

# China Coast Guard's Gray Zone Operations and Potential Countermeasures

**Yun-Hu Yeh**

*Associate Professor, Department of Maritime Police, Central Police University*

## **Abstract**

The recent developments in the China Coast Guard, such as its integration with the People's Armed Police and the implementation of the *China Coast Guard Law*, indicate a significant shift towards a more militarized and assertive maritime law enforcement body. This transformation has implications for regional security, particularly concerning gray zone operations against Taiwan, where the lines between military and law enforcement activities are blurred. These operations challenge Taiwan's jurisdiction in the Taiwan Strait and its surrounding waters. It is crucial for Taiwan to uphold its legal stance on maritime boundaries, as this is a fundamental aspect of its sovereignty. Taiwan's response should also focus on preventing unauthorized Chinese jurisdiction over its fishing vessels and educating the public on the risks and regulations related to maritime activities. This paper examines the evolving role of the China Coast Guard and explores potential countermeasures that Taiwan could adopt to safeguard its maritime interests.

**Keywords:** China Coast Guard, Gray Zone Operations, Taiwan Strait, Maritime Law Enforcement, People's Armed Police

## **I. The Making of the China Coast Guard**

### **1. Reforming the System of Five Dragons Taming the Sea to Achieve Great Maritime Power**

In the second half of 2012, China established the Central Maritime Rights and Interests Leading Small Group Office (中央海洋權益工作領導小組辦公室, hereinafter the Office). The Office's members include high-level representatives from

17 government branches, including the Ministry of Land and Resources, the Ministry of Foreign Affairs, the Ministry of Public Security, the Ministry of Agriculture, and the People's Liberation Army Navy. This Office serves as a high-level coordinating body for maritime-related departments and at the time of its creation was personally led by Xi Jinping.<sup>1</sup> Subsequently, on November 8, 2012, during the 18<sup>th</sup> National Congress of the Communist Party of China, then-General Secretary Hu Jintao emphasized the importance of the oceans in his report on national territory, asserting the need to build China into a “maritime great power.”<sup>2</sup>

Integrating China's existing and fragmented maritime law enforcement forces had become a matter of urgency. Before formally consolidating these forces into a leading maritime law enforcement agency — the China Coast Guard (CCG) — China had many departments involved in maritime enforcement. These included significant departments such as the Maritime Police of the Border Control Department (公安邊防海警部隊, Maritime Police), the Maritime Safety Administration of the Ministry of Transportation (交通部海事局, Maritime Safety), the Fisheries Law Enforcement Command of the Ministry of Agriculture (漁政, Fisheries Law Enforcement Command), the Maritime Surveillance under the State Oceanic Administration of the Ministry of Land and Resources (海監, Maritime Surveillance), the Police Force of Anti-Smuggling at Sea of the General Administration of Customs (海關總署緝私警察, Anti-smuggling Police Force), and PLA Navy.

Chinese scholars specializing in maritime affairs, particularly those who favor the U.S. Coast Guard model, have significantly shaped China's maritime strategy. Their preference for an integrated and comprehensive maritime law enforcement force

- 
1. 彭美, 師小涵, 邢丹, 〈中國海警局亮劍：中國海警局誕生 終結五龍治海〉, *People's Digest*, Issue 9, September 2013, *People.cn*, <[http://paper.people.com.cn/rmwz/html/2013-09/01/content\\_1307445.htm](http://paper.people.com.cn/rmwz/html/2013-09/01/content_1307445.htm)>; 〈中央海權辦成立：統一軍政各機構〉, *China Review News*, March 3, 2013, <<http://hk.crntt.com/doc/1024/5/5/8/102455848.html?coluid=7&kindid=0&docid=102455848>>.
  2. Taiwan Affairs Office of the Central Committee of the Communist Party of China, 〈胡錦濤在中國共產黨第十八次全國代表大會上的報告〉, November 17, 2012, *Taiwan Affairs Office*, <[http://big5.gwytb.gov.cn/wyly/201211/t20121119\\_3377324.htm](http://big5.gwytb.gov.cn/wyly/201211/t20121119_3377324.htm)>.



**Figure 1. General Secretary Hu Jintao calls for China to Be Turned into a “Maritime Great Power”**

Source: The National Committee of the Chinese People's Political Consultative Conference, “The 18<sup>th</sup> National Congress of the Communist Party of China,” November 14, 2012, *The National Committee of the Chinese People's Political Consultative Conference*, <<http://www.cppcc.gov.cn/zxww/shibada/tpbd/index.shtml>>.

influenced the Chinese government's early efforts in this direction.<sup>3</sup> The first such effort can be traced back to 2006, when then-Premier Wen Jiabao proposed merging various branches of the Maritime Police, the Fisheries Law Enforcement Command, Maritime Surveillance, Anti-smuggling Police Force, and Maritime Safety in the

---

3 李培志,〈我國海上綜合執法存在的問題及對策〉, *Public Security Education*, No. 3, March 2004, pp. 34-35; 何忠龍, 任興平, 馮永利,〈我國海上綜合執法的任務分析〉, *Ocean Development and Management*, No. 6, June 2007, pp. 59-62; 吳建生,〈試論統一我國海上行政執法主體—組建中國海岸警衛隊〉,《珠江水運》, No. 8, August 2012, p. 78; 李響,〈我國海上行政執法體制的建構〉, *Journal of Soochow University (Philosophy & Social Science Edition)*, Vol. 33, No. 3, p. 81.

