

Course Outline

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COURSE:	LAWS 2601-A Public International Law
TERM:	Fall 2015
PREREQUISITES:	1.0 credit from LAWS 1000 [1.0], PAPM 1000 [1.0], PSCI 1100 and PSCI 1200.
CLASS:	<b>Day &amp; Time:</b> Tuesday 11:35-14:25 <b>Room:</b> Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Tara Ashtakala
CONTACT:	<b>Office:</b> Loeb B-442 <b>Office Hrs:</b> By appointment <b>Telephone:</b> 613-520-3690 <b>Email:</b> Tara_Ashakala@carleton.ca

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**Academic Accommodations:**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

**Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn

from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:

<http://www.carleton.ca/studentaffairs/academic-integrity/>

### ***Department Policy***

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://www.carleton.ca/law/student-resources/department-policies/>

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### **COURSE DESCRIPTION**

Dutch jurist Hugo Grotius wrote of ``a common law of nations`` in the 17<sup>th</sup> century, but it was not until over two hundred years later that the first rules describing how the nation states of the world should interact with one another in certain situations were codified. Since then, the scope of public international law has vastly expanded, both in terms of the areas of activity covered and with regard to who can be a subject of this legal domain. This course will introduce the student to the nature, sources, subjects, types and judicial operation of public international law, with an emphasis on how law and jurisprudence within Canada is increasingly applying and harmonizing with that evolving at the international level. The ultimate goal of the evaluation activities in this course is to help the student recognize the resonance between local and global legal issues.

### **REQUIRED TEXTS**

Required readings will be accessible online. Some additional articles, as well as case study exercises, will be distributed in class. The readings are intended to reinforce or supplement lecture content.

### **EVALUATION**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

### **All three (3) components must be completed in order to obtain a passing grade**

#### **1. Term Essay - 25% of final grade**

- essay due in class on 1 December 2015
- Length: 10 pages double-spaced, proper legal citation and bibliography required
- The task for the Term Essay is to take the everyday life issue and to analyze how it is dealt with in international law: what are the international law rules or norms that apply; what defect in those rules is causing, or failing to rectify, the problem; and what is the most appropriate remedy in international law to fix it? (Introductory paragraph describes the problem and concluding page describes why it is important to fix this problem in international law for the future).

Please note that, as per departmental policy, any papers not submitted directly to the instructor may be considered late, even if they are submitted to the drop box on the same day and receive that day's date stamp. Papers placed in the drop box by **4:00 pm** will be date stamped the same day they are submitted. Papers received after 4:00 pm will be date stamped the following day. Papers submitted over the weekend that are received before **8:30am** the first business day following a weekend, will be date stamped with Saturday's date.

**2. Audio-visual Presentation - 25% of final grade**

- The task for the Presentation is to create a five (5)-minute video or skit that illustrates the everyday life issue selected. The video or skit must show why the issue is a problem (ie demonstrate its human impact) and summarize how it is reflected and remedied in international law.
- A sign-up sheet for presentation dates will be circulated at the first class.
- **You must sign up for your presentation date by the 15th of September**
- Presentations will commence on the 29<sup>th</sup> of September

**3. Open book final examination -50% of final grade – 9-21 December 2015**

- the goal of the final exam is to apply the course content to 1) solve a practical fact pattern and to 2) thoroughly discuss a thematic issue.

**SCHEDULE****PART 1: BASIC PRINCIPLES****8 Sep INTRODUCTION AND OVERVIEW; THE NATURE OF INTERNATIONAL LAW****15 Sep INTERNATIONAL LEGAL PERSONALITY**Materials:

- Convention on the Rights and Duties of States , 26 December 1933, Organization of American States, at <http://www.oas.org/juridico/english/treaties/a-40.html> (Montevideo Convention)
- International Commission of Jurists, Report on Aaland Islands dispute, at <http://www.ilsa.org/jessup/jessup10/basicmats/aaland1.pdf> read from “Historical Development of Finland” up to “The Aaland Islands Before 1917”
- Austro-German Customs Union case: Customs Régime between Germany and Austria (Protocol of March 19th, 1931), Advisory Opinion, Permanent Court of International Justice, 5 September 1931 at [http://www.worldcourts.com/pcij/eng/decisions/1931.09.05\\_customs.htm](http://www.worldcourts.com/pcij/eng/decisions/1931.09.05_customs.htm); read paras 15-23, and paras. 82-85.
- Tinoco Arbitration (Great Britain v Costa Rica) (1923) 1 R.I.A.A. 375 at [http://untreaty.un.org/cod/riaa/cases/vol\\_1/369-399.pdf](http://untreaty.un.org/cod/riaa/cases/vol_1/369-399.pdf) pages 375-384.
- Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960 (GA Res 1514) at <http://www2.ohchr.org/english/law/independence.htm>
- International Commission of Jurists, Report on Aaland Islands dispute, at <http://www.ilsa.org/jessup/jessup10/basicmats/aaland1.pdf> read from “The Principle of Self-Determination and the Rights of Peoples” to “Historical Development of Finland”
- Reference re Secession of Quebec [1998] 2 S.C.R. 217 at <http://scc.lexum.org/en/1998/1998scr2-217/1998scr2-217.html> paras. 109-139
- Charter of the United Nations, art. 104, art. 71 at <http://www.un.org/en/documents/charter/chapter16.shtml>
- Reparation for Injuries Suffered in the Service of the United Nations, ICJ Advisory Opinion of 11 April 1949, at <http://www.icj-cij.org/docket/files/4/1835.pdf>. Read p. 176 “The first question asked of the Court is as follows:...” to p. 180 “when necessitated by the discharge of its functions...”.
- Jeannot, Stephane. “Recognition of the ICRC’s long-standing rule of confidentiality - An important decision by the International Criminal Tribunal for the former Yugoslavia”. International Review of the Red Cross, No. 838, p. 403-425, at <http://www.icrc.org/eng/resources/documents/misc/57jqhq.htm>

**22 Sep SOURCES OF INTERNATIONAL LAW**Materials:

- Statute of the International Court of Justice (art. 38) (remember that it is annexed to the United Nations Charter); text found at <http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0>

- Vienna Convention on the Law of Treaties, 1155 UNTS 331, at [http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)
- North Sea Continental Shelf Cases, dissenting opinion of Judge *ad hoc* Sorensen, read only p. 13, starting from “That being so...” to p.15 “This view being perfectly well founded, that State is not now in a position to escape the authority of the Convention”, at <http://www.icj-cij.org/docket/files/51/5559.pdf>
- North Sea Continental Shelf Cases (*Federal Republic of Germany v Denmark and The Netherlands*), [1969] I.C.J Rep. 3, at <http://www.icj-cij.org/docket/files/51/5535.pdf>
  - Paragraphs 1-3,6-9,13,14,25-28,34,37, 60-82
- Military Activities In and Against Nicaragua (*Nicaragua v United States*), [1986] I.C.J. Rep. 14, at <http://www.icj-cij.org/docket/files/70/6503.pdf>
  - paragraphs 172-179; 183-209
- Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1996, at <http://www.icj-cij.org/docket/files/95/7495.pdf>
  - Paragraphs 64-73
- International Status of South West Africa Case, Advisory Opinion [1950] ICJ Rep. 128 at <http://www.icj-cij.org/docket/files/10/1895.pdf> read page 148

