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INTERNATIONAL SEABED AUTHORITY AND ENVIRONMENTAL DEEP-SEA STEWARDSHIP – PRINCIPLES GOVERNING THE PROTECTION AND USE OF SEABED RESOURCES

Abstract

The concept of intergenerational justice is deeply rooted into the regulation of activities in the Area. United Nations Convention on the Law of the Sea on many occasions stresses the need to protect the marine environment in the interest of both contemporary and future generations. One of the institutions with vast competences in this field is the International Seabed Authority. With a perspective on inevitable commercial exploration and exploitation of seabed resources there is a need to answer the question if the Seabed Authority is properly prepared both in the field of law and policy to act as a steward of a mankind? Which instruments has been developed to ensure sustainable use of seabed resources and which of them are at the disposal of the International Seabed Authority? Finally, are the standards of the protection of seabed environment sufficient to satisfy the needs of contemporary consumption without diminishing the ability of the mankind in the future to freely choose their path of development? We can assume that environmental standards which would protect the interest of future people would also secure the sustainability in contemporary use of common heritage at the Seas. International Seabed Authority and international law of the sea can play important role in this process by shaping the future of the mankind with actions undertaken today.

Keywords: Deep Sea Stewardship, Deep Sea Mining, International Seabed Authority, Future Generations rights, common heritage of mankind

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INTRODUCTION

Seabed remains one of just a few areas of the geosphere which has not undergone deep changes being the result of human economic activity. United Nations Law of the Sea Convention treats seabed and its resources as a common heritage of mankind. Through this concept it tries to create a regime of protection and utilization of deep sea resources which would reflect the idea of environmental equity to the larger extent than the mining regimes regulating mining activities on land. To achieve this goal International Seabed Authority (ISA) has been created with the role of specific guardian or steward acting in the environmental and economic interest of the whole humankind including contemporary and future generations. The legal position of ISA is crucial for ensuring sustainable protection and use of seabed resources or more generally environmental justice in deep sea resources management.

RISING IMPORTANCE OF OCEAN ECOSYSTEM SERVICES AS A CHALLENGE FOR ENVIRONMENTAL JUSTICE

The phenomenon of life started in the oceans 3–4 billion years ago¹. Oceans cover 71% of Earth's surface and 99% of living space on Earth². They stabilise temperatures which reduces the adverse effects of greenhouse effect by absorbing about 30 per cent of carbon dioxide produced by humans³ and play crucial role in the Earth's water balance. Oceans play a vital role in maintaining the functionality and productivity of ecosystems. Oceans contain nearly 200,000 identified species, but actual numbers may lie in the millions⁴. Due to that oceans serve as the world's largest source of protein, with more than 3 billion people depending on the oceans as their primary source of protein. Over three billion people depend on marine and coastal biodiversity for their livelihoods⁵.

On the other hand, Oceans are also less known areas on Earth. Scientists were able to collect more data about cosmic space in close surrounding of Earth than on the sea depths. Technical developments and rising demand for natural

¹ J. Kasting, *Earth's early atmosphere*, Science, Vol. 259, No. 5097, 1993, p. 920-926.

² R. Constanza, *The ecological, economic, and social importance of the oceans*, Ecological Economics, Vol. 31, 1999, p. 200.

³ S. Doney, V. Fabry, R. Feely, J. Kleypas, *Ocean Acidification: The Other CO₂ Problem*, Annual Review of Marine Science, Vol. 1, 2009, p. 170.

⁴ <http://www.un.org/sustainabledevelopment/oceans/> (accessed: 31.10.2020).

⁵ Ibidem.

resources pushes contemporary generation to start exploitation of sea riches. As much as 40 per cent of the world oceans are heavily affected by human activities, including pollution, depleted fisheries, and loss of coastal habitats⁶. One of the most frustrating aspects of human impact of oceans is that most sources of its pollution is caused by side effect of human activity, without contributing directly to the rise of social capital of contemporary or future generations. We commonly describe it as wasting natural capital of marine resources.

