

PHG VRANCKEN AND M TSAMENYI (EDS)**THE LAW OF THE SEA: THE AFRICAN UNION AND ITS MEMBER STATES**

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This work gives an excellent overview of how the international law of the sea regime is operating on the western, eastern and northern seaboard of Africa. It also sets out how this regime applies to the African landlocked states. It further briefly encapsulates how the African Union (AU) as a unit plans to operate the law of the sea regime – the continent of Africa being fully organised as a region within the United Nations.

This overview is presented by distinguishing the western, eastern and northern seaboard of Africa as background and then presenting nineteen self-standing statements of the law of the sea as it is applied to nineteen African coastal states – Algeria, Angola, Benin, Cape Verde, Republic of the Congo, Ivory Coast, The Gambia, Ghana, Guinea-Bissau, Kenya, Liberia, Mauritania, Nigeria, Sao Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, South Africa and Tanzania.

It is most appropriate that Africa as a region accentuates how the law of the sea regime is operating on the continent as a whole and within the various coastal countries of the continent. If Africa is to utilise the benefits of the post-1982 law of the sea it is imperative that the countries of the continent have the necessary legal infrastructure to make it possible to effectively utilise their maritime domain. Such legal infrastructure must make it possible for each country to effectively enforce its sovereign rights within its maritime domain. It must also enable each country to play its full role in establishing the new international order of the oceans. The domestic legal infrastructure pertaining to African countries must emphasise not only their right to explore and exploit the resources within their maritime areas but also their obligation to protect and preserve these resources, as well as the whole of the marine environment.

This infrastructure is set out in the 1982 Convention on the Law of the Sea (CLOS) and emerges practically in the individual chapters of the book. The individual chapters have been written by carefully selected law of sea scholars emanating from the African continent and its diaspora.

This work is to be welcomed, as Africa represents slightly more than a quarter of the membership of the UN and theoretically is the most powerful regional bloc in the UN system. Substantively, however, regarding the law of the sea, it is the weakest bloc. The reason for this is that CLOS was not immediately followed by systematic and sustained steps to maximise and implement the benefits thereof on the African continent at all levels – continental, regional and national. A paradigm shift however took place with the adoption by the AU in 2014 of its Africa's Integrated Maritime Strategy (AIMS). As pointed out in chapter 3, AIMS is a bold manifesto of Africa's intent to harness the oceans for the advancement of its peoples. Its overarching vision is to foster increased wealth creation from Africa's oceans by developing a sustainable thriving oceans economy in a secure and environmentally sustainable manner. By some calculations Africa's maritime industry has a value of USD 1 trillion a year. AIMS must be read in conjunction with the publication by the UN Economic Commission for Africa of its *Blue Economy Policy Handbook* in 2016.

The book points out that the importance of AIMS is that it has shifted Africa's gaze from the terrestrial part of the continent to a view encompassing the maritime part of the continent. AIMS has alerted African society to the enormous potential of the wealth lying in Africa's maritime domain. The success of AIMS depends to a large extent on the implementation of the Lomé Charter in addressing security concerns, economic development opportunities and environmental protection.

This book is tangible proof of the above paradigm shift and in the words of the editors an attempt "at contributing to the development of the governance seascape which the continent requires" (xxiii).

Due to the unfortunate fact that the knowledge of ocean governance is generally limited in many African states and such states have a dearth of experts when it comes to the law of the sea, the editors thought it fit to include a basic overview of the international law of the sea at the outset of the work. This

has enabled the various authors of the respective chapters to write their national chapters in such a way that these chapters can be compared with the introductory overview of the law of the sea and can also be seen as self-standing chapters setting out how the law of the sea is incorporated in the respective states.

Due to the comprehensive scope of the book, which includes an introductory legal and geographical overview, nineteen separate chapters on individual states and a chapter on landlocked states, it would be outside the purview of this review to dissect each chapter in detail. Suffice it to state that the various chapters are capaciously set out. The chapters on the various states all follow a general pattern referring to (a) participation in global instruments and organisations; (b) participation in regional instruments and organisations; (c) bilateral and trilateral instruments; (d) islands, baselines and maritime zones; (e) maritime boundaries and (f) maritime uses. The latter includes discussing ports, navigation uses, exploitation of marine resources, protection of the marine environment and security.

All the chapters on the nineteen states comprehensively refer to relevant domestic court decisions, relevant legislation and published works and journal articles relating to the respective state. The chapters on Algeria, Benin, Republic of Congo, Ivory Coast, Mauritania and Senegal are written in French. The chapters on Angola and Guinea-Bissau are written in Portuguese. This could be seen to detract from the overall contribution of the book. The positive side to this, however, is that it can be seen as an investment in mentoring a new generation of legal scholars in those French- and Portuguese-speaking countries.