## 29 Sep RECEPTION OF INTERNATIONAL LAW IN NATIONAL LEGAL SYSTEMS

### Materials:

- Trendtex Trading Corp. v. Central Bank of Nigeria 1975 T. No. 3663 at <http://www.uniset.ca/other/css/19772WLR356.html> read from “The two schools of thought...” to “Has there been a change?”
- Vienna Convention on the Law of Treaties at [http://treaties.un.org/doc/Treaties/1980/01/19800127%2000-52%20AM/Ch\\_XXIII\\_01p.pdf](http://treaties.un.org/doc/Treaties/1980/01/19800127%2000-52%20AM/Ch_XXIII_01p.pdf)
- Attorney General (Canada) v Attorney General (Ontario) (Labour Conventions) [1937] UKPC 6 (28 January 1937) at [http://www.bailii.org/uk/cases/UKPC/1937/1937\\_6.html](http://www.bailii.org/uk/cases/UKPC/1937/1937_6.html) read pp. 1-2 (up to “...viz property and civil rights in the Province”) and p. 5 (from “...Their Lordships”) to p.6 (up to “...competent legislature or legislatures”).
- Baker v. Canada (*Minister of Citizenship and Immigration*) [1999] 2 SCR 817 at <http://scc.lexum.org/en/1999/1999scr2-817/1999scr2-817.html>, paras 1-11 and 67-75
- Reference Re Public Service Employee Relations Act (Alta.), [1987] 1 S.C.R. 313 read summary of facts in headnote and read paras 57-60, at <http://scc.lexum.org/en/1987/1987scr1-313/1987scr1-313.html>
- Canada (Justice) v. Khadr, [2008] 2 S.C.R. 125, 2008 SCC 28, at <http://www.canlii.org/en/ca/scc/doc/2008/2008scc28/2008scc28.html>
- Pushpanathan v. Canada (Minister of Citizenship and Immigration), [1998] 1 S.C.R. 982, read paras 1-4 and 51-53 at <http://scc.lexum.org/en/1998/1998scr1-982/1998scr1-982.html>
- Reference as to Powers to Levy Rates on Foreign Legations, [1943] S.C.R. 208 <http://scc.lexum.org/en/1943/1943scr0-208/1943scr0-208.html> read judgement of Duff CJ from “THE CHIEF JUSTICE: His Excellency in Council has been pleased to refer to us certain questions”... to “...And he adds at page 471”... ; judgement of Hudson J, from “We next come to the larger and more difficult question”... to end; judgement of Taschereau J.
- Filartiga v. Pena-Irala, Court of Appeals (2nd Circuit), 30 June 1980 <http://www.icrc.org/ihl-nat.nsf/67408a74a589868841256497002b02e4/27721c1b47e7ca90c1256d18002a2565!OpenDocument>
- Suresh v. Canada (Minister of Citizenship and Immigration), 2002 SCC 1, [2002] 1 S.C.R. 3, at <http://scc.lexum.org/en/2002/2002scc1/2002scc1.html>, read paras 7-23, 59-75.

## PART II: THE LAW APPLICABLE TO NATIONS

### 6 Oct TERRITORY

#### Materials:

- Acquisition of territory: *Island of Palmas case* (Netherlands v United States) (1928), 2 R.I.A.A. 829 at [http://untreaty.un.org/cod/riaa/cases/vol\\_II/829-871.pdf](http://untreaty.un.org/cod/riaa/cases/vol_II/829-871.pdf) pp. 8 (from “the subject of the dispute...”) to 13 (“the sound and natural criterium of territorial sovereignty”, 15 (from “The title alleged by the United

States...” to “disposing of the rights of independent Third Powers”, 27 (from “In the last place there remains to be considered” to 28 (“inhabited exclusively by natives”), 39 (from “the conclusions to be derived...” to 42 (“therefore holds good”).

