

# The reform direction of property right system of natural resources assets in China format

Xiaoyong Zhong, Dongyan Guo \*

Chinese Academy of Natural Resources Economics, 101149 Beijing, China

**Abstract.** The reform of property right system of natural resources is the only way to promote the construction of ecological civilization in China. By systematically combing the construction process of China's natural resources assets property rights system and drawing lessons from foreign property rights system experience, this paper can systematically analyze the main problems faced by China's natural resources assets system at present, and put forward targeted policy suggestions for reform.

## 1 The construction process of China's natural resources asset property rights management system

### 1.1 The state fully and directly exercise the property rights of natural resources assets

China's 1954 Constitution stipulates that "mineral deposits, water flows, forests, wasteland and other resources that are state-owned by law are all owned by the whole people." From 1960s to the end of 1970s, China's property right system of natural resources assets was replaced and managed by the natural resources administrative management system for a long time. Natural resources were prohibited from circulation, and resource products also became restricted circulation. The government was responsible for the supply, distribution, operation and management of natural resources, and all the production and operation activities of state-owned natural resources enterprises were arranged and undertaken by the government. At this stage, China has no relevant provisions on the property right system of natural resources assets in law.

### 1.2 The stage of separation of ownership and use right of natural resources assets and free use

The 1982 Constitution not only emphasizes the ownership of state-owned natural resources, but also stipulates the collective ownership of natural resources assets and clarifies the dual structure of property rights of natural resources assets. But at the same time, it stipulates that "state-owned mineral deposits and water flows, forest land, mountains, grasslands, wasteland and tidal flats owned by the state and collectively owned by law shall not be bought, sold, leased, mortgaged or illegally transferred in other forms." Under the premise that the ownership of natural resources assets prohibits trading,

state-owned and collective-owned natural resources can be developed and utilized by individuals and units according to law, including the use, income, exploration, exploitation and logging of natural resources. Through the creation of various natural resources use rights, such as exploration rights, mining rights, forestry rights, contracting rights and so on. Grant natural resource assets to developers and users free of charge.

### 1.3 The stage of separation of ownership and use right of natural resources assets and paid use of use right

During this period, China revised several major natural resources management laws, including the Urban Real Estate Management Law of 1994, the Mineral Resources Law of 1996, the Forestry Law of 1998, the Water Law of 2002, the Land Management Law of 2004 and the Fisheries Law of 2004. At the same time, a series of laws, regulations and rules on various natural resources were formulated and promulgated. At this stage, the law stipulated the state ownership of natural resources, and made it clear that the State Council exercised the ownership on behalf of the state, and established the system of separation of ownership and use right of natural resources assets and paid use of use right, which laid the foundation of China's current property right system of natural resources assets.

## 2 The property rights system of natural resources assets in major countries in the world

### 2.1. The registration system

In most countries, the registration of natural resources started from land at the earliest, and most of them were under the responsibility of one department, mainly rights-

\* Corresponding author: 360248692@qq.com

related registration. Not only in many common law countries but also in civil law countries, the concept of "land" includes the surface and various mulches such as forests, grasslands, minerals and water attached to the surface. Other countries implement comprehensive and unified registration of natural resources, represented by British Columbia, Canada, which implements a unified registration system of natural resources. Natural resources such as forests and land are managed by the Forest, Land and Natural Resources Operation Department of British Columbia. Among the natural resources rights and interests that need to be registered in Canada, the transfer of government administration and control rights is included. Government agencies can transfer the administrative management rights, control rights and incidental income rights of resources to other agencies or hand them over to the federal government.

