围:

The scope of the statutory remission:

——军事用海;

——Military Sea Use;

——用于政府行政管理目的的公务船舶专用码头用海，包括公安边防、海关、交通港航公安、海事、海监、出入境检验检疫、环境监测、渔政、渔监等公务船舶专用码头用海;

—— The sea use of official Shipping's dedicated terminal with the purpose of the government administration, including public security's frontier defence, customs, public security PMB traffic, marine, Ocean monitoring, entry-exit inspection and quarantine, environmental monitoring, fishery, VMS, and so on

——航道、避风（避难）锚地、航标、由政府还贷的跨海桥梁及海底隧道等非经营性交通基础设施用海

——Sea use of Fairway, sheltered (asylum) Anchorage, the Buoy (beacon), Cross-sea bridge repayed by the government and Harbor Tunnel, and other non-operating transport infrastructure

——教学、科研、防灾减灾、海难搜救打捞、渔港等非经营性公益事业用海。

——Sea use of Teaching, research, disaster prevention and reduction, sea rescue salvage fishing port, and other non-operating public welfare undertakings

法定减免范围:

The scope of the statutory remission:

——除避风（避难）以外的其他锚地、出入海通道等公用设施用海。

——public facilities sea use of other anchorage, the channel that get into and out of the sea

In addition to the sheltered (asylum)

——列入国家发展和改革委员会公布的国家重点建设项目名单的项目用海。

——project sea use Included in the key construction projects list published by National Development and Reform Commission

——遭受自然灾害或者意外事故，经核实经济损失达正常收益 60%以上的养殖用海。

——the culturing sea that has suffered natural disasters or accidents and be verified economic losses amounting to more than 60% of normal income.

## Marine spatial planning in China



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July, 2007

### **Introduction of comprehensive marine spatial planning in China**

1. Background of marine spatial planning
2. Guiding plan: marine functional zoning
3. Deciding plan: coastal sea protection and use planning
4. Application of plan: sea use management



	<h2><b>Background of marine spatial planning</b></h2>

	<h3><b>United Nations' Convention on the Law of the Sea</b></h3>
	<ul style="list-style-type: none"><li>◆ It provides a scope of marine spatial plan.</li><li>◆ Countries have different rights on internal waters, territorial sea, exclusive economic zone and continental shelf.</li><li>◆ It provides a content basis to marine spatial plan.</li></ul>

## **Contradiction and conflict of sea exploitation and use**

- ◆ Traditional use patterns: fishing, transporting salt and so on.
- ◆ New use pattern: culturing, development of the port, maritime industry, oil and gas extraction, coastal tourism and so on.
- ◆ Inshore waters start to become scarce resources, and contradictions and disputes which among channel ports, aquaculture, oil exploration, salt production, coastal tourism, military facilities appear in ocean exploitation and use.

## **Inshore water's pollution and ecological deterioration**

- ◆ Inshore water's pollution is very serious, and partial area has lost the utility function.
- ◆ Coastal ecosystem has degraded and important fishery resources have failed.
- ◆ Natural landscapes of sea coastal have suffered destruction, and the disaster prevention and mitigation capacity of marine has reduced.

## **The conflict among sea involving managements**

- China's ocean management is multisectoral management, and has many departments of sea involving, including about 10 departments such as foreign affairs, national defense, agriculture, transportation, land, environment, oil, ships and so on.
- There are some disadvantages in practical work: it lacks a unified marine development strategy, policy and plan and it creates inter-departmental working uncoordinated even constraints and the buck. As a result it brings inefficiency, waste of resources, duplication of input, and many difficulties ahead.

