Contents

Forewor	d	
Cat	herine Redgwell	V
Preface		
Acknow	ledgements	ix
	Abbreviations	XV
Table of	Cases	xix
Table of	Treaties and Other International Agreements	XXV
1. Introduction		1
I.	Introductory Remarks: Enquiring Maritime Interception on the High Seas	1
II.	Contemporary Challenges to the Freedom of the High Seas	
	and Maritime Interception	4
	A. Terrorism and WMD	4
	B. Drug Trafficking	6
	C. Illicit Migration	8
	D. Piracy and Armed Robbery at Sea	11
	E. IUU Fishing	12
	F. Are They All 'Threats to Maritime Security'?	13
III.	The Outline of the Book	15
0 1111		
	Theoretical Framework of the Right of Visit on the High Seas: berum v Mare Clausum Revisited	18
I.	The Historical Claims to Freedom of the Seas	18
	A. From Antiquity to the Middle Ages	18
	B. The 'Battle of the Books'	20
	C. The Era of Consolidation and Codification of	
	Mare Liberum	22
	D. The Legal Nature of the High Seas	23
	E. Concluding Observations	24
II.	Contemporary Right of Visit: Lessons from the Historical	
	and the Theoretical Framework of Mare Liberum	24
	A. Mare Liberum v Mare Clausum: Antithetical or	
	Complementary Concepts?	24

	B. <i>Mare Clausum</i> Concerns and the Contemporary Right of Visit on the High Seas	27
	C. The Claims for Maintenance of International Peace and Security	30
	D. The Claims for Protection of the <i>Bon Usage</i> of the Oceans	32
	E. The Claims for Maintenance of the Ordre Public of the States and of International Society	36
III.	Interference in the Contemporary Legal Order of the Oceans: Concluding Remarks	39
3. The I	Law of Maritime Interception on the High Seas	41
I. II.	Introductory Remarks The Right of Visit on the High Seas in Wartime	41 42
	A. The Law of Naval Warfare in the Past and in the Present B. The Role of the UN Charter in the Contemporary Law	43
	of Naval Warfare C. The Applicability of LOSC in the Law of Naval Warfare D. The Belligerent Right of Visit and Search: Rules and	45 46
	Procedures E. Concluding Thoughts	47 49
III.	The Right of Visit on the High Seas in Peacetime	50
	A. Treaty and Customary Law Framework of the Right of Visit	50
	B. Contemporary Challenges to the Customary Right of Approach	54
	C. The Fight of Visit: The Contemporary Practice of Interception on the High SeasD. Other Legal Considerations in Maritime Interception	60
	Operations E. Concluding Remarks: Is there a Law of Maritime	73
	Interception?	81
The Rig	ception on the High Seas in the Context of Peace and Security: ht of Visit in Cases of Armed Conflict and Security Council's	
Action		83
I. II.	Introductory Remarks The Belligerent Right of Visit and Search and its Contemporary Application in the Legal Order of the Oceans	83 84
	A. The Right of Visit in Cases of Armed Conflicts B. Maritime Enforcement of UN Security Council	84
	Resolutions	96

		C. Unilateral Enforcement of UN Security Council Resolutions	106
	III.	Conclusions	111
nt	ernat	emporary Challenges to the International Peace and Security: ional Terrorism and the Proliferation of Weapons of estruction	113
	I.	Introduction	113
	II.	The Challenges of International Terrorism and WMD Proliferation	115
	III.	Responses and Interdiction Operations within an Institutional Framework	119
		A. UN Security Council	119
		B. NATO and Operation Active Endeavour	127
		C. The International Maritime Organisation (IMO)	129
		D. CARICOM	136
	IV.	Responses and Interdiction Operations beyond International Organisations	139
		A. The Proliferation Security Initiative (PSI)	139
		B. Bilateral Boarding Agreements	143
	V.	Legal Justifications for Unilateral Interdiction Measures	
		under General International Law	148
		A. Law of the Sea	148
		B. The Right of Self-Defence	149
		C. Other Circumstances Precluding the Wrongfulness of Interdiction under the Law of State Responsibility	154
	VI.	Additional International Legal Issues: Use of Force,	
		Enforcement Jurisdiction and Human Rights	157
	VII.	Concluding Remarks	160
5 l	Marit	ime Interception to Safeguard the Fundamental Freedoms	
of t	the H	igh Seas	161
	I.	Introduction	161
	II.	The Case of Piracy Jure Gentium as a Threat to the Freedom of Navigation and Commerce	162
		A. The Definition of Piracy under International Law	162
		B. The Interception of Pirate Vessels under International Law	166
		C. The Assertion of jurisdiction Over Pirates	168
		D. The Extraordinary Case off Piracy in Africa	170
		E. Conclusions	196

xiv Contents

III.	IUU Fishing as a Threat to the Freedom of Fishing	197
	A. Introduction: The Problem of IUU Fishing	197
	B. The LOSC and the 1995 Straddling Stocks Agreement	199
	C. The RFMOs D. Concluding Remarks	202 203
	D. Concluding Remarks	200
7 Inter	ception on the High Seas to Counter Drug Trafficking	205
I.	Introduction	205
II.	International Legal Justifications for Interference with	
	Drug Smuggling on the High Seas	206
	A. Multilateral Treaty-Law Bases for Interception	206
	B. Bilateral Treaty-Law Bases for Interception	226
	C. Customary Law Bases for Interception	237
III.	Additional International Legal Issues in the Course of	0.44
	Interception Operations	241
	A. The Question of the Use of Force.	242
	B. Human Rights Restrictions	242
** 7	C. Jurisdictional Issues Involved	245
IV.	Concluding Remarks	258
8 Inter	rception on the High Seas and Human Beings	259
I.	Introduction	259
II.	International Legal Justifications for Interference on the	
	High Seas	263
	A. Treaty Bases for Interference	263
	B. Cust mary Law Bases for Interference	291
III.	Additional International Legal Issues in the Course of	
	Interception Operations of Human Beings	301
	A. Use of Force and Interception of Human Beings	301
	B. The Principle of Non-Refoulement and Human Beings	
	on the High Seas	302
IV.	Concluding Remarks	308
9 Con	clusions	309
Bibliog	raphy	315
Index		345