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# К ПРОБЛЕМАМ УСТАНОВЛЕНИЯ ГОСУДАРСТВЕННОГО СУВЕРЕНИТЕТА НАД АНТАРКТИЧЕСКИМИ ТЕРРИТОРИЯМИ: МЕЖДУНАРОДНО-ПРАВОВАЯ ПОЗИЦИЯ КИТАЯ

**ВВЕДЕНИЕ.** Антарктический регион является уникальным с точки зрения организации эффективного управления одновременно большим числом государств. Для этой цели в 1959 г. был заключен Договор об Антарктике, который позволил предотвратить возникновение конфликтов. Тем не менее не так давно стала активна обсуждаться концепция территориального деления данного региона. Китай, являясь одной из наиболее быстроразвивающихся с экономической точки зрения государств, что влечет за собой заинтересованность в усилении влияния в Антарктическом регионе, также активно участвует в разрешении вопросов, связанных с правовым регулированием Антарктики. Цель статьи – определить позицию Китая в отношении деятельности в Антарктическом

регионе в целом, а также, с точки зрения установления государственного суверенитета над территориями Антарктики.

**МАТЕРИАЛЫ И МЕТОДЫ.** При проведении исследования используются документы международно-правового характера, включая международные договоры, доктринальные источники и национальное законодательство зарубежных государств. Исследование выполнено с использованием общенаучных и специальных научных методов.

**РЕЗУЛЬТАТЫ ИССЛЕДОВАНИЯ.** В статье проведен комплексный анализ китайской международно-правовой доктрины в отношении установления государственного суверенитета над территориями Антарктики, а также сформулированы предположения по дальнейшему

развитию Китая в Антарктическом регионе. Были проанализированы основные направления деятельности Китая, в том числе связанные с национальной безопасностью и добычей природных ресурсов, также были проанализированы положения «Белой книги Китая по Антарктиде». Помимо этого, были рассмотрены инициативы Китая в отношении создания морских охраняемых зон, особо управляемых районов (далее – ОУР). Был дан ответ на вопрос о наличии собственной антарктической политики Китая.

**ОБСУЖДЕНИЯ И ВЫВОДЫ.** Исследование проблем установления государственного суверенитета над территориями Антарктики с точки зрения Китая позволяет судить о том, что на данный момент эта страна не обладает выработанной антарктической политикой и находится на стадии ее формирования. Попытки Китая повлиять на систему управления Антарктикой начались с 2005 г., когда было предложено создание ОУР. С тех пор влияние Китая продолжает расти. Китай действовал и продолжает действовать в соответствии с системой Договора об Антарктике, что свидетельствует об отсутствии желания Китая

сменить систему управления регионом на систему территориального деления. На данный момент интересы Китая в Антарктике характеризуются повышением внимания к проведению научных исследований, охране окружающей среды и международному сотрудничеству. Предполагается, что влияние Китая в данном регионе будет увеличиваться.

**КЛЮЧЕВЫЕ СЛОВА:** Антарктика, международно-правовой режим, Договор об Антарктике, КНР, международное право, суверенитет, территориальные претензии, морские охраняемые зоны, особо управляемые районы

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# ON PROBLEMS OF ESTABLISHING STATE SOVEREIGNTY OVER ANTARCTIC TERRITORIES: CHINA'S INTERNATIONAL LEGAL POSITION

**INTRODUCTION.** *The Antarctic region is unique in terms of organizing effective management by a large number of states at the same time. For this purpose, the Antarctic Treaty was concluded, which made it possible to prevent the conflicts. Nevertheless, not long ago the concept of territorial division of this region has been actively discussed. China, being one of the most economic rapidly developing states, which implies its interest in strengthening its influence in the Antarctic region, also actively participates in solving the problems related to the legal regulation of the Antarctic region. The purpose of the article is to determine the position of China in relation to the activities in the Antarctic region in general, as well as, establishing state sovereignty over the territories of Antarctica.*

**MATERIALS AND METHODS.** *The research uses various documents of international legal nature, including international treaties, doctrinal sources and national legislation of foreign countries. The research is carried out with the use of general scientific and special scientific methods.*