Beibu Gulf. Although this initial attempt did not succeed, it marked the earliest pilot project for the concept.<sup>4</sup>

## 2. The Development of a Comprehensive, Centralized, and Integrated Coast Guard

The First Session of the 12<sup>th</sup> National People's Congress of China, held on March 5, 2013, reviewed the "Plan for the Reform of Government Institutions and the Transformation of Functions"<sup>5</sup> (hereinafter the Functional Transformation Plan). The fifth item in this plan focused on establishing the National Oceanic Administration. The contents of this establishment are as follows:

"The National Oceanic Administration and its affiliated agencies, including Marine Surveillance, will be merged with the Maritime Police, the Fisheries Law Enforcement Command, and the Anti-Smuggling Police Force. The Ministry of Land and Resources will manage the restructured National Oceanic Administration. Its main responsibilities include drafting ocean development plans, enforcing maritime rights protection, and supervising the use of sea areas and marine environmental protection. The National Oceanic Administration will conduct maritime rights protection and law enforcement under the name of the China Coast Guard while receiving operational guidance from the Ministry of Public Security."<sup>6</sup>

On July 9, 2013, according to the Functional Transformation Plan, the National Oceanic Administration of China announced the so-called "Three-Fix Plan"<sup>7</sup> (三定

4. 劉昱龍,〈中國海警的歷史沿革和發展前景探析〉, *Legal System and Society*, No. 15, May 2013, p. 170.

5. 〈12屆全國人大會議明年3月5日召開 將選國家主席〉, *SINA News*, December 29, 2012, <<http://news.sina.com.cn/c/2012-12-29/004125920413.shtml>>.

6. 〈國務院機構改革和職能轉變方案〉, *CPC News Network*, March 10, 2013, <<http://theory.people.com.cn/n/2013/0310/c40531-20738452-2.html>>.

7. Three-Fix Plan refers to: A guiding document issued when a new Chinese institution is established or when there are significant changes during an institutional reform. The Three Fixes refer to: Defining functions, defining institutions, and defining staffing. 〈機關事業單位的「三定方案」規定了哪些內容,對單位有什麼意義〉, *SOHU*, September 8, 2019, <[https://www.sohu.com/a/338858461\\_189687](https://www.sohu.com/a/338858461_189687)>.



方案). On July 22 of the same year, the original building of the National Oceanic Administration began displaying signs for both the National Oceanic Administration and the CCG, officially marking the start of China's centralized, integrated, and leading maritime law enforcement mechanism. Externally, the leading Chinese maritime law enforcement agency carries out its duties under the name of the CCG, with the English designation "China Coast Guard" for all international interactions.

The Ministry of Land and Resources officially managed the newly established CCG and received operational guidance from the Ministry of Public Security for missions related to maritime rights protection and law enforcement. However, the actual power structure was more complex. While it may seem like the CCG was solely under the command of the Ministry of Land and Resources, with the Ministry of Public Security providing only operational guidance, the reality was different. Personnel arrangements showed that the Vice Minister of Public Security also served as the Director of the CCG. In contrast, the Director of the National Oceanic Administration served only as the Political Commissar of the CCG. This meant that



**Figure 2. China Coast Guard Vessel No. 4204**

Source: Tyg728, "Equipment of the China Coast Guard," October 5, 2019, *Wikipedia*, <[https://zh.wikipedia.org/wiki/%E4%B8%AD%E5%9C%8B%E6%B5%B7%E8%AD%A6%E8%89%A6%E8%89%87#/media/File:CHINA\\_COAST\\_GUARD\\_Vessel\\_\(4204\).jpg](https://zh.wikipedia.org/wiki/%E4%B8%AD%E5%9C%8B%E6%B5%B7%E8%AD%A6%E8%89%A6%E8%89%87#/media/File:CHINA_COAST_GUARD_Vessel_(4204).jpg)>.

the CCG was effectively under the direct leadership of the Ministry of Public Security, even though the National Oceanic Administration held the formal leadership role.

### 3. The Second Reform and Militarization of the China Coast Guard

After a reorganization, personnel within the CCG had different identities, including military active-duty officers, police officers, civil officers, and contract employees. This created chaos in the chains of command. In March 2016, during the Fourth Session of the 12<sup>th</sup> National People's Congress, Sun Sijing, the Political Commissar of the Armed Police Force, proposed amending the "*Law of the People's Republic of China on the People's Armed Police Force*" (中華人民共和國人民武裝警察法). In the fourth rationale for the amendment, he unexpectedly mentioned maritime rights protection, hinting at the possibility of integrating the China Coast Guard into the armed police structure in the future.<sup>8</sup>

In March 2018, the Central Committee of the Communist Party of China issued the "Plan for Deepening the Reform of Party and State Institutions" (深化黨和國家機構改革方案). Under the sixth major item, "Deepening the Reform of Civil-Military Integration" (深化跨軍地改革), the plan included the decision to transfer the China Coast Guard, which was previously under the leadership and management of the National Oceanic Administration, to the Armed Police Force.<sup>9</sup>

