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### China's new law on exploration and exploitation of resources in the International Seabed Area of 2016

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## *Current Legal Developments* *China*



### **China's New Law on Exploration and Exploitation of Resources in the International Seabed Area of 2016**

Despite its rich metallic mineral resources on land,<sup>1</sup> the People's Republic of China (China) has been actively exploring for deep seabed minerals in the international seabed area (the Area).<sup>2</sup> The legal framework is provided by the United Nations Convention on the Law of the Sea (LOS).<sup>3</sup> China and the Russian Federation are the only States currently sponsoring exploration of all three types of deep seabed mineral deposit in the Area (polymetallic nodules in the Clarion-Clipperton Fracture Zone, seafloor massive sulphides in the South West Indian Ridge, the Central Indian Ridge, and the Mid-Atlantic Ridge, and cobalt-rich ferromanganese crusts in the Western Pacific Ocean). The China Ocean Mineral Resources Research and Development Association (COMRA), which China has been sponsoring, is the only contractor (out of 25) currently operating in the Area with all three mineral deposit types.<sup>4</sup> Moreover, China began sponsoring another polymetallic nodule exploration in 2015 through a

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- 1 For example, China accounts for 97% of the worldwide production of rare earth metals. It is also the most important producer of many other metal resources in the world, such as antimony (84%), arsenic (47%), cadmium (23%), copper (34%), germanium (71%), iron (39%), lead (43%), tin (37%) and zinc (25%). MARIBUS, *World Ocean Review 3 Marine Resources—Opportunities and Risks* (Maribus, Hamburg, 2014), p. 56.
  - 2 J Qiu, 'China Outlines Deep-Sea Ambitions' (2010) 466 *Nature* 166.
  - 3 United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982, in force 6 November 1994) (1982) 21(6) *ILM* 1261–1354.
  - 4 'Deep Seabed Minerals Contractors' (*International Seabed Authority*). Available at [www.isa.org/jm/deep-seabed-minerals-contractors](http://www.isa.org/jm/deep-seabed-minerals-contractors); accessed 19 March 2016.

State-owned enterprise called China Minmetals Corporation, thereby becoming one of the few States sponsoring more than one contractor.<sup>5</sup>

Until recently, however, China had not adopted laws and regulations and administrative measures, which the International Tribunal for the Law of the Sea affirmed as necessary for a sponsoring State to adopt in order to ensure compliance with its international obligations.<sup>6</sup> In 2016, shortly before COMRA's first exploration contract expired,<sup>7</sup> the National People's Congress passed the Law on Exploration and Exploitation of Resources in the Area (Deep Seabed Mining Law) to regulate Chinese activities in the Area.<sup>8</sup> This Note explores the Deep Seabed Mining Law in the context of China's shifting interests in the Area since the 1970s.<sup>9</sup> It serves as a general overview of the Deep Sea Mining Law and provides a critical assessment of China's latest position on the deep seabed regime in the LOSC as a sponsoring State.

### China's Shifting Interests in the Area

During the Third United Nations Conference on the Law of the Sea (1973–1982) (UNCLOS III), China primarily identified itself with other developing countries that formed the Group of 77.<sup>10</sup> China strongly opposed the possibility of extending the freedom of the high seas to the Area and supported the concept of the common heritage of mankind.<sup>11</sup> China argued that resources in the Area are “commonly owned by all the peoples in the world,”<sup>12</sup> and accordingly,

5 'Seabed Council Discusses Regulatory Framework for Mineral Exploitation' (*International Seabed Authority*, 21 July 2015). Available at [www.isa.org.jm/news/seabed-council-discusses-regulatory-framework-mineral-exploitation](http://www.isa.org.jm/news/seabed-council-discusses-regulatory-framework-mineral-exploitation); accessed 18 March 2016.

6 Responsibilities and Obligations of States with Respect to Activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 10, at 63. See also Annex III, Article 4, paragraph 4, of the LOSC.

