

Zum sachlichen Anwendungsbereich des ISA-Regimes rücksichtlich der aus dem Area gewonnenen Mineralien

Artikel 133 [UNCLOS](#) lautet, wie folgt:

For the purposes of this Part:

- (a) "resources" means all solid, liquid or gaseous mineral resources *in situ* in the Area at or beneath the seabed, including polymetallic nodules;
- (b) resources, when recovered from the Area, are referred to as "minerals".

Und Artikel 137 Absatz 2 UNCLOS sieht vor, was folgt:

- 2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority.

Im dritten Satz des letzten Zitats ist die Rede von minerals recovered from the Area. Oben zitierter Artikel 133 litera (b) bezeichnet aber bereits gewonnene Ressourcen als minerals, sodass das recovered hier, im Artikel 137, eine andere Bedeutung haben muss, als ihm im Artikel 133 zukommt: Gemeint ist ganz offenkundig, anders als im Artikel 133 jene unter Punkt 1., hier, im Artikel 137, jene, wie sie unter Punkt 7. des nachfolgend zitierten Eintrags bei WHITNEY¹ aufscheint:

recover² (rĕ-kuv'ĕr), v. [*< ME. recoveren, recocuren, recocuren, recouren, rcuren, rekeveren, rekeuren, < OF. recovrer, recouvrer, recuvrer, recouver, recoverer, recouvrer, regain, recover, get, obtain, etc., F. rcouvrer, recover, = Pr. Sp. recobrar = Pg. recuperar = It. recuperare, < L. recuperare, reciperare, get again, regain, recover, revive, restore; in ML. also intr., revive, convalesce, recover; < re- + -cuperare, -ciperare, of uncertain origin; perhaps orig. 'make good again,' < Sabine *cuprus, cyprus, good; or orig. 'desire,' < L. cupere, desire: see Cupid. Cf. recuperate, and recure¹, a contracted form, and cover², a reduced form, of recover².]* **I. trans.** 1. 'To regain; get or obtain again (after it has been lost).
And some to ryde and to recocure that vniſtfully was wonne. *Piers Plowman* (B), xix. 239.
Than com alle the Bretouns oute of the wode, and haue recovered the felde. *Merlin* (E. E. T. S.), iii. 654.
And David recovered all that the Amalekites had carried away. *1 Sam. xxx. 18.*
I spier'd for my cousin fu' couthy and swcet,
Gin she had recover'd her hearin'.
Burns, Last May a Braw Wooer.
2. To restore from sickness, faintness, or the like; cure; heal.
Am I God, . . . that this man doth send unto me to recover a man of his leprosy? *2 Kl. v. 7.*
He's most desperate ill, sir;
I do not think these ten months will recover him.
Fletcher, Rule a Wife, v. 3.

¹ *The century dictionary and cyclopedia*, New York (1890), XVII, [5010](#).

3. To repair the loss or injury of; retrieve; make up for: as, to *recover* lost time.

"For los of catel may *recovered* be,
But los of tyme shendeth us," quod he.
Chaucer, *Prol. to Man of Law's Tale*, l. 27.

Yet this loss,
Thus far at least *recover'd*, hath much more
Establish'd in a safe unenvied throne.

Milton, *P. L.*, li. 22.

Diligence . . . gives great advantages to men: it loses no time, it conquers difficulties, *recovers* disappointments, gives dispatch, supplies want of parts.

Penn, *Advice to his Children*, lii. § 10.

Jamaica society has never *recovered* the mixture of Buceaneer blood.

Dr. Arnold, *Life and Correspondence*, p. 505.

He had given a shake to her confidence which it never could *recover*. *J. H. Newman*, *Loss and Gain*, p. 263.

4. To rescue; save from danger.

That they may *recover* themselves out of the snare of the devil. 2 Tim. ii. 26.

If you will not undo what you have done—that is, kill him whom you have *recovered* [saved from drowning]—desire it not. *Shak.*, *T. N.*, ii. i. 39.

