

International Law Department

Academic year 2020 - 2021

International Environmental Law and Policy

DI098 – Autumn – 6 ECTS

Fridays (every two weeks) 14:15-18:00

(specific dates below)

Course Description

This course provides an advanced introduction to international environmental law and policy. It is based on three main components: (I) foundations and principles, (II) substantive regulation, and (III) implementation techniques. It is intended for students with graduate level knowledge of international law or environmental governance. It focuses on the technical and practical aspects of international environmental law and policy. It is aimed to equip students wishing to work or to undertake research in this area of law with the necessary tools to understand the contemporary regulation of environmental problems.

> PROFESSOR

[Jorge E. Viñuales](#)

[Office hours](#)

> ASSISTANT

[Malavika Rao](#)

[Office hours](#)

Syllabus

This course provides an introduction to the foundations of international environmental law, in its policy, technical and practical aspects. Its goal is to help students become ‘fluent’ in international environmental law and policy, in view of either further research or public/private practice in this area. The material of the course consists of: (A) a textbook, (B) selected required readings, and (C) a range of primary sources that students (particularly lawyers) are encouraged to review, although they are not expected to study them in detail. The evaluation of the course will be based on a closed-book written exam (3 hours) that will take place at the end of the course. COVID-19 measures may require a different format.

IMPORTANT: The exam will take place in December. The date will be set at the beginning of the course, and it cannot be changed.

Course Materials

- A. Course website:** Moodle. All instruments and required readings will be made available on this website.
- B. Textbook:** available at the library, some of which in the reserved section (“en séminaire”):
DUPUY, P.-M. and VIÑUALES, J. E., *International Environmental Law*, Cambridge University Press, 2nd ed., 2018.

Course Overview

I. Foundations

1. Evolution of global environmental governance (1960-2020) [18.09]
2. Principles expressing the idea of prevention [18.09 / 02.10]
3. Principles and concepts expressing the idea of balance [02.10]

II. Substantive regulation

4. The hydrosphere (the marine environment and freshwater resources) [16.10]
5. The atmosphere (transboundary air pollution, ozone depletion, climate change) [30.10]
6. The biosphere (species, spaces and biodiversity) [13.11]
7. Dangerous substances and activities (chemicals, pesticides, heavy metals, plastic, waste) [13.11]

III. Implementation

8. International adjudication of environmental disputes [27.11]
9. Responsibility and liability [27.11]
10. Facilitation and management of non-compliance [27.11]
11. International environmental law as a perspective (interactions with human rights, humanitarian law, trade law, and foreign investment law) [11.12]

I. Foundations

18 September 2020

1. Evolution of global environmental governance (1960-2020)

A. Textbook

- D/V – Chapters 1 and 2

B. Required readings

- Brown Weiss, E., ‘The Evolution of International Environmental Law’ (2011) 54 *Japanese Yearbook of International Law*, pp.1-27.
- Chasek, P., Wagner, L. M., Leone, F., Lebada, A.-M., and Risse, N., ‘Getting to 2030: Negotiating the Post-2015 Sustainable Development Agenda’ (2016) 25/1 *Review of European, Comparative and International Environmental Law* 5.
- Viñuales, J. E., ‘Legal Techniques for Dealing with Scientific Uncertainty in Environmental Law’ (2010) 43 *Vanderbilt Journal of Transnational Law*, pp. 437-503.

C. Primary sources (suggested)

- UNGA Resolution 1803 (XVII) ‘Permanent Sovereignty over Natural Resources’ (1962).
- UNGA Resolution 2849 (XXVI) ‘Development and Environment’ (1971).
- Stockholm Declaration on the Human Environment (1972).
- UNGA Resolution 2997 (XXVII) ‘Institutional and Financial Arrangements for International Environmental Cooperation’ (1972).
- UNGA Resolution 37/7 ‘World Charter for Nature’ (1982).
- Report of the World Commission on Environment and Development (Brundtland Report) ‘Our Common Future’ (1987), annexed to UNGA document A/42/427, chap. 2-I on the concept of sustainable development.
- Rio Declaration on Environment and Development (1992).
- UNGA Resolution 47/191 ‘Institutional Arrangements to Follow Up the United Nations Conference on Environment and Development’ (1992).
- UNGA Resolution 55/2 ‘United Nations Millennium Declaration’ (2000).
- Johannesburg Declaration on Sustainable Development (2002).
- Rio+20 Outcome Document ‘The Future We Want’ (2012) endorsed by UNGA Res. A/RES/66/288.
- ILC, Conclusions of the work of the Study Group on the Fragmentation of International Law: Difficulties arising from the Diversification and Expansion of International Law (2006).
- Draft text of a Global Pact for the Environment (2017).
- Transforming Our World: The 2030 Agenda for Sustainable Development (August 2015 final text for adoption by the UNGA) [<https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>].
- UNGA Resolution A/RES/72/277 ‘Towards a Global Pact for the Environment’ (10 May 2018).

