

International Law Department

Academic year 2021-2022

Research Seminar on the International Law of Energy

DI112 – Fall – 6 ECTS

Fridays (every two weeks) 14:15-18:00hs

(format may change due to COVID-related restrictions)

Course Description

Energy is highly but not clearly regulated in international law. The legal sources on which the governance of energy is based are plentiful but scattered around a vast legal expanse, which has so far been addressed through separate specialised accounts devoted to specific topics or branches. The purpose of this research seminar is two-fold: to provide an overall account of the international law of energy understood as the entirety of international law seen from the prism of energy; and to rely on this account to analyse the implications of the ongoing energy transformation for international law. We will begin by examining the foundations of the field (the internationalisation of energy transactions, energy as a legal object, the purposes of its regulations, the structure of international energy transactions, and the three main approaches to global energy governance). We will then study each approach. First, we will analyse the foundational approach, which relies on: rules conferring and allocating entitlements over energy; rules enabling and protecting energy transactions, mainly through trade, investment and transit regulation; rules regulating negative externalities, mainly through human rights and investment law. Secondly, we will focus on ad hoc legal approaches,

such as joint development agreements (oil and gas), pipeline agreements, hydroelectricity agreements, offshore wind agreements, and electricity transmission agreements. Thirdly, we will study the centralised or proto-centralised approach, by reference to the international law of nuclear energy, producer and consumer organisations (e.g. OPEC and IEA), promotion organisations (e.g. IRENA) and regional organisations (in the EU, Latin American and the ASEAN area). Finally, the seminar will focus on the manifestations across the international law of energy of the ongoing energy transition from a carbon-intensive to a low-carbon economy. The seminar is intended for international law students, but it is also open to students of other disciplines specialising on energy and/or environmental governance. It will be based on Vinuales, *The International Law of Energy* (CUP, 2021), and a wide variety of specialised instruments and readings.

> PROFESSOR

Jorge Enrique Viñuales
(jorge.vinuales@graduateinstitute.ch)

[Office hours](#)

> ASSISTANT

Irene Miano
(irene.miano@graduateinstitute.ch)

[Office hours](#)

Syllabus

This is an advanced seminar, which requires prior familiarity with international law, global environmental governance and/or energy policy. Students will be expected to take an active role in selecting the readings they are most interested in, preparing them for class and intervening in class discussions. Given COVID-related

restrictions, the format of the course may change. In principle, we will meet every two weeks for four hours, although an intensive full-immersion format or, alternatively, an online format with two hours every week may also be conceivable.

Primary sources:

The basic legal instruments, including treaties, soft law and case-law which you will need to study before each session will be made available on the course Moodle page.

Readings:

There are required and suggested readings. Only the first category will be available on the course website. Additional suggested readings are mentioned in the syllabus for those who would like to go further (e.g. for research purposes) or who need to prepare for the presentation.

Evaluation:

The examination will consist of two components: (i) participation in class (mainly a presentation (20%) and (ii) a 6000-word max written paper on a case-study (i.e. an energy project, instrument or dispute to be agreed with the instructor) (80%).

SESSION 1 – LEGAL FOUNDATIONS OF GLOBAL ENERGY GOVERNANCE I – 24 SEPTEMBER 2021
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1. Energy as a legal object
2. The purposes of energy governance

REQUIRED READINGS:

J. E. Vinuales, *The International Law of Energy* (Cambridge University Press, forthcoming 2021), chapter 1 : Energy in International Law.

SUGGESTED READINGS:

A. Bradbrook, R. D. Wahnshafft, 'International Law and Global Sustainable Energy Production and Consumption', in A. Bradbrook, R. Lyster, R. L. Ottinger, Wang Xi (eds), *The Law of Energy for Sustainable Development* (Cambridge University Press, 2005), pp. 181-201.

S. Bruce, 'International Law and Renewable Energy: Facilitating Sustainable Energy for All?' (2013) 14 *Melbourne Journal of International Law* 18.

