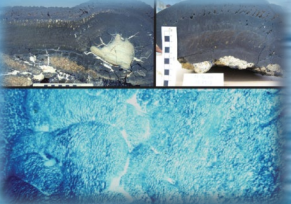
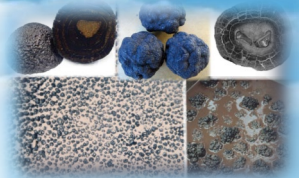




**The Common Heritage of Mankind
Principle and the Equitable Sharing
of Benefits**



Dr. Frida Armas Pfirter

Common heritage of mankind

19th century Andrés Bello - Lapradelle - José León Suárez

1967 Arvid Pardo's proposal

1970 UNGA Resolution 2749 (XXV)

- Neither sovereignty nor sovereign rights
- No appropriation
- Rights vested in mankind as a whole
- An international regime has to be established
- Peaceful utilization
- Preservation of the environment
- Scientific cooperation

Common heritage of mankind

1982 → UNCLOS

- **MAINTAINS** this concept
- **PROVIDES** an international regime
- **CREATES** the ISA which shall act on behalf of humankind
- **DEFINES** resources **FOR THE PURPOSES** of the international mechanism

Third kind of regime



Sovereignty or sovereign rights



Freedoms

Common heritage of mankind

More than:

- Non-appropriation
- Common use
- Interest of Humankind

Art. 311: States Parties agree that there shall be no amendments to the basic principle relating to the common heritage of mankind set forth in article 136 and that they shall not be party to any agreement in derogation thereof.

Common heritage of mankind

EXPLORATION PHASE

- Regulations
- 30 Contracts
- Capacity Building
- Cooperation – Deep Seabed Knowledge
- Environmental Protection

EXPLOITATION PHASE

- Draft regulations
- Payment mechanisms
- Equity Benefit Sharing

Art. 1 (1) Area means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction

Art. 136:

The Area and its resources are the common heritage of mankind

Art. 140:

Activities in the Area shall (...) be carried out for the benefit of mankind as a whole

Art. 137 (2):

All rights in the resources of the Area are vested in mankind as a whole on whose behalf the Authority shall act

Article 140 Benefit of mankind

1. Activities in the Area shall (...) be carried out for the benefit of mankind as a whole,
 - irrespective of the geographical location of States, whether coastal or land-locked, and
 - taking into particular consideration the interests and needs of developing States and
 - of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.
2. The Authority shall provide for **the equitable sharing of financial and other economic benefits** derived from activities in the Area through any appropriate mechanism, on a non-discriminatory basis (...).

IMPLEMENTATION

- **FINANCE COMMITTEE:** Decisions of the Assembly and the Council on equitable sharing of financial or other economic benefits shall take into account its recommendations
- **COUNCIL:** Recommend to the Assembly
- **ASSEMBLY:** Approve, upon the recommendation of the Council

If the Assembly does not approve the recommendations of the Council, it shall return them to the Council for reconsideration in light of the views expressed by the Assembly

FUNDS OF THE AUTHORITY

173 (2)

The administrative expenses of the Authority shall be a first call upon the funds of the Authority. The funds remaining:

- Shall be shared according to art. 140
- Provide the Enterprise with funds (1994 Agreement)
- Economic Assistance Fund - 151 (10)

POSSIBLE OPTIONS FOR DISTRIBUTIONS OF FINANCIAL BENEFITS

- DIRECT DISTRIBUTION TO GOVERNMENTS
- REPAYMENT OF STATES PARTIES' ASSESSED CONTRIBUTIONS
- ALLOCATION TO PROGRAMMES OF PARTICULAR INTEREST TO DEVELOPING COUNTRIES
- SUSTAINABLE FUND (Seabed, climate change, capacity building, research and development,)

Mix of methods? Simultaneous? Sequential depending on the amount collected? Initial phase?

Article 140 Benefit of mankind

1. Activities in the Area shall (...) be carried out for the benefit of **mankind as a whole**,
 - taking into **PARTICULAR CONSIDERATION** the **interests and needs of developing States**
 - Developing
 - Least developed
 - Landlocked and developing/least developed
 - Small Islands developing States
 - And of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.
2. **non-discriminatory basis** (...).

FACTORS TO BE TAKEN INTO ACCOUNT

- Population
 - Population density
 - GNI per capita
 - Human development index
 - Sponsoring State
 - Others: Climate change affected States?
 - Best practices: IMF/World Bank
-
- Peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.
-
- Factors that should be taken into account to calculate the sum of money to be allocated to each State Party? What about other options?

CONCLUSIONS

- DEFINITION OF THE EQUITABLE SHARING OF BENEFITS SIMULTANEOUSLY WITH PAYMENT MECHANISM
- STRATEGIC PLAN OF ISA: STRATEGIC DIRECTION 7: ENSURE EQUITABLE SHARING OF FINANCIAL AND OTHER ECONOMIC BENEFITS
- SUPPORT AND ENCOURAGE THE WORK OF FC ON THE ISSUE

“ISA is a unique experiment in civilization; it is the only example that we have of a global commons that is managed internationally for the benefit of all humanity”

This is the moment of truth



köszönöm תודה *dēkuji*
mahalo 고맙습니다
thank you
merci 谢谢 *danke*
Ευχαριστώ شكرا
どうもありがとう *gracias*

QUESTIONS?

Prof. Frida Armas Pfirter