

UNIVERSITY OF OXFORD

FACULTY OF LAW 2003-2004

LAW OF THE SEA: (4) EXCLUSIVE ECONOMIC ZONE

Outline:

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

- I. Sources
- II. The special régime of the exclusive economic zone
- III. Exclusive economic zones around islands and rocks
- IV. Delimitation
- V. The rights of the coastal State
 - 1. Sovereign rights
 - 2. Exclusive rights
 - 3. Jurisdiction
 - a. Prescriptive jurisdiction
 - b. Enforcement jurisdiction
 - c. Immunity from jurisdiction
 - 4. Other rights
- VI. The rights of other States
 - 1. Freedoms
 - 2. Rights
- VII. Conservation and utilization of the living resources
 - 1. Determination of the total allowable catch (TAC)
 - 2. Access to and distribution of the surplus
- VIII. Protection of the marine environment
- IX. Military activities in the EEZ

Basic Reading:

(a) Treaties and Other Documents

United Nations Convention on the Law of the Sea, 1982: Arts. 55-75, 121, 210-220, 246-249, 253, 257, 259
Agreement on Cooperation in the Sea Fisheries Sector between the European Community and the Islamic Republic of Mauritania, 1996 (OJ 1996 L 334/20)

(b) Cases*(1) International Tribunal for the Law of the Sea*

M/V “Saiga” (Saint Vincent and the Grenadines v. Guinea), Prompt Release, Judgement, ITLOS Rep. 1997, 16; ILM 37 (1998), 360

M/V “Saiga” (No. 2) (Saint Vincent and the Grenadines v. Guinea), Judgment, ITLOS Rep. 1999, 10; ILM 38 (1999), 1323

(2) European Court of Justice

Case C-286/90 (Anklagemyndigheden v Peter Michael Poulsen and Diva Navigation Corp.), Judgment of 24 November 1992: [1992] ECR I-6019

(3) National Courts

Mayaguezanos Por La Salud y El Ambiente v. United States, 198 F.3d 297 (1st Cir. 1999)

(c) Literature

R.R. Churchill/V. Lowe, *The Law of the Sea* (3rd edn., Manchester: MUP, 1999), 160-180, 279-296

E.D. Brown, *The International Law of the Sea*, Vol. I: *Introductory Manual* (Aldershot: Dartmouth, 1994), 216-254

Specialist Material

Berret, Amy DeGeneres, UNCLOS III. Pollution Control in the Exclusive Economic Zone, *Louisiana Law Review* 55 (1995), 1165-1190

Kullenberg, Gunnar, The Exclusive Economic Zone: Some Perspectives, *Ocean & Coastal Management* 42 (1999), 849-855

Meyer, John C., The Impact of the Exclusive Economic Zone on Naval Operations, *Naval Law Review* 40 (1992), 241-252

Mooradian, Christopher P., Protecting ‘Sovereign Rights’: The Case for Increased Coastal State Jurisdiction over Vessel-Source Pollution in the Exclusive Economic Zone, *Boston University Law Review* 82 (2002), 767-816

Spadi, Fabio, Navigation in Marine Protected Areas: National and International Law, *Ocean Development and International Law* 31 (2000), 285-302

Stolker, M., Marine Scientific Research and Customary Law: Legal Regime Within the Exclusive Economic Zone, *Thesaurus Acroasium of the Institute of Public International Law and International Relations of Thessaloniki* 23 (1998), 435-445

Further Reading

Attard, David Joseph, *The Exclusive Economic Zone in International Law* (Oxford: Clarendon

- Press, 1987)
- Kwiatkowska, Barbara, *The 200 Mile Exclusive Economic Zone in the New Law of the Sea* (Dordrecht: Martinus Nijhoff, 1989)
- Orrego Vicuña, Francisco, *The Exclusive Economic Zone: Regime and Legal Status under International Law* (Cambridge: CUP, 1989)
- United Nations, Division for Ocean Affairs and the Law of the Sea, *The Law of the Sea: National Legislation on the Exclusive Economic Zone, the Economic Zone and the Exclusive Fishery Zone* (New York: United Nations, 1986)
- United Nations, Division for Ocean Affairs and the Law of the Sea, *The Law of the Sea: Exclusive Economic Zone – Legislative History of Articles 56, 58 and 59 of the United Nations Convention on the Law of the Sea* (New York: United Nations, 1992)
- United Nations, Division for Ocean Affairs and the Law of the Sea, *The Law of the Sea: National Legislation on the Exclusive Economic Zone and the Exclusive Fishery Zone* (New York: United Nations, 1993)
- Werbke, Axel, Germany's Proclamation of an Exclusive Economic Zone, *International Journal of Marine and Coastal Law* 11 (1996), 79-86

Questions for Discussion:

1. Why may Rockall not have an exclusive economic zone?
2. An oceanographer wishes to collect samples of live organisms (i.e. marine flora and fauna) with potential medical properties in a foreign coastal area. May it do so and, if so, under what conditions?
3. A coastal State wishes to establish a marine protected area (MPA) in its exclusive economic zone in order to protect the habitat of depleted, threatened and endangered species. May it do so? What could be the legal basis, what the content of such a MPA?
4. The United States and several other countries have developed a Low Frequency Active Sonar (LFAS), which projects extremely loud, low-frequency noise to detect nuclear and diesel electric submarines. Since the use of these systems began, there have been numerous whale strandings and adverse impacts on other cetacean species. State A wishes to stop the use of LFAS in its exclusive economic zone. May it do so?