

1. Department

2. Faculty

Faculty of Legal Studies

3. Course code

4. Course Title

Law of the Sea

5. Number of Credits

4

6. Course objectives

Law of the Sea course is intended to cover the historical development of the legal regulation of the sea, its culmination in the form of United Nations Convention on the Law of the Sea (LOSC) 1982, developments after its adoption and its implementation. It would deal with the developments at various international conferences prior to the UNCLOS III. It would focus on the debates on issues like common heritage of humankind and Exclusive Economic Zone which went into the making of the LOSC. As the LOSC is considered as the constitution of the oceans, the course content elaborately focuses on the various maritime zones as provided under the Convention. Jurisprudence of the international courts and tribunals is referred to in the clarification of the LOSC provisions on issues like delimitation of maritime zones and other aspects. Discussions would focus on this jurisprudence whenever necessary.

The Course is aimed at: contextualising the historical and theoretical underpinnings of the development of the law of the sea leading to the adoption of the Geneva Conventions on the Law of the Sea; analysing and discussing the various parts of the LOSC and evaluating its application.

7. Minimum prerequisites for taking this course, if any

8. Course structure with units if applicable

Week 1

History of the Law of the Sea

Regulation of the sea was one of the issues which were at the inception of international law. The discussion would cover the historical debates on the regulation of maritime affairs like Grotius' Mare Liberam to Selden's Mare Clausum. It would also deal with the early attempts at the codification of the Law of the Sea like the Hague Codification Conference of 1930.

Week 2

Introduction to the United Nations Convention on the Law of the Sea, 1982

It would cover the developments prior to the adoption of the United Nations Convention on the Law of the Sea (LOSC) 1982, mainly the developments at the UNCLOS I and UNCLOS II. It would cover the four Geneva Conventions of 1958. It would provide introduction to the LOSC and reasons why it is regarded as the constitution of the oceans. It would also focus on the debates on common heritage of humankind and the general backdrop of maritime zones.

Week 3

Baselines

Baselines constitute an important starting point for the delimitation of maritime zones. Legal and other factual complexities involved in drawing baselines will be discussed. Normal baselines, straight baselines, bays, mouths of rivers, low-tide elevations. *Anglo-Norwegian Case* and other case law would be covered.

Week 4

The Territorial Sea and Contiguous Zone

The topic would cover breadth of the territorial sea, delimitation of territorial sea, right of innocent passage, rights and duties of coastal States, civil and criminal jurisdiction of coastal States in relation to coastal ships, warships and innocent passage and relevant judgements of the ICJ/Tribunals. It would also deal with the contiguous zone and its distinct legal nature.

Week 5

Straits used for International Navigation

This week's discussion would focus on the importance of straits used for international navigation and their legal regulation under the law of the sea. Judgment of the ICJ in the *Corfu Channel Case*, ICJ (1949) would be evaluated as an important historical precedent. It would be followed by the treatment of Straits under the Geneva Convention of 1958. The legal regime of the straits under Part III of the LOSC of 1982 is analyzed. It would evaluate the historically divergent views on the interest of coastal States and maritime powers. It would also discuss the concept of transit passage, straits and innocent passage, types of straits and duties of ships and aircraft.

Week 6

Archipelagoes and Islands

The discussion would focus on archipelagos, archipelagic States, archipelagic baselines and archipelagic waters. It would also deal with the difference between archipelagoes and archipelagic States, innocent passage through archipelagic waters, definition of archipelagic sea lanes, and the legal status of mid-ocean archipelagoes.

Week 7

Exclusive Economic Zone (EEZ)

The issues that would be covered under this topic are: origin of the concept of EEZ, legal status of the EEZ under the LOSC of 1982, Sovereign rights over the EEZ, rights conferred on coastal States to explore, exploit, conserve and manage EEZ resources and military exercises in the EEZ.

