

Law of the Sea

The Law of the Sea is a body of international law that concerns the principles and rules by which public entities, especially states, interact in maritime matters, including navigational rights, sea mineral rights, and coastal waters jurisdiction.

Historical Sea Laws

The oceans cover 71 percent of the Earth's surface, and of the 193 members of the United Nations, only 44 are landlocked. With facts like these in mind it is clear that land borders are certainly not the only boundaries that "hold water." International laws and agreements about political and navigational rights for the seas have always been of paramount importance.

In 1492, Columbus sailed the ocean blue and landed on what is now called San Salvador, an island in the Bahamas. He mistakenly believed he had reached islands off the coast of Japan in the Indies. However, back in Europe, some people began to suspect the land Columbus found was part of a New World. The Portuguese had already sailed around the Cape of Good Hope and had their sights on a completely maritime trade route to India. Furthermore, they already established an agreement to claim any new lands discovered south of the Canary Islands. Isabella of Spain claimed the newly discovered lands across the Atlantic as her own personal property, and appealed to the Pope for exclusive rights to the territory.

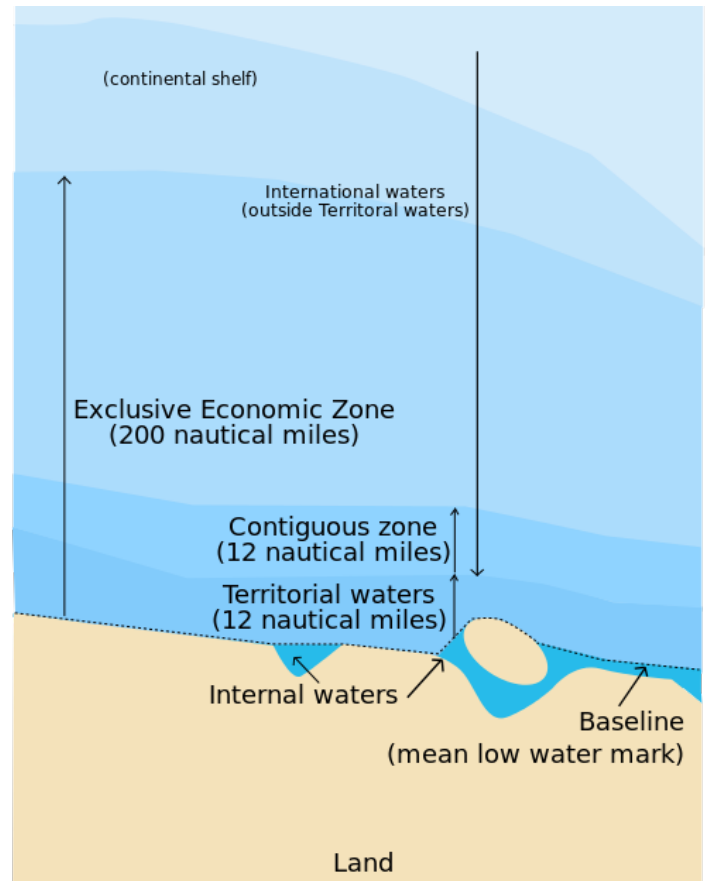
In 1493, a **Line of Demarcation** was drawn from pole to pole around 400 miles west of the Canary Islands. All new lands to the east of that line were granted to Portugal, whereas all new lands to the west were granted to Spain. Later in 1494, the line was moved further west through the **Treaty of Tordesillas**. While this agreement was did not last, it illustrates the importance of delimiting seaborne borders in any era.

Essential Components of the Law of the Sea

Fast-forward to 1945 after World War II, and in an effort to rebuild its economy, the United States claimed jurisdiction over the resources in the subsoil and seabed of the continental shelf through the **Truman Proclamation**. In 1946, Argentina claimed control of the waters above, in part to claim rights to the Falkland Islands (Las Malvinas) that had been in the possession of the United Kingdom for centuries. In response to these, and other claims, **UNCLOS I** was initiated in 1958, the United Nations Convention on the Law of the Sea. What ensued was a decades-long series of meetings and conventions that were finally resolved through **UNCLOS III** in 1982. However, the agreements did not enter into force, meaning it did not come into effect, until 1994.

