



Ensuring equitable sharing of financial and other economic benefits

Michael W. Lodge

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Overview

- 1 Legal basis
- 2 Unpacking Article 140
- 3 Special case of Article 82
- 4 Process and next steps

Legal basis

Article 140 Benefit of mankind

1. Activities in the Area shall be carried for the **benefit of mankind as a whole** irrespective of the geographic location of states, whether coastal or landlocked, and taking into particular consideration interests and needs of developing states and peoples who have not attained full independence or self-governing status [as recognized by the UN].
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, in accordance with article 160, paragraph 2(f)(i).

Key questions

What is a
benefit?

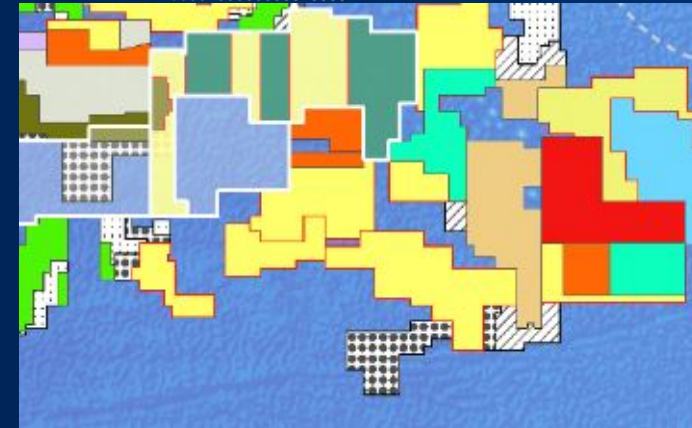
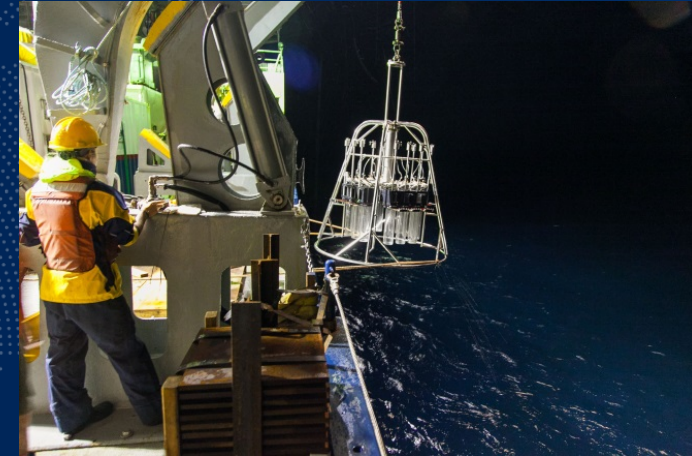
What is
'mankind as
a whole'?

What is
'equitable'
sharing?

Monetary and Non-Monetary Benefits

Some forms of non-monetary benefits are recognized in Part XI

1. Training
2. Capacity-building
3. Environmental protection
4. Increased scientific knowledge
5. Expansion of world mineral resources
6. Preferential access rights for developing countries



Monetary benefits

Revenue stream from DSM payment mechanism



1. ISA Administrative expenses
2. [Prior contributions of members]
3. Economic Assistance Fund (Art. 151(10))
4. [Funds allocated to the Enterprise]
5. Equitable distribution

What is ‘mankind as a whole’


“Activities in the Area shall be carried for the **benefit of mankind as a whole** irrespective of the geographic location of states, whether coastal or landlocked, and taking into particular consideration interests and needs of developing states and peoples who have not attained full independence or self-governing status [as recognized by the UN].”



States
Parties or all
States?



What is a
developing State?



Which non-
independent and
non-self-governing
peoples?