Week 8

Continental Shelf and the High Seas

Legal regime of the continental shelf and the high seas would be covered. Criteria applied for fixing the limits of the continental shelf, sovereign rights of the coastal States over the continental shelf and freedoms of other States would be discussed. It would include Spatial scope of the high seas, principle of the freedom of the high seas and exclusive jurisdiction of the flag States. It would also deal with their relation with other maritime zones.

Week 9

Maritime Delimitation

It would deal with the delimitation of the maritime areas based on criteria such as: ascertaining whether there is any pre-existing agreement relating to delimitation; delimiting the territorial sea by applying the equidistance-special circumstances rule; and delimiting the continental shelf/EEZ applying the equitable principle-relevant circumstances rule. It would also cover the jurisprudence developed by ICJ, arbitral awards and ITLOS on disputes pertaining to delimitation of maritime zones.

Week 10

Marine Environment and Marine Scientific Research

Protection and preservation of the marine environment, due diligence obligations and legislation to prevent, reduce and control pollution, forms of marine pollution and attendant international/regional treaty regimes including UNEP Regional Seas Programmes- pollution from land-based sources, pollution from sea-bed activities, pollution from activities in the Area, pollution by dumping, pollution from or through the atmosphere, pollution from vessels, provisions on enforcement, sovereign immunity, responsibility and liability. Need for marine scientific research, scope and nature of marine scientific research, international legal regime- Geneva Conventions on the Law of the Sea 1958 and UNCLOS 1982, jurisdiction over marine scientific research in various maritime zones-internal waters, territorial waters, contiguous zone, EEZ and continental shelf and high seas, Area beyond the limits of national jurisdiction, rules regarding deployment of research installations or equipment in marine scientific research, responsibility and liability,

Week 11

Deep Seabed Mining

This week's discussion would cover evolution of Arvid Pardo's concept of the common heritage of humankind and its application to deep seabed, Part XI of the LOSC, International Seabed Authority, pioneer investor scheme, its categories and the establishment of the Preparatory Commission, negotiation of the Part XI Agreement, the relationship between the Part XI Agreement and the LOSC and legal impact of the Part XI Agreement.

Week 12

Dispute Settlement Procedures under LOSC 1982

LOSC contains a comprehensive system of dispute settlement mechanism. The discussion would cover various institutional mechanisms under the Convention, voluntary and compulsory procedures for dispute settlement, limitations to the compulsory procedures, ITLOS, the Seabed Disputes Chamber and special chambers. It would involve discussion of some relevant cases.

Week 13

Security at Sea and LOSC 1982

This week's discussion would focus on the matters relating to security issues like piracy, interdiction at sea and other forms of crime prevention.

9. Reading suggestions: Text Books/Web-resources/other Books

Anand R.P., *Origin and Development of the Law of the Sea* (The Hague: Martinus Nijhoff, 1983).

Churchill R.R and Lowe A.V., *The Law of the Sea*, (Manchester University Press, 3rd Edition 1999).

Freestone David (ed.), *The 1982 Law of the Sea Convention at 30: Successes, Challenges and New Agendas* (Leiden, Nijhoff, 2013).

Freestone David, Barnes R. and Ong D, (eds.), *Law of the Sea: Progress and Prospects* (Oxford: Oxford Publications, 2006).

Nandan, Satya N. and Dalakar, Kristine E., *Reflections on the Making of the Modern Law of the Sea* (Singapore: NUS Press, 2020)

Symmons Clive R., (ed.) *Selected Contemporary issues in the Law of the Sea* (Leiden: Nijhoff, 2011)

Tams Christian J., and Sloan James., *The Development of the Law of the Sea by the International Court of Justice* (Oxford, Oxford University Press, 2013).

Journal articles

Week 1

History of the Law of the Sea

Alexandrowicz, C. H., "Freitas versus Grotius", *British Year Book of International Law*, vol. 35, 1959, pp. 162-182.

Borschberg, Peter, "The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (1602-c. 1616)," *Journal of Southeast Asian Studies*, vol. 33, No. 1, 2002, pp. 31-62.

