

University of Hawaii at Manoa
GEOG 435 -- POLITICAL GEOGRAPHY OF OCEANS

Fall, 2008

Tues, Thurs 1:30 – 2:45 pm

Location: Saunders Hall 443B

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Course Objectives: This course is an introduction to the principles and institutions that govern the world's oceans. It reviews the history of the international law of the sea, the scope of the currently recognized zones of maritime jurisdiction, and the means by which countries resolve their overlapping claims. This course also considers principles and institutions applicable to such emerging ocean uses as bio-prospecting, carbon sequestration, ocean-based energy sources, and the conservation of marine biodiversity. It will also review mechanisms for resolving international ocean conflicts, including negotiations and adjudication, and for promoting environmental and national security through cooperative ocean governance.

Reading Assignments: Readings are as scheduled below, subject to modification. Required texts include the United Nations Law of the Sea Convention of 1982 (UNCLOS) and Pernetta, 2004, Guide to the Oceans (both are available at UH Bookstore). Readings on the attached reading list are posted on the course web page at <https://laulima.hawaii.edu> unless an online site URL is given or otherwise noted.

Books on Reserve: Books that you will find helpful on the law of the sea and in researching maritime boundary claims have been put on reserve at Sinclair Library (3rd floor, Wang AV Center):

Churchill and Lowe, 1999. *The Law of the Sea* (3rd ed).

Sanger, 1987. *Ordering the Oceans: The Making of the Law of the Sea*.

Prescott and Schofield, 2005. *The Maritime Political Boundaries of the World* (not on reserve but available through UHM Library Voyager catalogue as an e-book).

Smith, 1986. *EEZ Claims: An Analysis and Primary Documents*.

web site for LOS Convention: [//www.un.org/Depts/los/LEGISLATIONANDTREATIES/pdf files/](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/pdf_files/)

Expectations and Evaluation: By the end of the course, students should have a basic understanding of the law of the sea and a familiarity with the geographic location of areas of conflict and cooperation. Specifically, students will be expected to complete the assigned readings before class, attend all classes and participate in discussion of the questions on the readings, present a map of the maritime boundaries of a selected country, participate in mock negotiations of an international ocean conflict and prepare a writing assignment (10-12 pp.) in connection with that exercise, and complete the midterm and final exams. Grades will be calculated as follows:

Maritime Boundaries Map and Presentation (10%) – due Sept. 15

Midterm Exam (30%) – Oct. 14

Negotiations & Paper (20%) – paper due Nov. 25

Final Exam (40%) – Dec. 16 (tentative schedule)

Schedule of Topics and Assignments (subject to revision)

I. The Oceans as Political Space

- Aug. 26 Course overview; the functions of boundaries in the ocean; conflicting claims.
Readings: “Russia plants flag under the North Pole,” BBC News, 2 Aug 2007, <http://news.bbc.co.uk/2/hi/europe/6927395.stm>.
- Aug. 28 Ocean exploration and early claims; Hugo Grotius and the freedom of the seas doctrine.
Readings: “Race for the Arctic,” *Newsweek*, 1 Oct 2007, pp. 30-36 (Handout); Glassner and Fahrner, 2003, Ch 31; Buck, 1998, pp. 75-88 (stop at Deep Seabed Min); Clingan, 1994, Ch 2.

II. History and Development of National Claims to Ocean Space and Resources

- Sept. 2 Post-World War II developments in ocean law; UNCLOS III zones of ocean jurisdiction (from internal waters to The Area); sources of the law of the sea.
Readings: Van Dyke, 2008 (pp. 375-88); Clingan, 1996, Ch. 1; U.N. Law of the Sea Convention (UNCLOS, 1982): Preamble and Table of Contents (for text of Convention see also <http://www.un.org/Depts/los/>)
Questions: Why was a third UN conference on the law of the sea necessary? Did it achieve its objectives?
- Sept. 4 Baselines (normal, straight, fringing reefs, closing lines, harbor works); Archipelagic Baselines.
Readings: UNCLOS, 1982, Parts I and II; Glassner and Fahrner, 2003, Ch 32 (fig 32-1).
Questions: Why are the rules for baselines so detailed? What are the consequences of national claims that exceed these rules? Is the rule for baselines appropriate in light of global warming-induced sea level rise?
Other Assignment: Find or prepare a map of the maritime zone claims of your assigned country (see list at syllabus for 16 Sept) and note how these claims compare with the prescriptions of the law of the sea. Post images of zones and notes on course web page by Sept. 15.

