



Max Planck Institute
LUXEMBOURG
for Procedural Law



VRIJE
UNIVERSITEIT
BRUSSEL



Fonds National de la
Recherche Luxembourg



International Conference

***A Bridge Over Troubled Waters:
Dispute Resolution in the Law of
International Watercourses and
the Law of the Sea***

Luxembourg, 25 & 26 September 2017

Programme

Monday, 25 September 2017

09:00 Registration & Coffee

09:30 Welcome Address

09:45 Panel I: 20 Years to the *Gabčíkovo-Nagymaros* Decision: Developments in Adjudicating Transboundary Freshwater Disputes

11:15 Coffee Break

11:45 Panel II: Procedural Principles of International Water Law and the Resolution of Transboundary Freshwater Disputes

13:15 Lunch Break

14:15 Panel III: The Role of Water Agreements and Institutions in the Resolution of Transboundary Freshwater Disputes

15:45 Coffee Break

16:15 Panel IV: Current Transboundary Freshwater Disputes - North Africa, South Asia, and Southeast Asia

17:45 Reception

Tuesday, 26 September 2017

09:00 Registration & Coffee

09:30 Panel I: International Procedural Law Before the ICJ, the ITLOS and Annex VII Arbitral Tribunals

11:00 Coffee Break

11:30 Panel II: Choice of Means of Dispute Settlement in the Law of the Sea

13:00 Lunch Break

14:00 Panel III: Global and Regional Actors in the Settlement of Law of the Sea Disputes

15:15 Coffee Break

16:00 Panel IV: Case Study: Dispute Settlement in the Arctic

17:30 Concluding Remarks

A Bridge Over Troubled Waters:

Dispute Resolution in the Law of International Watercourses and the Law of the Sea

Dispute settlement in the fields of fresh water and the law of the sea is undergoing a period of great change, bringing forward both challenges and opportunities. In the fresh water field there has been growing confusion surrounding the content and application of the principles of international water law over the past two decades, despite several International Court of Justice (ICJ) decisions and arbitral awards rendered in the field, as well as regional agreements and non-binding rules developed by international associations. At the same time, the ICJ is now facing an opportunity to clarify these issues in the most recent fresh water case submitted to it by Chile concerning its dispute with Bolivia over the Silala River. As for the law of the sea, Part XV of the UN Convention of the Law of the Sea (UNCLOS) has been amply used over the past two decades, resulting in a proliferation of cases submitted to international adjudication, arbitration and even conciliation. Despite this notable progress, UNCLOS dispute resolution has been put to the test as demonstrated for instance by recent instances of non-participation in the *Arctic Sunrise* and *South China Sea* arbitrations.

Against this backdrop, the conference brings together internationally renowned experts to evaluate the progress made thus far in these two fields and to discuss the potential for future developments. The structure of the conference is designed to examine how disputes concerning transboundary fresh water and the oceans are resolved and to draw conclusions and lessons from each system that may be applied to the other. In conjunction with the conference panels, poster sessions will be held that are intended to offer PhD students and early career researchers the opportunity to display their work to the conference audience.

Scientific Committee:

Prof. H el ene Ruiz Fabri, Prof. Erik Franckx, Prof. Burkhard Hess, Prof. Laurence Boisson de Chazournes, Prof. Philippe Gauthier, Prof. R udiger Wolfrum, and Prof. Philippe Sands.

Organizing Committee:

Prof. H el ene Ruiz Fabri, Prof. Erik Franckx, Mr Marco Benatar, and Ms Tamar Meshel.

Monday, 25 September 2017

The Law of International Watercourses

Welcome Address

Prof. H el ene Ruiz Fabri, *Max Planck Institute Luxembourg for Procedural Law*

Prof. Erik Franckx, *Vrije Universiteit Brussel*

Mr Asa el Rouby, *Luxembourg National Research Fund*

Panel I

20 Years to the *Gab ıkovo-Nagymaros* Decision: Developments in Adjudicating Transboundary Freshwater Disputes

Chair: Prof. Boldizs ar Nagy, *Central European University*

Speakers: Mr Samuel Wordsworth QC, *Essex Court Chambers*

“Why and when do states choose to litigate transboundary fresh water disputes?”

