

**Land, Sea, and Law:  
Theories and Realities**

Spring 2026

**Giacinto della Cananea**, Full professor  
of Administrative law & Global administrative law, Università Bocconi & GHG

*Email:* [giacinto.dellacananea@unibocconi.it](mailto:giacinto.dellacananea@unibocconi.it)

*Days:* March 16, 2026, 11:00-13:00  
March 30, 2006, 11:00-13:00  
April 13, 2026, 11:00-13:00  
April 20, 2026, 11:00-13:00  
April 27, 2026, 11:00-13:00  
May 4, 2026, 11:00-13:00  
May 11, 2026, 11:00-13:00  
+ one meeting to discuss response papers, in June\* (TBD)

## **I. Introduction**

This course examines the institutions and processes of globalization, from a public law perspective. The focus is on *thinking along global lines*: the relationships between sea, land, and law will be examined.

The course employs a variety of legal sources, including treaties, general principles of law, judicial decisions, and academic works. Methodologically, the course intends to provide all participants with opportunities to apply their critical skills to the analysis of various issues concerning globalization. Each session will thus be based on various texts and materials previously circulated. There will be also some indications for further reading. Finally, after the seven sessions (between March and May) illustrated here, there will a session for the discussion of the papers elaborated by participants, in late May or June.

## **II. Course assessment**

Classroom participation is an important part of the assessment (30%), though most of the assessment (70%) is based on the papers that each participant will elaborate on a topic chosen together with the teacher. There is a set of guidelines for this purpose.

### III. General resources

General resources on public law and globalization include:

- J.B. Auby, *Globalization, Law and the State* (Hart, 2019, 2<sup>nd</sup> edn)
- S. Cassese, *The Global Polity. Global Dimensions of Democracy and the Rule of Law* (The Global Polity, 2012), accessible at <http://es.globallawpress.org/wp-content/uploads/02-TheGlobalPolity.pdf>
- P. Craig, *UK, EU and Global Administrative Law: Foundations and Challenges* (OUP, 2015)
- G. della Cananea, *Understanding Global Administrative Law* (Brill, 2025)
- R.B. Stewart, R. Kingsbury and N. Krisch, *The Emergence of Global Administrative Law*, 68 *Law and Contemporary Problems* 15 (2005)
- A. Stone Sweet & C. Ryan, *A Cosmopolitan Legal Order. Kant, Constitutional Justice, and the European Convention on Human Rights* (OUP, 2018)

### IV. Structure of the course

The course is structured as follows:

1. Introduction to Land, Sea, and Law: Grotius' *Freedom of the seas*
2. Carl Schmitt's *Nomos of the Earth*: caveats, issues, and perspectives
3. From ancient pacts to the Treaties of Tordesillas and Berlin
4. Ernst B. Haas' approach to regional integration
5. The regulatory regime for the Mediterranean Sea and the 'new approach' of the EU
6. Justice for social groups: the ruling of the French *Conseil d'Etat* on the Dunkerque offshore wind project
7. Justice for peoples: the ITLOS' opinion on climate change

## **1. Introduction to Land, Sea, and Law: Grotius' *Freedom of the seas***

International law, as is known today, was preceded by *ius gentium*. In this context Hugo Grotius' *Mare Liberum* (that is, *The Freedom of the Seas*, published in 1609) is of fundamental importance because it established the foundational "international law" doctrine that the high seas are international territory, free for all nations to use for trade and navigation. It challenged sovereign claims over oceans, fostering global commerce and limiting exclusive imperial. Not surprisingly, it was challenged by those who affirmed that the seas belong to sovereigns. A distinction was established between the high seas and territorial water, controlled by coastal states.

Reading:

Hugo Grotius, *The Freedom of the Seas* (1609) (circulated)

## **2. Carl Schmitt's *Nomos of the Earth*: caveats, issues, and perspectives**

Carl Schmitt's *Nomos der Erde* (*The Nomos of the Earth*, 1950) is crucial for understanding three points of general interest about globalization: i) the relationship between law and land, which is explained from the perspective of the fundamental land-appropriation and spatial ordering that constitutes law; ii) the emergence of the spatial division of the Earth, characterized by "*grossraum*" (that is, great space) spheres of influence; iii) the rise and fall of a the specific, historical legal ordering of the world which he called *Jus Publicum Europaeum*.

