



Canadian Social Science
Vol. 12, No. 4, 2016, pp. 51-55
DOI:10.3968/8329

ISSN 1712-8056[Print]
ISSN 1923-6697[Online]
www.cscanada.net
www.cscanada.org

China's Road to Participate in the International Rule-Making

ZHANG Zhongtao^{[a],*}

^[a]Postgraduate Student, Department of Law, Graduate School of Chinese Academy of Social Sciences, Beijing, China.

*Corresponding author.

Received 25 December 2015; accepted 19 March 2016
Published online 26 April 2016

Abstract

Participating in the international rule-making, for a large developing country such as China, is an inevitable requirement of economic globalization and regional economic integration, an indispensable way to be involved in international affairs, a necessary policy of protecting our national interests. Participating in the international rule-making, China need properly handle the ten major relationships: Participation and compliance, uniting with them and developing ourselves, practice and research, doing things and choosing personnel, going on foot fast and grabbing the handle tightly, comprehensiveness and key, traditional issues and new issues, cooperation in legislation, law-enforcement and judicature, domestic laws and international laws, standing on the current and looking at the distance.

Key words: Rule-making; Cooperation; National interests; Peace and development

Zhang, Z. T. (2016). China's Road to Participate in the International Rule-Making. *Canadian Social Science*, 12(4), 51-55. Available from: <http://www.cscanada.net/index.php/css/article/view/8329>
DOI: <http://dx.doi.org/10.3968/8329>

INTRODUCTION

Decision of the CPC Central Committee on Major Issues Pertaining to Comprehensively Promoting the Rule of Law stated

vigorously participate in the formulation of international norms, promote the handling of foreign-related economic and social

affairs according to the law, strengthen our country's discourse power and influence in international legal affairs, use legal methods to safeguard our country's sovereignty, security and development interests.

The formulation of international rules is a common result of the international cooperation and competition, fully reflects each country's overall strength in the politics, economy, culture, military, diplomacy and other aspects. As we all know, a country's power determines its influence on international law (Xu, 2012). Participating in the international rule-making, for a large developing country such as China, is an inevitable requirement of economic globalization and regional economic integration, an indispensable way to be involved in international affairs, a necessary policy of protecting our national interests.

In recent years, compared to the traditional policy of hiding our capabilities and biding our time, China's standpoint and attitude had some subtle yet profound changes in treating and participating in international affairs, both on the problem of international organizations and the settlement of international disputes (Song, 2015). Participating in the international rule-making, China need properly handle the ten major relationships:

1. PARTICIPATION AND COMPLIANCE

Just like a spring, you have to compress it if you always want to stretch it. It will stretch longer if you compress it shorter. This is a type of wisdom of the advance and retreat. For the international rules, abiding it is the premise of participating in it. "Wish to be successful, is designed to help others to be successful; wish to develop yourself, seek to help others to develop," it is both correct for individuals and nationals.

A country lives in the international legal order which already exists and can not be selected, whether it is active

or passive, willing or unwillingly (Rao, 2005). We should be consistent with the purposes and principles of the Charter of the United Nations, abide by the international laws and universally recognized norms of international relations, and conscientiously perform relevant obligations stipulated by the international treaties we already concluded. Only in this way, can we show the breadth of mind and courage a responsible large country should have, gain wide respect and praise from the international community, ensure the credibility of what we say and the influence of what we do. The role of China should change from a student to a teacher in the field of international rules. However, you have to be a student of international rules first if you want to be a teacher in it. Rising abruptly is based on accumulated strength, going further is based on watching clearer.

2. UNITING WITH THEM AND DEVELOPING OURSELVES

Two legs are needed in participating in international rule-making. One moves forward, another stays there. As the saying goes, never forget why you decided to start off just because you have gone far. It is the reason why we have to integrate into the international law affairs wider, deeper and faster that we should specify the direction of diplomatic career development by treating the laws as lighthouses, protect the solution of diplomatic disputes by treating the laws as cannons. In this regard, we should pay more attention to the political qualities of the diplomats sent to the international organizations, select seriously the diplomats really loyal to China and the Chinese people and put them in key positions, in order to really reflect the common will and overall interests of the Chinese.

