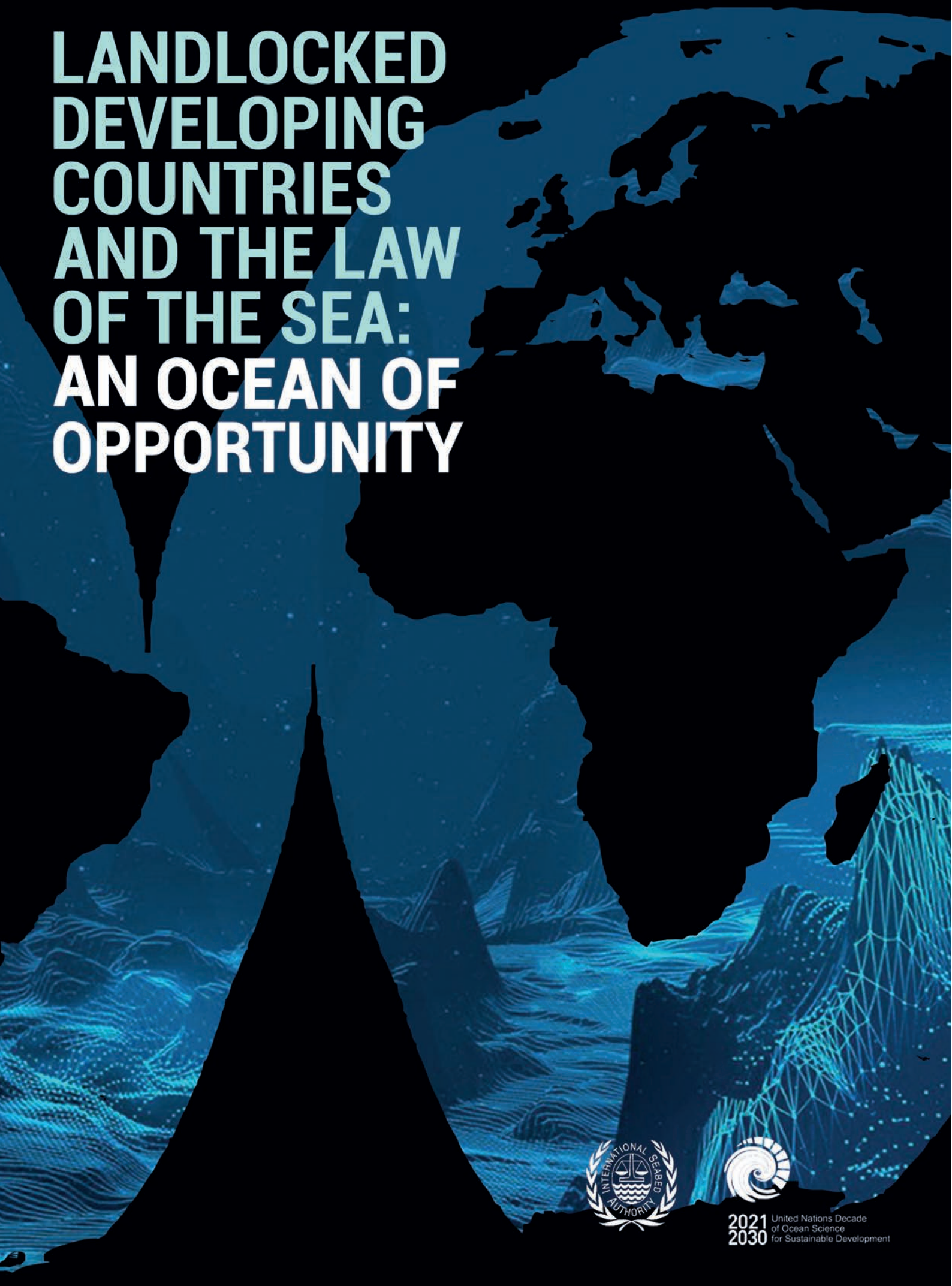
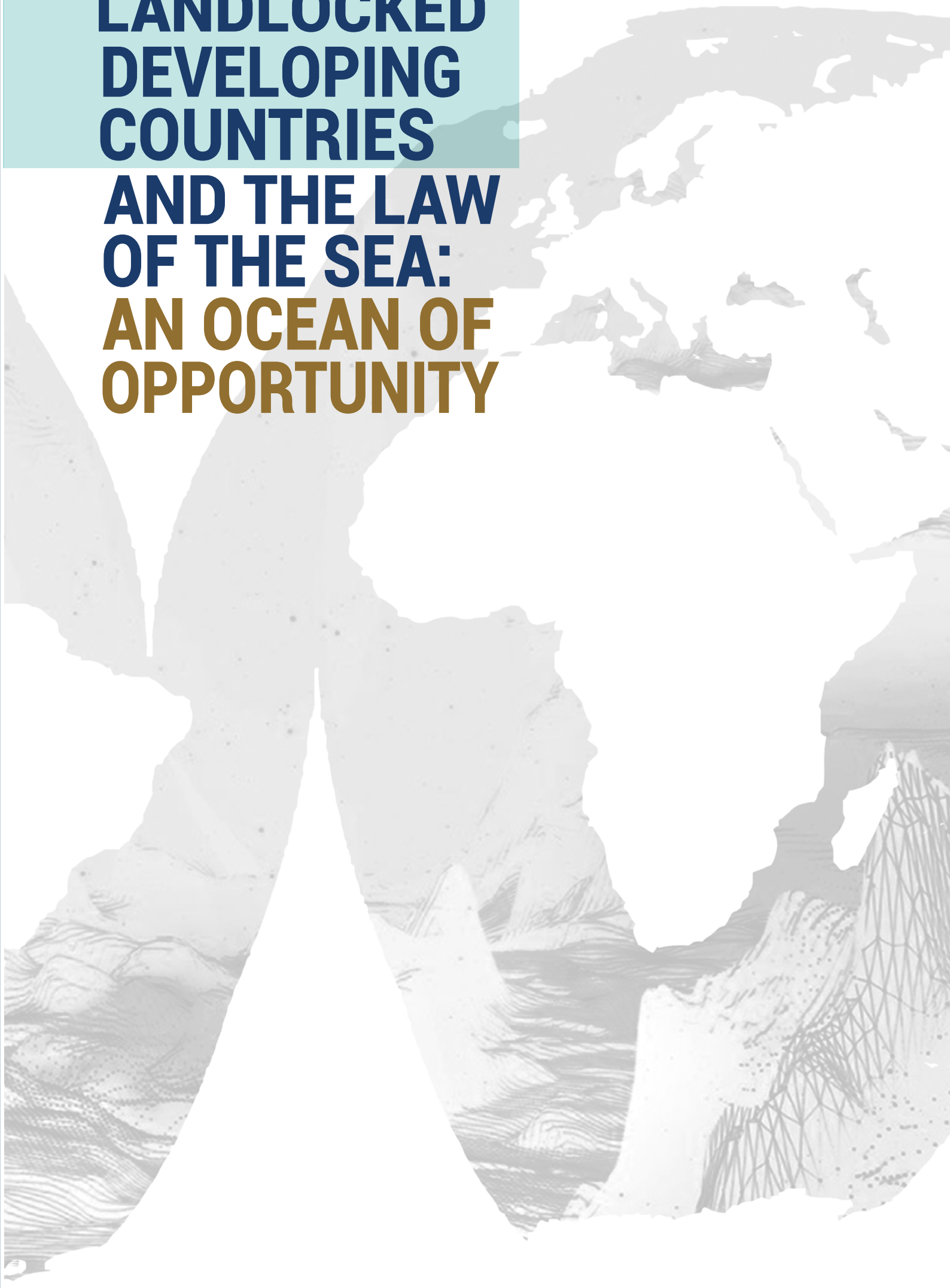
LANDLOCKED DEVELOPING COUNTRIES AND THE LAW OF THE SEA: AN OCEAN OF OPPORTUNITY



INTERNATIONAL SEABED AUTHORITY

2021 2030 United Nations Decade of Ocean Science for Sustainable Development

LANDLOCKED DEVELOPING COUNTRIES AND THE LAW OF THE SEA: AN OCEAN OF OPPORTUNITY



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First Edition 2021

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Abbreviations and acronyms

CLCS	Commission on the Limits of the Continental Shelf
EEZ	Exclusive economic zone
GGGI	Global Green Growth Institute
ICJ	International Court of Justice
ISA	International Seabed Authority
ITLOS	International Tribunal for the Law of the Sea
LDC	Least developed country
LLC	Landlocked country
LLDC	Landlocked developing country
LLGDS	Group of Landlocked and Geographically Disadvantaged States
SDG	Sustainable Development Goal
SIDS	Small Island Developing State
UN	United Nations
UNDP	United Nations Development Programme
UN ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UN-OHRLLS	United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States
UNCLOS	United Nations Convention on the Law of the Sea
UNOSSC	United Nations Conference on South-South Cooperation
WGEO	World Green Economy Organization

Foreword by the Secretary-General

Mr. Michael W. Lodge
Secretary-General, ISA

I am pleased to introduce this short study on the relevance of the 1982 United Nations Convention on the Law of the Sea to the landlocked developing countries. Since 2017, the International Seabed Authority has been actively collaborating with the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS) to support the efforts of that office to facilitate the coordinated implementation of the programmes developed through the United Nations system to benefit those groups of countries.

This study is one of three similar studies prepared by the Authority, one each for the groups of landlocked developing countries, least developed countries and Small Island Developing States, aimed at informing them of the benefits of the Convention.

The Authority is tasked under the Convention to manage deep-sea mineral exploration and exploitation, protect the deep-sea marine environment and its biodiversity and promote marine scientific research for the benefit of all humanity. The interests of all humanity in the ocean and the conservation and sustainable use of its resources make it imperative that the global governance regime reflects the maritime interests of all States, whether coastal or landlocked. Under the Convention, and in particular its Part XI, which deals with the regime of the Area beyond national jurisdiction, the rights of developing landlocked countries are explicit. They have the right to participate in deep-sea mineral exploration and marine scientific research as well as to share in the financial and economic benefits from deep-sea minerals.

