



国家海洋局第二海洋研究所  
Second Institute of Oceanography, SOA

# Chinese Legislation on the Role and Function of Sponsoring State

**XUEWEI XU**

Second Institute of Oceanography (SIO), State Oceanic Administration (SOA)

Email: [xuxw@sio.org.cn](mailto:xuxw@sio.org.cn) or [xxwju@zju.edu.cn](mailto:xxwju@zju.edu.cn)

May 21, 2017, Berlin



# Outline

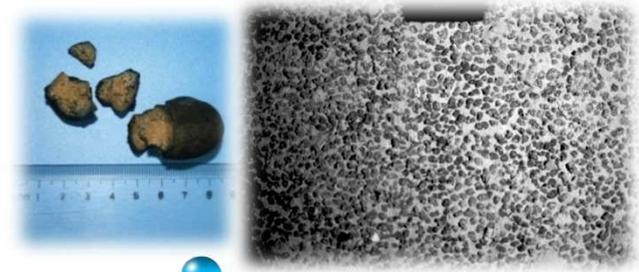
---

- 1 Process of Chinese legislation on activities in the Area**
- 2 Framework of Chinese legislation on activities in the Area**

# The reality of activities in the Area

## Domestic requirements

Different players in the Area need to be regulated.



Step 1

Exploration

Step 2

Exploitation

International requirements

Activities in the Area are entering into **a critical time**, focus shifting from exploration to exploitation.

**Legislation** in the Area is **substantial requirement** for obligations/responsibilities and exemption from legal liability of a sponsoring State.

# China has sound legal base for legislation on the Area's activities

---

- Chinese laws, rules and regulations on activities within marine areas under its national jurisdiction, contain **basic legal systems**.
  - Law of PRC on the Administration of the Use of Sea Areas, 2001
  - Marine Environment Protection Law, 1982 (amended 1999 and 2014)
  - Mineral Resources Law, 1986 (amended 1996)
  - Regulations on Control over Dumping of Wastes at Sea, 1985
  - .....
- **A wealth of experience** was accumulated through the legislative process of those laws and regulations in terms of regulating exploration and development of marine mineral resources and marine environmental protection.

# Chinese legislation underwent a long period of preparation

## Prepare phase

**China initiated the research program on legislation on international seabed areas as early as 1991.**

**Relevant proposals** for legislation on the deep sea activities **to National People's Congress** were discussed.

In late 2000's, **China restarted the research program** for legislation on activities in the Area.

In early 2010's, **the Legal office of State Council** put the administrative regulation on the Area's activities in the **legislation/regulation plan**.

1990 91

2000

2010 11 12 13 2016

## Boost phase

In 2011, a 5-years plan for the Area's activities issued jointly by 6 ministries called for **accelerating the process of legislation** on activities in the Area, and for shifting COMRA's function from program management to administering the Area's affair.