2. AREA BEYOND NATIONAL JURISDICTION AS A CHALLENGE AND CHANCE FOR UNCLOS REGULATION AND SUSTAINABLE MANAGEMENT OF HUMAN ACTIVITY IN THE AREA

Most fundamental international legal act responsible for regulating human activity in the World's Ocean – the United Nations Convention on the law of the sea (UNCLOS) was signed in 1982. It was half a decade before the Brundtland's Commission defined the concept of sustainable development. We can however find important elements of the concept of sustainable development included into the regulatory framework of the UNCLOS⁷. This confirms the hypothesis that sustainable development concept was not a totally new idea, but was based on the knowledge which by some of the researchers is being tracked back to the XIX century and the concepts of sustainability in forestry⁸. UNCLOS adopted the concept of “sustainable yield” directly in Article 119 and used it to regulate the fishing activities in the Area⁹. Sustainable development which is a more comprehensive but similar concept to sustainable yield¹⁰ may be considered as a base of any human activity at the sea¹¹.

One of the less commonly analysed aspects of sustainability is the concept of inter- and intragenerational justice, which stems directly from the Brundtland's

⁶ Ibidem.

⁷ R. Long, *Legal Aspects of Ecosystem-based Marine Management in Europe*, Ocean Yearbook, Vol. 26, 2010, p. 417; M. Nyka, *The Concept of Ecosystem Services in Regulation of Human Activity at Sea*, Maritime Law Vol. XXXIII, 2017, p. 92.

⁸ A. Feil, D. Schreiber, *Sustainability and sustainable development: unravelling overlays and scope of their meanings*, Cadernos EBAPE.BR Vol. 14 No. 3, 2017, p. 669-670.

⁹ A. Jaeckel, K. Gjerde, J. Ardron, *Conserving the common heritage of mankind – Options for the deep-seabed mining regime*, Marine Policy, Vol. 78, 2017, p. 151.

¹⁰ S. Briggs, *The multiple faces of sustainability – from sustained yield to sustainable development*, Pacific Conservation Biology, Vol. 23 No. 2, 2017, p. 133-138.

¹¹ D. Pyć, *Morska działalność górnicza a zrównoważone zarządzanie środowiskiem*, Górnictwo i Geoinżynieria Vol. 35, Issue 4/1, 2011, p. 311.

Commissions' definition of sustainable development. The obligation of satisfying the needs of contemporary generation is extremely challenging and international law often fails to provide for equal distribution of profits and burdens stemming from the use of natural resources – including the use of sea resources or access to marine ecosystem services. Even harder it is to satisfy the requirement of providing future generations with environmental justice, by providing them with ocean's quality that would not diminish their development or even life support needs. Such obligation stems not only from the concept of sustainable development, but also from the fact, that UNCLOS considers seabed beyond the national jurisdiction and its resources as a common heritage of mankind, without indicating any particular generation of which this concept should be formed¹².

3. COMMON HERITAGE OF MANKIND

The concept of common heritage of mankind and its application to the Area can be traced back to the Hugo Grotius' doctrine of *mare liberum* or concepts formed in opposition to this doctrine in XIX century indicating that natural resources of the sea should be managed by the "society of nations"¹³. Concerning the management of the resources in the Area at least two main groups of arguments can be observed. Some argue that since to those areas all concepts of ownership cannot apply, than they should be treated as *res commune* and thus the resources are subject to various forms of „first come first served" mechanisms, based on the traditional approaches stemming from the *mare liberum* philosophy¹⁴. The philosophy which has been chosen in the UNCLOS Convention is however different. In 1967 Arvid Pardo representative of Malta at the UN forum opted for implementation of common heritage of mankind concept into the maritime law¹⁵.

The problem of equity and rights of developing states to take advantage from the benefits of globalisation was identified by the number of international documents from this period, as Declaration on Establishment of a New Economic Order, Declaration of the Rights and Duties of States or the Declaration on the Right to Development to name just a few out of many.