**RESEARCH RESULTS.** *The article provides a comprehensive analysis of the Chinese international legal doctrine concerning the establishment of state sovereignty over the Antarctic territories and makes assumptions on further development of China in the Antarctic region. The main directions of China's activity, including related to national security and extraction of natural resources, were analyzed. The provisions of the "White Book of China on Antarctica" were also analyzed. In addition, China's initiatives concerning the establishment of Marine Protected Areas, Specially Managed Areas were examined. The question of whether China has its own Antarctic policy was answered.*

**DISCUSSION AND CONCLUSIONS.** *The examination of the problems of establishing state sovereignty over the Antarctic territories from the point of view of China allows us to conclude that at the moment China does not have a developed Antarctic policy and is at the stage of its formation. China's attempts to influence the Antarctic management system began in 2005, when the establishment of the Specially Managed Areas was suggested. Since then, China's influence has continued to grow. China acted and continues to act in accordance with the Antarctic Treaty System, which indicates that China is not willing to change the system of management of the region to the system of territorial division. At the moment, China's interests in Antarctica are characterized by an increased focus on scientific research, environmental protection and international cooperation. China's influence in the region is expected to increase.*

**KEYWORDS:** Antarctica, international legal regime, Antarctic Treaty, China, international law, sovereignty, territorial claims, marine protected areas, specially managed areas

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*The authors declare the absence of conflict of interest.*

## Introduction

Antarctica in the sense of international law is the area south of 60 degrees south latitude, including all ice shelves, in accordance with paragraph 6 of the Antarctic Treaty<sup>1</sup>. Antarctica is known as the seventh continent of the Earth, and is the last continent discovered by mankind that has not yet been settled by any inhabitants. Antarctica consists of the continent, land-marginal ice and islands that surround the South Pole. The complexity of the Antarctic issue is determined by the non-exclusive and competitive nature of the issue as a public asset. It cannot be solved by a single country and needs to be resolved and dealt with through collective action through international channels. As expressed in the Antarctic Treaty, Antarctica has a stake in the interests of all humankind. It also means that Antarctic interests are closely linked to the common interests of the international community, as they touch on energy, resource and environmental issues that can only be resolved in an international framework.

In the new century, climate change, advances in science and technology, competition for resources and energy, and the expansion of human activities in Antarctica have all brought about many new types of legal issues in international governance in Antarctica. Issues such as bioprospecting, illegal fishing, tourism and the delimitation of the outer continental shelf pose new challenges to the treaty system, shaking or undermining the basic principles of the treaty system, which are centred on the freezing of territorial sovereignty, the freedom of scientific exploration and research, peaceful use and non-militarization, and environmental protection. The attributes of these challenges relate to sovereignty, resources, environment, security, law enforcement, etc., and include risks arising from legal loopholes within the treaty

system as well as conflicts arising from the application of other external international legal regimes to the treaty system. Most of the issues that challenge the treaty system are related to sovereignty and the ownership of resources related to sovereignty, and the principle of sovereignty freezing is an unshakable cornerstone of the treaty system. Therefore, how States and non-State actors can conduct Antarctic activities and participate in Antarctic affairs in the context of a sovereignty freeze is a matter for discussion.

China ratified the Antarctic Treaty in 1983, China became one of the Consultative Parties to the Antarctic Treaty in 1985, acceded to the Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol of 1991)<sup>2</sup> in 1998, and acceded to the Convention on the Conservation of Antarctic Marine Living Resources<sup>3</sup> in 2007. As a major industrial power, China has growing interests in the resource-rich Antarctic [Liu, Brooks 2018:189-195].

Despite the fact that China did not immediately begin to participate in the so-called “three waves of Antarctic imperialism”<sup>4</sup>, which formed the current structure of Antarctic governance and began to integrate into the international system, including the Antarctic Treaty System (hereinafter referred to as – ATS) only after 1979.

## China's national interests in Antarctica

China is currently active in Antarctica. For example, China's interest in Antarctic issues dates back to the 1950s. In 1964, China began preparations for an Antarctic expedition and established the State Oceanic Administration to lead both North and South Pole expeditions. In 1984, China conducted its first expedition to Antarctica; in 1985, it established its first Antarctic observatory. China has now already established five Antarctic stations, the fifth of which is part of the larger project “Xue Long Tan Ji”<sup>5</sup>.