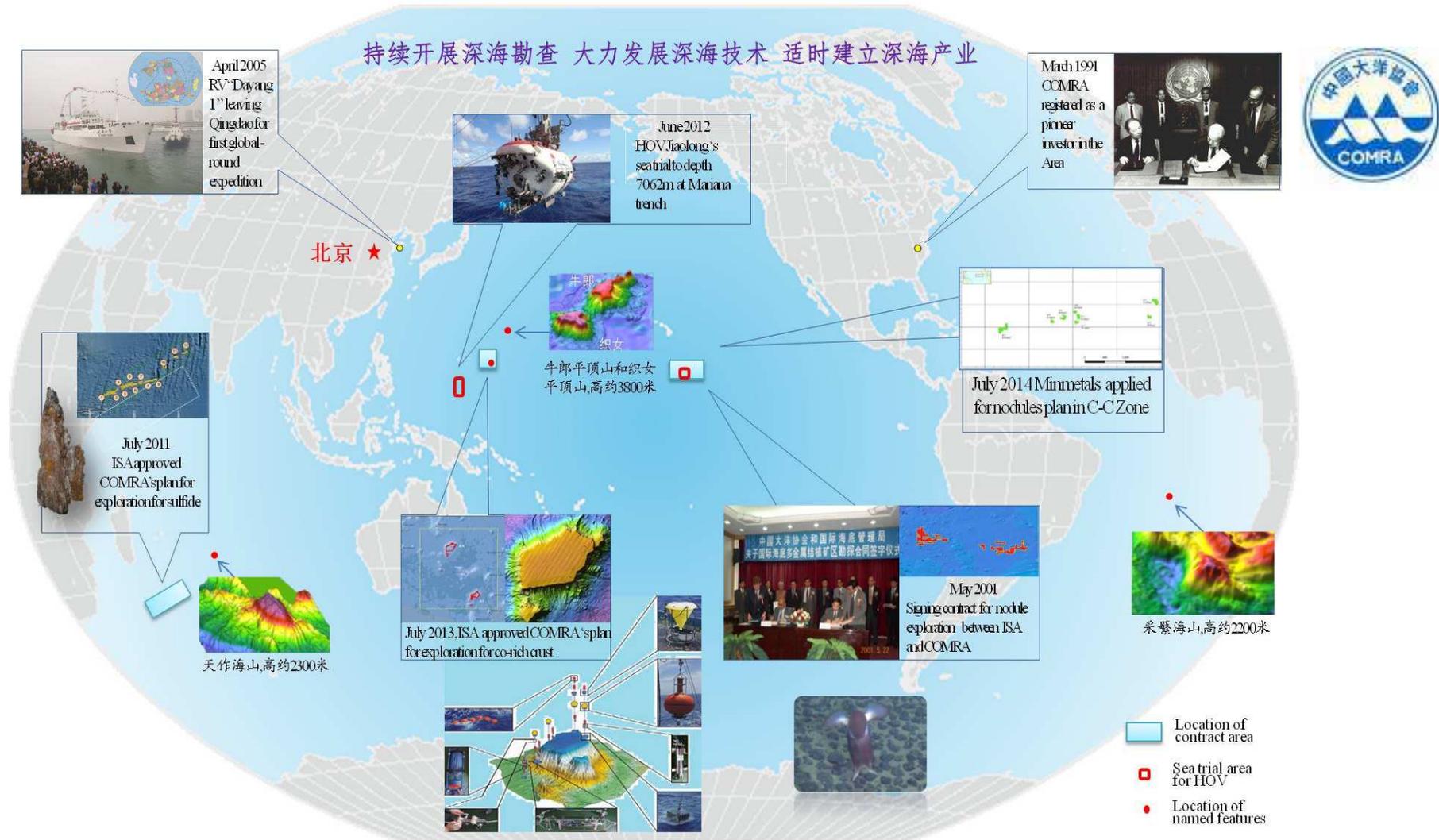
In 2012, **the Authority of the Area's affair was established**, initiating a research program for the system of administering the activities in the Area.

In March 2013, 31 delegates proposed a motion on the legislation of resources exploration and exploitation in the deep sea.

Late in 2013, the Standing Committee of **NPC decided to initiate the legislation** on activities in the deep sea, issuing the plan for legislative work within current term.

# Chinese legislation was based on massive activities in the Area, especially on environment survey

## China's Activities in the Area



# Chinese legislation process included study, discussion, drafting and approval

- Open, sound and democratic way:
  - Study the experiences from relevant countries' legislation and requirements from UNCLOS, ISA, and so on.
  - Extensive survey/discussions with stakeholders: universities, institutes, enterprises, relevant authorities, ISA....
- Drafting work and deliberation with hearings in a specific committee of NPC.
- Consideration was taken into by the Standing Committee of NPC in 2016.



adopted at the 19th Meeting of the Standing Committee of the Twelfth National People's Congress on February 26, 2016, is hereby promulgated and shall enter into force on the date of May 1, 2016.

