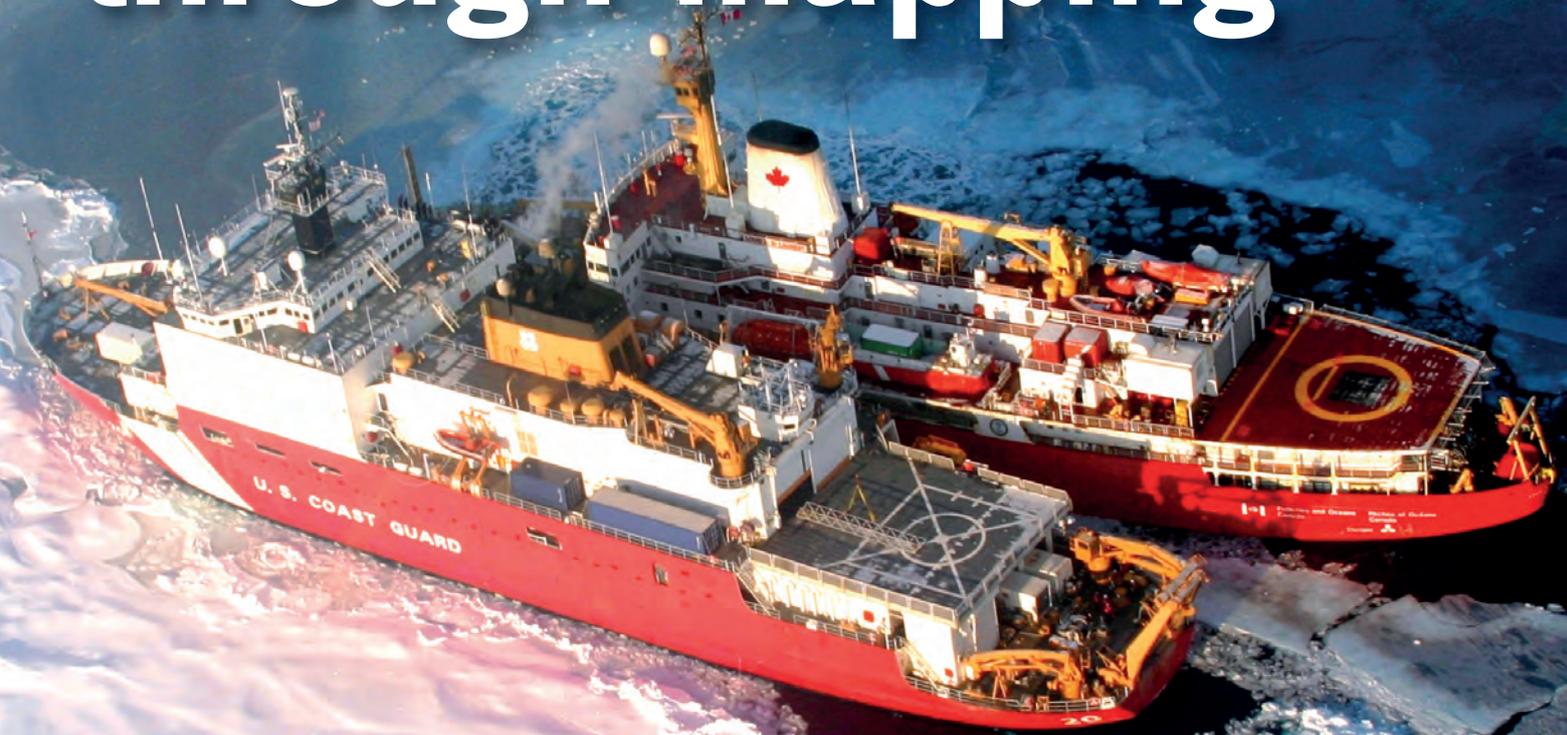


# Borderlines

ISSUE 13 • SPRING 2015 NEWSLETTER AND CALENDAR OF EVENTS

## Making peace through mapping



The NEW 2015  
Professional  
Training  
Workshop  
programme

Boundaries in  
the history of  
the law of  
the sea



# Communicating Boundaries

Since the 1945 publication of Steven Jones' *Boundary-Making: A Handbook for Statesmen, Treaty Editors and Boundary Commissioners*, the boundary-making process has been understood as consisting of four components: allocation, delimitation, demarcation, and administration. According to IBRU Director *Phil Steinberg*, however, there is a fifth component: communication.