## **2.2 Property rights system**

It has become a common trend of all countries in the world that natural resources are owned by the state or classified as public property. The nationalization of natural resources makes the attribution of natural resources in the world converge, and makes the system of the right to use natural resources have a common ownership foundation. The laws of all countries (regions) in the world basically stipulate that the right to use natural resources can be obtained through franchise, license and agreement, but the most important form is through administrative license, which aims to strengthen the management of natural resources utilization. Because natural resources are also the source of human basic means of subsistence and the characteristics of some natural resources shared, the laws of various countries also stipulate that it is not necessary to apply for a license to meet the basic needs of survival and non-commercial utilization. For example, citizens may not apply for water intake permits in order to meet their basic living needs and raise livestock. Citizens can stay freely and free of charge in the forest and pick wild fruits according to law; Aborigines can cut trees and hunt wild animals without permission to make a living. Residents do not need permission to use minerals for their own use on their own land.

## **2.3 Investigation and evaluation system**

With the needs of economic and social development, countries have deepened their understanding of the role of comprehensive investigation and evaluation, and its role field has been continuously expanded, and its position in economic and social development and resource management has also been rising day by day. It has not only become the basis for solving many major comprehensive problems, but also an indispensable part of resource strategy, resource planning and resource decision-making. The Japanese government promulgated the Law on Land Survey in 1951 and enacted the Law on Special Measures for Promoting Land Survey in 1962, aiming at "promoting land development, land protection and high utilization of land, seeking clear cadastre and

obtaining land facts scientifically and comprehensively". Australia's national land survey began in 1946, which carried out a comprehensive survey and investigation of land resources in the whole country, serving for land use planning and management decision-making. Founded in 1879, the purpose of the U.S. Geological Survey changed from "investigation and data collection" to "investigation and data comprehensive analysis", which plays an extremely important role in improving economic development, environmental health and basic human living conditions.

## **3 The current problems faced by China's property rights system of natural resources assets**

### **3.1 The legal system of the right to use natural resources needs to be improved**

First, "China's Property Law" and "Single-category Natural Resources Law" leave gaps in the provisions on the right to use. Although the Property Law of China promulgated in 2007 has detailed regulations on land use rights and further clarifies the system of paid use of natural resources in Article 119, it only selectively confirms several kinds of natural resource use rights, but has no regulations on other natural resource use rights. Second, there is a lack of coordination between the right to use natural resources. Due to the classified management of various natural resources in China, the current legal system lacks overall consideration of the right to use various natural resources, which leads to the lack of coordination between the right to use natural resources, the vague boundary of rights and a large number of conflicts of rights. Such as the relationship between prospecting right, mining right and land use right, sea area use right, fishery right and sea area use right, water right and so on.

### **3.2 The overlapping contradiction between the administrative management of natural resources and the supervision and management rights**

Natural resources are owned by the state, which makes the state have the dual identities of civil subject and public power subject. For a long time, due to cognitive reasons and institutional problems, the administrative power of the state as the manager of natural resources is mixed with the property rights of the state as the owner of natural resources. In practice, natural resources owned by the whole people are often represented by the administrative departments of governments at all levels. On the one hand, as the owner of natural resources, the government has various powers of ownership, on the other hand, as the manager of natural resources, it has administrative functions. In some cases, in order to obtain asset income, the protection of resources and ecological environment is deliberately ignored, and administrative power is also used to intervene in the normal process of asset transfer and transfer.

### **3.3 The degree of market allocation of natural resources assets is not high**

First, the system of paid use of natural resources assets has not been fully established. At present, with the exception of state-owned construction land and mineral resources, the system of paid use of other natural resources assets such as water and forest is relatively slow, and the real market-oriented operation has not been realized. Administrative means are still the main management and control mode, and the proportion of market-oriented transfer such as bidding, auction and hanging is low. Second, the construction of China's natural resources factor market is backward. At present, the entry rules, competition rules, transaction rules and exit mechanism of natural resources property rights transaction in China are imperfect, which leads to the confusion of natural resources property rights transfer. For example, the primary market of land is highly monopolized by the government, the secondary market is imperfect, and the transaction price of property rights does not truly reflect the value, scarcity, intergenerational relationship and ecological environment damage of natural resources, resulting in long-term inefficient market allocation of natural resources and extensive utilization of resources. Third, the administrative allocation of natural resources assets is high. At present, China basically replaces property right management with administrative management of natural resources. Many state-owned natural resources continue to use the traditional management mode of "who develops, who benefits", resulting in low-cost or even free, excessive and disorderly development and utilization, and the owner's rights and interests of the country cannot be fully guaranteed. Fourth, the income distribution of natural resources assets is unreasonable. The development of natural resources involves the interests of the central government, local governments, development enterprises and the public. Due to the lack of a reasonable benefit distribution mechanism, natural resources are nominally owned by the state, but most of the development benefits are taken away by the development subjects, and the governments and the public where the resources are located do not share the due benefits. There is a phenomenon that "resources are taken away and pollution is left behind; Wealth is taken away, poverty is left behind".