The Authority is therefore under a positive obligation to promote the effective participation of developing States in the regime based on Part XI and recognize the special need for landlocked developing countries – which make up 10 per cent of the membership of the Authority – to overcome the obstacles caused by geography.

The exercise of these rights is also fundamental to achieving the outcomes of the Vienna Programme of Action, to which the Authority is fully committed. I express the hope that this publication will be of assistance to the landlocked developing countries and will encourage those which are not yet party to the Convention to become parties as soon as possible and take full advantage of the provisions of the Convention that have been designed for their benefit.

Photo: The Metals Company

1 Introduction

The oceans and their marginal seas, covering almost 71 per cent of the surface of the Earth, have since early times played a significant role in the development of humanity. They provide food and minerals, generate oxygen and ensure communication and trade. The dependence of the world population on the ocean economy has steadily increased over the past 100 years to satisfy the ever-growing needs of humanity.

Thanks to ongoing technological progress and innovation, access to different maritime areas and their resources, whether living or non-living, has reached new frontiers and opened new prospects.

This presents new challenges and imperatives such as the need to peacefully manage global commons resources and to ensure equity in access to, and the distribution of benefits from, such resources.

These imperatives are also central to Sustainable Development Goal 14 under the 2030 Agenda for Sustainable Development, which urges all States to conserve and sustainably use the oceans, seas and marine resources for sustainable development. This includes the application of rigorous and adaptive measures for the protection and preservation of the marine environment.

2 Development of a global legal regime for the ocean and its resources

Ever since humankind managed to venture out on the seas, the freedom of this seemingly limitless space has been challenged by domination from land, often leading to conflict among seafaring nations. During the twentieth century, the situation called for the codification of the customary law of the sea for the benefit of all nations. These efforts led to the adoption in 1958 of the four Geneva Conventions, soon largely to be overtaken by State practice, culminating in 1982 in the adoption of the United Nations Convention on the Law of the Sea (UNCLOS), which entered into force in 1994.

The Convention on the Law of the Sea was adopted at the United Nations Headquarters on 30 April 1982 during the Third UN Conference on the Law of the Sea.
Photo: United Nations

Box 1

The four Geneva Conventions on the Law of the Sea

On 29 April 1958, the United Nations Conference on the Law of the Sea opened[1] four conventions for signature:

Convention	Entry into force	Parties
Convention on the High Seas	30 September 1962	63
Convention on the Continental Shelf	10 June 1964	58
Convention on the Territorial Sea and the Contiguous Zone	10 September 1964	52
Convention on Fishing and Conservation of the Living Resources of the High Seas	20 March 1966	39

[1] Final Act A/CONF.13/L.58, 1958, UNCLOS, Off. Rec. vol. 2, 146

Box 2

The United Nations Convention on the Law of the Sea and the Agreement relating to the implementation of Part XI of the Convention

UNCLOS was opened for signature on 10 December 1982 in Montego Bay, Jamaica, after more than 14 years of negotiations involving more than 150 countries from all regions of the world and representing all legal and political systems as well as reflecting the whole spectrum of socio-economic development. UNCLOS[2] entered into force on 16 November 1994.

To address certain difficulties with the seabed mining provisions contained in Part XI of UNLOS,

T.T.B. Koh, Permanent Representative of Singapore to the UN introduces the draft resolution on the Convention on Law of the Sea at the UN General Assembly.
Photo: United Nations, 3 December 1982

Third United Nations Conference on the Law of the Sea, informal meeting of the Drafting Committee, United Nations Headquarters, New York.
Photo: United Nations, 27 February 1981

which had been raised, primarily by the industrialized countries, the UN Secretary-General convened in July 1990 a series of informal consultations which culminated in the adoption, on 28 July 1994, of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (1994 Agreement).

The 1994 Agreement entered into force on 28 July 1996. In the event of an inconsistency between the Agreement and Part XI, the provisions of the Agreement shall prevail.

UNCLOS is based on the premise that the problems of ocean space are interrelated. It provides a comprehensive framework for the entire international community, regulating all ocean space, its uses and resources, and laying down clear and universal rules for coastal States' maritime jurisdiction. It also represents a common denominator for the different maritime interests of all

[2] Full text: https://www.un.org/depts/los/convention_agreements/texts/unclos/closindx.htm

States, whether coastal or landlocked, balancing their respective rights and duties over a space that represents more than half of the planet and the resources it contains.

At present, UNCLOS has almost achieved universality. As of July 2021 it has been ratified by 168 parties, which includes 167 States (164 United Nations member States plus the UN Observer State Palestine, as well as the Cook Islands and Niue) and the European Union. An additional 14 UN Member States have signed it, but not ratified it.

The law of the sea, as enshrined in UNCLOS, is essentially based on the following core elements:

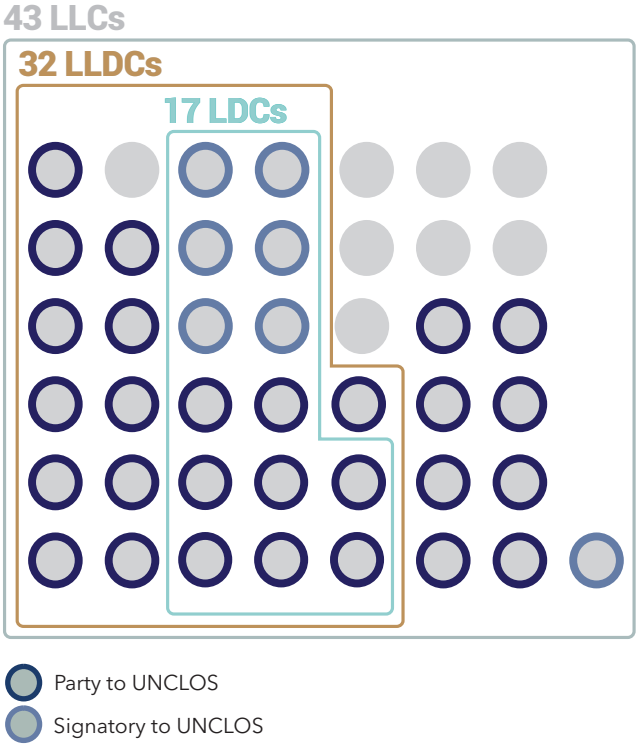
- The division of ocean space into maritime zones where different rights and obligations apply.
- The recognition of different legitimate uses of and activities in the ocean.
- The duty of all States to ensure, through proper conservation and management measures, the long-term sustainable use of living and non-living resources.
- The designation of a common space beyond national jurisdiction and its resources as the common heritage of humankind and the establishment of a unique global organization mandated to manage this area and its resources on behalf of humankind.
- The peaceful settlement of disputes.
- The right of access to and from the sea for landlocked States.

Landlocked States are defined in UNCLOS "as States which have no sea-coast" (Art. 124(1) (a)). The use of the term "sea-coast" indicates that countries bordering a body of water that is itself landlocked, even if called a "sea", are to be considered landlocked and not coastal States. It is to be noted that **32 out of 43 landlocked States are developing countries**. All of the landlocked States in Africa, Asia and South America, as well as four in Central and Eastern Europe, belong to this group. It should be added that 17 of them are also classified by the UN, according to a combination of geographical and structural criteria, as least developed countries (LDCs), of which 13 are in Africa (see **Figure 1**).

It is obvious that the geographical location of landlocked States places them at a severe disadvantage compared to coastal States, in particular since more than 90 percent of world trade is carried by sea. In this sense, the geographical location of a country can be considered an impediment to its development. **The adoption of UNCLOS in its entirety, after difficult and protracted negotiations from 1974 to 1982, constituted a major step forward in the attempt to remedy, at least to some degree, this unfavourable situation for landlocked developing countries LLDCs.**

It is, however, to be noted that of the 43 landlocked countries with UN membership only **28 have become parties to UNCLOS**, while another 7 have signed but not yet ratified it. All of the Central Asian landlocked countries are still missing from the list of States parties to UNCLOS.

Figure 1. Participation of landlocked countries in UNCLOS



Out of 43 landlocked States, 32 are developing countries, including 17 least developed countries.

Among them, 28 have become parties to UNCLOS (including 20 LLDCs, 9 of which are LDCs), while another 7 have signed but not yet ratified it (including 6 LDCs).

43 LLCs	32 LLDCs	17 LDCs	28 Parties to UNCLOS	7 Signatories to UNCLOS (no ratification)
Afghanistan	●	●		●
Andorra				
Armenia	●		●	
Austria			●	
Azerbaijan	●		●	
Belarus			●	
Bhutan	●	●		●
Bolivia	●		●	
Botswana	●		●	
Burkina Faso	●	●	●	
Burundi	●	●		●
Central African Republic	●	●		●
Chad	●	●	●	
Czech Republic			●	
Eswatini	●		●	
Ethiopia	●	●		●
Hungary			●	
Kazakhstan	●			
Kyrgystan	●			
Lao PDR	●	●	●	
Lesotho	●	●	●	
Liechtenstein				●
Luxembourg			●	
Malawi	●	●	●	
Mali	●	●	●	
Mongolia	●		●	
Nepal	●	●	●	
Niger	●	●	●	
North Macedonia	●		●	
Paraguay	●		●	
Republic of Moldova	●		●	
Rwanda	●	●		●
San Marino				
Serbia			●	
Slovakia			●	
South Sudan	●	●		
Switzerland			●	
Tajikistan	●			
Turkmenistan	●			
Uganda	●	●	●	
Uzbekistan	●			
Zambia	●	●	●	
Zimbabwe	●		●	

Photo: Getty Images

3 The United Nations Convention on the Law of the Sea – an overview

A. Within national jurisdiction

UNCLOS grants every coastal State the right to establish the breadth of its territorial sea up to a limit of 12 nautical miles measured from determined baselines (Art. 3), generally the low-water mark. The sovereignty of the coastal State extends to the airspace over the territorial sea as well as to its bed and subsoil (Art. 2) (see **Figure 2**). At the same time, the right of "innocent passage", defined as passage "not prejudicial to the peace, good order or security of a coastal State", was confirmed for ships of all States, whether coastal or landlocked (Arts. 17-19). Coastal States have, furthermore, the possibility to declare a contiguous zone up to a maximum of 24 nautical miles from the baseline. In that zone, a coastal State may exercise the control necessary to prevent or punish infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea (Art. 33).