Several key components were instituted, for example, an agreed upon limit of various measured from the **baseline** of a country's shores (the mean low water mark). One of the major results was defining **territorial sea**, which extends at most 12 nautical miles from a country's

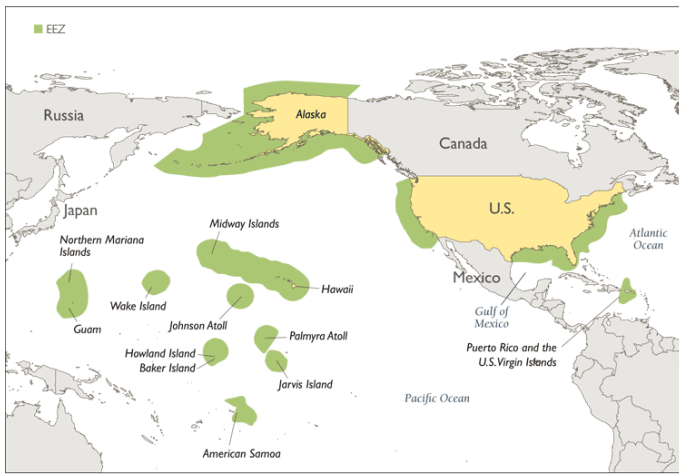
baseline. One nautical mile is equal to approximately 1.15 statute (land) miles (and one nautical mile per hour is equal to one knot). The territorial sea is regarded as the sovereign territory of the state, although foreign ships are allowed "innocent passage" through it; this sovereignty also extends to the airspace over and seabed below.



Beyond the territorial sea lies a **contiguous zone** of another 12 nautical miles. In this zone a state can continue to enforce laws in four specific areas: customs, taxation, immigration and pollution, if any infringement occurred within the territorial waters (or if they are about to occur). For instance, if the coast guard of a country was pursuing suspected drug dealers, they could pursue and prosecute the offenders in their courts beyond the limits of the territorial sea.

An **Exclusive Economic Zone (EEZ)** extends from the edge of the territorial sea out to 200 nautical miles from the baseline. Within this area, the coastal nation has sole exploration and exploitation rights over all natural resources below the surface of the water. The EEZs were introduced to halt the increasingly heated clashes over rights fishing as well as mining, and oil drilling. Foreign nations have the freedom of navigation (shipping and sailing) and over flight, subject to the regulation of the coastal states.

If the waters between two or more states do not exceed 24 nautical miles in the case of territorial sea, or 400 nautical miles for the EEZ, the **median line principle** is employed. Simply put, the middle points between the coastlines become the dividing line in either case.



The United States possesses more EEZs than any other country in the world. The EEZs under US control exceed the land area of all fifty states combined!

Aside from these major areas of agreement, other provisions were also implemented. **Internal waters** cover all water and waterways on the landward side of the baseline. The coastal state is free to set laws, regulate use, and utilize any resource. Foreign vessels have no right of passage within internal waters.

The convention also defined how archipelagic states could draw their territorial borders. A baseline is drawn between the outermost points of the outermost islands, subject to these points being sufficiently close to one another. All waters inside this baseline are designated **Archipelagic Waters**. The state has full sovereignty over these waters (like internal waters), but foreign vessels have right of innocent passage through archipelagic waters (like territorial waters).

Additionally, the **continental shelf** is defined as the natural prolongation of the land territory to the continental margin's outer edge, and may exceed 200 nautical miles, but may not exceed 350 nautical miles from the baseline. Coastal states have the right to harvest mineral and non-living material in the subsoil of its continental shelf, to the exclusion of others. The high seas are designated as extending beyond national jurisdictions and subject to admiralty laws separate from the Law of the Sea. That being said, many

states have claimed "**Extended Continental Shelves**" that exceed past 350 nautical miles from their shores.

Aside from its provisions defining ocean boundaries, the convention established general obligations for safeguarding the marine environment and protecting freedom of scientific research on the high seas. It also created legal initiatives for controlling mineral resource exploitation in deep seabed areas beyond national jurisdictions. **Landlocked states** were given a right of access to and from the sea, without taxation of traffic through transit states.

Despite all these provisions, the United Nations has scores of issues, lawsuits, and decisions pending from disputes regarding the deficiencies of the Law of the Sea. While UNCLOS III was unable to stave off all quarrels and clashes, it is difficult to imagine any set of laws that could appease all the territorial desires of all countries. Despite its inherent flaws, it is perhaps more than arguable that the Law of the Sea is far preferable to no international laws at all.