2. Principles expressing the idea of prevention

A. Textbook

- D/V – chapter 3

B. Required readings

- Aguila, Y. et al., *Draft Global Pact for the Environment, Compilation of texts* (August 2018).
- Sohn, L. B., ‘The Stockholm Declaration on the Human Environment’ (1973) 14 *Harvard International Law Journal* 423.
- Viñuales, J. E., ‘The Rio Declaration on Environment and Development. Preliminary Study’, in Viñuales, (ed.), *The Rio Declaration on Environment and Development. A Commentary* (Oxford University Press, 2015).

C. Primary sources (suggested)

- ILC, Draft Articles on the Prevention of Transboundary Harm from Hazardous Activities (2001).
- *Trail Smelter Arbitration (USA/Canada)*, Award, 1 March 1941, p. 1965.
- *Corfu Channel Case*, Judgment of April 9th, 1949, I.C.J. Reports 1949, p. 4, p. 22.
- *Nuclear Tests (New Zealand v. France)*, Interim Protection, Order of 22 June 1973, I.C.J. Reports 1973, p. 135, § 30-31.
- *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court’s Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) Case*, I.C.J. Reports 1995, p. 288, § 34-35.
- *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p. 226, § 29.
- *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 7, § 140, 150; Separate Opinion of Vice-President Weeramantry, p. 111.
- *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Provisional Measures, Order of 13 July 2006, C.I.J. Reports 2006, p.113, § 82.
- *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, I.C.J., Judgment, 20 April 2010, § 75, 81, 101-102, 104, 113, 119-121, 144, 145, 147, 149, 164, 174, 188, 203-206, 266 and 281, and Separate Opinion of Judge Cançado Trindade.
- *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Provisional Measures, C.I.J., Order of 8 March 2011, § 86.
- *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua); Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, I.C.J., Judgment, 16 December 2015, §§ 86, 101, 104-106, 108-109, 117-118, 153, 157, 163, 168, 176.
- *In the matter of the Indus Waters Kishenganga Arbitration before the Court of Arbitration constituted in accordance with the Indus Waters Treaty 1960 between the Government of India and the Government of Pakistan signed on 19 September 1960 (Islamic Republic of Pakistan v. Republic of India)*, PCA, Partial Award (18 February 2013), § 448-454.
- *In the matter of the Indus Waters Kishenganga Arbitration before the Court of Arbitration constituted in accordance with the Indus Waters Treaty 1960 between the Government of India and the Government of Pakistan signed on 19 September 1960 (Islamic Republic of Pakistan v. Republic of India)*, PCA, Final Award (20 December 2013), § 100-121.
- *Southern Bluefin Tuna Cases (New Zealand v. Japan; Australia v. Japan)*, Provisional measures, ITLOS Order of 27 August 1999, § 70, 77-80.
- *The MOX Plant Case, Ireland v. United Kingdom of Great Britain and Northern Ireland*, Provisional Measures, ITLOS Order of 3 December 2001, § 64, 81-83.

- *Responsibilities and Obligations of States sponsoring Persons and Entities with respect to Activities in the Area*, Case No. 17, ITLOS (Seabed Dispute Chamber), Advisory Opinion of 1 February 2011, § 107-120, 125-135, 141-150.
- *Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*, Case No. 21, ITLOS, Advisory Opinion of 2 April 2015, § 102-140, 146, 150, 172-173, 212-216.
- *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, ITLOS Case no. 23, Order (25 April 2015), para 64-73, 99-101, 108(1)(d).
- *In the matter of the Chagos Marine Protected Area Arbitration before an Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (Mauritius v. UK)*, Award (18 March 2015), § 537-541.
- *In the matter of the South China Sea Arbitration before an Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (Republic of the Philippines v. People's Republic of China)*, Award (12 July 2016), § 940-993 (prevention, cooperation, EIA and notification).
- *European Communities – Measures Affecting the Approval and Marketing of Biotech Products (EC-Biotech)*, WTO, Panel Report, DS291/292/293, 2006, §7.76-7.89.
- *Pfizer Animal Health SA v. Council of the European Union*, Judgment of the Court of First Instance (Third Chamber), T-13/99, 11 September 2002, § 114-116.
- *Gowan Comércio Internacional e Serviços Lda v. Ministero della Salute*, CJEU Case C-77/09, Judgment (22 December 2010), § 75.
- *Taskin and others v. Turkey* (Application no. 46117/99), ECtHR, Judgment, 10 November 2004 (Final 30 March 2005), § 99-100.
- *Okay and Others v. Turkey* (Application no. 36220/97), ECtHR, Judgment, 12 July 2005 (Final), § 51-52.
- *Demir and Baykara v. Turkey* (Application no. 34503/97), ECtHR, Judgment, 12 November 2008 (Final), § 83.
- *Tatar c. Romania* (Application no 67021/01), ECtHR, Judgment, 27 January 2009 (Final 06/07/09), § 118.
- *Ivan Atanasov v. Bulgaria* (Application no. 12853/03), ECtHR, Judgment, 12 December 2010 (Final), § 55-57.