¹² A. Jaeckel, K. Gjerde, J. Ardron, *Conserving the common heritage of mankind...* p. 151.

¹³ M. Dragun-Gertner, *Realizacja idei wspólnego dziedzictwa ludzkości w działalności regulacyjnej ISBA* [in:] Konwencja NZ o prawie morza z 1982 r. W piętnastą rocznicę wejścia w życie, C. Mik, K. Marciniak (ed.) Warszawa 2009, p. 276.

¹⁴ J. Symonides, *The New Law of the Sea*, Warsaw 1988, p. 256

¹⁵ M. Nordquist, S. Nandan, S. Rosenne, M. Lodge (ed.), *United Nations Convention on the Law of the Sea 1982. A commentary*. Vol. VI Hague-London-New York 2002, p. 6.

Common heritage of mankind concept stands on the position that benefits from the Area should be distributed among the humankind and contribute to the elimination of extreme inequalities in the world¹⁶. This creates the possibility of implementation of environmental justice in the access to profits connected with exploration of resources in the Area¹⁷.

The concept of common heritage of mankind is based on the presumption about the possibility of existence of certain areas, which although being situated outside the state's jurisdiction (or thanks to this fact), can be considered as constituting a kind of deposit which should be collectively managed for the benefit of a whole mankind¹⁸. The focus in this concept are the resources understood as all solid, liquid, and gaseous mineral resources *in situ* in the Area¹⁹, and the functions which is being attributed to those resources. It may be claimed that the function of those resources are connected with provision of benefits of the humankind understood in its intragenerational (including costal or land-locked societies, developed and developing countries without any preferences as to their geographical location) and intergenerational dimension. It is claimed that the goal of the concept of common heritage of mankind as applied to the natural resources is designed to achieve a more egalitarian international society²⁰. This seems to be especially true considering special focus which is put on developing States and on peoples who have not attained full independence or other self-governing status²¹. The warrants of the implementation of common heritage of mankind concept into the deep-sea mining regime in the Area are according to the UNCLOS convention Parties²². Sovereign states perform this duty of trusteeship through the institutional framework provided for the deep-sea mining regime by the UNCLOS convention²³. Those three aspects: absence of sovereignty, international

¹⁶ H. Ginzky, H. Damian, *Bergbau am Tiefseeboden – Standards und Verfahren für einen effektiven Schutz der Umwelt*, Zeitschrift für Umweltrecht, Heft 6, 2017, p. 324.

¹⁷ J. Ardon, H. Ruhl, D. Jones Incorporating transparency into the governance of deep-seabed mining in the Area beyond national jurisdiction. *Marine Policy* Vol. 89, 2018, p. 59.

¹⁸ A. Jaeckel, J. Ardron, K.Gjerde, *Sharing benefits of the common heritage of mankind – is the deep seabed mining regime ready?*, *Marine Policy*, Vol. 70, 2016, p.198–204.

¹⁹ E. Brown *Sea-Bed, Energy and Minerals: The International Legal Regime*, Hague/Boston/London 2001, p. 53.

²⁰ M. Bourrel, T. Thiele, D. Currie, *The common of heritage of mankind as a means to assess and advance equity in the deep sea mining*, *Marine Policy*, 2016 <https://doi.org/10.1016/j.marpol.2016.07.017> p. 1; R. Wolfrum, *Principle of the Common Heritage of Mankind*, *Zeitschrift für Ausländisches Öffentliches Recht und Völkerrecht*, Vol. 43, 1983, p. 315.

²¹ Article 140 UNCLOS.

²² Article 139 UNCLOS.

²³ K. Bosselmann, *The Principle of Sustainability. Transforming Law and Governance*, Ashgate 2008, p. 158-159.

management and benefits sharing, are widely recognised as elements constructing the common heritage of mankind principle²⁴.

