



MARITIME ZONES UNDER UNCLOS-LEGAL & STRATEGIC PERSPECTIVES

Shiveksha Tiwari

Student of B.A.LL.B (Hons.) Amity Law School, Lucknow

ABSTRACT

The oceans cover more than 70% of the Earth's surface and have historically been central to human civilization for trade, exploration, and sustenance. They serve as major sources of food, energy, and minerals, provide critical transportation routes, and act as regulators of climate and biodiversity. Despite their vastness, oceanic resources and spaces have long been subject to competing claims and differing interpretations of sovereignty. Historically, maritime governance was guided by customary practices such as the principle of freedom of the seas, famously articulated by Hugo Grotius in *Mare Liberum* (1609). According to this principle, the high seas were open to all nations for navigation and fishing, while coastal states had limited jurisdiction near their shores. However, as maritime activities intensified—fuelled by technological advancements in navigation, fishing, and offshore resource exploitation—the need for a comprehensive international legal framework became apparent.

The United Nations Convention on the Law of the Sea (UNCLOS) emerged from this need. Negotiated over a decade at the Third United Nations Conference on the Law of the Sea (UNCLOS III, 1973–1982), UNCLOS sought to reconcile the interests of coastal states, maritime powers, and landlocked nations. Adopted in 1982 and entering into force in 1994, UNCLOS is widely regarded as the “Constitution for the Oceans”, providing a codified legal regime for the use and conservation of marine resources.

One of UNCLOS's most significant innovations is the Exclusive Economic Zone (EEZ), which extends up to 200 nautical miles from a coastal state's baseline, granting sovereign rights over living and non-living resources while preserving navigation freedoms for other

states. Similarly, the continental shelf regime allows states to claim seabed resources beyond 200 nautical miles if supported by geological evidence, creating opportunities for energy security and mineral exploitation. UNCLOS also codifies rules for archipelagic states, international straits, and landlocked states, promoting equity in access and usage rights.

In addition to regulating maritime boundaries, UNCLOS emphasizes environmental protection and sustainable use of marine resources, addressing concerns such as overfishing, pollution, and climate change impacts. The Convention establishes mechanisms for dispute settlement, including recourse to the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice (ICJ), and arbitration, ensuring peaceful resolution of conflicts. Over the decades, these provisions have been reinforced through judicial interpretation and state practice, providing clarity on issues such as maritime delimitation, continental shelf extension, and freedom of navigation.

This essay explores these maritime zones under UNCLOS in detail. It examines their geographical scope, legal nature, rights and obligations of states, case law, and contemporary challenges. The discussion goes ahead sequentially from internal waters to territorial sea, contiguous zone, EEZ, continental shelf, high seas, and the Area, before considering special regimes, dispute settlement, and emerging challenges such as climate change and biodiversity conservation.

Keywords: - UNCLOS, Maritime Zones, Territorial Sea, Contiguous Zone, Exclusive Economic Zone (EEZ), Continental Shelf, High Seas, Legal Regime of the Seas, Freedom of Navigation, Maritime Sovereignty, Coastal State Rights.

1. HISTORICAL BACKGROUND OF UNCLOS

1.1 Early Ocean Use and Regulation

For centuries, the seas were largely unregulated, governed only by customary practices and naval strength. The doctrine of freedom of the seas (*mare liberum*) emerged in the 17th century,

articulated by Dutch jurist Hugo Grotius in his treatise *Mare Liberum* (1609).

Grotius argued that the high seas were *res communis*, open to all and incapable of appropriation by any single state. This principle was crucial for Dutch commercial expansion in Asia and Africa, as it countered Portuguese and Spanish claims of monopoly over maritime routes under the Treaty of Tordesillas (1494).

By contrast, the English jurist John Selden, in *Mare Clausum* (1635), contended that seas could be subject to sovereignty just like land. This opposing view reflected England's desire to assert control over surrounding waters and fisheries. Over time, a compromise developed: coastal states could claim a limited belt of territorial waters for security and resource control, but the wider seas remained open. The "cannon shot rule", first articulated by Dutch scholar Cornelius van Bynkershoek in the 18th century, allowed states to claim territorial sea as far as the range of coastal artillery — about three nautical miles (nm). This became customary international law for centuries.

1.2 Development of Legal Frameworks

By the 20th century, growing concerns about resource exploitation, overfishing, and offshore oil exploration challenged the traditional three-mile limit. Coastal states began extending their claims unilaterally.

- In 1945, U.S. President Harry Truman issued the Truman Proclamation, asserting U.S. jurisdiction over the continental shelf resources adjacent to its coast.¹
- Latin American states such as Chile and Peru soon claimed jurisdiction over waters extending 200 nm offshore for fisheries protection.

These unilateral actions highlighted the absence of a uniform legal framework, leading to international efforts at codification.

1.3 United Nations Conferences on the Law of the Sea

The United Nations convened three major conferences to resolve disputes and codify maritime

¹ Proclamation No. 2667, Policy of the United States with Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf, 10 Fed. Reg. 12,305 (Sept. 28, 1945).

law.

- UNCLOS I (1958, Geneva): Adopted four conventions — on the Territorial Sea and Contiguous Zone, the High Seas, the Continental Shelf, and Fishing and Conservation of Living Resources of the High Seas.² However, it failed to fix the breadth of the territorial sea.
- UNCLOS II (1960, Geneva): Focused on the breadth of the territorial sea but deadlocked between proposals of 6 nm and 12 nm.
- UNCLOS III (1973–1982): A landmark negotiation involving over 160 states. After nine years, it produced the 1982 United Nations Convention on the Law of the Sea, signed at Montego Bay, Jamaica. UNCLOS introduced novel concepts such as the exclusive economic zone (EEZ) and the principle of the common heritage of mankind for deep seabed resources.

