



LAW OF THE SEA

INTEREST GROUP NEWSLETTER

Dear LOSIG members,

We hope you are enjoying the busy spring season. It's hard to believe the 2024 ASIL Annual Meeting is already upon us!

LOSIG is excited to host a business meeting at ASIL's Annual Meeting again this year. Due to great interest in Arctic issues, we will hold a discussion covering a wide range of Arctic topics with law of the sea implications. Details are below, and we hope many of you will be able to attend in person (unfortunately, the meeting rooms lack video equipment supporting remote participation).

We also wish to congratulate Professor (Dr.) Bimal Patel (India), who will assume his responsibilities as incoming LOSIG Co-Chair after this year's ASIL Annual Meeting. Dr. Patel is Professor of International Law and Vice-Chancellor of the Rashtriya Raksha University, as well as a Member of the UN International Law Commission, Member of the National Security Advisory Board of India, and a Member of the 21st Law Commission of India. His impressive background includes serving as Director of Gujarat National Law University and many years of service at the Organisation for the Prohibition of Chemical Weapons in The Hague. He has published and edited multiple books and scholarly works on international law topics, and we are lucky to have his expertise in Co-Chairing the LOSIG for the next three years. Welcome, Bimal!

Finally, I (Margaret) will be stepping down as LOSIG Co-Chair after this year's ASIL Annual Meeting. I have enjoyed getting to know so many of you over the last three years, and am grateful for your continued interest and engagement in LOSIG events and the LOSIG newsletter. I hope to stay in touch with you and continue to see you at future LOSIG and ASIL events. Thank you for a great three years!

As always, we welcome and encourage your continued contributions to the newsletter and your suggestions for LOSIG events, and we hope to see you at this year's ASIL Annual Meeting.

Warmest regards,

Margaret Materna & Pieter Bekker, Co-Chairs

Upcoming Business Meeting

We look forward to seeing you at our annual LOSIG business meeting at ASIL's 2024 Annual Meeting April 3-6 at the Washington Hilton in Washington, DC. The LOSIG meeting, entitled "Arctic Update: Current Issues with Law of the Sea Implications," will take place from 12:00-1:00 pm on Thursday, April 4, in the Embassy Room. We will be joined by Cornell Overfield from the Center for Naval Analyses (CNA) for an overview of current Arctic issues, followed by discussion and Q&A. We hope to see you there!

INSIDE THIS ISSUE

**Invitation to Serve as
an ASIL Observer at the
United Nations**

2

**Recent Developments in
the Law of the Sea**

2

New Book Announcement

3

Opportunities

3

Recent ASIL Publications

3

Other Reading of Interest

4

.....

LAW OF THE SEA Interest Group

CO-CHAIRS

Margaret Materna

&

Pieter Bekker

Views contained in this publication are those of the authors in their personal capacity. The American Society of International Law and this Interest Group do not generally take positions on substantive issues, including those addressed in this periodical.



Invitation to Serve as an ASIL Observer at the United Nations

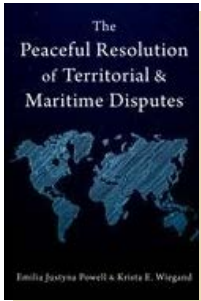
LOSIG members are invited to apply for the opportunity to serve as an official observer, under the auspices of ASIL, at the 17th Round of Informal Consultations of States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Managing of Straddling Fish Stocks and Highly Migratory Fish Stock, to be held at United Nations Headquarters in New York, May 15-17, 2024. This round of Informal Consultations will focus its discussions on the topic “Sustainable fisheries management in the face of climate change.” The session will be held in-person.

Applications from interested ASIL members are due by 5:00 pm ET on Monday, April 15, 2024. Members selected to attend U.N. meetings under the auspices of the Society must cover their own travel and accommodation expenses, if any. Applicants do not have to be able to attend the entire session in order to be considered. To apply, members should review ASIL’s Observer Guidelines, then send a signed copy of that form, a CV, brief bio, and a statement of interest to UNConferences@asil.org.

