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The Outer Limits of the Continental Shelf Under Customary International Law

Kevin A. Baumert

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“Seldom has an apparent major change in international law been accomplished by peaceful means more rapidly and amidst more general acquiescence and approval,” Lauterpacht observed of continental shelf claims nearly seventy years ago. When considered today, this observation merits a caveat, as the question of how far the continental shelf extends into the sea is not yet fully settled. This article explores the customary international law applicable for determining continental shelf limits and also examines the legal procedures used by states to gain international acceptance of those limits.

The New Debate on the Interpretation of MFN Clauses in Investment Treaties: Putting the Brakes on Multilateralization

Simon Batifort and J. Benton Heath

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This article challenges the conventional wisdom that MFN clauses in investment treaties can always be used to “import” substantive standards of treatment (e.g. FET). It argues that most tribunals permitting this use of MFN clauses have relied on presumptions and have ignored meaningful variations among clauses. It also points out that states are increasingly questioning the conventional view, and that a recent arbitral award has firmly rejected an attempt to use an MFN clause to import substantive standards. It concludes by sketching the terms of the new MFN debate.

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