<sup>1</sup> See the text of the Antarctic Treaty at the official website of the Secretariate of the Antarctic Treaty: URL: [https://documents.ats.aq/recatt/att005\\_e.pdf](https://documents.ats.aq/recatt/att005_e.pdf) (accessed date: 14.05.2024). Текст на русском языке см.: Договор об Антарктике от 1 декабря 1959 г. – Электронный фонд правовых и нормативно-технических документов. Консорциум «Кодекс». URL: <https://docs.cntd.ru/document/1901494> (дата обращения: 14.05.2024).

<sup>2</sup> See the text of the Protocol on Environmental Protection to the Antarctic Treaty at the official website of the Secretariate of the Antarctic Treaty. URL: <https://documents.ats.aq/recatt/Att006e.pdf> (accessed date: 14.05.2024). Текст на русском языке см.: Протокол по охране окружающей среды к Договору об Антарктике от 4 октября 1991 г. – Электронный фонд правовых и нормативно-технических документов. Консорциум «Кодекс». URL: <https://docs.cntd.ru/document/901886692> (дата обращения: 14.05.2024).

<sup>3</sup> See the text of the Convention on the Conservation of Antarctic Marine Living Resources at the official website of the Secretariate of the Antarctic Treaty. URL: [https://documents.ats.aq/ats/ccamlr\\_e.pdf](https://documents.ats.aq/ats/ccamlr_e.pdf) (accessed date: 14.05.2024).

<sup>4</sup> See the text of “three waves of Antarctic imperialism” at the official website. URL: [https://www.cctv.com/geography/jidi/beijing/sanji/nanji\\_2.html](https://www.cctv.com/geography/jidi/beijing/sanji/nanji_2.html) (accessed date: 14.05.2024).

<sup>5</sup> Xinhua. 2016. Report on the Work of the Government. Accessed March 18, 2024. URL: [http://www.xinhuanet.com/english/bilingual/2016-03/18/c\\_135201680\\_3.htm](http://www.xinhuanet.com/english/bilingual/2016-03/18/c_135201680_3.htm) (accessed date: 14.05.2023).

At the moment, the significance of China's activities in the Antarctic region can hardly be over-emphasized. Currently, China is the second largest krill fishery in the Antarctic after Norway<sup>6</sup>, as well as the second largest number of Antarctic tourists in the world after the United States<sup>7</sup>. In June 2014, the State Oceanic Administration of China promulgated the <Administrative Regulations on Administrative Licensing of Antarctic Expedition Activities> to comprehensively and systematically regulate China's expedition activities in Antarctica, which is the first Chinese legislation on Antarctic activities [Liu, Zou 2016:17-26]. In addition, China's national plan calls for China to "actively participate in international rule-making in new areas such as cyber, deep sea, polar, aviation and space".

In 2006, China decided to accede to the Convention on the Conservation of Antarctic Marine Living Resources. China revised and adopted the Regulations on Environmental Protection for the Management of Antarctic Activities<sup>8</sup> in 2018. As its overall national strength continues to improve, China is increasingly involved in the governance of Antarctica. In 2004, China also participated in the creation of the Asian Polar Science Forum, an important organization aimed at sharing the results of polar research in Asian countries and coordinating polar activities. Thus, it can be noted that China, as a great power, is demanding more space within international law [Cai 2013:755-795].

However, as China's participation in Antarctic governance faces some dilemmas in practice. For instance: Geographically, China is located in the northern hemisphere and does not have any geopolitical advantage, so it is unable to explain or justify its participation in the governance of the Antarctic like other countries that are close to the Antarctic. Historically, China's Antarctic expeditions were nearly 100 years behind those of other countries. The backwardness of Antarctic research has directly constrained China's participation in Antarctic governance.

Thus from 1985 to 2005, China simply followed the Antarctic Treaty Consultative Meetings (hereinafter referred to as "ATCM") and China only submitted reports on activities in Antarctica. Since 2005,

China has become more active at the annual ATCM meetings, first proposed the establishment of the Antarctic Specially Managed Area (hereinafter referred to as ASMAs) for the Larsemann Hills in East Antarctica. At the moment, more than 70 specially protected areas have been established in Antarctica, but only 7 specially managed areas, which indicates the exclusivity of establishing such a regime [Vylegzhanin, Pushkareva 2019:22-46]. This can be seen as China's first attempt to influence the Antarctic governance regime.