## **The needs of marine management agency's exercising regime according to the law**

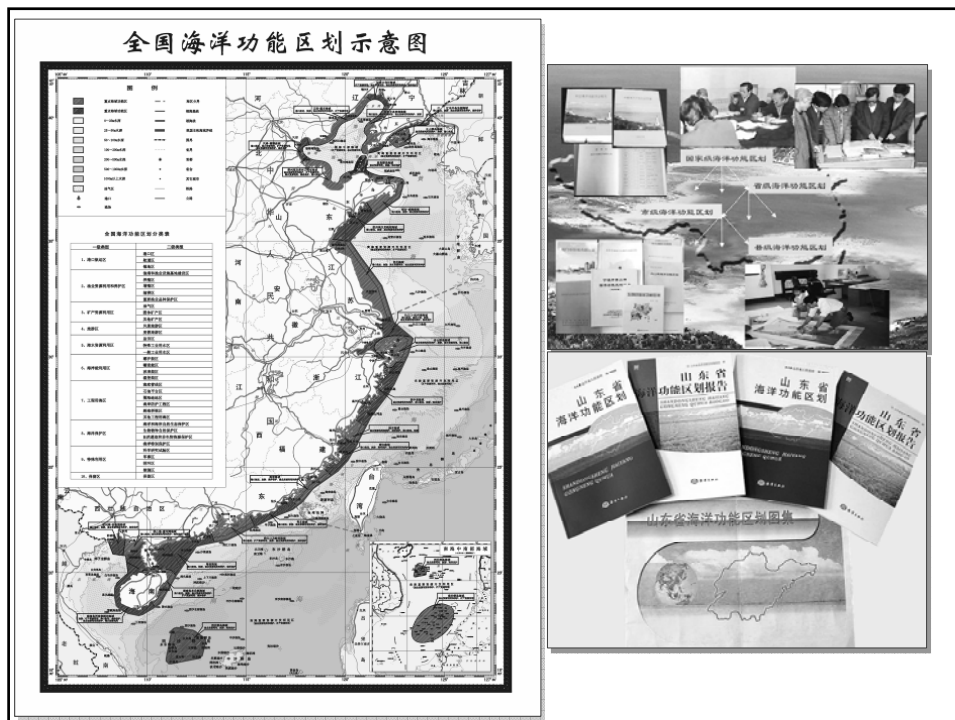
- ◆ 《Marine Environmental Protection Law》 was amended in 1999.
- ◆ 《Sea Use Management Law》 was established in 2001.
- ◆ The two laws clearly stipulate that marine function zoning is the scientific basis of marine management.

	<p style="text-align: center;"><b>Guiding plan: marine functional zoning</b></p>

	<p>From the angle of administrative regions marine function zoning may be classified:</p>

- |  |  |
|--|--|
|  |  |
|  | <ol style="list-style-type: none"><li>1. National marine function zoning</li><li>2. Provincial marine function zoning</li><li>3. City, county marine function zoning</li></ol> |

Marine function zoning, means that according to the sea conditions, the natural environment, natural resources, status of development and protection ,and the needs of economic and social development, we divide the sea into different function zones with different use types and environment quality requires in order to control and guide the direction of the use of the sea , protect and improve the marine ecological environment, and promote the rational development of the sea and marine economic sustainable development.



## **Deciding plan: coastal sea protection and use planning**

- The problem that marine function zoning can resolve: what are the special sea suitable for, not suitable for and what are prohibited.
- The problem that marine function zoning cannot resolve: the sea use way (reclamation, sea enclosing, not change the natural attributes )and development and utilization Plan of special sea especially the inshore waters of the sea.

	<b>The main purpose of coastal protection and utilization plan</b>
	<ul style="list-style-type: none"><li>◆ Implement coastal function administration into practice and strictly control the scope of reclamation.</li><li>◆ Implement coastal protection rating and use it strictly in accordance with the provisions of the level</li><li>◆ Implement overall control of and strictly control the quantity of reclamation.</li></ul>



	<b>Application of plan: sea use management</b>

	<p>Any application of a plan must</p>
	<p>have a legal basis and must have management platform. In order to guarantee the application of the sea space plan , the National People's Congress appear the 《Sea area Use Management Law》 in 2001.</p>

	<p><b>《Sea area Use Management Law》 has established three basic systems</b></p>
	<ul style="list-style-type: none"><li>◆ The sea ownership management system</li><li>◆ Marine functional zoning system</li><li>◆ The sea paid use system</li></ul>



	<b>《Sea area Use Management Law》 has established three basic systems</b>
	<ul style="list-style-type: none"><li>◆ The sea ownership management system: The sea using of unit and individual, must legally obtain the sea use right. The sea use right may be obtained not only by the way of application examination and approval, but also the tender or the auction.</li></ul>



