

Contents

| | |
|--|--------|
| Foreword <i>Vaughan Lowe</i> | v |
| Preface | vii |
| Author Biographies | xix |
| List of Acronyms and other Abbreviations | xxvii |
| List of Maps and Figures | xxxv |
| Table of Treaties and Other International Instruments | xxxvii |
| Table of European Union and National Legislation and Other Instruments | liii |
| Table of Cases | lxi |
| Reflections on The United Nations Convention on the Law of the Sea: A Living Instrument <i>Opening Remarks by Michael Wood</i> | lxxi |
| Part I: Introduction | |
| 1. The UN Convention on the Law of the Sea: A “Living” Treaty? <i>Jill Barrett</i> | 3 |
| Part II: Changing Dimensions of the Continental Shelf | |
| 2. Maritime Boundary Delimitation: Whatever Next? <i>Malcolm Evans</i> | 41 |
| 3. Delimitation of the Outer Continental Shelf and Prospects for Revenue Sharing Between States and the International Community <i>David Ong</i> | 81 |
| 4. Observations on the Article 76 Process to Date: Coastal States’ Submissions and the Work Outstanding for the Commission on the Limits of the Continental Shelf <i>Lindsay Parson</i> | 119 |

| | | |
|--|--|-----|
| 5. | The Exercise of Coastal State Rights on the Outer Continental Shelf Pending Establishment of its Outer Limit <i>Robin Churchill</i> | 137 |
| Part III: Emerging Energy Needs and Regulatory Change | | |
| 6. | The Never Ending Story: The Role of GAIRS in UNCLOS Implementation in the Offshore Energy Sector <i>Catherine Redgwell</i> | 167 |
| 7. | Energy Installations in the Marine Environment <i>Maria Gavouneli</i> | 187 |
| PART IV: Evolving Governance Regimes and Environmental Protection | | |
| 8. | Climate Change, Ocean Governance and UNCLOS <i>Alan Boyle</i> | 211 |
| 9. | Governance of Areas Beyond National Jurisdiction: An Unfinished Agenda? <i>David Freestone</i> | 231 |
| 10. | Governance and Environmental Protection of Straits used for International Navigation under UNCLOS <i>Niliifer Oral</i> | 267 |
| 11. | Enhanced Marine Environmental Protection: a Case Study of the Baltic Sea <i>Malgosia Fitzmaurice</i> | 293 |
| PART V: Adapting to Security Concerns and Conflicts of Interests | | |
| 12. | Maritime Security <i>Douglas Guilfoyle</i> | 329 |
| 13. | China's Approach to UNCLOS and its Application to Disputed Issues in the South China Sea <i>Keyuan Zou</i> | 363 |

PART VI: The Dynamics of Disputes and Dispute Settlement

14. Peaceful Settlement of Disputes Under UNCLOS 385
David Anderson
15. Law of the Sea Dispute Settlement and the European Union 417
Ronán Long

PART VII: Conclusion

16. The Continuing Vitality of UNCLOS 459
Richard Barnes

Detailed Contents for Each Chapter

PART I: Introduction

1. The UN Convention on the Law of the Sea: A “Living” Treaty? 3
Jill Barrett
 - I. Introduction: What is the Life of UNCLOS? 3
 - II. UNCLOS as a Living Instrument in the Courtroom 6
 - III. UNCLOS as a Living Treaty, Instrument or Constitution? 11
 - IV. How Does UNCLOS Live and Grow? 15
 - V. Are There Natural Limits to the Life and Growth of UNCLOS? 36

PART II: Changing Dimensions of the Continental Shelf

2. Maritime Boundary Delimitation: Whatever Next? 41
Malcolm Evans
 - I. Introduction 41
 - II. From the North Sea to the Black Sea 43
 - III. A Return to Flexibility? 50
 - IV. New questions About Old Certainties: Entitlement, the Inner and Outer Continental Shelf and the Method of Delimitation 70
 - V. Conclusion 78
3. Delimitation of the Outer Continental Shelf and Prospects for Revenue Sharing Between States and the International Community 81
David Ong
 - I. Introduction 81
 - II. Delimitation of the Outer Continental Shelf 82
 - III. Delimitation of the Outer Continental Shelf Between States 92
 - IV. Revenue Sharing Under Article 82 of UNCLOS 102
 - V. Conclusions 117

| | | |
|-------|---|-----|
| 4. | Observations on the Article 76 Process to Date: Coastal States' Submissions and the Work Outstanding for the Commission on the Limits of the Continental Shelf <i>Lindsay Parson</i> | 119 |
| I. | Introduction | 119 |
| II. | Some Technical Aspects of the Article 76 Process | 120 |
| III. | The Current State of Progress on Continental Shelf Submissions | 125 |
| IV. | Predictions as to Progress in the Next 10–15 Years | 131 |
| V. | Closing Observations | 135 |
| 5. | The Exercise of Coastal State Rights on the Outer Continental Shelf Pending Establishment of its Outer Limit <i>Robin Churchill</i> | 137 |
| I. | Introduction | 137 |
| II. | The Exploration and Exploitation of Mineral Resources | 142 |
| III. | The Exploitation of Sedentary Species | 153 |
| IV. | The Regulation of the Construction and Operation of Artificial Islands, Installations and Structures | 155 |
| V. | The Authorization of Marine Scientific Research | 158 |
| VI. | The Regulation of the Laying of Cables and Pipelines by Other States | 160 |
| VII. | The Regulation of Pollution | 161 |
| VIII. | Conclusions | 162 |