2 October 2020

2. Principles expressing the idea of prevention (suite)

3. Principles and concepts expressing the idea of balance

A. Textbook

- D/V – chapter 3, excerpts

B. Required readings

- Idem readings 2.

C. Primary sources (suggested)

- UN Secretary-General, *Intergenerational Solidarity and the Needs of Future Generations. Report of the Secretary-General*, 15 August 2013, UN Doc A/68/322.

- *Bering Fur Seals Arbitration (United Kingdom/United States of America)*, Award of 15 August 1893, reproduced in: *International Environmental Law Reports*, Cambridge, vol. 1, 1999, pp. 43-88 [http://legal.un.org/riaa/cases/vol_XXVIII/263-276.pdf].
- *Fisheries Jurisdiction Case (United Kingdom of Great Britain and Northern Ireland v. Iceland)*, I.C.J., Judgment, 25 July 1974 (Merits), § 60, 66-68.
- *Juan Antonio Oposa et al. v. Fulgencio S. Factoran, Jr, et al. (Minor Oposa case)*, Republic of the Philippines Supreme Court, Decision, G.R. No. 101083, 30 July 1993 [https://www.lawphil.net/judjuris/juri1993/jul1993/gr_101083_1993.html].
- *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I. C. J. Reports 1997, p. 7, § 140.
- *United States – Import Prohibition of Certain Shrimp and Shrimp Products (Shrimp Turtle case)*, WTO, Appellate Body Report, 1998, § 153. [[https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=\(@Symbol=%20wt/ds58/ab/rw*%20not%20rw2*\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(@Symbol=%20wt/ds58/ab/rw*%20not%20rw2*)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#)].
- *Case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, I.C.J., Judgment, 20 April 2010, § 75-77 and 177.

II. Substantive Regulation

16 October 2020

4. The hydrosphere (the marine environment and freshwater resources)

A. Textbook

- D/V – chapter 4

B. Required readings

- Redgwell, C., ‘From Permission to Prohibition: the 1982 Convention on the Law of the Sea and Protection of the Marine Environment’, in D. Freestone *et al* (eds.), *The Law of the Sea: Progress and Prospects* (Oxford University Press, 2006), pp. 180-191.
- Gavouneli, M., ‘State jurisdiction in relation to the protection and preservation of the marine environment’, in Attard, D., M. Fitzmaurice, and N. A. Martinez Gutierrez (eds.), *The IMLI Manual on International Maritime Law* (Oxford University Press, vol. 1-3, 2014).
- McCaffrey, S., *The Law of International Watercourses* (Oxford University Press, 2007), chapters 9 and 14.
- Viñuales, J. E., ‘The Protocol on Water and Health as a Strategy for Global Water Governance Integration’ (2019) 68 *International & Comparative Law Quarterly* 175.

C. Primary sources (suggested)

- International Convention for the Prevention of Pollution from Ships (1973) and 1978 Protocol [<http://www.austlii.edu.au/au/other/dfat/treaties/1988/29.html>].
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972) [<http://www.austlii.edu.au/au/other/dfat/treaties/1985/16.html>] and 1996 Protocol (entered into force in 2006) [<http://www.admiraltylawguide.com/conven/protdumping1996.html>].