Porras, Ileana M. "Constructing International Law in the East Indian Seas: Property, Sovereignty, Commerce and War in Hugo Grotius' *de Iure Praedae* - The Law of Prize and Booty, or on How to Distinguish Merchants from Pirates," *31 Brooklyn Journal of International Law* 741 (2005-2006).

Somos, Mark, Selden's *Mare Clausum*. The Secularisation of International Law and the Rise of Soft Imperialism, *Journal of the History of International Law*, vol. 14, no. 2, 2012, pp. 287-330.

Vieira, Mónica Brito, "Mare Liberum vs. Mare Clausum: Grotius, Freitas, and Selden's Debate on Dominion over the Seas", *Journal of the History of Ideas*, Vol. 64, no. 3, 2003, pp. 361-377.

Zemanek, Karl, "Was Hugo Grotius Really in Favour of the Freedom of the Seas", *Journal of the History of International Law*, vol. 1, no. 1, 1999, pp. 48-60.

Week 2

Introduction to the United Nations Convention on the Law of the Sea, 1982

Boyle, Alan, "Further Development of the Law of the Sea Convention: Mechanisms for Change" *International and Comparative Law Quarterly*, vol. 54, no. 3, 2005, pp. 563-584.

Jagota, S. P., Developments in the Law of the Sea between 1970 and 1998: A Historical Perspective, *Journal of the History of International Law*, vol. 2, no. 1, 2000, pp. 91-119.

MacRae, Leslie M., "Customary International Law and the United Nations' Law of the Sea Treaty", *California Western International Law Journal*, vol. 13, no. 2, 1983, pp. 181-222.

Roach, J. Ashley, "Today's Customary International Law of the Sea", *Ocean Development & International Law*, vol. 45, no. 3, 2014, pp. 239-259.

Week 3

Baselines

Roach, J. Ashley, "Offshore Archipelagos Enclosed by Straight Baselines: An Excessive Claim?", *Ocean Development & International Law*, vol. 49, no. 2, 2018, pp. 176-202.

Roach, J. Ashley, Smith, Robert W., "Straight Baselines: The Need for a Universally Applied Norm", *Ocean Development & International Law* vol. 31, nos. 1-2, 2000, pp. 47-80.

Waldock, C. H. M., "The Anglo-Norwegian Fisheries Case", *British Year Book of International Law*, vol. 28, 1951, pp. 114-171.

Whomersley, Chris, "Offshore Archipelagos Enclosed by Straight Baselines: A Reply to J. Ashley Roach", *Ocean Development & International Law*, vol. 49, no. 3, 2018, pp. 203–207.

Week 4

Territorial Sea and Contiguous Zone

Allen, Craig H., "Doctrine of Hot Pursuit: A Functional Interpretation Adaptable to Emerging Maritime Law Enforcement Technologies and Practices", *Ocean Development and International Law*, vol. 20, no. 4, 1989, pp. 309-342.

Allen, Craig H., "The Salish Sea Boundary Straits: "Historic Internal Waters" or Territorial Seas?", *Ocean Development & International Law*, vol. 48, no. 2, 2017, pp. 81-127.

Fenn, Percy Thomas Jr. "Origins of the Theory of Territorial Waters", *American Journal of International Law*, vol. 20, no. 3, 1926, pp. 465-482.

Symonides, Janusz. "Origin and Legal Essence of the Contiguous Zone", *Ocean Development and International Law*, vol. 20, no. 2, 1989, pp. 203-212.

Week 5 Straits used for International Navigation

Mangone, Gerard J., "Straits used for International Navigation", *Ocean Development and International Law*, vol. 18, no. 4, 1987, pp. 391-410.

Nandan, Satya N., "The Provisions on Straits Used for International Navigation in the 1982 United Nations Convention on the Law of the Sea", *Singapore Journal of International & Comparative Law*, vol.2, 1998, pp. 393-399.