Furthermore, according to the "Decision of the Standing Committee of the National People's Congress on the Exercising of the Marine Right Safeguarding and Law Enforcement Functions and Powers by the China Coast Guard" (hereinafter as the Decision, 全國人民代表大會常務委員會關於中國海警局行使海上維權執法職權的決定) adopted at the Third Meeting of the 13<sup>th</sup> Standing Committee of the National People's Congress on June 22, 2018, it was decided that: "The entire Coast

---

8 李佑標,〈試論國家海洋局中國海警局和公安部之間的職務關係—兼論中國海警作為武警警種部隊的改革方案〉, *Journal of the Armed Police Academy*, No. 11, November 2016, p. 8.

9 The Central People's Government of the PRC,〈中共中央印發《深化黨和國家機構改革方案》〉, March 21, 2018, *The Central People's Government of the PRC*, <[https://www.gov.cn/zhengce/2018-03/21/content\\_5276191.htm#1](https://www.gov.cn/zhengce/2018-03/21/content_5276191.htm#1)>.

Guard force will be transferred under the leadership and command of the People's Armed Police Force, and reorganized into the Coast Guard Corps of the People's Armed Police Force, to be referred to as the CCG. The CCG will uniformly perform the duties of maritime rights protection and law enforcement.”<sup>10</sup>

#### 4. Legalization of the China Coast Guard's Authority

The amendment to the *Law of the People's Republic of China on the People's Armed Police Force* (hereinafter the *People's Armed Police Law*) adopted on June 20, 2020, during the 19<sup>th</sup> Meeting of the Standing Committee of the 13<sup>th</sup> National People's Congress, can be seen as further legalizing the Decision. According to Article 9 of the *People's Armed Police Law*, the Coast Guard is now a component of the People's Armed Police Force. Furthermore, Article 2 of the same law stipulates, “The People's Armed Police Force is an important part of the armed forces of the People's Republic of China, under the centralized and unified leadership of the Central Committee of the Communist Party of China and the Central Military Commission.” Thus, the legal status of the China Coast Guard has been clearly established, making it officially a branch of the military.<sup>11</sup>

Afterward, China granted the CCG a clear legal status under the domestic legal framework and established a more concrete legal basis for its missions and exercise of powers. This legal framework has evolved from the “Decision” to a more comprehensive legal foundation through reviewing the “Coast Guard Law of the People's Republic of China Draft” by the 22<sup>nd</sup> Meeting of the Standing Committee of the 13<sup>th</sup> National People's Congress. The draft was made available for public comment on the official website of the National People's Congress, with the consultation period

---

10. The Central People's Government of the PRC, 〈全國人民代表大會常務委員會關於中國海警局行使海上維權執法職權的決定〉, June 23, 2018, *The Central People's Government of the PRC*, <[http://www.gov.cn/xinwen/2018-06/23/content\\_5300665.htm](http://www.gov.cn/xinwen/2018-06/23/content_5300665.htm)>.

11 王尊彥, 〈中國修改《武警法》對周邊國家海上安全之意涵〉, June 24, 2020, *Institute for National Defense and Security Research*, <<https://indsr.org.tw/focus?typeid=27&uid=11&pid=58>>.



**Figure 3. A China Coast Guard Officer Observes Taiwan**

Source: China Coast Guard, “The China Coast Guard’s No. 2304 ship formation was located in the eastern waters of Taiwan to carry out a conduct law enforcement exercise,” May 24, 2024, *China Coast Guard*, <[https://www.ccg.gov.cn/hjyw/202405/t20240524\\_2264.html](https://www.ccg.gov.cn/hjyw/202405/t20240524_2264.html)>.

ending on December 3, 2020.<sup>12</sup> Subsequently, the “*Coast Guard Law of the People’s Republic of China*” (hereinafter *China Coast Guard Law*) was officially adopted during the 25<sup>th</sup> Meeting of the Standing Committee of the 13<sup>th</sup> National People’s Congress on January 22, 2021.<sup>13</sup>

---

12. 〈海警法（草案）徵求意見〉, *SOHU*, November 5, 2020, <[https://www.sohu.com/a/429714317\\_120065720](https://www.sohu.com/a/429714317_120065720)>; 田士臣, 〈五龍鬧海能否終結？給《海警法》（草案）提幾點意見〉, November 5, 2020, *Grandview Institution*, <<https://www.grandviewcn.com/shishipinglun/505.html>>.

13. Ministry of National Defense of the PRC, 〈中華人民共和國海警法〉, January 22, 2021, *Ministry of National Defense of the PRC*, <[http://www.mod.gov.cn/big5/regulatory/2021-01/23/content\\_4877678.htm](http://www.mod.gov.cn/big5/regulatory/2021-01/23/content_4877678.htm)>.