Prof. Cesare P.R. Romano, *Loyola Marymount University*

“Putting the G-N Decision in Perspective: Much Ado About Nothing?”

Judge Peter Tomka, *International Court of Justice*

“Technical and Scientific Evidence in Freshwater Disputes”

Panel II

Procedural Principles of International Water Law and the Resolution of Transboundary Freshwater Disputes

Chair: Prof. Jutta Brunn e, *University of Toronto*

Speakers: Prof. Attila Tanzi, *University of Bologna*

“The procedural aspects of the substantive principles of international water law”

Prof. Owen McIntyre, *University College Cork*

“The role of emerging concepts in the application of the procedural rules of international water law”

Judge Awn Al-Khasawneh, *Doughty Street Chambers*

“Violations of procedural obligations under international water law”

Panel III

The Role of Water Agreements and Institutions in the Resolution of Transboundary Freshwater Disputes

Chair: Prof. Alan Boyle, *University of Edinburgh*

Speakers: Prof. Itay Fishhendler, *Hebrew University of Jerusalem*
"How transboundary water treaties accommodate uncertainties"

Ms Judith Levine, *Permanent Court of Arbitration*
"The evolving role of the Permanent Court of Arbitration in the resolution of transboundary freshwater disputes"

Prof. Laurence Boisson de Chazournes & Dr Komlan Sangbana,
University of Geneva
"River basin organizations, dispute settlement and the maintenance of peace and security"

Panel IV

Current Transboundary Freshwater Disputes – North Africa, South Asia, and Southeast Asia

Chair: Prof. Laurence Boisson de Chazournes, *University of Geneva*

Speakers: Dr Salman M.A. Salman, *International Water Resources Association*
"The Nile and the Grand Ethiopian Renaissance Dam: Challenges and Opportunities"

Prof. Ashok Swain, *Uppsala University*
"The Indus River dispute between India and Pakistan: from the Indus Commission to PCA Arbitration"

Prof. Alistair Rieu-Clarke, *Northumbria University, UNECE Water Convention*
"The Governance of Hydropower Developments on the Lower Mekong – what might the 1997 UN Watercourses Convention and the 1992 UNECE Water Convention offer?"

Tuesday, 26 September 2017

Dispute Resolution in the Law of the Sea

Panel I

International Procedural Law Before the ICJ, the ITLOS and Annex VII Arbitral Tribunals

Chair: Prof. Alfred Soons, *Utrecht University*

Speakers: Prof. Marcelo Kohen, *Graduate Institute Geneva*
“Diplomatic means as a requirement for the exercise of jurisdiction”

Mr Paul Reichler, *Foley Hoag LLP (Washington)*
“Fact-finding and evidence in law of the sea adjudication”

Sir Michael Wood, *20 Essex Street*
“Third party intervention in inter-State arbitration”

Panel II

Choice of Dispute Settlement Means in the Law of the Seas

Chair: Prof. Tullio Treves, *Curtis, Mallet-Prevost, Colt & Mosle LLP (Milan)*

Speakers: Prof. Liesbeth Lijnzaad, *Maastricht University*
“Dispute-settlement in the future Implementing Agreement on Marine
Biodiversity”

Prof. Natalie Klein, *Macquarie University*
“Conciliation between Timor Leste and Australia: a harbinger for
dispute settlement in the law of the sea?”

Prof. Bernard H. Oxman, *University of Miami*
“Choice of forum for settlement of law of the sea disputes”

Panel III

Global and Regional Actors in the Settlement of Law of the Sea Disputes

Chair: Prof. Shotaro Hamamoto, *Kyoto University*

Speakers: Prof. Esa Paasivirta, *European Commission - Legal Service*
"The European Union and law of the sea dispute settlement"

Prof. Rosemary Rayfuse, *University of New South Wales*
"Settling disputes in regional fisheries management organisations"

Mr Michael Lodge, *International Seabed Authority*
"The International Seabed Authority and deep seabed disputes"

Panel IV

Case Study: Dispute Settlement in the Arctic

Chair: Prof. Erik Franckx, *Vrije Universiteit Brussel*

Speakers: Ambassador Rolf Einar Fife, *Royal Embassy of Norway in Paris*
"Application of the law of the sea in the Arctic: basic methodology"