Scovazzi, Tullio, "Management Regimes and Responsibility for International Straits: With special reference to the Mediterranean Straits", *Marine Policy*, vol. 19, no. 2, 1995, pp. 137-152.

Womble, Jeanine B., Freedom of Navigation, Environmental Protection, and Compulsory Pilotage in Straits Used for International Navigation, *Naval Law Review*, vol. 61, 2012, 134

Week 6

Archipelagoes and Islands

Baumert, Kevin and Melchior, Brian "Practice of Archipelagic States: A Study of Studies", *Ocean Development and International Law*, vol. 46, no. 1, 2015, pp. 60-80.

Forward, Chris, "Archipelagic Sea-Lanes In Indonesia - Their Legality in International Law", *Australian and New Zealand Maritime Law Journal*, vol. 23, no. 2, 2009, pp. 143-156.

Kohen, Marcelo, "Original Title in the Light of the ICJ Judgment on Sovereignty over Pedra Branca / Pulau Batu Puteh, Middle Rocks and South Ledge", *Journal of the History of International Law*, vol. 15, no. 2, 2013, pp. 151-171.

Sheng-ti Gau, Michael, 'The Interpretation of Article 121(3) of UNCLOS by the Tribunal for the South China Sea Arbitration: A Critique', *Ocean Development & International Law*, vol. 50, no. 1, 2019, pp. 49-69.

Sodik, Dikdik Mohamad, "The Indonesian Legal Framework on Baselines, Archipelagic Passage, and Innocent Passage", *Ocean Development & International Law*, vol. 43, no. 4, 2012, pp. 330-341.

Week 7

Exclusive Economic Zone (EEZ)

Charney, Jonathan I, "The Exclusive Economic Zone and Public International Law," *Ocean Development & International Law*, vol. 15, no. 3-4, 1985, pp. 233-288

Franckx, Erik , "The 200-Mile Limit: Between Creeping Jurisdiction And Creeping Common Heritage?", *George Washington International Law Review* , vol. 39, no. 3, 2007, pp. 467-498.

Heintschel von Heinegg, Wolff, "Military Activities in the Exclusive Economic Zone", *Revue Belge de Droit International / Belgian Review of International Law*, vol. 47, no. 1, 2014, pp. 45-64.

Wilson, Brian, "An Avoidable Maritime Conflict: Disputes regarding Military Activities in the Exclusive Economic Zone", *Journal of Maritime Law and Commerce*, vol. 41, no. 3, 2010, pp. 421-438.

Week 8

Continental Shelf and High Seas

Fang, Yinxia, et al. "The Progress and Situation of Extended Continental Shelf Delineation Worldwide." *China Oceans Law Review*, vol. 2016, no. 2, 2016, pp. 15-36.

De Herdt, Sandrine W., The Relationship Between the Delimitation of the Continental Shelf Beyond 200 nm and the Delineation of Its Outer Limits, *Ocean Development & International Law*, vol. 51, no. 3, 2020, pp. 263-282.

Jensen, Øystein, The Commission on the Limits of the Continental Shelf: An Administrative, Scientific, or Judicial Institution?, *Ocean Development & International Law*, vol. 45, no. 2, 2014, pp. 171-185,

Lucky, Anthony, "The Issues concerning the Continental Shelf: Reflections", *International Community Law Review*, vol. 17, no. 1, 2015, pp. 95-116.

McDorman, Ted L. "The Role of the Commission on the Limits of the Continental Shelf: A Technical Body in a Political World", *International Journal of Marine and Coastal Law*, vol. 17, no. 3, 2002, pp. 301-324.

Young, Michaela, "Then and Now: Reappraising Freedom of the Seas in Modern Law of the Sea", *Ocean Development & International Law*, vol. 47, no. 2, 2016, pp. 165-185.

