



**北京理工大学**  
**BEIJING INSTITUTE OF TECHNOLOGY**

# **IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S NATIONAL SPACE DOCUMENTS**

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## OVERVIEW

- I. INTRODUCTION AND ISSUES
- I. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY
- I. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER



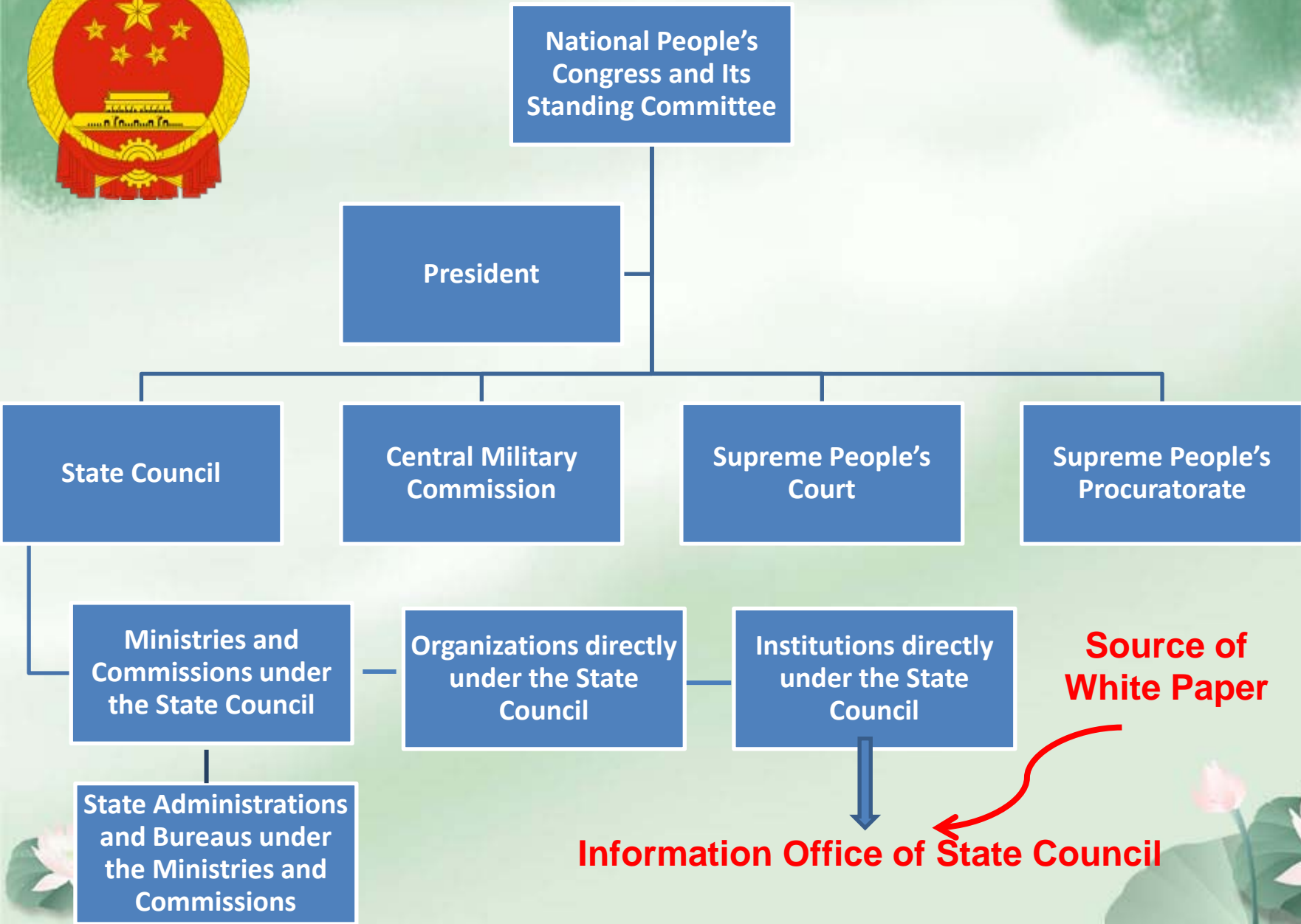
# I. INTRODUCTION AND ISSUES

- **International Treaties**
  - Chinese version of the Outer Space Treaty
  - Chinese version of the Moon Agreement (MT)
- **China's National Space Document**
  - China's Space in 2006 (2006 White Paper)
    - enacted by the Information Office of State Council (SCIO)
- **Organizational Structure of China's Government and Law-making processes**