- United Nations Convention on the Law of the Sea, Part XII (1982) [http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm].
- IMO, Implications of the United Nations Convention on the Law of the Sea, 1982, for the International Maritime Organization (IMO), doc. LEG/MISC/1 (1986 mimeo.).
- Agreement for the Implementation of the Provisions of UNCLOS Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995) [http://www.un.org/depts/los/convention_agreements/convention_overview_fish_stocks.htm].
- *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I. C. J. Reports 1997, p. 7; Separate Opinion of Vice-President Weeramantry, p. 111.
- *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, C.I.J., Judgment, 20 April 2010, and Separate Opinion of Judge Cançado Trindade.
- *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Provisional Measures, C.I.J., Order of 8 March 2011, para. 86.
- *Responsibilities and Obligations of States sponsoring Persons and Entities with respect to Activities in the Area*, Case No. 17, ITLOS (Seabed Dispute Chamber), Advisory Opinion of 1 February 2011, § 107-120, 125-135, 141-150 [http://www.itlos.org/fileadmin/itlos/documents/cases/case_no_17/Adv_Op_010211_eng.pdf].
- *Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*, Case No. 21, ITLOS, Advisory Opinion of 2 April 2015.
- *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, ITLOS Case no. 23, Order (25 April 2015), para 64-73, 99-101, 108(1)(d).
- *In the matter of the Chagos Marine Protected Area Arbitration before an Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (Mauritius v. UK)*, Award (18 March 2015), paras. 537-541.
- *Arctic Sunrise Arbitration (The Netherlands v. Russia)*, Award on the Merits (14 August 2015), paras. 227-228.
- *In the matter of the South China Sea Arbitration before an Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (Republic of the Philippines v. People's Republic of China)*, Award (12 July 2016), § 940-993 (prevention, cooperation, EIA and notification).
- *International Association of Independent Tanker Owners (Intertanko) and others v. Secretary of State for Transport*, ECJ (Grand Chamber), Case C-308/06, Judgment (3 June 2008), para. 64.
- *Case relating to the territorial jurisdiction of the International Commission on the River Oder*, PCIJ Series A No. 23, Judgment (10 September 1929).
- *Lake Lanoux Arbitration (Spain v. France)*, Award of 16 November 1957, RIAA, vol. XII, pp. 281ff.
- *In the matter of the Indus Waters Kishenganga Arbitration before the Court of Arbitration constituted in accordance with the Indus Waters Treaty 1960 between the Government of India and the Government of Pakistan signed on 19 September 1960 (Islamic Republic of Pakistan v. Republic of India)*, PCA, Partial Award (18 February 2013).
- *In the matter of the Indus Waters Kishenganga Arbitration before the Court of Arbitration constituted in accordance with the Indus Waters Treaty 1960 between the Government of India and the Government of Pakistan signed on 19 September 1960 (Islamic Republic of Pakistan v. Republic of India)*, PCA, Final Award (20 December 2013).

- *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua); Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, I.C.J., Judgment, 16 December 2015.
- International Law Association, Helsinki Rules on the Uses of the Waters of International Rivers, adopted at the 52nd conference of the ILA in August 1966 ('Helsinki Rules') [https://www.internationalwaterlaw.org/documents/intldocs/ILA/Helsinki_Rules-original_with_comments.pdf].
- International Law Association, Seoul complementary rules, adopted at the 62nd conference of the ILA in 1986 ('Seoul Rules') [<http://www.cawater-info.net/library/eng/l/seoul.pdf>].
- International Law Association, Berlin Rules on Water Resources, adopted by the ILA on 21 August 2004 ('Berlin Rules') [http://www.cawater-info.net/library/eng/l/berlin_rules.pdf].
- United Nations Convention on the Non-navigational Uses of International Watercourses (1997) [http://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf].

30 October 2020

5. The atmosphere (transboundary air pollution, ozone depletion, climate change)

A. Textbook

- D/V – chapter 5

B. Required readings

- Byrne, A., 'The 1979 Convention on Long-Range Transboundary Air Pollution: Assessing its Effectiveness as a Multilateral Environmental Regime after 35 Years' (2015) 4 *Transnational Environmental Law* 37.
- Benedick, R.E., 'The Improbable Montreal Protocol: Science, Diplomacy, and Defending the Ozone Layer', case study prepared for the 2004 Policy Colloquium of the American Meteorological Society, reproduced in D. Kaniaru (ed.), *The Montreal Protocol. Celebrating 20 Years of Environmental Progress* (London: Cameron May, 2007), pp. 43-60 & 117-124.
- Bodansky, D., Brunnee, J., Rajamani, L., *International Climate Change Law* (Oxford University Press, 2017), excerpts.
- Mercure, J. et al, 'Macroeconomic impact of stranded fossil-fuel assets' (2018) 8 *Nature Climate Change* 588.

C. Primary sources (suggested)

- Convention on Long-Range Transboundary Air Pollution (1979) [<http://www.unece.org/fileadmin/DAM/env/lrtap/full%20text/1979.CLRTAP.e.pdf>] and Gothenburg Protocol (1999) [http://www.unece.org/env/lrtap/multi_h1.html].
- ASEAN Agreement on Transboundary Haze Pollution, 10 June 2002, available at www.ecolex.org (TRE-001344).
- UNEA Resolution 1/7 'Strengthening the Role of the United Nations Environment Programme in Promoting Air Quality', 2 September 2014, UN Doc. UNEP/EA.1/10.
- WHO Resolution 68.8 'Health and the Environment: Addressing the Health Impact of Air Pollution', 26 May 2015, WHA68.8.
- Vienna Convention for the Protection of the Ozone Layer (1985) [https://ozone.unep.org/sites/default/files/2019-04/VC-Text%202016-English_0.pdf].
- Montreal Protocol on Substances that Deplete the Ozone Layer (1987) [<https://unep.ch/ozone/pdf/Montreal-Protocol2000.pdf>].

