

Will the prompt release procedure of ITLOS be available to detained deep-sea mining vessels?

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Vessels involved in deep-sea mining operations and related activities

- Mining support vessel or production support vessel (PSV)
- Transport vessel or barge – self-propelled
- Seagoing barge maneuvered or towed by a tug
- Support vessel
- Bulk carrier

Impacts of deep-sea mining and related activities to the marine environment

Impacts on the water quality and seafloor habitat

- cutting and levelling activities of the Seafloor Mining Equipment
- by the generation of suspended plumes sediment

Impacts on the biological environment

- Interaction/collision of MSV/PSV and endangered species

Maritime impacts – fuel oil leaks, vessel-collision, ore spills

Rights & powers of coastal States in the EEZ & continental shelf

Rights and obligations of coastal States

- Sovereign rights over the resources of the EEZ and CS, economic activities
- Obligation to protect and preserve the marine environment

Jurisdiction – functional and limited as expressed under UNCLOS

- Over resources and economic activities; over installations/structures/artificial islands; MSR and protection and preservation of marine environment

Arrest of foreign flagged vessels – power of enforcement of a coastal State to protect & preserve marine environment

Arrest or detention cannot be effected at the first instance. Coastal State may

1. Seek information from the vessel concerning any suspected discharge
2. Inspection of vessel may take place if circumstances justify it
3. Arrest or detention of vessel – only when there exists clear evidence of discharge causing major damage to the coastal State

Arrest or detention of vessels

Huge economic losses for the shipowners, charterers and mining operators

Aim: Prompt release of the vessel and/or crew

Prompt release of vessel and crew under UNCLOS

- Balances coastal State rights (in the EEZ & CS) and flag State rights (navigation)
- Power of arrest by a coastal State is recognized but designed to be limited and of short duration.
- Closely intertwined with the right of the flag State to apply for prompt release is the requirement to post a reasonable bond

Prompt release of vessel and crew under UNCLOS

Article 292 (2) of UNCLOS

The **question of release** (*without prejudice to the case on the merits*) may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement **within 10 days from the time of detention**, to a court or tribunal accepted by the detaining State under article 287 or to the **International Tribunal for the Law of the Sea**, unless the parties otherwise agree.

Prompt release of vessel and crew at ITLOS

ITLOS

- specialized international tribunal established to adjudicate disputes under
- 21 judges representing all major jurisdictions of the world
- 9 prompt release applications

Prompt release of vessel and crew at ITLOS

Who can appear before ITLOS?

- State Parties to UNCLOS – 167 State Parties

Who can file a case for prompt release at ITLOS?

- Flag States or its authorized entity on behalf of the Flag State

Prompt release of vessel and crew at ITLOS

Duration of a prompt release case from the time of filing to issuance of judgment of release

- 3 to 4 weeks

Reasonable bond or security may be posted with

- the national authorities of the detaining State or
- with the Registrar of ITLOS

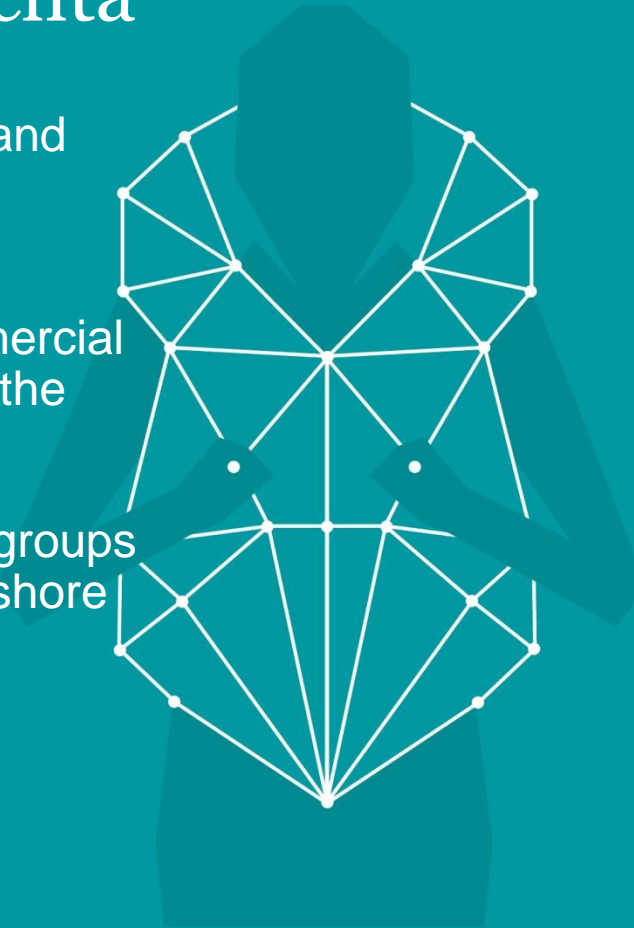
Prompt release of vessel and crew at ITLOS

Cost of proceedings at ITLOS

- NO court fees for State Parties
- Parties to the dispute only have to pay their lawyers and other expenses related to the case.

About Lebuhn & Puchta

- Solicitors, England & Wales and German lawyers
- Specialize in maritime law, international trade law, commercial law, transport law, the law of the sea and corporate law
- We have dedicated practice groups for Deep-sea mining and Offshore Renewable Energy.



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Thank you for your attention.

Vielen Dank für Ihre Aufmerksamkeit

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