1.4 Entry into Force and Significance

- UNCLOS entered into force on 16 November 1994, one year after receiving its 60th ratification. Today, more than 160 states are parties, making it one of the most widely accepted international treaties.³ Even non-parties, like the United States, largely treat many of its provisions as customary international law.
- The Convention has been called the “constitution of the oceans” because it comprehensively regulates navigation, resource management, environmental protection, scientific research, and dispute settlement.

2. MARITIME ZONES UNDER UNCLOS

2.1 Baselines as the Starting Point

UNCLOS establishes that maritime zones are measured from baselines, which serve as the

² UNCLOS, art. 5.

³ United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397 [hereinafter UNCLOS].

reference line along the coast from which the breadth of zones is calculated.⁴

- Normal baseline: The low-water line along the coast, as shown on officially recognized charts.
- Straight baselines: May be drawn across deeply indented coastlines or fringes of islands, enclosing waters as internal waters.⁵
- Archipelagic baselines: For archipelagic states (like Indonesia, Philippines), enclosing all islands into one entity.⁶

The Anglo-Norwegian Fisheries Case (1951) is a landmark precedent where the ICJ upheld Norway's use of straight baselines around its indented fjords and offshore islands.⁷

2.2 Progressive Maritime Zones

UNCLOS organizes ocean space into progressively broader zones extending seaward from the baseline, each with specific legal regimes:

1. Internal Waters – Full sovereignty of the coastal state.
2. Territorial Sea (up to 12 nm) – Sovereignty subject to innocent passage.
3. Contiguous Zone (12–24 nm) – Limited enforcement rights for customs, immigration, fiscal, and sanitary laws.
4. Exclusive Economic Zone (EEZ, up to 200 nm) – Sovereign rights for resource exploration and exploitation.
5. Continental Shelf (200–350 nm) – Rights over seabed and subsoil resources.
6. High Seas – Areas beyond national jurisdiction, open to all states.

⁴ UNCLOS, art. 5.

⁵ UNCLOS, art. 7.

⁶ UNCLOS, art. 46–47.

⁷ Fisheries Case (U.K. v. Nor.), 1951 I.C.J. 116 (Dec. 18).

7. The Area (deep seabed) – Declared the “common heritage of mankind.”

Each of these zones reflects a balance between coastal state interests (sovereignty, security, resource rights) and international interests (freedom of navigation, open seas, equitable sharing).

2.3 Landlocked and Geographically Disadvantaged States

UNCLOS recognizes the rights of landlocked and geographically disadvantaged states to participate in the use of the seas.⁸ These states have rights of access to and from the sea and to share in the exploitation of marine resources beyond national jurisdiction

2.4 Legal Nature of Maritime Zones

It is important to distinguish between:

- Sovereignty: As in internal waters and territorial seas, where coastal states exercise full authority (similar to land territory).
- Sovereign rights: As in the EEZ and continental shelf, where coastal states have rights only to exploit and manage resources.
- Freedoms: As in the high seas, where all states enjoy navigation, overflight, fishing, and scientific research, subject to international law.

This graduated approach makes UNCLOS a unique blend of territorial jurisdiction and global commons principles.

3. INTERNAL WATERS (ARTICLE 8)

3.1 Definition and Scope

Internal waters are all waters and waterways located on the landward side of the baseline from which the breadth of the territorial sea is measured.⁹ These include ports, harbours, bays, rivers, estuaries, and canals connected to the sea. Unlike other maritime zones, internal waters are

⁸ UNCLOS, arts. 124–132.

⁹ UNCLOS, art. 8.

considered part of the territory of the coastal state, over which it enjoys full sovereignty just as over its land territory.

This means the coastal state can regulate entry, stay, and exit of foreign vessels at will. There is no general right of innocent passage for foreign ships within internal waters (unless specifically allowed by treaty, long-standing custom, or agreement).

3.2 Ports and Harbors

Foreign vessels have no inherent right to enter ports of another state; entry depends on the permission of the coastal state. However, customary international law recognizes that access should not be denied arbitrarily, particularly for ships in distress or requiring humanitarian assistance.¹⁰

UNCLOS also provides for port state jurisdiction, allowing states to inspect foreign ships in their ports for compliance with environmental, safety, and labor standards.¹¹

3.3 Bays and Historic Waters

Article 10 UNCLOS provides rules for bays: if the distance between the natural entrance points of a bay does not exceed 24 nm, a closing line may be drawn, and the waters enclosed become internal waters. However, if wider, only waters landward of a semicircle drawn from the bay's mouth may be considered internal waters.¹²

Some states claim historic bays or historic waters (e.g., Hudson Bay in Canada, Chesapeake Bay in the United States), based on long usage and recognition by other states.

In the Fisheries Case (1951), the ICJ upheld Norway's claim to treat certain waters between its fjords and islands as internal waters, based on long-standing historical usage and recognition.¹³

3.4 Rights and Duties of States

¹⁰ LOUIS HENKIN ET AL., INTERNATIONAL LAW: CASES AND MATERIALS 946 (3d ed. 1993).

¹¹ UNCLOS, arts. 218–220.

¹² UNCLOS, art. 10.