### **China's strengthening in Antarctica in terms of governance**

Talking about China's strengthening in Antarctica in terms of governance, there are two most significant issues in recent years.

The first is the establishment of Marine Protected Areas (hereinafter referred to as MPA) in the Southern Ocean. China is highly skeptical of proposals to establish an MPA in the Southern Ocean. This is because Chinese researchers have argued that while the General Framework, which is the foundational legal document, does not explicitly state in its provisions that MPAs exist in perpetuity as no-take zones. This document merely mandates that protected areas be reviewed every ten years, and it lacks requirements for key elements such as criteria for measuring the success of protected areas, scientific data, and scientific mechanisms to accommodate rational use, among a range of other key elements. MPA in fact lack both scientific assessment criteria and a rational exit mechanism. Despite the fact that in 2015, China supported the establishment of an MPA in the Ross Sea region, it continues to voice its concerns about other MPA proposals [Liu 2018:861-874].

Some Chinese researchers are of the view that the establishment and management of Antarctic MPA have a preliminary legal basis in general international law. However, the battle over the legitimacy of Antarctic MPA surrounding individual cases has not subsided among Conservation Convention member States. The political game of establishing an Antarctic MPA centred on how to balance the legitimate

<sup>6</sup> CCAMLR Secretariat: Fishery Report 2020: *Euphausia superba* in Area 48. URL: [https://fishdocs.ccamlr.org/FishRep\\_48\\_KRI\\_2020.pdf](https://fishdocs.ccamlr.org/FishRep_48_KRI_2020.pdf) (accessed date: 14.05.2023).

<sup>7</sup> IAATO Overview of Antarctic Tourism: The 2022-23 Season, and Preliminary Estimates for 2023-24. URL: [https://documents.ats.aq/ATCM45/ip/ATCM45\\_ip056\\_e.docx](https://documents.ats.aq/ATCM45/ip/ATCM45_ip056_e.docx) (accessed date: 14.05.2023).

<sup>8</sup> See the text of the Regulations on Environmental Protection for the Management of Antarctic Activities on the official website of the Chinese Ministry of Natural Resources. URL: [https://f.mnr.gov.cn/201807/t20180709\\_2073791.html](https://f.mnr.gov.cn/201807/t20180709_2073791.html) (accessed date: 14.05.2023).



interests identified in the two conventions: conservation (temporal or geographic prohibition or restriction of fishing activities on Antarctic marine living resources) and rational use.

The relationship between “conservation” and “rational use” reflects not only a game between the common interests of humankind and the economic interests of a particular country. It also reflects the balance and trade-off between the “interests of present generations” (Global Food Security) and the “interests of future generations” (Sustainable development).

China should shift the focus of the negotiations from the legality of the establishment of Antarctic MPA to the science and necessity of their establishment and management. China should, in full accordance with the purposes of the Antarctic Treaty and on the basis of the “ecosystem approach”, the “risk prevention approach” and the “best scientific evidence” established by the Conservation Convention, improve the current proposal on the basis of a balance of interests. At the same time, on the premise of stepping up scientific research in the Southern Ocean, China has duly selected sea areas with conservation value and put forward China’s proposal for an Antarctic marine protected area. Of course, there are other Chinese researchers who believe that China should be highly vigilant on the issue of the establishment of terrestrial and marine protected areas.

The topic of Antarctic marine protected areas has evolved from the protection of the marine environment and living marine resources to an important tool for territorial claimants to consolidate and reaffirm their territorial sovereignty over the Antarctic continent and to strengthen their de facto control over the Antarctic region among the topics of current trends and challenges in the treaty system. The establishment of terrestrial protected areas, marine protected areas and continental shelf delimitation cases have continuously reaffirmed and strengthened the “frozen” territorial sovereignty and maritime rights in the Antarctic waters attached to them, which have affected China’s basic rights and interests in the Antarctic. Establishment of terrestrial and marine protected areas, the continental shelf delimitation case is constantly being reaffirmed, strengthening the “frozen” territorial sovereignty and maritime

rights in the Antarctic waters attached to it has affected China’s fundamental rights and interests in the Antarctic [He 2021:37].