Interiorly, the laws play a very important role in bringing all aspects of the socialist construction into the legal track, providing them legal spirits and legal methods. The international law and the internal law are both the important legal sources of the socialist legal system with Chinese characteristics. Just like a pair of wings, they will make a great contribution to the realization of the Chinese Dream.

3. PRACTICE AND RESEARCH

The formulation of the international rules is not only a kind of art but also a kind of science, needs not only negotiation strategy but also legislative technique. Therefore, it can not lack the guidance of lots of valuable, rigorous and scientific theories. After all, compared with the systematic theories, scattered experience is less reliable.

Unlike the natural sciences, social sciences are often with interesting tendencies of some groups. The research

activities of the international laws led by a few developed countries are bond to reflect their national interests. Therefore, China have to be more vigilant, pay more attention to the theoretical study of international laws, give full play to the power of the universities, research institutions and folk think tanks, emit more voice on behalf of the Chinese research level on the international forums and conferences. It is the pen to command the gun in the smoky international wars and the whistle in the smokeless international competitions.

4. DOING THINGS AND CHOOSING PERSONNEL

Because the current international society is dominated by the English-speaking countries, the international rule-making is also guided by them. As a Chinese-speaking country, the disadvantages on language led to the disadvantages on resources of human talents to a certain degree. The international rule-making requires lots of management personnel and scientific research personnel. China's problem is mainly manifested in two ways: On the one hand, the total number of international law talents is small; on the other hand, the people who work at the international organizations are few and who work as senior management personnel are less.

In 2008, Lin Yifu became the World Bank's senior vice president and chief economist; in 2011, Zhu Min became the IMF's vice president; in 2012, Lin Jianhai became the IMF's secretary general. These events were widely publicized by the media reports and became the foci of public opinion always. On the one hand, it reflects that the international affairs have a high position in the public minds; on the other hand, it also reflects that the China's top talents in this area are few. It is difficult to imagine that an international organization where there is no Chinese working as senior management personnel or even ordinary staff would make the rules conducive to China's national interests. China should pay more attention to the cultivation of talents in the fields of international law, trade, finance and so on, and draw more excellent talents in the field of international affairs.

5. GOING ON FOOT FAST AND GRABBING THE HANDLE TIGHTLY

The existing international economic rules after the Second World War are dominated mainly by the European and American developed countries, especially the US, so reflect their national interests and need in first (Zhao, 2012). After the end of the Cold War, the United States became the unique superpower in today's world. It has a central status and plays an important role in various aspects, like politics, military, economic, culture and so on.

The US is the largest developed country and China is the largest developing country in our times. The US is the exemplification of capitalist society, and China is a representative of socialist society. Clearly aware of these, the two sides have to be committed to strengthen cooperation. The two leaders repeatedly pointed out that China and the US should develop new relations between big powers. The US's leadership role is also reflected in international rule-making areas. China should actively carry out the cooperation with the US deeply and widely. There is a positive interaction between the transaction cooperation and the rule-making. Not only is a perfect rule conducive to carry out cooperation better, but the process of cooperation is also stimulating ideas, searching methods, finding basis for the rule-making.

6. COMPREHENSIVENESS AND KEY

The content of international rules is rich and has nearly covered each important aspect of international affairs, because "cooperation" is a concept unable to avoid in every field, in the wave of "economic integration", in the trend of "earth is flat", in the change of "world is a village". There is a distinction between the primary and secondary contradictions on anything. Peace and development are the two major themes of the present era. The contents related closely to the two major themes, such as nuclear non-proliferation, global warming, the polar oceans, network security, are the focuses to participate in international rule-making for China, also can best embody the sense of responsibility and mission of a large country. In the horizontal angle, pinpoint the focus; in the vertical angle, explore in depth. These areas are like the most critical steps in a game of chess. One correct move rescues the whole game, but one careless move loses it.