¹³ Fisheries Case (U.K. v. Nor.), 1951 I.C.J. 116 (Dec. 18).

- Coastal State: Exercises full legislative and enforcement powers in internal waters (criminal law, customs, immigration, environmental regulation, etc.).
- Foreign Ships: No right of passage without consent, except in case of distress or force majeure. Warships in internal waters require explicit authorization.
- International Law: Some obligations limit coastal states, such as the duty not to discriminate against ships of other states in similar situations (e.g., access to ports for trade).¹⁴

3.5 Contemporary Issues

1. Security Concerns: Coastal states increasingly monitor internal waters for terrorism, piracy, and smuggling.
2. Environmental Regulation: Stricter port entry conditions under conventions like MARPOL (1973/78) for pollution prevention.
3. Humanitarian Exceptions: States are urged not to deny entry to ships in distress, especially when carrying migrants or refugees.

3.6 Case Law and Practice

- Anglo-Norwegian Fisheries Case (1951): Established legitimacy of straight baselines enclosing internal waters.
- Corfu Channel Case (1949): Although involving territorial seas, it highlighted the principle that foreign ships must respect the sovereignty and safety regulations of coastal states when transiting close to internal waters.¹⁵

¹⁴ Donald R. Rothwell & Tim Stephens, *The International Law of the Sea* 84 (2d ed. 2016).

¹⁵ Corfu Channel (U.K. v. Alb.), 1949 I.C.J. 4 (Apr. 9).

4. TERRITORIAL SEA (ARTICLES 2-32)

4.1 Definition and Breadth

The territorial sea is a maritime zone adjacent to the coast where the coastal state exercises sovereignty similar to that over its land territory, subject to certain limitations.¹⁶

Under Article 3 of UNCLOS, every state has the right to establish the breadth of its territorial sea up to a maximum of 12 nautical miles (nm), measured from the baseline.¹⁷ This provision settled a long-standing dispute, as some states historically claimed 3, 6, or even 200 nm before UNCLOS standardized the 12 nm rule.

4.2 Nature of Sovereignty

Coastal states exercise sovereignty over:

- The waters of the territorial sea,
- The air space above it,
- The seabed and subsoil beneath it.¹⁸

However, this sovereignty is not absolute. It is qualified by the right of innocent passage for foreign vessels (discussed below).

4.3 Right of Innocent Passage

Article 17 UNCLOS recognizes the right of innocent passage through the territorial sea for ships of all states, including warships.

- Definition: Passage is “innocent” so long as it is not prejudicial to the peace, good order, or security of the coastal state.¹⁹

¹⁶ UNCLOS, art. 2(1).

¹⁷ UNCLOS, art. 3.

¹⁸ UNCLOS, art. 2(2).

¹⁹ UNCLOS, art. 19(1).

- Prohibited activities include weapons exercises, intelligence gathering, pollution, fishing, propaganda, launching aircraft, and interfering with coastal communications.²⁰
- Submarines and underwater vehicles must navigate on the surface and show their flag.²¹

This balances the sovereignty of the coastal state with the need for freedom of navigation.

4.4 Coastal State Rights and Duties

- Regulation: Coastal states may adopt laws concerning navigation, resource conservation, pollution prevention, customs, taxation, and immigration.²²
- Non-discrimination: Laws must not discriminate against ships based on nationality or unduly hamper innocent passage.²³
- Suspension: Coastal states may temporarily suspend innocent passage in specific areas for security reasons, provided such suspension is non-discriminatory and duly published.²⁴

4.5 Warships and Sovereign Immunity

Warships enjoy sovereign immunity under UNCLOS. If a warship violates laws of the coastal state and disregards requests for compliance, the coastal state may require it to leave the territorial sea immediately but cannot arrest or seize it. This has often led to diplomatic tensions, especially in strategic waterways.

4.6 Straits Used for International Navigation

Territorial seas also overlap with international straits. Under Part III of UNCLOS, foreign vessels and aircraft enjoy the right of transit passage through straits used for international navigation.²⁵

²⁰ UNCLOS, art. 19(2).

²¹ UNCLOS, art. 20.

²² UNCLOS, art. 21(1).

²³ UNCLOS, art. 24(1).

²⁴ UNCLOS, art. 25(3).

²⁵ UNCLOS, art. 38.

Unlike innocent passage, transit passage cannot be suspended, ensuring freedom of global navigation.

Key case: Corfu Channel Case (1949), where the ICJ recognized the right of passage through straits used for international navigation but emphasized respect for the territorial sovereignty of the coastal state.²⁶

4.7 Contemporary Issues

1. South China Sea Disputes: China claims territorial seas around artificial islands in the Spratly Islands, but the 2016 PCA ruling in Philippines v. China rejected these claims, holding that artificial islands cannot generate territorial seas.²⁷
2. Innocent Passage of Warships: Some states, like India, require prior notification or authorization for warships; others, like the U.S., insist on no such requirement.
3. Environmental Protection: Coastal states increasingly regulate tanker navigation to prevent pollution, invoking their territorial sovereignty.

5. CONTIGUOUS ZONE (ARTICLE 33)

5.1 Definition and Breadth

The contiguous zone is a belt of the sea adjacent to and beyond the territorial sea, extending up to 24 nautical miles from the baseline.²⁸

Unlike the territorial sea, the contiguous zone does not confer sovereignty, but rather functional jurisdiction. It is primarily intended to give coastal states extra powers to prevent or punish infringements of their laws occurring within their territory or territorial sea.

