

The Law of the Sea and China' Practice

Course Syllabus

LIU Dan, Associate Research Professor

KoGuan Law School, Shanghai Jiao Tong University

Spring, 2022

The Law of the Sea and China' Practice

Syllabus

Associate Research Professor: LIU Dan

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Date: Friday, 18:00-20:20 PM

(NOTE: Assignments begin on page)

Weeks	Topic
1	I. Introduction to the Law of the Sea A. The Goals of Oceans Policy: Community and China's Interests B. Introduction to the UN Conferences on the Law of the Sea, Especially the Third UN Conference on the Law of the Sea (UNCLOS III) C. The History of the Law of the Sea and China's Policy
2	II. International Law Governing Jurisdiction Zones A. Baselines and related issues B. Territorial sovereignty a. Internal waters b. Territorial sea c. International straits d. Archipelagic waters C. China's Domestic Laws and Policies on Maritime Zones within the National Jurisdiction
3	II. International Law Governing Jurisdiction Zones D. Contiguous Zone E. Exclusive Economic Zone F. Continental Shelf G. The High Seas H. "The Area" I. China's Domestic Laws and Policies on the EEZ, Continental Shelf, and China's Mining Activities in "the Area"
4	III. Maritime Delimitation A. Article 74 (1) and 83(1) of the 1982 UNCLOS B. Case Study
5	IV. Dispute Settlement Mechanism under the 1982 UNCLOS A. Part XV of the 1982 UNCLOS B. The International Tribunal for the Law of the Sea and Other Dispute Settlement Mechanisms
6	V. Dispute Settlement Mechanism under the 1982 UNCLOS C. Case Study

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Assignment

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	Texts for Reading Assignments
References	<p>1) Yoshifumi Tanaka, <i>The International Law of the Sea</i>, 1st Edition (Cambridge, 2012).</p> <p>2) Donald R. Rothwell and Tim Stephens, <i>The International Law of the Sea</i> (Hart Publishing Ltd, 2010)</p> <p>3) Keyuan Zou, <i>China's Marine Legal System and the Law of the Sea</i> (Leiden: Martinus Nijhoff, 2005).</p>
Casebook	Louis B Soh, Erik Franckx et al, eds., <i>Cases and Materials on the Law of the Sea</i> (LeidenL Brill Nijhoff, 2014)
Weeks	Topic
1	<p style="text-align: center;">Introduction to the Law of the Sea</p> <p>A. The Goals of Oceans Policy: Community and China's Interests B. Introduction to the UN Conferences on the Law of the Sea, Especially the Third UN Conference on the Law of the Sea (UNCLOS III) C. The History of the Law of the Sea and China's Policy</p> <p><u>Reading assignment:</u> -Yoshifumi Tanaka, 2012, pp.1-37; or, Donald R. Rothwell & Tim Stephens, 2010, pp.1-29. -The 1951 Anglo-Norwegian Fisheries case, available at Louis B Soh, Erik Franckx et al, eds., 2014, pp. 227-240.</p> <p><u>References:</u> -Zou Keyuan (1998) Innocent passage for warships: The Chinese doctrine and practice, <i>Ocean Development & International Law</i>, 29:3, 195-223; - Zou Keyuan (2002) Navigation of foreign vessels within China's jurisdictional waters, <i>Maritime Policy & Management</i>, 29:4, 351-374.</p> <p><u>Questions:</u> 1) Are there any laws regarding territorial sea in your home country? If so, when did the laws enact? According to such law, how wide the breath of the territorial sea in your country? 2) Please list the names of the international organizations regarding</p>

	<p>world ocean affairs, especially the law of the seas.</p> <p>3) Find and download the judgment/case summary of the 1951 Anglo-Norwegian Fisheries case from the website of the International Court of Justice (the ICJ, https://www.icj-cij.org/).</p>
2	<p style="text-align: center;">International Law Governing Jurisdiction Zones</p> <p>A. Baselines and related issues B. Territorial sovereignty a. Internal waters b. Territorial sea c. International straits d. Archipelagic waters C. China's Domestic Laws and Policies on Maritime Zones within the National Jurisdiction 第二周、《海洋法公约》中规制海域的国际法。 基线、领海与毗连区、内水、</p> <p><u>Reading assignment:</u> Yoshifumi Tanaka, 2012, Chapter 4 and Chapter 5; or, Donald R. Rothwell & Tim Stephens, 2010, Section III & IV, Chapter 4-7.</p> <p><u>References:</u> 1) China's Domestic Laws and Policies on the EEZ and the Continental Shelf (Chinese version), available at http://www.soa.gov.cn/zw/gk/fwjgwyw/shfl/201508/t20150821_39618.html. 2) Recent legislation on China's mining activities in "the Area" (Chinese version), available at http://www.soa.gov.cn/zw/gk/fwjgwyw/shfl/201602/t20160229_50172.html.</p>
3	<p style="text-align: center;">International Law Governing Jurisdiction Zones</p> <p>A. Contiguous Zone B. Exclusive Economic Zone C. Continental Shelf D. The High Seas E. "The Area" F. China's Domestic Laws and Policies on the EEZ, Continental Shelf, and China's Mining Activities in "the Area"</p> <p><u>Reading assignment:</u> Yoshifumi Tanaka, 2012, Chapter 3&4.</p> <p><u>Questions:</u> 1) Can you distinguish the differences between the Continental Shelf and the EEZ? 2) Are there any previous/pending cases regarding maritime delimitation between your home country and the neighboring</p>

