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0521835208 - Dispute Settlement in the UN Convention on the Law of the Sea

Natalie Klein

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Dispute Settlement in the UN Convention on the Law of the Sea

The United Nations Convention on the Law of the Sea is one of the most important constitutive instruments in international law. Not only does this treaty regulate the uses of the world's largest resource, but it also contains a mandatory dispute settlement system – an unusual phenomenon in international law. While some scholars have lauded this development as a significant achievement, others have been highly skeptical of its comprehensiveness and effectiveness. This book explores whether a compulsory dispute settlement mechanism is necessary for the regulation of the oceans under the Convention. The requisite role of dispute settlement in the Convention is determined through an assessment of its relationship to the substantive provisions. Klein firstly describes the dispute settlement procedure in the Convention. She then takes each of the issue areas subject to limitations or exceptions to compulsory procedures entailing binding decisions, and analyzes the inter-relationship between the substantive and procedural rules.

NATALIE KLEIN is a Lecturer at Macquarie University in Sydney, Australia. She obtained her law degree from the University of Adelaide, where she went on to teach international law. She completed her Doctorate at Yale Law School in 2003. Klein was recently an Associate at the New York office of Debevoise and Plimpton LLP, where she practiced in international litigation and arbitration. Klein has also worked as counsel to the Government of Eritrea on the Eritrea/Yemen maritime boundary arbitration and the Eritrea/Ethiopia boundary dispute, and as a consultant in the Codification Division of the Office of Legal Affairs at the United Nations.

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Abbreviations

1994 Agreement	Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, 1994.
CCAMLR	Convention on the Conservation of Antarctic Marine Living Resources, 1980.
CCSBT	Convention for the Conservation of Southern Bluefin Tuna, 1993.
Codification Conference	Rosenne, Shabtai ed., League of Nations, Conference for the Codification of International Law [1930] (1975).
Continental Shelf Convention	Convention on the Continental Shelf, 1958.
Dispute Resolving Agreement	Agreement Concerning Interim Arrangements Relating to Polymetallic Nodules of the Deep Sea Bed, 1982.
DSHMR Act	Deep Seabed Hard Mineral Resources Act.
EC, or Community	European Community.
EEZ	Exclusive Economic Zone.
First Conference	First United Nations Conference on the Law of the Sea (1958).
Fishing and Conservation Convention	Convention on Fishing and Conservation of the Living Resources of the High Seas, 1958.

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ABBREVIATIONS XI

FSA, or Fish Stocks Agreement	Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.
High Seas Convention	Convention on the High Seas, 1958.
ICJ	International Court of Justice.
ITLOS	International Tribunal for the Law of the Sea.
NIEO	New International Economic Order.
OSPAR Convention	1992 Convention for the Protection of the Marine Environment of the North-East Atlantic.
PCIJ	Permanent Court of International Justice.
Prepcom	Preparatory Commission established under Resolution I of the Final Act of the Conference.
Second Conference	Second United Nations Conference on the Law of the Sea (1960).
Territorial Sea Convention	Convention on the Territorial Sea and Contiguous Zone, 1958.
Third Conference	Third United Nations Conference on the Law of the Sea (1974-82).
UN	United Nations.
UNCLOS, or Convention	United Nations Convention on the Law of the Sea, 1982.
WTO	World Trade Organization.

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Oct. 18 Hague Convention No VIII relating to the Laying of Automatic Submarine Contact Mines (3 Martens NRG, 3rd ser. 580; 36 Stat 2332; 1 Bevans 669; 100 BFSP 389; 2 US Treaties 2304; UKTS 12 (1910); 205 CTS 331; Roberts and Guelff, *Documents on the Laws of War*, 3rd edn 103) 281

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1911

- Feb. 7 Great Britain – USA, Treaty for the Protection of Fur Seals (213 CTS 73; 26 Hertslett 1222; UKTS 25 (1911), Cmd 5971; 37 Stat 1538; Malloy 2629; 12 Bevans 353) 166 n. 160: *see also* Great Britain, Japan, Russia and the USA, Convention respecting Measures for the Preservation and Protection of Fur Seals in the North Pacific Ocean of 7 July 1911
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1919

- June 28 Covenant of the League of Nations (1 Hudson 1; 112 BFSP 13; 13 AJIL (1919) Supp. 128, 361; UKTS 4 (1919); 3 US Treaties 3331; 11 Martens NRG, 3rd ser. 331; 225 CTS 195; Blackstone's *International Law Documents*, 5th edn 1) 9
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1920

- Dec. 16 Statute of the Permanent Court of International Justice (PCIJ, Series D, No 1 (2nd edn), 7; UKTS 23 (1923), Cmd 1981; 1 Hudson 530; 6 LNTS 380), art. 36 9–10

1942

- Feb. 26 UK – Venezuela, Treaty relating to the Submarine Areas of the Gulf of Paria (UKTS 10 (1942); 205 LNTS 122) 128

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- May 9 International Convention for the High Seas Fisheries of the North Pacific Ocean (205 UNTS 65; 159 BFSP 445; TIAS 2786; 3 CTS 1953) 192–93

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