4. THE IDEA OF GLOBAL TRUST IN RELIGIONS AND LAI PHILOSOPHY

The idea of intergenerational continuity or stewardship in the field of the environment or earth's resources is common to many cultures. The Judeo-Christian tradition treats Earth as a good given to people by God in eternal usufruct for people and their descendants²⁵. The legal tradition of Islam treats God as the only owner of the Earth, whereas humans are only managing it being connected to its duties of good procurement for future generations. Similar solutions can be found in the cultures of Asia²⁶. Such an attitude is also reflected in some of the legal institutions. It is worth mentioning that similar institutions are reflected also in national laws. Lai philosophy, to explain the concept of intergenerational justice, is based on the idea of a contract with future generations. It is worth mentioning the ideas of John Rawls. Rawls himself reflects that his concept of justice as impartiality would not be complete if it were to omit the perspective of future generations²⁷. Rawls develops the just savings principle²⁸, arguing that the main duty owed to our successors is the saving of sufficient material capital to maintain just institutions over time²⁹. What the current generation owes to the next generation is dependent on where the social minimum level is set. He provides us with some guidance in this point by saying that the social minimum "is to be set at that point which, taking wages into account, maximizes the expectations of the least advantaged group"³⁰. This theory can be very well adopted to the sustainable use of natural resources. There is no question that each generation must use natural resources in some way. The problem is that there are doubts if the contemporary consumption does not negatively affect the social capital – the chances for development of future generations.

²⁴ M. White, *The Common Heritage of Mankind: An Assessment*, Case Western Reserve Journal of International Law, Vol. 14, Issue 3, 1982, p. 535-537.

²⁵ M. Nyka, *Future generations rights to natural resources – the post Rio 20+ perspective* [in:] *Enacting Environmental Justice through Global Citizenship*, M. Nyka, E. Schneider (ed.), Oxford 2014, p. 40.

²⁶ Dissenting opinion of Judge Christopher Weeramantry in case *Gabcikovo-Nagymaros I.C. J.* 108 (25.08.1997).

²⁷ J. Rawls, *A Theory of Justice: Revised Edition*, Cambridge 1999, p. 251.

²⁸ *Ibidem*.

²⁹ *Ibidem*.

³⁰ *Ibidem*, p. 252.

Translating the philosophical and legal duty of care for the interests of future generations into the language of law is not novelty even in the contemporary legal order. The *lex ferenda* perspective is widely represented in environmental protection law, both in the procedural and substantive law terms³¹. Rawls' basic structure must take account of basic institutions which guarantee access to the environment for future generations³². In continental law, the *Rechtsstaat* doctrine includes the perspective of future generations in its guarantees³³. This can be observed clearly, for example, in constitutional law. The Constitution of the Federal Republic of Germany, which refers to the protection of dignity, in its Article 1, does not limit a specific period of time nor does it limit, in terms of time, the group of individuals to whom that protection applies³⁴. Similar examples can also be found in the Constitution of Austria or the Constitution of the Republic of Poland, as well as in the number of other countries ranging from Asia to South America³⁵. The German and Austrian scholars go even further and claim that those guarantees are not only of the protective nature but can also have a postulative character (by analogy with human rights) also in relation to future generations³⁶.

5. INTERNATIONAL SEABED AUTHORITY AS A TRUSTEE

United Nations Convention on the Law of the Sea in Article 156 creates the International Seabed Authority (ISA). Through this organisation member states can organise, manage, and monitor the activity in the Area, especially in relation to natural resources³⁷. The competences of ISA are regulated by the convention itself, annexes and 1994 implementation agreement. Article 17 (1) of the Annex III of the UNCLOS provides ISA with competences to adopt and uniformly

³¹ Protection against threats not entirely identified and scientifically confirmed implemented through the precautionary principle functioning in environmental law can be an example here.

³² H. Visser't Hooft, *Justice to Future Generations and the Environment*, Dordrecht/Boston/London 2010, p. 29.

³³ M. Nyka, *Sprawiedliwość Międzypokoleniowa w Międzynarodowym Prawie Środowiska*, Gdańskie Studia Prawnicze, t. XXXV, 2016, p. 358.