5.2 Legal Basis

Article 33 of UNCLOS authorizes a coastal state to exercise control in the contiguous zone

²⁶ Corfu Channel (U.K. v. Alb.), 1949 I.C.J. 4, 28 (Apr. 9).

²⁷ In re South China Sea Arbitration (Phil. v. China), PCA Case No. 2013-19, Award (July 12, 2016).

²⁸ UNCLOS, art. 33(2).

necessary to:

1. Prevent infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory or territorial sea; and
2. Punish infringement of such laws committed within its territory or territorial sea.²⁹

Thus, the contiguous zone serves as a buffer zone, allowing enforcement of specific laws beyond the territorial sea.

5.3 Nature of Rights

The coastal state's authority in the contiguous zone is limited and functional, not sovereign. It cannot regulate navigation or claim resources in this zone. Other states retain the freedom of navigation as on the high seas.

5.4 Historical Development

The contiguous zone emerged in state practice before UNCLOS. For example:

- The U.S. Tariff Act of 1799 authorized customs enforcement within 12 nm.
- The Hovering Acts in 18th-century Britain permitted customs enforcement against smuggling within 12 nm of the coast.

UNCLOS codified and expanded this to 24 nm.

5.5 Contemporary Practice

1. Security Enforcement: Some states have extended use of the contiguous zone for security purposes, such as anti-smuggling and counterterrorism operations.
2. India's Maritime Zones Act, 1976 establishes a contiguous zone extending to 24 nm from

²⁹ UNCLOS, art. 33(1).

the baseline, granting powers to enforce customs, immigration, and anti- pollution laws.

3. U.S. Practice: The United States exercises extensive enforcement in its contiguous zone, including interdiction of drug trafficking and illegal immigration.

5.6 Case Law

- In the M/V Saiga (No. 2) Case (1999), ITLOS clarified that while coastal states have rights in their contiguous zones, these must be exercised within UNCLOS limits and respect the rights of other states.³⁰
- In the I'm Alone Case (1935), the U.S. Coast Guard sank a Canadian vessel suspected of smuggling liquor off Louisiana. The arbitral tribunal upheld U.S. enforcement action, recognizing the necessity of preventing customs violations beyond territorial waters.³¹

6. EXCLUSIVE ECONOMIC ZONE (EEZ) (ARTICLES 55–75)

6.1 Definition and Breadth

The Exclusive Economic Zone (EEZ) is a maritime zone extending up to 200 nautical miles from the baseline, where the coastal state has sovereign rights for the purpose of exploring, exploiting, conserving, and managing natural resources, both living and non-living.³²

This concept was revolutionary because it struck a balance between coastal state control over resources and freedom of navigation for other states. It was introduced during UNCLOS III (1973–1982), largely at the initiative of developing and coastal states concerned about foreign exploitation of nearby fisheries.

6.2 Nature of Rights

- Sovereign rights: Coastal states have exclusive rights to exploit natural resources (fish, oil, gas, minerals, renewable energy).³³

³⁰ M/V Saiga (No. 2) (St. Vincent v. Guinea), ITLOS Case No. 2, Judgment (July 1, 1999).

³¹ I'm Alone (Can. v. U.S.), 3 R.I.A.A. 1609 (1935).

³² UNCLOS, art. 55.

³³ UNCLOS, art. 56(1)(a).

- Jurisdiction: Coastal states have jurisdiction with regard to artificial islands, marine scientific research, and protection of the marine environment.³⁴
- Freedoms of other states: All states retain freedoms of navigation, overflight, laying submarine cables and pipelines, subject to coastal state regulation.³⁵

Thus, the EEZ represents a hybrid regime — coastal states have more than mere functional rights but less than full sovereignty.

6.3 Rights over Living Resources

Coastal states must determine the allowable catch of living resources in their EEZ and ensure conservation and optimum utilization.³⁶

- If unable to harvest the entire allowable catch, they must give other states access to the surplus, preferably to landlocked and geographically disadvantaged states.³⁷
- Regional fisheries organizations (e.g., Indian Ocean Tuna Commission) play a key role in managing shared stocks.

6.4 Rights over Non-Living Resources

Coastal states enjoy exclusive rights to exploit oil, gas, and mineral resources in the EEZ. Offshore drilling and renewable energy projects (e.g., wind farms) fall within this jurisdiction.

6.5 Environmental Protection

UNCLOS imposes duties on coastal states to protect and preserve the marine environment in the EEZ, including controlling pollution from ships, seabed activities, and land-based sources³⁸

³⁴ UNCLOS, art. 56(1)(b).

³⁵ UNCLOS, art. 58(1).

³⁶ UNCLOS, art. 61(1).

³⁷ UNCLOS, art. 62(2).

³⁸ UNCLOS, art. 56(1)(b)(iii).