He fell into the water, near the shore, where it was not six feet deep, and could not be *recovered*.

Winthrop, *Hist. New England*, I. 291.

5†. To reach by some effort; get; gain; find; come to; return to.

With cormerantes make thy nek long,
In pondys depe thy pray to *recovere*.

Political Poems, etc. (ed. Furnivall), p. 25.

If she be lost, we shal *recovere* another.

Chaucer, *Troilus*, iv. 406.

Sir And. If I cannot *recover* your niece, I am a foul way out. *Shak.*, *T. N.*, ii. 3. 200.

The forest is not three leagues off;
If we *recover* that, we are sure enough.

Shak., *T. G. of V.*, v. 1. 12.

Your son-in-law came to me so near the time of his going away as it had been impossible to have *recovered* him with a letter at so far a distance as he was lodged.

Donne, *Letters*, lix.

6†. To reconcile; reestablish friendly relations with.

What, man! there are ways to *recover* the general again: you are but now cast in his mood; . . . sue to him again, and he's yours. *Shak.*, *Othello*, ii. 3. 273.

7. In *law*, to obtain by judgment in a court of law or by legal proceedings: as, to *recover* lands in ejectment; to *recover* damages for a wrong, or for a breach of contract. It does not

necessarily imply the actual gain of satisfaction or possession, but ordinarily only the obtaining of judgment therefor.

There is no luge y-sette of suche trespass
By which of right one may *recovered* be.

Political Poems, etc. (ed. Furnivall), p. 74.

8. In *hunting*, to start (a hare) from her cover or form. *Halliwcll*.—9†. To fetch; deal.

He [Pounce] . . . smote the kynge vpon the helme, . . . and whan Pounce wolde have *recovered* a-nother stroke, the kynge spored his horse in to the stour.

Merlin (E. E. T. S.), lii. 391.

10†. To restore to a previous state.

To hiden his desire al in mewe
From every wyght yborne, alle outrely,
But he myghte sought *recovered* be therby.

Chaucer, *Troilus*, l. 383.

Hierzu, zu dieser juristischen Bedeutung des *recover*, ist bei Muret-Sanders², noch zu finden, was folgt:

proceeding (pr²-si'-bi²ns) s. 1. Verfahren n, Vorgang m, Handlung f. — 2. jur. *as pl.* gerichtliche Prozedur, Rechtsgang m, Verfahren n. — 3. *as pl.*: a) jur. (a. written *as pl.*) Akten *spl.*, Protokolle *n/pl.*; b) Verhandlungen *spl.* einer Gesellschaft.

² *Enzyklopädisches englisch-deutsches und deutsch-englisches Wörterbuch*, Berlin (1910), 665.

Feststeht, dass der oben aufgezeigte Pleonasmus in der doppelten Nennung des *recover*, eine Bedeutung haben muss. Sie kann bei ordentlich semantischer Betrachtung nur darin liegen, dass im *recovered* nach Artikel 137 eine abermalige Erwerbungsform zu erblicken ist, welche an die ursprüngliche des bergbaulichen Abbauvorganges anschließt, also eine rechtlich-derivative darstellt.

Damit harmoniert die Bestimmung des Artikels I des Annexes III zur UNCLOS, welcher da lautet, wie folgt:

*Article 1
Title to minerals*

Title to minerals shall pass upon recovery in accordance with this Convention.

Die hier gesetzte *recovery* (Gewinnung) meint offenbar (desgleichen bereits) beides: die Gewinnung *ex situ* und jene in der Form des juristisch-derivativen Erwerbs.

Zumal, wie noch zu zeigen sein wird, juristische-derivativen Erwerbsvorgängen im ISA-Regime ganz besondere Bedeutung zukommt, weil sie (wie bislang auch tatsächlich vielfach geschehen) dazu missbraucht werden können, Marktbedingungen missbräuchlich zu beeinträchtigen, steht einem solenn-förmlichen Verständnis des juristischen Begriffs des *recover*, wie oben dargelegt, nichts im Wege.