7 The contract started on 22 May 2001 and ended on 21 May 2016. Available at: [https://www.isa.org.jm/deep-seabed-minerals-contractors?page=2&qt-contractors\\_tabs\\_alt=0](https://www.isa.org.jm/deep-seabed-minerals-contractors?page=2&qt-contractors_tabs_alt=0); accessed 9 April 2016.

8 Adopted on 26 February 2016, entry into force on 1 May 2016.

9 Prior to the adoption of the Deep Seabed Mining Law, China only had the Mineral Resources Law of 1986 for regulating mining activities in marine areas under national jurisdiction.

10 CD Bethill, 'People's Republic of China and the Law of the Sea' (1974) 8(4) *The International Lawyer* 724–751. See also, M Carr, 'China and the Law of the Sea Convention' (1983) 9 *Australian Journal of Chinese Affairs* 35–53.

11 *Ibid.*

12 UN Doc. A/AC.138/SC.II/L.45, 1973.

activities in the Area shall be carried out for the benefit of mankind and that any benefits derived from such activities shall be shared equitably while taking into particular consideration the interests and needs of developing States.<sup>13</sup> China was generally favourable towards the outcome of UNCLOS III, but it has maintained the view that the deep seabed regime gives too much advantage to a few industrialized countries.<sup>14</sup>

In the past few decades, however, China itself has emerged as a major industrial power. China started investing in survey activities and research on polymetallic nodules as early as the 1970s.<sup>15</sup> In 1984, the Chinese government had decided to apply for exploration of polymetallic nodules in the Area by 1990.<sup>16</sup> Subsequently, COMRA was established in 1990 as a cross-industry, cross-sectoral platform to organize and coordinate Chinese activities in the Area.<sup>17</sup> In the following year, China registered itself as a pioneer investor in accordance with Resolution II of UNCLOS III, and today, China stands as a key sponsoring State in the Area with requisite financial and technological capacities. It also has considerable influence over the development of the Mining Code as a key member of the Council of the International Seabed Authority (ISA).<sup>18</sup>

As such, China's interests in the Area have shifted as it evolved from a developing country passively seeking benefits shared by developed countries in the spirit of the common heritage of mankind to a prospective deep seabed mining State actively seeking direct benefits from the Area. China's strategic interests seem to be in line with the 1994 Agreement Relating to the Implementation of Part XI of the LOSC,<sup>19</sup> which has modified the deep seabed regime to meet

13 See, for example, UNGA Res. 2749, U.N. GAOR 25th Session, UN Doc. A/RES/25/2749 (1970).

14 Z Gao, 'China and the LOS Convention' (1991) 15 (3) *Marine Policy* 199–209, at p. 207.

15 *Ibid.* Between 1976 and 1983, the Chinese Government had carried out survey and research work relating to polymetallic nodules in several international seabed areas. Total investment in these activities amounted to over 80 million yuan.

16 China Ocean Daily: 'Implementing Obligations under International Law, Promoting Exploration and Exploitation of Resources in the Area'. Available at [www.oceanol.com/redian/shipping/2016-03-08/57167.html](http://www.oceanol.com/redian/shipping/2016-03-08/57167.html); accessed 20 March 2016 (in Chinese).

17 COMRA was established by the Government of China as the management organization to manage and supervise China's activities on exploration and development of resources in the international seabed area.

18 China was part of Group B (largest investors) from 1996 to 2004 and Group A (largest consumers) from 2005 to 2016. Available at: <https://www.isa.org.jm/sites/default/files/Council96-2016.pdf>; accessed 9 March 2016.

19 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (New York, 28 July 1994, in force 16 November 1994) UNTS vol. 1836, p. 3.

the objections of (and hence in favour of) developed States.<sup>20</sup> The adoption of the first Chinese legislation specific to deep seabed mining is, therefore, not only of interest for its contents, but also because it provides an opportunity to identify and reflect on China's latest policy position in relation to some of the key principles that underpin the international deep seabed regime.

### Overview of the Deep Seabed Mining Law 2016

According to the 13th Five-Year Plan for 2016–2020, China is committed to promote “blue economy” and establish itself as a maritime power.<sup>21</sup> Moreover, China is willing to enhance global economic governance, as well as actively participate in the development of international rules in “new” areas, such as the deep seabed, the Polar Regions, and outer space.<sup>22</sup> The need for legislation on deep seabed mining was officially raised in 2012 by the Environmental Protection and Resources Conservation Committee of the National People's Congress, which reported the need to “strengthen... supervision over and management of the activities conducted in the international seabed area.”<sup>23</sup> It is against this backdrop that the Deep Seabed Mining Law was adopted.

The Deep Seabed Mining Law consists of seven chapters and 29 articles. As stated in Article 1, the Law was enacted in order to regulate activities (prospecting,<sup>24</sup> exploration,<sup>25</sup> and exploitation<sup>26</sup>) in the Area. Moreover, it intends to promote marine scientific research and the protection of the marine environment, as well as the benefit of mankind as a whole, so as to achieve sustainable utilization of resources in the Area.<sup>27</sup> The Deep Seabed Mining Law is applicable to activities of any Chinese citizen, juridical person or organization in the Area. The Deep Seabed Mining Law follows Article 1(1) of the LOSC by

20 H Yu, ‘Remarks on China's Ratification of the 1982 UN Convention on the Law of the Sea’ (1995) 5 *Asian Yearbook of International Law* 211–230, at p. 215.

21 Central Committee of Chinese Communist Party's Suggestions on the 13th Five Year Plan for National Economic and Social Development (13th Five Year Plan of China), 3 November 2015. Available at: [news.ifeng.com/a/20151103/46094489\\_0.shtml](http://news.ifeng.com/a/20151103/46094489_0.shtml); accessed 20 March 2016 (in Chinese).

22 *Ibid.*

23 ISBA/18/C/8, para. 5. Available at: <http://www.isa.org.jm/files/documents/EN/18Sess/Council/ISBA-18C-8.pdf>; accessed 9 April 2016.

24 Deep Seabed Mining Law, Article 27 (3).

25 *Ibid.*, Article 27(1).

26 *Ibid.*, Article 27(2).

27 *Ibid.*, Article 1.

defining “Deep Seabed/Area” as the seabed, ocean floor and subsoil beyond the limits of national jurisdiction.<sup>28</sup> Common interest of mankind is enshrined by China as one of its key principles for activities in the Area, together with peaceful use, sharing and cooperation as well as marine environmental protection.<sup>29</sup> Nevertheless, no further details are mentioned regarding benefit sharing in the Deep Seabed Mining Law. According to Article 4, China will promote activities in the Area by adopting development plans and using economic and policy incentives.<sup>30</sup>

The Deep Seabed Mining Law has made it clear that the State Oceanic Administration (SOA) is the competent authority to manage and supervise Chinese activities in the Area.<sup>31</sup> COMRA has been affiliated with the SOA from the very beginning, which will continue to assist the SOA with regard to activities in the Area.

Chapter 2 of the Deep Seabed Mining Law establishes a license system for Chinese citizens, juridical persons and organizations who are interested in conducting exploration and exploitation activities in the Area. The SOA will review any potential submission to the ISA beforehand. Only those who receive approval from the SOA can make an official submission to the ISA. Otherwise activities would be stopped by the SOA and applicants would be fined up to 500,000 CNY.<sup>32</sup> The SOA requires documents regarding: details about applicants; location, size and minerals of the exploration and exploitation area; financial and technical capabilities; a plan of work, including information about potential impacts on the marine environment resulting from activities, as well as a contingency plan for disasters that might cause serious harm to the marine environment.<sup>33</sup> This encompasses the obligation for applicants to conduct an environmental impact assessment (EIA) before submitting their application. According to Article 3 of the 2002 Environmental Impact Assessment Law of China, EIA requirements are only applicable to sea areas under national jurisdiction. With the approval from the SOA, the licensee could then apply to the ISA to become a contractor. Under the Deep Seabed Mining Law, a contractor has several obligations while conducting exploration and exploitation activities: (1) protecting human life and the marine environment; (2) protecting objects of an archaeological or historical nature and submarine cables

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28 *Ibid.*, Article 2.

