Syllabus–National Security and the Law of the Sea (Law G/J 922 08)
Georgetown University Law Center–Spring Semester 2017

Professors: Dr. John T. Oliver, B.A., J.D., LL.M., S.J.D., and
Professor Steven J. Hipfel, B.S., J.D., M.A., LL.M., MSS.

Textbook: LOUIS B. SOHN ET AL., LAW OF THE SEA IN A NUTSHELL (2nd ed. 2010)

Convention: ARND BERNAERTS, BERNAERTS’ GUIDE TO THE 1982 UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA (2006)


Supplement: NATIONAL SECURITY AND LAW OF THE SEA: SUPPLEMENTAL MATERIALS

Class Sessions: Classes will meet 5:45-7:45 Wednesday evenings per the schedule below.

<table>
<thead>
<tr>
<th>Date</th>
<th>Class Schedule, Topics, and Assignments</th>
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<tbody>
<tr>
<td>January 18</td>
<td>First Hour: “Course Introduction and Context”</td>
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<td></td>
<td>Second Hour: “The Physical Ocean”</td>
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<td>Assignment: Supplement, Part 1, p. 10.</td>
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<td>Instructors: Professors Oliver and Hipfel</td>
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<td>January 25</td>
<td>First Hour: “International Law, National Security, and Ocean Policy”</td>
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<td>Second Hour: “Historical Background of the Law of the Sea”</td>
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<td>Instructor: Professor Oliver</td>
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<td>February 1</td>
<td>First Hour: “The High Seas and High Seas Freedoms”</td>
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<td>Second Hour: “High Seas Freedom Limitations and Vessel Nationality”</td>
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<td>Instructor: Professor Hipfel</td>
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<td>February 8</td>
<td>First Hour: “Shipping and the International Maritime Organization”</td>
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<td>Second Hour: “Duties and Jurisdiction of the Flag State”</td>
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<td>Instructor: Professor Oliver</td>
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<td>February 15</td>
<td>First Hour: “Baselines, Straight Baselines, and Closing Lines”</td>
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<td></td>
<td>Second Hour: “Delimitation of Maritime Jurisdiction Boundaries”</td>
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<td>Assignment: Supplement, Part 5, p. 29.</td>
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<td>Instructor: Professor Hipfel</td>
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February 22  
First Hour: “Internal Waters, Ports, and Historic Waters and Bays”
Second Hour: “Access to Ports and Coastal State Jurisdiction”
Assignment: Supplement, Part 6, p. 50.
Instructor: Professor Hipfel

March 1  
First Hour: “The Territorial Sea, Straits, Archipelagic Waters, and the Contiguous Zone”
Second Hour: “Innocent Passage, Transit Passage, and Archipelagic Sea Lane Passage”
Assignment: Supplement, Part 7, p. 54.
Instructor: Professor Oliver

March 8  
First Hour: “The Exclusive Economic Zone and its Resources”
Second Hour: “The Continental Shelf and its Resources”
Assignment: Supplement, Part 8, p. 70.
Instructor: Professor Hipfel

March 15  
Spring Break –CLASS DOES NOT MEET

March 22  
First Hour: “The Deep Seabed and Its Mineral Resources”
Second Hour: “Protection and Preservation of the Marine Environment and Interplay Between International and Domestic Law”
Assignment: Supplement, Part 9, p. 73.
Instructor: Professor Hipfel

March 29  
First Hour: “Maritime Terrorism and Security”
Second Hour: “Piracy and Other Illegal Maritime Activities”
Assignment: Supplement, Part 10, p. 84.
Instructor: Professor Oliver

April 5  
First Hour: “Military Uses of the Sea and the Law of Naval Warfare”
Assignment: Supplement, Part 11, p. 93.
Instructor: Professor Oliver

April 12  
First Hour: “Settlement of Disputes and the Arctic Ocean”
Assignment: Supplement, Part 12, p. 135.
Instructors: Professors Oliver and Hipfel

April 19  
Second Hour: “Course Review for the Final Examination”
Instructors: Professor Oliver

May 4 (Thursday)  
Two-Hour Final Examination (6:00-8:00 p.m.)
Our Goals for the Course. National security and the law of the sea have long been our professional and academic specialties. We truly love teaching these topics! We will make every effort to pass on to each of you our enthusiasm and to make this the best, most valuable, and most enjoyable course that you have ever taken. We each intend to cover, in depth, those topics of greatest importance to U.S. national security and of particular interest to us. Through these topics and our discussions of how sovereign States actually apply the relevant legal principles to real-world problems, we hope to help you understand the substance, structure, and practice of the developing law of the sea and how it relates to relevant principles of national security. We will do our best to always start and end each class session on time. While we will avoid ever going over the allotted class ending time, we will always stay outside the classroom afterwards as long as necessary to continue the discussion and answer any questions that you may have. We want you to understand the material, learn how to apply the law to real-world problems, and exchange various points of view on national security and ocean law and policy. We also learn a lot from our students. Finally, we want all of you to enjoy the experience!