- Sept. 9 Zones of Coastal State Jurisdiction: Extent and Nature of Rights.
Internal Waters, Territorial Sea
Contiguous Zone, Archipelagic Waters
Readings: UNCLOS, Part II, IV; Glassner and Fahrer, 2003, Ch 32.
Question: Is there int'l consensus on the geographic and functional scope of these zones?
- Sept. 11 Coastal State Resource Zones, continued.
The Continental Shelf
The Exclusive Economic Zone
Readings: Reagan Proclamation, 1988; UNCLOS Parts V, VI, VIII; Cheever, 1983;
Donaldson and Williams, 2005 (pp. 135-140).
Questions: What are the key differences between the EEZ and the continental shelf? What is the legal status of the waters in the EEZ? How does the juridical (legal) continental shelf different from the geological continental shelf?
- Sept. 16 Delimitation of Maritime Boundaries: East China Sea Claims.
Maritime Zones of Selected Countries: Australia, Canada, Chile, China, Denmark, Federated States of Micronesia, Fiji, India, Indonesia, Japan, Norway, Philippines, Republic of Korea, Russia, United Kingdom.
Readings: UNCLOS Articles 15, 74, 83; Donaldson and Williams, 2005 (pp. 140-52).
Assignment: Post map of your country's maritime zones and boundaries on course web page by Sept. 15.
- Sept. 18 The Regime of Islands and the Spratly Islands Dispute.
Readings: UNCLOS, Part VIII; Gjetnes, 2001.
Question: How do islands affect a nation's maritime jurisdiction?
- Sept. 23 The Gulf of Maine and South China Sea Disputes.
Readings: Brillon, 1984; Burgess, 2003; Nguyen, 2003.
Web sites: //www.law.ubc.ca/centres/scsweb/; //www.southchinasea.org/
Question: What if anything do these two regional maritime conflicts have in common? Does a nation's economic and political status play a role in its maritime claims?

Sept. 25 Marine Joint Development Zones; Arrangements for the Timor Sea (Australia, E. Timor) and the Barents Sea (Norway, Russia); Antarctic Treaty System.
Readings: Bugalski, 2004; Laegreid, 2003; TBA.
Question: Why do some States adopt joint development zones?

III. The High Seas and Navigational and Overflight Rights

- Sept. 30 The High Seas: Definition, geographic scope and freedoms.
Readings: UNCLOS, Part VII, and Art. 87, 58; Van Dyke, 2008 (pp. 393-400).
Questions: Compare the scope of the doctrine of the freedom of the high seas and its rationale from the pre- and post-UNCLOS eras. Is the freedom of navigation in the EEZ disappearing?
- Oct. 2 Freedom of Navigation in and Overflight: Innocent Passage, Transit Passage, Archipelagic Sea Lanes Passage (ASLP); navigational rights in the EEZ.
Readings: UNCLOS, Part III; Beckman, 2007.
Questions: Have the regimes of transit passage and ASLP achieved an appropriate balance between maritime and coastal States' interests? How does Australia's pilotage rule for Torres Strait affect the regime of transit passage? Should maritime States oppose it?
- Oct. 7 The Northwest Passage: Internal Waters or International Strait?
Readings: Killaby, 2005-06; Byers, 2007; Struck, 2006 (handout).
Question: Should the US and Canada follow Prof. Byers' recommendation to resolve this dispute?
- Oct. 9 Piracy and Maritime Security: The Malacca and Singapore Straits.
Readings: Roach, 2005; Raffaele, 2007.
Question: What arrangements are States making to ensure security of navigation through the Straits? What should be the US role in ensuring security in key international straits? Why do littoral States oppose US patrols in the Straits of Malacca?
- Oct. 14 **MIDTERM EXAM**

IV. Governance of Marine Fisheries

- Oct. 16 The Status of World Fisheries: Video: Empty Nets, Empty Waters.
Readings: Berrill, 1997 (ch 10-11); Clover, 2004.
- Oct. 21 Foreign Fisheries in the EEZ and High Seas Fisheries: Are They Governable?
Readings: Williams, 2005.
Question: What are the gaps and contradictions in the UNCLOS provisions for fisheries?
- Oct. 23 Highly Migratory Species; Governing Tuna Fisheries in the Pacific.
Readings: Van Dyke, 2008 (pp. 388-93); Scheiber et al., 2007 (pp. 1-22).
Questions: Why is it so hard for RFMOs to achieve international norms for fisheries? How should tuna fisheries in the Pacific be governed?
- Oct. 28 Enforcement, Trade Measures, and Port State Controls to Combat Pirate Fishing.
Readings: Schorr, 2008 (pp. 350-56, TBA).
Additional Assignment: Hand in your choice for role in Arctic negotiations (see Dec. 9).
- Oct. 30 International Regulation of Whaling; The Impasse Over Commercial Whaling.
Readings: UNCLOS, Art. 65, 120; Danaher, 2002.
Questions: How should the conflict over the moratorium be resolved? Does the IWC have a future role in ocean governance?
web site for Int'l Whaling Commission: [//www.iwcoffice.org/](http://www.iwcoffice.org/)