	<b>《Sea area Use Management Law》 has established three basic systems</b>
	<ul style="list-style-type: none"><li>◆ Marine functional zoning system: The country implements marine functional zoning system, the sea use must conform to the marine functional zoning. The nation strictly administrates the sea using activities which will change the sea' s natural attribute such as reclamation, sea enclosing and so on.</li></ul>

	<b>《Sea area Use Management Law》 has established three basic systems</b>
	<p>◆ The sea paid use system:</p> <p>The national practices the sea paid use system. The sea using of unit and individual, must pay for the use according to the State Council's regulations . The sea use money must be turned over to the finance according to the State Council' s regulations.</p>

	<b>Marine functional zoning</b>
	<ol style="list-style-type: none"><li>1. Laws and regulations of marine functional zoning</li><li>2. Principle of marine functional zoning</li><li>3. Classification system of marine functional zoning</li><li>4. Methods of marine functional zoning</li><li>5. Steps of marine functional zoning</li><li>6. Making and permission procedures of marine functional zoning</li><li>7. Administration of marine functional zoning</li><li>8. Further study about the issue of marine function zoning</li></ol>

	<h2><b>Laws and regulations of marine functional zoning</b></h2>

	<h3><b>Law basis</b></h3>
	<ul style="list-style-type: none"><li>◆ The People's Republic of China Sea Use Management Law</li><li>◆ The People's Republic of China Marine Environmental Protection Law</li><li>◆ The People's Republic of China Port Law</li></ul>

	<p><b>Regulation basis</b></p>
	<ul style="list-style-type: none"> <li>◆ Prevent and govern marine construction project pollution damage marine environment management ordinance</li> <li>◆ Sea use management ordinance of Hebei, Shandong, Jiangsu, Fujian, Guangdong and Hainan</li> </ul>

	<p><b>State Department document basis</b></p>
	<ul style="list-style-type: none"> <li>◆ State Department reply of national marine function zoning</li> <li>◆ State Department' s reply about marine function zoning of Liaoning, Hebei, Shandong, Jiangsu, Zhejiang, Fujian, Guangxi and Hainan.</li> </ul>

	<h2>Principle of marine functional zoning</h2>

	<h3><b>Determining the function of the sea Scientifically in accordance with the natural attributes</b></h3>
	<ul style="list-style-type: none"><li>◆ Area place condition: Be to refer to the places that the developing activity occupy and attributes that places have.</li><li>◆ Natural environment: Be to refer to geology , the general configuration of the earth's surface , the climate , hydrology , living things , chemistry environment , natural calamities and so on..</li><li>◆ Natural resources: Be to refer to port resources, fishery resources , mineral resources , seawater resource , regenerative energy, tourism Resources, shoal resourcesand so on.</li></ul>

	<p><b>Making arrangements for sea use of various sectors in accordance with economic and social development needs</b></p>
	<p>◆ Priority ensuring</p> <ol style="list-style-type: none"> <li>1. Protect public interests and national defense construction projects ;</li> <li>2. Protect national key construction projects ;</li> <li>3. Ensure sea use of traditional fishermen.</li> </ol>

	<p><b>Protecting and improving the ecological environment ,in order to keep sustainable use of the sea</b></p>
	<ul style="list-style-type: none"> <li>◆ According to marine resources' regeneration and the marine environment' s carrying capacity, scientifically establishing the sea and islands' function, keeping the marine environment healthy, achieving sustainable use of the sea and islands.</li> <li>◆ 1. Priority division: Marine protected areas、 Important fisheries species protected areas、 reserved areas ;</li> <li>◆ 2. Strictly limited: reclamation area 、 sewage area 、 Dumping area</li> </ul>

	<p><b>Principles of coordination and consultations</b></p>
	<ul style="list-style-type: none"> <li>◆ Marine function zoning should be a reasonable reflection of the marine development and protection idea from all departments and areas, coordinate relations with other planning sea involving , solve contradictions among all sea involving sectors and prevent the function conflict of adjacent waters of the sea on the basis of full consultation.</li> </ul>

	<p><b>Optional principle</b></p>
	<ul style="list-style-type: none"> <li>◆ In the region With a variety of functions, where there are some functional mutual incompatibility, priority should be given to setting up the projects in direct marine exploitation and utilization whose resources and environmental conditions are narrowly optional. While also paying attention to the oceans' exploitation and utilization functions both of relying on marine nature and non-maritime matching.</li> </ul>