At first glance, communication of an international boundary appears straightforward: When a treaty is ratified it is usually deposited with the United Nations, and the boundaries contained in the treaty are thereby 'communicated' to the world. However, few people (besides the readers of *Borderlines!*) are aware of the UN treaty database, and fewer still access it with the skills to turn lengthy lists of latitude-longitude coordinates into practical knowledge.

Instead, boundaries are by and large communicated to the public through a combination of practices and – especially when they are in sparsely inhabited or inaccessible regions – maps. In an era when much of the world's boundary activity is occurring in the ocean, an uninhabited and often inaccessible space, maps are of particular importance for communicating both settled and contested boundaries. That's why in boundary-making, as in other areas, it's important to be attentive to what a map does and does not communicate.

## Mapping the Outer Continental Shelf

With the bulk of States now having passed the deadline for making preliminary Outer Continental Shelf (OCS) submissions with the United Nations Commission on the Limits of the Continental Shelf (CLCS), we will likely see the CLCS issuing a steady (if slow) stream of determinations on the scientific accuracy of submissions. Many determinations likely will receive significant media attention, often accompanied by illustrative maps. Past experience suggests that many of these maps, as well as the text explaining them, will misrepresent the subtleties of the OCS delimitation process.

In part, this is due to the complex formula for determining OCS limits, which integrates bathymetric and geological data with more straightforward measurements of distance. Beyond these technical

issues, however, there are further complications in communicating a CLCS filing to a popular audience. First, agreement on the extent of an OCS claim is possible only if there is agreement on the baseline from which the limits are measured. With many of the world's baselines themselves being contested (over 40 have been challenged by the United States alone) numerous CLCS filings must be accompanied by a cautionary asterisk. Secondly, there will be instances when, after relevant scientific evidence has been verified by the CLCS, different shelf limits will overlap. It will be up to the states to negotiate overlapping claims, so many of the maps based on CLCS approval of individual states' submissions will necessarily be provisional. And thirdly, the media has a poor record of communicating the distinction between the principle of sovereign territory, which accrues to a state on land and in its territorial sea, and the much more limited sovereign rights (specifically, to the non-living resources of the seabed and subsoil) that apply to the continental shelf.

## The IBRU Arctic Map

In 2008, IBRU learned first-hand the difficulties in communicating the complex blend of science, law, and politics that underpin OCS claims. IBRU's 'Maritime Jurisdiction and Boundaries in the Arctic Region' map depicts the maritime boundaries between Arctic states, their Exclusive Economic Zones (EEZs), and the outermost potential limits of their OCS claims. The resulting map is of an Arctic Ocean that appears almost entirely divided among the region's coastal states.



The IBRU Arctic Map

The day after its 5 August 2008 release, the IBRU map was discussed extensively in "Ocean Law Daily," an e-mail briefing distributed by UNCLOS advocate Caitlyn Antrim. Antrim criticised the map as "designed [to highlight] the worst-case view of the status and prospects for Arctic claims and counter-claims." In part, Antrim faulted IBRU's decision to depict the two lines that show the outermost limits of potential claims (the 350 nautical mile and the 2500 meter + 100 nautical mile lines) but not the continental slope and sedimentary depth data that would eventually reduce the extent of those limits.

IBRU had anticipated this critique. In the first footnote of the three-page publication, we noted, in boldface, "In reality, the claimable areas may fall well short of the theoretical maximums [portrayed on this map]" and that the other limiting factors were not depicted because not enough reliable data were publically available. Elsewhere, IBRU noted that provisional data

on seabed relief "suggest[ed] that in many areas of the Arctic the outer limit of the continental shelf may fall well short of the theoretical maximum limits shown on the main map." However, most news stories reporting on the map failed to reproduce these notes.