S. Bruce, 'International Energy Law', in *Max Planck Encyclopaedia of Public International Law*, October (2014).

S. Bruce, S. Stephenson and R. Mella, 'Sustainable Development Goal 7 on Sustainable Energy', *CISDL Legal Brief* (2015).

G. Carbonnier, S. de Jong, 'The Global Governance of Energy and Development' (2011) 5 *The Global Community. Yearbook of International Law and Jurisprudence* 41.

K. Deketalaere, *International Encyclopaedia of Laws. Energy Law* (available at: www.kluwerlawonline.com).

R. Dolzer, 'International Cooperation in Energy Affairs' (2015) 372 *RCADI* 395.

N. K. Dubash, A. Florini, 'Mapping Global Energy Governance' (2011) 2 *Global Policy* 8.

- A. A. Fatouros, 'An International Legal Framework for Energy' (2007) 332 *RCADI* 355.
- A. Florini, B. K. Sovacool, 'Who Governs Energy? The Challenges Facing Global Energy Governance' (2009) 37 *Energy Policy* 5239.
- A. Goldthau, 'Governing Global Energy: Existing Approaches and Discourses' (2011) 3:4 *Current Opinion in Environmental Sustainability* 213.
- A. Goldthau, J. M. Witte (eds.), *Global Energy Governance: The New Rules of the Game* (Washington: Brookings Institution Press, 2010)
- N. Gunningham, 'Confronting the Challenge of Energy Governance' (2012) 1:1 *Transnational Environmental Law* 119.
- G. Handl, 'The IAEA Nuclear Safety Conventions: An Example of Successful 'Treaty Management'?' (2003) 72 *Nuclear Law Bulletin* 7.
- ILC, Fifth Report on shared natural resources: transboundary aquifers by Mr. Chusei Yamada, Special Rapporteur, 21 February 2008, A/CN.4/591.
- R. Leal-Arcas, A. Filis, 'The Fragmented Governance of the Global Energy Economy: A Legal-Institutional Analysis' (2013) *Journal of World Energy and Business* 1.
- S. de Jong, 'Towards Global Energy Governance: How to Patch the Patchwork' (2011) 2 *International Development Policy* 21.
- D. M. Ong, 'Joint Development of Common Offshore Oil and Gas Deposits: "Mere" State Practice or Customary International Law?' (1999) 93 *AJIL* 771.
- T. Regan, Z. Chao, 'Twenty five years of coal bed methane development in China' (2014) 7:5 *Journal of World Energy Law and Business* 423.
- C. Redgwell, 'International Regulation of Energy Activities', in M. Roggenkamp, C. Redgwell, A. Rønne, and I. del Guayo (eds), *Energy Law in Europe: National, EU and International Regulation* (Oxford University Press, 2016), chapter 2.
- K. Talus, 'The Internationalization of Energy Law', in K. Talus (ed.), *Research Handbook on International Energy Law* (Cheltenham: Edward Elgar, 2014), pp. 3-17.
- J. E. Viñuales, 'Vers un droit international de l'énergie: Essai de cartographie', in M. G. Kohen, D. Bentolila (eds), *Mélanges en l'honneur du professeur Jean-Michel Jacquet: le droit des rapports internationaux économiques et privés* (Paris: LexisNexis, 2013), pp. 321-344.

SESSION 2 – LEGAL FOUNDATIONS OF GLOBAL ENERGY GOVERNANCE II - 24 SEPTEMBER 2021
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1. The structure of international energy transactions
2. Approaches to global energy governance

REQUIRED READINGS:

J. E. Viñuales, *The International Law of Energy* (Cambridge University Press, forthcoming 2021), chapter 1 : Energy in International Law.

SUGGESTED READINGS:

Idem session I

1. Sovereignty
2. Self-determination
3. Powers of States over marine areas and international watercourses
4. Rights of individuals and collective subjects

SELECTED PRIMARY SOURCES:

Instruments:

UN General Assembly, Resolution 1803 (XVII), ‘Permanent Sovereignty over Natural Resources’, U.N. Doc. A/RES/1803(XVII), 14 December 1962.

