



INTERNATIONAL ENVIRONMENTAL LAW – 3577

Spring 2008	Dr. Wil Burns
Distance Learning Course	
Virtual Office Hours: Open Door Policy. Email or call at your convenience.	
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About the Course

- In order to matriculate in this course, you need a DSL, cable or other high speed internet connection;
- The course opens on Monday, January 14 and will remain open until the conclusion of the examination period. However, while the lecture materials for the site (including the video lecture presentations and my lecture notes and Power Point files) will be available 24/7, you must conform to the schedule in this syllabus in order to participate in the virtual discussion forum each week. Each new week begins at 6.30pm on Monday;
- There are no excused “absences” from this course, as you are accorded a week to complete each weekly assignment or to respond to weekly discussion questions. Entries made after the assigned time and assignments submitted later will result in a deduction in your participation grade;
- The course is housed on the Stetson Law School Blackboard System. To access the course, go to: <https://bb.law.stetson.edu/webapps/login/>, enter your Stetson login and password and you should find the course listed as one you’re eligible to take. If you have any problems accessing the course (and please try to do so immediately), contact me and we’ll figure out what’s wrong;
- Once you enter the course site, you will find a series of buttons on the left side, including Syllabus, Course Materials (which will include the electronic versions of my lecture notes and Power Point presentations), Course Materials (which will include the electronic readings for the course), Discussion and Lectures (the video lectures for the course will be found here).
- Where to start:
 - First, go to the Discussion board and you will find a post titled “Introduction.” Please respond early in the week;

- Next, read the assignment for the first topic in the Syllabus. After reading the requisite material for the first topic, go to the “Lecture Videos” folder under the “Course Documents” button and start with Lecture 1.1 (first lecture of the first week of the course; all other lectures for the course use the same file convention).
 - Click on the “View” link on the screen; if you do not have Windows Media Player, you will have to download it to view the lectures for the course.
- After you’ve viewed Lecture 1.1, click on the Discussion Board button and click on the “Lecture 1.1” link; there will be several questions posted for discussion on the discussion board.
 - When participating in the discussion forum, you are required to post thorough, well-articulated responses to the queries or arguments raised in the Forum. Statements e.g. “I agree” or “I Disagree” will not constitute good participation;
 - You are required to post or submit something to the course instructor at least three times per week; this can include: 1. Responses to discussion questions that I post in the forum; 2. Responses to queries or arguments advanced by students in the course; or 3. Creation of new threads for discussion of topics pertinent to the relevant lecture;
 - Try to treat the discussion as you would in a regular classroom environment;
 - Always maintain professional decorum in the Forum. Ad hominem attacks are not permitted. You certainly may (and assuredly will) disagree with the positions of others throughout the semester; however, your responses should be well-reasoned and avoid pejorative language.
- To help you determine how you’re doing in course discussion, I will provide each one of you with individual feedback after the first month of the course. Of course, you’re free to solicit feedback from me at any time during the semester.

Course Overview

International environmental law has been perhaps the most dynamic sector of international law over the past 30 years, growing from a mere handful of agreements 30 years ago, focused primarily on pollution of the marine environment and the conservation of migratory birds and marine mammals, to over 500 agreements today. International environmental law regimes have been established to address a multitude of serious environmental issues, including depletion of the ozone layer, climate change, regulation of trade in endangered species and prevention of transboundary air pollution. Additionally, there has been steadily increasing impetus for expanding the purview of international environmental law, including causes of action for transboundary environmental harm and recognition of the rights of future generations to a healthy environment.

This course will seek to provide an overview of the status of international environmental law at the dawn of a new century. In so doing, we will explore all of the following questions:

- Why do States cooperate in developing international environmental norms and regimes, and to what extent?

- What are the sources of international law, and what legal mechanisms or approaches facilitate the development of international environmental agreements and norms?
- What mechanisms do we use to facilitate assessment of compliance and implementation of international environmental agreements and how do we assess treaty effectiveness?
- How effective are some of the primary international environmental agreements in effect today? How can we make these agreements more robust?
- What is the interface between international environmental law and other important international institutions, e.g. trade, human rights and financial regimes?

Readings

The readings for the course will be derived from the following sources, designated in the class schedule with the icons listed below:

- **I** INTERNATIONAL ENVIRONMENTAL LAW & POLICY (Hunter, Salzman & Zaelke, 3d ed. 2007)
- **E** Electronic documents on the Blackboard course site
- **O** Online Hyperlinks (must be accessed via the online version of the Syllabus on the course Blackboard site)

GRADING

Final Examination [80% of grade]

- The final examination will consist of three essay questions and will cover theoretical and empirical materials discussed in class and in the readings:
 - The examination will be a 24-hour take-home, and you will be able to take the examination at any time during the law school's designated final examination period, April 26-May 7.
 - The examination will be administered anonymously via a web-based program or by email;
 - The examination will be "open book," meaning that you can utilize any materials you wish to answer the questions.