29 *Ibid.*, Article 3.

30 *Ibid.*, Article 4.

31 *Ibid.*, Article 5.

32 *Ibid.*, Article 25.

33 *Ibid.*, Article 7.

and pipelines; and (3) obeying Chinese legislation regarding work safety and labour protection.<sup>34</sup> This is in addition to any obligations according to the ISA contract.

The Deep Seabed Mining Law addresses the protection of the marine environment in the Area in Chapters 2 and 3.<sup>35</sup> However, it only imposes obligations on contractors. For example, when an incident resulting from activities in the Area occurs, which has caused or poses a threat of serious harm to the marine environment, the contractor must launch its contingency plan immediately.<sup>36</sup> It must (1) issue an alert; (2) report to the SOA; and (3) take any feasible and practical measures to prevent, reduce and control damage to human life, property and marine environment. The contractor is asked to take feasible and reasonable measures, using best available technology, to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area.<sup>37</sup> In accordance with requirements from each contract and the SOA, the contractor shall gather environmental baseline data and establish environmental baselines to assess likely effects of its exploration and exploitation activities on the marine environment.<sup>38</sup> Moreover, the contractor shall adopt a program to monitor and report on such effects.<sup>39</sup> There is also an article in Chapter 3 regarding the protection of marine biodiversity in the Area, which is borrowed from Article 194(5) of the LOSC. The contractor must take necessary measures “to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life” in the Area.<sup>40</sup>

Chapter 4 concerns marine scientific research and prospecting in the Area. It is noted that these two are grouped together. This may suggest that the Deep Seabed Mining Law favours a more commercial approach to retain data.

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34 *Ibid.*, Article 9.

35 The Deep Sea Mining Law, however, does not define pollution of the marine environment, for which the reader must be referred to the 1999 Marine Environmental Protection Law (MEPL). Article 95(1) of the MEPL incorporates the definition in the LOSC Article 1(4), and provides that “the pollution of marine environment means the introduction, directly or indirectly, of substances or energy into the marine environment, which results in such deleterious effects as harm to marine living resources, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.”

36 Deep Seabed Mining Law, Article 11.

37 *Ibid.*, Article 12.

38 *Ibid.*, Article 13.

39 *Ibid.*

40 *Ibid.*, Article 14.

In the LOSC, prospecting is discussed along with exploration and exploitation in Part XI, and marine scientific research is addressed in Part XIII. Marine scientific research on the deep sea has been listed as a priority in China's national science and technology development plan.<sup>41</sup> The Chinese government will support Chinese companies to conduct deep sea research, as well as to develop relevant equipment.<sup>42</sup> One specific measure is to support the establishment and operation of the Deep Sea Public Platform for marine scientific research and prospecting in the Area. This is a mechanism that will involve all stakeholders in deep seabed mining, so as to facilitate exchange of information, collaboration and cooperation. Information obtained by those who are conducting prospecting, exploration and exploitation in the Area shall be reported to the SOA. Information could contain copies of data, samples or catalogues of minerals. The SOA shall register and keep this information for public use.<sup>43</sup>

Chapters 5 and 6 provide a detailed inspection scheme and liability for contractors that are found to be in violation of the Deep Seabed Mining Law. The contractor must regularly report to the SOA regarding issues such as exploration and exploitation activities, environmental monitoring data and statistics about annual investment.<sup>44</sup> The SOA is authorized to inspect any vessel, installation, equipment, logbook, records and data of the contractor.<sup>45</sup>

The Deep Seabed Mining Law refers to criminal liability in cases of serious harm to the marine environment. In the 2011 Criminal Law of China, no specific offence relates to marine pollution, but in principle, Article 338 on 'Incidents with Environmental Pollution' is applicable. It states:

if a person or persons in violation of the regulations of the State, discharges, dumps or treats radioactive waste, waste containing pathogens of infectious diseases, toxic substances or other hazardous waste, causes major environmental pollution, they shall be sentenced to fixed-term imprisonment of not more than three years or detention and shall also, or shall only, be fined; if the consequences are especially serious, the person or persons shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

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41 *Ibid.*, Article 15.