African Charter of Human and Peoples’ Rights, concluded at Nairobi on 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5: article 21.

United Nations Convention on the Law of the Sea, concluded at Montego Bay on 10 December 1982.

United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses concluded at New York on 21 May 1997.

Cases:

Island of Palmas case (Netherlands, USA), 4 April 1928, RIAA vol. II, pp. 829-871.

The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria, African Commission on Human and Peoples’ Rights, Communication N° 155/96 (2001), 27 May 2002, ACHPR/COMM/A044/1, par. 55-58.

Bernard Ominayak, Chief of the Lake Lubicon Band v. Canada, Communication N° 167/1984 (26 March 1990), Report of the Human Rights Committee, vol. II (1990), U.N. Doc. A/45/40.

Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Merits. Reparations and Costs, Judgment of the Inter-American Court of Human Rights, 31 August 2001, Series C N° 79, par. 140-155.

Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005, p. 168, par. 222-250.

Case concerning the delimitation of maritime boundary between Guinea-Bissau and Senegal, Decision of 31 July 1989, RIAA, vol. XX, pp. 119-213, par. 38-39.

In the matter of an Arbitration pursuant to an Agreement to arbitrate dated 3 October 1996 between the Government of the State of Eritrea and the Government of the Republic of Yemen, Award of the Arbitral Tribunal in the First Stage of the Proceedings (Territorial Sovereignty and Scope of the Dispute), 9 October 1998, par. 438; Award of the Arbitral Tribunal in the Second Stage of the Proceedings (Maritime Delimitation), 17 December 1999, par. 84-86.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain, Merits, Judgment, I.C.J. Reports 2001, p. 40.

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria; Equatorial Guinea intervening), Judgment, ICJ Reports 2002, p. 303, par. 304.

North Sea Continental Shelf, Judgment, I.C.J. Reports 1969, Separate Opinion of Judge Jessup, p. 69.

China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum, Reports of the Panel, 26 March 2014, WT/DS431/R, WT/DS432/R, WT/DS433/R, para 7.245-7.277, 7.364-7.377, 7.682-7.699, 7. 847-7.862.

Affaire du lac Lanoux (Espagne, France), 16 November 1957, RIAA, vol. XII, pp. 300-317.

Indus Waters Kinshenganga Arbitration (Pakistan v. India), PCA, Final Award, 20 December 2013, par. 76-124.

REQUIRED READINGS:

J. E. Vinuales, *The International Law of Energy* (Cambridge University Press, forthcoming 2021), chapter 2 : Entitlements over Energy.

R. Higgins, 'Natural resources in the Case Law of the international Court', in A. Boyle and D. Freestone (eds), *International Law and Sustainable Development*, (Oxford University Press, 1999), chapter 5.

R. Pereira, O. Gough, 'Permanent Sovereignty over Natural Resources in the 21st Century: Natural Resources Governance and the Right to Self-Determination of Indigenous Peoples under International Law' (2013) 14 *Melbourne Journal of International Law* 451.

SUGGESTED READINGS:

J. Crawford, 'The Rights of Peoples: 'Peoples' or 'Governments'? (1985) 9 *Bulletin of the Australian Society of Legal Philosophy* 136.

S. Dinar, 'Power Asymmetry and Negotiations in International River Basins' (2009) 14 *International Negotiation* 329.

E. Duruigbo, 'Permanent Sovereignty and Peoples' Ownership of Natural Resources in International Law' (2006) 38 *George Washington International Law Review* 33.

K. N., Gess, 'Permanent Sovereignty over Natural Resources. An Analytical Review of the United Nations Declaration and its Genesis' (1964) 13 *ICLQ* 398.

A. Grzybowski, S. C. McCaffrey, R. K. Paisley, 'Beyond International Water Law: Successfully Negotiating Mutual Gains Agreements for International Watercourses' (2009-2010) 22 *Pacific McGeorge Global Business and Development Law Journal* 139.

T. Martin, 'Energy and international boundaries', in K. Talus ed., *Research Handbook on International Energy Law* (Cheltenham: Edward Elgar, 2014), pp. 181-195.