As a corollary to the extension of the limits of the territorial sea, UNCLOS introduced the novel concept of "transit passage", maintaining the right to unimpeded navigation and overflight with respect to straits which are used for international navigation. Ships and aircraft in transit passage must, however, observe international regulations on navigational safety, civilian air-traffic control and prohibition of vessel-source pollution, proceed without delay through or over the strait without stopping, except in distress situations, and refrain from any threat or use of force against the coastal States. A further new concept is that of the "archipelagic State" – a State that is constituted wholly by one or more archipelagos, meaning groups of closely-spaced islands (Art. 46). The waters between the islands are declared archipelagic waters, which are under national sovereignty. All ships and aircraft, however, enjoy the right of "archipelagic sea lanes passage", akin to transit passage in sea lanes and air routes designated by an archipelagic State (Art. 53).

An entirely new concept introduced by UNCLOS is the exclusive economic zone (EEZ), which has a *sui generis* legal status constituting a compromise between sovereignty of the coastal State and freedom for all States.

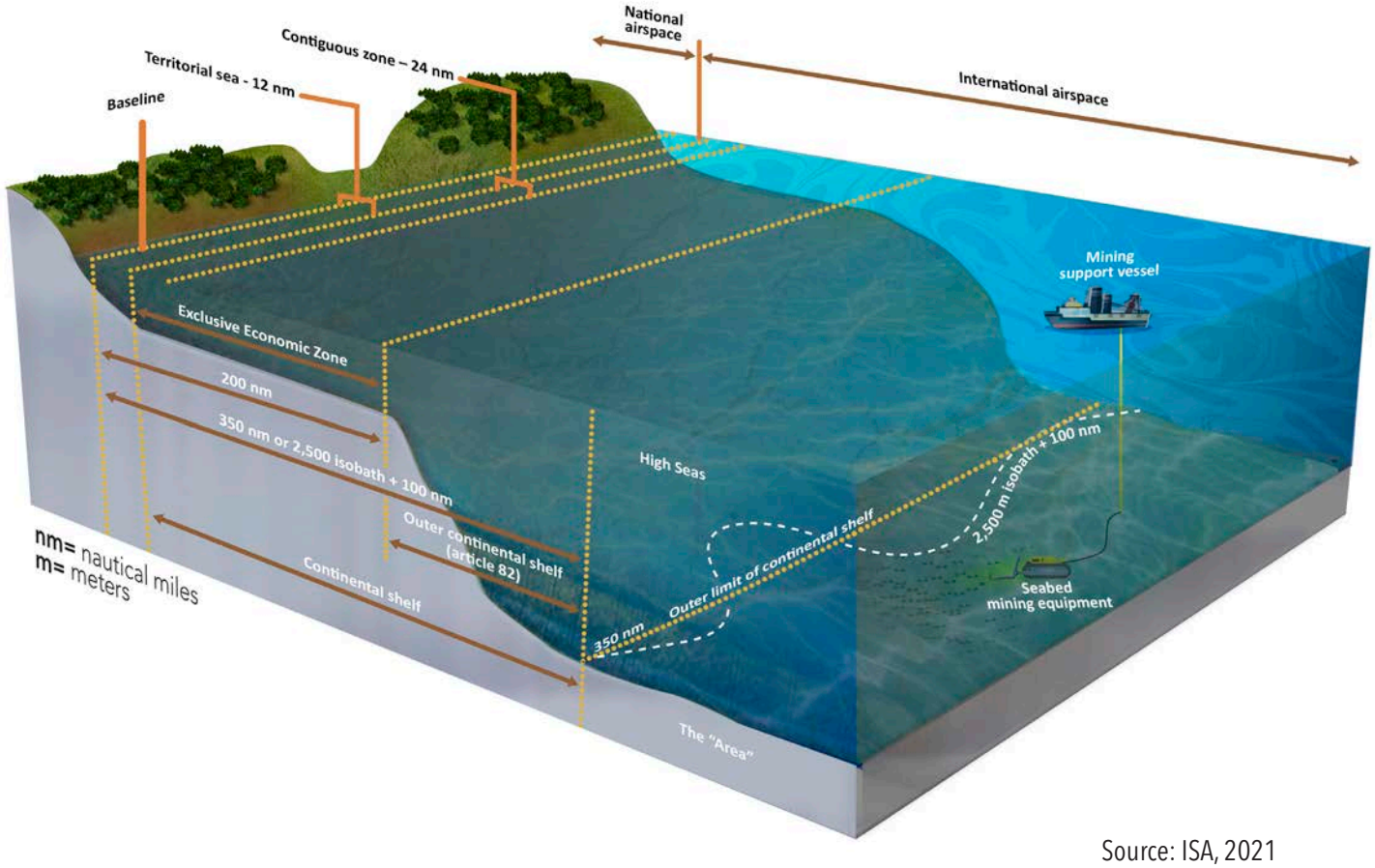
In the EEZ, with a maximum limit of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, the coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing all natural resources, as well as other economic activities. Moreover, it has jurisdiction regarding the establishment and use of artificial islands, installations and structures, marine scientific research, and the protection and preservation of the

marine environment (Art. 56). These rights of the coastal State are counterbalanced by the fact that the provisions of UNCLOS relating to the high seas and other pertinent rules of international law continue to apply to the EEZ insofar as they are not incompatible with it. All States, whether coastal or landlocked, thus enjoy the high seas freedoms of navigation and overflight and of laying submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms (Art. 58(1)).

UNCLOS substantially broadened the concept of the continental shelf. The continental shelf now encompasses the entire continental margin, comprising the shelf, the slope and the rise, or the seabed up to a distance of 200 nautical miles from the baselines from which the breadth of the territorial seas is measured, even where no geological shelf exists. There is now, however, a more precise delineation of the outer limits of the continental shelf beyond 200 nautical miles, which may be set at a maximum distance of 350 nautical miles from the baselines or up to 100 nautical miles from the 2,500 m isobath (Art. 76(1), (5)). Such limits become "final and binding" if adopted by the coastal State on the basis of recommendations by the Commission on the Limits of the Continental Shelf (CLCS) (Art. 76(8)), a body consisting of 21 experts in the field of geology, geophysics and hydrology, elected by the States parties to UNCLOS (Annex II, Art. 2(1)).

To obtain recognition of continental shelf rights beyond 200 nautical miles, the coastal States with a continental margin extending beyond 200 nautical miles had to agree to a system of revenue-sharing in respect to the exploitation of non-living resources of the continental shelf beyond that distance. This system is described further below (see **Section 5**).

Figure 2. Maritime zones and the "Area" under UNCLOS



Source: ISA, 2021

B. Beyond national jurisdiction

1. Freedom of the high seas and the regime of the Area

The high seas are open to all States, whether coastal or landlocked. Freedom of the high seas is exercised under the conditions laid down by UNCLOS and by other rules of international law. Besides freedom of navigation and overflight, it stipulates also, subject to certain conditions, the freedom to lay submarine cables and pipelines, to construct artificial islands and other installations, to fish, and to engage in marine scientific research, both for coastal and landlocked States (Art. 87). Every State, whether coastal or landlocked, has the right to sail ships flying its flag on the high seas (Art. 90).

The provisions of UNCLOS relating to the Area constitute a central feature of the entire Convention, operationalizing the concept of **common heritage of humankind**. These are enshrined in its Part XI and Annex III, together with the 1994 Agreement, which was adopted to bring the regime of the deep seabed closer in line with political and economic realities. The Area is defined as "the seabed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction" (see **Figure 2** above) (Art. 1(1)). The precise extent of the Area will only be determined when all coastal States have established the outer limits of their continental shelves in accordance with the provisions of UNCLOS but is estimated to cover more than 50 per cent of the global sea floor. In view of the tremendous workload of the CLCS, this will still take quite a long time.

Under UNCLOS, all rights in the resources in situ in the Area or beneath the seabed are vested in humankind as a whole. Photo: Polymetallic nodules, Deep Ocean Resources Development (DORD)

The Area and its resources are declared the "common heritage of mankind" (Art. 136) in order to preserve the greater part of ocean space as a commons open to use by the entire international community. No claim or exercise of sovereignty or sovereign rights over any part of the Area or its resources nor appropriation by any State – not just States parties – natural or juridical person is to be recognized. All rights in these resources, defined as all solid, liquid or gaseous mineral resources in situ in the Area or beneath the seabed, including polymetallic nodules (Art. 133(a)), are vested in humankind as a whole, on whose behalf the International Seabed Authority is to act (Art. 137).

Activities in the Area, defined as all activities of exploration for, and exploitation of, its resources (Art. 1(3)), are to be carried out for the benefit of humankind as a whole irrespective of the geographical location of States, whether coastal or landlocked, taking into particular consideration the interests and needs of developing States and of peoples who have not obtained full independence or other self-governing status recognized by the UN (Art. 140(1)). The Area is open to use exclusively for peaceful purposes for all States, whether coastal or landlocked, without discrimination (Art. 141).

2. The International Seabed Authority

ISA, based in Kingston, Jamaica, is the organization through which the States parties organize and control activities in the Area, particularly with a view to administering its resources (Arts. 156, 157(1)). All States parties to UNCLOS are *ipso facto* Members of ISA. Although the core function of ISA is to manage deep-seabed mining, it has been entrusted by UNCLOS with other important tasks. These include promoting and encouraging marine scientific research (Art. 143), the transfer to developing States of technology and scientific knowledge (Art. 144) and the effective protection of the marine environment and conservation of the natural resources of the Area (Art. 145).