42 *Ibid.*

43 *Ibid.*, Article 18.

44 *Ibid.*, Article 20.

45 *Ibid.*, Article 21.



It is, however, difficult to apply Article 338 in practice because the threshold concept of “serious consequences” is not defined. Little help can be found in other legislation. For example, Article 91(3) of the 1999 Marine Environmental Protection Law provides that ‘significant pollution’ and ‘major damage’ can result in criminal liability for vessel-source pollution. However, neither ‘significant pollution’ nor ‘major damage’ is defined.<sup>46</sup>

A full assessment of whether the Deep Seabed Mining Law is consistent with the ISA Mining Code is beyond the scope of the current analysis. This is especially the case because further specific regulations on deep seabed mining are yet to be developed. For example, the Deep Seabed Mining Law does not set out detailed criteria for financial viability and technical capacity of sponsored contractors, which need to be clarified by future regulations or administrative measures to be adopted by the State Council or the SOA.

### Navigating the Middle Ground between Developing and Developed Countries

Part XI of the LOSC, as modified by the 1994 Agreement, has elements that benefit both developing and developed countries.<sup>47</sup> As a developing country that has gone through a rapid industrialization, it would be in China’s strategic interest to delicately position itself so as to take advantage of both worlds. The Deep Seabed Mining Law, especially its treatment of the common heritage of mankind principle, can be seen as a reflection of China’s strategic stance.

The concept of the common heritage of mankind is not explicitly stated in the Deep Seabed Mining Law. The absence of reference to the term may indicate that China, as a potential deep seabed mining State, no longer wholeheartedly supports the common heritage of mankind principle as it did during UNCLOS III. While showing reluctance to explicitly acknowledge the principle of the common heritage of mankind, the Deep Seabed Mining Law does include the notion of common *interest* of mankind.<sup>48</sup> Although this concept is not defined in the legislation, the inclusion of the related concept is not a trivial point. In fact, so far it is very rare for a sponsoring State’s deep seabed legislation to include any such reference to the benefit of mankind. Most other

46 N Liu, ‘Criminal Liability for Vessel-Source Pollution in China, Law and Practice’ (2013) 28(3) *IJMCL* 517–531, at pp. 527–528.

47 See, for example, E Egede, *Africa and the Deep Seabed Regime: Politics and International Law of the Common Heritage of Mankind* (Springer, London, 2011).

48 Article 1, Deep Seabed Mining Law.

sponsoring States, no matter whether they are developing or developed ones, have chosen not to mention anything around the common heritage of mankind. The only exceptions are the Seabed Minerals Acts of Tonga and Tuvalu, each of which declares that the respective country “recognizes . . . the seabed resources of the Area to be the common heritage of mankind.”<sup>49</sup> Furthermore, China’s Ministry of Foreign Affairs did mention during its press conference for the Deep Seabed Mining Law that, in accordance with the LOSC, the Area is the common heritage of mankind and the adoption of the legislation is to regulate Chinese activities in the Area for the benefit of mankind as a whole.<sup>50</sup>

The Deep Seabed Mining Law recognizes that benefits derived from Chinese activities in the Area are to be shared.<sup>51</sup> Since UNCLOS III, China has been generally supportive of revenue sharing as provided for under Article 140 of the LOSC.<sup>52</sup> Acting on behalf of mankind as a whole, the ISA is obliged to provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through an appropriate mechanism and on a non-discriminatory basis. The Deep Sea Mining Law, although failing to adopt the LOSC language of “equitable sharing,” includes the notions of sharing and cooperation in relation to benefits.<sup>53</sup> A specific scheme regarding sharing and cooperation, however, needs to be developed in the future. A keen interest in the issue of benefit sharing was evident at the 2012 ISA workshop on the implementation of Article 82, which was convened by the Chinese government.<sup>54</sup> A key aspect of the implementation of Article 82 is the development of “equitable sharing criteria” based on which payments or contributions in kind will be distributed to States Parties, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them.<sup>55</sup>

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49 Section 8(b)(i), Seabed Minerals Act of Tonga; section 8(b)(i), Seabed Minerals Act of Tuvalu.