- Principles in disputes over land boundaries:
  - *Case concerning the Frontier Dispute* (Burkina Faso v Mali), ICJ Reports 1986 p. 554 at <http://www.icj-cij.org/docket/files/69/6447.pdf>, paras. 17, 20, 23-26, 29-30
  - *Case Concerning the Territorial Dispute (Libya v Chad)*, ICJ, 1994 at <http://www.icj-cij.org/docket/files/83/6897.pdf> paras 18,19,21,35-52
- Jurisdiction over res communis and common heritage of mankind areas – polar regions:
  - Loukacheva, N. “Legal Challenges in the Arctic”, at [http://www.nrf.is/Open%20Meetings/Oulu%20Lulea%202006/Position%20Papers/Leukacheva\\_4th%20NRF%20PP.pdf](http://www.nrf.is/Open%20Meetings/Oulu%20Lulea%202006/Position%20Papers/Leukacheva_4th%20NRF%20PP.pdf)
  - Antarctic Treaty at [http://www.ats.aq/documents/ats/treaty\\_original.pdf](http://www.ats.aq/documents/ats/treaty_original.pdf)
  - “Claiming the last global frontier: overlapping geographical claims of Antarctic territory”, S. Naidu, Jr., *Transnational Law & Contemporary Problems*. 17.2 (Spring 2008) p529 go to Carleton’s Library web page, click on Databases, click on Legal Trac and enter the name of the article or the author in the search line
- Jurisdiction over Airspace:
  - Chicago Convention on International Civil Aviation at <http://www.mcgill.ca/files/iasl/chicago1944a.pdf>
  - “Aerial Intrusions by Civil and Military Aircraft in Times of Peace”, Phelps (1985) 107 *Military L.R.* 255 at [http://www.loc.gov/rr/frd/Military\\_Law/Military\\_Law\\_Review/pdf-files/27786D-1.pdf](http://www.loc.gov/rr/frd/Military_Law/Military_Law_Review/pdf-files/27786D-1.pdf) pp. 291-295

### 13 Oct JURISDICTION AND IMMUNITY

#### Materials:

- *The Steamship Lotus (France v Turkey)* (1927) PCIJ Ser. A., No. 10 at [http://www.worldcourts.com/pcij/eng/decisions/1927.09.07\\_lotus.htm](http://www.worldcourts.com/pcij/eng/decisions/1927.09.07_lotus.htm) read paras. [1], [2], [30] – [48], [55]-[61], [87]
- *Libman v. The Queen*, [1985] 2 S.C.R. 178 at <http://scc.lexum.org/en/1985/1985scr2-178/1985scr2-178.html> read paras. 2-6,10-11,17,21,42-43,59-60,65-68,74,77-78.
- *REGINA v BARTLE AND THE COMMISSIONER OF POLICE FOR THE METROPOLIS AND OTHERS (APPELLANTS) EX PARTE PINOCHET (RESPONDENT)* at <http://www.publications.parliament.uk/pa/ld199899/ldjudgmt/jd990324/pino7.htm> Judgement of Lord Millet, read from “The landmark decision of the Supreme Court of Israel in “*Attorney-General of Israel v. Eichmann*” to “I agree, therefore, that our courts have statutory extra-territorial jurisdiction in respect of the charges of torture and conspiracy to torture”
- *United States v. Burns*, [2001] 1 S.C.R. 283, 2001 SCC 7 at <http://scc.lexum.org/en/2001/2001scc7/2001scc7.html>, read paras. 1-8, 36-37, 79-89, 124-144
- *Luther v Sagor* [1921] 3 K.B. 532 at <http://www.uniset.ca/other/buttes/19213KB532.html> read judgements of Bankes LJ and Warrington LJ
- *The Schooner Exchange v. M`Faddon* 11 U.S. 116 (1812) at <http://supreme.justia.com/us/11/116/case.html>, scroll down to verdict of Chief Justice Marshall
- *Trendtex Trading Corp. v. Central Bank of Nigeria* [1977] 2 W.L.R. 356 at <http://www.uniset.ca/other/css/19772WLR356.html> read judgement of Lord Denning from “Has there been a change?...” to “there is no immunity in respect of commercial transactions, even for a government department” and judgement of Shaw LJ, from “The cardinal question is whether...” to “that institution – as in this case...”.
- Vienna Convention on Diplomatic Relations at [http://untreaty.un.org/ilc/texts/instruments/english/conventions/9\\_1\\_1961.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf)
- Vienna Convention on Consular Relations at [http://untreaty.un.org/ilc/texts/instruments/english/conventions/9\\_2\\_1963.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf)