6.6 Dispute Settlement and Case Law

1. Fisheries Jurisdiction Case (U.K. v. Ice.) (1974): Iceland's claim of a 200 nm exclusive fisheries jurisdiction was challenged by the U.K. The ICJ acknowledged Iceland's special dependence on fisheries but emphasized the need for negotiated solutions.³⁹
2. Anglo-French Continental Shelf Arbitration (1977): Helped clarify the boundary between EEZ rights and continental shelf rights.⁴⁰
3. South China Sea Arbitration (Phil. v. China) (2016): PCA ruled that China's "nine-dash line" had no legal basis under UNCLOS and that artificial islands cannot generate an EEZ. It affirmed the EEZ regime as central to international maritime law.⁴¹

6.7 Maritime Boundary Delimitation

When EEZs of opposite or adjacent states overlap, UNCLOS requires delimitation based on an equitable solution.⁴²

- The ICJ and arbitral tribunals have often applied the equidistance/relevant circumstances method.
- Example: Maritime Delimitation in the Black Sea (Rom. v. Ukr.) (2009), where the ICJ applied equidistance while adjusting for geographical features.⁴³

6.8 Contemporary Challenges

1. Overfishing and Illegal, Unreported, and Unregulated (IUU) Fishing: Despite EEZ rights, many coastal states lack enforcement capacity.
2. Marine Biodiversity Beyond National Jurisdiction (BBNJ): Negotiations under the UN aim to regulate conservation of migratory and straddling stocks across EEZ boundaries.

³⁹ Fisheries Jurisdiction (U.K. v. Ice.), 1974 I.C.J. 3, 31 (July 25).

⁴⁰ Delimitation of the Continental Shelf (U.K. v. Fr.), 18 R.I.A.A. 3 (1977).

⁴¹ In re South China Sea Arbitration (Phil. v. China), PCA Case No. 2013-19, Award (July 12, 2016).

⁴² UNCLOS, art. 74(1).

⁴³ Maritime Delimitation in the Black Sea (Rom. v. Ukr.), 2009 I.C.J. 61 (Feb. 3).

3. Geopolitical Tensions: EEZ disputes in the South China Sea, Arctic Ocean, and Eastern Mediterranean highlight the EEZ's central role in maritime geopolitics.
4. Blue Economy and Renewable Energy: Offshore wind farms, tidal energy, and carbon capture projects are increasingly linked to EEZ rights.

7. THE CONTINENTAL SHELF (ARTICLES 76-85)

7.1 Definition and Legal Framework

The continental shelf refers to the natural prolongation of a coastal state's land territory under the sea, comprising the seabed and subsoil of the submarine areas extending beyond its territorial sea.⁴⁴

Under Article 76 UNCLOS, the continental shelf extends:

- At least 200 nautical miles from the baseline, regardless of geological features; and
- Up to 350 nm or 100 nm beyond the 2,500-meter isobath where the shelf naturally extends.⁴⁵

Thus, every coastal state has a continental shelf of at least 200 nm, even if its geological margin is narrow.

7.2 Nature of Rights

Coastal states enjoy sovereign rights over the continental shelf for the purpose of exploring and exploiting its natural resources.⁴⁶ These include:

- Mineral and non-living resources of the seabed (oil, gas, polymetallic nodules).
- Sedentary species (organisms immobile on or under the seabed, such as clams, crabs, and

⁴⁴ UNCLOS, art. 76(1).

⁴⁵ UNCLOS, art. 76(5).

⁴⁶ UNCLOS, art. 77(1).

sponges).⁴⁷

However, these rights do not affect the legal status of the superjacent waters (which may be EEZ or high seas) or the airspace above. Other states retain freedoms of navigation and overflight.

7.3 Distinction from the EEZ

- The EEZ is a functional zone created by treaty (up to 200 nm) covering both living and non-living resources of the water column and seabed.
- The continental shelf is a natural entitlement to the seabed and subsoil, extending beyond 200 nm if the geological margin so allows.

Thus, while they overlap within 200 nm, beyond that only continental shelf rights apply.

7.4 The Role of the Commission on the Limits of the Continental Shelf (CLCS)

UNCLOS created the CLCS to review data submitted by states claiming continental shelf areas beyond 200 nm.⁴⁸

- States must provide scientific and technical evidence of their continental margin.
- CLCS makes recommendations, which are final and binding.
- Example: Russia's submission in the Arctic (2001, revised 2015) claiming the Lomonosov Ridge as part of its continental shelf.

7.5 International Case Law

1. North Sea Continental Shelf Cases (1969): The ICJ held that continental shelf rights are inherent and do not depend on proclamation. It also emphasized equitable principles in delimitation.⁴⁹
2. Tunisia/Libya Continental Shelf Case (1982): The ICJ stressed the need for equitable

⁴⁷ UNCLOS, art. 77(4).

⁴⁸ UNCLOS, Annex II, art. 3.

⁴⁹ North Sea Continental Shelf (F.R.G. v. Den.; F.R.G. v. Neth.), 1969 I.C.J. 3, 22 (Feb. 20).

solutions considering geographical and geological factors.⁵⁰

3. Libya/Malta Continental Shelf Case (1985): The ICJ reaffirmed that delimitation should achieve an equitable result, using equidistance as a starting point.⁵¹
4. Bangladesh/Myanmar (2012) and Bangladesh/India (2014): ITLOS and arbitral tribunals awarded Bangladesh access to an extended continental shelf, showing the significance of Article 76 in practice.⁵²

7.6 Payments to the International Seabed Authority

For exploitation of shelf resources beyond 200 nm, coastal states must make payments to the International Seabed Authority (ISA), beginning at 1% of production value in the sixth year and increasing annually up to 7%.⁵³

This provision reflects the balance between national entitlements and the principle of the common heritage of mankind.

7.7 Contemporary Issues

1. Arctic Continental Shelf Claims: Russia, Canada, and Denmark are competing for overlapping claims, citing natural prolongation.
2. South China Sea: China has made extensive continental shelf claims, rejected in the 2016 South China Sea Arbitration.
3. Technological Advances: Deep-sea drilling and resource exploitation raise environmental concerns, particularly in fragile ecosystems.
4. Climate Change: Melting ice in polar regions is intensifying continental shelf claims,

⁵⁰ Continental Shelf (Tunis. v. Libya), 1982 I.C.J. 18, 60 (Feb. 24).