50 Ministry of Foreign Affairs, ‘Deep Sea Mining Law is for the Benefit of Mankind as a Whole’ (China Daily, 1 March 2016). Available at [http://world.chinadaily.com.cn/2016-03/01/content\\_23701008.htm](http://world.chinadaily.com.cn/2016-03/01/content_23701008.htm); accessed 5 March 2016 (in Chinese).

51 Article 3, Deep Seabed Mining Law.

52 See Carr (n 10), at p. 49.

53 Article 3, Deep Seabed Mining Law.

54 ISA Technical Study: No. 12. Available at <https://www.isa.org.jm/sites/default/files/files/documents/ts12-web.pdf>; accessed 5 April 2016.

55 See, for example, M Lodge, ‘The International Seabed Authority and Article 82 of the UN Convention on the Law of the Sea’ (2006) 21(3) *IJMCL* 323–333.

## Conclusion

In recent years, the growth in China's economic power has meant a corresponding growth in Chinese maritime power. Consequently, China is becoming increasingly active in ocean spaces beyond the limits of its national jurisdiction, including the Area. This is evident in the adoption of the Deep Seabed Mining Law in 2016. The Deep Seabed Mining Law reflects China's latest policy position towards the deep seabed regime in the LOSC. Although China has considered itself as a developing country, China's growing interests and capacity in ocean development have gradually distanced it from most other developing countries. China's watering down of the common heritage of mankind principle in the national legal context is indicative of China's shifting policy position towards the international deep seabed regime. However, it should be highlighted that the concept was not totally discarded. In the face of the apparent dilemma, China seems to have chosen to carefully navigate the middle ground between developed and developing countries. The emergence of rising powers—a developing State with financial and technological capacities of a developed State—such as China, India and Brazil, may have implications for the continuous development of the LOSC, which was negotiated when the world was clearly divided into the developing and developed countries in the 1970s and 1980s.<sup>56</sup> Countries like China may substantially change the dynamics and integrity of Part XI. For now, it will be interesting to observe China's practice in coming years when commercial exploitation of deep seabed minerals in the Area becomes a reality. At that time, the world would have a better idea about where China stands.

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56 China is not alone. For example, India is another developing country with financial and technological capacities. Perhaps more problematically, Singapore has been claiming the “developing country” status.

## **Appendix: The Law on Exploration and Exploitation of Resources in the Area (Promulgated on 26 February 2016)**

### ***Chapter I General Principles***

**Article 1** This Law was enacted to regulate exploration and exploitation activities of resources in the Area. It intends to promote deep sea scientific research; prospecting; protection of the marine environment, sustainable utilization of resources in the Area as well as common interest of mankind.

**Article 2** The Deep Seabed Mining Law is applicable to activities of any Chinese citizen, juridical person or organization in the Area, including exploration and exploitation of resources, marine environmental protection, scientific research and prospecting.

“Deep Seabed/Area” means the seabed, ocean floor and subsoil beyond the limits of national jurisdiction

**Article 3** Key principles for activities in the Area shall be: peaceful use, sharing and cooperation, marine environmental protection as well as common interest of mankind.

The State will protect legal rights of any Chinese citizen, juridical person or organization that are conducting exploration, exploitation and prospecting activities of resources in the Area.

**Article 4** The State shall adopt planning measures for exploration and exploitation of resources in the Area. It shall adopt economic and technological measures and policies to encourage prospecting and deep sea scientific research as well as enhance capacity for resources exploration, exploitation and marine environmental protection in the Area.