**20 Oct THE LAW OF TREATIES**Materials:

- Nuclear Test Cases (Australia v France), ICJ, Judgement of 20 December 1974 <http://www.icj-cij.org/docket/files/58/6093.pdf>, paras 16-20,34-41,42-46
- Vienna Convention on the Law of Treaties at [http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)
- Interpretation of Peace Treaties (second phase), Advisory Opinion: I.C. J. Reports 1950, p. 221 at <http://www.icj-cij.org/docket/files/8/1875.pdf> read from p. 226 from “Having stated, in its Opinion of March 30th, 1950” to p. 227 “extended to the situation which now exists”; from p.228 “In these circumstances, the appointment of a third member” to p.229” would be contrary to their letter and spirit...”
- Libya v Chad, ICJ, at <http://www.icj-cij.org/docket/files/83/6897.pdf> para 41 only
- Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, ICJ, Advisory Opinion of 28 May 1951, at <http://www.icj-cij.org/docket/files/12/4285.pdf>
- Yukos Universal Ltd. v. Russian Federation, Interim Award on Jurisdiction and Admissibility, PCA Case No. AA 227 (Nov. 30, 2009), at <http://ita.law.uvic.ca/documents/YULvRussianFederation-InterimAward-30Nov2009.pdf> read paras. 1-5,35-40,244-249,260-269,270, 282-285,289-292, 301-315.
- Gabčíkovo-Nagymaros Project (Hungary/Slovakia), ICJ, Judgement of 25 September 1997 at <http://www.icj-cij.org/docket/files/92/7375.pdf> paras. 72-73, 77-79, 82-85, 87-88, 98-104, 108-110.

**26 – 30 Oct – Fall Break, no classes****PART III: DIFFERENT AREAS AND SUBJECTS OF INTERNATIONAL LAW****3 Nov INTERNATIONAL HUMAN RIGHTS LAW; LAW OF ABORIGINAL PEOPLES**Materials:

- Toonen v. Australia, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994), paras 3.1-4.2, 8.1-8.4,8.6 at <http://www1.umn.edu/humanrts/undocs/html/vws488.htm>
- Universal Declaration of Human Rights at <http://www.un.org/en/documents/udhr/>
- International Covenant on Civil and Political Rights at <http://www2.ohchr.org/english/law/ccpr.htm>
- Office of the High Commissioner for Human Rights, General Comment no. 06 The Right to Life, (art. 6) : . 04/30/1982 at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument)
- Husband of Maria Fanny Suarez de Guerrero v. Colombia, Communication No. R.11/45, U.N. Doc. Supp. No. 40 (A/37/40) at 137 (1982), 1.1-3.2 (incl) ,13.1 – 15 at <http://www1.umn.edu/humanrts/undocs/session37/11-45.htm>
- International Covenant on Economic, Cultural and Social Rights at <http://www2.ohchr.org/english/law/cescr.htm>
- Committee on Economic, Social and Cultural Rights, General Comment No.03, UN Doc. E/1991/23; (1994) 1-1 I.H.H.R. 6 at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument)
- Gosselin v. Québec (Attorney General), 2002 SCC 84, [2002] 4 S.C.R. 429 read paras. 93-94, 330-333, 417-420 at <http://scc.lexum.org/en/2002/2002scc84/2002scc84.html>
- Auton (Guardian *ad litem* of) v. British Columbia (Attorney General), [2004] 3 S.C.R. 657, 2004 SCC 78 at <http://scc.lexum.org/en/2004/2004scc78/2004scc78.html>, read headnote only
- Roger Judge v. Canada, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003), 10.2-10.8 at <http://www1.umn.edu/humanrts/undocs/829-1998.html>
- United Nations Declaration on the Rights of Indigenous Peoples, at [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf) see art. 1, 3, 26,43,46
- Simon v. The Queen, [1985] 2 S.C.R. 387, at <http://scc.lexum.org/en/1985/1985scr2-387/1985scr2-387.html>, read paras 1-5, 33
- The Mi'kmaq Tribal Society v Canada, UN Human Rights Committee Communication No. 205/1986 at <http://sim.law.uu.nl/SIM/CaseLaw/fulltextccpr.nsf/ac824e16154a0621c1256d3d003321f6/071f5ada2723592a41256d56004a4448?OpenDocument>