V. International Bodies Created by the Law of the Sea Convention

- Nov. 4 The Commission on Extended Continental Shelf Limits.
Readings: Article 76; McNab, 2008 (TBA).
Question: Is the US entitled to claim an extended continental shelf under Article 76?
- Nov. 6, 13 The International Seabed Authority and the Deep Seabed Minerals Regime.
Readings: UNCLOS, Part XI and the 1994 Agreement; Antrim, 2005; Kraus, 2007.
Question: Are the concerns of the US during the Reagan Administration about the International Seabed Authority and the deep seabed mining regime still valid?

Nov. 11 Veteran's Day Holiday—NO CLASS

Nov. 18 Marine Scientific Research and Technology Transfer

Readings: UNCLOS, Parts XIII, XIV, Art. 87, 143; Tanaka, 2008.

Questions: Is bioprospecting for novel marine genetic resources (MGRs) marine scientific research or a freedom of the high seas? Are MGRs the “common heritage of humankind”? Should the Int'l Seabed Authority regulate the development of MGRs?

Nov. 20 Settlement of Disputes and the International Tribunal on the Law of the Sea

Readings: UNCLOS, Part XV; TBA.

Question: Why are so few ocean governance disputes brought to the International Tribunal?

VI. Protection of the Marine Environment

Nov. 25 Duties to Prevent Degradation of the Marine Environment; International Agreements to Conserve Biodiversity; The MOX Case; Ocean Noise.

Readings: UNCLOS, Article 1(4),(5) and Part XII; Mossop, 2007; Leous and Parry, 2005.

Questions: Can straits States prohibit the use of military sonar in their waters? Can regional States adopt high seas MPAs to protect marine biodiversity in areas beyond national jurisdiction? Can the US deny port privileges to vessels that lack fishing gear identification systems and waste management plans for derelict fishing gear?

Additional Assignment: Hand in Arctic negotiations papers.

Nov. 27 Thanksgiving Holiday– NO CLASS

VII. The Oceans, Global Warming, and the Law of the Sea

Dec. 2 Sea Level Rise, Acidification and the Law of the Sea.

Readings: Barnett, 2005; Doelle, 2006.

Questions: Should the major GHG emitter States pay damages to Pacific Island States for sea level rise and coral reef losses? Do States have a duty under UNCLOS to prevent ocean acidification?

Dec. 4 Ocean Carbon Sequestration and Iron Fertilization.

Readings: Scott, 2005 (pp. TBA); Powell, 2008; Madin & Nevala, 2008; Schueller, 1999.

Questions: Does the international ocean governance framework have adequate principles and processes for dealing with CO2 reduction strategies? May the Republic of the Marshall Islands issue exclusive licenses to private companies for iron fertilization in its EEZ?

VIII. *Putting it All Together*

- Dec. 9 Session 1: Options for an International Accord for the Arctic Ocean.
Roles: Delegations of Canada, United States, Denmark, Russia, Norway; representatives of the International Maritime Organization, the International Whaling Commission, The Antarctic Treaty System, UN Food & Agricultural Organization-Division of Fisheries, Arctic Commission of Native Peoples, and TBA.
- Dec. 11 Session 2: Negotiations and conclusion.
- Dec. 16/TBA Final Exam.

Reading List

- Antrim, C.L., 2005. Mineral Resources of Stateless Space: Lessons from the Deep Seabed, J. Int'l Affairs 59(1): 55-78.
- Antrim, C.L. 2005b. The Structure of the Seabed Regime, J. Int'l Affairs 59(1): 64-66.
- Barnett, J., 2005. Titanic States? Impacts and Responses to Climate Change in the Pacific Islands, J. Int'l Affairs 59(1): 203-220.
- Beckman, R.C., 2007. PSSAs and Transit Passage: Australia's Pilotage System in the Torres Strait Challenges the IMO and UNCLOS, Ocean Dev't & Int'l L. 38:325-357.
- Berrill, M., 1997. The Plundered Seas: Can the World's Fish Be Saved? chapter 10, The Empty Banks, and chapter 11, The Straddling Stocks, Sierra Club Books.
- Brillon, M.H., 1984. Political-Legal Interactions in the Gulf of Maine: A Canadian-American Dispute, J. Int'l Affairs 37(2): 357-365.
- Buck, S.S., 1998. Global Commons: An Introduction, chapter 4, The Oceans, Island Press: Covelo, CA. Available through UH Voyager online at <http://library.manoa.hawaii.edu>
- Bugalski, N., 2004. Beneath the Sea: Determining a Maritime Boundary Between Australia and East Timor, Alternative Law Journal 29(6): 290-295.
- Burgess, J.P., 2007, The Politics of the South China Sea: Territoriality & Int'l Law, Sec Dialogue 34(1): 7-10.
- Byers, M., 2007. Unfrozen Seas: Sailing the Northwest Passage, Policy Options May07:30-33.