**Article 5** The State Oceanic Administration of the State Council is the competent authority to manage and supervise activities in the Area. Other relevant departments of the State Council are in charge of managing other relevant issues.

**Article 6** The State encourages and supports exploration, exploitation and prospecting of resources, marine environmental protection, scientific research, education and training as well as international cooperation in the Area.

### ***Chapter II Exploration and Exploitation***

**Article 7** The State Oceanic Administration will review any potential submission to the International Seabed Authority by Chinese citizens, juridical persons and organizations who are interested in conducting exploration and exploitation activities in the Area beforehand. Applications shall include:

- (1) Basic information about the applicant;
- (2) Information about location, size and categories of minerals for potential exploration and exploitation area;

- (3) Information about the applicant's financial, investment and technical capacities
- (4) Plan of work including information about potential impact resulting from activities on marine environment as well as a contingency plan for disasters that might cause serious harm to marine environment;
- (5) Other documents required by the State Oceanic Administration

**Article 8** The State Oceanic Administration shall review applications, make approval of those who are of national interests with financial, technical and instrumental capacities, and issue a certificate of sponsorship within 60 working days.

Approved applicants can then apply to enter into exploration and exploitation contracts with the International Seabed Authority to become a contractor.

The contractor must put a copy of contract to the State Oceanic Administration on record within 30 days after signing the contract.

The State Oceanic Administration shall report information about the contractor as well as location, size of exploration and exploitation area to other relevant departments of the government.

**Article 9** The contractor enjoys exclusive exploration and exploitation rights of specific resources in the area as agreed by the exploration and exploitation contract.

The contractor shall carry on contractual obligations, ensure labor safety for those who are conducting exploration and exploitation activities, and protect marine environment.

The contractor shall protect cables and any object of archaeological nature in the exploration and exploitation area.

The contractor shall also follow any PRC laws and regulations regarding work and labour safety.

**Article 10** The contractor shall seek approval from the State Oceanic Administration before assignment or making any substantial change of the exploration and exploitation contract.

The contractor shall put a record to the State Oceanic Administration within 30 days after the assignment, change or termination of the exploration and exploitation contract.

The State Oceanic Administration shall notify relevant departments about the assignment, change or termination of the exploration and exploitation contract in due time.

**Article 11** When an incident resulting from activities occurs, which has caused or poses a threat of serious harm to the marine environment, the contractor must launch its contingency plan immediately. It must

- (1) issue an alert;
- (2) report to the State Oceanic Administration; The State Oceanic Administration shall notify other relevant departments in due course;

- (3) take any feasible and practical measures to prevent, reduce and control damage to human life, property and marine environment.

### *Chapter III Environmental Protection*

**Article 12** The contractor shall take feasible and reasonable measures, using best available technology, to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area.

**Article 13** Following requirements from each contract and regulations of the State Oceanic Administration, the contractor shall gather environmental baseline data and establish environmental baselines to assess likely effects of its exploration and exploitation activities on the marine environment. Moreover, the contractor shall adopt a program to monitor and report on such effects. The original data shall be recorded, while the operation of monitoring equipment shall be well maintained.

**Article 14** The contractor must take necessary measures to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life in the Area, protect marine biodiversity and ensure sustainable use of marine resources.

### *Chapter IV Scientific Research and Prospecting*

**Article 15** The State supports research and training on deep sea science and technology. Marine scientific research on deep sea is listed as a priority in national science and technology development plan. Collaborative research with industries is encouraged.

The State supports companies to conduct deep sea research as well as to develop relevant equipment.

**Article 16** The State supports the establishment and operation of the Deep Sea Public Platform. This is a cooperation mechanism that provides professional service for deep sea marine scientific research and prospective, so as to facilitate exchange of information, collaboration and cooperation.

**Article 17** The State encourages companies and individuals to communicate deep sea science to the public. There are several ways, such as hosting open days of marine scientific vessels, laboratories, showrooms and other equipment; seminars or consultations.