Antrim also critiqued the map's design for failing to depict the partial nature of the rights that coastal states would obtain within their delimited zones:

[The map] gives a sense that the Arctic states are making territorial claims over the entire Arctic Ocean rather than just the resources of the continental shelf. I am sure that the first reaction of many readers who are unfamiliar with the distinction between high seas



News headlines covering the 2008 release of the Arctic Map

navigational freedoms, EEZs and continental shelf resource control would be: "What right do those five countries have to keep us out of the Arctic ocean?"

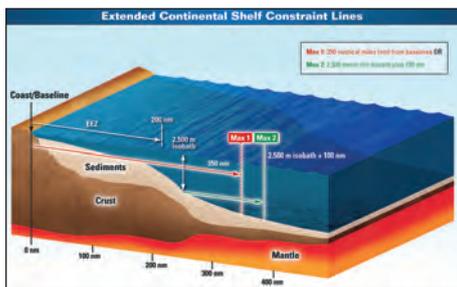
Antrim went on to speculate that what she saw as the portrayal of an Arctic under siege may not have been accidental. She cautioned that the map may have been part of a scare campaign by the United Kingdom (and the European Union) to support implementation of special safeguards to preserve access by non-coastal states.

For the record, the IBRU Arctic map was neither intended to misrepresent nor to further a political agenda. Indeed it received positive acclaim from scholars and practitioners around the world and, in its original form and subsequent revisions, it has been widely featured in policy presentations and academic debates. However, Antrim was prescient in perceiving how the map might be misinterpreted by the mass media. In countless interviews after its publication IBRU staff worked to disassociate the map from the prevailing narrative that coastal states were scheming to 'carve up the Arctic'.

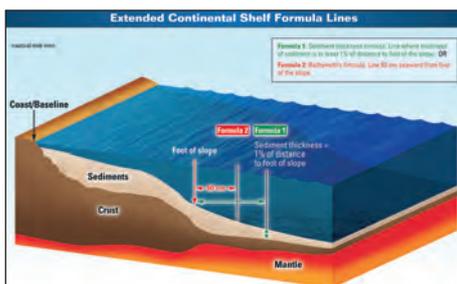
## Mapping New Claims

The difficulties encountered in communicating the subtleties of the OCS delimitation process, in the IBRU Arctic map and elsewhere, remind us to be attentive to the potentials and pitfalls of using maps to communicate limits and boundaries. Maps are uniquely well suited for communicating divisions of space, but they're less well suited for communicating the political compromises, uncertain science, and legal ambiguities that so often accompany the boundary-making process.

As we enter a new era of maritime claims and counter-claims, it seems likely that maps will once again be advanced as evidence of impending conflict. Our task, as boundary professionals, is to demonstrate how maps are also indicators of processes that are working toward agreed settlements, and that maps therefore can be harbingers of peace.



A country may use either constraint line to define the outer limits of its continental shelf: either 350 nautical miles seaward of the baseline, or 100 nautical miles seaward of the 2,500-meter depth contour (isobath). Source: continentalsshelf.gov



A country may use the sediment thickness formula or the bathymetric formula to define the outer limits of its continental shelf. Source: continentalsshelf.gov

After the creation of the Centre for Borders Research, IBRU is overseen by a Steering Committee made up of Scholars and Professionals from areas of Geography and Law with an intrinsic interest in border research.

Their role is to ensure that IBRU's strategic planning aligns with the Department of Geography's research agenda; to monitor that IBRU's management decisions are aligned with IBRU's mission; and to advise the IBRU Director on key tasks.

They have a vast amount of experience and IBRU hope their arrival will help create some interesting research projects in the future.