Week 9

Maritime delimitation of boundaries

Anderson, D. H., Bay of Bengal Maritime Boundary (Bangladesh v. India), *American Journal of International Law*, vol. 109, no. 1, 2015, pp. 146-154.

Anderson, D. H., Delimitation of the Maritime Boundary in the Bay of Bengal (Bangladesh/Myanmar) - Case No. 16, *American Journal of International Law*, vol. 106, no. 4, 2012, pp. 817-824.

Gao, Jianjun 'The Delimitation Method for the Continental Shelf Beyond 200 Nautical Miles: A Reflection on the Judicial and Arbitral Decisions', *Ocean Development & International Law*, vol. 51, no. 2, 2020, pp. 116-142.

Ioannides, Nicholas A.. 'The "Predominant Interest" Concept in Maritime Boundary Delimitation', *Ocean Development & International Law*, vol. 51no3, 2020, pp. 217-240,

Jiuyong, Shi, "Maritime Delimitation in the Jurisprudence of the International Court of Justice", *Chinese Journal of International Law*, vol. 9, no. 2, 2010, pp. 271-292.

Kałuński, Marcin & Wasilewski, Tadesz, "The International Tribunal for the Law of the Sea on Maritime Delimitation: The *Bangladesh v. Myanmar Case*", *Ocean Development & International Law*, vol. 45, no.2, 2014, pp.123-170.

Mishra, Raghavendra, "The "Grey Area" in the Northern Bay of Bengal: A Note on a Functional Cooperative Solution", *Ocean Development & International Law*, 2016, vol. 47, no. 1, 2016, pp. 29-39

Week 10

Marine Environment and Marine Scientific Research

Bang, Ho-Sam. "Is Port State Control an Effective Means to Combat Vessel-Source Pollution – An Empirical Survey of the Practical Exercise by Port States of Their Powers of Control", *International Journal of Marine and Coastal Law*, vol. 23, no. 4, 2008, pp. 715-760.

Rayfuse, Rosemary, and Robin Warner. "Securing a Sustainable Future for the Oceans beyond National Jurisdiction: The Legal Basis for an Integrated Cross-Sectoral Regime for High Seas Governance for the 21st Century", *International Journal of Marine and Coastal Law* , vol. 23, no. 3, 2008, pp. 399-422

Roach, J. Ashley, "Marine Scientific Research and the New Law of the Sea", *Ocean Development & International Law*, vol. 27, no. 1-2, 1996, pp. 59-72.

Sage, Bénédicte, "Precautionary Coastal States' Jurisdiction", *Ocean Development & International Law*, vol. 37, nos.3-4, 2006, pp. 359-387.

Scovazzi, Tullio, "Marine Protected Areas on the High Seas: Some Legal and Policy Considerations", *International Journal of Marine and Coastal Law*, vol. 19, no. 1, 2004, pp. 1-18.

Willaert, Klaas, 'Effective Protection of the Marine Environment and Equitable Benefit Sharing in the Area: Empty Promises or Feasible Goals?', *Ocean Development & International Law*, vol. 51, no. 2, 2020, pp. 175-192.

Week 11

Deep Seabed Mining

Feichtner, Isabel, "Sharing the Riches of the Sea: The Redistributive and Fiscal Dimension of Deep Seabed Exploitation", *European Journal of International Law*, vol. 30 no. 2, 2019, pp. 601-633.

Fritz, Jan-Stefan, "Deep Sea Anarchy: Mining at the Frontiers of International Law." *International Journal of Marine and Coastal Law*, vol. 30, no. 3, 2015, pp. 445-476

Guntrip, Edward, "The Common Heritage of Mankind: An Adequate Regime for Managing the Deep Seabed" *Melbourne Journal of International Law*, vol. 4, no. 2, 2003, pp. 376-405.

Kim, Rakhyun E., "Should deep seabed mining be allowed?", *Marine Policy*, vol. 82, 2017, pp. 134-137.

