
TECHNICAL AND LEGAL ASPECTS OF THE REGIMES OF THE CONTINENTAL SHELF AND THE AREA

THE FOURTH ALBUM

Edited by

Jiabiao Li ,Yinxia Fang,Zhiguo Gao,
and Haiwen Zhang

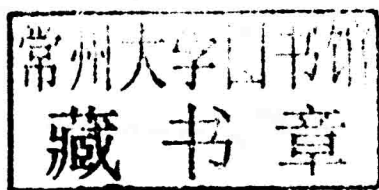


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Group Photo of the Symposium Participants, in Xiamen, China, April 22-23, 2014

第四届大陆架和国际海底区域制度科学与法律问题国际研讨会 Fourth International Symposium on Scientific and Legal Aspects of the Regimes of the Continental Shelf and the Area

Organized by
Second Institute of Oceanography(SIO)
China Institute for Marine Affairs(CIMA)

Sponsored by
State Oceanic Administration of China(SOA)
China Ocean Mineral Resources
Research and Development Association(COMRA)

2014年4月22-23日
April 22-23, 2014
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View of the Symposium, in Xiamen, China, April 22-23, 2014

Preface

The Fourth International Symposium on Scientific and Legal Aspects of the Regimes of the Continental Shelf and the Area, co-sponsored by the State Oceanic Administration of China (SOA) and the China Ocean Mineral Resources Research and Development Association (COMRA), was held in Xiamen, China on April 22-23, 2014. The symposium was co-organized by Second Institute of Oceanography (SIO) and China Institute for Marine Affairs (CIMA).

The symposium included five keynote speeches and two sessions on scientific and legal issues of determination of the outer limit of the continental shelf, as well as the resources and environment of the International Seabed Area. Mr. Lianzeng Chen, the deputy administrator of SOA, Mr. Guide Jia, the deputy director of Department of Treaty and Law, Ministry of Foreign Affairs, China, delivered welcome remarks to the symposium respectively.

The first keynote speech was given by Prof. Lawrence Folajimi Awosika, chairman of Commission on the Limits of the Continental Shelf (CLCS). He introduced the continental shelf beyond 200 nautical miles and the sustainable development concern of CLCS. The second keynote invitee was Judge Shunji Yanai, president of International Tribunal for the Law of the Sea (ITLOS). He introduced some cases of ITLOS and dispute settlement procedures under United Nations Convention on the Law of the Sea (UNCLOS). He also compared the function and jurisprudence among International Court of Justice (ICJ), ITLOS and Arbitration. The third keynote speech was given by Dr. Nii Allotey Odunton, secretary-general of International Seabed Authority (ISA). He introduced the work completed by ISA during 2013, the session of the Legal and Technical Commission held in February 2014, and the Sensitization Seminar on 16 April 2014 in New York. The fourth keynote speech was given by Mr. Vladimir Jares, deputy director of Division for Ocean Affairs and the Law of the Sea (DOALOS) of the office of Legal Affairs and secretary of CLCS. He reviewed the major ocean-related activities of DOALOS in 2013-2014, and the role of DOALOS with respect to the CLCS. The last keynote invitee was Dr. Haiwen Zhang, director-general of department of International Corporation, SOA. Her presentation is about China's practice regarding the regime of outer continental shelf and the area.