Despite the proliferation of claims, the theme of Antarctic MPA has gradually evolved from “marine conservation” to “sovereignty contest”. However, the authors believe that in response to the current deteriorating environmental problems, it is necessary to actively protect the precious resources, instead of worrying about MPA becoming an umbrella under which other countries compete for Antarctic sovereignty, it is better to actively participate in promoting the development of MPA in a favourable direction. China should shift the focus of its negotiations from the legality of the establishment of Antarctic MPA to the science of their establishment and management, and actively promote the development of MPA.

The second issue is China’s proposal to establish an ASMAs at China’s Kunlun Antarctic Station, Dome A, based on Article 4 of Annex V of the Madrid Protocol<sup>9</sup>. But in 2017, China rejects the ASMAs proposal and expresses its intention to develop a Code of Conduct as the first possible option for managing Dome A. China’s proposal for Dome A sparked a debate at the 40th ATCM in Beijing. As some researchers point out, “China considers ASMAs and other environmental management efforts as a form of soft presence for states that want to seize control of territory in Antarctica and the Southern Ocean” [Brady 2017].

A number of other Chinese researchers have written on the regulation of Antarctic conservation. Some researchers have pointed out that in the case of land-based tourism facilities, the prohibition of the establishment of any new facilities under the precautionary principle is the most desirable approach, with the second-best option being for the Antarctic Treaty Consultative Meeting to decide whether to establish new facilities [Gu 2010:135-144].

And some researchers have written in the text that the deficiencies in maritime law for Antarctic tourism are mainly reflected in the shortcomings of the Polar Code<sup>10</sup> itself. Its inability to effectively control pollution from Antarctic tourism vessels, as well as the lack of clear and complete evaluation criteria in the Antarctic Environmental Impact Assessment Guidelines itself [Chen 2017:95-105].

<sup>9</sup> China. 2013. Proposal for a New Antarctic Specially Managed Area at Chinese Antarctic Kunlun Station, Dome A. Submitted 4 April 2013 to XXXVI Antarctic Treaty Consultative Meeting. Brussels. Belgium. 2013. URL: [https://documents.ats.aq/ATCM36/att/ATCM36\\_att015\\_e.doc](https://documents.ats.aq/ATCM36/att/ATCM36_att015_e.doc) (accessed date: 14.05.2023).

<sup>10</sup> See: International Code for Ships Operating in Polar Waters (Polar Code) URL: <https://www.imo.org/en/OurWork/Safety/Pages/polar-code.aspx> (accessed date: 14.05.2024).

At present, there are no papers or monographs by Chinese researchers that comprehensively and systematically study the legal challenges faced by the contemporary Antarctic Treaty System and China's strategies to deal with them from the perspective of international law. There is a small amount of discussion on this issue, but the results are fragmented and not systematic enough, and none of the studies on this issue are comprehensive or in-depth. For example, there is still a lack of research on the logical interconnections between the various legal issues facing the treaty system, how these legal challenges will affect the direction of the treaty system, and the way forward in resolving these legal issues.

### Does China have its own Antarctic policy?

The question arises, "Does China have its own Antarctic policy?" It appears that China is still shaping its overall Antarctic policy, as there is no urgency to develop one at this point. It is worth noting that the ATS, of which China is a member among others, has so far been a successful and sustainable system in solving problems [Haward 2017:21-24], and China is acting in accordance with this system. Moreover, China plans to enact the Antarctic Law to fulfill China's obligations under the ATS and to regulate Chinese Antarctic activities<sup>11</sup>.

At the moment, China can be called a "hybrid state" in the governance of the world's oceans. In many aspects, China is still a developing country, as China insists on in the international arena, for example, in climate change negotiations. Practically, however, China has developed into a major industrial power. This situation creates difficulties for China in defining its position on issues such as whether to continue to support the "common heritage of mankind" and how best to develop a benefit-sharing regime for deep seabed mining [Liu, Kim 2016:691-705].