Prof. Viatcheslav V. Gavrilov, *Far Eastern Federal University*
"Delimitation of the continental shelf in the Arctic Ocean: the present state and legal solutions to emerging contradictions"

Prof. David VanderZwaag, *Dalhousie University*
"Canada's Arctic-related Disputes: Cooperative Bridges, Foggy Waters"

17:30 Concluding Remarks

Prof. Sean D. Murphy, *George Washington University*

Poster Sessions

- David Devlaeminck, *PhD Candidate, Xiamen University*
“Operationalizing the Principle of Reciprocity in the Law of International Watercourses”
- Elaine Kellman, *PhD Candidate, King’s College London*
“Reconciling the Conflicts in the International Law Regulation of Bulk Water Transfers”
- Nick Renzler, *Associate, Foley Hoag LLP (Washington)*
“Twenty-First Century Innovation an Evolution: How Must the Law of the Sea and International Freshwater Law Change?”
- Balraj Sidhu, *Assistant Professor, Indian Institute of Technology-Kharagpur*
“Quest for Peaceful Settlement of Transboundary Water Disputes in the Indus River Basin: Some Reflections”
- Dmytro Koval, *Associate Professor, National University Odessa Law Academy*
Valentin Schatz, *Research Associate, University of Trier*
“The Ukraine v Russia Arbitration under Annex VII of UNCLOS: Reflections on the Territorial Nature of the Dispute and its Impact on the Jurisdiction of the Arbitral Tribunal”
- Vladyslav Lanovoy, *Associate Legal Officer, International Court of Justice*
“Jurisdiction and Applicable Law under UNCLOS: Upholding Restrictive Interpretation”
- Millicent McCreath, *Research Associate, National University of Singapore Centre for International Law*
“UNCLOS as a Tool to Provide Access to Remedies for the Land-Source Pollution of Watercourses Resulting in Pollution of the Marine Environment”
- Lan Nguyen, *Lecturer, Utrecht University*
“UNCLOS Dispute Settlement Bodies and the Development of the Law of the Sea”
- Otto Spijkers, *Lecturer, Utrecht University*
“Legal Consequences of Non-Participation in Arbitral Proceedings under Annex VII UNCLOS”

DEPARTMENT OF INTERNATIONAL AND EUROPEAN LAW

The Department of International and European Law of the *Vrije Universiteit Brussel*, housed in the Faculty of Law and Criminology, is comprised of the Centre on International Law and the Centre on European Law. Over the past years, the Centre on International Law has developed expertise in three areas, namely the law of the sea, the law of international organizations and international legal issues specifically related to the African continent.

Within the area of the law of the sea, the Centre has conducted research primarily in six areas: 1) the Arctic; 2) the South China Sea; 3) Belgian state practice; 4) marine pollution; 5) fisheries; and 6) maritime boundary delimitation. Courses in this domain are also taught at other Belgian (*Université libre de Bruxelles* and *Universiteit Gent*) and foreign universities (Universities of Akureyri, Kent and Paris-Sorbonne Abu Dhabi) on a yearly basis as well as *ad hoc* (e.g. China, Greece, the Russian Federation, Sweden, the United States and Vietnam). Members of the Centre have provided consultancy services to Belgium, foreign governments and international organizations, including in the context of international litigation (e.g. on behalf of the Netherlands in the *Arctic Sunrise Arbitration*).

LUXEMBOURG NATIONAL RESEARCH FUND



The Luxembourg National Research Fund (FNR) is the main funder of research activities in Luxembourg. It invests public funds and private donations into research projects in various branches of science and the humanities, with an emphasis on selected core strategic areas. Furthermore, it supports and coordinates activities to strengthen the link between science and society and to raise awareness for research. It also advises the Luxembourg government on research policy and strategy.

The FNR's **VISION** is to establish Luxembourg as a leading knowledge-based society through science, research and innovation, thereby contributing to the country's economic diversification and future prosperity.

Its **MISSION** is to set up a sustainable world-class research system in Luxembourg that will generate societal and economic impact in key strategic areas.