### Meet the Steering Committee



**Professor Louise Amoore** researches and teaches in the areas of global geopolitics, security, and political theory at the Geography Department of Durham University. She has particular interests in how contemporary forms of data, analytics and risk management are changing the techniques of border control and security. Louise is currently ESRC Global Uncertainties leadership fellow (2012-2015).



**Gavin Bridge** is Professor of Economic Geography at Durham University. He is interested in the political economy and political ecology of extractive industries. His research on mining, oil and gas has been funded by the US

National Science Foundation, National Geographic Society, European Commission, and the UK Energy Research Centre. He is a founder member of the Energy Geographies Working Group of the Royal Geographical Society-Institute of British Geographers.



**Dr Aoife O'Donoghue** has worked at Durham Law School since 2007. Her research focuses on public international law with a specific interest in global governance. Aoife investigates the legal structures which have

developed within international law to regulate governance, in particular, questioning the traditional sovereignty based understanding of international law.



**Dr Henry Jones** joined Durham Law School in September 2013, having completed a PhD at the University of Leicester. His thesis concerned the role of law in 17th and 18th century imperialism. His research interests include

International Law, Legal History, and Law and Geography.

# Boundaries in the History of the Law of the Sea

by Dr Henry Jones

In late 2013 I began a new research project entitled 'Separated at Birth: Territory and Property, Law and Space'. The first area I addressed was the history of the Law of the Sea. This was also when I became involved in IBRU, and met its new director, Professor Phil Steinberg. He has always considered the law in his work on the sea. It was through his initial guidance that I began to think about how my own research into law needed to appreciate geography.

Modern international law is often described as starting in the early 17th century, through a combination of the work of Hugo Grotius and the signing of the Peace of Westphalia. Grotius' *magnum opus* was *The Law of War and Peace*, first published in 1625 and reissued several times throughout his life. However, in around 1605, he had written an unpublished treatise known as *De Jure Praedae* or *The Law of Prize and Booty*. The work laid out several of the central arguments he would develop in the larger work. It did this in the context of the seizure of a foreign ship at sea.

One chapter was published as *Mare Liberum*, or *The Free Sea*. Here Grotius argued that the sea could not be owned by anyone. He also set out an early version of a justification of property through use, and most famously argued that private citizens could wage war against pirates as enemies of mankind. These arguments all happened in the context of imperial competition over trade between Portugal and the United Dutch Provinces. This history is reasonably well known in international law scholarship, but the importance of the sea has not been considered. It is my contention that this is a gap, and that ocean space is very important for the development of international legal practice around regulating space.

Grotius' attempt to define property, another key element of early international law which interests me, demonstrates a connection between the birth of the concepts of sovereignty, territory, and property. In my own scholarship, I argue that reconnecting the radical origins of these concepts can help us better understand and use them

today. The history can be retold, with a focus on the regulation of space.

The work of Grotius, for example, on arguing how the sea cannot be owned but merely traversed, constructs the sea as a flat and featureless place between land. This way of understanding space was first developed at sea, but then applied to colonial lands. This happened in a very literal way when the line drawn across the empty ocean in the Treaty of Tordesillas in 1494 was discovered to hit land in South America in 1500 by Pedro Álvaro Cabral. Here the line was continued on land, attempting to stick as closely as possible to the longitude specified. As IBRU's former Academic Director, Stuart Elden



Portrait of Hugo de Groot (1583-1645) Source: Workshop of Michiel Jansz van Mierevelt (Public domain), via Wikimedia Commons

has argued, this moment denotes a break with the idea of claiming land through occupation, and starts the practice of claiming land through calculation. This change is very important for how we understand territory and property as it indicates the tension between scientific calculation and actual use and occupation.



Cantino planisphere (1502) Source: By anonymous Portuguese (1502) (Biblioteca Estense Universitaria, Modena, Italy) (Public domain), via Wikimedia Commons

The practice of line drawing became the signature style of colonial cartography, with straight lines drawn all over the new world and then Africa. This practice understood the

land as empty and featureless. It has left its legacy in many of the borders we might be interested in today. International law as a discipline is entirely beholden to scientifically calculated space over the realities of lived and felt places.

