



Lawyers and Scientists under the Law of the Sea: Transdisciplinary Ideal and Ensuing Practice



Professor Erik Franckx

If science is by definition forward looking as it tries to explain something which has yet to be explained, based on available knowledge, law has this innate characteristic of mainly trying to regulate already existing behaviour. When both meet, a difficult exercise of harmonization usually results, whereby scientists do not always understand the reasoning behind the applicable legal constraints and lawyers grapple with correctly understanding the new forms of behaviour that need to be regulated, because they often upset existing legal frameworks. Marine scientific research is no exception to this just described general phenomenon. A transdisciplinary approach between scientists and lawyers may appear the logical answer to solve such issues, but reality indicates that the application of such approach, despite good intentions at the start, rather seem to go down a slippery slope afterwards, with both sides having a tendency of retrenching into their own comfort zones afterwards.

This talk intends to substantiate this general observation by looking more closely at how the introduction of science in the definition of the continental shelf started a long and tortuous journey for courts and tribunals trying to determine how best to cope with these scientific aspects when deciding the many maritime delimitation cases that were subsequently submitted to them by States wanting to settle, once and for all, particular maritime boundary disputes existing between them. Subsequently, the experience of the Advisory Body of Experts on the Law of the Sea (ABE-LOS), an organ created by the Intergovernmental Oceanographic Commission (IOC) of UNESCO, which consisted precisely of a mix of scientists and lawyers and whose task it was to provide advice on the IOC's role in relation to the 1982 United Nations Convention on the Law of the Sea, will be the focus of this contribution. In both instances, the relationship between science and law will be explored.

Professor Franckx is a full-time professor, Vrije Universiteit Brussel (V.U.B.), honorary professor at the Nelson Mandela University, Port Elizabeth, South Africa, and acting President of the Belgian Society of International Law (2017 -). He holds teaching assignments at the Université Libre de Bruxelles; Institute of European Studies (V.U.B.); Sorbonne Université Abu Dhabi, United Arab Emirates; and the University of Akureyri, Iceland. He is appointed by Belgium as: expert in marine scientific research for use in special arbitration under the 1982 United Nations Convention on the Law of the Sea (1982 Convention) (2004 -); expert in maritime boundary delimitation to the International Hydrographic Organization (2005 -); arbitrator under the 1982 Convention (2014 -) and was member of the Permanent Court of Arbitration (2006 - 2012). He served as a consultant to governments, international, supra national and non-governmental organizations. For publications, see <https://www.vub.be/people/erik-franckx>.

Monday, 19 September 2022 (Hybrid Event)

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RSVP: cmr@mandela.ac.za by **10:00** on **19 September** to receive the Zoom and Venue details

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