Lodge, Michael, "The International Seabed Authority and the Exploration and Exploitation of the Deep Seabed", *Revue Belge de Droit International / Belgian Review of International Law*, vol. 47, no. 1, 2014, pp. 129-136.

Ranganathan, Surabhi, "Ocean Floor Grab: International Law and the Making of an Extractive Imaginary" *European Journal of International Law*, vol. 30 no. 2, 2019, pp. 573-600.

Week 12

Dispute Settlement Procedures under UNCLOS 1982

Allen, Stephen, "Article 297 of the United Nations Convention on the Law of the Sea and the Scope of Mandatory Jurisdiction", *Ocean Development & International Law*, vol. 48, nos. 3-4, 2017, pp. 313-330.

Bankes, Nigel, "Precluding the Applicability of Section 2 of Part XV of the Law of the Sea Convention", *Ocean Development & International Law*, vol. 48, nos. 3-4, 2017, pp. 239-268.

Churchill, Robin, "The General Dispute Settlement System of the UN Convention on the Law of the Sea: Overview, Context, and Use", *Ocean Development & International Law*, Vol. 48, nos. 3-4, 2017, pp. 216-238.

Harrison, James, "Defining Disputes and Characterizing Claims: Subject-Matter Jurisdiction in Law of the Sea Convention Litigation", *Ocean Development & International Law*, vol. 48, nos. 3-4, 2017, pp. 269-283.

Parlett, Kate, "Beyond the Four Corners of the Convention: Expanding the Scope of Jurisdiction of Law of the Sea Tribunals", *Ocean Development & International Law*, vol. 48, nos. 3-4, 2017, pp. 284-299.

Phan, Hao Duy, "International Courts and State Compliance: An Investigation of the Law of the Sea Cases", *Ocean Development & International Law*, vol. 50, no.1, 2019, pp. 70-90.

Trevisanut, Seline, 'Twenty Years of Prompt Release of Vessels: Admissibility, Jurisdiction, and Recent Trends', *Ocean Development & International Law*, vol. 48, no. 3-4, 2017, pp. 300-312.

Zou, Keyuan, & Ye, Qiang, "Interpretation and Application of Article 298 of the Law of the Sea Convention in Recent Annex VII Arbitrations: An Appraisal", *Ocean Development & International Law*, vol. 48, nos. 3-4, 2017, pp. 331-344.

Week 13

Security at Sea and UNCLOS

Hallwood, Paul, & Miceli, Thomas, "Piracy and Privateers in the Golden Age: Lessons for Today", *Ocean Development & International Law*, vol. 49, no. 3, 2018, pp. 236-246.

Papastavridis, Efthymios, "Interception of Human Beings on the High Seas: A Contemporary Analysis under International Law", *Syracuse Journal of International Law and Commerce*, vol. 36, no. 2, 2008, pp. 145-228.

Papastavridis, Efthymios, The Right of Visit on the High Seas in a Theoretical Perspective: *Mare Liberum* versus *Mare Clausum* Revisited, *Leiden Journal of International Law*, vol. 24, no. 1, 2011, pp. 45-69.

Perry, Timothy, "The PSI as a Shared Good: How the Proliferation Security Initiative Both Challenges and Reinforces a Prevaillingly *Mare Liberum* Regime", *Ocean Development & International Law*, vol. 49, no.4, 2018, pp. 335-367.

Schneider, Patricia, 'When Protest Goes to Sea: Theorizing Maritime Violence by Applying Social Movement Theory to Terrorism and Piracy in the Cases of Nigeria and Somalia', *Ocean Development & International Law*, 2020.

Su, Jinyuan, "The Proliferation Security Initiative (PSI) and Interdiction at Sea: A Chinese Perspective", *Ocean Development & International Law*, vol. 43, no. 1, 2012, pp. 96-118.

10. Evaluation and Weightage of different components of evaluation

Evaluation/Grading is based on student performance in assessment tasks/activities/exams/presentations/class participation/viva voce test/regular attendance.