

## **JUR-3054 General Law of the Sea II**

### **Syllabus and recommended reading**

#### **Fall semester 2020**

##### *Dispute Settlement*

J.G. Merrills *International Dispute Settlement* (~~5<sup>th</sup>, CUP, 2011~~)(6<sup>th</sup> edn 2017): Chapter 7 The International Court II: the Work of the Court ~~142-166 (25 pages)~~pp. 152-176 (24 pages). ([available online](#)).

N. Klein, *Dispute Settlement in the UN Convention on the Law of the Sea*, Cambridge University Press, 2005, section Dispute settlement through procedures other than UNCLOS, pp. 34-52, (18 pages), ([available online](#)).

B. Oxman "Courts and Tribunals: The ICJ, ITLOS, and Arbitral Tribunals", in Donald R Rothwell et al. *The Oxford Handbook of the Law of the Sea*, Oxford University Press, 2015, pp. 394-415 (21 pages), ([available online](#)).

A.G. Oude Elferink "The Arctic Sunrise Incident: A Multi-faceted Law of the Sea Case with a Human Rights Dimension" 29 (2014) *International Journal of Marine and Coastal Law*, pp. 244-289, (46 pages), ([available online](#)).

T. Treves "The International Tribunal for the Law of the Sea: Applicable Law and Interpretation" in *The WTO at ten: the contribution of the dispute settlement system*, Cambridge University Press, 2006, pp. 490-500 (11 pages), (in compendium).

Øystein Jensen & Nigel Bankes, "Compulsory and Binding Dispute Resolution under the United Nations Convention on the Law of the Sea: Introduction", *Ocean Development & International Law*, Volume 48, Issue 3-4, 2017, pp. 209-215, (6 pages), ([available online](#)).

Robin Churchill, "The General Dispute Settlement System of the UN Convention on the Law of the Sea: Overview, Context, and Use", *Ocean Development & International Law*, Volume 48, Issue 3-4, 2017, pp. 216-238, (22 pages), ([available online](#)).

James Harrison, "Defining Disputes and Characterizing Claims: Subject-Matter Jurisdiction in Law of the Sea Convention Litigation", *Ocean Development & International Law*, Volume 48, Issue 3-4, 2017, pp. 269-283, (14 pages), ([available online](#)).

Nigel Bankes, "Precluding the Applicability of Section 2 of Part XV of the Law of the Sea Convention", *Ocean Development & International Law*, Volume 48, Issue 3-4, 2017, pp. 239-268, (29 pages), ([available online](#)).

##### *Maritime Delimitation*

Malcom D. Evans, "Maritime Boundary Delimitation", in Donald R Rothwell et al. *The Oxford Handbook of the Law of the Sea*, Oxford University Press, 2015, pp. 254-279 (25 pages) (available online).

Lucie Delabie, "The Role of Equity, Equitable Principles, and the Equitable Solution in Maritime Delimitation", in Alex G. Oude Elferink, Tore Henriksen and Signe Veierud Busch (eds), *Maritime Boundary Delimitation: The Case Law – Is it Consistent and Predictable?*, Cambridge University Press, 2018, pp. 145-172 (27 pages) (available online).

Malcom Evans, "Relevant Circumstances", in Alex G. Oude Elferink, Tore Henriksen and Signe Veierud Busch (eds), *Maritime Boundary Delimitation: The Case Law – Is it Consistent and Predictable?*, Cambridge University Press, 2018, pp. 222-261 (39 pages) (available online).

Yoshifumi Tanaka, "The Disproportionality Test in the Law of Maritime Delimitation", in Alex G. Oude Elferink, Tore Henriksen and Signe Veierud Busch (eds), *Maritime Boundary Delimitation: The Case Law – Is it Consistent and Predictable?*, Cambridge University Press, 2018, pp. 291-318 (27 pages) (available online).

