

than UNCLOS, and China's historic rights within the dotted line shall be recognized and respected both from the accepted international law and China's domestic law.

## Maritime Rights and Interests over Waters beyond National Jurisdiction

China also enjoys certain rights and interests over waters outside its national jurisdiction, including oceans, polar regions and other waters.

### High Seas

High seas refer to the vast waters beyond national jurisdiction of coastal states. Traditionally, the term "high seas" includes all sea areas that are not included in the territorial sea or in the internal waters of a state<sup>1</sup>. Article 86 of UNCLOS narrows down the definition of high seas, by limiting high seas to "all sea areas that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a state, or in the archipelagic waters of an archipelagic state." High seas shall be reserved for peaceful purposes, and the freedom on high seas is regarded as the legal basis of the high seas regime. The high seas are open to all states, no matter whether they are coastal or land-locked. Every country enjoys various kinds of freedom on the high seas as specified by international laws, including

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1 See Article 1 of the Convention on the High Seas issued in 1958. *Principles of Public International Law* (2007) by Ivan Brownlie, translated by Zeng Lingliang & Yu Minyou, Beijing: China Law Press, P203.

freedom to navigate, fly over, lay submarine cables and pipelines, construct artificial islands and other installations permitted, fish and do scientific research.

According to UNCLOS, China enjoys the said freedom on the high seas, and flag state jurisdiction and general jurisdiction according to law. Flag state jurisdiction means that the flag state has the exclusive right to exercise legislative and enforcement jurisdiction over ships registered in its territory, including people and things on board and events that happen on ships on the high seas. General jurisdiction refers to that every state shall exercise jurisdiction over international crimes against interests of human beings and some infringement of international laws, which include unauthorized broadcasting, piracy, transport of slaves and illicit trafficking of narcotic drugs or psychotropic substances, etc. Article 110 of UNCLOS defines a warship or military aircraft's right to board ships without complete



On November 6<sup>th</sup>, 2012, the launching ceremony of “Weiwen 2012”, a joint maritime law enforcement action was held in the Shidao Center Fishing Port in Rongcheng City, Shandong Province.

immunity on high seas under certain conditions<sup>1</sup>. Article 111 of UNCLOS provides that the hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal state have a good reason to believe that the ship has violated the laws and regulations of that state, and the right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own state or of a third state.

## “Area”

The “area” means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction, i.e., the deep seabed and subsoil beyond the continental shelf of states. The differences in delimitation and range applicable to the exclusive economic zone and continental shelf lead to the differences between the range of the high seas and the area. In general, the waters superjacent to the area is the high seas while parts of seabed, ocean floor and subsoil covered by the high seas may be the continental shelf of a coastal state under its jurisdiction.

The area and its resources, as the common heritage of mankind, shall be open to all states, both coastal and land-locked, and be used for peaceful purposes only. The area is rich in resources, including sulfides, cobalt-rich crusts, gas hydrates, deep seabed biological resources, and other deep seabed resources. Activities in the area shall be governed by the provisions of PART XI of UNCLOS. Marine scientific research in the area shall be carried out for the benefit of mankind as a whole. UNCLOS also defines

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1 According to the first clause of Article 110, UNCLOS, “Except where acts of interference derive from powers conferred by treaty, a warship which encounters on the high seas a foreign ship, other than a ship entitled to complete immunity in accordance with articles 95 and 96, is not justified in boarding it unless there is reasonable ground for suspecting that : (a) the ship is engaged in piracy; (b) the ship is engaged in slave trade; (c) the ship is engaged in unauthorized broadcasting and the flag state of the warship has jurisdiction under Article 109; (d) the ship is without nationality; or (e) though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.”



In May, 2014, China's "Science" oceanographic research vessel, the national key scientific and technological infrastructure, returned to Qingdao and docked in the Olympic Sailing Center after its successful maiden voyage.

that "all objects of an archaeological and historical nature found in the area shall be preserved or disposed of for the benefit of mankind as a whole, with particular regard being paid to the preferential rights of the state or country of origin, or the state of cultural origin, or the state of historical and archaeological origin."<sup>1</sup>

All rights in the resources of the area vest in mankind as a whole, on whose behalf the International Seabed Authority (ISA) shall act. ISA standardized relevant prospecting and exploration activities in the area by adopting the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area in 2000 and Regulations on Prospecting and Exploration for Polymetallic Sulfides in the Area in 2010.

China began exploring the international seabed from the 1970s. China's ocean work ushered in a new era with the official founding of the China Ocean Mineral Resources R & D Association (COMRA) in April 1991. China and ISA signed the international seabed polymetallic nodules resource exploration contract and confirmed China's exclusive exploration rights and priority commercial exploitation rights on the 75,000 km<sup>2</sup> polymetallic nodule ore field located in the international seabed area of the Pacific Ocean in 2001.

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<sup>1</sup> See Article 149 of UNCLOS.

In 2011, COMRA gained 10,000 km<sup>2</sup> of polymetallic sulfides ore field in the southwestern Indian Ocean with exclusive exploration rights and priority commercial exploitation rights. As one of the pioneer investors and exploration contractors of international seabed resources, COMRA effectively fulfills its obligations as a contractor, provides rich data and services for ISA, and makes great contributions in promoting peaceful utilization of the resources in the area, protecting the seabed environment and disseminating the results of science and technology.

## Polar Regions

Polar regions are special geographical units and cross-regional areas, and climate changes and environment protection there have become global issues of common concern to the international community and objectively need cooperation among neighboring countries of the polar regions and other countries. In accordance with the Convention on the High Seas, the Antarctic Treaty, the Spitsbergen Treaty and relevant provisions of international laws, China enjoys certain rights and interests as well as undertakes corresponding obligations in the North and South Poles.



On March 26<sup>th</sup>, 2013, Yuzheng-46012 sailed to the surrounding waters in Xisha Islands and Huangyan Island to carry out its patrol and protection of fishing boats from Haikou, Hainan Province.