	<p><b>Protecting and improving the ecological environment ,in order to keep sustainable use of the sea</b></p>
	<ul style="list-style-type: none"> <li>◆ According to marine resources' regeneration and the marine environment' s carrying capacity, scientifically establishing the sea and islands' function, keeping the marine environment healthy, achieving sustainable use of the sea and islands.             <ol style="list-style-type: none"> <li>1. Priority division: Marine protected areas、 Important fisheries species protected areas、 reserved areas ;</li> <li>2. Strictly limited: reclamation area 、 sewage area、 Dumping area</li> </ol> </li> </ul>

	<p><b>Prospective principle</b></p>
	<ul style="list-style-type: none"> <li>◆ Marine function zoning should fully reflect the prospective awareness of marine development and protection and have some flexibility for enhancing technical level of marine development and utilization and comprehensive benefits on the basis of objectively looking to the future of science and technology and the level of socio-economic development.</li> </ul>



	<p>Classification system of marine functional zoning</p>

	<p>1. Port and shipping area Harbour area, Channel area, Anchor ground area,</p>
	<p>2. Fishery resource use and conservation area Fishing port and Fishery facilities basic building area, Breed area, Proliferate area, Catch area, Important Fishery breed protected area</p>
	<p>3. Mineral resources use area Oil gas area, Solid mineral area</p>

	4. Tourist area
	Scenery tourist area , Travel resort area
	5. Sea water use area
	Salina area, Peculiar industrial water area, General industrial water area
	6. Marine power use area
	Tidal energy area, Tidal current energy area, Wave energy area, Temperature difference energy area

	7. Project sea use area
	Submerged pipeline area, Petroleum platform District, Make area around the sea, Coast protected project area, Bridge area across the sea, other protective sea use area
	8. Sea protection area
	Marine nature reserve, Special protection area of ocean,

	<p>9. Special use area</p>
	<p>Experimental area of science and study ,  Military affairs area, Drain contamination  area, Dump area</p> <p>10. Reserved area</p> <p>It refers to the sea area which is not  exploited at present and should not exploit  in the limit time of area's divide.</p>

	<p style="text-align: center;">Methods of  marine functional zoning</p>

## **Indicator method**

- ◆ Delineating marine functional areas mainly use indicator method, and identified specific types of marine functional areas according to marine functional classification system and the indicator system and considering natural attributes, social attributes and environmental protection requirements of different zones of the marine.

## **Superposition method**

- ◆ Superposition method should compile collected different types of information into a map, superpose with collected various maps (all maps should zoom into the same scale) and make analysis and comparison based on the principles of function zoning. Reserving reasonable functions, throwing out the unreasonable ones, comparing and determining the leading functions.

	<b>Comprehensive analysis method</b>
	<ul style="list-style-type: none"><li>◆ Comprehensive analysis method is to coordinate all relations of sea involving and identify types of marine functional areas and prioritizing relations of the functions according to the principle of zoning, using the situation' s analyzes results of Chapter 6 and considering the sea natural attributes, social attributes and environmental protection requirements.</li></ul>

	<b>Steps of marine functional zoning</b>

1.	Identify the functional type of each area based on natural attributes
2.	For multifunctional, making analysis and comparison and identifying the leading functions.
3.	Make comparison between mainly function (single function) and the status quo of development and planning, if agreed, this function area is established; If not, but having no fundamental contradiction the status quo of development may be retained and the development activities should be led to the direction of mainly function; if having fundamental contradiction, coordination between the status quo and plan should go along through the relevant departments, industry, government.