**Article 18** Copies of data, samples or catalogues of minerals obtained by Chinese citizens, juridical persons and organizations who are conducting prospecting in the Area shall be submitted to the State Oceanic Administration and other relevant departments. The State Oceanic Administration shall register and retain this information for public use.

This obligation is also applicable to data or samples obtained by contractors during exploration and exploitation activities in the Area.

### *Chapter v Supervision*

**Article 19** The State Oceanic Administration shall supervise the exploration and exploitation activities of the contractors.

**Article 20** The contractor must regularly report to the State Oceanic Administration regarding the implementation of exploration and exploitation contract, including:

- (1) exploration and exploitation activities;
- (2) environmental monitoring data;
- (3) statistics about annual investment;
- (4) Other information as required by the State Oceanic Administration

**Article 21** The State Oceanic Administration is authorized to inspect any vessel, installation, and equipment used by the contractor for exploration and exploitation activities, as well as logbook, records and data of those activities.

**Article 22** The contractor shall assist the State Oceanic Administration during the inspection.

### *Chapter vi Liability*

**Article 23** In case of any of the following acts by the contractor, in violation of Article 7, Article 9 (2) and Article 10 (1) of this Law, the State Oceanic Administration can cancel the approval and withdraw the certificate of sponsorship:

- (1) Providing false information to obtain approval;
- (2) Failing to fulfill its contractual obligations or violating the terms of a contract while fulfilling the obligations;
- (3) Making assignment or any substantial change of the exploration and exploitation contract before approval of the State Oceanic Administration;

The contractor shall also compensate any loss caused by their act, as mentioned in para. 2 above.

**Article 24** In case of any of the following acts by the contractor, in violation of Article 8 (3), Article 10 (2), Article 18, Article 20 and Article 22 of this Law, the State Oceanic Administration shall order a correction and impose a fine of no less than 20,000 CNY but no more than 100,000 CNY:

- (1) Failing to put a record of copies of exploration and exploitation to the State Oceanic Administration according to this law;
- (2) Failing to put a record to the State Oceanic Administration after the assignment, change or termination of the exploration and exploitation contract according to this law;

- (3) Failing to submit copies of data, samples or catalogues of minerals according to this law;
- (4) Failing to report the implementation of exploration and exploitation contract according to this law;
- (5) Not in cooperation with inspection and supervision.

**Article 25** In the case of signing exploration and exploitation contract in the Area without approval from the State Oceanic Administration, or conducting exploration and exploitation activities in the Area without a contract, thus in violation of Article 8 (2) of this Law, the State Oceanic Administration shall order cessation of illegal act and impose a fine of no less than 100,000 CNY but no more than 500,000 CNY; where there are any illegal gains, the illegal gains shall be confiscated.

**Article 26** In the case of damage to the marine environment or cables or any object of archaeological nature in the exploration and exploitation area by acts in violation of Article 9 (3), Article 11 and Article 12 of this Law, the State Oceanic Administration shall order cessation of the illegal act and impose a fine of no less than 500,000 CNY but no more than 1,000,000 CNY; if the case constitutes a crime, criminal liability shall be investigated according to law.

### *Chapter VII Supplementary Provisions*

**Article 27** Terms:

- (1) Exploration means searching for deposits of resources in the Area, the analysis of such deposits, the use and testing of recovery systems and equipment, processing facilities and transportation systems and the carrying out of studies of the environmental, technical, economic, commercial and other appropriate factors that must be taken into account in exploitation.
- (2) Exploitation means the recovery for commercial purposes of resources in the Area and the extraction of resources therefrom, including the construction and operation of mining, processing and transportation systems, for the production and marketing of resources.
- (3) Prospecting means the search for deposits of resources in the Area, including estimation of the composition, sizes and distributions of deposits of resources and their economic values.

**Article 28** Tax issues for exploitation activities in the Area shall follow tax laws and regulations of the People's Republic of China.

**Article 29** The Law will enter into force from 1 May 2016.