Class Participation [20% of grade]

- The remainder of your grade will be based on the course's web-based discussion and brief assignments throughout the semester.

Class Schedule

SECTION 1

Week 1: 1.1

INTRODUCTION TO INTERNATIONAL LAW Overview of Course

- Class introductions
- Review of Syllabus

Week 1: 1.2

January 14-20

Sources of International Law: Treaties

- Readings

- **O** [Article 38\(1\)\(a\), Statute of the International Court of Justice](#)
- **T** Chapter 6, pp. 290-313
- **O** [Text, Vienna Convention on the Law of Treaties](#)

Sources of International Law: Customary International Law and Other Sources

- Readings

- **O** [Article 38\(1\)\(b\), Statute of the International Court of Justice](#)
- **T** Chapter 6, pp. 313-340
- **E** Roberts, *Traditional and Modern Approaches to Customary International Law: A Reconciliation*, 95 AMERICAN JOURNAL OF INTERNATIONAL LAW 757-791 (2001)

SECTION 2

Rights and Obligations of States to Protect the Environment

Week 2: 2.1

Sustainable Development, Part 1: UNCED

- Readings

- **T** Chapter 6, pp. 353-360
- **T** Chapter 4, pp. 173-197
- **O** United Nations Conference on Environment and Development, [Rio Declaration on Environment and Development](#) (1992)

Week 2: 2.2

Sustainable Development, Part 2: WSSD and Beyond

- Readings

January 21-27

- **T** Chapter 6, pp. 197-218
- **O** [Johannesburg Declaration on Sustainable Development](#)

Week 3: 3.1

Liability for Transboundary Pollution and Environmental Harm

- Readings

- **E** Weiss, *Invoking State Responsibility in the Twenty-First Century*, 96(4) AMERICAN JOURNAL OF INTERNATIONAL LAW 798-816 (2002)
- **E** Gehring & Jachtenfuchs, *Liability for Transboundary Environmental Damage: Towards a General Liability Regime*, 14(1) EUROPEAN JOURNAL OF INTERNATIONAL LAW 92-106 (1993)
- **O** International Law Commission, *Draft Articles on Prevention of Transboundary Harm from Hazardous Activities* (2001)

Week 3: 3.2

Assignment on Transboundary Liability

January 28-February
3

SECTION 3

Implementation, Compliance, and Effectiveness Issues in International Agreements

Week 4: 4.1

The Role of Implementation, Compliance and Effectiveness Mechanisms and Governance in Multilateral Environmental Agreements and Domestic Law

- Readings

- **T** Chapter 7, pp. 366-388
- **E** Crossen, *Multilateral Environmental Agreements and the Compliance Continuum*, 16 GEORGETOWN INTERNATIONAL ENVIRONMENTAL LAW REVIEW 1-28 (2004)

SECTION 4

Managing Risks to the Environment

Week 4: 4.2

The Role of the Precautionary and Polluter Pays Principles in Multilateral Environmental Agreements

- Readings

February 4-10

- **T** Chapter 8, pp. 510-515
- **E** Vanderzwaag, *The Precautionary Principle and Marine Environmental Protection: Slippery Shores, Rough Seas and Rising Normative Tides*, 33 OCEAN DEVELOPMENT & INTERNATIONAL LAW 165-188 (2002)
- **E** McGuire & Ellis, *Uncertainty, Precaution and Global Interdependence: Implications of the Precautionary Principle for State and Non-State Actors*, Proceedings of the 2001 Berlin Conference on the Human Dimensions of Global Environmental Change 256-265 (2002)

- **T** Chapter 8, pp. 516-521

SECTION 5 Special Topic Focus: Biodiversity/Species Conservation

Week 5: 5.1

The Convention on Biological Diversity (CBD)

- Readings
 - **O** [Text of the Convention on Biological Diversity](#)
 - **T** Chapter 15, pp. 1021-1045

Week 5: 5.2

The Convention on International Trade in Endangered Species (CITES)

February 11-17

- Readings
 - **O** Text of the [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#)
 - **T** Chapter 13, pp. 1095-1115
 - **E** McOmber, *Problems in Enforcement of the Convention on International Trade in Endangered Species*, 27 BROOKLYN INTERNATIONAL LAW JOURNAL 1-15 (2002)

Week 6: 6.1

The International Convention for the Regulation of Whaling

- Readings
 - **O** [Text of the International Convention for the Regulation of Whaling](#)
 - **E** Burns & Wandesforde-Smith, *The International Whaling Commission and the Future of Cetaceans in a Changing World*, 11(2) REVIEW OF EUROPEAN COMMUNITY AND INTERNATIONAL ENVIRONMENTAL LAW 199-210 (2002)
 - **E** Aron, Burke, & Freeman, *The Whaling Issue*, 24 MARINE POLICY 179-191 (2000)

