

PRINCIPLES GOVERNING THE AREA

Principal Articles: 133-149

The Area is defined as the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction;¹ in other words, it consists of the entire ocean floor which is not subject to sovereign rights of coastal states in an exclusive economic zone or the continental shelf ("the outer shelf").² The water surface above the area is the high seas.³ While the latter is governed by the principle of freedom of the seas, the Area has been declared the common heritage of mankind.⁴ Although this expression is an important political manifest, it is not a recognized legal term which would be directly applicable. The declaration of the common heritage is to be put into effect according to the following principles:

First: All rights to the resources, which means all solid, liquid, or gaseous minerals, including polymetallic nodules,⁵ *in situ* in the Area,⁶ and to archaeological and historical objects⁷ are vested in mankind as a whole.⁸ An international organization, the Sea-Bed Authority,⁹ is to act on behalf of mankind;¹⁰

Second: All activities of exploration for and exploitation of the resources from the Area are to be carried out for the benefit of mankind¹¹ and the benefits shared on a non-discriminatory basis which is to provide for the equitable sharing of financial and other economic benefits;¹²

Third: The Area is open to use by all states exclusively for peaceful purposes.¹³ The states are to adhere to the Convention and the principles of the Charter of the United Nations in the interest of maintaining peace and security;¹⁴

Fourth: All states are to be given the opportunity to participate in activities in the Area, and monopolization must be avoided;¹⁵

Fifth: In particular, special attention is to be paid to developing countries;¹⁶

Sixth: The Authority has the power necessary to exercise its functions as set forth in Part XI and is to adopt all rules and regulations required for this purpose¹⁷.

The Authority is responsible for promoting and encouraging the conduct of marine scientific research in the Area¹⁸ and the acquisition and transfer to developing countries of technology and scientific knowledge¹⁹. Furthermore, the Authority must with respect to activities in the Area adopt rules for the protection of the marine environment and human life²⁰ and the use of installations²¹. States Parties may, in accordance with their obligation to act according to the Convention and international law²², conduct marine scientific research in the Area, and are in any case obligated to promote international co-operation in such research²³. States are responsible for ensuring that any activities in the Area, whether they themselves or natural or juridical person of their nationality carry them out, are effectively controlled and that any such undertakings are carried out in conformity with Part XI²⁴. States Parties and entities of the same status²⁵ are liable for damages caused by their failure to carry out their responsibilities under the Convention²⁶.

¹ Art. 1 Subpara. 1(1)

² Art. 57, 76, 134, 142

³ Art. 135, 86

⁴ Art. 136, Preamble

⁵ Art. 133, Subpara. (a)

⁶ Art. 1, Subpara. 1(1-3)

⁷ Art. 149

⁸ Art. 137, Para. 2

⁹ Art. 156

¹⁰ Art. 137, Para. 2; Art. 153, Para. 1

¹¹ Art. 140, Para. 1

¹² Art. 140, Para. 2

¹³ Art. 141

¹⁴ Art. 138; Art. 301

¹⁵ Art. 150, Subpara. (g)

¹⁶ Art. 140, 143-144, 148

¹⁷ Art. 157, Para. 2; Annex III, Art. 17; (145-147)

¹⁸ Art. 143, Para. 2: 256

¹⁹ Art. 144; 274; Annex III, Art. 5

²⁰ Art. 145-146

²¹ Art. 147

²² Art. 138

²³ Art. 143, Para. 3

²⁴ Art. 139, Para. 1

²⁵ Art. 1, Para., 2; Annex IX, Art. 6

²⁶ Art. 139, Para. 2; Art. 304, Annex III, Art. 4, Para. 4

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