Session I focused on scientific issues on the regime of the continental shelf and the Area. It included two topics. The first topic was moderated by Prof. Yong Ahn Park and Prof. Walter R. Roest. Prof. Anne Briais from French National Centre for Scientific Research gave the first presentation. She reviewed the studies on the formation and evolution of the South China Sea. Using the recent data sets she proposed a model on the reconstructions of the South China Sea basin. Speech afterwards was given by Prof. Lawrence Folajimi Awosika. He reviewed the seventeen years' technical works on maritime delineation in the Commission. The third speech was given by Prof. Isaac Owusu Oduro who is also member of CLCS. He addressed the status of submissions to the CLCS, which concern implementation of Article 76 of UNCLOS. Prof. Frida Maria Armas-Pfirter from Austral University and Dr. Marcelo Paterlini CLCS member from Argentina jointly introduced the submission of Argentina. The last speech of this topic was offered by Prof. Chao-Shing Lee. He suggested conducting scientific international cooperative research in the marginal sea in the near future. Topic two was moderated by Prof. Ivan F. Glumov and Prof. Jiabiao Li, which addressed relevant scientific issues on the resource exploitation and environmental protection. The first presentation was offered by Mr. Jiancai Jin from China Ocean Mineral Resources R & D Association. He talked about some new development of the resources in the Area. The second speaker was Prof. Roger Clive Searle, from Durham University. His presentation is about the mid-ocean ridges in the global context. Prof. Edward Baker from Joint Institute for the Study of Atmosphere and Ocean, also professor of University of Washington Seattle gave the third speech concerning the hydrothermal exploration. The last speech was given by Prof. Zongze Shao from the Third Institute of Oceanography, SOA. He introduced the microbial diversity in deep sea involved in hydrocarbon degradation and elemental cycling.

Session II focused on the legal aspects of the regimes of the continental shelf and the Area. There were also two topics. Topic one was co-chaired by Mr. Michael Lodge and Prof. Galo Carrera Hurtado. The presentation started by Judge Jose Luis Jesus from ITLOS. He discussed the Case 16 of ITLOS on the Bay of Bengal about the delimitation of the continental shelf beyond 200 nautical miles. Then Mr. Philippe Gautier from ITLOS gave an overview of the relationship between the Tribunal and other intergovernmental organizations. He also addressed the relationship between the Tribunal and other institutions established by the UNCLOS. Prof. Aldo Chircop from Dalhousie University gave the third presentation. He talked about the theory and practice of implementation of Article 82 of

UNCLOS. The last presentation of topic one was given by Prof. Tianbao Qin from Wuhan University. He presented that the lack of specific regulation of access to marine genetic resources in the Area, and suggested that China shall participate in relevant international negotiations and proposed reasonable suggestion to fill in the gaps of currently existed legal framework related to this issue.

The second topic discussed international and regional practice on the delineation of outer continental shelf, moderated by Judge Jose Luis Jesus and Prof. Aldo Chircop. The first presentation was given by Prof. Galo Carrera Hurtado, vice chairman of CLCS, he discussed the different types of seafloor highs of Article 76 of UNCLOS, and practice of states and the CLCS. Then Mr. Jun Li from CIMA, introduced the Commission's modalities for handling submissions involving disputes and their application to the South China Sea. Afterward Judge Elsa Kelly from ITLOS introduced the historical background of the concept of continental shelf in customary international law, state practice and jurisprudence. She also presented the Latin American claims to the 200 nautical miles maritime zone, and the Argentine position on the continental shelf and its outer limit. The presentation of Prof. Charles Norchi, director of Center for Oceans and Coastal Law University of Maine School of Law was about the recent developments in United States on oceans law and policy pertaining to the continental shelf and the extended continental shelf. The last presentation was given by Prof. Tomas Heidar from Ministry for Foreign Affairs of Iceland and the director of Law of the Sea Institute of Iceland. He introduced two agreements between Nordic countries, which represent an innovative and pragmatic procedural arrangement that provides for the provisional delimitation of the continental shelf beyond 200 nautical miles while respecting the integrity of the functions of the CLCS.

Acknowledgements

As world deep sea exploration and exploitation are gradually developed and upgraded, the international community tends to pay more and more attention to the regimes of the continental shelf and the Area and their practices. For providing an international forum on the regimes of the continental shelf and the Area, the State Oceanic Administration of China (SOA) and the China Ocean Mineral Resources Research and Development Association (COMRA) were successful to have sponsored a series of International Symposium on Scientific and Legal Aspects of the Regimes of the Continental Shelf and the Area. For continual discussion on the hot issues concerned by international community and detailed exchange on the new development of relevant scientific researches and legal practices, SOA and COMRA sponsored this fourth international symposium in Xiamen, China on April 22-23, 2014. The symposium was well received in the academic circle and supported by the Chinese Foreign Ministry.