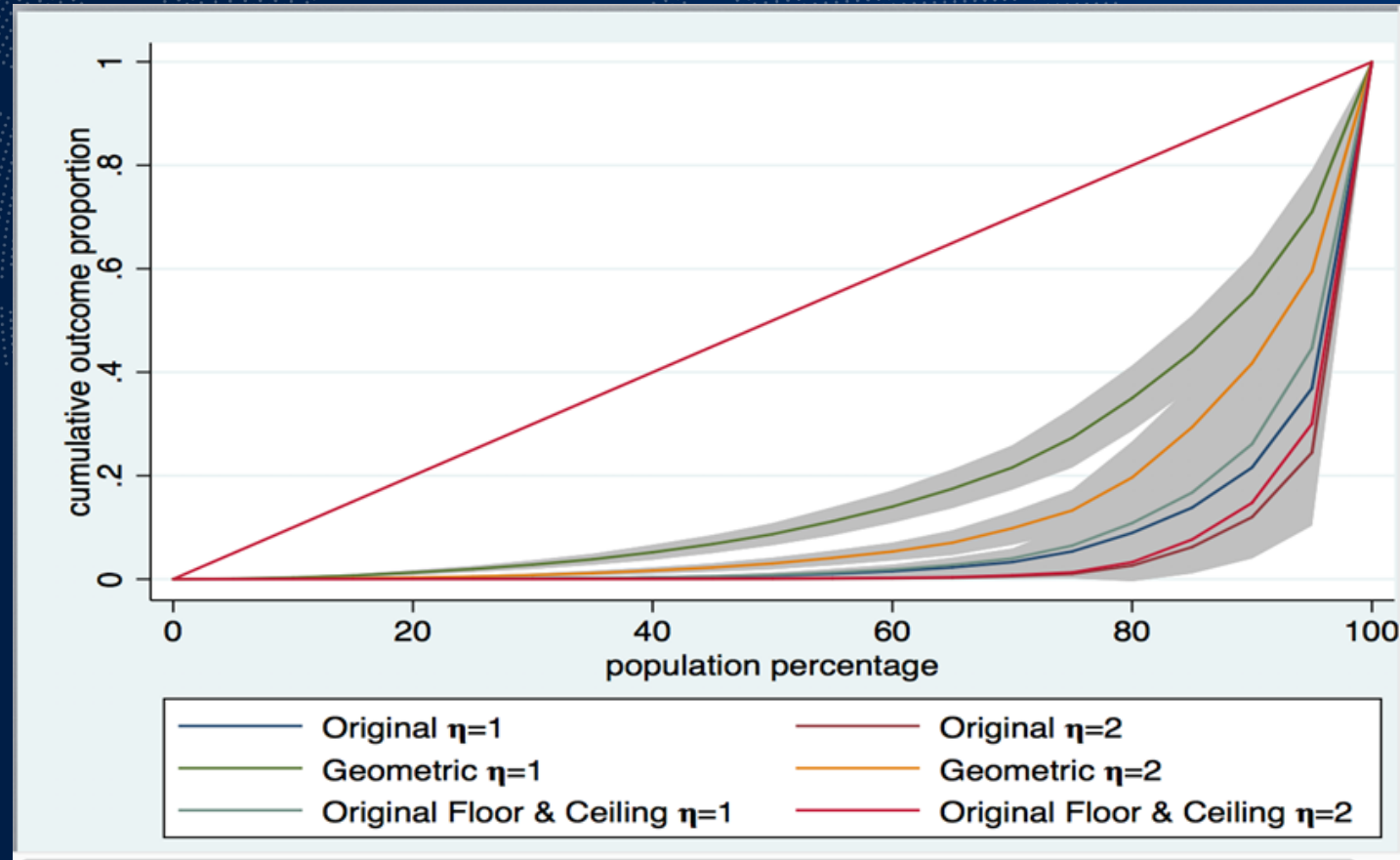


What interests
and needs?

What is equitable?

Possible formula for equitable sharing

1. Proportional based on ownership rights or progressive to redistribute wealth and remedy inequity?
2. Art. 140 desired remedial effect is socio-economic and **redistributive**.
3. Possible to develop progressive formula based on average GNI per capita and share of population adjusted by social distribution weight.



Seabed sustainability fund?

Alternative to direct distribution?