Reading and Discussion Materials. Much of what you should learn during this seminar will be the result of your careful reading and consideration of the materials provided. You should obtain paperback versions of the latest edition of LAW OF THE SEA IN A NUTSHELL (2nd ed. 2010); Arnd Bernaerts’ comprehensive and useful GUIDE TO THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (2006); and the booklet Scott Borgerson prepared and published through the Council on Foreign Relations, NATIONAL INTERESTS AND THE LAW OF THE SEA (2009). The Law Center bookstore has ordered copies of each of these. They are also available to purchase on-line. In addition, we have put together supplemental materials for the course. These are essential to understand the reading students are expected to complete for each class, to complete the additional readings provided, and to have the problems and discussion questions available before, during, and after class. These supplemental materials are available through the Law Center and on-line on the seminar’s Canvas site (Password: Oliver). We will periodically post additional materials on that same Canvas site, including the lecture materials. Students should check it regularly.

Primary Method of Evaluation–Final Examination. We will determine the grade each student will receive for the course based primarily on a final written examination. That examination is set for 6:00-8:00 p.m. on Thursday, May 4, 2017. It will consist of 30 or so short-answer questions and two essay questions. The exam will be closed book; we will include in the exam any specific language from the Convention if we expect a detailed textual analysis. All the questions will be based on the class sessions and the required readings, including the textbook, the Convention, and supplemental materials. We will design the examination to test your substantive knowledge and policy insights, your skill at identifying and analyzing legal issues, and your ability to think critically and write effectively. We have included a copy of an actual examination, and two excellent essays students wrote in response, in Part 13 of this supplement and on our Canvas site.

Secondary Method of Evaluation–Effective Class Participation. Students must stay current with all reading assignments. We also expect students to participate regularly and constructively in class. Not only does student participation make the classes more interesting and relevant for everyone, but thoughtful verbal contributions and interplay are essential to effective learning. Law school rules permit instructors to include class participation in determining the final grade.
We intend to do so to the maximum extent permissible. Since we anticipate everyone will participate often, and always with enthusiasm, focus, and value, the effect of this policy is to raise each student’s final grade in the course. Let’s try to make sure this happens again this year! We want you all to succeed in mastering the material while enjoying the learning process. The supplemental materials contain additional readings and problems. We expect each student to consider and review them in preparation for each class session. Another method we use is to ask each of you, on several different occasions over the course of the semester, to prepare to play roles and take the lead on particular problems in class discussions. How well you do on each of these assignments counts toward your grade for effective class participation.

Our Personal Points of View. Our backgrounds and experiences are centered on the policies of the U.S. government, and especially those of the U.S. Navy and U.S. Coast Guard, over the past several decades. Indeed, we each have helped formulate those policy goals and draft and defend the legal principles supporting them. While we have never been in lock-step with U.S. government policies, we believe that they generally constitute the best overall balance between exclusive and inclusive uses of ocean space, particularly with respect to our Nation’s critical national security requirements. However, we encourage all students to reach their own conclusions. Each of you should feel free to challenge what you hear in class and what you read in your textbook and the other assigned materials. When you do so, however, we expect that you will have strong support for your position in mind or at hand. That is, when you argue or present your position in classroom discussions, do so as a well-prepared, articulate lawyer.

Respectful Treatment of All. We will do our utmost to respect the dignity and contributions of each and every student in the class. We are committed to treating each of you as an individual, basing our evaluations entirely on each student’s own merits, and expecting and hoping for the best from every one of you. We also expect and require that you will all treat each other with respect. We want each of you, at all times, to feel 100% welcome, comfortable, positive, and motivated in this class. If you don’t, please raise the issue with us, either before, during, or after class. We will make sure that we fix any problems that may have arisen. If appropriate, we will even apologize. We will all strive to make this course enjoyable and worthwhile for students and professors alike!