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**EQUITABLE BENEFIT-SHARING UNDER UNCLOS** | Michael W. Lodge



STATUS OF DEEP SEA MINERAL  
RESOURCES AS THE COMMON HERITAGE  
OF MANKIND MEANS THEY MUST BE  
EXPLOITED FOR THE BENEFIT OF  
MANKIND AS A WHOLE

What is a  
benefit?

What is  
'mankind as a  
whole'?

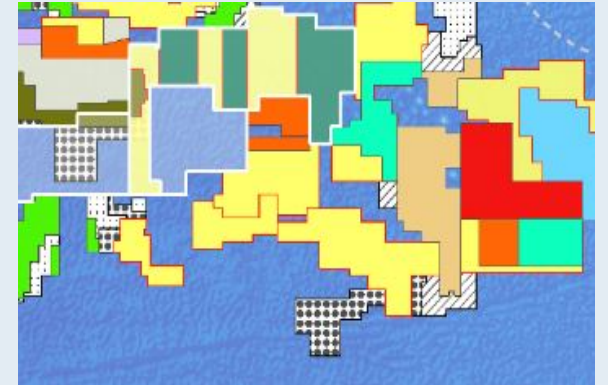
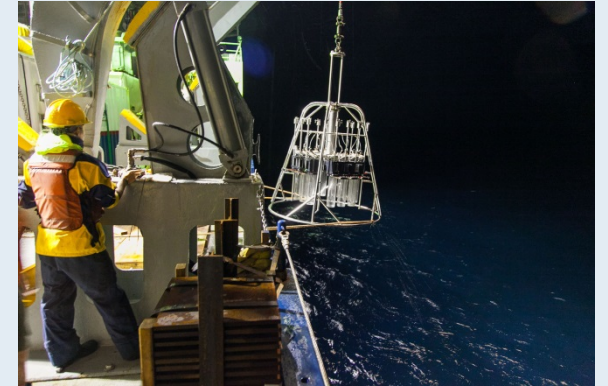
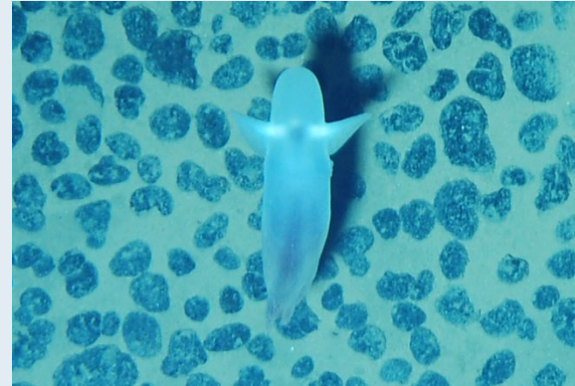
What is  
'equitable  
sharing'?



# Monetary and Non-Monetary Benefits

Forms of non-monetary benefits 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

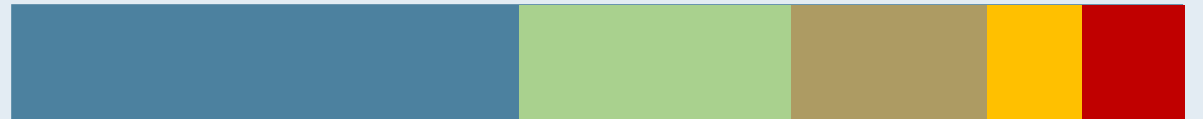




# Monetary Benefits

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. Seabed Sustainability Fund



# MANKIND AS A WHOLE

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## Article 140.

Activities in the Area shall be carried for the benefit of mankind as a whole irrespective of 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]

What is a developing State?

What interests and needs should be taken into consideration?

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

The Authority shall provide for the **equitable sharing** of financial .. benefits through any appropriate mechanism on a non-discriminatory basis ...





# What is equity?

Formula for equitable benefit-sharing

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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. Propose progressive formula based on average GNI per capita and share of population adjusted by social distribution weight.





# What is equity?

Formula for equitable benefit-sharing

$$S_i = \frac{\left[ \frac{\overline{GNI}}{GNI_i} \right]^{\eta=1} * P_i}{\sum_{i=1}^N \left[ \frac{\overline{GNI}}{GNI_i} \right]^{\eta=1} * P_i}$$