	<p style="text-align: center;">Making and permission procedures of marine functional zoning</p>

	<ol style="list-style-type: none"><li>1. Making procedures</li><li>2. Examine and approve procedures</li><li>3. Modification procedures</li></ol>

	<p>Administration of marine functional zoning</p>

	<b>Mandatory administration</b>
	<ul style="list-style-type: none"><li>◆ All I-level and II-level marine functional zones must make certain the content that strictly enforced and mandatory</li></ul>



	<b>Plan gist</b>
	<ul style="list-style-type: none"><li>◆ Culturing, salt, transport, tourism and other sectors should be planned to meet the marine function zoning . Land, city, port planning should link up with marine function zoning.</li></ul>



	<p><b>Environmental protection</b></p>
	<ul style="list-style-type: none"> <li>◆ Making plan of marine environment protection, deciding the location of outlet, setting deep-sea and offshore outlet of land-based pollutants, Examining and approving sea involved project, electing and dividing marine protected and Ocean Dumping areas and so on must be in accordance with marine functional zoning.</li> </ul>

	<p><b>Rectify plan</b></p>
	<ul style="list-style-type: none"> <li>◆ provincial governments must focus on organizations to develop the rectify plan of major sea use and clearly identify the projects' timetable of suspension , removal, relocation or closing which do not meet the marine function zoning.</li> </ul>

	<p>Further study about the issue of marine functional zoning</p>

	<ul style="list-style-type: none"><li>■ How to improve the level of marine function zoning;</li><li>■ How to prevent marine function zoning from frequently rectifying after being approved ;</li></ul>
	<ul style="list-style-type: none"><li>■ How to restrict on blind expansion of the land reclamation area</li><li>■ How to administrate marine functional zoning strictly to prevent from approving and using the sea unaccording to it.</li><li>■ How to coordinate the relationship between marine function zoning and professional planning?</li></ul>

## Sea use management



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July, 2007

- Recall of sea use management
- Basic conception on management of water's usage
- The functional responsibility of sea use management
- The management system of sea area ownership
- Sea area use remunerative system.

	<h2>Recall of sea use management</h2>

- |  |  |
|--|--|
|  | <ul style="list-style-type: none"><li>■ Human being's cognition to sea and their value</li></ul>   |
|  | <ul style="list-style-type: none"><li>■ Since the eighties of the twentieth century, some new situation and problem have appeared in sea use and exploitation of China</li><li>■ The promulgation of National Sea use management tentative rule</li><li>■ The law of the People's Republic of China on the Administration of Sea Areas</li></ul> |

	<h2>Basic conception on management of water's usage</h2>

	<h2>What's water?</h2>
	<ul style="list-style-type: none"><li>■ Since the use and management of the sea's areas are the exclusive use management, the management of scope only to our sovereign right of the water and the seas. &lt;&lt;Law of the Sea's Area&gt;&gt;No. 2, the sea's area refers to the PRC's internal waters, territorial sea surface, water, seabed and subsoil. Sea's area is a three-dimensional and objective entity, it not only include the surface but also the body of water below the surface, the seabed and subsoil, including the thickness and vertical structure.</li></ul>

## sea area usage

- <Law of the Sea Area> NO.2 provides that This law is applicable to the sustaining usage of water and territorial waters of People's Republic of China for more than three months with the exclusion.

- This definition includes four important elements:
1. The use of specific sea's area
  2. The usage is a fixed waters, rather than occasional access, such as a vessel navigating on the public channels is not the use of waters
  3. The use of waters has continuity of time, and more than three months
  4. The development and utilization of specific activities was exclusive, As long as such use is in the wake of this area, this area can not be fixed any other activities.
  5. Meet the above first and second points, the time may be less than three months, but producing significant impact on national security, maritime safety and other sea activities with exclusive use of the sea also should base "Law of the Sea Area" management, which is the so-called temporary use of the waters.

## **State ownership of the sea**

- it refers to right of possession, use, income, management of state of the sea. <<Property Law>>“ownership”, section 46 provides that “minerals, water and the sea belongs to the state.

## **The right to use of the sea areas**

- The rights owner enjoy the sea possession, use and benefits of the restrictions property of the countries according to law. <<Property Law>>"Usufruct" section 122 specifically provides that "Rights of the water use obtained lawfully protected by law."