	<p>countries? If so, please list these cases and explain the final result or recent progress.</p> <p>3) What do you think of the upcoming Fukushima Radioactive Water Discharge (see https://www.theguardian.com/world/2021/aug/26/fukushima-operator-s-to-build-undersea-tunnel-to-dump-contaminated-water)?</p>
4	<p style="text-align: center;">Maritime Delimitation and Marine Pollution</p> <p>A. Protection of marine environment B. Article 74 (1) and 83(1) of the 1982 UNCLOS C. Case Study</p> <p><u>Reading assignment:</u> Yoshifumi Tanaka, 2012, Chapter 8 and Chapter 6.</p> <p><u>Reference:</u> 1) Darian Ghorbi, <i>There's Something in the Water: The Inadequacy of International anti-Dumping Laws as Applied to the Fukushima Daiichi Radioactive Water Discharge</i>, 27 AM. U. INT'L. REV. 473 (2012). 2) Xiaouu Zheng, "Does Fukushima wastewater decision violate our environmental rights?", Apr 21, 2021, available at https://www.ejiltalk.org/does-fukushima-wastewater-decision-violate-our-environmental-rights/. 3) Dan Liu & Ling Zhu, <i>Assessing China's Legislation on Compensation for Marine Ecological Damage: A Case Study of the Bohai Oil Spill</i>, Marine Policy 50 (2014), pp.18-26.</p>
5	<p style="text-align: center;">Dispute Settlement Mechanism under the 1982 UNCLOS</p> <p>A.Part XV of the 1982 UNCLOS B.The International Tribunal for the Law of the Sea and Other Dispute Settlement Mechanisms</p> <p><u>Reading assignment:</u> 1.Donald R. Rothwell & Tim Stephens, 2010, Chapter 18; or, Yoshifumi Tanaka, 2012, Chapter 13. 2.Part XV, especially Article 298 of the 1982 UNCLOS.</p>
6	<p style="text-align: center;">Dispute Settlement Mechanism under the 1982 UNCLOS</p> <p>C.Case Study</p> <p><u>Reading Assignment:</u> The South China Sea Arbitration case (Introduction to fact and background), available at the website of the Permanent Court of Arbitration (the PCA, https://pca-cpa.org/en/home/).</p>

LIU Dan

Associate Research Professor

LIU Dan is currently Associate Research Professor, Center for Polar and Deep Ocean Development, KoGuan Law School, Shanghai Jiao Tong University (<http://law.sjtu.edu.cn//TeacherDetail157.aspx>). Her research areas include public international law, the law of the sea, polar law and policy. She is currently a board member of the Chinese Society of International law, subeditor for the *Law of the Sea Review*.

Professor LIU used to serve as intern for Legal Department of the International Tribunal for the Law of the Sea (2006). Her overseas experience includes working as visiting professor at Albany Law School of the U.S (2010), visiting scholar at East Asian Institute of the National University of Singapore (2014), and visiting scholar at the Stefansson Arctic Institute of Iceland (2015-2016). Her monographs include *International Law on Marine Living Resources* (2012), *Territorial Status of Ryukyu Islands: History and International Law* (2019), and *Unmanned Maritime Systems and International Law* (2020). Her publications have appeared in journals both in English and Chinese, such as *Marine Policy*, *the Yearbook of Polar Law*, *Arctic Yearbook*, *Contemporary Law Review*, etc. She has been principle organizer of more than 20 research projects from the National Social Science Foundation of China, State Oceanic Administration of China, and China-Nordic Arctic Research Center. She also contributed to newspapers such as *the Diplomat*, *Global Times*, *Peng Pai News*, *Wen Hui Po* and *China Ocean News*. As one of the Chinese delegations, she has participated in many rounds of Track II dialogues in relation to the ocean and artic affairs. She has taught Public International Law, International Environmental law, Dispute Settlement Mechanism, the Law of the Sea, and Chinese Investment Law for LLM students and EMBA students from Europe, the U.S, and the Latin American countries. From 2009, she has also worked as coach for Jessup Term of SJTU.