Where  $\eta > 1$ , distribution is more progressive

Where  $\eta < 1$ , distribution is less progressive



# SPECIAL PROBLEM OF ARTICLE 82(4)

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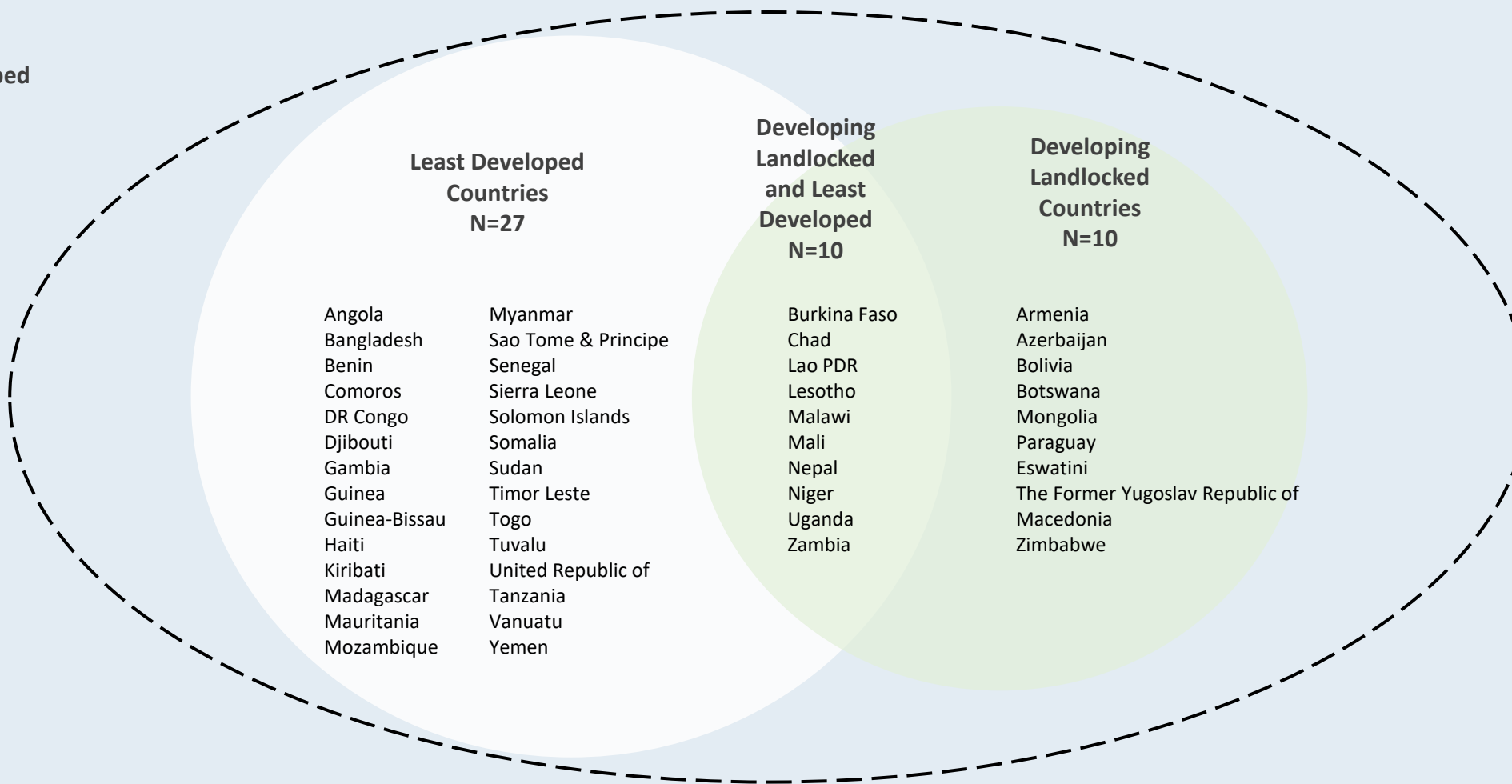
Equitable sharing criteria to be developed must take into account the **interests and needs** of developing States, but particularly ‘the **least developed and land-locked** among them’.





# SPECIAL PROBLEM OF ARTICLE 82(4)

Least Developed Countries  
N=37



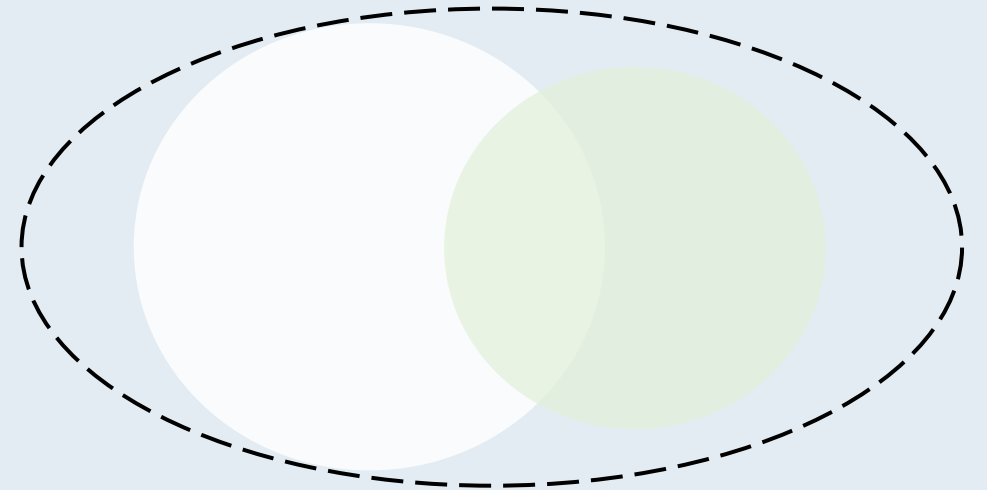
# SPECIAL PROBLEM OF ARTICLE 82(4)

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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’.

Remedial effect is **socio-economic** and **geographic**.

Can apply different social distribution weight to favour specified countries (but others will lose out)





# PROCESS

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Equitable benefit-sharing rules must be approved by ISA Assembly on recommendation of Council.

**But** Council and Assembly must take into account recommendations of Finance Committee.

Study prepared for Finance Committee in 2019.





THANK YOU!

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