# I. INTRODUCTION AND ISSUES

## Organizational Structure of China's Government



**Source of  
White Paper**

**Information Office of State Council**

# I. INTRODUCTION AND ISSUES

## Confusion Caused by Two Terminologies

- Chinese translation “**共同财产**” (No.3) of “Common Heritage” in MT
  - Not a normal translation of “common heritage”.
  - Read as a Chinese word means “joint possession”, which means the common ownership.
  - Did the translator intend to emphasize right and obligation of common ownership ?
- “**共同财富**” (No.1) in China’s 2006 White Paper
  - What is the legal meaning of the Chinese word and its translation as “common wealth” here?
  - What is the relationship between the Chinese word, the translation, and the relevant space treaty terms?

# **IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY**



## II. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY

Rights and Obligations Contained in “Common Heritage”

Read as Chinese Words in Different International Documents

- **“共同遗产” ( NO.4 )**
  - Property that is inherited by all mankind
  - UDCD, 2001, refers to “cultural diversity”
  - DPGSOF, 1970, refers to “seabed and ocean floor, and the subsoil thereof”
  - Clearly means and emphasizes protection obligation of “common heritage”
  - Indicates right to share/use without others’ permission
    - Except in case of a common authority.



## II. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY

Rights and Obligations Contained in “Common Heritage”

Read as Chinese Words in Different International Documents

- **“共同财富” ( No.1 )**
  - DRRP, 1978, refers to “Culture”
  - Synonymous with word No.4, but it does not emphasize protection obligation as strongly as the latter
- **“共同财产” ( No.3 )**
  - MT, 1979, refers to “moon and its natural resources”
  - DRRP, 1978, refers to “civilizations and cultures”
  - Chinese Marriage law: means “joint possession”, “common ownership”
  - Clearly emphasizes right to share/use “common heritage”, and obligation to obtain consent of others before performing right



## II. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY

### Rights and Obligations Contained in the “Common Heritage” Read as an English Word in the Moon Treaty

- What is not clear
  - Does humankind have vested property right in common resources ?
  - Is it declaratory or does it confer rights?
- What is clear
  - Consists of certain obligations : Art.2; Art.3; Preamble
  - Composed of certain rights: Art. 4 “province of all mankind”
  - Binding only on State Parties
  - Object of “Common Heritage” is limited “within the solar system”, but not within the whole of outer space.
- Possible conclusion
  - As a core term in MT, which stipulated the obligations clearer than it stipulated the conferred rights
  - “Common Heritage” likely emphasizes obligations a little more than rights
    - Art.1(3); Art. 4



## II. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY

- **Conclusions regarding the Moon Treaty**
  - Chinese word for “common heritage”, when read in Chinese means “joint possession” which includes the right of ownership and the obligation of getting permission from other co-owners before performing the right.
  - Rights are improperly enlarged (or emphasized) in the Chinese translation because the MT does not clearly stipulate the right of ownership.
  - Obligations are improperly enlarged as well, because they are not stipulated clearly in MT.
  - Results in improperly enlarged rights and obligations in the Chinese translation.
- **Reasons**
  - Improper translation
  - Absence of a uniform approach to the very concept of “common heritage of mankind”



## II. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY

Suggestions to Eliminate Misunderstanding: a Proper Chinese Translation of “Common Heritage of Mankind” in Moon Treaty

- “(人类) 共同遗产” (No.4)
  - Keep consistent with the translation of “common heritage” in UDCD; DPGSOF; work of Chinese space lawyers
  - Deficiency: emphasizes protection obligation more than exploration right
    - cannot be taken for granted due to the vagueness of “common heritage” in MT