⁵¹ Continental Shelf (Libya v. Malta), 1985 I.C.J. 13, 41 (June 3).

⁵² Delimitation of the Maritime Boundary in the Bay of Bengal (Bangl. v. Myan.), ITLOS Case No. 16, Judgment (Mar. 14, 2012); Bay of Bengal Maritime Boundary Arbitration (Bangl. v. India), PCA Case No. 2010-16, Award (July 7, 2014).

⁵³ UNCLOS, art. 82(1).

especially in the Arctic.

8. HIGH SEAS (ARTICLES 86–120)

8.1 Definition

The high seas are all parts of the sea not included in the EEZ, territorial sea, internal waters, or archipelagic waters of a state.

They are areas beyond national jurisdiction, open to all states whether coastal or landlocked. The principle governing the high seas is freedom of the seas, rooted in Hugo Grotius's *Mare Liberum* (1609).⁵⁴

8.2 Freedoms of the High Seas

Article 87 UNCLOS enumerates the freedoms of the high seas, which include:

1. Navigation
2. Overflight
3. Laying submarine cables and pipelines
4. Constructing artificial islands and installations
5. Fishing
6. Scientific research.

These freedoms are exercised with due regard to the rights of other states and the interests of international law.

8.3 Flag State Jurisdiction

Ships on the high seas are subject to the exclusive jurisdiction of the flag state. Each ship must sail under the flag of one state only, and states must exercise effective jurisdiction over their

⁵⁴ HUGO GROTIUS, *MARE LIBERUM* (1609).

vessels.

However, there are exceptions to exclusive flag state jurisdiction, allowing other states to intervene in limited cases.

8.4 Exceptions to Flag State Exclusivity

UNCLOS allows certain situations where states may board, inspect, or seize vessels flying a foreign flag:

1. Piracy (Articles 100–107)
2. Slave trade
3. Unauthorized broadcasting
4. Stateless vessels
5. Ships engaged in drug trafficking

These are considered crimes of universal jurisdiction, meaning any state can act against them regardless of nationality.

8.5 Piracy

Piracy has been a traditional concern of the high seas. Under UNCLOS:

- Definition: Piracy consists of illegal acts of violence, detention, or depredation committed for private ends by the crew or passengers of a private ship, directed against another ship on the high seas.
- States have a duty to cooperate in the repression of piracy.
- Example: International naval operations off the coast of Somalia since 2008 have involved multiple states combating piracy under UN Security Council mandates.

Case: In Castle John v. NV Mabeco (1986), the Belgian Court of Cassation confirmed that violent

acts by environmental activists at sea could qualify as piracy if they involve private ends⁵⁵

Conservation of Marine Living Resources

Article 117 obliges all states to adopt measures for the conservation of living resources of the high seas.⁶⁵

- Overfishing, IUU (illegal, unreported, unregulated) fishing, and exploitation of migratory species (like tuna and whales) have been major issues.
- Regional Fisheries Management Organizations (RFMOs) like ICCAT (Atlantic tuna) regulate such fishing.
- The International Whaling Commission (IWC) oversees whale conservation.

8.6 Scientific Research

Scientific research on the high seas is open to all states, but must comply with international law, including environmental obligations.⁶⁶ Current debates focus on marine genetic resources (MGRs) from the high seas and their equitable sharing.

8.7 Case Law

1. Lotus Case (1927): PCIJ emphasized that ships on the high seas are under the jurisdiction of their flag state, unless international law provides otherwise.⁵⁶
2. MV Saiga (No. 2) (1999): ITLOS reaffirmed freedom of navigation on the high seas and clarified limits of enforcement against foreign vessels.⁵⁷
3. Virginia G Case (2014): ITLOS ruled that Guinea-Bissau violated international law by

⁵⁵ Castle John v. NV Mabeco, 77 I.L.R. 537 (Belg. 1986).

⁵⁶ S.S. Lotus (Fr. v. Turk.), 1927 P.C.I.J. (ser. A) No. 10, at 25 (Sept. 7).

⁵⁷ M/V Saiga (No. 2) (St. Vincent v. Guinea), ITLOS Case No. 2, Judgment (July 1, 1999).

arresting a Panamanian tanker outside its jurisdiction, stressing flag state primacy.⁵⁸

8.8 Contemporary Challenges

1. IUU Fishing: Major threat to marine biodiversity.
2. BBNJ Treaty (2023): Negotiated to regulate biodiversity beyond national jurisdiction, including marine genetic resources.
3. Climate Change: Ocean acidification and warming affect high seas ecosystems.
4. Geopolitics: Strategic competition for influence in the high seas, including naval deployments in the Indo-Pacific.

9. THE AREA AND DEEP SEABED MINING (ARTICLES 133–191)

9.1 What is “The Area”?

The Area refers to the seabed and ocean floor beyond national jurisdiction, i.e., beyond the continental shelf limits. It is governed by Part XI of UNCLOS and regulated by the International Seabed Authority (ISA).

9.2 Legal Principle: Common Heritage of Mankind

UNCLOS declares that “The Area and its resources are the common heritage of mankind.”

This means:

- No state can claim sovereignty over any part of it.
- Activities must benefit all of humanity.
- Special regard is given to the interests of developing countries.

