



Exam
INTERNATIONAL COURTS AND THE SEA
Professor Vasco Becker-Weinberg
18 January 2021
18:00 – 21:00 (3h+15m)

Case-study:

Internalstan and Externalstan are parties to the United Nations Convention on the Law of the Sea (UNCLOS) and have a longstanding dispute regarding the delimitation of maritime boundaries. 15, 14, 83

In 2021, the two States agreed to submit their maritime dispute to international adjudication, although Internalstan and Externalstan did not select a dispute settlement mechanism upon ratification of UNCLOS. 13 = 2018/2019 o arbitro de escolha do arbitrio

One contentious issue concerns the rules and methods applicable to the delimitation of the exclusive economic zone (EEZ) and the continental shelf within and beyond 200 nautical miles (M). 16 = 2018/2019 o arbitro de escolha do arbitrio

Furthermore, both States have made submissions for the extension of their respective continental shelves beyond 200M to the Commission on the Limits of the Continental Shelf (CLCS), but these are still pending and therefore unsettled. 17 = 2018/2019 o arbitro de escolha do arbitrio

While Internalstan considers that the delimitation of the continental shelf beyond 200M is dependent on the recommendations of the CLCS, Externalstan believes that the two issues (i.e. maritime delimitation and the extension of the continental shelf beyond 200M) are not related and, therefore, any international court and tribunal may proceed with the delimitation of the continental shelf beyond 200M.

Part I

Please answer the following questions providing the relevant legal basis and reasoning (12/20):

- ✓ 1. Considering that there is no agreement on any particular method of dispute settlement mechanism, nor have States exclude any, what dispute procedure would apply? 287/3 e 5 Arbitragem

- ✓ 2. For the purpose of maritime boundary delimitation of the continental shelf beyond 200M, can an international court and tribunal proceed with delimitation in the absence of the recommendations of the CLCS? *sim, pode prosseguir a delimitação sem as recomendações do CLCS, desde que não haja objeções dos Estados interessados. O Tribunal pode decidir sobre a delimitação.*
- ✓ 3. What are the applicable rules to the delimitation of maritime boundaries in the EEZ and continental shelf within and beyond 200M? *5 princípios de delimitação*

*→ 3 stage approach
art 15, 24, 23
Princípio da equidade*

Parte II

Please comment the following statements providing the relevant legal basis and reasoning (8/20):

- ✓ 1. In a case brought before the International Tribunal for the Law of the Sea concerning a dispute on the interpretation or application of UNCLOS, is this Tribunal limited to applying only this Convention? *NO, pode aplicar o direito consuetudino internacional, desde que esteja em conformidade com o tratado.*
- ✓ 2. How does an international court or tribunal establish competence concerning a dispute on the interpretation or application of UNCLOS? *um tribunal precisa de uma jurisdição para tal. Poderia não aceitar em qd. estados determinarem qual o tribunal que vai decidir a disputa.*
- 3. If islands have the same legal title as continental land mass and project the same maritime areas, why has jurisprudence failed to recognize the full effect of islands in disputes concerning the delimitation of maritime boundaries? *Uma ilha é, de acordo com o art 121 da UNCLOS, uma formação natural à qual é atribuído o pleno efeito.*

4. What are and what is the purpose of provisional measures? *Provisional measures são medidas cautelares que têm por objetivo evitar danos irreversíveis durante o processo de resolução de disputas.*