



Essential Readings in Environmental Law
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VESSEL SOURCE POLLUTION AND ENVIRONMENTAL LAW

Nengye Liu, Marie Curie Fellow, University of Dundee, UK

OVERVIEW OF KEY SCHOLARSHIPS

General Framework

1. Churchill, R., and L. Vaughan, *The Law of the Sea*, (3rd ed), (Manchester: Manchester University Press, 1999)
2. Birnie, P., A. Boyle, and C. A. Redgwell, *International Law & the Environment*, (3rd ed.), (Oxford: Oxford University Press, 2009)

International Law on the Prevention of Vessel-Source Pollution

3. Molenaar, J. E., *Coastal State Jurisdiction over Vessel-Source Pollution*, (The Hague: Kluwer Law International, 1998)
4. Shabtai, R., “The International Maritime Organization Interface with the Law of the Sea Convention”, in Nordquist, H. M., and N. J. Moore, (eds), *Current Maritime Issues and the International Maritime Organization*, (Leiden: Martinus Nijhoff Publishers, 1999), pp. 251-268.
5. Franckx, E. (ed), *Vessel-Source Pollution and Coastal State Jurisdiction: The Work of the ILA Committee on Coastal State Jurisdiction Relating to Marine Pollution (1991--2000)*, (The Hague: Kluwer Law International, 2000)
6. Ozcayir, Z. O., *Port State Control*, (London: LLP, 2001), pp. 25-28
7. Tan, A., *Vessel-Source Marine Pollution: The Law and Politics of International Regulation*, (Cambridge: Cambridge University Press, 2006)
8. Rolim, F., *The International Law on Ballast Water: Preventing Biopollution*, (Leiden: Martinus Nijhoff Publishers, 2008)

State Practice

9. Frank, V., *The European Community and Marine Environmental Protection in the International Law of the Sea*, (Leiden: Martinus Nijhoff Publishers, 2007)
10. Ringbom, H., *The EU Maritime Safety Policy and International Law*, (Leiden: Martinus Nijhoff Publishers, 2008)

11. Faure, M., H. Lixin, and S. Hongjun, (eds), *Maritime Pollution Liability and Policy: China, Europe and the US*, (Kluwer Law International, 2010)

Background

The destruction of the marine environment sits next to climate change and freshwater scarcity as one of the most pressing ecological issues of our times. It is a serious concern of the international community that the health of oceans and marine biodiversity are negatively affected by marine pollution, including marine debris (especially plastic), persistent organic pollutants, heavy metals and nitrogen-based compounds, from a number of marine and land-based sources, including shipping and land run-off. The pollution of the marine environment has many causes. Oil pollution from shipping accidents is the most well-known due to several high profile accidents such as the Torrey Canyon (1967), Amoco Cadiz (1987), Exxon Valdez (1989), Erika (1999) and Prestige (2002). This is not however the primary source of vessel-source pollution. Instead, the daily discharge of oil and oily mixtures, noxious liquid chemicals, sewage, garbage and air pollution from ships are the main cause of long term damage to the marine environment. Shipping poses additional ecosystem threats due to the transfer of exotic organisms by ballast water and the leaching of tributyl tin (TBT) and other toxic chemicals used in anti-fouling paints which coat the hulls of ships. *The United Nations Convention on the Law of Sea* (UNCLOS) has designated the International Maritime Organization (IMO) as the competent international organisation to deal with vessel-source pollution. Under the auspices of the IMO a number of conventions have been adopted to tackle the aforementioned problems, such as the *International Convention for the Prevention of Pollution from Ships* (MARPOL) and the *International Convention for the Safety of Life at Sea* (SOLAS).

1. **R. Churchill** and **V. Lowe**'s book titled, *The Law of the Sea*, is a must for anyone who intends to enter into the field of the law of the sea. The 3rd and latest edition of this book provides an introduction to the law of the sea, surveying not only the *1982 United Nations Convention on the Law of the Sea* but also the customary and conventional law which supplements it. In particular, Chapter 15 provides an overview on the framework of international law relating to the prevention of marine pollution and protection of the marine environment. Shipping is identified as one of the four main sources of marine pollution.
2. The book *International Law & the Environment* by **P. Birnie**, **A. Boyle** and **C. Redgwell** is a key text in the field of international environmental law. Chapter 7 focuses on the law of the sea and protection of the marine environment. A concise assessment on the regulation of shipping is provided from an environmental law perspective.
3. **E. Molenaar** in *Coastal State Jurisdiction over Vessel-Source Pollution* provides a comprehensive analysis on the coastal state jurisdiction under the UNCLOS as that

convention provided a jurisdictional framework over vessel-source pollution among flag state, coastal state and port state

4. **R. Shabtai Rosenne's** paper *The International Maritime Organization Interface with the Law of the Sea Convention* discusses the relations between the two most important legal regimes on the prevention of vessel-source pollution.
5. The International Law Association Committee on Coastal State Jurisdiction over Marine Pollution's work was to focus on specified parts of "coastal state jurisdiction relating to marine pollution". Accordingly, the Committee chose vessel-source pollution as the field of its study and made it a central objective of its work to produce results which could facilitate the interpretation or application of the 1982 *United Nations Convention on the Law of the Sea*. The book *Vessel-Source Pollution and Coastal State Jurisdiction: The Work of the ILA Committee on Coastal State Jurisdiction Relating to Marine Pollution (1991--2000)* by **E. Franckx** provides a useful source for the understanding of current international legal regime on the vessel-source pollution.
6. The most radical innovations made to the enforcement of marine pollution standards by the UNCLOS concern the powers given to port states. Port state enforcement frequently plays an important role in preventing vessel-source pollution. **O. Ozcayir's** book *Port State Control* provides details on how port state control works in different parts of the world.
7. **A. Tan's** book *Vessel-Source Marine Pollution: The Law and Politics of International Regulation* introduces the international legal regime on the prevention of vessel-source pollution and its challenges. In particular, it looks at how to effectively implement and enforce the international legal instruments on the prevention of vessel-source pollution in different social-economic context.
8. The introduction of invasive marine species by ships is one of the four greatest threats to the world's oceans. However, this is considered to be a non-traditional source of pollution from vessels in contrast to oil pollution. The book by **F. Rolim**, titled *The International Law on Ballast Water: Preventing Biopollution*, pays special attention to the regulation of invasive species from ballast water. It provides for the first time a comprehensive assessment on the current legal regime for non-oil sources of pollution from ships.
9. and 10. A complex international legal regime has been established for the regulation of vessel-source pollution. Effective implementation and enforcement of the international legal regime is a key issue. In the wake of the Erika (1999) and Prestige (2002) oil tanker

spill disasters, there has been a visible political shift by the EU to be more proactive and responsible for the protection of the marine environment rather than waiting for a consensus in international decision making by the IMO. Both *The EU Maritime Safety Policy and International Law* by **H. Ringbom** and *The European Community and Marine Environmental Protection in the International Law of the Sea* by **V. Frank** assess the EU's practice regarding the regulation of vessel-source pollution during past decade. **H. Ringbom**'s book provides an excellent review of the EU's role as flag state, coastal state and port state on how to improve maritime safety. **V. Frank**'s book pays more attention to vessel-source pollution from an environmental protection perspective.

11. M. Faure, H. Lixin and S. Hongjun's *Maritime Pollution Liability and Policy: China, Europe and the US* compares different state practice regarding prevention of vessel-source pollution in China, Europe and the United States. This is important for better understanding how international law is implemented in different jurisdictions and context.