PART III: Emerging Energy Needs and Regulatory Change

| | | |
|------|---|-----|
| 6. | The Never Ending Story: The Role of GAIRS in UNCLOS Implementation in the Offshore Energy Sector <i>Catherine Redgwell</i> | 167 |
| I. | Introduction | 167 |
| II. | Dynamic Evolution of UNCLOS | 170 |
| III. | External Rules and Standards in UNCLOS | 172 |
| IV. | Generally Accepted International Rules and Standards (“GAIRS”) and Offshore Energy Activities | 174 |
| V. | UNCLOS and Other Conventions and International Agreements | 181 |
| VI. | The Function of GAIRS | 182 |
| VII. | Conclusion | 184 |

| | | |
|--|--|-----|
| 7. | Energy Installations in the Marine Environment | 187 |
| | <i>Maria Gavouneli</i> | |
| I. | Introduction | 187 |
| II. | Placing Energy Installations in the Marine Environment | 188 |
| III. | Operating Energy Installations in the Marine Environment | 198 |
| IV. | Concluding Remarks | 207 |
| | | |
| PART IV: Evolving Governance Regimes and Environmental Protection | | |
| | | |
| 8. | Climate Change, Ocean Governance and UNCLOS | 211 |
| | <i>Alan Boyle</i> | |
| I. | Introduction | 211 |
| II. | Institutional Problems: Negotiations Under the UN Framework Convention on Climate Change | 214 |
| III. | UNCLOS and Climate Change | 217 |
| IV. | Climate Change Obligations Under UNCLOS | 219 |
| V. | Environmental Impact Assessment and Climate Change | 225 |
| VI. | Climate Change Litigation Under UNCLOS | 227 |
| VII. | Conclusions | 229 |
| | | |
| 9. | Governance of Areas Beyond National Jurisdiction: An Unfinished Agenda? | 231 |
| | <i>David Freestone</i> | |
| i. | Introduction | 231 |
| II. | The Regime Envisaged by the Convention for Areas Beyond National Jurisdiction | 232 |
| III. | Governance of Areas Beyond National Jurisdiction: Debate Within the UN General Assembly | 240 |
| IV. | The Sargasso Sea Project | 243 |
| V. | The Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea | 259 |
| VI. | Conclusions | 262 |
| | | |
| 10. | Governance and Environmental Protection of Straits Used for International Navigation Under UNCLOS | 267 |
| | <i>Niliifer Oral</i> | |
| I. | Introduction | 267 |
| II. | Asymmetry of International Law on the Protection of the Marine Environment and Navigational Interests in Straits | 271 |
| III. | Balancing the Interests of Strait States and Maritime Interests Under International Law | 278 |
| IV. | Conclusion | 290 |

| | | |
|------|---|-----|
| 11. | Enhanced Marine Environmental Protection: A Case Study of the Baltic Sea | 293 |
| | <i>Malgosia Fitzmaurice</i> | |
| I. | Introduction: The Geographical Conditions of the Baltic Sea and its Status Under UNCLOS | 293 |
| II. | The Legal Framework for Co-operation Among Baltic States | 296 |
| III. | Examples of Enhanced Co-operation to Protect the Baltic Sea | 316 |
| IV. | Conclusions | 323 |

PART V: Adapting to Security Concerns and Conflicts of Interests

| | | |
|------|--|-----|
| 12. | Maritime Security | 329 |
| | <i>Douglas Guilfoyle</i> | |
| I. | Introduction | 329 |
| II. | Maritime Terrorism | 331 |
| III. | Piracy and Armed Robbery at Sea | 344 |
| IV. | Maritime Domain Awareness and Information Gathering | 351 |
| V. | Conclusions | 359 |
| 13. | China's Approach to UNCLOS and its Application to Disputed Issues in the South China Sea | 363 |
| | <i>Keyuan Zou</i> | |
| I. | Introduction | 363 |
| II. | China's Historical Claim to the U-Shaped Line and its Rights Within the Zone it Encloses | 366 |
| III. | Islands and Reefs in the South China Sea | 368 |
| IV. | Straight Baselines in the South China Sea | 371 |
| V. | Foreign Military Activities in the Exclusive Economic Zone | 373 |
| vi. | Concluding Remarks | 379 |

PART VI: The Dynamics of Disputes and Dispute Settlement

| | | |
|-----|--|-----|
| 14. | Peaceful Settlement of Disputes Under UNCLOS | 385 |
| | <i>David Anderson</i> | |
| I. | Introduction | 385 |
| II. | Looking Back: Some Impressions of the Negotiations at the Conference | 386 |

| | | |
|--------------------------------|--|-----|
| III. | Taking Stock: The Operation of the System in its Early Years | 392 |
| IV. | Some Key Elements in the Negotiations: How They Have Been Applied Subsequently | 394 |
| V. | Assessments and Conclusions | 411 |
| 15. | Law of the Sea Dispute Settlement and the European Union <i>Ronán Long</i> | 417 |
| I. | Introduction | 417 |
| II. | The External Dimension: The EU and Third States | 419 |
| III. | The Internal Dimension: Disputes Between EU Member States | 440 |
| IV. | Conclusions | 452 |
| PART VI: Conclusion | | |
| 16. | The Continuing Vitality of UNCLOS <i>Richard Barnes</i> | 459 |
| I. | Introduction | 459 |
| II. | Living Instruments in International Law | 460 |
| III. | UNCLOS and the Meaning of Life | 471 |
| IV. | UNCLOS as a Living Treaty | 481 |
| V. | Conclusions | 487 |