But marine conservation is an important part of global ecological civilization. As a Consultative Party to the Antarctic Treaty and a member of the Convention on the Conservation of Antarctic Marine Living

Resources, China has put forward the goal of building a strong maritime nation. Also has increased its attention to ecological and environmental protection in the Southern Ocean, actively participated in Antarctic affairs such as the Antarctic MPA, promoted domestic Antarctic legislation, strengthened scientific research in Antarctica, encouraged the role of non-governmental organizations, increased the scope of international cooperation, and actively participated in the formulation of relevant international rules.

China has ultimately increased its voice and influence and become an important player in global ocean governance [Liu, Qi 2021:59-68]. In addition, it is worth noting China's participation in projects aimed at improving the climate situation. Thus, according to scientists' estimates, thanks to the efforts, including those of China in the Antarctic region, it is possible to hope for improvement of the situation existing with the global sea level rise. We are talking, for example, about such a project as "The Gamburtseva Province in Antarctica" [Berkman, Lang, Walton, Young 2011:351].

There is a concern that China's desire to use Antarctica will lead to territorial claims that could result in denying other countries access to parts of Antarctica<sup>12</sup>. However, China needs to withdraw from the Antarctic Treaty in order to make a claim [Press, Bergin 2022:1-19]. In addition, making territorial claims is not in China's national interest, which is not about territorial control, but about the use of Antarctic resources. China is certainly interested in Antarctica. China is building up its scientific capacity in Antarctica, but so far has limited, though growing, influence in shaping the Antarctic governance regime. One of the unsuccessful attempts to influence the management of Antarctica was the above-mentioned proposal to create a new specially managed Antarctic territory at Kunlun station.

China's observer status in the Arctic Council, which helps a non-Arctic state to influence, albeit to a limited extent, the Council's decision-making, should also be taken into account<sup>13</sup>. One area where China wants more influence, is a "balance between

<sup>11</sup> National People's Congress of P. R. China. 2018. "Legislation Planning of the 13<sup>th</sup> Standing Committee of the National People's Congress". Accessed September 10, 2023. URL: [http://www.npc.gov.cn/npc/xinwen/2018-09/10/content\\_2061041.html](http://www.npc.gov.cn/npc/xinwen/2018-09/10/content_2061041.html) (accessed date: 14.05.2023).

<sup>12</sup> Gavin F. 2018. As Australia looks north, China's presence in the Antarctic continues to grow. URL: <https://www.news.com.au/technology/innovation/military/as-australia-looks-north-chinas-presence-in-the-antarctic-continues-to-grow/news-story/d93aa030c6846e5bfe98f6fdc12f93c9> (accessed date: 14.05.2023).

<sup>13</sup> Berkman P.A. 2014. Stability and Peace in the Arctic Ocean through Science Diplomacy Science & Diplomacy. – AAAS *Center for Science Diplomacy*. 3 (2). URL: <http://www.sciencediplomacy.org/perspective/2014/stability-and-peace-in-arctic-ocean-through-science-diplomacy> (accessed date: 14.05.2023).

protection and utilization], leading to disagreement with countries that place more emphasis on conservation. This clash of interests has been a major source of tension because decision-making at Antarctic Treaty meetings requires consensus, and China can obstruct them. Some fear that from 2048, when the Madrid Protocol banning mining may be renegotiated<sup>14</sup>, China will start mining.

It is important to note that the origin of the above “resource interest-driven theory” is mainly attributed to the New Zealand “China Pass” scholar Anne-Marie Brady. In 2008, she began focusing on polar issues. Compared to the Arctic, international relations and international law in Antarctica are relatively static, as the Antarctic Treaty System, which governs Antarctic governance, has long been in place. Therefore, in the international academic community as a whole, there are only a handful of researchers who have paid long-term attention to and specialized in the study of Antarctic politics and law. Among them, there are even fewer foreign researchers who understand China. Under such circumstances, the views and remarks of Anne-Marie Brady are highly valued and frequently quoted by the media. However, the Protocol on Environmental Protection to the Antarctic Treaty, adopted in 1991, explicitly prohibits all commercial exploitation of mineral resources in the Antarctic until 2048. As a party, China had always upheld the provisions of the Protocol and had no intention of challenging them.