⁵⁸ M/T “Virginia G” (Pan. v. Guinea-Bissau), ITLOS Case No. 19, Judgment (Apr. 14, 2014).

9.3 Role of the International Seabed Authority (ISA)

The ISA, based in Jamaica, controls:

- Licensing for exploration and mining.
- Environmental regulations.
- Revenue-sharing mechanisms.

9.4 Resources in the Area

Includes valuable minerals like:

- Polymetallic nodules
- Cobalt-rich crusts
- Manganese, copper, nickel, rare earth elements

9.5 Contemporary Challenges

1. Environmental Risks: Deep seabed ecosystems are poorly understood; mining may irreversibly harm biodiversity.⁵⁹
2. Technological and Economic Constraints: Mining in extreme depths is expensive and technically challenging.
3. Regulatory Gaps: ISA regulations are still evolving, leading to uncertainty in commercial exploitation.⁶⁰
4. Equitable Benefit Sharing: Ensuring developing nations benefit from Area resources remains a key challenge.

⁵⁹ International Seabed Authority, Environmental Guidelines for Deep Seabed Mining (2020).

⁶⁰ Michael Lodge, The Regulation of Deep Seabed Mining under UNCLOS, 33 MAR. POL'Y 1 (2022).

10. DELIMITATION OF MARITIME BOUNDARIES (ARTICLES 15, 74, 83)

10.1 Importance of Maritime Boundary Delimitation

The recognition of extended maritime zones under UNCLOS — territorial sea (12 nm), EEZ (200 nm), and continental shelf (up to 350 nm) — has created extensive areas of overlapping claims. To avoid conflict and uncertainty, states must delimit their boundaries.

Delimitation ensures the orderly allocation of jurisdiction and resources, reducing disputes over oil, gas, fisheries, and strategic waterways. It also reinforces stability in international relations, especially where resources are shared.

10.2 Legal Framework under UNCLOS

UNCLOS adopts a flexible approach:

- Territorial Sea: Boundary delimitation is based primarily on the median line (equidistance), unless historic title or special circumstances justify otherwise.
- EEZ and Continental Shelf: Boundaries must be established by agreement to achieve an equitable solution, guided by international law.

These provisions reflect a compromise between precision and fairness, leaving much to state practice and judicial interpretation.

10.3 Evolution of Jurisprudence

International courts and tribunals have developed methodologies to interpret “equitable solution.”

- North Sea Continental Shelf Cases (1969): The ICJ rejected strict equidistance as customary law, favouring equitable principles considering relevant circumstances.
- Tunisia/Libya (1982): The ICJ emphasized proportionality and equity, noting that no single method is mandatory.
- Libya/Malta (1985): The ICJ applied equidistance as a starting point, adjusted for equity.

- Bangladesh/Myanmar (2012) and Bangladesh/India (2014): Both confirmed the now-dominant three-stage method.

10.4 The Three-Stage Method

Today, international tribunals widely apply a three-stage approach:

1. Provisional Equidistance Line: Draw an equidistance line between the coasts.
2. Relevant Circumstances Adjustment: Adjust the line to account for special circumstances (e.g., concave or convex coasts, islands).
3. Disproportionality Test: Verify that the result does not create a disproportionate allocation compared to the coastal lengths.⁶¹

This method balances geography (objective) with equity (subjective).

10.5 Relevant Circumstances

Circumstances that may justify adjusting the equidistance line include:

- Geography: Concave or convex coasts (as in Bangladesh/Myanmar).⁶²
- Islands: Small islands may be given reduced effect, especially if they distort equitable results (as in Qatar/Bahrain and Nicaragua v. Colombia).⁶³
- Proportionality: Avoiding outcomes where one state receives vastly more maritime area despite shorter coastlines.

10.6 Case Law Examples

1. Maritime Delimitation in the Black Sea (Romania v. Ukraine) (2009): ICJ applied the three-stage method, giving minimal effect to Snake Island.

⁶¹ Maritime Delimitation in the Black Sea (Rom. v. Ukr.), 2009 I.C.J. 61, 115 (Feb. 3).

⁶² Delimitation of the Maritime Boundary in the Bay of Bengal (Bangl. v. Myan.), ITLOS Case No. 16, Judgment, 292 (Mar. 14, 2012)

⁶³ Maritime Delimitation and Territorial Questions (Qatar v. Bahr.), 2001 I.C.J. 40, 219 (Mar. 16).

2. Qatar v. Bahrain (2001): ICJ drew a single maritime boundary, reducing the effect of small islands.
3. Nicaragua v. Honduras (2007): The ICJ adjusted delimitation due to unstable coastlines and geographical features.
4. Nicaragua v. Colombia (2012): ICJ reaffirmed proportionality by granting Colombia sovereignty over islands but awarding Nicaragua extensive maritime zones.

10.7 Role of Negotiation and Joint Development

Where delimitation proves difficult, states often resort to joint development agreements (JDAs) to share resources without finalising boundaries. Examples include:

- Japan–South Korea Agreement (1974): Joint development of hydrocarbons in overlapping areas.
- Nigeria–São Tomé and Príncipe JDZ (2001): Shared management of oil resources.

Such arrangements embody UNCLOS's emphasis on cooperation and equity.

10.8 Contemporary Challenges

1. South China Sea: Competing EEZ and continental shelf claims have heightened tensions, with the 2016 PCA award rejecting China's "nine-dash line."⁶⁴
2. Eastern Mediterranean: Disputes between Greece, Turkey, and Cyprus over EEZ delimitation and gas fields.
3. Arctic Ocean: Russia, Canada, and Denmark advancing overlapping continental shelf claims under Article 76.