³⁴ P. Saladin, C. Zengler, *Rechte künftiger Generationen* Basel/Frankfurt a.M. 1988, p. 63–77.

³⁵ World Future Council Future Generations in Constitutions and Institutions. http://www.worldfuturecouncil.org/fileadmin/user_upload/Future_Justice/Database_-_countries_-_2.1.pdf (accessed 31.10.2020).

³⁶ P. Saladin, C. Zengler, *Rechte künftiger Generationen*, Basel/Frankfurt a.M., 1988, p. 95.

³⁷ M. Dragun-Gertner, *Realizacja idei wspólnego dziedzictwa ludzkości w działalności regulacyjnej ISBA...*, p. 279; M. Bourrel, T. Thiele, D. Currie, *The common of heritage of mankind as a means to assess and advance equity in the deep sea mining...*, p. 1.

apply rules, regulations and procedures in the matters included in the non-exclusive list of matters connected with management of the resources in the area³⁸. This creates an interesting dualistic system of regulation of deep sea mining activities, which includes UNCLOS norms, together with 1994 Implementation agreement which now forms part of the UNCLOS, but also includes specific regulations, rules and procedures created by the ISA³⁹. The groups of matters mentioned in the ISA regulatory competences non-exclusive list include administrative procedures relating to prospecting, exploration, and exploitation in the Area; operations; and financial matters. In realisation of above-mentioned law creating competences International Seabed Authority creates comprehensive sets of rules concerning detailed aspects of creation legal framework to prepare the mining activities in the Area.

The relevant legislative act through which the International Seabed Authority is able to implement its stewardship and generate influence on the Deep-Sea Mining Regime is the Mining Code. It consists of various legally binding Regulations and four non-binding Recommendations (issued by the Legal and Technical Commission), currently only regarding the Prospecting and Exploration for Polymetallic Nodules, Cobalt-rich Ferromanganese Crusts and Polymetallic Sulphides in the Area. The respective documents concerning the Exploitation phase are yet to be finished, however, Draft Regulations on Exploitation of Mineral Resources in the Area were already published in August 2017.⁴⁰

6. PRINCIPLES IMPLEMENTING THE STEWARDSHIP OF THE ISA OVER THE AREA

Although the Convention does not provide us with definition of common heritage of mankind, the analysis of Part XI of UNCLOS provides reader with certain concepts connected with the principle of common heritage of mankind. They merger distributive elements and solidarity with inter and intragenerational dimension. Lifeblood of the treating the Area as a common heritage of mankind is that the Area can be used only for the benefit of mankind, including all contemporary as well as future people (Article 140 UNCLOS). To secure this Convention entails the obligation that no state may claim any form of

³⁸ M. Nordquist, S. Nandan, S. Rosenne, M. Lodge (ed.) *United Nations Convention on the Law of the Sea 1982. A commentary*, Vol. VI, Hague-London-New York 2002, p. 742.

³⁹ R. Tarnacki, *Korzystanie z obszaru jako realizacja zasady wspólnego dziedzictwa ludzkości w świetle Konwencji NZ o prawie morza*, Prawo Morskie, t. XXIII, 2007, p. 63.

⁴⁰ All of the original documents are available at: <https://www.isa.org.jm/mining-code> (accessed: 31.10.2020).

sovereignty over any part of the Area and its resources (e.g. Article 137 (1) UNCLOS)⁴¹. This warrants that the Area will be governed only by international law and institutions based on this law. They are to act as a steward for contemporary and future generations forming the humankind.

