## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreword</td>
<td>v</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>vi</td>
</tr>
<tr>
<td>Notes on Contributors</td>
<td>xv</td>
</tr>
<tr>
<td>List of Abbreviations</td>
<td>xix</td>
</tr>
<tr>
<td>Table of Cases</td>
<td>xxiii</td>
</tr>
<tr>
<td>Table of Treaties and Other International Instruments</td>
<td>xxvii</td>
</tr>
<tr>
<td>Table of Domestic and Regional Instruments</td>
<td>xxxvii</td>
</tr>
<tr>
<td>1. The Law of the Sea: Progress and Prospects</td>
<td>1</td>
</tr>
<tr>
<td>Richard Barnes, David Freestone, and David M Ong</td>
<td></td>
</tr>
<tr>
<td>1. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>2. The Integrity of the LOSC</td>
<td>3</td>
</tr>
<tr>
<td>3. The Law of the Sea in its Wider Legal Context</td>
<td>5</td>
</tr>
<tr>
<td>5. Meeting the Challenges</td>
<td>19</td>
</tr>
<tr>
<td>L Dolliver M Nelson</td>
<td></td>
</tr>
<tr>
<td>1. The Codification of the Law of the Sea</td>
<td>28</td>
</tr>
<tr>
<td>2. Interaction Between the Conference and State Practice</td>
<td>30</td>
</tr>
<tr>
<td>3. Amendments</td>
<td>31</td>
</tr>
<tr>
<td>4. Declarations and Statements</td>
<td>32</td>
</tr>
<tr>
<td>5. Common Heritage of Mankind</td>
<td>33</td>
</tr>
<tr>
<td>6. The International Tribunal for the Law of the Sea</td>
<td>35</td>
</tr>
<tr>
<td>7. Conclusion</td>
<td>39</td>
</tr>
<tr>
<td>Alan Boyle</td>
<td></td>
</tr>
<tr>
<td>1. Introduction</td>
<td>40</td>
</tr>
<tr>
<td>2. Re-interpreting the LOSC?</td>
<td>44</td>
</tr>
<tr>
<td>3. Soft Law and the Further Evolution of the LOSC</td>
<td>49</td>
</tr>
<tr>
<td>4. Regional Agreements and the Development of the LOSC</td>
<td>52</td>
</tr>
<tr>
<td>5. Treaty Integration: The LOSC and Other Global Multilateral Treaties</td>
<td>56</td>
</tr>
<tr>
<td>6. Conclusions</td>
<td>61</td>
</tr>
</tbody>
</table>
4. The Role of the United Nations in International Oceans Governance 63
   Louise de La Fayette
   1. Introduction 63
   2. Institutional Framework 64
   3. Legal and Policy Framework 66
   4. The United Nations Processes of Discussion and Decision-Making Relating to Oceans and the Law of the Sea 69
   5. UN-Oceans, the New General Mechanism for Inter-agency Cooperation 71

5. Administering the Mineral Resources of the Deep Seabed 75
   Satya Nandan
   1. Powers of the Authority, its Structure, and its Principal Organs 79
   2. Other Adjustments in the 1994 Agreement 85
   3. Regulations for Prospecting and Exploration of Polymetallic Nodules 86
   4. Regulations for Polymetallic Sulphides and Cobalt-rich Crusts 89

6. Towards an International Law for the Conservation of Offshore Hydrocarbon Resources within the Continental Shelf? 93
   David M Ong
   1. Introduction: The Conservation of Non-living Resources as an Aspect of the Principle of Sustainable Use of Natural Resources? 93
   3. The Principle of Conservation within International Watercourses Law 108
   4. The International Climate Change Regime: Requiring Conservation to Effect a Smooth Changeover to Renewable, Non-carbon Based Energy Sources? 110
   5. The Conservation Principle from the Perspective of International Development Law 113
   6. Continuing Difficulties with the Application of the Conservation Principle to Hydrocarbon Resources in the Continental Shelf 116
   7. Conclusions 118
### Contents

7. The Protection of Underwater Cultural Heritage: Article 303 and the UNESCO Convention  
*Tullio Scovazzi*  
1. An Unexpected Obstacle 120  
2. The LOSC Regime 121  
3. The CPUCH as a Defensive Tool 128  
4. Going Beyond LOSC 133  
5. The Uncertain Fate of the CPUCH 135