For example, someone thinks that Intellectual Property will become China's largest economic growth point. For a long time, the deficiency of IPR protection is a major legal reason for the deficiency of innovation capacity development. In the future, China should put forward more suggestions and insist on more ideas about IPR protection, make the cooperation with the international community closer and closer, make greater contributions to the pace of change from "made in China" to "create in China".

7. TRADITIONAL ISSUES AND NEW ISSUES

Only the news is always new, only the changes do not change. Moving with the times is not only the result of seeking truth from facts, but also the cause of it. The riptide can float up stones, because of the speed! A bird can crash a plane, because of the speed! A stone can hit

a hole in the ground, due to the speed! Not only change, but also change fast. With the rise of e-commerce, internet and other knowledge-based economies, the world economy has been developing from the traditional economic model to enhance the global competitiveness by capital restructuring, optimization of resource allocation, development of economies of scale (Jia & He, 2001). At the same time strengthening the development of international rules on the traditional subject, the negotiations concerned with environmental protection, e-commerce and other new issues should be paid more attention. Keep the eye looking ahead and the pace moving forward. These new issues are often involved in the international economic and trade should be respectively grasped and comprehensively promoted from the view of bilateral, multilateral and regional economic integration.

The international political situation changes rapidly, just like the weather condition. The international economic environment is quite complicated, just like a maze surrounded by walls. The imbalance between supply and demand of the global governance and the international rules requires not only improving the traditional legislation technology of international rules constantly, but also transferring the legislation content constantly (Zhang, 2007). It is essential to often think ahead, often observe the variable, often analyze the reasons, often seek the new ways, in order to maintain the strong combat effectiveness and stand on the unbeaten ground in increasingly fierce international competition.

8. COOPERATION IN LEGISLATION, LAW-ENFORCEMENT AND JUDICATURE

Participating in international rule-making can be understood as international legislative cooperation. As we all know, legislation, law enforcement, judicature, keeping the law, legal supervision consists of a series of the operation of law. Any link out of the chain will lead to a sharp drop in the efficacy of the other links. Legislative link especially depends on other links. Without good execution, perfect law is also a dead letter. Currently, the increase of international communication is in a geometric ratio. Many legal affairs are no longer "yours is yours, mine is mine", but "yours is mine, mine is yours, all is ours". So, it is essential for each country to enhance the cooperation in law enforcement and judicature.

Decision of the CPC Central Committee on Major Issues Pertaining to Comprehensively Promoting the Rule of Law stated "deepen international cooperation in the judicial area, perfect our country's judicial assistance systems, and expand the coverage of international judicial assistance", "strengthen international cooperation on anti-corruption, expand

strength to pursue stolen goods and fugitives overseas, as well as for repatriation and extradition”, “vigorously participate in international cooperation concerning law enforcement security, jointly attack forces of violent terror, ethnic separatist forces, religious extremist forces, drug smuggling and cross-border organized crime”. For example, the legislative process of “criminal judicial assistance act” should be sped up in order to protect the security and effectiveness of the international criminal justice cooperation.

9. DOMESTIC LAWS AND INTERNATIONAL LAWS

The domestic laws and international laws are like the two wings of a bird. Although there are contradictions or conflicts between them sometimes, we should analyze them scientifically and promote their harmony. It will hamper a country's process to be involved in the international affairs that the domestic and international laws are not harmonious. For example, the United Nations convention against corruption, the United Nations convention against transnational organized crime and so on, we should promote the coordination between them and the PRC criminal law on many terms. In the two-way convergence, we should not respect one and ignore another blindly.