Festzuhalten ist daher, dass nach den oben zitierten Bestimmungen des Artikels 137 Absatz 2 Satz 3 sowie Artikel I Annex III, je UNCLOS; sowohl die bergbauliche Gewinnung der Ressourcen des Area als auch deren (Weiter-)Veräußerung nur aufgrund der Bestimmungen des Teils XI der UNCLOS sowie der nach ihm ergangenen Regeln stattfinden darf und rechtswirksam stattfinden kann.

Artikel 139 Absatz 1 Satz 1 UNCLOS lautet:

States Parties shall have the responsibility to ensure that activities in the Area, whether carried out by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, shall be carried out in conformity with this Part.

Diese Staatshaftung auch für deren Angehörige und Unternehmen, führt dazu, dass dem Artikel 138, der da lautet, wie folgt:

The general conduct of States in relation to the Area shall be in accordance with the provisions of this Part, the principles embodied in the Charter of the United Nations and other rules of international law in the interests of maintaining peace and security and promoting international cooperation and mutual understanding.

die Bedeutung zukommt, dass auch die Staaten darauf zu achten haben, dass ihre Angehörigen und Unternehmen bei deren Aktivitäten im Area sämtliche in Artikel 138 genannten Bestimmungen des Völkerrechts einhalten. Bei einem Verstoß gegen solche Bestimmungen im Verhalten eines Unternehmens, das sei hier als Beispiel angeführt, geht Eigentum nicht wirksam über.

Und zumal die *activities in the Area* nicht innerhalb des Teils XI., sondern im Artikel I Absatz 3 UNCLOS, wie folgt definiert sind:

"activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;

ist klargestellt, dass mit den darin genannten *ressources* nicht nur die *mineralischen* im Sinne des Artikels 133 UNCLOS, sondern alle nur erdenklichen Ressourcen, also etwa auch menschliche gemeint sind; was zur Folge hat, dass zum ISA-Regime auch völkerrechtliches Arbeits- und Sozialrecht zählt.

Somit wird auch deutlich, dass Artikel 150 (e) und (f) UNCLOS, wenn er vorsieht, was folgt:

Activities in the Area shall, as specifically provided for in this Part, be carried out in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international cooperation for the over-all development of all countries, especially developing States, and with a view to ensuring:

[...]

(e) increased availability of the **minerals derived** from the Area as needed in conjunction with minerals derived from other sources, to ensure supplies to consumers of such minerals;

(f) the promotion of just and stable prices **remunerative** to producers and **fair** to consumers for minerals derived both from the Area and from other sources, and the promotion of long-term equilibrium between supply and demand;

mit den (fett hervorgehobenen) *minerals derived* desgleichen nicht bergbaulich gewonnene, sondern vom Area abgeleitete, mithin alle möglichen Mineralien meint, die in welcher Form auch immer im Geschäftsleben vorkommen und aus dem Area stammen.

Wobei das *remunerative* bzw. das *fair* in der zitierten *litera* (f) nach WHITNEY³ die folgende Bedeutung hat:

remunerate (rē-mū'ne-rāt), *v. t.*; pret. and pp. remunerated, ppr. remunerating. [< L. remuneratus, pp. of remunerari, remunerare, reward, remunerate, < re-, again, + munerari, munere, give: see munerate. Cf. remuner.] To reward; recompense; requite, in a good sense; pay an equivalent to for any service, loss, expense, or other sacrifice.

She no doubt with royal favour will remunerate
The least of your deserts.
Webster and Dekker, Sir Thomas Wyatt, p. 13.

The better hour is near
That shall remunerate thy toils severe.
Couper, To Wm. Wilberforce, 1792.