- Sandra Lovelace v Canada, UN Human Rights Committee Communication No. 24/1977\_ at <http://sim.law.uu.nl/SIM/CaseLaw/fulltextccpr.nsf/ac824e16154a0621c1256d3d003321f6/ceb07dd572746183c1256d3d003b9685?OpenDocument>

## 10 Nov INTERNATIONAL TRADE LAW

### Materials:

- GATT 1947 at <http://www.worldtradelaw.net/uragreements/gatt.pdf>
- GATT, Belgian Family Allowances case (1952) at [http://www.wto.org/gatt\\_docs/English/SULPDF/91850313.pdf](http://www.wto.org/gatt_docs/English/SULPDF/91850313.pdf)
- GATT 1994 and Agreement establishing the WTO: at <http://www.jus.uio.no/lm/wta.1994/ii.html> articles I, III, XX, XXI, XXIV
- Canada-Certain Measures Affecting the Automotive Industry (2000), Appellate Body report, at [http://docsonline.wto.org/GEN\\_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS139%FCAB%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F139ABR%2EDOC%2EHTM&curdoc=3&popTitle=WT%2FDS139%2FAB%2FR%3Cbr%3EWT%2FDS142%2FAB%2FR](http://docsonline.wto.org/GEN_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS139%FCAB%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F139ABR%2EDOC%2EHTM&curdoc=3&popTitle=WT%2FDS139%2FAB%2FR%3Cbr%3EWT%2FDS142%2FAB%2FR) read s. I 1; II 7,8,9; V
- US-Tuna Dolphin cases: at <http://www.worldtradelaw.net/reports/gattpanels/tunadolpinI.pdf> paras 2.1-2.6, 5.22-5.34, 6.1-6.4
- United States: Reformulated Gasoline at [http://docsonline.wto.org/imrd/gen\\_searchResult.asp?RN=0&searchtype=browse&q1=%28%40meta%5FSymbol+WT%FCDS%2FCAB%FCR%2A+and+not+RW%2A%29&language=1](http://docsonline.wto.org/imrd/gen_searchResult.asp?RN=0&searchtype=browse&q1=%28%40meta%5FSymbol+WT%FCDS%2FCAB%FCR%2A+and+not+RW%2A%29&language=1) download HTML Preview of Appellate Body report
- United States-Import prohibition of Shrimp (1998/2000) at [http://docsonline.wto.org/GEN\\_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS58%FCAB%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F58ABR%2EDOC%2EHTM&curdoc=3&popTitle=WT%2FDS58%2FAB%2FR](http://docsonline.wto.org/GEN_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS58%FCAB%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F58ABR%2EDOC%2EHTM&curdoc=3&popTitle=WT%2FDS58%2FAB%2FR) download “Appellate Body HTML Preview”. Read paras. 113-186
- European Communities: Measures affecting Asbestos and Products Containing Asbestos [http://www.worldtradelaw.net/reports/wtopanelsfull/ec-asbestos\(panel\)\(full\).pdf](http://www.worldtradelaw.net/reports/wtopanelsfull/ec-asbestos(panel)(full).pdf) read pages 432-450
- North American Free Trade Agreement, articles 1102 and 1103 at <http://www.nafta-sec-alena.org/en/view.aspx?conID=590&mtpID=142#A1102>
- Case comment on Methanex v United States at [http://www.iisd.org/pdf/2005/commentary\\_methanex.pdf](http://www.iisd.org/pdf/2005/commentary_methanex.pdf)
- “Protectionism Online: Internet Censorship and International Trade Law” at <http://www.ecipe.org/publications/ecipe-working-papers/protectionism-online-internet-censorship-and-international-trade-law/> download PDF