ISA has its headquarters in Kingston, Jamaica. Photo: ISA

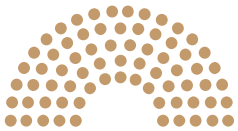
The main organs of ISA are the **Assembly**, consisting of all the Members and considered the supreme organ, the **Council**, which is the executive organ, and the **Secretariat**, headed by a Secretary-General.

The Assembly elects the 36 members of the Council from five groups of States parties representing different interests and ensuring an equitable geographical distribution (Art. 161(1)). The Secretary-General is elected by the Assembly from among the candidates proposed by the Council (Art. 166(2)(c)).

It is the task of the Assembly to establish the general policies of ISA in collaboration with the Council (Art. 160(1)), while the Council is entrusted to establish specific policies (Art. 162(1)). The Assembly also approves the budget of ISA, including the scale of assessment for contributions by States parties, as submitted by the Council (Art. 160(2)(e)(h)), and must finally approve the rules, regulations and procedures relating to prospecting, exploration and exploitation in the Area (Art. 161(2)(f)(ii)). The primary function of the Council, which has an extensive range of powers, is to supervise and control the implementation of Part XI of UNCLOS on all matters within the competence of ISA (Art. 162 (2)(a)).

Important subsidiary organs, consisting of individual experts, are the **Legal and Technical Commission** (Art. 163) and the **Finance Committee** (Art. 162(2(y)). Many of the decisions of the Council and the Assembly must be based on the recommendations of these bodies. The members of the Legal and Technical Commission are elected by the Council, and those of the Finance Committee by the Assembly. The **Enterprise** is established as an organ of ISA to carry out activities in the Area directly, on behalf of all Members, subject to the directives and control of the Council (Art. 170). Under the 1994 Agreement, certain limited functions of the Enterprise are to be carried out by the Secretariat until such time as the Council decides that the Enterprise should function independently. Since 2019, the Secretary-General has appointed a Special Representative for the Enterprise.

Figure 3. Structure of ISA and participation of LLDCs in its different organs in 2021



Assembly

167 States + the European Union

- Supreme/political organ
- Power to establish general policies on any question or matter within the competence of the Authority
- Approves budget
- Approves regulations recommended by the Council

Finance Committee

1 LLDC: Uganda

- 15 members including 5 largest contributors (as long as ISA depends on assessed contributions)
- All financial and budgetary matters must be considered by the Finance Committee

Council

36 members

2 LLDCs 1 LLC

Group A (4) Major consumers:
China, Italy, Japan, Russian Federation

Group B (4) Major investors:
France, Germany, India, Republic of Korea

Group C (4) Land-based producers
Canada, Chile, Indonesia, South Africa

Group D (6) Developing States and special interests:
Bangladesh, Brazil, Fiji, Jamaica, Lesotho, Uganda

Group E (19) Equitable geographic representation:
Argentina, Australia, Cameroon, Costa Rica, Czech Republic, Ghana, Mauritius, Mexico, Morocco, Mozambique, Netherlands, Nigeria, Poland, Sierra Leone, Singapore, Spain, Tonga, Trinidad and Tobago, UK

Enterprise

The Enterprise is an organ of ISA aimed at carrying out activities in the Area, as well as the transporting, processing and marketing of minerals recovered from it.

In preparation for the day when the Enterprise begins to operate independently, the Secretariat, under the 1994 Agreement, is responsible for assessing the potential resources of the reserved areas as well as possible approaches to joint venture operations.

Legal and Technical Commission

1 LLDC: Uganda

- 30 expert members
- Recommends approval of plans of work
- Proposes technical + environmental regulations to Council

Economic Planning Commission

- Not currently operational
- Functions carried out by the LTC

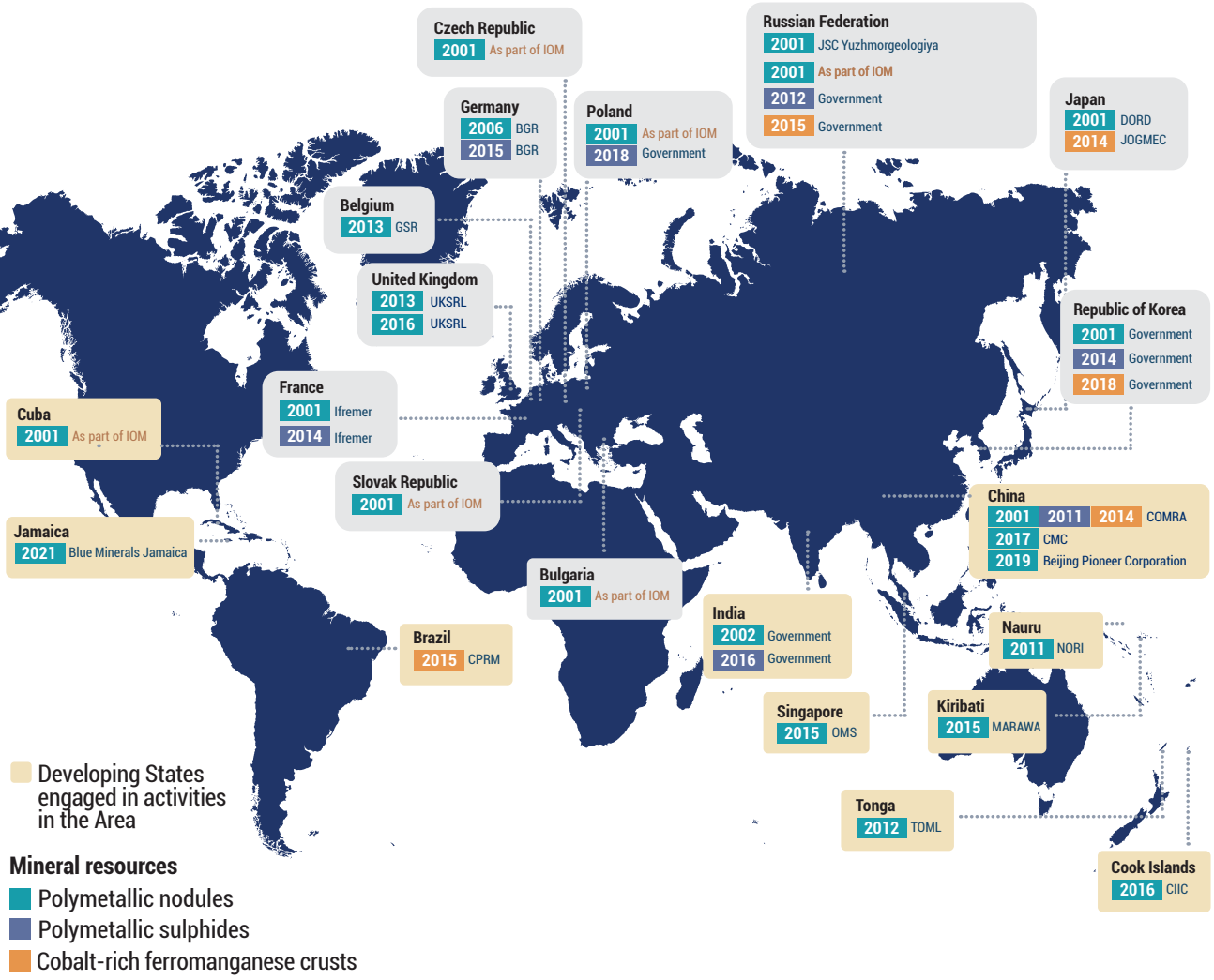
Secretariat

- Secretary-General + administrative and technical staff

Activities in the Area are to be carried out either by the Enterprise, or in association with ISA by States parties or State enterprises or "natural or juridical persons" which possess the nationality of States parties or are effectively controlled by them or their nationals (Art. 153(2)). Natural or juridical persons must be sponsored by one or more States parties (Annex III, Art. 4(3)), and sponsoring States have the responsibility to ensure within their legal system that a sponsored contractor is carrying out activities in the Area in conformity with its contract and its obligations under UNCLOS (Art. 139 and Annex III, Art. 4(4)).

A plan of work submitted to ISA by an applicant sponsored by a developed State party requesting an authorization for exploration must divide it into two parts "of equal estimated commercial value" to allow two mining operations (Annex III, Art. 8(1)). One of these sites is granted to the applicant, while the other is held in a site bank for future development by the Enterprise either by itself or in association with developing States. In case of polymetallic sulphides and cobalt-rich crusts, applicants have been given the option to either contribute a reserved area or to offer a future equity interest in a joint venture with the Enterprise, which has proven to be by far the preferred option.