Recent Developments in the Law of the Sea:

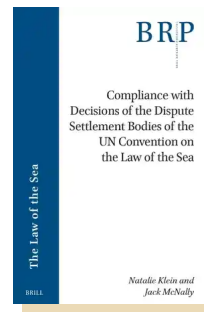
- On December 19, 2023, the U.S. Department of State announced it had released the geographic coordinates defining the outer limits of the U.S. continental shelf in areas beyond 200 nautical miles from the coast, known as the extended continental shelf (ECS). The proclaimed U.S. ECS area is approximately one million square kilometers spread across seven regions, and it holds many resources and vital habitats for marine life. The United States has determined its ECS limits in accordance with customary international law, as reflected in the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, and the Scientific and Technical Guidelines on the Limits of the Continental Shelf. The outer limits of the U.S. ECS and additional information are available on the State Department’s website at: <https://www.state.gov/the-us-ecs>.
- The 2023 United Nations Climate Change Conference, commonly called COP28, was held from 30 November to 13 December in Dubai, United Arab Emirates. COP28 was the biggest conference of its kind, involving more than 85,000 participants. One of the principal outcomes of COP28 was the agreement by negotiating parties to the world’s first “global stocktake,” which calls on Parties to take actions toward achieving a tripling of renewable energy capacity and doubling of energy efficiency improvements by 2030, with the goal of keeping States on track toward meeting the 2015 Paris Agreement goal of limiting global warming to 1.5°C above pre-industrial levels. The next meeting, COP29, is scheduled to take place 11-22 November 2024 in Azerbaijan.
- Public hearings at the International Tribunal for the Law of the Sea (ITLOS) in Case No. 31, *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, concluded on 25 September 2023. ITLOS will now deliberate on the case. The COSIS is seeking an advisory opinion as to whether States Parties to UNCLOS have specific obligations to prevent and reduce pollution of the marine environment, and thereby prevent such climate change effects as ocean warming and sea level rise. An advisory opinion issued pursuant to Case No. 31 would be only the third in the history of ITLOS, and only the second issued by the full tribunal.
- In their Decision on Challenges, dated 6 March 2024 and issued in the pending UNCLOS Annex VII arbitration between Ukraine and the Russian Federation arising from a November 2018 naval incident in the Strait of Kerch, Gudmundur Eiriksson (chair) and Alexander Vylegzhanin (Russia’s appointee) upheld Russia’s challenge seeking the disqualification of their co-arbitrators, Rüdiger Wolfrum (Germany) and Donald McRae (Canada). The two non-challenged arbitrators faulted the challenged arbitrators for failing to disclose their favorable vote to a Declaration issued by the Institute of International Law (*Institut de droit international*) in March 2022. The IDI Declaration, the voting record of which was released in June 2023, criticized Russia’s “aggression” against Ukraine. Christopher Greenwood (United Kingdom), the third non-challenged arbitrator charged with ruling on Russia’s challenge, disagreed with the majority’s decision and issued a Dissenting Opinion to the Decision on Challenges.

New Book Announcements:



[The Peaceful Resolution of Territorial and Maritime Disputes](#), by Emilia Justyna Powell and Krista E. Wiegand, examines states' strategic behavior in pursuing methods of peaceful resolution, ranging from negotiations through mediation to international courts. The book investigates how the high stakes associated with settlement of territorial and maritime disputes and the unpredictability of outcomes push states to pursue "strategic selection" and forum shopping. The process of strategic selection occurs at two interrelated stages: the initial pursuit of a particular method and venue—choice-of-venue, and decision-making in the context of the chosen venue—within-venue. The driving force behind strategizing is the hope of reducing uncertainty and of increasing the chances of winning. As the disputants progress through the settlement process, states reconsider and refine these strategies. Several mechanisms influence states' strategies: past experience with resolution methods (winning/losing), the relationship between domestic law and international law, framing legal claims, and shaping the resolution procedures. This book embraces a multimethod approach and combines statistical analyses and in-depth qualitative interviews with states' legal counsel, judges, arbitrators, government officials, and other experts from multiple countries. The book also highlights numerous

real-world instances of territorial and maritime disputes, including the Philippines v. China arbitration case in the South China dispute.



