Curbing Marine Environmental Degradation: China’s New Legislation

The amended Law on Marine Environmental Protection (hereinafter referred to as the MEPL), which was passed at the Thirteenth Session of the Standing Committee of the Ninth National People’s Congress (NPC) of the People’s Republic of China on 25 December 1999, came into force on 1 April 2000.¹ The promulgation of the revised MEPL can be seen as a significant step to strengthen China’s further efforts to protect the marine environment and to preserve marine resources by legal means. This paper aims to assess the newly amended law by comparison with the previous law as well as with relevant international treaties.

Why Was an Amendment to the MEPL Necessary?

There are several reasons why an amendment to the MEPL had become necessary.

*Continuing deterioration of the quality of the marine environment*

As this author has already pointed out elsewhere, the situation of the marine environment was poor, and widespread pollution had been identified in the Bohai Sea, the Yellow Sea, the East China Sea and the South China Sea, even if the level of contamination varied between locations.² Disappointingly, the situation in 1999 and 2000 was no better than in previous years. The environmental survey conducted by the State Oceanic Administration (SOA) in late 1999 and early 2000 showed that the speed of marine pollution had slowed down to some extent, but the general trend of deterioration of marine

environmental quality had not been effectively curbed by the end of the 20th century. Deterioration has been detected mainly in the following four respects:

1. heavy pollution along the river mouths, bays and coastal areas;
2. the expanding scope of offshore polluted waters with obvious eutrophical salts including nitrogen and phosphorous;
3. frequent pollution incidents and other environmental disasters; and
4. increasing severity of marine natural and ecological damage.

Thus the official Explanation on the Revised Draft of the MEPL listed the continuing deterioration of the marine environment as the prime reason for the amendment. It concluded that "the relevant existing stipulations are not suitable" for containing such an adverse situation.

**Changed legal situation**

The old Law was promulgated in 1982 when China had just entered into the initial stage of economic reform and openness. The legislative focus at that time was on how to control pollutants entering the sea from the production processes of industry and from agriculture. While it focused on pollution control, it ignored the importance of protecting the marine ecological environment as a whole. For this reason, the old Law had its limits because it could not comprehensively govern the protection of the marine environment. On the other hand, the fast growth of China's economy since the 1980s, particularly in the coastal regions, has put even greater pressure on the marine environment. The conflict between the goals of development and enhanced utilisation of marine resources and of the protection of the marine environment has become even sharper. Damage resulting from human activities other than pollution has become even more common and startling.

Recent developments indicated that the old MEPL could not deal with properly the problems relating to the sustainable development of the sea. In addition, the legal liabilities imposed by the old Law were not strong enough to prevent and control acts that caused marine environmental damage.

The need to amend also came from the requirements set forth in *China Ocean Agenda 21* which was prepared in 1996 in line with the global Agenda 21 and China's national Agenda 21. It stated that:

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