- Decision XXVIII/1, ‘Further amendment of the Montreal Protocol’, 14 October 2016, Doc. UNEP/OzL.Pro.28/CRP/10.
- Decision XXVIII/2, ‘Decision related to the amendment phasing down hydrofluorocarbons’, 14 October 2016, Doc. UNEP/OzL.Pro.28/CRP/10. [<https://www.informea.org/en/decision/decision-xxviii2-decision-related-amendment-phasing-down-hydrofluorocarbons#decision-body-field>].
- IPCC, Fourth Assessment Report, Synthesis Report, SPM, 2007 [<https://www.ipcc.ch/report/ar4/syr/>].
- IPCC, Fifth Assessment Report, Synthesis Report, SPM, 2014 [<https://www.ipcc.ch/report/ar5/syr/>].
- United Nations Framework Convention on Climate Change (1992) [http://unfccc.int/essential_background/convention/items/6036.php].
- Kyoto Protocol (1997) [http://unfccc.int/essential_background/kyoto_protocol/items/6034.php].
- Amendment to the Kyoto Protocol pursuant to its Article 3, paragraph 9 (the Doha Amendment), Decision 1/CMP-8, 28 February 2013, Doc. FCCC/KP/CMP/2012/13/Add.1.
- UN Doc. FCCC/CP/2009/11/Add.1, Copenhagen Accord, 19 December 2009 [http://unfccc.int/meetings/copenhagen_dec_2009/items/5262.php].
- UN Doc. FCCC/CP/2010/7/Add.1, The Cancun Agreements, 10 December 2010 [<http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>].
- UN Doc. FCCC/CP/2011/9/Add. 1, Dec. 1/CP.17 on the Durban Platform, 11 December 2011 [<http://unfccc.int/resource/docs/2011/cop17/eng/09a01.pdf>].
- UN Doc. FCCC/CP/2015/10/Add1, Dec. 1/CP21, ‘Adoption of the Paris Agreement’, 29 January 2016 [<http://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>].
- Paris Agreement on Climate Change, 22 April 2016, authenticated version: [http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf].
- ICAO Assembly, Resolution 22/2 ‘Consolidated statement of continuing ICAO policies and practices relating to environmental protection – Global Market-Based Measure (GMBM) scheme’, 6 October 2016, Doc. ICAO/A/39-WP/530.

13 November 2020

6. The biosphere (species, spaces and biodiversity)

A. Textbook

- D/V – chapter 6

B. Required readings

- Bowman, M., Davies, P., and Redgwell, C., *Lyster’s International Wildlife Law* (Cambridge University Press, 2010), pp. 451-482 (on the World Heritage Convention) and pp. 483-534 (on the CITES).
- Morgera, E. and Tsioumani, E., ‘Yesterday, Today and Tomorrow: Looking Afresh at the Convention on Biological Diversity’ (2011) 21 *Yearbook of International Environmental Law* 1-38.
- Futhazar, G., ‘The Diffusion of the Strategic Plan for Biodiversity and its Aichi Biodiversity Targets within the Biodiversity Cluster: An Illustration of Current Trends in the Global

Governance of Biodiversity and Ecosystems' (2015) 25 *Yearbook of International Environmental Law* 133.

- Tladi, D., 'The Common Heritage of Mankind and the Proposed Treaty on Biodiversity in Areas beyond National Jurisdiction: The Choice between Pragmatism and Sustainability' (2015) 25 *Yearbook of International Environmental Law* 113.

C. Primary sources

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973 amended in 1979) [<http://www.cites.org/eng/disc/text.php>].
- The Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (1971) [https://www.ramsar.org/sites/default/files/documents/library/scan_certified_e.pdf].
- Convention Concerning the Protection of the World Cultural and Natural Heritage (1972) [<http://whc.unesco.org/en/conventiontext/>].
- Convention on Biological Diversity (1992) [<http://www.cbd.int/convention/text/>].
- Cartagena Protocol on Biosafety (2000) [<http://bch.cbd.int/protocol/text/>].
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (2010) [<http://www.cbd.int/abs/text/default.shtml>].
- CP decision X/2 'Strategic Plan 2011–2020 and the Aichi Targets on Biological Diversity', 29 October 2010, UNEP/CBD/COP/DEC/X/2.
- Decision XIII/3 'Strategic actions to enhance the implementation of the Strategic Plan for Biodiversity 2011-2020 and the achievement of the Aichi Biodiversity Targets, including with respect to mainstreaming and the integration of biodiversity within and across sectors', 16 December 2016.
- Decision XIII/18 'Article 8(j) and related provisions: Mo'otz Kuxtal voluntary guidelines', 17 December 2016, CBD/COP/DEC/XIII/18.
- Decision 2/14 'Digital sequence information on genetic resources', 16 December 2016, CBD/NP/MOP/DEC/2/14.
- International Treaty on Plant Genetic Resources for Food and Agriculture (2001) [<http://www.planttreaty.org/content/texts-treaty-official-versions>].
- Resolution 3/2015 'The Vision and the Programme of Work on the Global Information System', IT/GB-6/15/Res3.
- UNGA Resolution 69/292 'Development of an international legally-binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction', 19 June 2015, UN Doc. A/RES/69/292.
- UNGA Resolution, 'Tackling illicit trafficking in wildlife', 15 July 2015, UN Doc. A/69/L.80.
- UNSC Resolution 2347 (2017), 24 March 2017, UN Doc. S/RES/2347/2017.
- Agreement to Promote Compliance with International Conservation and Management Measures by Vessels on the High Seas, 24 November 1993, 2221 UNTS 91.
- Code of Conduct for Responsible Fisheries adopted on 31 October 1995, available at: www.fao.org (visited on 2 April 2017).
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 22 November 2009, [2010] ATNIF 41.
- *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)(Cambodia v. Thailand)*, Judgment, ICJ Reports 2013, p. 281.
- *Whaling in the Antarctic (Australia v Japan: New Zealand intervening)*, Judgment, ICJ, 31 March 2014, p. 226.