Signe Veierud Busch, "The Delimitation of the Continental Shelf Beyond 200nm: Procedural Issues" in Alex G. Oude Elferink, Tore Henriksen and Signe Veierud Busch (eds), *Maritime Boundary Delimitation: The Case Law – Is it Consistent and Predictable?*, Cambridge University Press, 2018, pp. 219-350 (31 pages) (available online).

Øystein Jensen, "The Delimitation of the Continental Shelf Beyond 200nm: Substantive Issues" in Alex G. Oude Elferink, Tore Henriksen and Signe Veierud Busch (eds), *Maritime Boundary Delimitation: The Case Law – Is it Consistent and Predictable?*, Cambridge University Press, 2018, pp. 351-375, (24 pages) (available online).

R.R. Bundy "Preparing for a Delimitation Case: The Practitioner's View" in R. Lagoni and D. Vignes (eds) *Maritime Delimitation*, Martinus Nijhoff Publishers, 2006, pp. 95-119 (25 pages), (available online).

A.G. Oude Elferink "North Sea continental shelf cases" Max Planck Encyclopedia of Public International Law, (updated September 2013) (8 pages) (available online).

D. Anderson "Maritime Delimitation in the Black Sea Case" (Romania v. Ukraine) 8 (2009) *The Law and Practice of International Courts and Tribunals* pp. 305-327 (23 pages) ([available online](#)).

A.G. Oude Elferink "ITLOS's approach to the delimitation of the continental shelf beyond 200 nautical miles in the Bangladesh/Myanmar case: theoretical and practical difficulties" in: R. Wolfrum, M. Seršić and T. Šošić (eds) *Contemporary Developments in International Law; Essays in Honour of Budislav Vukas* (Martinus Nijhoff Publishers), pp. 230-249 (20 pages), (in compendium).

A.G. Oude Elferink "Third States in maritime delimitation cases: too big a role, too small a role or both?" in: A. Chircop, T. McDorman, S. Rolston (eds) *The Future of Ocean Regime-building: Essays in Tribute to Douglas M. Johnston* (Martinus Nijhoff Publishers: 2009), pp. 611-641 (31 pages), (in compendium).

T. McDorman "The Continental Shelf Regime in the Law of the Sea Convention: A Reflection on the First Thirty Years 27" (2012) *International Journal of Marine and Coastal Law*, pp. 743-751 (9 pages) (available online).

A.G. Oude Elferink "Do the coastal states in the South China Sea have a continental shelf beyond 200 nautical miles?" in: S. Jayakumar, T. Koh and R. Beckman (eds.) *The South China Sea disputes and law of the sea*, Elgar, 2014, pp. 164-191, pp. 164-191, (28 pages) ([available online](#)).

M.C.W. Pinto "Article 76 of the UN Convention on the law of the sea and the Bay of Bengal Exception" 3 (2013) *Asian Journal of International Law*, pp. 215-235, (21 pages) (available online).

### *Marine Scientific Research*

Tim Stephens and Donald R. Rothwell "Marine Scientific Research", in Donald R Rothwell et al. *The Oxford Handbook of the Law of the Sea*, Oxford University Press, 2015, pp. 559-579 (20 pages) (available online).

T. Treves "Marine Scientific Research", Max Planck Encyclopedia of Public International Law, Section A (1 page), (available online).

S. Scott and L. Oriana "Whaling in the Antarctic (Australia v. Japan: New Zealand Intervening) Judgment of 31 March 2014: A Decisive Victory - but for Whom?", *International Journal of Marine and Coastal Law*, Volume 29, Issues 3, pp. 547-557, (11 pages), (available online).

A. Mateos and M. Gorina-Ysern "Climate Change and Guidelines for Argo Profiling Float Deployment on the High Seas", ASIL Insight, Vol. 14, Issue 8, 2010, (11 pages), (in compendium).

J. Kraska, G. Ortuño Crespo, D.W. Johnston "Bio-logging of marine migratory species in the law of the sea", *Marine Policy*, 51, 2015, pp. 394-400, (7 pages), (available online).