The Symposium was co-organized by Second Institute of Oceanography (SIO), and China Institute for Marine Affairs (CIMA). Symposium organization arrangement was largely accomplished at SIO by Dr. Jiabiao Li, director of SIO, Dr. Yinxia Fang, Dr. Yong Tang, Dr. Weiwei Ding, Dr. Chongzhi Dong, Miss Jie Yin. Other staff members at SIO and CIMA providing services to the Symposium deserve recognition and appreciation.

Special note of appreciation must be acknowledged for SOA and COMRA for their financial support to the Symposium. Special thanks are also due to the conference volunteers from SIO and Xiamen University, who provided excellent services to the Symposium, and Miss Jie Yin for technical editing of the proceedings.

Welcome Remarks

Address of the Leader of the State Oceanic Administration

Lianzeng Chen*

It is my great pleasure to be together with you all in this beautiful coastal city, Xiamen, convening the “Fourth International Symposium on Scientific and Legal Aspects of the Regimes of the Continental Shelf and the Area”. On behalf of the State Oceanic Administration, China, I want to welcome the standing committees, the officials, the judges from UN, CLCS, ISA and ITLOS, DOALAS, all the scientists and representatives, and congratulate for the opening of this symposium.

In the past few years, we have held three international symposiums in Beijing and Hangzhou, proving a great success. These symposiums have been served as a profitable academic platform to bring all the representatives from the CLCS, ISA and ITLOS, DOALOS, and the legal experts on Ocean Law together. We can discuss and exchange ideas on the outer limit of continental shelf and issues on resource exploration and preservation, which promoting the development and practice of relevant regimes in UNCLOS. Meanwhile, through this platform, we have established the friendships with each other, and made a lot of friends. We are pleased and proud to see that this symposium has obtained more and more attention and recognition from the international community, with the fantastic supports and active participations from all of you. Here I would like to extend my sincere gratitude to your help and support.

China is a marine country and love peace. We respect and adhere to all the regulations and rules set by UNCLOS, as well as faithfully fulfilling the rights and obligations endowed. For a long time, we have assisted and supported the relative works organized by CLCS, ISA and ITLOS, maintained a friendly relationship, and made our contribution in the corresponding areas. In December of 2012, the Chinese government have submitted the proposal of the “Submission by the People’s Republic of China Concerning the Outer Limits of Continental Shelf Beyond 200 nautical miles in Part of the East China Sea”, and presented our case to the

* Deputy Administrator of the State Oceanic Administration.

Commission on 15 August 2013. We introduced our ground and proposition in the East China Sea in details, and will accept and respect the decisions made by the Commission. In respect of the area resource exploration and preservation, we have taken part in the discussions on establishing rules on prospecting polymetallic nodules, hydrothermal sulfide and cobalt-rich crusts positively.

In 2013, China has launched its self-developed 7000 meters AOV, the “Jiao Long” several times, conducting scientific works in the cold spring area of the South China Sea, the Contract Area in the northeast of the Pacific for polymetallic nodules, and the northwest of the Pacific for cobalt-rich crusts. All these expeditions have achieved excellent scientific results. More studies will be carried out with “Jiao Long” in the middle ridge area in the southwest of the Indian Ocean this year.

In the aspect of the sea law, Chinese government has always persisted in the spirit of UNCLOS, maintained its integrity and seriousness, and respected the international rules. We insist on dealing with conflicts on maritime rights by negotiations and consultations. Meanwhile, the Chinese government also highly appreciate all the effective hard works by all the international organizations, including CLCS, ISA, ITLOS and DOALOS. The State Oceanic Administration of China is eager to promote the further international cooperation, as well as promoting the development and refinement of the international maritime system. I hope, and I also believe, the outcomes of this symposium could benefit our goal greatly.

Ladies and Gentlemen: Xiamen is a famous tourism city with beautiful sceneries. It has won the United Nations Human Habitat Environment Prize before. Now Xiamen is in its best season, I hope all of you could spare some time enjoying this pleasant place. And I wish you all the best and good health here.

Thank you!