- *Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*, Case No. 21, ITLOS, Advisory Opinion of 2 April 2015, § 102-140, 146, 150, 172-173, 212-216.
- *Southern Pacific Properties (Middle East) Limited (SPP) v. Arab Republic of Egypt*, ICSID Case No. ARB/84/3, Award (20 May 1992).

7. Dangerous substances and activities (chemicals, pesticides, heavy metals, plastic, waste)

A. Textbook

- D/V – chapter 7

B. Required readings

- Ditz, D., and Tuncak, B., ‘Bridging the divide between toxic risks and global chemical governance’ (2014) 23 *RECIEL* 181.
- Kummer Peiry, K., ‘The Chemicals and Waste Regime as a Basis for a Comprehensive International Framework on Sustainable Management of Potentially Hazardous Materials?’ (2014) 23 *RECIEL* 172.
- Lallas, P., ‘The Stockholm Convention on Persistent Organic Pollutants’ (2001) 95 *American Journal of International Law* 692.
- Eriksen, H. H., and Perrez, F., ‘The Minamata Convention: A Comprehensive Response to a Global Problem’ (2014) 23 *RECIEL* 195.
- Kirk, E., and Popattanachai, N., ‘Marine plastics: Fragmentation, effectiveness and legitimacy in international law making’ (2018) 27 *RECIEL* 222.

C. Primary sources (suggested)

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989) [<http://www.basel.int/Portals/4/Basel%20Convention/docs/text/BaselConventionText-e.pdf>].
- Report of the United Nations Conference on Environment and Development, Rio 1992, Vol. I Annex II: Agenda 21, Chapter 19 (A/CONF.151/26/Rev.1 (Vol.I)) [<https://www.un.org/esa/dsd/agenda21/Agenda%2021.pdf>].
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998, revised in 2008) [<http://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx>].
- Stockholm Convention on Persistent Organic Pollutants (2001, as amended in 2009) [<http://chm.pops.int/TheConvention/Overview/TextoftheConvention/tabid/2232/Default.aspx>].
- Draft Mercury Convention [<http://www.mercuryconvention.org/Convention/Text/tabid/3426/language/en-US/Default.aspx>].
- Strategic Approach for International Chemicals Management, excerpts [<http://www.saicm.org>].
- Decision III/2 ‘Emerging policy issues’, 29 October 2012, SAICM/ICCM.3/24, Section F (endocrine-disrupting chemicals).
- Decision IV/4 ‘The Strategic Approach and sound management of chemicals and waste beyond 2020’, 28 October 2015, SAICM/ICCM.4/15.
- Third UN World Conference on Disaster Risk Reduction, Sendai Framework for Disaster Risk Reduction 2015-2030 (March 2015).
- Vienna Declaration on Nuclear Safety, 9 February 2015, CNS/DC/2015/2/Rev.1.

- UNEP/NOAA, *Honolulu Strategy: A Global Framework for Prevention and Management of Marine Debris* (2012).
- Open-Ended Working Group, Proposal for an Amendment of the Basel Convention, Annex IX and Annex II (September 2018). [Update with Decisions adopted in May 2019 which amended the Convention].

III. Implementation

27 November 2020

8. International adjudication of environmental disputes

A. Textbook

- D/V – chapter 8

B. Required readings

- Stephens, T., *International Courts and Environmental Protection*, Cambridge University Press (2009), pp. 19-117.
- Viñuales, J.E., ‘The Contribution of the International Court of Justice to the Development of International Environmental Law: A Contemporary Assessment’ (2008) 32 *Fordham International Law Journal* 232.
- Boyle, A., and Harrison, J., ‘Judicial Settlement of International Environmental Disputes: Current Problems’ (2013) 4 *Journal of International Dispute Settlement* 245.