## **II. Inconsistencies between the Legalization of the CCG's Authority and the International Legal Order and the Practices of Western States**

### **1. The Absence of a Clear Definition of "Waters under the Jurisdiction" in *China Coast Guard Law* Leads to Ongoing International Conflicts**

The drafted *China Coast Guard Law* statutory, released by the National People's Congress of China on November 4, 2020, included a statutory definition of "waters under the jurisdiction" in Article 74, Paragraph 2. However, in the final adopted version of the law, this definition was intentionally removed. Additionally, the law not only references "waters under jurisdiction" but also mentions "carrying out law enforcement tasks in areas beyond waters under the jurisdiction of China" in Article 81. The previously mentioned wordings further exacerbate international concerns regarding whether China's definition of jurisdictional waters aligns with the enforcement and prescriptive jurisdiction granted by international law of the sea.

The international law of the sea establishes varying levels of enforcement and prescriptive jurisdictions for internal waters, territorial seas, exclusive economic zones, continental shelves, and the high seas. However, the lack of specific language defining "waters under the jurisdiction" in the *China Coast Guard Law* and ambiguous thresholds for enforcement measures create uncertainty. This ambiguity has allowed the CCG to conduct more aggressive actions in maritime security, administrative enforcement, and criminal investigation without a clear legal basis in international law.

For instance, Article 25 of the *China Coast Guard Law* permits the creation of "temporary maritime warning zones." According to the international law of the sea, these zones should be established for peaceful purposes and are subject to different restrictions depending on the separative maritime zone concerned. However, the lack of a clear definition of "waters under the jurisdiction" may allow the CCG to establish "temporary maritime warning zones" in various maritime areas for different purposes, including military ones, whenever necessary by policy. This practice could be viewed as an abuse of power and a violation of international law of the sea during peacetime. This concern is echoed by Raul Pedrozo of the U.S. Naval War College, who



specifically pointed out that the CCG's designation of temporary maritime warning zones in the contiguous zone for "security" purposes, as well as in the exclusive economic zone and the high seas, could potentially violate the 1982 *United Nations Convention on the Law of the Sea* (UNCLOS).

## **2. China's Approach to Maritime Rights Protection and Law Enforcement Differs from That of the West's Maritime Law Enforcement and is More Akin to Armed Conflict**

### **(1) Possible Definitions and Implications of Maritime Rights Protection and Law Enforcement by the *China Coast Guard Law***

Notwithstanding that there is no provision for a statutory definition of "Maritime Rights Protection and Law Enforcement" in *China Coast Guard Law*, tools of statutory interpretation, mainly the approach of context and structure,<sup>14</sup> could be applied to clarify its meaning. Logically, Article 5 of the *China Coast Guard Law* is a good departure port to navigate. This provision provides several items that illustrate the scope and content of "Maritime Rights Protection and Law Enforcement."<sup>15</sup> At first glance, it may seem similar to maritime law enforcement in the West. However, it is important to note the term, "basic tasks," in the same provision. This indicates that the interpreting content of "Maritime Rights Protection and Law Enforcement" goes beyond the listed items in Article 5. To fully understand the meaning of this term, it is necessary to consider its origin in conjunction with the responsibilities outlined in the *China Coast Guard Law*.

---

14. Suraj Kumar & Taylor Beech, "A Guide to Reading, Interpreting and Applying Statutes," 2017, *The Writing Center at GULC*, <<https://www.law.georgetown.edu/wp-content/uploads/2018/12/A-Guide-to-Reading-Interpreting-and-Appling-Statutes-1.pdf>>.

15. Article 5 of *China Coast Guard Law* states: "The basic tasks of maritime rights protection and law enforcement include conducting maritime security protection, maintaining maritime public order, combating smuggling and illegal immigration at sea, supervising and inspecting activities related to marine resource development and utilization, marine ecological environment protection, and marine fisheries production operations within the scope of its responsibilities, and preventing, stopping, and punishing illegal and criminal activities at sea."



**Figure 4. A China Coast Guard Ship Drives Away Philippine Vessels**

Source: Aadil Brar, “US Ally’s Ominous Warning About China Flashpoint,” *Newsweek*, December 15, 2023, <<https://www.newsweek.com/china-philippines-south-china-sea-flashpoint-1852734>>.

The term, “Maritime Rights Protection and Law Enforcement,” first appeared in the “2002 China Marine Administrative Law Enforcement Bulletin” (2002 年中國海洋行政執法公報), a regular work report published by the National Oceanic Administration. Initially, it referred only to patrol operations related to sovereignty or sovereignty right protection, such as enforcement, supervision, and emergency response against foreign public vessels entering waters under the jurisdiction of China. It did not include routine administrative enforcement tasks of Maritime Surveillance, such as fisheries management, marine environmental protection, or the regulation of sea area usage, which are targeted at non-public vessels.<sup>16</sup> Consequently, this implies that patrol operations of “Maritime Rights Protection and Law enforcement” may require engaging in actions concerning confrontations with foreign naval or governmental vessels with immunities in disputed waters.

---

<sup>16</sup> 顧凱輝,〈我國海上維權執法法律體系的發展與完善路徑探析〉, *Journal of Boundary and Ocean Studies*, Vol. 8, No. 2, March 2023, p. 90.

