25TH BUSINESS MEETING OF ABLOS
DOHA, QATAR, 22-25 OCTOBER 2018

كلية القانون
College of Law
QATAR UNIVERSITY جامعة قطر

25TH BUSINESS MEETING OF ABLOS DOHA, QATAR, 22-25 OCTOBER 2018

“The Ability of UNCLOS to Accommodate New Uses

and Challenges”

Dr. Ioannis Konstantinidis

PhD (Sorbonne), LLM (Sorbonne), MA (Sciences Po Paris), BA (Athens)

Assistant Professor of International Law

College of Law, Department of Public Law – Qatar University

OVERVIEW

- **I. Prolegomena**
- **II. Institutional Complementarity**
- **III. The Creative Power of International Courts and Tribunals**
- **IV. Concluding Remarks**

I. PROLEGOMENA

- UNCLOS: an extraordinary achievement in international treaty-making

- A “Constitution for the Oceans”

- To date: 168 Parties

I. PROLEGOMENA

- **<u>Key aspects of this historic “Compromise Agreement”</u>**
  - Limits to States maritime zones
  - Enhanced continental shelf rights
  - Internationalization of deep sea mining
  - UNCLOS established three international institutions
  - Binding procedures for settlement of disputes

I. PROLEGOMENA

- Does UNCLOS adequately address the issues it intended to address?

- Is it capable of addressing new issues/challenges?

- UNCLOS does allow for a certain degree of flexibility to accommodate emerging issues

II. INSTITUTIONAL COMPLEMENTARITY

- Is UNCLOS a strictly defined text?

- Reservations are not permitted

- **However, under Article 310**: “Article 309 does not preclude a State ... from making declarations or statements, however phrased or named, … , provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State”

II. INSTITUTIONAL COMPLEMENTARITY

- Real life may create new routes

- The 1994 Agreement relating to the implementation of Part XI of UNCLOS

- Article 237: States have the right to conclude special conventions or agreements

II. INSTITUTIONAL COMPLEMENTARITY

- A recent example: marine biodiversity of areas beyond national jurisdiction

- **UN General Assembly Resolution 72/249 of 24 December 2017:** intergovernmental conference to elaborate the text of **an international legally binding instrument under UNCLOS** on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction

II. THE CREATIVE POWER OF INTERNATIONAL COURTS AND TRIBUNALS

- UNCLOS contains a plethora of ambiguous provisions

- **Example 1: provisions relating to the continental shelf and EEZ delimitation**

- The rule of international jurisprudence in shedding light on UNCLOS intricacies

II. THE CREATIVE POWER OF INTERNATIONAL COURTS AND TRIBUNALS

- **Example 2: exploration and exploitation of deep seabed resources**

- Seabed Disputes Chamber – Advisory Opinion (2011)

- The role of the institutional frameworks created by UNCLOS in the interpretation and application of the Convention

IV. CONCLUDING REMARKS

- UNCLOS has withstood the test of time fairly well
- Challenges are inevitable
- The role of UNCLOS third-party dispute settlement procedures
- The advisory jurisdiction of the International Tribunal for the Law of the Sea
- UNCLOS is neither static not complete

THANK YOU FOR YOUR ATTENTION
MERCI DE VOTRE ATTENTION
شكرا على انتباهكم

Contact Details

Dr. Ioannis Konstantinidis, Assistant Professor of International Law, College of Law, Qatar University

Email: ikonstantinidis@qu.edu.qa

QUESTIONS?

كلية القانون
College of Law
QATAR UNIVERSITY جامعة قطر