C. Primary sources (suggested)

- Bering Fur Seals Arbitration (United Kingdom/United States of America), Award of 15 August 1893, reproduced in: *International Environmental Law Reports*, Cambridge, vol. 1, 1999, pp. 43-88.
- The North Atlantic Coast Fisheries Case (Great Britain, United States), Award of 7 September 1910, *RIAA Vol. XI*, pp. 167-226.
- Trail Smelter Arbitration (USA/Canada), Award, 1 March 1941, p. 1965.
- *Lake Lanoux Case (Spain v. France)*, award of 16 November 1957, *RSA*, vol. XII, pp. 281ff
- *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court’s Judgment of 20 December 1974 in the Nuclear tests (New Zealand v France) Case*, Order of 22 September 1995 *ICJ Reports* (1995), p. 288, at para 64, 5 *Int Env LR* 149.
- *Case Concerning the Gabčíkovo-Nagymaros Project (Hungary v Slovakia)*, Judgment, *ICJ Reports* (1997), p. 7, paras. 53-58, 139-141, 5 *Int Env LR* 272.
- *Southern Bluefin Tuna (Australia and New Zealand v. Japan)* Order of 27 August 1999, available at www.itlos.org and 117 *ILR* 148, paras 40-85, esp. paras 70-85, 5 *Int Env LR* 393.
- *MOX Plant Case (Ireland v United Kingdom)* Provisional Measures, Order of 3 December 2001, available at www.itlos.org, paras. 67-89, 5 *Int Env LR* 421.
- *The MOX Plant Case (Ireland v United Kingdom)*, Order No. 3 of Annex VII Tribunal, Suspension of Proceedings on Jurisdiction and Merits, and Request for Further Provisional Measures, 24 June 2003, available at www.pca-cpa.org paras 18-30. See also Order No 6 terminating proceedings (6 June 2008).
- *Case Concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean (Chile/European Community)*, Order of 16 December 2003.

- *Case Concerning Land Reclamation by Singapore in and around the Straits of Johor (Malaysia v Singapore)* Order of 8 October 2003, paras 64-73, Int Env LR 466.
- *Baglihar (India/Pakistan)*, available at: <http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/223546-1171996340255/BagliharSummary.pdf>.
- *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, C.I.J. Reports (2010), Judgment, 20 April 2010.
- *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua); Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, I.C.J., Judgment, 16 December 2015, §§ 86, 101, 104-106, 108-109, 117-118, 153, 157, 163, 168, 176.
- *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua); Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, I.C.J., Judgment on compensation, 2 February 2018.
- *In the matter of the Indus Waters Kishenganga Arbitration before the Court of Arbitration constituted in accordance with the Indus Waters Treaty 1960 between the Government of India and the Government of Pakistan signed on 19 September 1960 (Islamic Republic of Pakistan v. Republic of India)*, PCA, Final Award (20 December 2013), § 100-121.
- *Whaling in the Antarctic (Australia v Japan: New Zealand intervening)*, Judgment, ICJ, 31 March 2014, p. 226.
- *In the matter of the Chagos Marine Protected Area Arbitration before an Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (Mauritius v. UK)*, Award (18 March 2015), § 537-541.
- *Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*, Case No. 21, ITLOS, Advisory Opinion of 2 April 2015.
- *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, ITLOS Case no. 23, Order (25 April 2015), para 64-73, 99-101, 108(1)(d).
- *In the matter of the South China Sea Arbitration before and Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (Republic of the Philippines v. People's Republic of China)*, Award (12 July 2016), § 940-993 (prevention, cooperation, EIA and notification).

9. Responsibility and liability

A. Textbook

- D/V – chapter 8

B. Required readings

- Scovazzi, T., 'State Responsibility for Environmental Harm' (2001) 12 *Yearbook of International Environmental Law* 43.
- Brunnée, J., 'Of Sense and Sensibility: Reflections on International Liability Regimes as Tools for Environmental Protection' (2004) 53 *International and Comparative Law Quarterly* 351.
- Boyle, A., 'Liability for Injurious Consequences of Acts Not Prohibited by International Law' in J. Crawford, A. Pellet, S. Olleson, and K. Parlett (eds) *The Law of International Responsibility*, Oxford University Press (2010) pp. 95-104.

C. Primary sources (suggested)

- ILC Draft Articles on the Responsibility of States for Internationally Wrongful Acts (2001).

- ILC Draft Articles on the Prevention of Transboundary Harm from Hazardous Activities (2001).
- ILC Draft Principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities (2006).
- Institut de Droit International, Resolution on ‘Responsibility and Liability under International Law for Environmental Damage’ (Rapporteur F. Orrego Vicuña).
- International Convention on Civil Liability for Oil Pollution Damage (1992).
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1992 as amended in 2000).
- Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (2003).
- Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters, 21 May 2003, Doc. ECE/MP.WAT/11-ECE/CP.TEIA/9.
- Basel Protocol on Liability and compensation for damage resulting from transboundary movements of hazardous wastes and their disposal, 10 December 1999, available on: www.ecolex.org (TRE-001341).
- Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, 15 October 2010, UNEP/CBD/BS/COP-MOP/5/17.
- Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment, 21 June 1993, available at: www.ecolex.org (TRE-001 166).
- *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua); Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, I.C.J., Judgment on compensation, 2 February 2018.
- ‘Erika’, Cour de Cassation, Chambre criminelle, Arrêt n° 3439 (25 September 2012).