By including the term, “Maritime Rights Protection and Law Enforcement,” in the *China Coast Guard Law*, it becomes legally binding and broadens its scope. When Article 5 reads in conjunction with relevant provisions of Chapter 4, maritime administrative law enforcement, Chapter 5, maritime criminal investigations, and Chapter 3, maritime security, of *China Coast Guard Law*, the term, “Maritime Rights Protection and Law Enforcement” systematically both involves legal concepts of maritime law enforcement under UNCLOS and armed conflict under Law of the Armed Conflict as a whole. Consequently, this expanded application of *China Coast Guard Law* does not strictly distinguish between foreign vessels and personnel, whether they are entitled to immunity or not, treating them similarly to Chinese vessels and citizens. This broader interpretation of “Maritime Rights Protection and Law Enforcement” may differ from how Western countries practice maritime law enforcement and may also be inconsistent with relevant international judicial decisions.

## (2) The Probable Legal Application of Maritime Law Enforcement under UNCLOS

### a. Maritime Law Enforcement is the Process of Enforcement Jurisdiction, and Whether the Subject of Enforcement Has Immunity Should Be a Consideration

Under international law, the classification of state jurisdiction can broadly be divided into prescriptive and enforcement jurisdictions. The latter refers to the authority to enforce laws against specific individuals or in particular situations. The measures involved in maritime law enforcement, such as boarding, inspection, search, seizure, hot pursuit, interception, and even the use of weapons, fall within the area of enforcement jurisdiction. Therefore, law enforcement is inherently part of enforcement jurisdiction. Under the UNCLOS framework, the first consideration is whether jurisdiction exists over the vessels subject to these enforcement actions. Warships, military aircraft, government vessels and aircraft for non-commercial purposes are entitled to immunity and should not be the targets of maritime law enforcement.

Nevertheless, international judicial practice presents different views on whether the subject of enforcement possesses immunity, which is crucial in determining



**Figure 5. International Tribunal for the Law of the Sea**

Source: International Tribunal for the Law of the Sea, “Case concerning the detention of three Ukrainian naval vessels (Ukraine v. Russian Federation), Provisional Measures,” May 10, 2019, *ITLOS*, <<https://www.itlos.org/en/main/cases/list-of-cases/case-concerning-the-detention-of-three-ukrainian-naval-vessels-ukraine-v-russian-federation-provisional-measures/>>.

whether the actions in question are law enforcement or military in nature. The International Tribunal for the Law of the Sea (ITLOS), in the 2019 case concerning the detention of three Ukrainian naval vessels,<sup>17</sup> asserted that “the distinction between military activities and law enforcement activities must primarily be based on an objective assessment of the nature of the relevant activities, taking into account the specific circumstances of each case.” Although ITLOS adopted a holistic assessment approach, considering factors such as the type of vessels involved, the characteristics of the activities, the conduct, the reasons, and the context of the events, it ultimately determined that Russia’s use of force constituted law enforcement action rather than

---

<sup>17</sup> Case Concerning the Detention of Three Ukrainian Naval Vessels (Ukraine v. Russ.), No. 26, May 25, 2019, *ITLOS*, <[https://www.itlos.org/fileadmin/itlos/documents/cases/26/published/C26\\_Order\\_20190525.pdf](https://www.itlos.org/fileadmin/itlos/documents/cases/26/published/C26_Order_20190525.pdf)>.

military action. This interpretation limited the scope of Article 298(1)(b) of UNCLOS, which excludes compulsory dispute resolution for military activities.

However, two key points are particularly noteworthy:

- Even though the court classified the actions as law enforcement activities, it recognized vessel immunity as a relevant factor in its discussion.
- The court concluded that Russia's actions of seizing the three Ukrainian naval vessels and prosecuting the 24 servicemen onboard violated Articles 32, 58, 95, and 96 of UNCLOS, which pertain to the rights of immunity granted under the convention.

b. The Level of Political Significance of an Event Influences the Determination of Whether It Constitutes Maritime Law Enforcement

If the political nature of a disputed case is high, it is more likely to be considered a military action rather than maritime law enforcement. In the South China Sea arbitration case, the tribunal deemed that the confrontations between the Philippine Navy, Coast Guard, and the CCG, PLA Navy, and other government vessels were military activities. However, in the case of Russia's seizure of three Ukrainian vessels, the ITLOS concluded that the dispute centered on whether the Ukrainian naval vessels had the right to pass through the strait, and the subsequent seizure was considered a law enforcement activity.

To some extent, we might draw a preliminary conclusion. If UNCLOS has specific provisions or deliberately omits regulations on certain regimes, then disputes arising from these regimes are not necessarily highly political. After all, once states have ratified the convention or a regime has become customary international law, they are obligated to comply. If there is a dispute over the interpretation of such a regime under the convention, it should ideally be resolved through compulsory dispute settlement methods under the UNCLOS.

From another perspective, if such disputes fall outside the abovementioned scope and impact the disputing state's territorial integrity or political independence, they would more likely be considered military activities.



### c. Procedures for Controlling the Use of Weapons

Maritime law enforcement and military activities have fundamental differences, particularly when it comes to the use of weapons. Frontline personnel typically make the decision to use weapons in maritime law enforcement. On-site enforcement officers are entrusted with the responsibility of determining whether to use weapons, and they base this decision on the legal grounds for doing so. The legality of weapons used by these officers is subject to judicial review under domestic law.