M. L. Michael, 'The Allocation of Waters of International Rivers' (1974) 7 *Natural Resources Law* 45.

M. A. Mughraby, *Permanent Sovereignty over Oil Resources* (Beirut: Middle East Research and Publishing Centre, 1966), chapters III, IV (section one), VI and VII.

R. Paisley, 'Adversaries into Partners: International Water Law and the Equitable Sharing of Downstream Benefits' (2002) 3 *Melbourne Journal of International Law* 280.

C. Redgwell, 'International Regulation of Energy Activities', in M. Roggenkamp, C. Redgwell, A. Rønne, and I. del Guayo (eds), *Energy Law in Europe: National, EU and International Regulation* (Oxford University Press, 2007), chapter 2 (relevant parts).

N. Schrijver, *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge University Press, 1997), pp. 1-25, 82-119, 202-251, 368-385.

A. Szekely et al., 'Transboundary hydrocarbon resources: the Puerto Vallarta draft treaty' (1991) 31 *Natural Resources Journal* 609.

A. D. Tarlock, P. Wouters, 'Are Shared Benefits of International Waters an Equitable Apportionment' (2007) 18 *Colorado Journal of International Environmental Law and Policy* 523.

1. Investment, trade and transit rules enabling and protecting international energy transactions
2. The ECT system
3. An inchoate global system

SELECTED PRIMARY SOURCES:

Instruments:

Energy Charter Treaty, concluded at Lisbon on 17 December 1994.

North American Free Trade Agreement between the Government of the United States of America, the Government of Canada and the Government of the United Mexican States of 1992, 32 *I.L.M.* 296, chapter 6.

General Agreement on Tariffs and Trade 1994 (GATT 1994), 1867 *U.N.T.S.* 187.

General Agreement on Trade in Services (GATS), 1869 *U.N.T.S.* 183.

Agreement on Technical Barriers to Trade (TBT), 1868 *U.N.T.S.* 120.

Agreement on Trade related Investment Measures (TRIMs), 1868 *U.N.T.S.* 186.

Agreement on Subsidies and Countervailing Measures (SCM), 1869 *U.N.T.S.* 14.

Agreement on Government Procurement, 1915 *U.N.T.S.* 103.

Cases:

Saudi Arabia v Arabian American Oil Company (Aramco), Award of 23 August 1958, 27 *I.L.R.* 117.

Texaco Overseas Petroleum Company and California Asiatic Oil Company v. The Government of the Libyan Arab Republic, Award of 19 January 1977, 53 *I.L.R.* 389.

Government of Kuwait v. American Independent Oil Company (Aminoil), Award of 24 March 1982, 66 *I.L.R.* 518.

Nykomb Synergetics Technology Holding AB v. Latvia, Award of 16 December 2003, *Stockholm Chamber of Commerce, Case n° 118/2001*, par. 1.1-1.3, 3.5-3.8, 4.1-4.3.4, 5.1-5.3.

Petrobart Limited v. The Kyrgyz Republic, Award of 20 March 2005, *Stockholm Chamber of Commerce, Case n° 126/2003*, sections I, II and VIII.

AES Summit Generation Limited and AES-Tisza Erömü Kft. v. Republic of Hungary, ICSID Case No. ARB/07/22, Award, September 23, 2010, sections 4-5, 7-14 and 16.

Electrabel S.A. v. Republic of Hungary, ICSID Case No. ARB/07/19, Decision on Jurisdiction, Applicable Law and Liability, November 30, 2012, Parts II, IV (section 6), VI (sections 4 and 5), VII (sections 4 and 5), VIII (sections 4 and 5), IX (sections 4 and 5), X and XI.

Yukos Universal Limited (Isle of Man) v. Russian Federation, PCA, Final Award, 18 July 2014, sections II, VII, VIII (A.5., B.5., C.3., D.3., E.3., F.3., G.3., H.3.), IX (A.3., B.4., C.4.), X (A.3., D., E.3. and 4.), XI (D.), XII (C.) and XIV.