As a consequence of impossibility of appropriation of the Area or Area's resources another principles arise. Management of the resources is being performed by international institution – International Seabed Authority, being a form of common global trustee for contemporary and future generations (e.g. Article 137(2) UNCLOS). ISA facilitates global cooperation in management and research in the Area⁴², which is being performed by use of peaceful means and any use of the area may be only performed for peaceful purposes. Purpose of common cooperation in a form of specific trust over the Area is to share benefits from the activities taken in the area⁴³. This distribution has both intragenerational and intergenerational aspects. Intragenerational aspects are stressed by the obligation of transferring the technology (e.g. Article 144 UNCLOS) or specific preferences for developing states (e.g. Article 148 UNCLOS)⁴⁴. Finally, the obligation of protecting the marine environment (e.g. Article 145 UNCLOS) shows the will of protecting the Area's environment and resources for contemporary and future generations⁴⁵. The creation of basis of state's liability for dangerous activities in the Area⁴⁶ (Article 139 UNCLOS) secures the existence of this specific Trust, with International Seabed Authority in a role of a trustee, empowered for this function and supported in performing it's duties by the parties of the UNCLOS.

One of the most controversial elements of the concept of the common heritage of the mankind are distributive elements of this concept. Sharing economic benefits remains one of the most direct postulates concerning the

⁴¹ A. Jaeckel, K. Gjerde, J. Ardron, *Conserving the common heritage of mankind...* p. 155; M. Bourrel, T. Thiele, D. Currie, *The common of heritage of mankind as a means to assess and advance equity in the deep sea mining...*, p. 2; R. Wolfrum, *Principle of the Common Heritage of Mankind...*, p. 316.

⁴² A. Kiss, *La Notion de Patrimoine Commun de l'Humanite*, Recueil des Cours 99, 1982, p. 145-164.

⁴³ Ibidem, p. 164-196; J. Noyes, *The Common Heritage of Mankind: Past, Present and Future*, Denver Journal of International Law Policy, Vol. 40, 2011, p. 451; R. Wolfrum, *Principle of the Common Heritage of Mankind...*, p. 322-323.

⁴⁴ R. Wolfrum, *Principle of the Common Heritage of Mankind...*, p. 329.

⁴⁵ L. Levin, K. Mengerink, K. Gjerde, A. Rowden, C. van Dover, M. Clark, E. Ramirez-Llodra, B. Currie, C. Smith, K. Sato, N. Gallo, A. Sweetman, H. Lily, C. Armstrong, J. Brider, *Defining "serious harm" to the marine environment in the context of deep-seabed mining*, Marine Policy, Vol. 74, 2016, p. 247; A. Jaeckel, K. Gjerde, J. Ardron, *Conserving the common heritage of mankind...*, p. 152-156.

⁴⁶ Ibidem, p. 154.

problem of ensuring environmental equity in taking profits from the activities in the Area. According to the Article 140(2) of the UNCLOS International Seabed Authority in performing its Stewardship's function is required to "provide for the equitable sharing of financial and other benefits derived from activities in the Area". In developing this rule International Seabed Authority is guided by the principles set up in Section 8 of the Annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (Implementation Agreement)⁴⁷. Fairness is first of the principles concerning the distributive aspects of ISA Stewardship. In this role Authority is expected to balance interests of contractors and "those on whose behalf it shall act" – the humankind⁴⁸. A guarantee of this principle seems to be relatively weak. Financial Committee which is responsible for preparation rules, regulations and procedures concerning the benefits sharing proceeds in private without broader reporting on the details of its activities to the public⁴⁹. Transparency issues arise also in evaluating contemporary state of development of the most important institution in the benefit sharing mechanism – The Enterprise. The evolutionary mechanism in setting up the institutions of the International Seabed Authority however resulted in appointing the interim Director General (from within the Secretariat staff) however the Enterprise has not been yet created⁵⁰. Director General functions to date are limited and at large relate to assessing relevant technology developments and results of marine scientific research⁵¹. This however raises questions of commentators whether the Enterprise will become operational⁵². The above mentioned problems rise doubts if the benefits sharing mechanism drafted thirty years ago which has not been fully designed yet will be able to satisfy a test of inter- and intragenerational fairness test, especially when we consider the problems with the establishment institutional and procedural warranties.