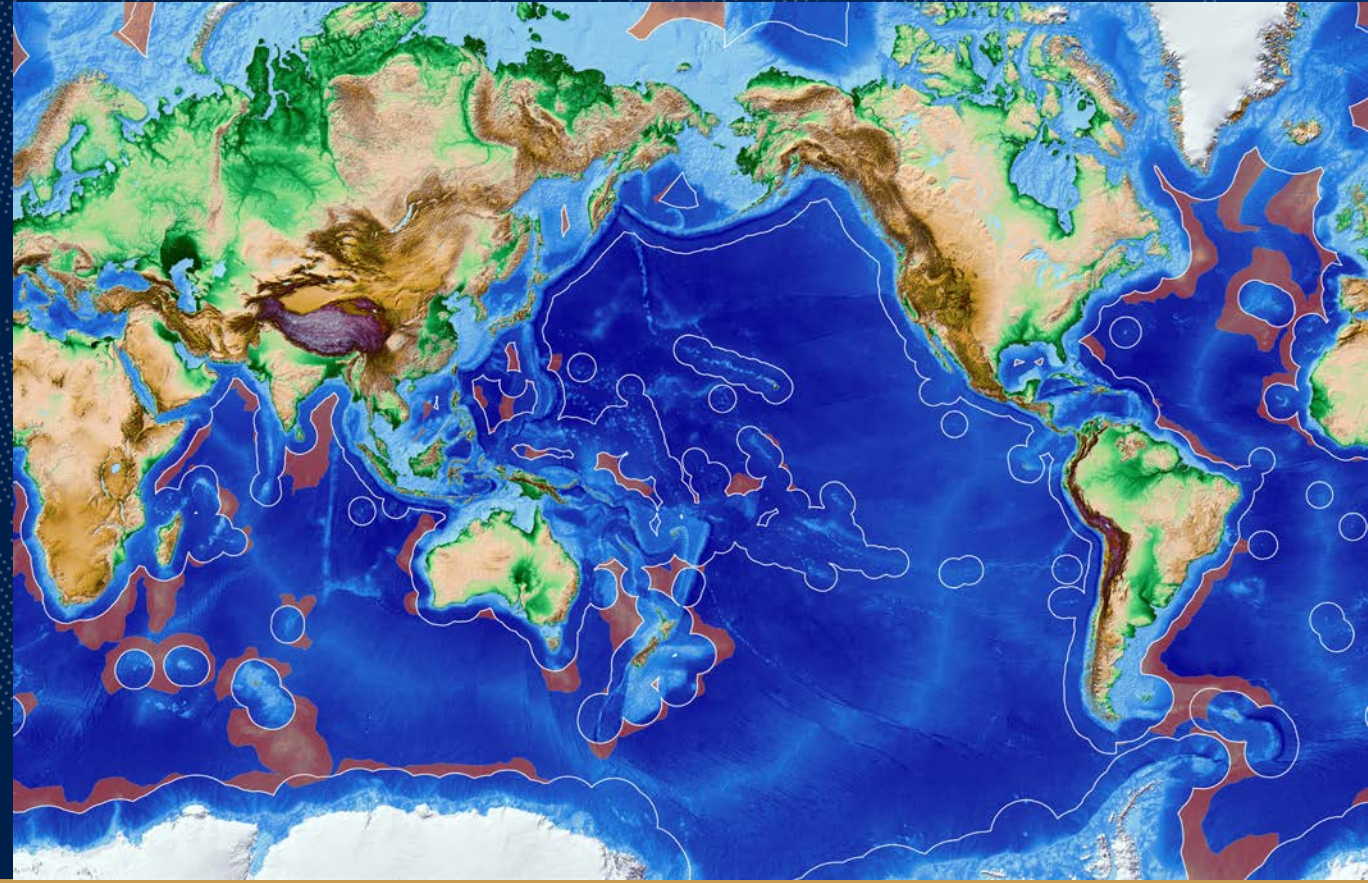
1. Capacity development in deep sea science.
2. Environmental management plans.
3. Long-term scientific research projects.
4. Regional centres.
5. Project-based funding.
6. Raises questions of administration and fair access to funding.