United States - Standards for Reformulated and Conventional Gasoline, Report of the Appellate Body, 29 April 1996, WT/DS2/AB/R, pp 14-22, 22-29.

China - Measures Related to the Exportation of Various Raw Materials, Reports of the Panel, 5 July 2011, WT/DS394/R,

WT/DS395/R & WT/DS398/R, para 7.356-7.386, 7.404-7.408.

China - Measures Related to the Exportation of Various Raw Materials, Reports of the Appellate Body, 30 January 2012, WT/DS394/AB/R, WT/DS395/AB/R & WT/DS398/AB/R, para 324-328, 337, 353-355.

Canada — Certain Measures Affecting the Renewable Energy Generation Sector; Canada — Measures Relating to the Feed-In Tariff Program, Reports of the Appellate Body, 6 May 2013, WT/DS412/AB/R & WT/DS426/AB/R, para 4.1-4.5, 4.6-4.16, 5.7-5.79, 5.167-5179, 5.180-5-191.

China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum, Reports of the Panel, 26 March 2014, WT/DS431/R, WT/DS432/R, WT/DS433/R, 7.245-7.277, 7.364-7.377, 7.682-7.699, 7. 847-7.862.

China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum, Reports of the Appellate Body, 7 August 2014, WT/DS431/ AB/R, WT/DS432/AB/R, WT/DS433/AB/R, 5.89.

India – Measures Relating to Solar Cells and Solar Modules, WTO, Appellate Body Report, 16 September 2016, DS456.

REQUIRED READINGS:

J. E. Vinuales, *The International Law of Energy* (Cambridge University Press, forthcoming 2021), chapter 2 : Enabling and Protecting Energy Transactions.

P. Cameron, 'In search of investment stability', in K. Talus (ed.), *Research Handbook on International Energy Law* (Cheltenham, Edward Elgar, 2014), pp. 124-148.

H. B. Asmelash, 'Energy Subsidies and the WTO Dispute Settlement: Why Only Renewable Energy Subsidies are Challenged' (2015) 18 *Journal of International Economic Law* 261.

SUGGESTED READINGS:

P. Cameron, *International Energy Investment Law: The Pursuit of Stability* (Oxford University Press, 2010), pp. 3-143.

S. Doumbé-Billé, *Défis énergétiques et droit international*, Larcier 2011, especially pp. 31-99

M. Erkan, *International Energy Investment Law: Stability through Contractual Clauses* (The Hague: Kluwer, 2010)

S.F. Halabi, 'Efficient Contracting Between Foreign Investors and Host States: Evidence from Stabilization Clauses' (2011) 31 *Northwestern Journal of International Law & Business* 261

C. Leben, "La théorie du contrat d'Etat et l'évolution du droit international des investissements", in *RCADI*, t. 302, 2003, pp. 197-386

P. Mayer, 'La neutralisation du pouvoir normatif de l'Etat en matière de contrats d'Etat' (1986) 113 *JDI* 5.

A.T. Martin, 'Dispute Resolution in the International Energy Sector: An Overview' (2011) 4, 4 *Journal of World Energy Law and Business*, pp. 332–368.

J. E. Viñuales, *Foreign Investment and the Environment in International Law* (Cambridge University Press, 2012), pp. 222-274, 337-375.

P. Weil, 'Problèmes relatifs aux contrats passés entre un Etat et un particulier', in *RCADI*, t. 128, 1969, pp. 94-240.

H. Abdallah, 'Oil exports under GATT and the WTO' (2005) 29 *OPEC Review* 267.

C. Añez, 'The Trade of Technical Services for Oil and Gas Exploration and Production: Observations by an Old Venezuelan Contractor', in *Energy and Environmental Services: Negotiating Objectives and Development Priorities*, UNCTAD, (New York: Geneva: United Nations Publications, 2003).

M. Desta, “The Organization of Petroleum Exporting Countries, the World Trade Organization, and Regional Trade Agreements” (2003) 37 *Journal of World Trade* 523.

