

Course Outline

POSC 4200 [2006-2007 Winter]

Special Topics in International Law - International Law of the Sea

Instructor: **Capt. Philip McCarter**
Phone: 782-3333 (W)
753-1308 (R)
Fax: 782-0225
e-mail: pmccarter@canship.com
Slot: Monday nights 1900-2130

Rationale

The international legal paradigm on ocean use and management have for centuries fluctuated between *mare closum* and *mare liberum*. Recently in response to the widely held conviction that traditional law was no longer capable of regulating the use of ocean space, the global community has embraced a comprehensive package that establishes new ocean regions and concomitant national and international responsibilities - UNCLOS III. The Law of the Sea Convention or LOS, as it is abbreviated, entered into the realms of *opinio juris* on the 16th of November 1994. Aspects of this Convention now appear in our Oceans Act that received Royal Assent in December of 1996. States party to the Convention have to consider its requirements when drafting management strategies, formulating policy and facilitating decision making, all of which harbour political ramifications. As with all major works of international importance, the implementation of UNCLOS III continues to challenge Administrations, international lawyers, policy-makers and academics. An introductory course on the evolving UNCLOS III with its associated implementation Conventions would be a tool for undergraduates aspiring to broaden their understanding of marine management issues and enhance their deliberations on politically sensitive issues related to the oceans.

The aims of the course are:

1. to give students an understanding of the international law of the sea and the complex factors that shape its formation; and
2. to provide students with a knowledge of the various mechanisms that exist for settling disputes on ocean issues.

Objectives

At the end of the course, students should be able:

- to explain the process in developing a comprehensive international Convention on ocean use.
- to subject Articles within the Convention to critical examination.
- to assess the procedures available for dispute settlement.
- to critically review Canada's ocean policy and jurisprudence with a view towards full compliance with UNCLOS III.
- to investigate, using case studies, political factors and their effect on emerging State's policies which implement the new regime for international law of the sea.

Major Topics

1. Historical Perspective
2. UNCLOS III - Analysis of the delimitation and jurisdiction of-
 - Internal Waters
 - Territorial Sea
 - Contiguous Zone
 - EEZ
 - Continental Shelf
 - High Seas
 - The Area
3. Protection and Preservation of the Marine Environment
4. Liability for Marine Pollution
5. Implementation Conventions of UNCLOS III
6. Dispute Resolution Mechanisms
7. Case Studies

Evaluation Scheme

• Mid-term	20%	February 12th, 2007
• Final exam	40%	
• Term paper	30%	April 2nd 2007
• Presentation	10%	Throughout March 2007

Suggested Reading List

Texts:

- Brown, E. D. The International Law of the Sea. Dartmouth. Aldershot. 1994 (on reserve)
- UN General Assembly 61st session: Oceans and the Law of the Sea. Report of the Secretary General. March 9th, 2006 (on reserve)
- UN General Assembly 61st session: Oceans and the Law of the Sea. Report of the Secretary General. Addenda (on reserve)

Journals:

- Marine Policy
- Maritime Policy and Management
- UN Law of the Sea Office Bulletin
- Ocean Development & International Law

Web Sites:

<http://www.icj-cij.org/>

<http://fletcher.tufts.edu/multi/marine.html>

<http://www.un.org/Depts/los>

<http://laws.justice.gc.ca/en/index.html>