- Cheever, D.S., 1990. The Politics of the UN Convention on the Law of the Sea, J. Int'l Affairs 37(2): 247-252.
- Clingan, T. A., 1994. The Law of the Sea: Ocean Law & Policy, chapter 1, The United Nations and the Law of the Sea, Austin & Winfield: San Francisco.
- Clingan, T. A., 1994b. The Law of the Sea: Ocean Law & Policy, chapter 2, Freedom of the High Seas, Austin & Winfield: San Francisco.
- Clover, C., 2004. "Law and the Commons," ch. 9 in The End of the Line: How Overfishing is Changing the World and What We Eat, Random House.
- Danaher, M., 2002. Why Japan Will Not Give Up Whaling, Global Peace & Sec. 14(2): 105-120.
- Doelle, M., 2006. Climate Change and the Use of the Dispute Settlement Regime of the Law of the Sea Convention, Ocean Devt & Int'l Law 37:319-337.
- Donaldson, J. and A. Williams, 2005. Understanding Maritime Jurisdictional Disputes: The East China Sea and Beyond, J. Int'l Affairs 59(1): 135-157.
- Galdorisi, G., 1996. The U.S. Freedom of Navigation Program: A Bridge for International Compliance with the 1982 UN Convention on the Law of the Sea? (A Comment), Ocean Devt & Int'l L. 27: 399-408.
- Gjetnes, M., 2001. The Spratlys: Are They Rocks or Islands? Ocean Devt & Int'l L. 32(2): 191-204.
- Glassner, M. and C. Fahrer, 2003. The Law of the Sea, chapter 31, Political Geography, 3rd ed., Wiley.
- Glassner, M. and C. Fahrer, 2003b. The Political Geography of the Sea, chapter 32, Political Geography, 3rd ed., Wiley.
- Killaby, G., 2005-06. Great Game in a Cold Climate: Canada's Arctic Sovereignty in Question, Canad. Military J. W0506: 31-40.
- Kraus, D., 2007. Time to Ratify the Law of the Sea, Foreign Policy in Focus Commentary, 6 June 2007, available online at www.fpip.org
- Laegreid, R., 2003. The Dispute over the Barents Sea, ICE Case Study, available online at <http://www.american.edu/TED/ice/barents.htm>
- Leous, J.P. and N.B. Parry, 2005. Who Is Responsible for Marine Debris? The International Politics of Cleaning Our Oceans, J. Int'l Affairs 59(1): 257-270.
- Madin, K. and A.E. Nevala, 2008. A Rash of Proposals to Transfer Carbon to Ocean, Oceanus 46(1): 26-27.
- McNab, R., 2008. Submarine Elevations and Ridges: Wild Cards in the Poker Game of UNCLOS Article 76, Ocean Devt & Int'l L. 39(2): 223-34.
- Mifflin, M., 2007. Arctic sovereignty: a view from the North, Policy Otions May07:55-58.
- Nguyen, H.T., 2003. The 2002 Declaration on the Conduct of Parties in the South China Sea: A Note, Ocean Devt & Int'l L. 34: 279-285.
- Mossop, J., 2007. Protecting Marine Biodiversity on the Continental Shelf Beyond 200 Nautical Miles, Ocean Devt & Int'l L. 38:283-304.
- Powell, H., 2008. Fertilizing the Ocean with Iron (and 4 related articles), Oceanus 46(1): 4-25.

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- Raffaele, P., 2007. "The Pirate Hunters," Smithsonian, available online at www.southchinasea.org/docs/
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- Schorr, D.K., 2008. Trade in Fish and Fisheries Products, chapter 11 (pp. 350-56) in D.C. Baur et al., Ocean and Coastal Law and Policy, ABA Books: Chicago, IL.
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- Struck (article in Wash Post on navigation through ice-free NWP, TBA).
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- United States, Office of the President, 1988. Proclamation on the EEZ, Pres. Ronald Reagan.
- Williams, M.J., 2005. Are High Seas and International Marine Fisheries the Ultimate Sustainable Management Challenge? J. Int'l Affairs 59(1): 221-235.