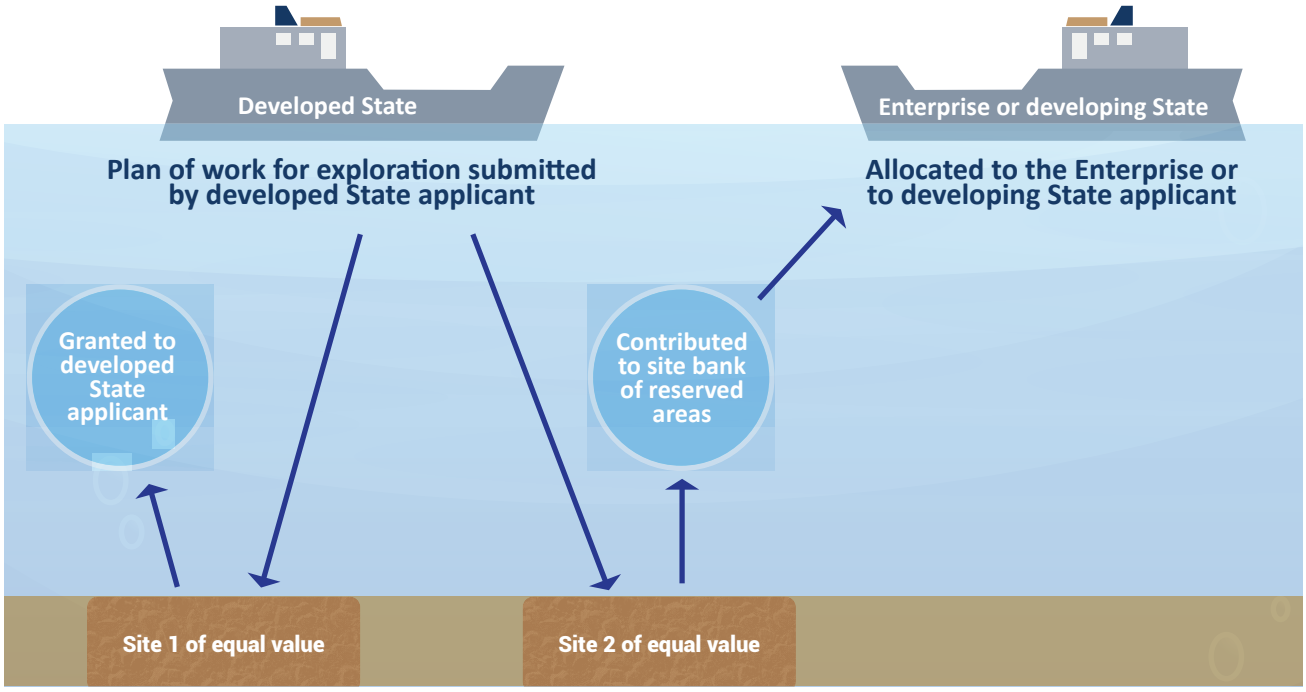
Figure 4. States sponsoring activities in the Area



Any developing State or a qualified entity sponsored by it may notify ISA that it wishes to submit a plan of work which will be considered if the Enterprise does not intend to carry out activities in that area (Annex III, Art. 9(4)). This mechanism of so-called "**reserved areas**" is a key component of the system of access to the Area and one of the means by which UNCLOS ensures that developing countries can access deep-sea mineral resources. It is one of the tasks of the ISA Secretariat to carry out resource assessment of these reserved areas.

Several developing countries have already taken advantage of provisions of UNCLOS to sponsor exploration activities in reserved areas. These include Cook Islands, China, Jamaica, Kiribati, Nauru, Tonga and Singapore (see **Figure 4**), to which reserved areas of 502,411 km² have been allocated in total. At present, **a total of 887,485 km² remains available in the reserved-area site bank for polymetallic nodules (see Figure 5) and 3,000 km² for cobalt-rich crusts.**

Figure 5. Understanding the "reserved areas" mechanism



5.1 Creation of a site bank of reserved areas for the Enterprise and developing States

5.2 Amount of reserved areas contributed by contractors as of August 2021

5.3 Amount of reserved areas allocated to developing States and areas still available

3. Protection and preservation of the marine environment

UNCLOS provides that "States have the obligation to protect and preserve the marine environment" (Art. 192). There is, further, the requirement to balance their sovereign rights to exploit their national resources pursuant to their environmental policy with that basic duty (Art. 193). **States thus must individually or jointly take all measures that are necessary to prevent, reduce and control pollution of the marine environment from any source** as well as ensure that activities under their jurisdiction or control do not cause damage by pollution to other States and their environment (Art. 194(1)(2)). They are also obliged to cooperate on a global and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices, for the protection and preservation of the marine environment (Art. 197).

The duty to prevent, reduce and control pollution of the marine environment not only relates to seabed activities subject to national jurisdiction and to activities in the Area – by dumping or from vessels – but also to pollution from land-based sources, including rivers and pipelines. States are under an obligation to adopt laws and regulations in this respect and to enforce them.

Under UNCLOS, States must take all measures that are necessary to prevent, reduce and control pollution of the marine environment. Photo: school of fish in Caribbean waters. Getty Images.

C. Peaceful settlement of disputes

States parties to UNCLOS are under the **obligation to settle any dispute concerning the interpretation and application of UNCLOS by peaceful means** in accordance with the Charter of the United Nations (Art. 279). They have the right to settle such disputes by any peaceful means of their own choice (Art. 280). First, they are obliged to proceed expeditiously to an exchange of views regarding settlement by negotiation or other peaceful means (Art. 283), which may include conciliation (Art. 284).

Where no settlement has been reached, a State is free to choose, by written declaration to UN Secretary-General one or more of the following means: The International Tribunal for the Law of the Sea (ITLOS) (Annex VI), the International Court of Justice (ICJ), an arbitral tribunal (Annex VII) or a special arbitral tribunal (Annex VIII) for certain categories of disputes (Art. 287).

In the absence of such a declaration or if the parties have not accepted the same procedure, they are deemed to have accepted arbitration under Annex VII. There are, however, certain limitations and exceptions to the application of compulsory procedures entailing binding decisions. The limitations relate to the exercise of certain discretionary powers by a coastal State, in particular as regards its sovereign rights in respect of fisheries in the EEZ (Art. 297(1)(2)). Exceptions to the compulsory procedures may also be made by virtue of written declarations, including with respect to sea boundary delimitations, historic bays or titles, or to military activities (Art. 298 (1)).

ITLOS, newly established by UNCLOS and based in Hamburg, Germany, consists of 21 judges elected by the States parties for a term of nine years (Annex VI, Art. 2(1), Art. 5). Its composition must ensure adequate representation of the principal legal systems of the world and an equitable geographical distribution (Annex VI, Art.2(2)). Its Statute also provides for the establishment of a Seabed Disputes Chamber, consisting of 11 members (Annex VI Art. 15, Art. 35), which has been granted exclusive and compulsory jurisdiction over disputes arising out of the exploration and exploitation of the Area. Such disputes comprise those between a State party and ISA or between ISA and a prospective contractor (Art. 187). The Seabed Disputes Chamber may also give advisory opinions at the request of the Assembly or the Council of ISA (Art. 191), which has so far happened once at the request of the Council.

Box 3

Advisory Opinion of the Seabed Disputes Chamber of ITLOS on the "responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area"

Seabed Disputes Chamber of ITLOS. Photo: ITLOS

On February 1, 2011, the Seabed Disputes Chamber of ITLOS unanimously adopted a historic advisory opinion in response to a request made by the Council of ISA to clarify the legal responsibilities and obligations of sponsoring States. The Advisory Opinion was the first decision of the Seabed Disputes Chamber of the Tribunal and the first advisory opinion submitted to it.[4]

[3] Source: https://www.itlos.org/fileadmin/itlos/documents/press_releases_english/PR_161_E.pdf

Photo: Getty Images

4 Rights and benefits of landlocked developing countries under UNCLOS

A. Recognition of the special situation of LLDCs

The States parties to UNCLOS have recognized the desirability of establishing through it a legal order for the oceans and seas which will facilitate international communication and promote their peaceful use, the equitable and efficient utilization of their resources, the sustainable development of their living resources, and the study, protection and preservation of the marine environment. They have also borne in mind that the achievement of these goals will contribute to the realization of a **just and equitable international economic order** which takes into account the interests and needs of humankind as a whole and, in particular, the special needs and interests of developing countries, whether coastal or landlocked.

UNCLOS contains many references to developing States in its substantive provisions, addressing their needs and interests, as well as to landlocked ones. Landlocked States, in several provisions, are mentioned together with geographically disadvantaged States. These are coastal States with certain geographical characteristics, such as short coastlines or narrow shelves, having little to gain or even being adversely affected by the extension of coastal State maritime jurisdiction. While there is no definition of the term "developing country" in UNCLOS, landlocked States are defined as "States which have no sea-coast" (Art. 124(1)(a)).

B. Right to access to the sea and freedom of transit

Landlocked States differ from coastal States in one decisive respect: as they do not border the sea, they need transit across the territory of other countries, coupled with adequate physical infrastructure, to enjoy the advantages of maritime communication and trade. This has been taken into account by UNCLOS, with an entire Chapter (Part X) devoted to the problem of access by landlocked States to and from the sea and freedom of transit. These States are granted a right to such access for the purpose of exercising the rights provided for UNCLOS, including those relating to the high seas and the common heritage of humankind. To this end, **landlocked States enjoy freedom of transit through the territory of transit States by all means of transport** (Art. 125(1)). These means are defined as railway rolling stock, sea, lake and river craft and road vehicles, and where local conditions so require, porters and pack animals (Art. 124(1)(d)). Pipelines, gas lines and other means of transport may also be included, subject to an agreement between landlocked and transit States (Art. 124(2)).

UNCLOS tries to strike a balance between the interests and needs of landlocked States on the one hand and those of transit States on the other. Such a balance was also advocated by several landlocked countries, as they are in many instances also transit States. For landlocked States to exercise their right of access to and from the sea, the terms and modalities for freedom of transit must thus be agreed between the landlocked and the transit States concerned through bilateral, subregional or regional agreements (Art. 125(2)). Transit States have, furthermore, the right to take all measures necessary to ensure that the rights and facilities provided for landlocked States in no way infringe their legitimate interests (Art. 125(3)). A certain counterbalance in favour of landlocked States is established by the fact that the provisions of UNCLOS, as well as special agreements relating to the exercise of the right of access to and from the sea, establishing rights and facilities on account of the special geographical position of landlocked States, are excluded from application of the most-favoured-nation clause (Art. 126).

Further provisions of UNCLOS relate to the prohibition of subjecting traffic in transit to customs duties, taxes or other charges, except those levied for specific services rendered in that connection (Art. 127(1)). Means of transport and other facilities for transit provided for and used by landlocked States must not be subject to taxes or charges higher than those levied for the use of means of transport of the transit State (Art. 127(2)). Transit States are also obliged to avoid delays or other difficulties of a technical nature to traffic in transit (Art. 130(1)). UNCLOS does not derogate from any greater rights in respect of transit that landlocked States may have, by agreement, with particular transit States nor is the grant of greater facilities precluded (Art. 132).