= Syn. Recompense, Compensate, etc. (see indemnify), repay.

remuneration (rē-mū'ne-rā'shon), *n.* [< OF. remuneration, remuneration, F. rémunération = Pr. remuneration = Sp. remuneracion = Pg. remuneração = It. remunerazione, < L. remuneratio(n-), a repaying, recompense, reward, < remunerari, remunerate: see remunerate.] 1. The act of remunerating, or paying for services, loss, or sacrifices.—2. What is given to remunerate; the equivalent given for services, loss, or sufferings.

O, let not virtue seek
Remuneration for the thing it was.
Shak., T. and C., III. 3. 170.

We have still in vails and Christmas-boxes to servants, &c., the remnants of a system under which fixed remuneration was eked out by gratuities.

H. Spencer, Prin. of Sociol., § 375.

= Syn. 1. Repayment, indemnification.—2. Reward, recompense, compensation, payment. See indemnify.

remunerative (rē-mū'ne-rā-tiv), *a.* [= F. rémunératif = Pg. remunerativo = It. remunerativo; as remunerate + -ive.] 1. Affording remuneration; yielding a sufficient return: as, a remunerative occupation.—2. Exercised in rewarding; remuneratory.

Fit objects for remunerative justice to display itself upon.
Cudworth, Intellectual System, p. 690.

= Syn. 1. Profitable, paying.

also *Tatsächliches abgeltend*, bzw.:

³ XVII, 5073 bzw.

fair¹ (fär), *a. and n.* [*< ME. fair, fagr, faier, fayer, feir, fager, etc., < AS. fager, beautiful, pleasing, pleasant, = OS. fagar = OHG. fagar = Icel. fagr = Sw. fager = Dan. feir (obs.), fager = Goth. fagrs, fit, adapted; prob. ult. connected with fay¹, q. v.] I. *a. 1.* Beautiful; comely; free from disfigurement or incongruity; pleasing to the eye: as, a *fair* landscape.*

And there is the most *fayr* Chirche and the most noble of alle the World. *Mandeville, Travels, p. 8.*

This Town of Edinburgh is one of the *fairest* Streets that ever I saw. *Howell, Letters, I. vi. 38.*

The Nymph did like the Scene appear,
Serenely pleasant, calmly *fair*.
Prior, Lady's Looking-glass.

A violet by a mossy stone
Half hidden from the eye;
Fair as a star when only one
Is shining in the sky. *Wordsworth, Lucy.*

Fair meadows, softly tinged
With orange and with crimson. *Bryant, Sella.*

2. Free from imperfections or blemish; pure, clean, unspotted, untarnished, etc.; free from anything that might impair the appearance, quality, or character; not foul: as, a *fair* copy; *fair* skies; *fair* fame.

The Water eke beholde yf it be *faire*,
Hoolsum, and light.

Palladius, Husbondrie (E. E. T. S.), p. 2.

It is in life as it is in ways, the shortest way is commonly the foulest, and surely the *fairer* way is not much about. *Bacon, Advancement of Learning, H. 350.*

I'll vindicate her *fair* name, and so cancel
My obligation to her.
Fletcher (and Massinger?), Lovers' Progress, v. 1.

The Manuscript of Prudentius Hymnes, which was also shewed us, is a much *fairer* Letter, and therefore thought to be older by one Century at least.

Lister, Journey to Paris, p. 109.

We that fight for our *fair* father Christ,
Seeing that ye be grown too weak and old
To drive the heathen from your Roman wall,
No tribute will we pay.

Tennyson, Coming of Arthur.

3. Of a light hue; clear in color; not dusky or sallow; not discolored: as, a *fair* skin or complexion; *fair* hair; the English are a *fair* race.

She is a very comely Lady, rather of a Flemish Complexion than Spanish, *fair*-haired. *Howell, Letters, I. iii. 9.*
Upon her inquiring what sort of a woman lady Lovely was in her person, "Really, madame," says the Jackanapes, "she is exactly of your height and shape; but, as you are *fair*, she is a brown woman."

Steele, Tatler, No. 207.

Her face, oh! call it *fair*, not pale.