Vrancken's chapter on South Africa is a synopsis and an update of his comprehensive *South Africa and the Law of the Sea* (2011). As regards marine pollution it emerges that serious gaps in South African legislation which existed prior to 2013 have been filled by the Merchant Shipping (International Oil Pollution Compensation Fund) Act 24 of 2013, the Merchant Shipping (International Oil Pollution Compensation Fund) Administration Act 35 of 2013 and the Merchant Shipping (International Oil Pollution Compensation Fund) Contributions Act 36 of 2013. Although comparisons are odious and the various contributions in this book are all of a high quality, if a comparison has to be made, Vrancken's chapter on South Africa would be the most comprehensive.

Sixteen of the forty-four states world-wide which are landlocked (having no sea-coast) are in Africa. It is apt that the position of these land-locked states in Africa has been given a separate chapter which incisively looks at the position of these states as determined by CLOS. This chapter comprehensively discusses the various legal issues relating to these states' navigational rights, their access to the sea and its resources and the obligations of coastal and transit states towards these states.

The book fills a vacuum which had existed regarding the law of the sea and Africa as a whole. Despite initial excellent contributions by African scholars following UNCLOS I, UNCLOS II and UNCLOS III (the three United Nations conferences on the law of the sea preceding the 1982 adoption of CLOS) in the 1970s and early 1980s recommending that African states prioritise marine issues, reevaluate the relationship between the land-locked states and coastal/transit states, adopt a regional approach to the law of the sea and plan and manage the exclusive economic zones, the momentum was lost. The reason for this was two-fold. Firstly, Africa possessed a very low share of scientific and technological capabilities. Secondly, the literature devoted to specific African law of the sea issues was limited compared to other regions. This vacuum was partly filled by works such as Mlimuka *The Eastern African States and the Exclusive Economic Zone* (1998); Egede *Africa and the Deep Seabed Regime: Politics and the International law of the Common Heritage of Mankind* (2011); Vrancken *South Africa and the Law of the Sea* (2011) (reviewed in 2013 *TSAR* 187); Witbooi *Fisheries and Sustainability – A Legal Analysis of EU and West African Agreements* (2012); Ali *Maritime Security Cooperation in the Gulf of Guinea* (2015) and the collective works of Bonnin *et al Droit de l' Environnement Marine et Côtier en Mauritanie* (2004) and *Droit de l' Environnement Marine et Côtier au Sénégal* (2016) and a variety of legal journal articles. These publications managed to contextualise the main issues concerning African law of the sea, raise a greater awareness, set out the rich African marine-law tapestry and facilitate CLOS's implementation for further research and publications. This book can be seen to be a culmination of the scholarly research initiated by the abovementioned authors.

The editors conclude that Africa has demonstrated a rich practice relating to the law of the sea and has displayed a substantial degree of cooperation regionally and sub-regionally. They also conclude that despite ratifying CLOS many African states have not yet developed an adequate juridical framework for the enforcement and operation of CLOS's provisions. Such states are thus consequently unable to fully protect their interests and maritime jurisdiction. It emerges clearly from the book that a critical challenge that remains is a greater implementation at continental, regional and national levels of the maritime norms laid down by CLOS. These norms need ratification and domestic application. African citizens must be enabled to hold their governments to account in unlocking the enormous financial promise made possible by CLOS's exclusive economic zone, continental shelf and international seabed area. What also emerges is that sustainable ocean governance can be achieved only if the states integrate their ocean policies by means of bilateral and multilateral treaties. Such cooperation must also

match available resources against the cost of the measures to be pursued. There also needs to be greater cooperation in marine scientific research and the transfer of relevant technology.

The book's most valuable contribution is setting out the relevant multilateral treaties from 1888 to 2016; the important international and domestic court decisions; the relevant domestic legislation of the respective African states and a more than adequate index. To this must be added various illustrations graphically indicating *eg* the various maritime zones, regional organisations, archipelagic baselines, outer continental shelf claims and joint management areas.

No review can do justice to the encyclopaedic nature of this work. No relevant issue is left uncovered. This is achieved without losing sight of the bigger picture – the legal order generated by CLOS from the African perspective. The book can only be described as a most comprehensive work on the application of CLOS to the African continent. It is thoroughly researched and is logically presented. It provides an insight into how the international law of the sea is incorporated, applied and interpreted in the national legal systems of the nineteen African coastal states discussed.

The African continent has an area of 30 244 000 km². It is larger than the combined areas of China (9 236 000 km²), Europe (10 355 000 km²) and the United States (9 148 000 km²). The South African coast alone is 3 000 km long. To set out the impact of CLOS on the African continent is a most ambitious task. This task has been admirably conceived and implemented by Proff Vrancken and Tsamenyi as editors of this publication. The book can only but contribute to a broadening of humankind's pool of knowledge regarding the governance of the oceans surrounding Africa. The book surely takes its place amongst other major publications which contribute to developing the international law regime of the oceans in all its manifestations. The book is an indispensable reference work for all role players in Africa's maritime domain such as governments, agencies, entities with financial interests, scientists, academics, the legal fraternity and students.

The subject matter is presented in an engaging manner accessible to both the expert and the layman. For those whose interest lies in the law of the sea in general, or for those whose interest is more Africa-specific, this work is of lasting academic value.

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