In contrast, using weapons in military activities is not left to the discretion of frontline personnel. Since the use of weapons in military operations involves the command authority of the president or head of state, any decision to deploy weapons against external hostile forces must follow orders from higher authorities. This means that it is essentially a top-down decision-making process. Domestic law does



**Figure 6. A Ukrainian Gun Boat Captured by Russia**

Source: Ministry of Defense of Ukraine, "A Gyrza-M-class gunboat BK-02 Berdyansk," June 2, 2016, *Wikipedia*, <[https://en.wikipedia.org/wiki/Kerch\\_strait\\_incident](https://en.wikipedia.org/wiki/Kerch_strait_incident)>.

not subject such decisions to judicial review in this context. Instead, their legality is evaluated based on international law.

### **3. The Configuration and Legal Status of CCG Vessels Resemble that of Raval Warships**

On June 20, 2020, the 19<sup>th</sup> meeting of the Standing Committee of the 13<sup>th</sup> National People's Congress passed an amendment to the *People's Armed Police Law*. According to Article 9 in Chapter 2, "Organization and Command," of the *People's Armed Police Law*, the People's Armed Police Force includes the Coast Guard, meaning that the Coast Guard is part of the People's Armed Police Force. Additionally, Article 2 of the *People's Armed Police Law* states: "The People's Armed Police Force is an important component of the armed forces of the People's Republic of China, under the centralized and unified leadership of the Central Committee of the Communist Party of China and the Central Military Commission." In times of war, the Armed Police carry out missions under the command of the Central Military Commission of China or under the authorization of a theater command.

Regarding the regulatory framework, the Coast Guard's integration with the Armed Police is confirmed by Article 22, Paragraph 1, of the *National Defense Law of the People's Republic of China* and Article 9 of the *People's Armed Police Law*. This indicates that the Ministry of National Defense, the Armed Police, and the Coast Guard are unified as one organization. They are responsible for different tasks during peacetime. Still, in the event of a defense operation, they can be directly commanded without a legal conversion process, which is why this is referred to as "peacetime and wartime integration" rather than "peacetime to wartime transition." This enables the Coast Guard to perform law enforcement and combat missions simultaneously. This organizational design differs from that of the United States Coast Guard, which, although also military, is under the Department of Homeland Security and only comes under the command of the Navy during wartime. In peacetime, it primarily enforces laws and carries out missions authorized by Congress, even when operating alongside the Navy.

Even after the CCG was transferred to the Armed Police Force in 2018, Ministry of National Defense spokesperson Colonel Wu Qian stated: “The transfer of the Coast Guard to the Armed Police Force and the adjustment of the leadership and command system do not change the basic mission of the Coast Guard, nor do they alter China’s principles and positions on related maritime issues.” However, with the introduction of Coast Guard vessels designed and constructed with the same standards as naval warships and the appointment of senior naval officers as commanders of various maritime regions, countries like Japan have privately begun treating CCG vessels as naval warships, enhancing their own capabilities in response. This view is also supported in academic papers, which argue that CCG vessels are increasingly perceived as part of the navy due to their design and operational integration.

