

The International Law of the Sea

Fourth Edition

This new edition has been revised and updated to provide current and comprehensive coverage of essential issues of the international law of the sea in a systematic manner. This book presents two paradigms of the law of the sea: the law of divided oceans and the law of our common ocean. It covers contemporary issues, such as the port in a pandemic, protection of the marine biological diversity, marine plastic pollution, the Arctic and impacts of climate change on the oceans. Following the clear and accessible approach of previous editions, with many illustrations and tables, *The International Law of the Sea* continues to help students to best understand the law of the sea.

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The International Law of the Sea

Fourth Edition

Yoshifumi Tanaka

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*Dedicated to my teachers,
Lucius Caflisch and Tetsuo Sato
In memory of Hugh Thirlway*

*Let the heavens rejoice, let the earth be glad;
Let the sea resound, and all that is in it.
Psalm 96:11*

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Preface

International law of the sea is a legal shield against any unlawful use of the oceans, escalation of international disputes or deterioration of the marine environment. In this sense, it is a crucial component of peace in the international community. In the era of crisis, the role of the law of the sea as a shield to defend an international legal order is increasingly important. This book seeks to provide readers with a systematic overview of the law of the sea as an inseparable part of public international law and as a key component of sustainable peace in the international community. This book has only the modest aim of providing a starting point for anyone wishing to study the law of the sea, by examining the principal issues of the law of the sea succinctly.

In this fourth edition, all chapters have been revised, updated and, where necessary, rewritten. Many issues are newly discussed, while some parts have been shortened to keep the book readable. In particular, the following changes merit being highlighted.

In Chapter 2, section 2.2 ‘Straight Baselines’ was revised, considering the 2022 *Nicaragua v. Colombia* case. In Chapter 3, section 2.6, ‘Port in a Pandemic’, has been newly added. In Chapter 4, the issues of submarine cables and pipelines are discussed in a new section (section 4.8). Chapter 7 includes a new section concerning regional fisheries management organisations (section 6). In Chapter 8, a new section concerning marine plastic pollution has been added (section 11). Chapter 13 includes new sections, ‘The Role of the Compulsory Conciliation’ (section 3.4), ‘Counter-claims’ (section 5.6) and ‘ITLOS and Fragmentation of International Law’ (section 5.11). In this chapter, further consideration has been given to the jurisdictional issues regarding mixed disputes (section 5.1). The issues of provisional measures and preliminary objections are discussed in new sections 5.4 and 5.5, respectively. The theory of protection of community interests in Chapter 14 has been revised. At the time of writing, an international legally binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction was still under negotiation. The outcome of the negotiation could not be examined in this edition, but the main issues are briefly mentioned in section 3.3 of Chapter 9. Further reading has been updated, while some older references had to be deleted because of limitations of space.

xx Preface

At the finishing stages of this edition, the Russian Federation invaded Ukraine. The temptation to include an examination of the implications of Russia's aggression for the law of the sea has been resisted because it would require more time and materials, but it must be stressed that the importance of international law, including the law of the sea, will never be undermined by any illegal use of force.

The typescript of this edition was completed in April 2022. All websites were current as of that date.

I am grateful to the University of Copenhagen, Faculty of Law, and its Library, for its support in the completion of the text of this book. I would also like to thank the staff of Cambridge University Press, in particular, Caitlin Lisle, Gemma Smith and Marianne Nield for their assistance. I thank Martin Barr for his thorough copy-editing. I wish to thank anonymous reviewers for their useful comments on the revision of this edition of the book. Last, but not least, I am grateful to my wife, Akiko, for all her support and prayers throughout my work.

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