Its **STRATEGIC PRIORITIES** - the FNR aims to be a driving force for Luxembourg's innovation capabilities and focuses on three strategic objectives to foster research with impact:

- Attaining scientific leadership in key areas
- Turning public research into a competitive advantage for Luxembourg
- Anchoring science and research in society

MAX PLANCK INSTITUTE LUXEMBOURG FOR PROCEDURAL LAW



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Procedural law matters – this could be the leitmotif for the new Max Planck Institute Luxembourg for Procedural Law. The Institute was founded in the summer of 2012. Today, its researchers coming from all over the world investigate all types of dispute resolution and procedural law. Within the Max Planck Society, it is the fifth Max Planck Institute established outside Germany, and the first of these focusing on law.

The location in Luxembourg is ideal for a Max Planck Institute focusing on procedural law: Luxembourg is indeed the synonym for the constant development and expansion of the legal systems of the EU Member States by means of European law and of the jurisprudence of the Court of Justice of the European Union. This gives the researchers and guests of the Institute the opportunity to maintain a continuous dialogue with the members of the Court and to gain a direct insight into the workings of the European judiciary. Observing the practice of courts in different countries and at domestic and international levels is an important success factor for studying European, comparative and international procedural law.

DEPARTMENT OF INTERNATIONAL LAW AND DISPUTE RESOLUTION

Led by Professor H el ene Ruiz Fabri, the Department of International Law and Dispute Resolution examines and analyses various mechanisms and techniques of international dispute settlement – including traditional litigation as well as alternative methods of dispute resolution and adjudication – but also extends its research to all kinds of decision-making processes. Its research agenda focuses on the principles and processes underlying each of these mechanisms and explores various theoretical and historical schools of thought in international law in order to assess their accuracy regarding procedural issues.

Since her appointment as Director, Professor Ruiz Fabri has gathered in her department promising senior and junior research fellows with various disciplinary and cultural backgrounds. Currently, the research activities of this internationally-minded team are in particular focused on two ambitious long-term projects:

- *The Max Planck Encyclopedia of International Procedural Law*, which aims to bring into focus essential topics in international dispute resolution, to cover the latest developments in the field and to reflect international law from a procedural perspective;
- *The Making of International Judicial and Arbitral Decisions*, which combines the perspectives of law, political science, sociology, psychology and history, and aims at opening up the black box which in many respects still encrypts the decision-making processes of courts and tribunals.

Besides the two aforementioned challenging projects, the Department of International Law and Dispute Resolution is actively engaged in international research projects, scientific and professional networks, international organizations and forums. Seminars, colloquia and in-house workshops that gather leading scholars and practitioners of international law are regularly held, as well as Lecture Series organized in close collaboration with the Department of European and Comparative Procedural Law.

UPCOMING EVENTS AT THE MPI LUXEMBOURG

We would like to invite you to our upcoming events!

04 October 2017 / 16:00

[Max Planck Lecture Series](#)

La sentence arbitrale: quelques réflexions sur la délibéré, la collégialité, la motivation et le respect de l'arbitre de se conformer à sa mission

Prof. José Carlos Fernández Rozas (Complutense University of Madrid)

06 October 2017 / 14:00

[Book Launch - Round table](#)

To Reform the World: International Organizations and the Making of Modern States (OUP, 2017)

Dr Guy Fiti Sinclair (Victoria University of Wellington)

11 October 2017 / 19:30

[Book Launch - Conference](#)

Retour à Lemberg (Albin Michel, 2017)

Prof. Philippe Sands (University College London)

Venue: Neumünster Abbey, José Ensch room

12 October 2017 / 14:00

[Conference](#)

Jurisdiction, Conflicts of Laws and Data Protection in Cyberspace

23 November 2017 / 16:00

[Max Planck Lecture Series](#)

The ECtHR and State Responsibility: Moving towards more international law

Lecturer: Judge and Prof. Iulia Motoc (European Court of Human Rights)

06 - 08 December 2017

[Conference](#)

Peace Through Law: The Versailles Peace Treaty and dispute settlement after WW I

01 - 02 February 2018

[Conference](#)

Open Justice

07 March 2018

[Event](#)

Women in Nuremberg

Prof. Diane Amann (University of Georgia School of Law)

Please find more information on www.mpi.lu/news-and-events/

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