# Outline

---

- 1** **Process of Chinese legislation on activities in the Area**
- 2** **Framework of Chinese legislation on activities in the Area**

# Law of PRC on Exploration for and Exploitation of Resources in the Deep Seabed Area

---

## Structure (7 chapters and 29 articles)

- I. General Provisions
- II. Exploration and Exploitation
- III. Environment Protection
- IV. Science and Technology Research and Resource Investigation
- V. Supervision and Inspection
- VI. Legal Liability
- VII. Supplementary Provisions



# Objectives

---

To promote  
**sustainable  
utilization of  
resources** in  
the Area

To protect  
**marine  
environment**

To promote the  
development of  
deep sea  
**science and  
technology**



To regulate **supervision of exploration and  
exploitation activities** in the deep seabed area

In compliance with the UNCLOS and Regulations of the ISA  
as well as relevant international instruments

# Principles

---

- SIO Sustainable development**
- SIO Protection of marine environment**
- SIO Sound and scientific manner**
- SIO International cooperation**

# Chapter 2: Exploration and Exploitation

---

## Article 8:

- Paragraph 2: the applicant that is given permission may conduct exploration and/or exploitation activities **only after becoming a contractor** upon signing an exploration and/or exploitation contract with the ISA.

## Article 9:

- Paragraph 2 : the contractor shall **fulfill the obligations** in accordance with the signed exploration and/or exploitation contract, **ensure the safety of personnel** engaged in the exploration and exploitation operations, **protect the marine environment**.
- Paragraph 3 : the contractor shall **protect, *inter alia*, historical relics and laid objects** during the exploration and exploitation operations.

# Chapter 2: Exploration and Exploitation

---

## ● Article 11:

In case of an incident causing or likely causing serious harm to the marine environment, the contractor shall **immediately initiate the contingency plan** and take the following measures:

- immediately raising an alarm;
- immediately reporting to the department in charge of ocean affairs under the State Council, and the department shall notify the relevant departments timely;
- **taking all practical and reasonable measures to prevent, reduce and control the harm to the personnel, properties and marine environment.**

# Chapter 3: Environmental protection: not less stringent than ISA

---

## Article 12:

The contractor shall, to the reasonable and practical extent, use available advanced technologies and shall take necessary measures to **prevent, reduce and control the pollution and other hazards to the marine environment** arising from the activities in the exploration and/or exploitation area.

# Chapter 3: Environmental protection: not less stringent than ISA

---

## Article 13:

The contractor shall, in compliance with the provisions and requirements in the exploration and/or exploitation contract and with the regulations prescribed by the department in charge of ocean affairs under the State Council, **investigate and research the marine status** of the exploration and/or exploitation area, **establish environmental baselines**, **assess the possible marine environmental impacts** caused by the exploration and exploitation activities; **formulate and enforce environmental monitoring programs**, **monitor impacts** from the exploration and exploitation activities to the marine environment thereof, **ensure the proper operations of the monitoring equipment** and **maintain the original monitoring records**.

# Chapter 3: Environmental protection: not less stringent than ISA

---

## ● Article 14:

The contractor shall, when engaging in exploration and exploitation activities, **take necessary measures to protect and preserve the rare or vulnerable ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life, to preserve marine biological diversity and promote the sustainable uses of marine resources.**

# Chapter 6: Legal Liability

---

- Article 23: The department in charge of ocean affairs under the State Council may **revoke its permission** and **withdraw relevant documents** from those who have violated articles.
- Article 26: For those who have violated articles, and **caused pollution and damage to the marine environment or damage to historical relics and laid objects in the operation area**, the department in charge of ocean affairs under the State Council **shall order to cease the illegal actions, and impose a fine**. For those who have constituted crimes shall be prosecuted the criminal liability in accordance with law.

# Thank you!

## Acknowledgement



**Liu Feng, Secretary-General**

**Kang Jian**

**Li Xiangyang**

**Wang Xiumei**

**Wu Guifeng**



**Jin Jiancai**

**Zhang Guobin**