C. Equal treatment of all ships in maritime zones of other States

Under UNCLOS, ships flying the flag of a landlocked State in maritime ports enjoy treatment equal to that accorded to other foreign ships. Photo: Port of Shanghai, China. Getty Images.

In recognition of the fact that landlocked States also have maritime interests and concerns, UNCLOS is based on the principle of **equal treatment of all ships** in maritime zones of other States. The right of landlocked States to sail ships under their flag on the seas has thus once again been confirmed. It should be mentioned that a number of these States have for many years maintained a merchant marine under their flag. As regards the treatment of ships flying the flag of landlocked States in maritime ports, it is clearly spelled out that these enjoy treatment equal to that accorded to other foreign ships (Art. 131). This rule means that vessels may not be discriminated against in maritime ports for the sole reason that they fly the flag of a landlocked country. This right to equal treatment covers all maritime ports and not only those of coastal transit States, and its exercise does not require any prior agreement with the port State.

D. Right to participate in the exploitation of living resources

In exchange for their agreement to a 200 nautical mile EEZ, where around 90 percent of fish stocks are to be found, landlocked States have been granted **the right to participate, on an equitable basis, in the exploitation** of an appropriate part of the surplus of the living resources of the EEZs of coastal States in the same subregion or region. In this context, the relevant economic and geographical circumstances of all of the States concerned are to be taken into account (Art. 69(1)), as well as the right of the coastal State to determine the allowable catch of living resources in the EEZ and its obligation to promote their optimum utilization (Arts. 61, 62). The terms and modalities of participation are to be agreed between the States involved through bilateral, subregional or regional agreements (Art. 69(2)).

School of tuna fish. Photo: Getty Images.

It is important to bear in mind that the "right to participate" is limited by several additional requirements, taking into account the interests of coastal States (Art. 69(2)(a), (b), (c)). There is, however, an exception for developing landlocked States, which are entitled, under certain conditions, to an equitable share of the resources of the EEZs of coastal States of the same region or subregion, regardless of the existence of a surplus of living resources (Art. 69(3)). In practice, this right to participate in the exploitation of such resources is quite limited in view of constantly-diminishing yields owing to overexploitation of fish stocks as well as a globally-rising demand for fish. It is, however, important to note that the African States bordering the Atlantic Ocean have adopted a Regional Convention on Fisheries Cooperation, in which they also "affirm their solidarity with the landlocked African States and with geographically disadvantaged States of the Region", with whom they actively cooperate.

E. Protection and preservation of the marine environment

With respect to the protection and preservation of the marine environment, including the prevention, reduction and control of marine pollution, UNCLOS provides **for scientific and technical assistance to developing States**, directly or through competent international organizations. Such assistance comprises the promotion of scientific, educational, technical and other assistance, such as training of scientific and technical personnel, supplying these States with necessary facilities and equipment, and providing assistance for the minimization of the effects of major incidents which may cause serious pollution of the marine environment and the preparation of environmental assessments (Art. 202). For the purposes of prevention, reduction and control of pollution of the marine environment or minimization of its effects, developing States are to be granted preference by international organizations in the allocation of appropriate funds and technical assistance (Art. 203(a)).

F. Marine scientific research and technology transfer

Competent international organizations such as ISA must promote the development of the marine scientific and technological capacity of developing States. Photo: The Metals Company

UNCLOS **provides that all States**, irrespective of their geographic location, **have the right to conduct marine scientific research, subject to the rights and duties of other States** (Art. 238). The Convention also provides for the duty of States and competent international organizations to actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research, especially to developing States, as well as to strengthen their autonomous marine scientific research capabilities (Art. 244(2)). States and competent international organizations planning to undertake marine scientific research must give notice of a proposed research project to the neighbouring landlocked and geographically disadvantaged States (Art. 254(1)). After the coastal State concerned has given its consent for the marine scientific research project, the neighbouring landlocked and geographically disadvantaged States must, at their request, be given the opportunity to participate in the project (Art. 254(3)).

States, directly or through competent international organizations such as ISA, are also under an **obligation to cooperate** in accordance with their capabilities **to promote actively the development and transfer of marine science and marine technology** on fair and reasonable terms and conditions (Art. 266(1)). In this context, they must promote the development of the marine scientific and technological capacity, particularly of developing States, including landlocked and geographically disadvantaged States, regarding the exploration, exploitation, conservation and management of marine resources, the protection and preservation of the marine environment and marine scientific research (Art. 266(2)).

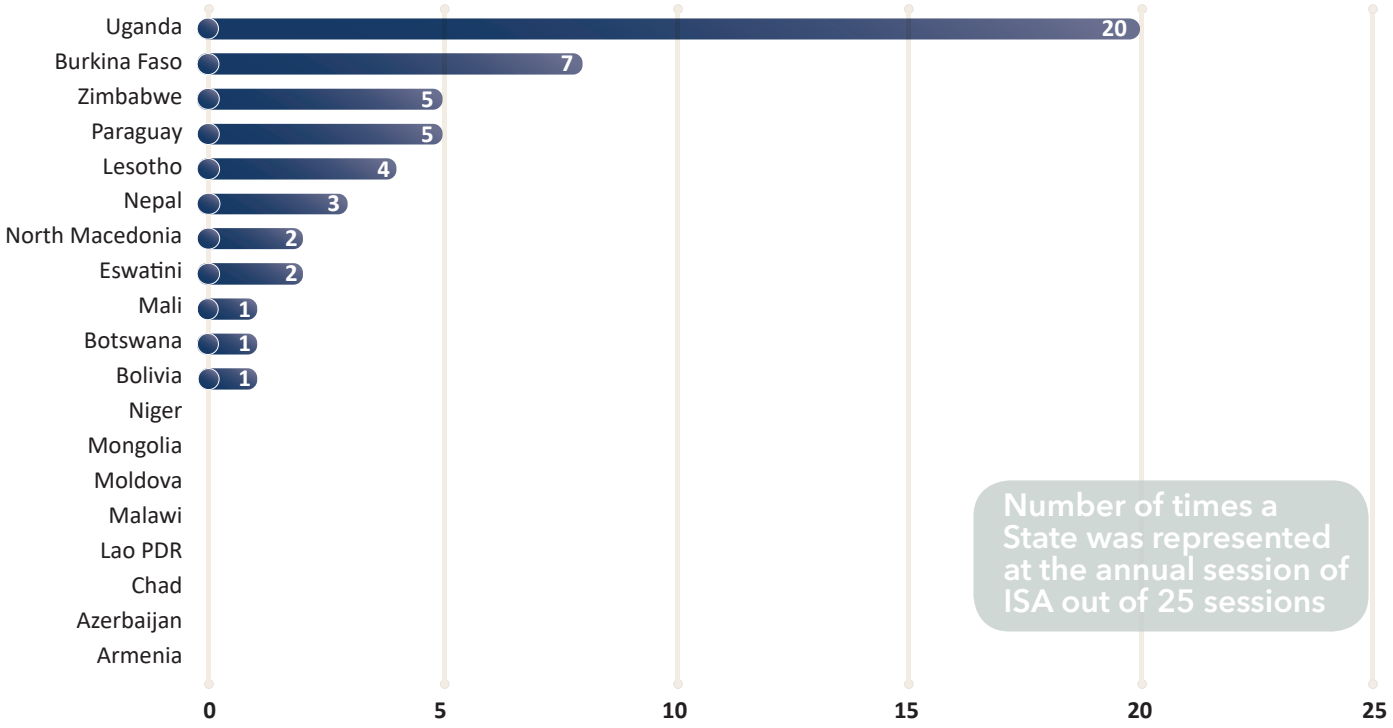
There is, further, an obligation to establish programmes of **technical cooperation** for the effective transfer of marine technology to developing, landlocked and geographically disadvantaged States, as well as other developing States which have not been able either to establish or develop their own technological capacity in marine science and in the exploration and exploitation of marine resources or to develop the infrastructure of such technology (Art. 269(a)).

G. Participation in the work of ISA

With respect to activities in the Area, according to UNCLOS the effective participation of developing States must be promoted, having due regard to their special interests and needs, and in particular to the special need of the landlocked and geographically disadvantaged among them to overcome obstacles arising from their disadvantaged location, including remoteness from the Area and difficulty of access to and from it (Art. 148). ISA is also under the **obligation to take measures to promote and encourage the transfer to developing States of technology and scientific knowledge** relating to activities in the Area, so that all States parties benefit therefrom (Art. 144(1)(b)). While it is stipulated that ISA must avoid discrimination in the exercise of its powers and functions, special consideration is nevertheless permitted for developing States, including particular consideration for the landlocked and geographically disadvantaged among them (Art. 152).

Within ISA, landlocked as well as geographically disadvantaged States are accorded some special rights. The Assembly is thus endowed with the power to consider problems of a general nature in connection with activities in the Area arising in particular for developing States as well as problems for States in connection with such activities that are due to their geographical location, particularly for landlocked and geographically disadvantaged States (Art. 160(2)(k)). In electing the members of the Council, the Assembly of ISA must ensure that landlocked and geographically disadvantaged States are represented to a degree which is reasonably proportionate to their representation in that body (Art. 161(2)) (see **Figure 3**). In addition, when electing six members to the Council from among developing States parties representing special interests, these interests must include, *inter alia*, States which are landlocked or geographically disadvantaged (Art. 161(1)(d); Implementation Agreement, Section 3(15)(d)). It must be noted that even though **LLDCs make up about 10 per cent of ISA's membership**, their participation at the annual sessions of ISA has been minimal over the years (see **Figure 6**).