	<b>significance</b>
	<ul style="list-style-type: none"><li>■ "This provision will turn the sea's area from public law of the natural resources into the private estate.</li><li>■ Building an important incentive system on exploitation of the seas</li></ul>

	<b>The functional responsibility of sea use management</b>



- |  |   |
|--|---|
|  |   |
|  | <ul style="list-style-type: none"><li>■ Ensure economic and social development</li><li>■ Realize sea area sustainable use</li><li>■ Promote sea use fair assignment and market construction</li><li>■ Assure and protect the right of sea use</li><li>■ Maintain national interest right of sea use</li></ul> |

	<p style="text-align: center;"><b>The management system of sea area ownership</b></p>

## **The obtain of sea use right**

- Administrative approval way: Application and Approval for the Use of Sea Areas
- Marketability way: Sea use right public tender and auction. we should propel the sea use right public tender and auction system except that the use of sea for projects of key construction, the use of sea for projects of national defense construction, the traditional fisherman sea area, the protection area, disputable area, involves the public interest area as well as other sea area provided by law or regulations.

## **The registration of sea use right**

- The registration of sea use right is a lawfully registration to sea area's ownership, area, use, situation, maximum term and other derivative rights. Including:
  1. Initial registration
  2. Alter registration

	<p style="text-align: center;"><b>Sea area use remunerative system</b></p>

	<p style="text-align: center;"><b>The reason for establishment of sea area use remunerative system</b></p>
	<ul style="list-style-type: none"><li>■ Only through the Sea area use remunerative system, and introduction of market mechanisms in the right of sea use, can our country realize the sea area ownership economically.</li><li>■ Implementation of the sea area use remunerative system may oblige the Investor take the ratio of input and output in to consideration, avoid occupy the sea area eyeless, effectively restraint the chaotic situation caused by excessive exploitation and disorder using because of sea area gratuitous use.</li></ul>

## **The standard of royalties imposed on sea use**

- The standards calculate for royalties imposed on sea use:
  1. Royalties for occupation of the space resources: Any entity or individual who use and occupy the marine space resources, should pay their net revenue to the states
  2. Additional Royalties for changing the marine natural attributes: The compensation collected from the sea using entity or individual, According to the extent of damages to marine natural attributes and State's industrial policy.

## **The standard of royalties imposed on sea use**

- Classification of sea area using:

The use of sea for filling up the sea, the use of sea for elevated structures, the use of sea for encircling the sea, the use of the sea for opening, the use of the sea for other projects.

## **The standard of royalties imposed on sea use**

- The results of sea use gradation:  
According to marine economic development levels, regional economic development levels, adjacent land properties, geographic conditions, resources scarcity and marine environmental quality and the like, the Chinese 223 coastal counties' (cities, Zone) contiguous sea area were classified into six grades. And the standard of royalties imposed on sea use was set in terms of the sea area grade and using type.

## **Collection and management of royalties for using sea areas**

- Payment way of royalties for using sea areas:
  1. Pay once for all: Marine reclamation land, slack structures, cross-sea Bridge, tunnel, and so on;
  2. Pay on the yearly: water-passable structures, the use of sea for encircling the sea, the use of the sea for opening, the use of the sea for other projects.

## **the treasury way of sea using's payment**

- The sea using project which is beyond the Local government's management, or interprovincial (interautonomous regions, intermunicipalities) management, the royalties for using sea areas shall be turned over to the state treasury in full;
- All of Culturing sea using's payment will be contributed to local treasury of the same level;
- In addition to the above two categories ,other sea using projects' payment contributed 30% of the central treasury. 70% of the provincial treasury where.the sea using projects locate.

## **The management of the sea area using fee's relief**

- The scope of the statutory remission:
  1. Military Sea Use;
  2. The sea use of official Shipping's dedicated terminal with the purpose of the government administration, including public security's frontier defense, customs, public security PMB traffic, marine, Ocean monitoring, entry-exit inspection and quarantine, environmental monitoring, fishery, VMS, and so on

## **The management of the sea area using fee's relief**

- The scope of the statutory remission:
  3. Sea use of Fairway, sheltered (asylum) Anchorage, the Buoy (beacon) , Cross-sea bridge repaid by the government and Harbor Tunnel, and other non-operating transport infrastructure ;
  4. Sea use of Teaching, research, disaster prevention and reduction, sea rescue salvage fishing port, and other non-operating public welfare undertakings .

## **The management of the sea area using fee's relief**

- The scope of the statutory remission:
  1. public facilities sea use of other anchorage, the channel that get into and out of the sea ;
  2. project sea use Included in the key construction projects list published by National Development and Reform Commission
  3. the culturing sea that has suffered natural disasters or accidents and be verified economic losses amounting to more than 60% of normal income .

	Thanks