My research attempts to bring together history, geography, and literature to produce a nuanced and critical engagement with international law and boundaries. I produced the first article of the project whilst participating in the Junior Faculty Forum in International Law 2014 in Melbourne. The long term project aims to engage with domestic boundaries and property law, as well as continuing to address international boundaries and international law. The next step is a paper currently under preparation for presentation at the Association of American Geographers Annual Meeting in Chicago, for which I was awarded support from the AAG Enrichment Fund.

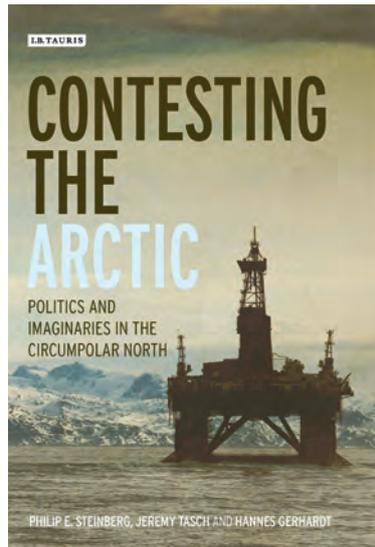
## IBRU Director authors new book 'Contesting the Arctic'

IBRU Director Phil Steinberg is releasing his fourth book, *Contesting the Arctic: Politics and Imaginaries in the Circumpolar North*, published by I.B. Tauris and co-authored with Jeremy Tasch and Hannes Gerhardt.

The book draws on interviews with over 200 individuals to explore how policy alternatives are rooted in what the authors call 'Arctic imaginaries': fundamental assumptions about what kind of space the Arctic is and what kinds of borders it merits.

The book identifies six distinct Arctic imaginaries. Although these are rarely directly articulated in policy documents and are often explicitly disavowed by policy professionals, they nonetheless underpin individual 'solutions' to the region's challenges:

- Terra nullius: The Arctic as an unclaimed, but potentially claimable space, wherein the fundamental division between land and sea that defines space elsewhere on the planet does not apply;
- Frozen water: A modified version of 'terra nullius', where temperate zone-derived methods for bounding, organizing, and governing space are applicable but require significant adaptation;
- Indigenous statehood: The Arctic as a region in which northern people merit their own state, equivalent to the world's other territorial nation-states;
- Resource frontier: The Arctic as a trove of resources whose abundance and accessibility transcends the boundaries and divisions that normally govern resource extraction;



- Transcendent nationhood: The Arctic as a space where the livelihoods and territories of indigenous people overlay the division of space into territorial states, granting indigenous peoples specific rights;
- Nature reserve: The Arctic as a space with a uniquely significant and fragile nature that merits special protections and rights over and above those associated with territorial states.

Increasingly, elements of these six imaginaries are being incorporated into a seventh imaginary, which the authors call 'Normalisation': The understanding of the Arctic as a region that is fundamentally similar to the world's other regions, and in which no special legal adaptations are necessary.

One 'imaginary' of the Arctic that prevails in the media but that the authors find relatively little evidence of in actual policy is that of the region as an arena of territorial conflict.

'It's kind of a trick title,' Steinberg says. 'People read the words "Contesting the Arctic" and they have visions of states planting flags and fighting over territorial boundaries'.

'But that's not happening', Steinberg continues. 'What we *are* seeing is a contest over the region's future, within and across these boundary lines'.

*Contesting the Arctic* is based on research funded by grants from the International Council for Canadian Studies, the US National Science Foundation, and the European Commission. The book is scheduled to be released by I.B. Tauris (and in North America by Palgrave Macmillan) in February 2015.