Figure 6. Participation of LLDCs in the annual sessions of ISA (1994-2019)



H. Capacity-building and training

1. Role and mandate of ISA in building the capacities of its members

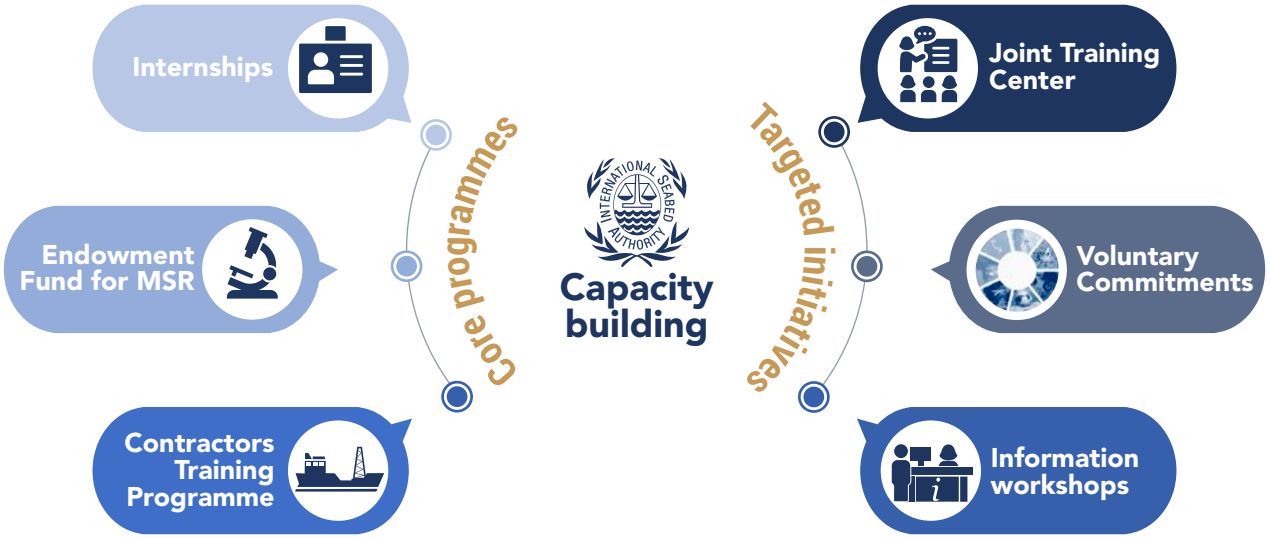
The entry into force of UNCLOS created the enabling conditions for the operationalization of the regime of the Area. A critical element of this regime lies in the establishment of ISA as a dedicated intergovernmental organization to regulate and manage access to and use of deep-seabed mineral resources whilst ensuring the protection of the marine environment. As part of this mandate, ISA is also entrusted with the responsibility to **ensure equitable sharing of benefits derived from the conduct of activities in the Area**. One important stream of benefits is the development of programmes aimed at strengthening the capacities of developing States and technologically less developed States (Art. 143(3)(b), Art. 144, Art. 273, Art. 274).

In total, 423 individuals have benefitted from ISA's capacity-building initiatives. Photo: ISA.

Since 2000, three main programmes have been implemented by ISA to strengthen the capacities of developing and technologically less developed States. These are the Contractors Training Programme (CTP), the Endowment Fund for Marine Scientific Research in the Area (EFMSR), and an internship programme. In addition, since 2017, a series of activities have been undertaken to reinforce the actions of ISA in building the capacities of its Members[4] (see **Figure 7**).

Amongst LLDCs, 12 individuals from 10 countries (Armenia, Bolivia, Botswana, Burkina Faso, Chad, Eswatini, Malawi, Mali, Niger and Zambia) have benefited from ISA training programmes.

Figure 7. Current capacity-building programmes and initiatives of ISA



[4] See https://www.isa.org.jm/training

2. Implementing a programmatic approach to respond to the needs identified by developing States

The duty of ISA to design and implement mechanisms to build capacity for developing States in accordance with its mandate under UNCLOS is recognized in the Strategic Plan of ISA for the period 2019-2023 (ISBA/24/A/10, Annex). Such mechanisms should aim not only at promoting and encouraging the transfer of technology to developing States (UNCLOS Art. 144, Art. 273, Art. 274) but also at ensuring the expansion of opportunities for participation in activities in the Area (Art. 148).

Members of ISA have identified that one of the key challenges for ISA lies in the development of mechanisms, including capacity-building programmes, that ensure the fully integrated participation of developing States in activities in the Area at all levels. Strategic Direction 5 (*Build capacity for developing States*) and Strategic Direction 6 (*Ensure fully integrated participation by developing States*) of the ISA Strategic Plan are aimed at accomplishing this objective (see **Box 4**).

To better understand the specific needs of developing States, in particular LDCs, LLDCs and SIDS, in relation to capacity development, ISA convened an international workshop on capacity development, resources and needs assessment in Kingston, Jamaica, in February 2020.[5] As preparation for the workshop, the ISA Secretariat prepared a comprehensive review of all capacity-building programmes and initiatives implemented by ISA between 1994 and 2019.[6] Both the review and the workshop were informed by an advisory committee established by the Secretary-General to provide expert input and strategic advice. The review was further revised in light of comments from the advisory committee, the training subgroup of the Legal and Technical Commission, participants in the workshop and input received from Member States during a public consultation held between April and June 2020. In addition, the Secretariat conducted a survey of all members of ISA between April and June 2020, in which Members were invited to identify their priority capacity-development needs relating to the role[4] and mandate given to ISA under UNCLOS. One of the key outcomes of the survey was that, out of those States that were not currently sponsoring activities in the Area, 89 percent indicated that their country had aspirations to engage in activities in the Area in the future and wished to develop capacity to do so.

The outcomes of the above process were reported to the ISA Assembly in 2020. In December 2020, the Assembly adopted a decision on capacity development (ISBA/26/A/18), in which it requested the Secretary-General to develop and implement a dedicated **strategy for capacity development** and explore options to mobilize additional resources to provide financial support for capacity development. The Assembly also invited Members of ISA to identify **national focal points for capacity development**.

[5] ISA, International workshop on capacity development, resources and needs assessment, 2020. Accessible at: https://bit.ly/3ymBez2

[6] ISA, Review of capacity-building programmes and initiatives implemented by the International Seabed Authority 1994-2019, 2020. Accessible at: https://bit.ly/3yqinDf

Box 4

ISA Strategic Directions 5 and 6 on building the capacity for developing States and ensuring their fully integrated participation in the work of ISA

STRATEGIC DIRECTION 5
BUILD CAPACITY FOR DEVELOPING STATES

- **5.1** Ensure that all capacity-building programmes and measures and their delivery are meaningful, tangible, efficient, effective and targeted at the needs of developing States, as identified by developing States.
- **5.2** Seek and maximize funding opportunities for the Endowment Fund for Marine Scientific Research in the Area and its beneficiaries, together with participation in global financing mechanisms.
- **5.3** Enable capacity-building measures to be mainstreamed into relevant initiatives.
- **5.4** Build on the achievements of contractor training programmes and assess their long-term impact on capacity-building.

ACTION 5.1.1.

HIGH-LEVEL ACTION 5.1.1

Assist developing States, in particular geographically disadvantaged States, small island developing States, least developed countries and landlocked developing countries, in identifying their needs.

STRATEGIC DIRECTION 6
ENSURE FULLY INTEGRATED PARTICIPATION BY DEVELOPING STATES

- **6.1** Continue to promote and seek opportunities for fully integrated participation by developing States in the implementation of the regime for the Area, paying special attention to the needs of landlocked and geographically disadvantaged States, Small Island Developing States and the least developed countries.
- **6.2** Undertake a review of the extent of the participation by developing States in the Area, identify and understand any specific barriers to such participation and address them accordingly, including through targeted outreach and partnerships.
- **6.3** In cooperation with States parties, initiate and promote measures providing opportunities to personnel from developing States for training in marine science and technology and for their full participation in activities in the Area (UNCLOS, art. 144 (2) (b)).
- **6.4** Carry out a detailed resource assessment of the reserved areas that are available to the Enterprise and developing States.
- **6.5** Identify possible approaches to the independent operation of the Enterprise in a way that meets the objectives of the Convention and the 1994 Agreement while taking into account that the Enterprise lacks capital and is limited to operating through joint ventures.

3. Advancing women's empowerment and leadership in deep-sea research, particularly women from developing States including LDCs, LLDCs and SIDS

ISA is committed to promote the participation and leadership of women in deep-sea research. Photo: ISA

According to the 2020 Global Ocean Science Report,[7] women continue to remain underrepresented in ocean science, especially in highly technical categories. This is even more prominent in emerging sectors such as deep-sea research and in developing States, particularly in LDCs, LLDCs and SIDS. This is notably the case because of a general lack of financial resources to access the deep sea and insufficient academic training in deep-sea related disciplines.

To address these challenges, ISA, together with UN-OHRLLS, has developed a series of activities and initiatives aimed at improving the conditions needed to promote women's empowerment and access to leadership positions in deep-sea research for those from developing States, with a particular focus on women scientists from LDCs, LLDCs and SIDS. One of these initiatives, the **Women in Deep-Sea Research (WIDSR) project**, was launched on International Women's Day 2021 and will focus on policy development, capacity development, sustainability and partnerships and communications and outreach.[8]

[7] IOC-UNESCO (2020). Global Ocean Science Report 2020–Charting Capacity for Ocean Sustainability. K. Isensee (ed.), Paris, UNESCO Publishing. https://unesdoc.unesco.org/ark:/48223/pf0000375147

[8] https://www.isa.org.jm/vc/enhancing-role-women-msr/WIDSR-project

5 Equitable sharing of financial and other economic benefits

To obtain recognition by the international community of continental shelf rights beyond 200 nautical miles, the coastal States with a continental margin extending further had to agree to a system of revenue-sharing. Article 82 of UNCLOS thus provides that these coastal States are to make payments or contributions in kind in respect to the exploitation of the non-living resources of the continental shelf beyond that distance (Art. 82(1)). Payments and contributions must be made annually after the first five years of production at a site. The rate of payment or contribution increases by 1 per cent for each subsequent year and is to remain at 7 per cent as of the twelfth year (Art. 82(2)). An exemption has been made for making such payments and contributions in respect of a mineral resource of which a developing State is a net importer (Art. 82(3)). The payments or contributions are to be made through ISA, which must distribute them to States parties, on the basis of **equitable sharing criteria**, taking into account the **interests and needs of developing States, particularly the least developed and the landlocked among them** (Art. 82(4)).