In modern society, the law has been fully penetrated into the fields of politics, economy, culture and environment, so traditional political diplomacy, economic diplomacy, cultural diplomacy more and more need to advance from the perspective of the law (Zhang & Gu, 2013). We should improve relevant domestic legislation according to the request of international treaties which we have concluded or acceded to, take the spirit of our country's laws into international rules properly according to the actual domestic legislation. For example, it demands us strengthen the participation in international rules-making in the fields of tariffs, customs and so on that China has become the world's largest goods trading nation. But to a certain degree, China has its own particularity in the aspects of the state-owned enterprises, the industrial policy and so on. Therefore, we need find a point then draw a line between the domestic and international laws. This point is the balance point and this line is the connecting line.

10. STANDING ON THE CURRENT AND LOOKING AT THE DISTANCE

Just as there is difference between long-term plans and short-term plans in the formulation of national economic and social development goals, there is distinguish between long-term strategy and short-term tactics in participating

in international rule-making. We should think about short-term tactics seriously from the perspective of long-term strategic. Each success on one moment or in one place is ready for more and greater victories. To set out strategic opportunities and challenges China will face to in the next ten years, it should be determined firstly what China's strategic objective is. Only after the strategic objective is determined, can it be known which are challenges or opportunities (Li, 2013).

However, in the process of participation in international rules-making, China still lacks a guiding programmatic document on behalf of the overall and long-term national interests. It led to the lack of unity and continuity in our many practices in the past time. Modern competition in the field of international rules is not the guerrilla warfare, but the comprehensive and protracted war. As the saying goes, “the person who has no forethought necessarily has immediate worries.” For this reason, the national medium- and long-term plan for participating in international rule-making should be formulated and implemented, on the basis of the opinions from all sides and many in-depth investigations, in order to clear the macroscopic strategies, propose overall missions, focus the main problems, indicate the specific route, take the spirit of the long-term strategic vision into each practice, make the scattered pearls strung into a beautiful necklace.

CONCLUSION

China's participating in international rule-making actively is not only China's good thing but also the world's lucky thing. Throughout history, China is essentially a peace-loving nation, the Chinese people are always hard-working, hospital and friendly. If China can play an important role in the field of international rules, it will be able to take up the responsibilities and missions a large country should have, sing the world's main melody written by peace and development, welcome the opportunities and challenges brought by the globalization together with other countries, bring more and more benefits to the people around the world.

It is important to have its own voice in the international fields for a country facing the world and being desired to develop (Li, 2010). International voice is mainly identified as free spreading and expressing the specific position and propositions related to the national interests and international obligations in the public or private space with international significance (Liang, 2009). We have enough reasons to believe that, along with the development of internationalization, China's road to participation in international rule-making will become wider and wider, voice and influence on international legal affairs will become stronger and stronger.

REFERENCES

- Jia, W. G., & He, M. (2001). The development trend of international legal services and further opening of China's legal services. *Global Law Review*, (4), 484-490.
- Li, X. Y. (2013). Achieving sustainable development internally and playing a role China should have in the process of international rules-making. *Study on International Relations*, (1), 16-17.
- Li, Y. F. (2010). International Law thinking about voice. *Forward Position*, (5), 50-54
- Liang, K. Y. (2009). Study on international voice and the new ideas how China expands international voice. *Contemporary World & Socialism*, (3), 110-113.
- Rao, G. P. (2005). The international legal order and China's peaceful development. *Foreign Affairs Review*, (6), 48-54.
- Song, J. (2015). The issue of China's effective participation for international legal affairs: A perspective of comparing with the practices of both UK and US. *Journal of Comparative Law*, (2), 148-159.
- Xu, C. L. (2012). Hard and soft power and China's impact on the international law. *Modern Law Science*, 34 (1), 151-160.
- Zhang, S. J. (2007). Global governance and the transformation of international legislation mode. *Journal of Yunnan University Law Edition*, 20 (1), 140-144.
- Zhang, W. X., & Gu, Z. M. (2013). China's law diplomacy— theory and practice. *International Outlook*, (2), 1-20.
- Zhao, L. Y. (2012). Problems and solutions concerning China's participation in making international rules. *People's Tribune (Academic Frontier)*, (23), 84-94.