## 17 Nov INTERNATIONAL ENVIRONMENTAL LAW; THE LAW OF THE SEA

### Materials:

- Statute of the ICJ, art.38 at [http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0#CHAPTER\\_II](http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0#CHAPTER_II)
- Trail Smelter Arbitration (USA, Canada) at [http://untreaty.un.org/cod/riaa/cases/vol\\_III/1905-1982.pdf](http://untreaty.un.org/cod/riaa/cases/vol_III/1905-1982.pdf) read p.1912 (last paragraph)-1913, p.1962 (“Part Three”)-1964 (up to “sovereignty inherent in the Constitution of the United States”), 1965 (“The Tribunal, therefore,...”)-1966 (up to “Part Four”).
- Stockholm Declaration at <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=97&articleid=1503>
- Rio Declaration at <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>
- Nuclear Weapons Advisory Opinion, ICJ, read paras. 27-29 (pp.241-242) at <http://www.icj-cij.org/docket/files/95/7495.pdf> and dissenting opinion of Justice Weeramantry, section 10. Specific rules of the humanitarian law of war (f) The prohibition against environmental damage, (p.502-506)at <http://www.icj-cij.org/docket/files/95/7521.pdf>
- Gabčíkovo case (Hungary v Slovakia), read para 140 (p.77-78), at <http://www.icj-cij.org/docket/files/92/7375.pdf>

- EC Beef Hormones case, read C. Arguments by Canada-Appellee, 2. The Precautionary Principle at [http://docsonline.wto.org/GEN\\_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS26%FCA B%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F26AB R%2EHTM&curdoc=3&popTitle=WT%2FDS26%2FAB%2FR%3Cbr%3EWT%2FDS48%2FAB%2FR](http://docsonline.wto.org/GEN_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS26%FCA B%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F26AB R%2EHTM&curdoc=3&popTitle=WT%2FDS26%2FAB%2FR%3Cbr%3EWT%2FDS48%2FAB%2FR)
- Indian Council for Enviro-Legal Action and Ors. V. Union of India (UOI) and Ors. , Supreme Court of India 1996, at <http://www.ielrc.org/content/e9605.pdf> read paras. 58 (p.23),67(p.28)
- Case concerning Pulp Mills on the River Uruguay (Argentina v Uruguay) (2010) read paras. 204-205 at <http://www.icj-cij.org/docket/files/135/15877.pdf>
- UNCLOS at [http://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)
- Anglo-Norwegian Fisheries case (Iceland v UK), opinion of Justice Fitzmaurice, ICJ, at <http://www.icj-cij.org/docket/files/55/5755.pdf> - read all of it, but be sure to also read footnotes 8 and 9 to para. 8
- Nicaragua case at <http://www.icj-cij.org/docket/files/70/6503.pdf> read paras 212,213,214
- MV Saiga case (Saint Vincent and the Grenadines v Guinea at [http://www.worldcourts.com/itlos/eng/decisions/1999.07.01\\_Saint\\_Vincent\\_v\\_Guinea.pdf](http://www.worldcourts.com/itlos/eng/decisions/1999.07.01_Saint_Vincent_v_Guinea.pdf) ; read paras 116, 120-122,127, 130-136, 155
- Panama and José C. Monteverde (Panama) v. U.S (The David), (1933) 6 RIAA 382 [http://untreaty.un.org/cod/riaa/cases/vol\\_VI/382-386\\_Compania.pdf](http://untreaty.un.org/cod/riaa/cases/vol_VI/382-386_Compania.pdf) read pp. 384-386

