Contents

Acknowledgements *page* xi
Table of Cases xiii
Table of Treaties and Instruments xix
List of Abbreviations xxvii

1 Introduction 1
1.1 Introduction 1
1.2 Defining the Global Commons or Areas beyond National Jurisdiction 4
1.2.1 Antarctic 6
1.2.2 Deep Seabed 12
1.2.3 High Seas 18
1.3 Environmental Harm 25
1.4 Approach and Structure of the Book 27

2 Purposes of, and Approaches to, International Liability 29
2.1 Introduction 29
2.2 Purposes of Liability Rules 30
2.2.1 Adequate and Prompt Compensation 31
2.2.2 Environmental Harm Prevention and Restoration 34
2.2.3 The Polluter-Pays Principle 36
2.2.4 Economic Objectives 37
2.3 Approaches to the Form of Liability Schemes 38
2.3.1 State Responsibility 39
2.3.2 Unharmonized Domestic Liability 43
2.3.3 Harmonized Domestic Liability Rules 44

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 16 Nov 2026 at 18:05:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108866477

2.3.4 Administrative Approaches 50
2.3.5 Loss and Damage 51
2.4 Conclusions 52

3 Definition and Valuation of Compensable Environmental Damage 54
3.1 Introduction 54
3.2 Defining Compensable Environmental Damage under International Law 57
3.2.1 State Responsibility 57
3.2.2 Civil Liability 65
3.2.3 Threshold of Harm 73
3.3 Defining Compensable Environmental Damage in ABNJ 76
3.3.1 Antarctic 76
3.3.2 Deep Seabed 80
3.3.3 High Seas 84
3.4 Valuation of Environmental Damage 87
3.5 Conclusions 92

4 Allocation of Liability for Environmental Harm in Areas beyond National Jurisdiction 95
4.1 Introduction 95
4.2 Causation 97
4.3 General Approaches to the Allocation of Liability for Environmental Harm 100
4.3.1 State Responsibility 100
4.3.2 International Organizations Responsibility 105
4.3.3 Operator Responsibility 109
4.3.4 Allocating Liability amongst Several Responsible Actors 116
4.4 Specific Rules on Allocation of Liability in ABNJ 119
4.4.1 Antarctic 119
4.4.2 Deep Seabed 123
4.4.3 High Seas 129
4.5 Conclusions 131

5 Standards of Liability 133
5.1 Introduction 133
5.2 Policy Considerations Underlying Standards of Liability 135
5.3 Approaches to Standards of Liability in International Law 142
5.3.1 State Responsibility 142

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 16 Nov 2026 at 18:05:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108866477

5.3.2 Civil Liability 145
5.4 Standards of Liability in ABNJ 149
5.4.1 Antarctic 149
5.4.2 Deep Seabed 150
5.4.3 High Seas 154
5.5 Conclusions 157

6 **Standing to Bring Claims for Environmental Harm in Areas beyond National Jurisdiction** 159
6.1 Introduction 159
6.2 General Approaches to Standing for Environmental Harm 160
6.2.1 Standing under International Law 160
6.2.2 Civil Liability 175
6.2.3 National Law 176
6.3 Rules of Standing in Specific Regimes in ABNJ 183
6.3.1 Antarctic 183
6.3.2 Deep Seabed 188
6.3.3 High Seas 195
6.4 Conclusions 197

7 **Access to Remedies** 199
7.1 Introduction 199
7.2 General Approaches to Access to Remedies 200
7.2.1 International Forums 200
7.2.2 Domestic Forums 211
7.3 Specific Approaches to Access to Remedies in ABNJ 220
7.3.1 Antarctic 220
7.3.2 Deep Seabed 223
7.3.3 High Seas 227
7.4 Conclusions 228

8 **Insurance and Compensation Funds** 230
8.1 Introduction 230
8.2 The Purpose of Financial Assurance 231
8.3 Forms of Assurance 234
8.4 Financial Assurance Obligations in ABNJ 237
8.5 Financial Assurances in Liability Structures in ABNJ 239
8.5.1 Antarctic 239
8.5.2 Deep Seabed 242
8.6 Future Prospects for the Use of Financial Assurance in ABNJ 244
8.7 Conclusions 248

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 16 Nov 2026 at 18:05:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108866477

9 Conclusion 251
9.1 Introduction 251
9.2 Key Developments 252
9.2.1 The Purpose of Liability Rules 252
9.2.2 State Responsibility 254
9.2.3 Civil Liability Approaches 257
9.2.4 Institutional Mechanisms 259
9.3 Challenges 260
9.4 Moving Forward 262

Bibliography 265
Index 277

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 16 Nov 2026 at 18:05:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108866477