Course Information

Part I

Course Title: Law of the Sea

Course Code: LW 034

Course Instructor: Dr. V.G. Hegde / Dr. Srinivas Burra

Course Duration: One Semester

Credit Units: 4

Medium of Instruction: English

Prerequisites: Nil

Precursors: Nil

Equivalent Courses: N/A
Part II

Course Aims

From an international law perspective, the course would look at: development of the law of the sea as one of the oldest areas of international law; efforts of the international community towards the adoption of the four Geneva Conventions – Convention on Territorial Sea, Contiguous Zone, High Seas and Continental Shelf 1958; a bird’s eye view of the three Law of the Sea Conferences leading to the adoption of the United Nations Convention on the Law of the Sea (UNCLOS) 1982;

The course on the Law of the Sea will strive to introduce students to a study of the different maritime areas under UNCLOS and attendant rights and duties of States, such as internal waters and baselines, reefs; drawing of straight baselines; Bays-definition of curved/indented bays, historic bays; Territorial Sea-the breadth and 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; Contiguous Zone; Straits used for International Navigation- the Corfu Channel Case, ICJ Reports 1949; International Legal Regime of the Continental Shelf; International Legal Regime of EEZ - the concept of EEZ under UNCLOS and rules of international customary law; Maritime boundary delimitation – Aspects covered would include select ICJ judgements, arbitral awards, ITLOS judgements highlighting the delimitation criteria provided in Article 74 and 83 of UNCLOS, the natural prolongation rule, equidistance principle and relevant/special circumstances; Regime of the High Seas, Piracy and the changing concept of piracy in the light of some recent developments.

The Course will also deal with a number of other aspects relevant to the Law of the Sea which among others include: Protection and Preservation of the Marine Environment; Regime of Marine Scientific Research; Deep Seabed Mining- historical evolution of the concept of common heritage of mankind and Arvid Pardo’s contribution to the protection of concept of deep seabed under Part XI of the UNCLOS regime, International Seabed Authority, pioneer investor scheme, its categories and the establishment of the Preparatory Commission, Provisional Understanding of 1984 and subsequent Understandings on Conflict resolution of Seabed Disputes; Dispute Settlement Mechanism under UNCLOS, jurisprudence of ITLOS;
Objectives of the Course

The Course on the “Law of the Sea” is being offered for LL.M students with the following objectives:

- To understand 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 Territorial Sea, Continental Shelf, Contiguous Zone and the High Seas, 1958 and the first UN Law of the Sea Conference.
- To study the adoption of the UN Convention on the Law of the Sea and its various provisions which is a corpus of international law often regarded as a ‘constitution of the oceans’; and
- To equip students with a sound understanding of complex issues involved in the study of the Law of the Sea and the jurisprudence evolved by judgements of the ICJ, International Tribunal for the Law of the Sea, arbitration tribunals etc.

Week 1  History of the Law of the Sea

Historical evolution of regulation of maritime affairs from Grotius’ Mare Liberam to Selden’s Mare Clausum- to present times.


Introduction to the United Nations Convention on the Law of the Sea (UNCLOS) 1982 and reasons why it is regarded as the constitution of the oceans. A general backdrop of maritime zones will also be provided.

Week 3 Baselines

Legal and other factual complexities involved in drawing baselines; Anglo-Norwegian Case

Week 4 Territorial Sea

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.
Week 5 Straits used for International Navigation

_Corfu Channel Case_, ICJ (1949), treatment of Straits under the Geneva Convention 1958 and UNCLOS 1982; interest of coastal States and maritime powers, types of straits, transit passage, duties of ships and aircrafts; straits and innocent passage;

Week 6 Archipelagoes and Islands

Difference between Archipelagic states and Archipelagoes, Archipelagoes and straight baselines, innocent passage through archipelagic waters, definition of archipelagic sea lanes, legal status of mid-ocean archipelagoes.

Week 7 Exclusive Economic Zone (EEZ) and Continental Shelf

Concept of Continental Shelf and Exclusive Economic Zone under UNCLOS 1982; outer limits of continental shelf and EEZ; formulae for measuring the continental margin; Rights conferred on Coastal States to explore, exploit, conserve and manage EEZ resources. _North Sea Continental Shelf Cases_

Week 8 Maritime delimitation of boundaries

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 when requested by applying the equidistance-special circumstances rule; and delimiting the continental shelf/EEZ applying the equitable principle-relevant circumstances rule. study of the jurisprudence developed by ICJ judgements, arbitral awards and ITLOS judgements on disputes pertaining to delimitation of maritime zones. Some of the important cases to be discussed, among others would include- Anglo-Norwegian Fisheries Case; ICJ 1951, North Sea Continental Shelf Cases ICJ 1969, Anglo-French Arbitration Case 1977-78; Nicaragua-Honduras ICJ 1987; Qatar-Bahrain Case ICJ 1993;; Jan-Mayen Conciliation Commission 1981 (Iceland and Norway); Tunisia-Libya Continental Shelf Cases (ICJ 1982);Gulf of Maine Case (ICJ 1984), Libya-Malta Continental Shelf Case (ICJ 1985), Volga Case ITLOS, 2002; Bangladesh-Myanmar case ITLOS 2012, Bangladesh-India PCA Case 2014 etc.
**Week 9 Protection and Preservation of the Marine Environment**

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,

**Week 10 Regime of Marine Scientific Research**

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**

Historical evolution of the concept and Arvid Pardo’s concept of deep seabed as the common heritage of mankind, UNCLOS regime-Part XI, International Seabed Authority, pioneer investor scheme, its categories and the establishment of the Preparatory Commission, Provisional Understanding of 1984 and subsequent Understandings on Conflict resolution of Seabed Disputes and the PREPCOM Agreement of 1994 will be discussed. A study of the SAARC countries’ maritime legislation on deep seabed mining will also be discussed.

**Week 12 Dispute Settlement Procedures under UNCLOS 1982**

Dispute settlement procedures under UNCLOS and discussion of some cases judgements/decisions of international tribunals

**Week 13 Presentations**

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Reading List

Books


* Suggests mandatory readings.

**Articles**