M. Desta, ‘Commodities, International Regulation of Production and Trade’, in *Max Planck Encyclopedia of Public International Law*, 2010, available at: www.mpepil.com

M. Desta, ‘To what extent are WTO rules relevant to trade in natural resources?’, *WTO Publications* (2010).

P.C. Evans, ‘Strengthening WTO member commitments in energy services: problems and prospects’, in A. Mattoo, P. Sauvé (eds.), *Domestic regulation and Service Trade Liberalization* (World Bank Publications, 2003) pp. 167ff.

M. Gibbs, ‘Energy Services, Energy Policies and the Doha Agenda’ in *Energy and Environmental Services: Negotiating Objectives and Development Priorities*, UNCTAD (New York: Geneva: United Nations Publications, 2003).

A. Jimenez Guerra, *The World Trade Organization and Oil* (Oxford: Oxford Institute for Energy Studies, 2001).

G. Marceau, ‘The WTO in the Emerging Energy Governance Debate’ (2010) 5 *Global Trade and Customs Journal* 83.

A. Marhold, ‘The World Trade Organisation and Energy: Fuel for Debate’ (2013) 2:4 *ESIL Reflections*.

A. Marhold, ‘Fragmentation and the Nexus between the WTO and the ECT in Global Energy Governance: A Legal Institutional Analysis Twenty Years Later’ (2015) 16:3 *Journal of World Investment and Trade* 389.

Y. Selivanova, *The WTO and Energy: WTO Rules and Agreements of Relevance to the Energy Sector* (Geneva: International Centre for Trade and Sustainable Development, 2007).

Y. Selivanova (ed.), *Regulation of Energy in International Trade Law – WTO, NAFTA and Energy Charter* (Alphen aan den Rijn: Wolters Kluwer, 2012).

J. Tacoa-Vielma, ‘Defining Energy Services for the GATS: An Issue under Discussion’ in *Energy and Environmental Services: Negotiating Objectives and Development Priorities*, UNCTAD, (New York/Geneva: United Nations Publications: 2003).

UNCTAD, *Trade Agreements, Petroleum and Energy Policies*, UNCTAD/ITCD/TSB/9, (New York/Geneva: United Nations Publications: 2000).

UNCTAD, *World Trade Law and Renewable Energy: The Case of Non-Tariff Barriers* (New York/Geneva: United Nations Publications, 2009).

UNCTAD, *Energy and Environmental Services: Negotiating Objectives and Development Priorities*, New York/Geneva: United Nations Publications, 2003).

J. E. Viñuales, ‘The Environmental Regulation of Foreign Investment Schemes under International Law’, in P.-M. Dupuy and J. E. Viñuales (eds), *Harnessing Foreign Investment to Promote Environmental Protection: Incentives and Safeguards* (Cambridge University Press, 2013), pp. 273-320.

A. Yanovich, ‘WTO Rules and the Energy Sector’, in Y. Selivanova (ed.), *Regulation of Energy in International Trade Law – WTO, NAFTA and Energy Charter* (Alphen aan den Rijn: Wolters Kluwer, 2012), chapter 1.

SESSIONS 5&6 – FOUNDATIONAL APPROACH III: GOVERNANCE OF EXTERNALITIES - 15 OCTOBER 2021
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1. Overview
2. Preventing and redressing adverse effects on human rights (personal injury-based approaches)
3. Internalising, preventing, responding and redressing adverse effects on the environment

SELECTED PRIMARY SOURCES:

Instruments:

International Covenant on Civil and Political Rights. Adopted by the General Assembly of the United Nations on 19 December 1966.

International Covenant on Economic, Social and Cultural Rights. Adopted by the General Assembly of the United Nations on 16 December 1966.

Convention for the Protection of Human Rights and Fundamental Freedoms concluded at Rome on 4 November 1950, 213 *U.N.T.S.* 1955.

American Convention on Human Rights: "Pact of San José, Costa Rica". Signed at San José, Costa Rica, on 22 November 1969, OAS Treaty series n° 36.