⁶⁴ In re South China Sea Arbitration (Phil. v. China), PCA Case No. 2013-19, Award 278 (July 12, 2016).

11. INDIA AND UNCLOS: LEGAL AND STRATEGIC PERSPECTIVES

11.1 India's Role in the Negotiation of UNCLOS

India played an active part in the Third United Nations Conference on the Law of the Sea (UNCLOS III) (1973–1982). As a developing coastal and maritime nation, India's interests were diverse:

- Ensuring recognition of the 200 nm EEZ for resource sovereignty.
- Supporting the concept of the common heritage of mankind in relation to the seabed beyond national jurisdiction.
- Balancing navigation freedoms with coastal state rights, especially given India's strategic location in the Indian Ocean.⁶⁵

India ratified UNCLOS in 1995, affirming its commitment to the treaty's principles.

11.2 Domestic Implementation

India gave effect to UNCLOS through national legislation:

- The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976: Defines India's maritime zones in line with UNCLOS.
- Coast Guard Act, 1978: Empowers the Indian Coast Guard to enforce jurisdiction in maritime zones.
- Marine Fishing Regulation Acts (State-level): Align with India's EEZ fisheries rights.

This legal framework allows India to exercise jurisdiction over resources, security, and environmental regulation in its zones.⁶⁶

⁶⁵ See United Nations Convention on the Law of the Sea, opened for signature Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994) [hereinafter UNCLOS].

⁶⁶ The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, No. 80 of 1976, INDIA CODE (1976).

11.3 Maritime Boundary Delimitation by India

India has resolved most of its maritime boundary disputes through bilateral negotiations:

- India–Sri Lanka (1974 & 1976 Agreements): Settled boundaries in the Palk Strait and Gulf of Mannar.
- India–Maldives (1976): EEZ and continental shelf boundaries agreed.
- India–Bangladesh: After failed negotiations, disputes were submitted to ITLOS (2012) and PCA (2014). Both awards favoured Bangladesh, granting it significant EEZ and continental shelf areas, but India accepted the decisions, showing respect for UNCLOS dispute resolution.

11.4 Strategic Significance

India's interpretation of UNCLOS is not limited to law but extends to strategy:

- Indian Ocean Strategy: India views itself as a “net security provider” in the Indian Ocean, ensuring freedom of navigation in line with UNCLOS.
- South China Sea: India has supported the 2016 PCA ruling, affirming UNCLOS principles against excessive claims.
- Freedom of Navigation Operations (FONOPs): While opposing U.S. FONOPs in its EEZ without prior consent, India simultaneously upholds the general principle of freedom of navigation.⁶⁷

11.5 The Deep Seabed and International Seabed Authority (ISA)

India was one of the first countries to be recognized as a Pioneer Investor by the ISA, with rights to explore polymetallic nodules in the Central Indian Ocean Basin.⁶⁸

This aligns with India's energy security and resource diversification strategy, leveraging

⁶⁷ Ministry of External Affairs, India, India's Position on Freedom of Navigation Operations (Apr. 9, 2021).

⁶⁸ International Seabed Authority, Status of Contracts for Exploration of Polymetallic Nodules, ISA Doc. ISBA/25/C/17 (2019).

UNCLOS's Part XI provisions.

11.6 Challenges and Future Outlook

- Chinese Naval Presence: Growing Chinese activities in the Indian Ocean test India's maritime strategy under UNCLOS.
- Maritime Security: Piracy, illegal fishing, and trafficking highlight the need for regional cooperation.
- Blue Economy: India's "Blue Economy" policy emphasizes sustainable use of marine resources in line with UNCLOS environmental duties.

12. CONCLUSION

The United Nations Convention on the Law of the Sea (UNCLOS) stands as a comprehensive constitutional framework for the oceans, harmonizing competing interests of navigation, resource exploitation, security, and environmental protection. By creating clear categories of maritime zones — territorial sea, contiguous zone, exclusive economic zone, continental shelf, high seas, and the Area — UNCLOS balances coastal state sovereignty with the international community's freedoms.

Over the past four decades, international jurisprudence has enriched the treaty by clarifying ambiguous provisions, particularly in maritime boundary delimitation. The development of the three-stage method illustrates how equity and geography must be reconciled, ensuring predictability in disputes.

At the same time, UNCLOS has grown beyond a legal treaty to become a strategic instrument. Coastal and maritime powers employ its provisions to justify national claims, secure resources, and project influence. For India, UNCLOS provides both a legal framework for domestic legislation and a strategic platform in the Indian Ocean and beyond.

Despite its achievements, challenges remain:

- Rising disputes in the South China Sea test UNCLOS's authority.

- Climate change and sea level rise threaten the stability of maritime boundaries.
- The balance between freedom of navigation and coastal state rights continues to generate friction.

Nonetheless, UNCLOS endures as the bedrock of modern ocean governance. Its adaptability, reinforced by judicial interpretation and state practice, ensures that it remains relevant in addressing new maritime issues.

Ultimately, UNCLOS exemplifies the principle of the rule of law at sea, where cooperation and equity are essential for sustaining peace, security, and the sustainable use of marine resources.⁶⁹

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⁶⁹ Tommy T.B. Koh, A Constitution for the Oceans, in THE LAW OF THE SEA: UNITED NATIONS CONVENTION ON THE LAW OF THE SEA WITH INDEX AND FINAL ACT OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA xxiii (1982).

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