The rapid rise of China’s comprehensive national power and the accelerated transformation of the international system have pushed China into the centre of the international arena. At the same time, China’s rise has impacted on the existing political and economic landscape and aroused concern and instinctive reactions from all countries. Against this backdrop, China’s every move in the Antarctic has aroused strong concerns and questions, and it is not difficult to understand why international public opinion believes that China’s polar activities may pose a challenge to the Antarctic interests of other countries and the existing Antarctic governance mechanism. China is therefore actively engaged in international co-

operation and participation in Antarctic governance. China has actively demonstrated its basic attitude of identification with, compliance with and construction of the Antarctic Treaty system and the Antarctic governance mechanism. The existing treaty system can effectively implement Antarctic governance and safeguard China’s national interests, and supporting the treaty system is the most effective way to realize China’s interests. Therefore, China’s Antarctic activities and presence in Antarctica will not challenge the provisions of the Treaty system or threaten the Antarctic interests of other countries [He 2016:300-320]. It is worth noting, however, that in May 2017, the State Oceanic Administration published China’s first-ever Antarctic White Paper<sup>15</sup>, which reviews the history of China’s Antarctic exploration and outlines the Chinese government’s basic position: China will steadfastly pursue the path of peaceful utilization of Antarctica, resolutely uphold compliance with the Antarctic Treaty, increase investment in Antarctic exploration, and enhance its role in the global governance of the southern continent.

#### **China’s national security interests in Antarctica**

China’s national security is also important. The 2015 National Security Law of the People’s Republic of China mentions “polar regions” in Article 32. The state shall adhere to the peaceful exploration and utilization of outer space, international seabed areas, and polar regions, enhance the capability of safe entry and exit, scientific investigation, and development and utilization, strengthen international cooperation, and maintain the security of the state’s activities, assets, and other interests in outer space, international seabed areas, and polar regions<sup>16</sup>. With regard to demilitarization, the Antarctic Treaty explicitly prohibits all measures of a military nature in Antarctica, including the establishment of military bases, the construction of fortresses, the conduct of military exercises and the testing of weapons of any kind. However, the Treaty permits the use of military personnel or military equipment in Antarctica for scientific research or any other peaceful

<sup>14</sup> Young C. Eyes on the Prize: Australia, China, and the Antarctic Treaty System, Lowy Institute. 16 February 2021. URL: <https://www.lowyinstitute.org/publications/eyes-on-prize-australia-china-and-antarctic-treaty-system>. (accessed date: 14.05.2023).

<sup>15</sup> State Oceanic Administration of P. R. China. 2017. White Paper: China’s Antarctic Activities. URL: [https://english.www.gov.cn/archive/white\\_paper/2018/01/26/content\\_281476026660336.htm](https://english.www.gov.cn/archive/white_paper/2018/01/26/content_281476026660336.htm) (accessed date: 14.05.2023).

<sup>16</sup> National Security Law of the People’s Republic of China. 2015. Article 32. URL: [http://www.gov.cn/zhengce/2015-07/01/content\\_2893902.htm](http://www.gov.cn/zhengce/2015-07/01/content_2893902.htm) (accessed date: 14.05.2024).



purpose<sup>17</sup>. And some countries, represented by the United States, have been using military aircraft for transport and resupply missions to and from Antarctica<sup>18</sup>. In comparison, China's exercise of these rights is limited, which to some extent constrains its participation and influence in Antarctic affairs.

China's interests in Antarctica are already a major national interest, both in terms of Chinese policy and national law. The security of its interests in Antarctica is also an important part of China's national security, especially freedom and security of access to Antarctica, the conduct of scientific research in Antarctica, the development and use of Antarctica, and the protection of the Antarctic ecological environment.

Hence the activities of the Chinese People's Liberation Army (hereinafter referred to as "PLA"). The PLA in China's Antarctic programme is one of the important tasks in safeguarding China's activities, assets and other interests in Antarctica in the context of China's national security [Wu, Zhang 2020:3-20].

In addition, China could use Antarctica's unresolved sovereignty to establish space tracking stations and ground receiving stations for polar satellites with global coverage that would be undesirable on the sovereign territory of other states. It should not be overlooked that China's first ground receiving station was established at the Great Wall Antarctic Station back in 1993. The data collected there also had a dual civil-military purpose – to improve weather forecasting and strengthen China's coastal defenses. In addition, commenting on China's national security activities in Antarctica, it should be emphasized that China's astronomy program at Dome A has direct military applications. Infrared telescopes can be used to search for satellites, drones, and launched missiles.