From the perspective of performing role of Steward of humankind the changes in status of the Enterprise also seem to bring further doubts. This "commercial arm of ISA"⁵³ in order to minimise of its costs shall conduct its

⁴⁷ A/48/L.60 and Add.1.

⁴⁸ UNCLOS Article 137(2).

⁴⁹ M. Wood, *International Seabed Authority: the first four years*, Max Planck Yearbook of the United Nations Laws, Vol. 3, 1999, p. 173-241.

⁵⁰ J. Jackel, *International Seabed Authority and the Precautionary Principle*. Brill Nijhoff 2017, p. 99.

⁵¹ Implementation Agreement Annex, Section 2(1).

⁵² A. Jackel, J. Ardron, K. Gjerdje, *Sharing benefits of the common heritage of mankind – Is the deep seabed mining regime ready?* Marine Policy, Vol. 70, 2016, p. 200.

⁵³ UNCLOS Article 158(2).

initial deep seabed operations by means of joint-venture⁵⁴ and adherence to commercial principles is a precondition of its independence. Doubts may arise if the adherence to the market-based economy of contemporary times, which in many aspects has proven not to function in line with principles of sustainability, will not impede the Stewardship function of the International Seabed Authority. This is especially true if we take into the account various amendments made by the IA to the originally designed system among others by repealing the obligation of reserving specific amounts of minerals for production by the Enterprise⁵⁵.

CONCLUSION

With development of underwater mining technologies deep-sea mining regime starts to face rising number of questions concerning its shape. One of the most important issues is the problem of ensuring environmental justice both in inter- and intragenerational dimension. Common heritage concept created in order to ensure equitable sharing of profits and development possibilities stemming from the commercial use of those resources puts International Seabed Authority in the center of deep-sea mining regime. Its unique position allows to treat ISA as a Steward/representative of interest of humankind, including future generation as well as broad representation of contemporary living people. However performing by the ISA, the role of steward seems to face important obstacles. Implementation agreement, which function is to give flesh to the generally formulated concepts from the UNCLOS, seems to limit the equitable solutions introduced by the Law of the Sea Convention. Lack of political will to make the deep-sea regime fully operational and especially to make it serving in the interest of humankind seems to be obvious. Lack of transparency, procedural drawbacks as well as “over commercialization” of the Enterprise seems to indicate that the axiological link between concepts created in late 70ties, reflecting The New International Economic Order ideas and values represented by contemporary economy has been lost. Sad conclusion can be made, that it seems that we are more distanced in achieving the sustainable use of deep-sea resources now, than we were in 1982, when the negotiations on UNCLOS conventions were concluded.

⁵⁴ Implementation Agreement Annex, Section 2(2).

⁵⁵ Implementation Agreement Annex, Section 6(7).

MIĘDZYNARODOWA ORGANIZACJA DNA MORSKIEGO I ZARZĄDZANIE ZASOBAMI DNA MORSKIEGO – ZASADY OCHRONY I KORZYSTANIA Z ZASOBÓW DNA MORSKIEGO

Słowa kluczowe: zarządzanie zasobami dna morskiego, górnictwo morskie, Międzynarodowa Organizacja Dna Morskiego, prawa przyszłych pokoleń, wspólne dziedzictwo ludzkości

Abstrakt

Koncepcje nawiązujące do sprawiedliwości ekologicznej wydają się być głęboko zakorzenione w prawnych regulacjach działalności w Obszarze. Konwencja Narodów Zjednoczonych o prawie morza wielokrotnie podkreśla konieczność ochrony ekologicznego i ekonomicznego interesu obecnych i przyszłych pokoleń przy prowadzeniu działalności wydobywczej w obszarze dna morskiego. W świetle coraz bardziej rychłej perspektywy rozpoczęcia działalności wydobywczej w obszarze dna morskiego morza pełnego konieczną staje się refleksja nad stopniem przygotowania Międzynarodowej Organizacji Dna Morskiego do realizacji swoich funkcji w zakresie reprezentowania interesu ludzkości.