

**UNIVERSITY OF OXFORD**  
**FACULTY OF LAW**  
**THE EU AS AN ACTOR IN INTERNATIONAL LAW**  
**SEMINAR XII:**  
**THE EUROPEAN UNION AND THE LAW OF THE SEA**

**Questions for Discussion:**

- To what extent has the EC replaced the Member States within the area of the Law of the Sea?
- Are the EC's and the Member States's Declarations of Competence in conformity with Annex IX of UNCLOS?
- Is the EC's Declaration of Competence effective?
- Is it possible to speak of European waters or European Seas?
- Does the European Community provide an enforcement mechanism for the UN Convention on the Law of the Sea that would not otherwise exist?
- Was the EC's response to the Prestige Sinking an example of European unilateralism or of European standard setting?
- How far does the EC's competence reach out into the sea?
- Is Directive 2005/35/EC compatible with the UN Convention on the Law of the Sea?
- Should the EC become a member of the International Maritime Organization (IMO)?

**Case Law:**

- \**R. v. Secretary of State for Trade and Industry, ex parte Greenpeace Ltd.*, Queen's Bench Division, 5 November 1999 (<http://web.uct.ac.za/depts/pbl/jgibson/iczm/cases/greenp.htm>)
- \*Case C-286/90, *Anklagemyndigheden v. Peter Michael Poulsen and Diva Navigation Corp.*, [1992] ECR I-6019(<http://eur-lex.europa.eu/>)
- \*Case C-308/06, *Intertanko and Others*, Judgment (Grand Chamber) of 3 June 2008, available at <http://curia.europa.eu/en/transitpage.htm> [go to 'Case-law', then 'Search form', search for 'case number']

**Documents:**

- \*Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements, OJ 2005 L 255/11 (<http://eur-lex.europa.eu/> or [http://www.emsa.europa.eu/Docs/opr/directive\\_2005\\_35\\_ec.pdf](http://www.emsa.europa.eu/Docs/opr/directive_2005_35_ec.pdf))
- \*Council Framework Decision 2005/667/JHA of 12 July 2005 to strengthen the criminal-law framework for the enforcement of the law against ship source pollution, OJ 2005 L 255/164 (<http://eur-lex.europa.eu/>)<sup>1</sup>

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<sup>1</sup> Directive 2005/35/EC was initially supplemented by Council Framework Decision 2005/667/JHA of 12 July 2005 to Strengthen the Criminal-Law Framework for the Enforcement of the Law Against Ship-Source Pollution (Official Journal L 255, 30 September 2005, 164). On 23 October 2007, the European Court of Justice annulled the Framework Decision on the ground that several of its provisions fall within the legislative competence of the Community (Case C-440/05 *Commission v. Council* [2007] ECR I-9097, para. 69). On 11 March 2008, the Commission presented a proposal for a Directive of the European Parliament and of the Council amending Directive 2005/35/EC (COM(2008) 134 final) which will in effect incorporate in the Directive the provisions of the annulled

**Basic Reading:**

- \*Frank, Veronika, Consequences of the Prestige Sinking for European and International Law, *International Journal of Marine and Coastal Law*, 20 (2005), pp. 1-63 (Bod LL: Internat 300 I165)
- Greaves, Rosa, EC Maritime Transport Law and Policy, *International Comparative Law Quarterly* 56 (2007), 415-421
- \*Jenisch, Uwe, The European Union as an Actor in the Law of the Sea: The Emergence of Regionalism in Maritime Safety, Transportation and Ports, *German Yearbook of International Law* 48 (2005), pp. 223-264 (Bod LL: Internat 300 G25)
- Nordmann, Christoph, Regional Organisations: the European Community and the Law of the Sea Convention, in: Davor Vidas and Willy Østreg (eds.), *Order for the Oceans at the Turn of the Century* (The Hague: Kluwer, 1999), pp. 355-363 (Bod LL: Internat 630 V650a)
- \*Orellana, Marcos A., The Swordfish Dispute between the EU and Chile at the ITLOS and the WTO, *Nordic Journal of International Law*, 71 (2002), pp. 55-81 (Bod LL: Internat 300 N60)
- Talmon, Stefan, Law of the Sea, in: Helmut Volger (ed.), *A Concise Encyclopedia of the United Nations*, 2002, pp. 356-365 [gives a brief general introduction to the Law of the Sea for those who have no prior knowledge of the Law of the Sea] (Bod LL: Internat 687 V915a0)
- Weiss, Friedl, UNCLOS and the EEC: Some Legal Problems, in: W.E. Butler (ed.), *The Law of the Sea and International Shipping*, 1985, pp. 69-103 (Bod LL: Internat 630 B987d)

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Framework Decision. It is proposed that the amended Directive 2005/35/EC will be renamed 'Directive of the European Parliament and of the Council on Ship-Source Pollution and on the Introduction of Penalties, Including Criminal Penalties, for Pollution Offences'.