8. Maritime Boundary Delimitation: Where Do We Go From Here?  
*Malcolm D Evans*  
1. Introduction 137  
2. The Method 143  
3. Applying the Method 147  
4. Conclusion 159

9. Submissions to the Commission on the Limits of the Continental Shelf in Cases of Unresolved Land and Maritime Disputes: The Significance of Article 76(10) of the Convention on the Law of the Sea  
*Constance Johnson and Alex G Oude Elferink*  
1. Introduction 161  
2. Article 76(10) of the LOSC 163  
3. The CLCS and Matters Relating to the Delimitation of Boundaries Between States 164  
4. State Practice Concerning Submissions Involving Land or Maritime Disputes 167  
5. Conclusion 178

*Catherine Redgwell*  
1. The LOSC and Protection of the Marine Environment: Placing the LOSC in Intertemporal Context 180  
2. Developments in Dumping Post-UNCLOS 186  
3. Conclusion 190

11. Port State Jurisdiction: Towards Mandatory and Comprehensive Use  
*Erik Jaap Molenaar*  
1. Introduction 192  
2. Port State Jurisdiction under General International Law 194
3. Broadening Scope 202
4. Optimizing Use of Jurisdiction 204
5. Towards Mandatory Port State Jurisdiction and Global Coverage 206
6. Conclusions 208

12. The Protection of Biodiversity and Fisheries Management: Issues Raised by the Relationship between CITES and LOSC 210
   Erik Franckx
   1. Introduction to the Functioning of CITES 213
   2. How Did this Issue Arise? 214
   3. Application of Successive Treaties Relating to the Same Subject-matter 216
   4. Conclusions 227

   Richard Barnes
   1. Introduction 233
   2. Conservation and Management of Living Resources under the LOSC 234
   3. Limitations of the LOSC 236
   4. Post-LOSC Developments: The Future of International Fisheries Law 246
   5. Concluding Remarks 257

   Patricia W Birnie
   1. Introduction 261
   2. Origins of the Regulation of Whaling 266
   3. Problems Arising in the Drafting of Articles 64, 65, and 120 of the LOSC 272
   4. New Initiatives Within the IWC: Can These Resolve the Present Impasse Within the Framework of Articles 65 and 120? 276
   5. Some Conclusions 278
### Contents

15. High Seas Fisheries Management under the Convention on the Law of the Sea  
   *Kristina M Gjerde*  
   1. Introduction  
   2. Challenges Confronting the LOSC Regime  
   3. The LOSC Framework  
   4. Pathways to Reform  
   5. Conclusion  

   *David Freestone*  
   1. Introduction  
   2. Role of International Organizations in Developing and Implementing the LOSC  
   4. The Global Environment Facility  
   5. The World Bank and Fisheries  
   6. Conclusions  

17. Freedoms of the High Seas in the Modern Law of the Sea  
   *David Anderson*  
   1. Introduction  
   2. High Seas Navigation: Developments Over the Past 30 Years  
   3. Conclusions  

   *Stuart Kaye*  
   1. Introduction  
   2. Security Jurisdiction under the LOSC  
   3. Conclusion  

   *Sam Bateman*  
   1. Introduction  
   2. Navigational Regimes  
   3. Exclusive Economic Zones  
   4. Conclusions
Robin Churchill
1. Introduction 388
2. Use of the Dispute Settlement System So Far 389
3. The Choice of Means for the Settlement of Contentious Cases under Section 2 of Part XV 394
4. Jurisdictional Issues in Contentious Cases 398
5. Exceptions to Compulsory Jurisdiction in Contentious Cases 407
6. Provisional Measures 409
7. Some Concluding Observations 413

Tullio Treves
1. Introduction 417
2. The Seven Agreements Utilizing the Dispute Settlement Mechanism of the LOSC 418
3. Utilization of LOSC Mechanisms by Agreement of the Parties to the Dispute 420
4. Utilization of LOSC Mechanisms at the Initiative of One of the Parties to the Dispute 421
5. The Scope of the Reference to the LOSC Mechanisms 423
6. Choice of Procedures 424
7. Applicable Law 426
8. Provisional Measures 428
9. Conclusions 431

22. The World Court and Peaceful Settlement of Oceans Disputes 433
Barbara Kwiatkowska
1. The Pre-eminence of the World Court and its Relationship with Other Courts and Tribunals 433
2. Two-fold Impacts of the World Court's Decisions as Between the Parties and on the Development of the Law of the Sea 442

Index 459