Thus, China has made significant economic progress over the past four decades, which has also had an impact on its Antarctic interests, which are now characterized by a commitment to scientific research, environmental protection, international cooperation, and respect for international law. China's sphere of influence in Antarctica is expected to expand, its role in shaping Antarctic governance and environmental protection is likely to become increasingly significant, and the active participation of the Chinese military in the Antarctic programme

could expand operational capabilities to allow military personnel to gain experience in polar environments, which would be beneficial to China's long-term strategic interests.

It is worth noting that Chinese government documents also show that China has an understanding of the need for development in the area in question, as well as forming goals for the study and utilization of the polar region.

China's interests in Antarctica are already a major national interest, both in terms of national policy and national law, and the security of its Antarctic interests is also an important part of China's national security. Since Antarctic governance relies mainly on legal regulation and the Antarctic Treaty system is dominant in legal regulation, all of China's activities in Antarctica must be carried out within this regulatory framework.

## Conclusion

Over the past 60 years, the legal regulation of Antarctica has expanded to encompass all governmental and non-governmental activities in Antarctica. It has established the principles and regimes of peaceful use, demilitarization, setting aside and freezing of sovereignty claims, conservation of living marine resources and overall protection of the environment. As the types of Antarctic activities and the international law of the sea continue to diversify, new trends in Antarctic legal regulation have emerged and are reflected mainly in the strengthening of claims, aviation, tourism, special areas and liability for environmental damage.

These trends pose immediate or long-term implications for China's and the international community's access to, use of and protection of Antarctica. In order to safeguard China's interests in the Antarctic and the common interests of the international community, and to advance the new historical development of China's Antarctic endeavours, China is actively exercising its rights under international law in the Antarctic, and plans to make a comprehensive plan for the development and management of domestic Antarctic tourism, as well as specific countermeasures with regard to the liability system for environmental damage in the Antarctic.

<sup>17</sup> The Antarctic Treaty. Article 1.

<sup>18</sup> Joint task force kicks off 65th year of DoD Antarctic mission support. 09.04.2020. Pacific Air Forces Public Affairs. URL: <https://www.pacaf.af.mil/News/Article-Display/Article/2361011/joint-task-force-kicks-off-65th-year-of-dod-antarctic-mission-support/> (accessed date: 14.05.2023).

It is not difficult to see that, with the unprecedented depth of human activities in Antarctica, the issue of the right to manage Antarctic affairs arising from those activities has become a topic of greater relevance and urgency in the context of the frozen status quo of Antarctic sovereignty. At the same time as the Consultative Parties are exercising their right to manage Antarctic affairs under the Antarctic Treaty, each of the States concerned in fact regulates and manages its own activities in Antarctica, and there are issues of coordination and interface between these two “management rights”. The “freezing” of sovereignty has led to uncertainty about the attribution of jurisdiction, which is an integral part of sovereignty, yet no State is willing to give up the struggle for and control of such management rights.

Chinese researchers believe that the right to manage Antarctic affairs, as a new manifestation of the issue of Antarctic sovereignty, will play a more important role in the process of sustaining the principle of “freezing”. Only by correctly understanding and making full use of China’s dual status as both a permanent member of the United Nations and a consultative

power, and by actively participating in the management of Antarctic affairs, can China’s rights and interests in Antarctica be truly safeguarded.

Human society has always been in a constant state of progress and development. Although the Antarctic issue is complex and complicated, and countries are driven by their own national interests to compete tit-for-tat in the Antarctic, the 18<sup>th</sup>-century-style “enclosure movement” is unlikely to succeed in the new context. The complexity of the Antarctic issue is such that it cannot be resolved by a single country and requires collective action through international channels [Wang 2013:271].

Although the political future of Antarctica is still unpredictable, and there are many practical obstacles to the establishment and improvement of the relevant international law mechanism, as long as the mainstream of the world is still heading towards peace and civilization, and as long as the majority of countries can affirm and consistently abide by the basic principles and purposes established in the existing international law, the Polar issue can be resolved eventually.

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