Welcome Remarks

Address of the Presentation from the Ministry of Foreign Affairs of the People's Republic of China

Guide Jia*

On behalf of the Chinese Ministry of Foreign Affairs, I want to congratulate the opening of the "Fourth International Symposium on Scientific and Legal Aspects of the Regimes of the Continental Shelf and the Area", and welcome all the friends here. I would also like to thank all the great efforts by the hosts, the Second Institute of Oceanography of SOA, and the China Institute for Marine Affairs of SOA.

The ocean is closely related to the living and development of the human, and maritime order is a combined part of the international order. Meanwhile the system about the continental shelf and the Area act as an important role in the maritime order. We are pleased to see that, since the United Nations Convention on the Law of the Sea came into force twenty years ago, it has been recognized and respected by the whole world as a basic legal framework of the modern maritime order. The system about the continental shelf and the Area shows great vitality, and the three organizations under the Convention have contributed a lot to this system. We also noticed that plenty of new questions and challenges, either on scientific or legal aspects, had appeared during the practice and development of the continental shelf and the Area system, in the process of duty execution of the three organizations, and in the process related with regimes on continental shelf and the Area. All these need more attention and discussion from each country.

The CLCS and all the members here, should have reasons to be proud of yourselves. Although the submissions to the Commission on the Limits of the Continental Shelf has way outnumbered the figures foreseen by the drafters of the Convention, you have still executed the duties of the Convention diligently, treated the delimiting cases from any nation justly, and deal with the complicated situation appropriately. With your great efforts, until now suggestions for eighteen

* Deputy Director of Department of Treaty and Law, Ministry of Foreign Affairs.

recommendations have been made. All of these have laid a solid foundation for the final decisions for the outer limit of the continental shelf from different country. The Commission has won the recognition from the global society, not only for their respects to the national sovereignty of the continental shelf, also for their protecting the Area from inappropriate invasion. We also expect to know the latest progress of the Commission, and the newest theories and practices about the Article 76 of the Convention.

The Authority's work is full of vigour. In the past two years, the Authority has received fourteen applications for exploration of resources, which exceeded the total number in the last ten years. The Authority has also finished three regulations for exploration, and initiated its work on the elaboration of regulations for exploitation. Meanwhile the Authority also encounters great challenges nowadays. On the aspect of technique, mining resource in deep ocean is a brand-new job without any practical experiences; In respect of economy, different party has different opinions about the commercial development prospects; while in respect of the regulation, detailed regulation is still missed. How to guarantee the balance between the resource exploration and environmental protection in the Area, and how to keep the principles that it is the common wealth for all human kind, and protect the miner's initiative at the same time, are a tough task for the Authority.

The Tribunal plays a major role in dealing with the maritime conflicts peacefully, protecting the international maritime order, and promoting the practice of the continental shelf and the Area's regulations. The seabed disputed chamber's consulting suggestions about the guarantees classified the responsibilities of the guarantees, and promoted the legislative process of relative countries. All these proved the necessary of the consultant duty under the Convention of the seabed disputed chamber. While we noticed that, with the fast increase of the cases, some of them touch upon the jurisdiction of the Tribunal, and the work relationship between the Tribunal and the CLCS, which have attracted great attentions from the international society.

The Division for Ocean Affairs and the Law of the Sea of the United Nations performs the functions under the Convention efficiently. It succeeds in promoting the communication and coordination of the ocean affairs, together with the international cooperation. The Division undertakes the secretary works of the CLCS, and offers efficient serves. It is no doubt a capable assistant of the Commission, and contributed the practice of the continental shelf's regulations a lot.

Ladies and Gentlemen: I am so happy to see that this symposium has established a communication and coordination platform for all the experts with discus-

sions on the important and front issues about the continental shelf and the Area. More and more international organizations and experts have shown their interests, and joined this symposium. The presentations and results from this symposium also gain positive assesses from the international society. We should all be proud of that, for all of us have contributed a lot about it.

We have frequent schedules of the symposiums in the next two days, and we have all the excellent representatives here. I am pretty sure this symposium will have a great success. To spare more time for the talks after, I will stop here. Welcome everyone again, and have a nice stay in Xiamen!

Thank you!

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