UNIVERSITY OF OXFORD

FACULTY OF LAW 2003-2004

LAW OF THE SEA: (2) INTERNAL WATERS

Outline:

The following is an outline of possible questions for enquiry and discussion:

I. Sources, terminology
II. Baselines, closing lines, delimitation lines
   1. Importance of baselines for the delimitation of maritime zones
   2. Normal baselines
   3. Straight baselines
   4. Special cases of straight baselines: mouths of rivers, entrance to ports and atolls, bays
   5. Archipelagic baselines and closing lines
   6. Delimitation of internal waters and inland waters
   7. Delimitation of internal waters between States with adjacent coasts
III. The legal status of internal waters
   1. “Aqua-territorial” sovereignty
   2. Access to internal waters (with particular reference to ships in distress)
   3. No right of innocent passage
   4. Restrictions on maritime cabotage and coastal fisheries versus the principle of non-discrimination in EC law
   5. Possible restrictions on the use of internal waters by the coastal States
   6. Archaeological and historical objects
   7. Military activities in internal waters
IV. The legal status of foreign vessels in internal waters
   1. Warships and other government ships operated for non-commercial purposes
   2. Ships operated for commercial purposes
V. Protection of the marine environment
   1. Inclusion of internal waters in marine environmental treaties
   2. Jurisdiction of the coastal State to prescribe and enforce
   3. Extra-territorial enforcement powers of the coastal State in internal waters

Basic Reading:

(a) Treaties and Other Documents

Geneva Convention and Statute on the International Regime of Maritime Ports, 1923

to provide services to maritime transport within Member States (maritime cabotage), OJ 1992 L 364, 7-10
European Commission, Fourth report on the implementation of Council regulation 3577/92 applying the principle of freedom to provide services to maritime cabotage (1999-2000), COM (2002) 203

(b) Cases

(1) International Court of Justice

Anglo-Norwegian Fisheries Case (United Kingdom v. Norway), ICJ Rep. 1951, 116
Continental Shelf Case (Tunisia/Libya), ICJ Rep. 1982, 18
Land, Island and Maritime Frontier Dispute (El Salvador/Honduras, Nicaragua intervening), ICJ Rep. 1992, 351
Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. USA), ICJ Rep. 1986, 14

(2) Arbitral Tribunals


(3) European Court of Justice

Case C-136/89 (Commission v. United Kingdom), ECR 1991, I-3533
Case C-286/90 (Anklagemyndigheden v. Poulsen and Diva Navigation Corp.), ECR 1992, I-6019

(4) National Courts

United States v. Alaska, US Supreme Court, 422 U.S. 184 (1975)
Japan v. Kim Sun-Ki, Matsue District Court, Japan (1997), AJIL 92 (1998), 301-305

(e) Literature


Specialist Material

Bardin, A., Coastal State’s Jurisdiction over Foreign Vessels, *Pace Int’l LR* 14 (2002), 27-76
Charney, J., Rocks that cannot sustain human habitation, *AJIL* 93 (1999), 863-877
Francioni, F., Criminal jurisdiction over foreign merchant vessels in territorial waters, *Italian YIL* 1 (1975), 27-41
Lowe, V., The right to entry into maritime ports in international law, *San Diego LR* 14 (1977), 597-622

**Further Reading**


**Presentations:**

After a general introduction to the question of baselines, two student presentations of about 10 to 15 minutes on the legal status of internal waters, and the protection of the marine environment will introduce the topics and will open the discussion of the topics by the group as a whole.