## **PART IV: JUDICIAL SETTLEMENT OF DISPUTES**

### **24 Nov THE WORLD'S COURTS: ICJ, ICC, ITLOS, WTO PANELS**

#### **Materials:**

- Military Activities In and Against Nicaragua (*Nicaragua v United States*), (merits) [1986] I.C.J. Rep. 14, at <http://www.icj-cij.org/docket/files/70/6503.pdf> para 31
- Statute of the International Court of Justice, art. 36; text found at <http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0>
- Nottebohm (Leichtenstein v Guatemala), Preliminary Objections, Decision of the Court , Judgement of 18 November 1953, at <http://www.icj-cij.org/docket/files/18/2057.pdf>; read from p.121 “the Court is not concerned with defining...” to p.122 “that it lacks jurisdiction or that the claim is inadmissible”
- Nicaragua para 30
- WTO *Argentina: Measures Affecting Imports of Footwear, Textiles, Apparel and Other Items—Report of the Panel* [25 November 1997] WT/DS56/R at [http://docsonline.wto.org/GEN\\_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS56%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F56R%2EHTM&curdoc=3&popTitle=WT%2FDS56%2FR](http://docsonline.wto.org/GEN_highLightParent.asp?qu=%28%40meta%5FSymbol+WT%FCDS56%FCR%2A+and+not+RW%2A%29&doc=D%3A%2FDDFDOCUMENTS%2FT%2FWT%2FDS%2F56R%2EHTM&curdoc=3&popTitle=WT%2FDS56%2FR) go to Section VI Findings, B. Article II of GATT, 2. THE APPLICATION BY ARGENTINA OF SPECIFIC MINIMUM DUTIES, (a) Burden of proof and nature of the evidence required
- Statute of the ICJ articles 48-52
- Rules of the International Court of Justice, at <http://www.icj-cij.org/documents/index.php?p1=4&p2=3&p3=0>, read articles 49 (1), 49 (2), 50, 56, 57,61,62,63,65,66-69
- Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005, p. 168 at <http://www.icj-cij.org/docket/files/116/10455.pdf> read paras 59-61
- Nicaragua para 63
- Corfu Channel Case (Merits), Judgment of April 9th, 1949, I.C. J. Reports 1949, p.4 at <http://www.icj-cij.org/docket/files/1/1645.pdf>
  - Read p.18 from “It is clear that knowledge of the minelaying cannot be imputed...” to “relevant to the question of connivance.”.
- Application of the Convention on the Prevention and Punishment of the Crime of Genocide [“Crime of Genocide”] (Bosnia Genocide case), ICJ 2008, at <http://www.icj-cij.org/docket/files/91/13685.pdf> read paras 370-376, 438.



**PART V: THE LAST RESORT OF STATES****1 Dec THE LAW OF WAR AND THE USE OF FORCE**Materials:

- Charter of the United Nations arts. 2(4) and 51, at <http://treaties.un.org/doc/Publication/CTC/uncharter.pdf>
- Nicaragua case at <http://www.icj-cij.org/docket/files/70/6503.pdf>
  - Self-defence: paras. 175,176, 187, 188, 191, 193, 194, 195, 228,229,230,232,235;
  - IHL: paras. 218,219,220,237
- Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion ICJ, at <http://www.icj-cij.org/docket/files/95/7495.pdf> read paras. 37,38,39, 40,41,-44, 74-87
- Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, ICJ Advisory Opinion, at <http://www.icj-cij.org/docket/files/131/1671.pdf>, read paras. 86, 87, 89, 90,91,92,94,95,101,125,126, 135,138-142
- Geneva Conventions of 1949 and the Additional Protocols 1977
  - GC I: <http://www.icrc.org/ihl.nsf/FULL/365?OpenDocument>
  - GC II: <http://www.icrc.org/ihl.nsf/FULL/370?OpenDocument>
  - GC III: <http://www.icrc.org/ihl.nsf/FULL/375?OpenDocument>
  - GC IV: <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument>
  - AP I: <http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument>
  - AP II: <http://www.icrc.org/ihl.nsf/FULL/475?OpenDocument>

## Summary of articles covered in lecture and in readings:

- Art. 2 of GC I,II,III,IV and API; art 1 APII
- Art. 3 of GC I,II,III,IV; art. 4 and art. 5,APII
- Art. 43,44,48 and 50 API; art. 4 GC III
- Art. 5 GC III
- Art. 35 API
- Art. 52 API