What happens after a judgment is delivered by a tribunal constituted under the UN Convention on the Law of the Sea? In [Compliance with Decisions of the Dispute Settlement Bodies of the UN Convention on the Law of the Sea](#), all the decisions issued by the International Tribunal for the Law of the Sea or Annex VII arbitral tribunals are examined to determine what results transpired following the award or order. Natalie Klein and Jack McNally consider what compliance means and whether it has been achieved in UNCLOS dispute settlement. They suggest what other outcomes have sometimes eventuated from UNCLOS dispute settlement and propose steps that may be taken to enhance award compliance.

As a reminder, all LOSIG members get a 20% discount on De Gruyter Brill publications! Please visit <https://www.degruyterbrill.com> and enter code 71661 at checkout for the discount. Those interested in submitting a publication proposal to De Gruyter Brill can contact Ms. Marie Sheldon, Publishing Director, International Law, and President DeGruyter Brill USA, at marie.sheldon@brill.com.

Opportunities:

- Center for Strategic and International Studies, Asia Maritime Transparency Initiative, Washington, DC: [Intern](#)
- Center for Strategic and International Studies, Energy Security and Climate Change Program, Washington, DC: [Intern](#)
- International Foundation for the Law of the Sea, Hamburg, Germany: [Summer Academy](#)
- Oceana, Washington, DC: [Senior Counsel](#)
- United Nations, Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, New York, NY: [Legal Officer](#) (P4) and [Intern](#)

Recent ASIL Publications:

- American Society of International Law. "[The United States Signs the High Seas Treaty](#)." *American Journal of International Law* 118, no. 1 (2024): 168–73.
- Bodansky, Daniel. "[Four Treaties in One: The Biodiversity Beyond National Jurisdiction Agreement](#)." *American Journal of International Law*, 2024, 1–31.
- Bradley, John E. "[Convention on the Int'l Effects of Judicial Sales of Ships \(U.N.\)](#)." *International Legal Materials* 63, no. 1 (2024): 78–93.
- Giffin, Garrett. "[Sea Watch v. Ministero Delle Infrastrutture E Dei Trasporti \(C.J.E.U.\)](#)." *International Legal Materials* 62, no. 6 (2023): 1025–61.

—continued on page 4



Recent ASIL Publications: —continued from page 3

- Khng, Nathaniel, Kevin Chand, and Lucía Solano. "[Res. 77/276 on Request for an Advisory Opinion of the I.C.J. on the Obligations of States in Respect of Climate Change \(U.N.G.A.\)](#)." *International Legal Materials* 63, no. 1 (2024): 47–64.
- Khng, Nathaniel Yong-Ern. "[The Agreement Under the U.N. Convention on the Law of the Sea on the Conservation & Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction](#)." *International Legal Materials* 63, no. 1 (2024): 1–46. ■

Other Reading of Interest:

- Chen, Teresa and Alana Nance. "[Water Wars: The Philippines Calls for a South China Sea Paradigm Shift](#)." *Lawfare* (30 Jan 2024).
- Chen, Teresa and Alana Nance. "[Water Wars: Two Collisions Near Second Thomas Shoal as Territorial Dispute Escalates](#)." *Lawfare* (27 Oct 2023).
- Enyew, Endalew Lijalem and Jan Jakub Solski. "[Can the High Seas Treaty Cure Arctic Governance?](#)" *The Polar Journal* (Feb 2024).
- George, William P. "[Theologically Shoring Up the Law of the Sea](#)." *Theological Studies* 84/2 (June 2023): 265-292.
- Kunoy, Bjørn. "[Dislodging the Compulsory Dispute Settlement Mechanism: Analysis of Article 281 of UNCLOS](#)." *Leiden Journal of International Law* (31 Jan 2024): 1–17.
- Overfield, Cornell. "[There's Still Law in the Far North](#)." *Foreign Policy* (10 Jul 2023).
- Tsiouvalas, Apostolos and Jan Jakub Solski. "[One Map to Rule Them All? Revising Legalities Through Cartographic Representations of the Northwest Passage](#)." *Ocean Development and International Law* 54(4) (Nov 2023): 1-28.