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. Signed at San Salvador, El Salvador, on 17 November 1988, OAS Treaty series n° 69.

African Charter of Human and Peoples' Rights, concluded at Nairobi on 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5

United Nations Office of the High Commissioner for Human Rights (OHCHR), Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011, UN Doc HR/PUB/11/04.

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, 25 June 1998.

Outcome Document – Open Working Group on Sustainable Development Goals (Goal 7: Ensure access to affordable, reliable, sustainable, and modern energy for all), available at: <http://sustainabledevelopment.un.org/focussdgs.html> .

UN General Assembly, Report of the United Nations Conference on Environment and Development, 'Rio Declaration on Environment and Development', U.N. Doc. A/CONF.151/26 (vol. I), 12 August 1992, available at: <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>.

ILC Draft Articles on Prevention of Transboundary Harm from Hazardous Activities, *Official Records of the General Assembly, Fifty-Sixth Session, Supplement No. 10 (A/56/10)*.

ILC Draft Articles on Responsibility of States for Internationally Wrongful Acts, annexed to GA Res 56/83 of 12 December 2001.

ILC Draft Principles on the Allocation of loss in the case of transboundary harm arising out of hazardous activities, *Yearbook of the International Law Commission, 2006*, vol. II, Part Two.

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. Opened for signature at London, Mexico City, Moscow and Washington on 29 December 1972, 1046 *U.N.T.S.* 120.

1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and resolutions adopted by the Special Meeting. As adopted by the Special Meeting of Contracting Parties to the London Convention 1972 on 7 November 1996, 36 *I.L.M.* 7.

International Convention for the Prevention of Pollution from Ships (MARPOL) of 2 November 1973 as modified by the 1978 Protocol.

Convention for the Protection of the Marine Environment of the North-East Atlantic. Concluded at Paris, on 22 September 1992, 2354 *U.N.T.S.* 67. [OSPAR Convention]

International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990. Concluded at London on 30 November 1990, 1891 *U.N.T.S.* 78. [OPRC Convention]

International Convention on Civil Liability for Oil Pollution Damage. Concluded at Brussels on 29 November 1969, 973 *U.N.T.S.* 4. Protocol to amend the above-mentioned Convention. Concluded at London on 27 November 1992, 1956 *U.N.T.S.* 255.

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. Concluded at Brussels on 18 December 1971, 1110 *U.N.T.S.* 58. Protocol of 1992 to amend the above-mentioned Convention. Concluded at London on 27 November 1992, 1953 *U.N.T.S.* 330.

Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. Concluded at London on 16 May 2003.

Convention on Wetlands of International Importance especially as Waterfowl Habitat. Concluded at Ramsar, Iran, on 2 February 1971, 996 *U.N.T.S.* 246.

Convention for the Protection of World Cultural and Natural Heritage. Adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its seventeenth session, Paris, 16 November 1972, 1037 *U.N.T.S.* 152. [World Heritage Convention]

Convention on Long-Range Transboundary Air Pollution. Concluded at Geneva on 13 November 1979, 1302 *U.N.T.S.* 218.

Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone. Concluded at Gothenburg on 30 November 1999, 2319 *U.N.T.S.* 81. [Gothenburg Protocol]

United Nations Framework Convention on Climate Change. Concluded at New York on 9 May 1992, 1771 *U.N.T.S.* 165.

Kyoto Protocol to the United Nations Framework Convention on Climate Change. Concluded at Kyoto on 11 December 1997, 2303 *U.N.T.S.* 214.

Paris Agreement to the United UN Framework Convention on Climate Change, 2015.

Convention on the Law of the Non-Navigational Uses of International Watercourses. Concluded at New York on 21 May 1997, environmental provisions).

ILC, Draft Articles on the Law of Transboundary Aquifers, with commentaries, *Yearbook of the International Law Commission, 2008*, vol. II, Part Two (A/63/10) (environmental provisions).

International Law Association (ILA), Berlin Rules on Water Resources, 21 August 2004 (environmental provisions).

Cases:

Bernard Ominayak and the Lubicon Band v. Canada, HRC Communication No. 167/1984 (26 March 1990).