## IBRU publications available free of charge

Between 1994 and 2002 IBRU published 36 issues of its quarterly journal the *Boundary and Security Bulletin*, and 46 Briefings on topics relating to land and maritime boundary delimitation and territorial dispute resolution. Reviewing these publications in *International Affairs* (Vol 71, no. 1) Professor Victor Prescott commented: "IBRU ... has made a larger published contribution to the study of international boundaries in general than any other individual or organization in the history of the discipline"

IBRU is pleased to provide access to these rich resources free of charge on the IBRU website and via Google Books. The full database of publications available to download can be found on the IBRU website <https://www.dur.ac.uk/ibru/publications/>

### Social Media

You can keep up to date with all of IBRU's news and events in many ways

 Follow us on Twitter @ibrudurham

 Follow us on Facebook

Facebook users can now receive updates on IBRU conferences, training workshops and other activities by 'liking' the IBRU Facebook page at [www.facebook.com/ibru](http://www.facebook.com/ibru)

You can still receive announcements about IBRU's activities and events by post and/or email by signing up to IBRU's mailing list at [www.durham.ac.uk/ibru/resources/mailform](http://www.durham.ac.uk/ibru/resources/mailform) or by contacting IBRU directly. In addition, current news reports are available as an RSS feed and you can subscribe via the news page on the IBRU website.



## 2015 TRAINING WORKSHOP PROGRAMME

IBRU's unique boundary training programme has been running since 1996, attracting over 1,450 participants from 121 countries around the world.

Our workshops are led by teams of expert tutors and provide a relevant combination of background theory and practical application in an informal teaching environment. Numbers are limited to maximise interaction between tutors and participants so we advise you book early to guarantee your place. There will be three workshops held in 2015, with IBRU working with partners around the world to deliver a compelling programme.

**4-6 May  
2015**

**Venue:**

The Hague,  
Netherlands

**Price:** £1650<sup>^</sup>

## Preparing for Third Party Settlement of Boundary and Territorial Disputes

Although it is widely recognised that boundary disputes are best settled through negotiation, there are times when recourse to third party settlement also needs to be considered as an option. This workshop is designed to help governments and their legal advisors to evaluate the benefits and disadvantages of third party adjudication, and to equip them with information and skills to ensure a successful outcome from the process.



Led by highly experienced international lawyers and boundary practitioners, the workshop will offer practical instruction on topics such as: choice of forum; assembling and assessing evidence; building and managing a team; presenting your case and rebutting your opponent's case.

The workshop, organised in partnership with leading international law firm Eversheds, will be of value not only to countries currently involved in boundary litigation or arbitration but also to any country seeking to achieve a peaceful boundary settlement with its neighbours.



In Association with

**EVERSHEDS**

The workshop will include a session at the Peace Palace in The Hague, home to the International Court of Justice and the Permanent Court of Arbitration.



The Peace Palace. **Source:** IBRU.

**21-23  
September  
2015**

**Venue:**

London, UK

**Price:** £1920\*<sup>^</sup>

## Archive Research for Boundary Dispute Resolution

Most countries' archives contain a wealth of material relating to international boundaries, much of which can be crucial to the understanding of boundary and territorial disputes. However, the size and complexity of many archives means that finding relevant material and compiling an accurate picture of the key issues is rarely a straightforward task.

This workshop, led by experienced archivists, researchers and case managers, is designed to help participants appreciate how archive material can be used to help build a case, and to provide practical guidance on how to make the best possible use of time available for archive research.

The workshop will include practical sessions at The National Archives and The British Library.