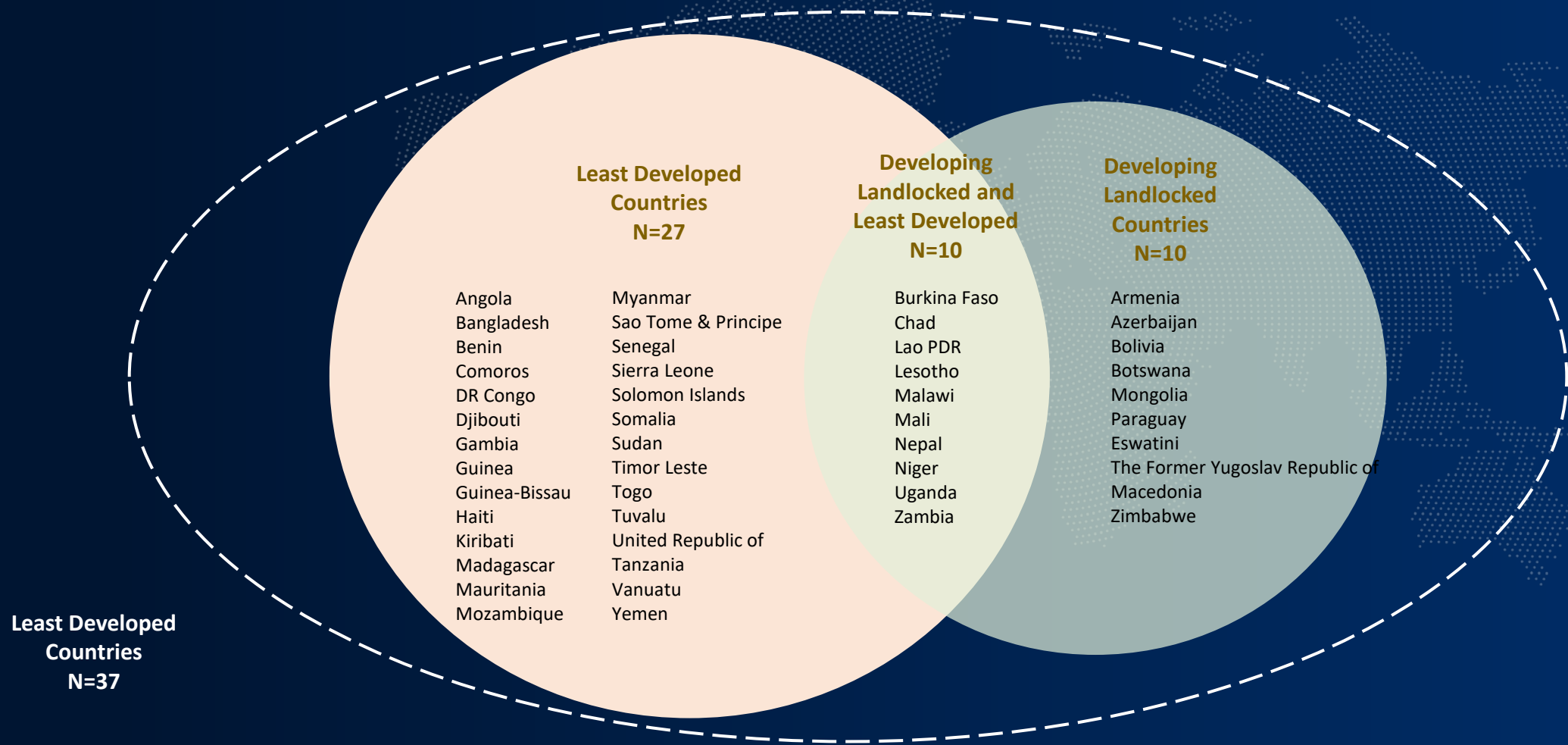
Special problem of Article 82

Revenue-sharing from non-living resource exploitation on extended continental shelf.

1. Revenues **must** be distributed through the Authority
2. Equitable sharing criteria to be developed must take into account the **interests and needs** of developing States, but particularly 'the least developed and land-locked among them'.