Case of Fadeyeva v Russia, Application no. 55723/00, ECtHR, Judgment of 7 June 2005.

Ilmari Lämsmäki v. Finland, HRC, Communication no. 511/1992.

The Case of Mayagna (Sumo) Awas Tingni Community v. Nicaragua, IACtHR Series C No 79 (31 August 2001), par. 140 *et seq.*

Okay and others v. Turkey (Application n° 36220/97), ECtHR, Judgment of 12 July 2005.

Findings and Recommendations of the Compliance Committee with regard to Communication ACCC/C/2009/41 concerning compliance by Slovakia, 17 December 2010, available at: www.unece.org/env/pp/pubcom.htm

Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria, CADHP Communication 155/96, 15th Activity Report of the Acomm HRP (2001-2002).

Taskin and others v. Turkey (Application n° 46117/99), ECtHR, Judgment, 10 November 2004.

Tătar v. Romania (Application n° 67021/01), ECtHR, Judgment, 27 January 2009.

UNECE, Report of the Compliance Committee, *Findings and recommendations with regard to communication ACCC/C/2009/41 concerning compliance by Slovakia (adopted by the Compliance Committee on 17 December 2010)*.

Gabcikovo-Nagymaros Project (Hungary/Slovakia), Judgment, ICJ Reports 1997, p.7, par. 111-114, 140-147.

Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment of 20 April 2010, par. 101-103, 203-219.

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SESSION 7 – AD HOC APPROACH I: JOINT DEVELOPMENT OF HYDROCARBONS - 29 OCTOBER 2021
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2. Levels

3. Patterns

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SESSION 8 – AD HOC APPROACH II: HYDRO AND OTHER BILATERAL AGREEMENTS - 29 OCTOBER 2021

1. Overview
2. Levels
3. Patterns

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SESSION 9 – CENTRALISED APPROACH I: NUCLEAR ENERGY – 12 NOVEMBER 2021

1. Overview
2. Nuclear energy

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SESSION 10 – CENTRALISED APPROACH II: OTHER PROTO-CENTRALISED SYSTEMS – 12 NOVEMBER 2021

1. Renewables
2. Fossil resources

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SESSION 11 – INTERNATIONAL LAW AND ENERGY TRANSFORMATION – 26 NOVEMBER 2021

1. The energy transition
2. The energy transformation
3. Legal manifestations

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SESSION 12 – CASE STUDY I: DISPUTED ENERGY RESOURCES – 26 NOVEMBER 2021

1. The Ghana / Ivory Coast dispute

SELECTED PRIMARY SOURCES:

Relevant maps of the disputed area.

Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire), ITLOS Case no. 23, Order of 25 April 2015 (Provisional measures).

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SESSION 13 – CASE STUDY II: ENERGY TRANSITION POLICIES – 26 NOVEMBER 2021

1. The Feed-in Tariff (FIT) Program of the Province of Ontario (Canada)

SELECTED PRIMARY SOURCES:

Canada — Certain Measures Affecting the Renewable Energy Generation Sector; Canada — Measures Relating to the Feed-In Tariff Program, Reports of the Appellate Body, 6 May 2013.

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REQUIRED READINGS:

S. Charnowitz, C. Fischer, 'Canada-Renewable Energy: Implications for WTO law on Green and Not-So-Green subsidies' (2015) 14:2 *World Trade Review* 177.

SESSION 14 – CASE STUDY III: DISTRIBUTIONAL AND EQUITY ASPECTS - 26 NOVEMBER 2021

1. The exploitation of Western Sahara's energy resources
2. The exploitation of East Timor's energy resources

SELECTED PRIMARY SOURCES:

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East Timor (Portugal v. Australia), Dissenting Opinion of Judge Skubiszewski, I.C.J. Reports 1995, p. 224.

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D. Ong, 'The legal status of the 1989 Australia-Indonesia Timor Gap Treaty following the end of Indonesian rule in East Timor' (2000) 31 *Netherlands Yearbook of International Law* 67.

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