

Deep sea mining: Cooperation under UNCLOS

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Deep-sea mining is a rapidly growing field.

Reasons according to the International Seabed Authority:

1. increase in demand for metals,
2. a rise in metal prices ,
3. a decline in the tonnage and grade of land-based deposits, and
4. technological advances in deep-seabed mining and processing.

Outline of the presentation

- An overview of the deep sea mining legal regime
- Current developments
- Environmental concerns
- Precautionary principle
- SOPAC as an example of cooperation on deep sea mining under UNCLOS

Overview of deep sea mining legal regime

- UNCLOS - governs deep sea mining
- Coastal State has sovereign rights over minerals in EEZ and extended continental shelf .
- Common heritage of mankind – non-living resources in the international seabed area.

Overview of deep sea mining legal regime

Coastal States duties and responsibilities in areas within national jurisdiction

- Protection of the marine environment from pollution arising from seabed activities
- Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nm
- Duty not to interfere with rights of other States (navigation, fisheries, right to lay pipelines and submarine cables)

Overview of deep sea mining regime

The following may undertake activities in the Area: the Enterprise, States, state enterprises or natural or juridical entities who are nationals of States or under their effective control.

Current developments

- No commercial deep sea mining has taken place yet but activities are increasing.
- Over 300 exploration licences granted by several Pacific Island countries, Solomon Islands ,Vanuatu, Papua New Guinea.
- Nautilus Minerals, a mining company, holds more than 100 active prospecting licenses in several Pacific island States and seafloor mining concession in Papua New Guinea.
- International seabed area - 19 contracts for seabed exploration have been issued by the ISA.

Environmental concerns

Potential environmental consequences of deep sea mining are:

- Destruction of the living organisms and habitat
- Effects of deep sea mining operations will remain on decadal time scales.
- Sediment disturbance will produce sediment plume which could bury seafloor organisms
- Other sources of pollution are undersea noise, ship wastes, de-watering problems

Precautionary Principle

- The precautionary principle is found in the Rio Declaration of 1992.
- ITLOS Seabed Disputes Chamber Advisory proceedings Case No. 17, Responsibilities and Obligations of States Sponsoring Persons and Entities with respect to Activities in the Area
 - precautionary principle is now part of customary international law.
 - the pronouncement on precautionary principle also has a legal effect on coastal States in the context of deep sea mining operations in national waters through art. 208 UNCLOS.

Regional cooperation: SOPAC and the Pacific Deep Sea Minerals Project

Some avenues for regional cooperation in relation to deep sea mining activities are

- the establishment of rules and standards of protection of the marine environment at the regional and global level (article 208),
- marine scientific research (Part XIII), and
- development and transfer of marine technology (Part IV).

Regional cooperation: SOPAC and the Pacific Deep Sea Minerals Project

- Mid-70s to the mid 2000s - Applied Geoscience and Technology Division of SOPAC undertook exploration for deep sea minerals in cooperation with Pacific Island Countries;
- 1985 to 2005, the Government of Japan worked with 12 Pacific Island countries to assess the resource potential for three types of deep sea minerals (Seafloor Massive Sulfides, SMS; Manganese nodules and Cobalt-rich crusts);
- Current project: Pacific Deep Sea Mineral Project which is funded by the European Union. Participated by 15 Pacific Island States, cooperation activities are in the areas of technical, legal, economic and the environmental impacts of seabed mining.

Regional cooperation: SOPAC and the Pacific Deep Sea Minerals Project

A principal component of the Pacific Deep Sea Minerals Project is the Regional Legislative and Regulatory Framework (RLRF). Among its objectives, the RLRF

- -promotes a regionally integrated approach;
- -serves to harmonize national deep sea mining legal instruments;
- - serves as a guide to coastal States to meet international standards and reduce State liability;
- - minimise risk of environmental harm as well as interference of other sea users; and
- - promotes investment by providing incentives and security of tenure.

Thank you.