## II. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINESE VERSION OF MOON TREATY

Suggestions to Eliminate Misunderstanding: a Proper Chinese Translation of “Common Heritage of Mankind” in Moon Treaty

- “(人类)共同**财富**” (No.1)
  - Give consideration to both exploration right and protection obligation
    - Emphasize latter a little more, which might be closer to the real intention of MT
  - Deficiency: It is exactly the same Chinese word used in 2006 White Paper
    - could cause another misunderstanding that China holds the same position of MT although it is not the State Party of MT



# **IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S 2006 WHITE PAPER**



### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

#### “Common Wealth” in China's 2006 White Paper

“China is unflinching in taking the road of peaceful development, and always maintains that **outer space** is the ***common wealth of mankind***. While supporting all activities that utilize outer space for peaceful purposes, China actively explores and uses outer space and continuously makes new contributions to the development of man's space programs”.

*Preface, China's Space Activities in 2006*



### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

“Common Wealth” in China's 2006 White Paper

“The Chinese government holds that **outer space** is *the common wealth of all mankind*, and each and every country in the world enjoys equal rights to freely explore, develop and utilize outer space and celestial bodies; and that all countries' outer space activities should be beneficial to the economic development, social progress of nations, to security, subsistence and development of mankind, and to friendly cooperation between people of different countries.

*V. International Exchanges and Cooperation, China's Space Activities in 2006*

# III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

## Additional Examples of the Same Expression Contained in the White Paper

- **Statement: April 25, 2002**
  - by Director-General Liu at a reception hosted by US Sandia National Laboratories for International Arms Control Year: Enhancing International Cooperation and Safeguarding World Security, April 25, 2002.
- **Address: August 12, 2009**
  - by H.E. Yang Jiechi Minister of Foreign Affairs of the People's Republic of China at the Conference on Disarmament
- **Statement: October 17, 2011**
  - By Qun Wang, Chinese ambassador for disarmament affairs at a conference of the First Committee of the UN General Assembly
  - “The **outer space** is the **common wealth of mankind** as the global public space. The permanent peace of outer space is correlated to all nations’ security, development and prosperity.”



### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

- “Common Wealth” Defined as an English Word

#### wealth

- Black's: a large quantity of something
- Webster's: abundance of valuable material possessions or resources; all property that has a money value or an exchangeable value; all material objects that have economic utility.

#### Common

- Black's: a legal right to use another person's property, such as an easement.

#### Common wealth

- Likely means “Joint possession”; “common(or shared) property”; “common ownership”

### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

#### Legal Meaning of “Common Wealth” in China's White Paper

- China asserts that “outer space ” is the “joint possession” of all mankind?
- China indicates right to explore and use outer space should be based on the consent of all mankind?
- If so, the rights and obligations are both improperly enlarged.



# III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

## “Common wealth” Read As Different Chinese Words

- Chinese Marriage Law
  - Translated from “共同财产” ( No.3)
    - “joint possession” , “mutual property”, “common ownership”
    - Right of disposition and obligation of obtaining others' content
- Official's Address for 2008 Olympics
  - Translated from “共同财富” ( No.1 )
    - Right to share things (cultural and property)
    - Obligation to protect them
  - “China's top legislator Wu Bangguo called the Olympic Movement a *'common wealth of mankind'* here on Monday, while addressing the opening of the 16th general assembly of the Association of National Olympic Committees. ”

• *News of Xinhua Agency on April 08, 2008*

### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

#### Legal Meaning of “Common Wealth” in China's White Paper and Its Relationship to Relevant Treaty Terms

- **“共同财富” ( No.1 ) V. “Common Heritage”**
  - Both mean obligation to protect and right to explore and to use
  - has the same legal meaning
  - China is not a party to MT
  - It is improper for China to hold the same position of MT in its national space document
  - White Paper : “common wealth” applies to all of outer space
  - Art. 1, MT: “common heritage” only applies to the solar system
  - Rights and obligations described in White Paper are broader than those in MT

### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

#### Legal Meaning of “Common Wealth” in China's White Paper and Its Relationship to Relevant Treaty Terms

- “共同财富” ( No.1 ) V. “Province of All Mankind”
  - “Province of All Mankind” translates to “全人类的事情” (No.2)
  - Both “Province of all mankind” and its Chinese translation focus on the right to explore and use outer space
  - “共同财富” ( No.1 ) also means protection obligation, besides right of exploration and use.
  - “共同财富” ( No.1 ) could absorb “province of all mankind” to certain extent.
  - China is a State Party to OST, not MT, so it should not broaden the scope of the principle set up in it.

### **III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER**

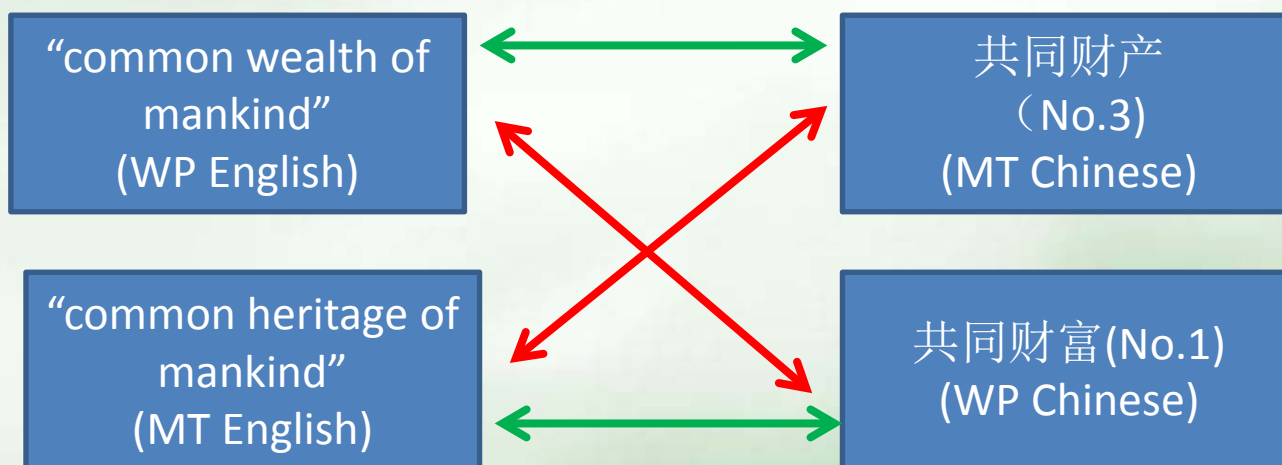
- **Conclusions Regarding 2006 White Paper**
  - **“Common wealth of mankind” in China’s White Paper should not be taken as “joint possession” or “mutual property” of mankind, but as “common heritage of mankind” in MT.**
  - **However, it still contains broader rights and obligations than the ones indicated by “province of all mankind” in OST.**
  - **The rights and obligations are improperly enlarged because China is not the State Party to MT, but a State Party to OST.**
  - **Even if China was a State Party to MT, the rights and obligations are still improperly enlarged because the object of “common wealth of mankind” should be limited in the solar system but not in “outer space”, according to MT (Art. 1).**



### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

- Reasons

- Mismatched translation causes misunderstanding



- It is erroneous to equate the “province of all mankind” in OST and the “common heritage of mankind” in MT.

### III. IMPROPERLY ENLARGED RIGHTS AND OBLIGATIONS IN CHINA'S WHITE PAPER

#### Suggestions to Eliminate the Misunderstandings:

#### Use Proper Terms in China's Next White Paper

- Translate “(人类) 共同**财富**” (No.1) into the English term “common heritage of mankind”
  - Addresses drafting error in the 2006 White Paper
  - However, changing English term is not enough because China is not MT Party
    - Still have to change “outer space” to “solar system”
- In Chinese, change “(人类) 共同**财富**” (No.1) to “(人类) **共同事情**” (No.2)
  - In English translation change “common wealth” to “province of all mankind”







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**Thank you.**

