PART TWO

INSTITUTIONAL ARRANGEMENTS FOR THE LEGAL REGIME GOVERNING AREAS BEYOND NATIONAL JURISDICTION
THE SEABED BEYOND THE LIMITS OF NATIONAL JURISDICTION: GENERAL AND INSTITUTIONAL ASPECTS

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The Concept of Common Heritage of Mankind

The main innovation of the United Nations Convention on the Law of the Sea (LOS Convention),¹ with respect to the previous law of the sea regime, is the concept of the common heritage of mankind. While other important innovations included in the LOS Convention, such as the exclusive economic zone (EEZ), may be considered to be the result of a foreseeable evolution in the international law of the sea, the concept of common heritage of mankind has a revolutionary character. It presupposes a third kind of regime which is completely different from both the traditional concepts of sovereignty, which applies in the territorial sea, and of freedom, which applies on the high seas.

The idea of the common heritage of mankind was launched in a memorable speech made at the United Nations General Assembly on 1 November 1967 by the representative of Malta, Mr. Arvid Pardo.² The practical opportunity for proposing a new regime was given by the technological developments which were expected to lead in a relatively short time to the commercial exploitation of polymetallic nodules lying on the surface of the deep seabed and containing various minerals of appreciable economic value, such as manganese, nickel, cobalt and copper.

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² Adopted on 10 December 1982; 1833 UNTS 396.
² The only precedent is a proposal made in 1927 by the Argentine jurist José León Suárez. He was entrusted by the League of Nations Experts Committee for the Progressive Codification of International Law with the drafting of a report on the international rules relating to the exploitation of marine living resources. Mr. Suárez proposed that the living resources of the sea, and whales in particular, should be considered a heritage of mankind:
