



构建中国海外战略支点

基于21世纪海上丝绸之路战略思考

CONSTRUCTION OF CHINA'S OVERSEAS STRATEGIC PIVOT  
Legal path and choice strategy

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法律路径与选择策略

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# **Construction of China's overseas strategic pivot legal path and choice strategy.**

## **ABSTRACT**

“Sun Tzu's The Art of War”, Sun Tzu said: The art of war is of vital importance to the State. It is a matter of life and death, a road either to safety or to ruin. Hence it is a subject of inquiry which can on no account be neglected.

Overseas military bases, as an important military presence, highlighting the country's military forces as well as the comprehensive national strength, for a country or even a region of political, economic, diplomatic, cultural, and other aspects have a significant impact. It has been considered the Western countries to maintain colonial rule, seeking hegemony, plundering overseas resources important support, play a political declaration of foreign intervention affairs of other States, the implementation of deterrence, the implementation of the role of power hegemony overseas strategic fulcrum. However, as with military bases overseas, sensitivity and international, and difficult to study, less research is very limited research is highly concentrated in international relations, international politics, international diplomacy and other fields, especially in the study of international law in the field of law achievements rare.

Based on this, to break the traditional political perspective, try to research from international law perspective, based on very limited but real case study overseas military bases of selection, establishment, use, all dying process (such as a person's life, from birth to have death, from small to large evolution) the legal nature or characteristics. From Britain and other Western countries, military bases overseas case studies (mainly between 1940-1990 Cases), legal analysis of contracts overseas military bases agreement text analysis and international treaties, regional

organizations and national constitutions, the use of “military base case - military bases agreement text-domestic and foreign laws and regulations.”the three-dimensional analysis, followed “the born - the presence - the demise ”of the whole process of logical thinking to clarify the legal bases overseas property, legal rights , legal disputes, legal liability, discusses the legal nature of overseas military bases for the national interests, national rights and services.

This article discusses the concepts involved in overseas military bases, the main military base is important to define the concept of the type of analysis, the value of function analysis, interpretation of military bases agreement, British and American military bases overseas layout before; discusses the legal and military bases overseas property legality, respectively, from the academic point of view, national sovereignty, the rights of third country, elaborating on the rights of neutral countries, while the US and British military bases overseas legality and legitimacy given corresponding evaluation; discusses the establishment of overseas military bases and choice of legal regulation, limited international treaties, multilateral treaties, bilateral treaties and other legal documents, should follow relevant laws and regulations, the establishment and choice are to be applicable contract principles and the principle of legality; discusses the legal issues overseas military bases used by the law and agreements to limit. Discusses the legal way to end the overseas military bases, military bases agreement from the dispute, breach of contract, violations, dispute resolution and disarmament agreements until the end of the last process. We see both under international law system of national interests of the game of trade-offs, and saw for the adjustment of national competition law, the rights of the limited role of competition.

For China, overseas military bases has important implications. Not rigidly adhere to the “Do you want to establish” or “the possibility of establishing” and other issues, but another way to seek alternatives to overseas military bases - Construction of China strategic port. China should

break the conventional thinking, do not copy the Anglo-American and other countries unequivocally deploy overseas military bases as a rigid military presence to “creative intervention” thinking, choose the world's major shipping channel marine transportation, overseas stakeholders region and an important port marine sensitive areas, full use of the existing system of international law, by China with the port receiving countries to sign a “strategic port agreement” legal institutional arrangements, access to overseas strategic port stage use rights, management rights or ownership, rational and restrained to the overseas strategy to build a port Chinese overseas strategic pivot. Can be used as a flexible military presence wartime play “quasi-military base” effect, it can also serve as an important commercial presence, usually play a “commercial port” effect. Britain and other countries can avoid falling into the construction of permanent military bases in overseas traditional stereotype, but also can avoid the existing powers of tit-to-head collision intense, but also can reduce the maritime countries of China may pose a threat to continued strong sensitivity, China can also save a lot of human, financial and material resources to create a more favorable international environment for Chinese peaceful rise.

**Key Words:** international law, national sovereignty, overseas military bases, strategic port