**Source:** National Archives.



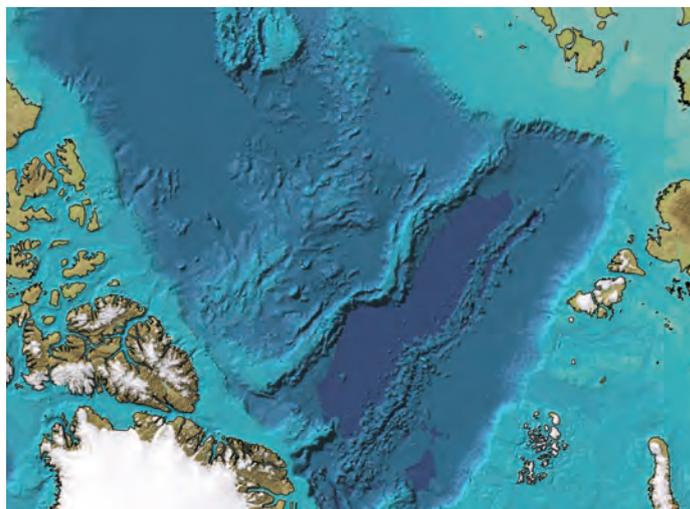
**16-18  
November  
2015**

**Venue:**  
Washington, DC

**Price:** £1650<sup>^</sup>

# Defining, Delimiting and Managing the Outer Continental Shelf

Coastal States with broad continental margins are required to define the outer limits of their continental shelf beyond 200 nautical miles in consultation with the Commission on the Limits of the Continental Shelf (CLCS). Some States have now completed this process, but many more still have much work to do before their outer limits are formally defined. A significant number of States are struggling to get their submissions considered due to the presence of boundary and/or sovereignty disputes, and even where 'non-objection agreements' regarding continental shelf submissions have been concluded, many States are still faced with challenging negotiations concerning the delimitation of shared continental margins.



**Image Source:** "Jakobsson, M., L. A. Mayer, B. Coakley, J. A. Dowdeswell, S. Forbes, B. Fridman, H. Hodnesdal, R. Noormets, R. Pedersen, M. Rebesco, H.-W. Schenke, Y. Zarayskaya A, D. Accettella, A. Armstrong, R. M. Anderson, P. Bienhoff, A. Camerlenghi, I. Church, M. Edwards, J. V. Gardner, J. K. Hall, B. Hell, O. B. Hestvik, Y. Kristoffersen, C. Marcussen, R. Mohammad, D. Mosher, S. V. Nghiem, M. T. Pedrosa, P. G. Travaglini, and P. Weatherall, The International Bathymetric Chart of the Arctic Ocean (IBCAO) Version 3.0, Geophysical Research Letters, doi: 10.1029/2012GL052219."



This workshop is designed to help states find practical solutions to outstanding challenges associated with the definition and delimitation of the outer continental shelf, and the long term exploitation and management of its resources. While the workshop will touch upon the process of preparing a submission to the CLCS, the primary focus will be on tasks that lie beyond the jurisdiction of the Commission, especially boundary delimitation and dispute resolution.

IBRU is delighted to be running this workshop in partnership with Foley Hoag, which has one of the world's foremost boundary dispute resolution practices.

In Association with



**To inquire about our workshops or to reserve a place, please contact the IBRU Events Team.**

**Tel: +44 191 334 1965 Email: [ibru-events@durham.ac.uk](mailto:ibru-events@durham.ac.uk) or book online at [www.durham.ac.uk/ibru/workshops](http://www.durham.ac.uk/ibru/workshops)**

**\* Workshop fees inclusive of VAT at 20% for ALL participants for a UK-based workshop.**

**^ Please note that the fees for the workshops do not include accommodation.**

Borderlines is the newsletter of IBRU Centre for Borders Research at Durham University. It has a readership of more than 3500 boundary scholars, practitioners and enthusiasts around the world.

Since its founding as the International Boundaries Research Unit in 1989, IBRU has been the world's leading research centre on international boundary making and dispute resolution. Today, IBRU brings together work in international boundary law with the geographic study of borders and bordering in the 21st century.



For more information about IBRU and how we can help your organisation, visit our website at [www.durham.ac.uk/ibru](http://www.durham.ac.uk/ibru)

### Contact

IBRU  
Department of Geography  
Durham University  
Durham DH1 3LE  
United Kingdom

Tel: +44 (0) 191 334 1961  
Email: [ibru@durham.ac.uk](mailto:ibru@durham.ac.uk)  
Web: [www.durham.ac.uk/ibru](http://www.durham.ac.uk/ibru)