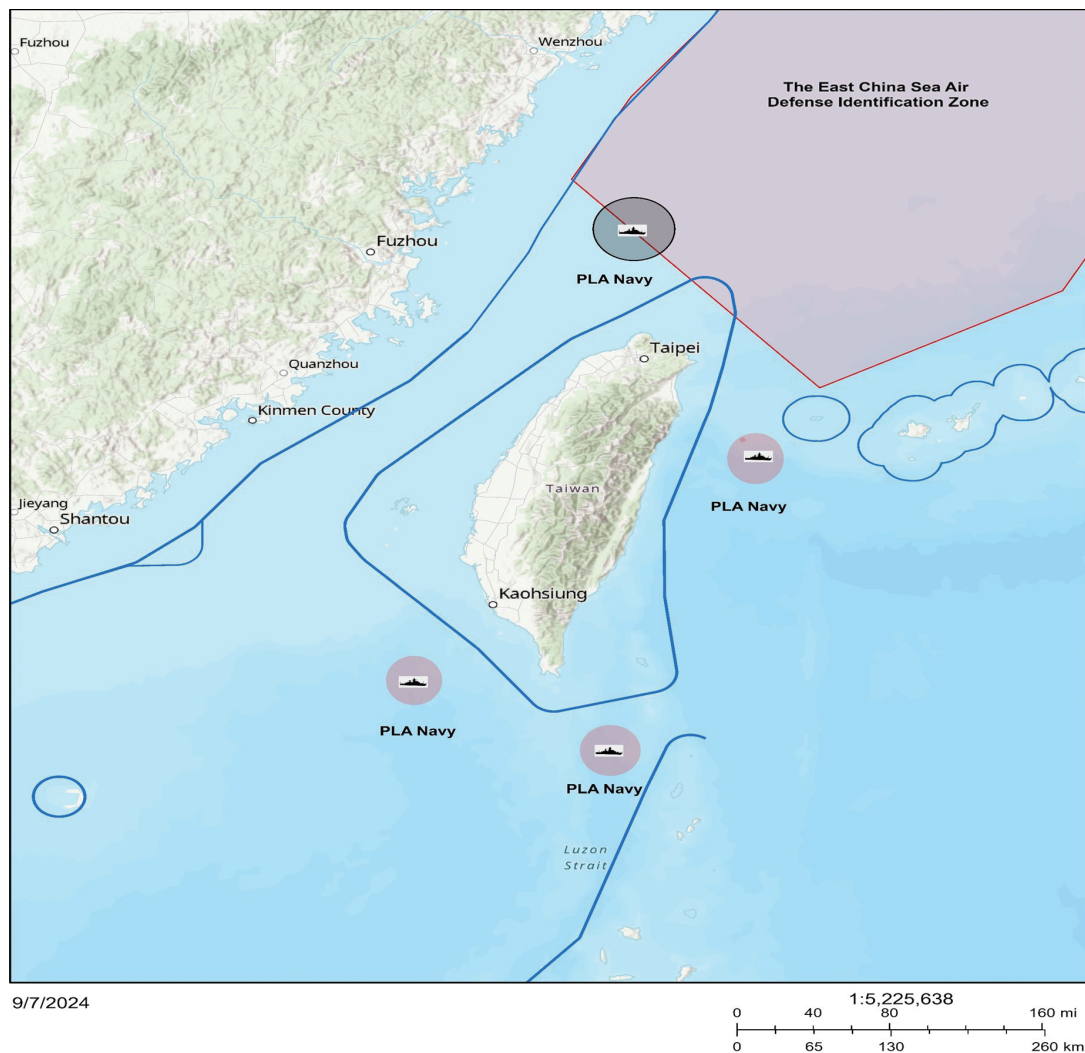


**Figure 7. The First Fast Response Cutter of the U.S. Coast Guard**

Source: Cory Rowland, “The first Fast Response Cutter, Bernard C. Webber, gets underway off the coast of Grand Isle, La.,” January 25, 2019, *Wikipedia*, <[https://en.wikipedia.org/wiki/United\\_States\\_Coast\\_Guard](https://en.wikipedia.org/wiki/United_States_Coast_Guard)>.

### III. The Current Strategies of China's Coast Guard in Gray Zone Operations Against Taiwan

On September 21, 2020, Chinese Foreign Ministry spokesperson Wang Wenbin stated, “Taiwan is an inalienable part of China’s territory, and there is no so-called median line in the Taiwan Strait.” This marked the first official statement by the



**Figure 8. China Has Regularly Deployed Four Warships around Taiwan in Four Different Directions**

Source: The diagram created by the author based on online information.

Note: It does not reflect the actual locations of the PLA Navy.



Chinese government regarding the median line in the Taiwan Strait. Even before this, Chinese military aircraft had repeatedly crossed the median line of the Taiwan Strait. Following the visit by then-U.S. House Speaker Nancy Pelosi to Taiwan on August 2-3, 2022, China launched major military exercises around Taiwan on August 4, which continued until August 10, when the spokesperson for the Eastern Theater Command, Shi Yi, officially announced that the recent joint military operations had successfully concluded, effectively testing the combat capabilities of the troops. Since then, Chinese naval vessels have frequently crossed the median line of the Taiwan Strait and have maintained a constant presence around Taiwan in four fixed locations: near Yonaguni Island, the westernmost part of Okinawa Prefecture, between Yonaguni Island and the Philippines, as well as the southwestern and northern waters of Taiwan.<sup>18</sup>

As China has altered the previous military-oriented median line in the Taiwan Strait using military force, the CCG has also begun to assert jurisdiction in the waters surrounding Taiwan under the cover of the PLA's military presence in the region. In line with this objective, the following activities were officially announced by the China Coast Guard following the February 14 incident, in which a Taiwanese Coast Guard operation against an unregistered and illegal Chinese vessel resulted in fatalities: (see Table 1).

The activities conducted by the CCG targeting Taiwan and its affiliated islands highlight the current purpose of the CCG's gray zone operations to challenge Taiwan's claimed median line under "Standard Operating Procedures for Government Fisheries Protection Patrol." (政府護漁標準作業程序, hereinafter Fisheries Protection SOP) and the outer limits of prohibited and restricted waters, which are partly established under international law of the sea and partly based on unique relationship between Taiwan and China. These actions further reinforce the statement made by the Taiwan Affairs Office on February 17, asserting that the so-called "prohibited and restricted waters" do not exist.

---

18 "Four Chinese warships, constantly deployed in all directions of Taiwan ... Is it aimed at preventing the approach of the U.S. military in a Taiwan contingency?" *The Japan News*, January 29, 2024, <<https://www.yomiuri.co.jp/politics/20240128-OYT1T50161/>>.



**Table 1. The CCG's Repeated Intrusions into Taiwan's Jurisdictional Waters**

Date of Operation Initiation	Call Sign of Operation	Maritime Zone Involved
February 18, 2024	Law Enforcement Patrol	Waters surround Xiamen and Kinmen.
February 25, 2024	Organized Fleet Patrol	Waters surround or along Xiamen and Kinmen
February 25, 2024	Comprehensive Enforcement Drill	Waters surround or along Xiamen and Kinmen
March 15, 2024	Organized Fleet Patrol	Waters surround Kinmen
April 29, 2024	Routine Enforcement Patrol	Waters surround Kinmen
May 23, 2024	Comprehensive Enforcement Drill	Waters surround Wuqiu and Dongyin
May 24, 2024	Comprehensive Enforcement Drill	Waters east of Taiwan
June 25, 2024	Routine Enforcement Patrol	Waters surround Kinmen
August 21, 2024	Routine Enforcement Patrol	Waters surround Kinmen

Source: The author analyzes the data published on the official website of the China Coast Guard.