Coleridge, Christabel, II.

4. Free from obscurity or doubt; clear; distinct; positive; direct: as, to get a *fair* view of a prospect; to take a *fair* aim.

Alle that were in the castell a-woke, and it was than *feire* day. *Merlin (E. E. T. S.), iii. 610.*

5. Marked by favoring conditions; affording ample facility or advantage; unobstructed; favorable: as, a *fair* field and no favor; a *fair* mark; in a *fair* way to success; a *fair* subject of ridicule.

On that othir side thel saugh the foreste and the forteresses that were ther a-boute, and the erable londe and the *feire* fashinge. *Merlin (E. E. T. S.), iii. 609.*

We sailed from hence directly for Genoa, and had a *fair* wind that carried us into the middle of the Gulf. *Addison, Remarks on Italy (ed. Bohn), I. 360.*

6. Comparatively favorable or propitious; not obstructive or forbidding; moderately fit or suitable: as, *fair* weather (as distinguished from clear or foul weather).

In the weather reports of the U. S. Signal Corps, the sky is said to be *fair* when it is from four-tenths to seven-tenths (inclusive) covered with clouds. *Report of Chief Signal Officer for 1881, p. 745.*

7. Free from guile, harm, or injustice; not wrongful, erroneous, or blameworthy; impartial; honest; equitable: used both of persons and of things: as, *fair* dealing; a *fair* debater; a *fair* decision.

Than seide the Archebisschop, "So *feire* eleccion was neuer seue; now go ye, riche barouns and lordes, and assay yef ye may take oute the sward." *Merlin (E. E. T. S.), i. 103.*

As for deceiving your friend, that's nothing at all—tricking is all *fair* in love, isn't it, ma'am? *Sheridan, The Duenna, ii. 4.*

The rogue and fool by fits is *fair* and wise;
And even the best, by fits what they despise.
Pope, Essay on Man, ii. 233.

It is probably never *fair* to lay the blame of a moral deterioration or enfeeblement primarily on intellectual misapprehension. *T. H. Green, Prolegomena to Ethics, § 111.*

There can be no *fairer* ambition than to excel in talk; to be affable, gay, ready, clear and welcome.

R. L. Stevenson, Talk and Talkers.

8. Comparatively good or satisfactory; passably or moderately good; free from serious defect; not undesirable, but not excellent: as, a *fair* income; a *fair* appearance; he bears a *fair* reputation.

He [Temple] is not without *fair* pretensions to the most honourable place among the statesmen of his time.

Macaulay, Sir William Temple.

The inns were all comfortable buildings, with very *fair* accommodations for travellers.

B. Taylor, Northern Travel, p. 44.

9. Of favorable bearing or import; manifesting or expressing proper feelings or intentions; not harsh or repellent; plausible: as, a *fair* seeming; to be *fair* in speech.

The Indians were the same there as in all other places, at first very *fair* and friendly, though afterwards they gave great proofs of their deceitfulness.

Beverly, Virginia, i. ¶ 16.

He, seeing himself surrounded, with *fair* words and promise of great gifts attempted to appease them.

Milton, Hist. Eng., iv.

also sinngemäß: *keinen Platz für Ungerechtes, Unbotmäßiges habend.*

Other sources kann übrigens insbesondere Mineralien meinen, die aus dem Meeresboden der Territorialsee stammen, oder aber – vorbehaltlich weiterer, hier noch nicht angestellter Überlegungen – solche, die aus Recycling von Mineralien stammen, welche vor Inkrafttreten der UNCLOS gewonnen wurden.

Denselben Größen begegnen wir im Artikel 151:

Article 151 Production policies

1. (a) Without prejudice to the objectives set forth in article 150 and for the purpose of implementing subparagraph (h) of that article, the Authority, acting through existing forums or such new arrangements or agreements as may be appropriate, in which all interested parties, including both producers and consumers, participate, shall take measures necessary to promote the growth, efficiency and stability of markets for those commodities produced from the minerals derived from the Area, at prices remunerative to producers and fair to consumers. All States Parties shall cooperate to this end.