10. Facilitation and management of non-compliance

A. Textbook

- D/V – chapter 9

B. Required readings

- Viñuales, J. E., ‘Managing Abidance by Standards for the Protection of the Environment’, in Cassese, A. (ed.), *Realizing Utopia* (Oxford University Press, 2012), pp. 326-339.
- Fodella, A., ‘Structural and Institutional Aspects of Non-Compliance Mechanisms’, in Treves, T. et al. (eds.), *Non-Compliance Procedures and Mechanisms and the Effectiveness of International Environmental Agreements* (The Hague: T.M.C. Asser Press, 2009), pp. 355-372.

C. Primary sources (suggested)

- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), 25 June 1998 [<http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>].
- ‘Review of Compliance’, Decision I/7, 2 April 2004, ECE/MP.PP/2/Add.8, Annex.
- Findings and recommendations of the CC with regard to Communication ACCC/C/2009/41 concerning compliance by Slovakia, 17 December 2010 [<http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2009-41/Findings/C41SKFindings.pdf>].

- Armenia vs. Azerbaijan, Report of the Implementation Committee (Espoo EIA Convention) on its twenty-seventh session, ECE/MP.EIA/IC/2013/2 [<http://www.unece.org/fileadmin/DAM/env/documents/2013/eia/ic/ece.mp.eia.ic.2013.2e.pdf>].
- Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 17 June 1999, 2331 UNTS 202.
- ‘Review of Compliance’, Decision I/2, 3 July 2007, ECE/MP.WH/2/Add.3, EUR/06/5069385/1/Add.3.
- ‘Consultation Process. Terms of Reference’, Compliance Committee, Protocol on Water and Health, 25 November 2014.

11 December 2020

11. International environmental law as a perspective (interactions with human rights, humanitarian law, trade law, and foreign investment law)

A. Textbook

- D/V – chapters 10, 11 and 12

B. Required readings

- None

C. Primary sources (suggested)

- *Case of López Ostra v. Spain*, ECtHR, Judgment, 9 December 1994 [<http://hudoc.echr.coe.int/eng?i=001-57905>].
- *Social and Economic Rights Action Centre (SERAC) and Another v. Nigeria*, ACHPR, 2011. [<http://www.achpr.org/communications/decision/155.96/>].
- Inter-American Court of Human Rights, Advisory Opinion 23/17 requested by the Republic of Colombia (15 November 2017) [http://www.corteidh.or.cr/docs/opiniones/resumen_seriea_23_eng.pdf].
- Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Framework Principles on Human Rights and the Environment, 24 January 2018, A/HRC/37/59.
- Convention Concerning the Protection of the World Cultural and Natural Heritage, 16 November 1972, 1037 U.N.T.S. 151, art. 11(4) [<http://whc.unesco.org/en/conventiontext/>].
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, ILM 16 (1977) 1391, arts. 35, 52, 55 and 56 [<http://www.icrc.org/ihl/INTRO/470>].
- Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, 10 December 1976, ILM 16 (1977) 88 [<http://www.un-documents.net/enmod.htm>].
- Treaty on the Prohibition of Nuclear Weapons, 7 July 2017 (not yet in force).
- Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226, paras 27-33.
- GATT 1947 Panel Report, *US – Tuna/Dolphin II*, 16 June 1994, DS29/R, unadopted [<http://www.worldtradelaw.net/reports/gattpanels/tunadolphinII.pdf> (sections 5 and 6)].

- WTO Appellate Body Report, *US – Shrimp*, WT/DS58/AB/R, paras 125-186 (on Art XX(g) and the Chapeau to Art XX) [[http://www.worldtradelaw.net/reports/wtoab/us-shrimp\(ab\).pdf](http://www.worldtradelaw.net/reports/wtoab/us-shrimp(ab).pdf)].
- *India - Certain Measures relating to Solar Cells and Solar Modules - Report of the Appellate Body*, WT/DS456/AB/R (16 September 2016), paras. 5.91-5.151, 6.6 (direct effect of climate instruments).
- *S.D. Myers v. Canada, NAFTA Arbitration* (UNCITRAL Rules), Partial Award (13 November 2000), excerpts [see: <http://italaw.com/>].
- *Chemtura Corporation (formerly Crompton Corporation) v. Government of Canada, UNCITRAL*, Award (2 August 2010), excerpts [see: <http://italaw.com/>].
- *Clayton and Bilcon v. Government of Canada, NAFTA Arbitration* (UNCITRAL Rules), Award (17 March 2015) [see: <http://italaw.com/>].
- *Adel A Hamadi Al Tamimi v. Sultanate of Oman*, ICSID Case No. ARB/11/33, Award (3 November 2015) [see: <http://italaw.com/>].