Week 6: 6.2

International Fisheries Regulation

February 18-24

- Readings
 - **O** [United Nations Convention on the Law of the Sea](#) (1982), Articles 61-67
 - **O** [Straddling Fish Stocks Convention](#) (1995)
 - **O** Birdlife International, [Regional Fisheries Management Organisations: Their Duties and Performance in Reducing Incidental Mortality of Albatrosses](#) 32-61 (2006)
 - **O** [WWF/TRAFFIC, Follow the Leader](#) 16-31 (2006)

Week 7: 7.1

The Convention on the Conservation of Antarctic Marine Living Resources

- Readings
 - **O** [Text of the Convention for the Conservation of](#)

Antarctic Marine Living Resources

- **E** Constable, et al., *Managing Fisheries to Conserve the Antarctic Marine Ecosystem: Practical Implementation of the Convention on the Conservation of Antarctic Marine Living Resources*, 57 ICES JOURNAL OF MARINE SCIENCE 778-791 (2000)
- **O** Clark & Hemmings, *Problems and Prospects for the Convention on the Conservation of Antarctic Marine Living Resources Twenty Years On*, 4(1) JOURNAL OF INTERNATIONAL WILDLIFE LAW & POLICY 47-62 (2001)
- **E** Gascón & Werner, *CCAMLR and Antarctic Krill: Ecosystem Management Around the Great White Continent*, SUSTAINABLE DEVELOPMENT LAW & POLICY 14-16 (Fall, 2006)

SECTION 6 Special Topic Focus: Trade in Hazardous Waste

Week 7: 7.2

Transboundary Movement of Hazardous Wastes

February 25-March 2

- Readings

- **T** Ch. 14, pp. 946-972
- **O** Text of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

SECTION 7 Special Topic Focus: Climate Change

Week 8: 8.1

Overview of Climate Change Science

- Readings

- **O** Intergovernmental Panel on Climate Change: Climate Change 2007: Synthesis Report, Summary for Policymakers (2007)

Week 8:8.2

International Responses to Climate Change: The United Nations Framework Convention on Climate Change

March 3-9

- Readings

- **T** Chapter 9, pp. 633-649 ; 667-679
- **O** Text of the United Nations Framework Convention on Climate Change

Week 9: 9.1

International Responses to Climate Change: The Kyoto Protocol and Beyond

	<ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ T Chapter 9, pp. 679-700 ➤ O Text of the Kyoto Protocol
Week 9: 9.2	Climate Change "Litigation" at the International Level
March 10-16	<ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ E Strauss, <i>The Legal Option: Suing the United States in International Forums for Global Warming Emissions</i>, 33 ENVTL. L. REV. 10185-10191 (2003) ➤ E Burns, <i>Potential Causes of Action for Climate Change Damages in International Fora: The Law of the Sea Convention</i>, 2(1) J. SUSTAINABLE DEV. L. & POL'Y 27-51 (2006)
March 17-23	NO CLASS SESSIONS: Spring Break
SECTION 7	Special Topic Focus: The Ozone Convention
Week 10: 10.1	International Responses to Depletion of the Ozone Layer
	<ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ O Text of the Vienna Convention on the Protection of the Ozone Layer ➤ O Text of the Montreal Protocol on Substances that Deplete the Ozone Layer ➤ T Chapter 10, pp. 576-598
SECTION 8	Special Topic Focus: Freshwater Resources and International Law
Week 10: 10.2	Freshwater Resources
	<ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ T Chapter 13, pp. 845-884
March 24-30	
SECTION 9	Special Topic Focus: The Nexus of International Environmental Law & Other Legal Regimes

<p>Week 11: 11.1</p>	<p>The Nexus of Human Rights and Protection of the Environment</p> <ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ T Chapter 18, pp. 1365-1389 ➤ O <u>Petition to the Inter-American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States</u>
<p>Week 11: 11.2</p> <p>March 31-April 6</p>	<p>The World Trade Organization and Multilateral Environmental Agreements</p> <ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ T Chapter 17, pp. 1255-1291
<p>Week 12: 12.1</p>	<p>International Corporate Standards</p> <ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ T Chapter 20, pp. 1482-1508
<p>Week 12: 12.2</p> <p>April 7-13</p>	<p>Environmental Protection and International Finance</p> <ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ T Chapter 17, 1550-1582
<p>Week 13: 13.1</p>	<p>Extraterritorial Application of U.S. Environmental Law, Part 1</p> <ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ T Chapter 21, pp. 1509-1538
<p>Week 13: 13.2</p> <p>April 14-21</p>	<p>Extraterritorial Application of U.S. Environmental Law, Part 2</p> <ul style="list-style-type: none"> • Readings <ul style="list-style-type: none"> ➤ O <u>Pakootas v. Teck Cominco Metals, Ltd.</u> (9th Cir. 2006) (under “Additional Resources” on this page) ➤ O Dorn, <u>The Trail Smelter: Is What’s Past Prologue?, EPA Blazes a New Trail for CERCLA</u>, 14 NYU ENVIRONMENTAL LAW JOURNAL 234-321 (2006)
<p>April 26-May 7 FINAL EXAMINATION</p>	