## IV. Proposed Countermeasures by Taiwan

### 1. Uphold Taiwan's Position on the Law Enforcement Status Quo in the Taiwan Strait and Strengthen International Discourse

When discussing the “median line of the Taiwan Strait,” there is often misunderstanding among scholars, who only believe it to be an extension of the “Davis Line” and thus merely related to military matters. Leaving aside the following discussion of another type of median line relevant to enforcement purposes related for exclusive economic zone (EEZ), there are differing opinions on whether this “Davis Line” holds any significance under international law and what Taiwan's stance on it should be. In fact, the “median line of the Taiwan Strait” is not just the “Davis Line”; it also includes the median line established for law enforcement and the protection of Taiwan-flagged fishing vessels as outlined in the Executive Yuan's announced “Fisheries Protection SOP.” The initial announcement and subsequent revisions of this median line were made on December 31, 2004, and November 20, 2014, respectively.

These segments of the median line, which were drawn for law enforcement and the protection of Taiwan-flagged fishing vessels, primarily aim to prevent fishing



**Figure 9. The Taiwan Coast Guard Cutter Hsinchu (CG 5002)**

Source: Coast Guard Administration, Taiwan(R.O.C.) “Cutters and Boats,” June 24, 2022, *Coast Guard Administration, Taiwan(R.O.C.)*, <<https://www.cga.gov.tw/GipOpen/wSite/ct?xItem=150531&ctNode=1356&mp=eng>>.

disputes and to protect Taiwan’s marine resources in overlapping EEZs. Despite Taiwan never having officially engaged in intergovernmental negotiations with relevant countries over the boundaries of overlapping EEZs, neighboring countries, including China, are in fact aware of and generally respect Taiwan’s claim to its controlled EEZs. This claim is established through the implementation of the “Fisheries Protection SOP.” Since days carrying out the “Fisheries Protection SOP,” there have been very few instances of neighboring countries seizing Taiwan-flagged fishing vessels operating within the controlled EEZs. Moreover, under UNCLOS, Taiwan inherently enjoys the right to claim sovereign rights over the EEZ to the east of the median line in the Taiwan Strait.

Given this long-established law enforcement practice and clear basis in international law of the sea, Taiwan must continue to uphold its stance without concession. Otherwise, fishermen will lessen legitimate fishing grounds, affecting their livelihoods and hindering the protection of EEZ resources. This narrative about the Taiwan Strait median line is legally sound and logically coherent. Taiwan should

repeatedly assert this position to China and the international community, clarifying the past misunderstanding that the median line in the Taiwan Strait lacked legal standing under international law.

## **2. Prevent Chinese Government Vessels from Exercising Jurisdiction over Taiwan-flagged Fishing Vessels East of the Median Line**

As outlined in Articles 87, 58, and 301 of UNCLOS, China Coast Guard vessels have the right to enter Taiwan's EEZ and exercise their freedom of navigation for peaceful purposes. To prevent these vessels from entering Taiwan's EEZ and enforcing *China Coast Guard Law* or its regulations against Taiwan-flagged fishing vessels at will, the Taiwan Coast Guard Administration must monitor and trail concerned CCG vessels at a certain distance without interfering with their legitimate activities. Once illegal actions are detected, enforcement measures or even necessary force may be required to stop them.

## **3. The Government Should Clearly Communicate and Educate the Public on the Scope of Fisheries Protection and Penalize Illegal Fishing Activities within China's Territorial Waters**

To avoid Taiwan-flagged fishing vessels from approaching or even entering the waters under the jurisdictions of the States concerned and being captured by responding governments concerned; and to protect their legitimate harvesting rights, it is the duty of the Taiwan government to shed *de jure* and *de facto* protection on fishing vessels within the controlled EEZ defined by the "Fisheries Protection SOP", which is obliged to enforce with both legal authority and capability. In the past, this was the approach taken with Japan and the Philippines, and now it must be upheld with China. Once Taiwan-flagged fishing vessels cross the median line to the west without entering into the territorial sea of China, although there is no legal basis to restrict their operations in that area, considering Taiwan's past law enforcement practices and claims, even if these areas do not fall within the *de jure* protection range of Taiwan coast guard, Taiwan government is obliged to make fishermen aware of the risks involved in operating there. Especially at a time when China is actively establishing enforcement practices against Taiwan-flagged fishing vessels, it is crucial to discourage fishing activities in these contested areas.

Finally, penalties should be imposed under the *Fisheries Act* and other applicable laws on fishing vessels that directly enter Chinese territorial waters for illegal operations. This will prevent excessive fishing activities from leading to unfair competition for fishery resources across the strait and avoid legitimizing cross-Strait fishing disputes where Chinese vessels encroach on waters under the jurisdiction of Taiwan.