## **4 The future reform trend of China's natural resources asset property rights system**

### **4.1 Further improve the system of using natural resources owned by the whole people**

Clarify the main rights of property rights of various natural resources, innovate the realization forms of national ownership and collective ownership of natural resources, and promote the further separation of ownership and use right. For the natural resources that can be developed and utilized, the ownership relationship and

rights and responsibilities of rights such as possession, use, income and disposal should be clearly defined, and the rights and responsibilities of transferring, leasing, mortgaging, guaranteeing and taking shares of the right to use should be moderately expanded. Accelerate the formulation of measures for the administration of the right to use state-owned agricultural land, clarify the rights of owners and users of state-owned rural areas, forest farms and pastures, and improve the rights of state-owned agricultural land transfer, lease, mortgage, and investment (shareholding). Improve the possession, transfer, lease, mortgage, investment (shareholding) and other powers of prospecting and mining rights. Improve the right to take water, moderately expand the power of transfer and lease, and actively and steadily explore various forms of water rights trading. Improve the powers of transfer, mortgage, lease, investment (shareholding) of sea area use rights, and explore the three-dimensional establishment of sea area use rights. Accelerate the construction of the right system of the right to use uninhabited islands, and give the power of transfer, lease, mortgage, investment at a fixed price (shareholding), etc., so as to coordinate and seamlessly connect with the land use right of inhabited islands.

### **4.2 Deepening the market-oriented reform of the development and utilization of natural resources**

Further deepen the reform of paid use of water resources, state-owned forest resources and state-owned grassland resources, and explore the establishment of multi-level property rights system arrangements for nature reserves with important ecological functions through the reform of property rights system, which is conducive to protecting resources and reducing the transaction costs of resource management and development. According to the actual needs, we can deal with the relationship with the main body of property rights of natural resources in nature reserves by means of expropriation, lease, replacement, agreement management and protection, easement contract and franchise, so as to realize the effective protection and rational utilization of natural resources. At the same time, it is necessary to adhere to the unity of rights and obligations, and clarify the obligations of natural resources property owners such as use control, resource protection, rational utilization, ecological restoration, pollution prevention and control by perfecting relevant laws and regulations, so as to strengthen the ecological protection responsibility of property owners.

### **4.3 Establish a centralized and efficient natural resources property rights supervision mechanism**

Improve the classification standards of natural resources such as land, rationally divide ecological land, and clarify the boundaries between forest land and grassland, rivers and lakes and wetlands, so as to lay the foundation for unified registration of ownership. On the basis of real estate registration, we will accelerate the pilot project of unified registration of natural resources and gradually

cover all natural resources. Strengthen the unified registration of independent natural resources registration units such as national parks, nature reserves, wetlands and water flows, draw a clear line between national ownership and collective ownership, draw a clear line between national ownership and ownership exercised by governments at different levels, and draw a clear line between different collective owners. Improve and broaden the channels of public supervision, establish a timely feedback and processing mechanism, and realize the organic combination of social supervision and government supervision. Innovate supervision means, give full play to the role of modern technical means such as mobile internet, big data, cloud computing and Internet of Things, and build a supervision system that highlights prevention and early warning beforehand, strengthens monitoring and restriction in the event, and focuses on accountability and feedback afterwards, so as to realize dynamic supervision of the whole process of natural resource ownership and use rights.

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