Hier geht es darum, dass die ISA-Behörde sei es über bestehende Einrichtungen, sei es über von ihr zu schaffende, in welchen sowohl Produzenten als auch Konsumenten vertreten sind, die notwendigen Maßnahmen zu ergreifen hat, das Wachstum, die Effizienz und die Stabilität von Märkten für jene Waren zu fördern, welche aus den vom Area abgeleiteten Mineralien erzeugt wurden; und zwar dies eben zu remunerativen und fairen Preisen.

Der astronomische, willkürliche, allein von Angebot und Nachfrage oder Marktmacht abhängende Gewinn für die private Hand gehört hiermit der Vergangenheit an, was Artikel 140 Absatz 2 UNCLOS bestätigt, indem er lautet, wie folgt:

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).

Im Gewinn einer Aktiengesellschaft darf somit, nach Abzug insbesondere remunerativer Saläre für die Führungsgremien, nichts Platz haben, was über eine finanzmarkt-angemessene Abgeltung für das Kapital der Aktionäre hinausgeht, wobei der Finanzmarkt selbstredend die Regeln der IMF-Artikel und anderer finanz-völkerrechtlicher Instrumente einzuhalten hat.

Damit, mit Artikel 151 UNCLOS, steht auch fest, dass auch Regeln über das Konsumverhalten Gegenstand des ISA-Regimes sind, was von umfassender Tragweite ist, die der Phantasie des regelnden Juristen keine Grenzen setzt. Dasselbe trifft auf Vorschriften zu, welche den Erzeugungsprozess bestimmen.

Nach Artikel 162 Absatz 2 *litera* (f) soll der Rat der ISA, also deren Exekutivorgan u. a.

enter into agreements with the United Nations or other international organizations on behalf of the Authority and within its competence, subject to approval by the Assembly;

womit ausreichend Raum und Gelegenheit ist, dass sich die ISA betreffs völkerrechtlicher Spezialvorschriften, um doppelgleisiges Arbeiten zu vermeiden, an andere Spezialorganisationen wendet, um diesbezüglich mit ihnen, diese konsultierend und deren Arbeitsergebnisse rezipierend, zu kooperieren.

Erwähnenswert erscheint noch Artikel 151 Absatz 9 UNCLOS, der da lautet:

9. The Authority shall have the power to limit the level of production of minerals from the Area, other than minerals from polymetallic nodules, under such conditions and applying such methods as may be appropriate by adopting regulations in accordance with article 161, paragraph 8.

Als *polymetallic nodules* definiert operativer Punkt 1.(d) der Resolution II der Schlussakte der UN Seerechtskonferenz 1982

(d) "polymetallic nodules" means one of the resources of the Area consisting of any deposit or accretion of nodules, on or just below the surface of the deep seabed, which contain manganese, nickel, cobalt and copper;

woraus ein weiteres starkes Indiz dafür folgt, dass das Area auch trockenes Land umfasst.

Mit dem ISA-Regime wurde in der Tat nichts anderes geschaffen als das Werkzeug, eine vollkommene neue Weltordnung einzurichten.

Die auf der Homepage der ISA zuletzt online gestellten Entwürfe von Reglementierungen⁴ deuten darauf hin, dass die Verantwortlichen der ISA diese epochale Wahrheit nicht wirklich in ihrem vollen Umfang verstanden haben, oder aber tatsächlich nicht in der Position sind, demgemäß zu handeln, was beides nichts anderes als Folge des weltweiten Hochverrats sein wird.

⁴ *Draft Regulations on Exploitation of Mineral Resources in the Area*, [ISBA/24/LTC/WP.I/Rev.I](https://www.isa.org.jm/document/isba24ltcwplrevl!). Siehe auch <https://www.isa.org.jm/document/isba24ltcwplrevl!>