Special problem of Article 82



Special problem of Article 82

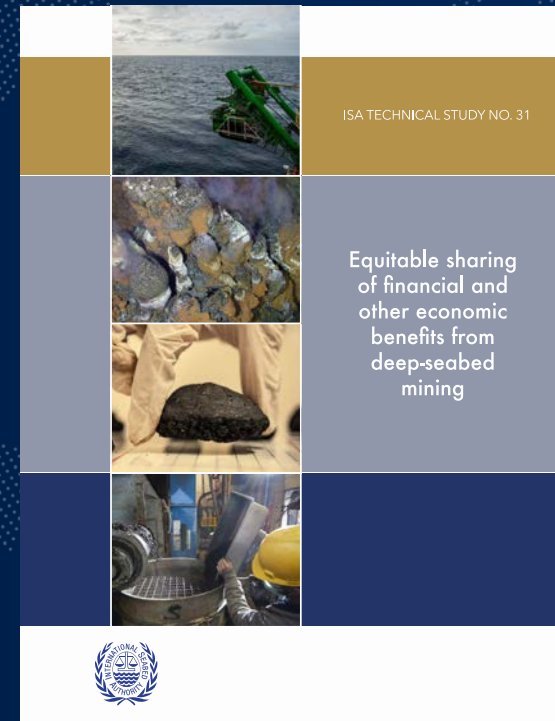
Revenue-sharing from non-living resource exploitation on extended continental shelf.

1. Revenues **must** be distributed through the Authority
2. Equitable sharing criteria to be developed must take into account the **interests and needs** of developing States, but particularly 'the least developed and land-locked among them'.
3. Remedial effect is **socio-economic and geographic**.
4. Can apply a **social distribution weight** to favour specific groups



Process and next steps

1. Equitable benefit-sharing rules must be approved by ISA Assembly on recommendation of Council.
2. Finance Committee report considered by Council and Assembly December 2021.
3. Finance Committee requested to provide detailed proposal for SSF for ISBA/28 (2023)
4. Article 82 also in the work programme of Finance Committee for 2023-2027



ISA TECHNICAL STUDY NO. 31

Equitable sharing of financial and other economic benefits from deep-seabed mining



POLICY BRIEF 01/2022

EQUITABLE SHARING OF FINANCIAL AND OTHER ECONOMIC BENEFITS FROM DEEP-SEA MINING

The recovery of minerals from the ocean floor beyond national jurisdiction will produce revenue for the International Seabed Authority (ISA). It is expected that this revenue will be in the form of royalties and other payments made to ISA by operators working under exploitation contracts.

Currently, commercial recovery of minerals from the Area is not taking place. As the ISA Council advances its work on adopting the necessary regulatory framework that would permit commercial recovery, the ISA Finance Committee, which has the primary responsibility to draft appropriate rules and procedures on equitable sharing, has started to develop proposals for equitable sharing of financial and other economic benefits.

The United Nations Convention on the Law of the Sea (UNCLOS) establishes the principle that all activities in the Area, including recovery of minerals, must be carried out for the benefit of all humanity, irrespective of the geographic location of States. In pursuance of this principle, UNCLOS requires ISA to provide for the equitable sharing of financial and other economic benefits on a non-discriminatory basis.¹

This policy brief summarizes the work carried out under the supervision of the Finance Committee since 2018 and identifies the main questions that will be considered going forward.

Equitable sharing of non-monetary benefits

This policy brief focuses on equitable sharing of financial benefits. However, UNCLOS gives equal weight to non-monetary benefit sharing as a means of giving effect to the overall objective of the benefit of humanity. There is no limit to the category of non-monetary benefits, and it is not possible to quantify them as they may change over time. The fact that UNCLOS establishes a legal regime for the Area that limits access to resources and prevents unrestrained exploitation is a benefit to humanity in itself.

UNCLOS identifies other non-monetary benefits, such as:

- the orderly, safe and rational management of the resources of the Area
- the expansion of opportunities for participation in activities in the Area for all States parties, irrespective of their social and economic systems, development status or geographical location
- the promotion of long-term equilibrium between mineral supply and demand, and increased availability of minerals to ensure adequate supplies to consumers.

To this list can be added the non-monetary benefits that accrue from the protection of the marine environment through the rules, regulations and procedures of ISA, capacity-building, and increased knowledge of the marine environment and deep seabed. This includes increased scientific knowledge made available through ISA as a result of exploration activities, as well as international cooperation in marine science and the results of marine scientific research in the Area carried out pursuant to UNCLOS, Articles 143 and 144.

¹ UNCLOS Article 140.



International Seabed Authority

14 - 20 Port Royal Street Kingston, Jamaica

Phone: +1 (876) 922-9105

Fax: +1 (876) 922-0195

isa.org.jm