Richard J. McLaughlin "Bio-logging as marine scientific research under the law of the sea: A commentary responding to James Kraska, Guillermo Ortuño Crespo, David W. Johnston, bio-logging of marine migratory species in the law of the sea", *Marine Policy*, 60, 2015, pp.178-181, (4 pages), (available online).

IOC, Report of the Forty-first Session of the Executive Council Paris, 24 June-1 July 2008; section 4.2.2, paras 169-185 and Resolution EC-XLI.4 with Annex (7 pages), (in compendium).

### *International and Maritime Security*

N. Klein, *Maritime security and the law of the sea*, Oxford University Press 2011, pp. 88-117 and 122-141 (49 pages), (available online).

M. Frostad, United Nations Authorized Embargos and Maritime Interdiction: A Special Focus on Somalia, in G. Andreone (ed) *The Future of the Law of the Sea: Bridging Gaps Between National, Individual and Common Interests*, Springer Open, 2017, pp. 213-237, (25 pages), (available online).

W. Heintschel von Heinegg, The law of armed conflict at sea, in D. Fleck (ed.); *Handbook of international humanitarian law*, 3rd ed. (Oxford University Press, 2013) (pp. 463-501) (39 pages) ([available online](#)).

Anna Petrig, "Piracy" in Donald R Rothwell et al. *The Oxford Handbook of the Law of the Sea*, Oxford University Press, 2015, pp. 843-865 (22 pages) (available online).

James Kraska, "Military Operations" in Donald R Rothwell et al. *The Oxford Handbook of the Law of the Sea*, Oxford University Press, 2015, pp. 866-887 (21 pages) (available online).

D. Guilefoyle, *Shipping interdiction and the law of the sea*, Cambridge University Press 2009, pp. 232-262 (31 pages), (available online).

Total number of pages: ~~811~~ 810

### **List of case law and documents for JUR-3054**

1. ICJ, North Sea Continental Shelf cases, judgment of 20 February 1969.
2. ITLOS, Southern Bluefin Tuna Cases (New Zealand v. Japan; Australia v. Japan), Provisional Measures, Order of 27 August 1999.
3. Arbitral Tribunal, Southern Bluefin Tuna (New Zealand-Japan, Australia-Japan), Award of 4 August 2000.
4. ITLOS, MOX Plant case, Order No. 3 of 24 June 2003, paras 1-30.
5. ICJ, Maritime Delimitation in the Black Sea, judgment of 3 February 2009, paras 77-219.
6. ITLOS, Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar), Judgment of 14 March 2012, paras 341-394 and 450-478.
7. ICJ, Territorial and maritime dispute (Nicaragua v. Colombia), Judgment of 19 November 2012, paras 113-131.
8. ICJ, Question of the delimitation of the continental shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan coast (Nicaragua v. Colombia), judgment of 17 March 2016, paras 62-84.
9. ITLOS, The Arctic Sunrise Case (Kingdom of the Netherlands v. Russian Federation), Provisional Measures, Order of 22 November 2013.
10. ITLOS, The Arctic Sunrise Case (Kingdom of the Netherlands v. Russian Federation), Provisional Measures, Order of 22 November 2013, Dissenting opinion Judge Golytsin.
11. ICJ, Whaling in the Antarctic judgment of 31 March 2014, paras 73-233 (pp. 30-68) and para. 247 (pp. 71-72).
12. ICJ, Whaling in the Antarctic judgment of 31 March 2014, dissenting opinion of judge Owada
13. ITLOS, Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean, Request for the prescription of provisional measures, Order of 25 April 2015.

14. Rules of Procedure of the Commission on the Limits of the Continental Shelf (CLCS/40 Rev.1 of 17 April 2008), Rule 46 and Annex I.
15. Summary of recommendations of the Commission on the Limits of the Continental Shelf in regard to the submission made by Japan on 12 November 2008; Adopted by the Commission on 19 April 2012, paras 13 and 15-20.

(Cases are not included in syllabus page count)