ISA must distribute the benefits from deep-seabed mining equitably. Photo: Nauru Ocean Resources Inc. (NORI)

An important task of ISA is to provide for the **equitable sharing of financial and other economic benefits derived from activities in the Area** on a non-discriminatory basis, stipulated in Article 140 of UNCLOS (Art. 140 (2)).

The Assembly has the competence to consider and approve, upon the recommendation of the Council, rules, regulations and procedures on the equitable sharing of such benefits and payments and contributions made pursuant to Article 82, taking into particular consideration the interests and needs of developing States and peoples who have not attained full independence or other self-governing status (Art. 160(2)(f)(i)).

Criteria for the equitable sharing of benefits are still under consideration by ISA, as commercial exploitation of the Area as well as of the continental shelf beyond 200 nautical miles is yet to begin. There is also a difference between the cases of Articles 82 and 140, as proceeds derived from activities in the Area belong to ISA according to Article 140, with the Assembly having to decide upon equitable sharing (Art. 160(2)(g)), while payments accrued under Article 82 from the continental shelf must be distributed directly to the States parties, with ISA serving as a conduit.

6 Conclusion

In 1776, Adam Smith observed that the inland parts of Africa and Asia were the least economically-developed areas of the world. Nearly 250 years later, the Human Development Report 2020 still paints a stark picture for most of the world's landlocked countries. Lack of territorial access to the sea, remoteness and isolation from world markets and high transit costs continue to impose serious constraints on the overall socio-economic development of LLDCs. Sea-borne trade unavoidably depends on transit through other countries, while additional border crossings and long distances from markets substantially increase expenses for transport services.[9]

UNCLOS has improved the legal situation of landlocked States regarding access to and from the sea by reducing their dependence on transit States. Furthermore, the right of access has been put in a multilateral and more general context by integrating it into the broader framework of the law of the sea.

The plight of LLDCs has, since the entry into force of UNCLOS, also been alleviated by the increasingly important role of regional economic integration in various parts of the world. The transit provisions of UNCLOS seem to have had a positive effect on regional and bilateral agreements between landlocked and transit States. These agreements may also include most-favoured-nation treatment for merchant ships sailing under the flag of landlocked States regarding navigation and use of maritime ports.

It could be expected that LLDCs, particularly the least developed among them, will be very high up on the list of beneficiaries once ISA is able to distribute financial and other economic benefits derived from deep-seabed mining as well as from exploitation of the continental shelf beyond 200 nautical miles by coastal States. These rights, however, can only be fully realized through ratification of, or accession to, UNCLOS and the 1994 Agreement.

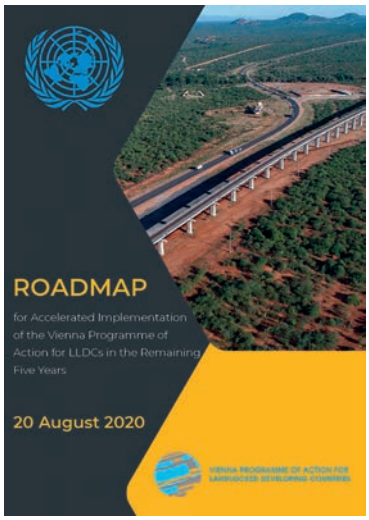
LLDCs might be very high up on the list of beneficiaries once ISA is able to distribute financial and other economic benefits from deep-seabed mining. Photo: Global Sea Mineral Resources (GSR)

[9] UNDP (2020) Human Development Report 2020: The Next Frontier: Human Development and the Anthropocene. UNDP. http://hdr.undp.org/sites/default/files/hdr2020.pdf

The difficult situation of landlocked countries has led to increased involvement, to some degree inspired by UNCLOS, by the UN, which in 2003 convened an international ministerial conference in Almaty, Kazakhstan, adopting a **Declaration and Programme of Action to enhance transit and transport cooperation between landlocked and transit developing countries**. As a follow-up, in 2014 a second UN Conference on landlocked developing countries was held in Vienna, Austria, adopting the **Vienna Programme of Action for the Decade 2014–2024**, which is integral to the 2030 Agenda for Sustainable Development. The overarching goal of this Programme of Action is to address the special development needs and challenges of LLDCs arising from their remoteness and geographical constraints in a more coherent manner and to strengthen cooperation in the context of sustainable development.

Under-Secretary and High Representative Gyan Acharya and UN Secretary-General Ban Ki-moon, at the UN LLCDs Conference in Vienna, November 2014. Photo: UNIS Vienna

As a result of a high-level plenary meeting, on 5 December 2019 the UN General Assembly adopted a Political Declaration of the High-level Midterm Review on the Implementation of the Vienna Programme of Action for Landlocked Developing Countries (A/RES/74/15). This Declaration contains a commitment "to help to turn landlocked developing countries into 'land-linked' countries" (para. 4). It also notes, however, that progress made since 2014, building on the Almaty Programme of Action, "is not enough for [these countries] to achieve the Vienna Programme of Action targets and sustainable development" (para. 6). Landlocked developing countries and transit countries are called upon to "effectively implement their obligations under all relevant international, regional and bilateral agreements to improve transit" and to consider "promoting a corridor approach to improve trade and transit transport" (paras. 32, 33). Finally, the General Assembly is invited to consider holding a third United Nations Conference on Landlocked Developing Countries in 2024 (para. 66).



A **UN Roadmap for Accelerated Implementation of the Vienna Programme of Action for Landlocked Developing Countries**[10] was adopted at a ministerial meeting in September 2020, designed to ensure that the commitments in favour of these countries lead to concrete deliverables and help place them closer on their path to achieving the Sustainable Development Goals (SDGs). In this context, the UN system and other relevant regional and international organizations, including ISA, which provided an input to the Roadmap, have an important role to play.

Regular reviews of the Roadmap and its implementation will be undertaken until 2024, led by UN-OHRLLS.

[10] https://www.un.org/ohrlls/content/roadmap-implementation-vpoa-lldcs

ISA is thus providing assistance and support to **increase awareness of potential benefits for LLDCs to ratify and implement UNCLOS and to participate in activities in the Area**, such as deep-sea exploration, exploitation of seabed resources and marine scientific research. These countries are also being made increasingly aware of the benefits of the blue economy, including through the establishment of a benefit-sharing mechanism for economic and non-financial benefits derived from activities in the Area. ISA is further promoting the **development of necessary capacities in landlocked developing countries for marine scientific research** – where the role and participation of women scientists is being enhanced – and is organizing and facilitating technology transfer. Measures are also being identified to increase the participation of these countries in the implementation of the regime of the Area and the work of ISA (see **Box 5**).

Box 5

Deliverables and activities identified in the UN Roadmap for Accelerated Implementation of the Vienna Programme of Action, through which ISA is committed to develop the capacities of LLDCs

Action areas	Implementing organizations	Deliverables and activities	Timeline
ENERGY and ICT			
2.1. Energy efficiency and access to energy, including renewables	UNOSSC, UN ESCAP, UNDP, GGGI, ISA, WGEO	Support and provide on-demand capacity-building to the relevant national authorities of the LLDCs to scale up sustainable energy use on the path of advancing green economy transition	2021 (TBC)
STRUCTURAL ECONOMIC TRANSFORMATION			
3.3 Diversification and value-addition	ISA	Provide assistance and support to increase awareness of potential benefits for LLDCs to ratify and implement UNCLOS and participate in activities in the international seabed area (deep-sea exploration, exploitation, marine scientific research). Increase awareness of the benefits of the blue economy for LLDCs, including through the establishment of benefit-sharing mechanism for economic and non-financial benefits derived from activities undertaken in the international seabed area	2021 (TBC)

Action areas	Implementing organizations	Deliverables and activities	Timeline
3.5. Science, technology and innovation and research	ISA	Promote the development and establishment of specific mechanisms and tools to develop the necessary capacities of LLDCs in marine scientific research as well as organize and facilitate technology transfer, in line with Part XI of UNCLOS	Ongoing
MEANS OF IMPLEMENTATION AND INTERNATIONAL SUPPORT			
5.3. Assistance towards deriving benefits from relevant conventions and other legal instruments, including UNCLOS	ISA	Identify measures to increase the participation of LLDCs in the implementation of the regime of the international seabed area and in the work of the International Seabed Authority	Ongoing
OTHER AREAS			
6.4. Gender equality and the empowerment of all women and girls	ISA	Enhance the role and participation of women scientists from LLDCs in deep-sea research	Ongoing

Annex: Selected provisions of UNCLOS specifically relevant to LLDCs

Subject	Article	Text
Innocent passage	17	Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.
EEZ	69	1. Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62. 2. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, inter alia: • The need to avoid effects detrimental to fishing communities or fishing industries of the coastal State; • The extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States; • The extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it; • The nutritional needs of the populations of the respective States.

Subject	Article	Text
EEZ	69	3. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account. 4. Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone. 5. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.
Utilisation of living resources	62(2)	2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.

Subject	Article	Text
Freedom of the high seas	87	1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, inter alia, both for coastal and land-locked States: • freedom of navigation; • freedom of overflight; • freedom to lay submarine cables and pipelines, subject to Part VI; • freedom to construct artificial islands and other installations permitted under international law, subject to Part VI; • freedom of fishing, subject to the conditions laid down in section 2; • freedom of scientific research, subject to Parts VI and XIII. 2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.
Right to access to and from sea	124	Use of terms
	125	Right of access to and from the sea and freedom of transit
	126	Exclusion of application of the most-favoured-nation clause
	127	Customs duties, taxes and other charges
	128	Free zones and other customs facilities
	129	Cooperation in the construction and improvement of means of transport
	130	Measures to avoid or eliminate delays or other difficulties of a technical nature in traffic in transit
	131	Equal treatment in maritime ports
	132	Grant of greater transit facilities

Further reading

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