Reading:

Carl Schmitt, *The Nomos of the Earth* (1950, Engl. transl. 1991) (circulated)

## **3. From ancient pacts to the Treaties of Tordesillas and Berlin**

Schmitt emphasized the importance of the 1494 Treaty of Tordesillas, because it marked an early, significant effort to define spheres of influence and set a precedent for dividing global territories outside of Europe. Concretely, it authorized Spain and Portugal to divide the non-Christian world between them along a meridian 370 leagues west of the Cape Verde Islands. By settling colonial disputes, it gave Portugal control of Africa and Asia, allowed them to claim Brazil, and gave Spain most of the Americas. As a result, it had a huge impact on indigenous peoples in terms of conquest and exploitation. Four centuries later, the Treaty of Berlin (1885) established the legal framework for the administrative management of Africa.

Materials (circulated):

- Treaty between Rome and Carthage (509 BC)
- Treaty of Tordesillas (1494 AC)
- Treaty of Berlin (1885 AC)

## **4. Ernst B. Haas' approach to regional integration**

Ernst B. Haas's theory of regional integration, which is called neo-functionalism, is foundational not only because it provided the first, most comprehensive, and enduring framework for understanding European integration (with the concept of spillover, explaining how economic integration in one sector creates functional pressures for integration in other sectors), but also because – unlike Schmitt – he shifted the focus to non-State actors. His theory highlighted that integration is driven not only

by national governments but also by technocrats, interest groups, and supranational institutions (like the European Commission) pushing for regional solutions and ultimately shifting political loyalty to new sites of authority. He also took into account the role of ideas and knowledge, evolving toward ‘pragmatic constructivism’.

Readings:

- E.B. Haas, *The Uniting of Europe* (1959; 2004), available at <https://www.europarl.europa.eu/100books/file/EN-H-BW-0038-The-uniting-of-Europe.pdf>

Materials:

- *Schuman Plan* (1950) (circulated)

## **5. The regulatory regime for the Mediterranean Sea and the ‘new approach’ of the EU**

In the last decades of the 20<sup>th</sup> century several countries agreed to protect the marine environment from pollution. The Barcelona Convention (1975) marked a crucial step in this respect in the Mediterranean area. In the following years, all the coastal States agreed on the Integrated Coastal Zone Management (ICZM), which is a dynamic process aiming at promoting sustainability (that is long-term development while protecting natural resources, ecosystems, and biodiversity, particularly against natural hazards and climate change impacts) and is characterized by a holistic approach (in the sense that it integrates all policy areas to address, for example, coastal protection and tourism). Three elements are particularly interesting for our purposes: i) the definition of the coastal areas, ii) the emphasis on cooperation, iii) the involvement of all stakeholders.

Materials:

- Barcelona Convention - Madrid Protocol on the protection of the coasts
- EU Directive No. 2014/89 on Maritime Spatial Planning

Readings:

- G. della Cananea and A. Riggio, *Protecting Coastal Areas: a Transdisciplinary Research*, 15 *Italian Journal of Public Law* (2025)

## **6. Justice for social groups: the ruling of the French *Conseil d'État* on the Dunkerque offshore wind project**

If the States are not the only actors of globalization, what is the role of other public authorities as well as of social groups? It can be helpful to consider a recent and significant ruling, that is, the ruling issued by the French *Conseil d'État* (Council of State, which acts as the supreme administrative court) in the recent and controversial dispute concerning the building of the offshore wind project in the sea in front of Dunkerque. What is relevant for our purposes is, first, the nature of the claimants; second, the nature of their arguments; third, the reasons adduced by the court for rejecting the claims brought against the project.

Materials:

- *Conseil d'État*, 10 July 2023, decision n. 457659, available at <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2023-07-10/457659>

Readings:

The Brussels Times, *Public enquiry into contentious Dunkirk wind farm* (2024), <https://www.brusselstimes.com/990236/public-enquiry-into-contentious-dunkirk-wind-farm>

## **7. Justice for peoples: the ITLOS' opinion on climate change**

This session addresses a currently controversial issue; that is, climate change litigation. Unlike the more general – if not generic – term ‘environmental justice’, climate change litigation concerns the consequences that follow from climate change. The focus will be on the action and inaction of public authorities in light of the obligations stemming from international treaties. Attention will be devoted, in particular, to the opinion awarded by the International Tribunal for the Law of the Sea (ITLOS), which confirms that anthropogenic greenhouse gas (GHG) emissions constitute marine pollution under the UN Convention on the Law of the Sea (UNCLOS). It establishes that states have binding legal obligations to take all necessary measures to reduce and control this pollution, fundamentally strengthening international climate litigation. It also strengthens Small Island States’ position.

Materials:

- ITLOS, Advisory opinion on climate change (2024)  
[https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory\\_Opinion/C31\\_Adv\\_Op\\_21.05.2024\\_orig.pdf](https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf)

Readings:

- D. Dimitrarkos, *The ITLOS Advisory Opinion on Climate Change: A Brief Review* (2025)