

Maritime Zones and the Law of the Sea Part 1: Baselines and Zones

Screen 1 – Maritime Zones and the Law of the Sea Part 1: Baselines and Zones

This is the first of two lectures which focus on the Law of the Sea. This lecture will focus on characteristics of baselines and maritime zones.

Screen 2 – Learning outcomes

- To understand the basis of the United Nations Convention on the Law of the Sea (UNCLOS).
- To appreciate the maritime zones delineated under UNCLOS.
- To appreciate the regulations under UNCLOS related to marine environmental protection.
- To identify considerations for marine data collection associated with UNCLOS.
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Screen 3 – Historical context

The management of the sea was once rather chaotic. Each country had the right to determine the rules of the sea adjacent to it, and so there was no consistency or certainty for maritime activities. This means that a boat passing through the waters of different countries would be subject to different rules and laws in each country. This placed vessels at risk and introduced considerable uncertainty into the maritime system. In the post-war period, the United Nations sought to address this through the development of a universal set of rules that would apply to the use of the global sea. This became known as the Law of the Sea and was legally defined by the United Nations Convention of the Law of the Sea (UNCLOS). The text of the Convention was agreed in 1982 and it entered into force in 1994 when it was ratified by the 60th country.

Screen 4 - UNCLOS

The purpose of UNCLOS is defined by the European Commission as being to establish “a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilisation of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment”. UNCLOS is a comprehensive piece of international legislation of fundamental importance to the management of the world’s oceans.

Screen 5 - UNCLOS

UNCLOS provides: “a comprehensive legal framework to regulate all ocean space, its uses and resources” (European Commission).

Screen 6 – UNCLOS

The maritime zones refined by UNCLOS are:

- Internal waters
- Territorial Sea
- Contiguous Zone
- Exclusive Economic Zone
- Continental Shelf
- High Seas

There are all defined with reference to the baseline of each country. In the remainder of this lecture, the baseline will be explained, followed by an explanation of each of the maritime zones.

Screen 7 - Baseline

In the following two examples, we will look at how baselines are defined. The first example shows an indented coastline. It would be impossible to measure a maritime zone outward from a coast like this as some of the coast is facing each other. So, the baseline is drawn across the mouth of any indentations in the coast (in this case a bay). This has the effect of smoothing or straightening a coastline from which a maritime zone can be measured. The waters inside the baseline are defined as 'internal waters' and carry the same legal status as land within the national borders of the coastal state. All maritime zones are measured seawards from the baseline.

Screen 8 – Baseline

In the second example, there is an island near to the coast. The island belongs to the same state as the land we can see on the map. Pause the presentation briefly and consider where the baseline should be drawn.

Screen 9 – Baseline

As the island belongs to the same state as the land we can see on the map, then the baseline must include the island. The baseline is drawn from the mainland to the outer edge of the island. The waters inside the baseline are defined as 'internal waters' and carry the same legal status as land within the national borders of the state. There is no right of innocent passage in internal waters. All maritime zones are measured seawards from the baseline.

Screen 10 – Maritime Zones

The **Territorial Sea** is the marine area from 0 to 12nm from the baseline. The coastal state has sovereignty over this zone, including the airspace above the sea, the water column, the seabed, and the subsoil beneath the seabed. Ships from foreign states have the right of innocent passage through the Territorial Sea. States have more control over the Territorial Sea than any other of the maritime zones.

The **Contiguous Zone** extends from the limit of the Territorial Sea (12nm) to 24nm. Coastal states can impose regulations within this zone in order to prevent infringements of controls, laws or regulations within the Territorial Sea. The Contiguous Zone acts as a buffer to ensure rules are followed in Territorial Seas.

The **Exclusive Economic Zone** extends from baseline to 200nm (or an international maritime boundary with another state). In its EEZ, a coastal state:

- Has sovereign rights for exploring, exploiting, conserving and managing natural resources (living and non-living) in the water column, seabed and subsoil. This includes energy production.
- Can establish and use artificial islands, installations, structures, and undertake scientific research and the protection and preservation of the marine environment.
- Has other rights and duties provided by international law.

Screen 11 – Continental Shelf

It is also important to understand the role of the Continental Shelf. The Continental Shelf is the relatively shallow shelf that exists off most coastlines. The width of the Continental Shelf

varies as it is a natural geological feature. In some locations, the Continental Shelf extends beyond the 200nm boundary of the EEZ. In these circumstances coastal states can claim an 'extended continental shelf'. The maximum limit of the extended continental shelf is 350nm from the baseline. Where the Continental Shelf extends beyond 200nm, the coastal state must identify the outer limit of the Continental Shelf as the Continental Shelf cannot include the deep sea. The coastal state must provide evidence "including geodetic data" as to the outer limit. This requires accurate marine mapping and data storage.

Screen 12 – International Straits

Straits are narrow channels through which international maritime traffic pass (e.g. Straits of Dover, Malacca Straits). International straits are normally formed by the Territorial Seas of at least two states. Vessels are allowed "transit passage" which allows vessels to pass through the strait in a continuous and expeditious manner and conduct no unrelated activities without the permission of the relevant coastal states. Coastal states are able to manage straits, for example through the imposition of navigation systems or traffic separation schemes.

Screen 13 – High Seas

The High Seas are also referred to as Areas Beyond National Jurisdiction (ABNJ). ABNJ account for 64% of the surface of the oceans and 95% of its volume. These are the areas for which no nation has responsibility and are often considered as 'global commons'. The High Seas have historically been protected by their remoteness and inaccessibility. However, shifts in technological capacity and market opportunities mean that human activities in the High Seas are expanding rapidly. The protection of Biodiversity in ABNJ is a topic of particular importance to the United Nations. Threats to biodiversity in ABNJ include fishing, habitat degradation, pollution, exploitation of mineral resources, climate change and climate engineering, ocean acidification, and new human activities, such as bioprospecting.

Screen 14 – Marine environmental protection

Under the Law of the Sea, states have power to establish national arrangements for marine environmental protection. In many cases, this is expressed through the designation of marine protected areas focused on marine habitats and species considered to be of importance and through a system of marine environmental impact assessment. Focusing on Environmental Impact Assessment, most coastal states have Environmental Impact Assessment arrangements, usually triggered when applications are made to use marine resources. Examples include laying submarine cables, placing renewable energy devices, and oil and gas extraction. As these arrangements are national-level, they tend to vary in their approach and potentially in their effectiveness.

However, an increasing number of activities occur in areas beyond national jurisdiction. A key question is how the environmental impacts of these activities are controlled? Four activities are considered to be 'Freedoms of the High Seas': navigation, fishing, laying of cables and pipelines, and overflight. In the case of cable laying for example, this means that from 0-200nm, the environmental impacts of cable laying are managed by the relevant coastal state(s) but once in the High Seas, there are no legally binding controls. In practice, the submarine cable industry adopts its own standards, but these are not enshrined in the Law of the Sea. The protection of biodiversity in areas beyond national jurisdiction is the focus of a possible change to the Law of the Sea to generate new mechanisms for the protection and sustainable use of biodiversity, currently being discussed by the United Nations.

Environmental protection under the Law of the Sea therefore does not adopt universal standards between states or between states and areas beyond national jurisdiction. To offset the potential for many different approaches, regional groupings, such as the European Union seek to develop consistent measures amongst member states as do Regional Seas Partnerships and Conventions, such as the Abidjan Convention, which incorporates the coastal countries of West Africa. These groupings of countries agree common standards what are intended to be applied consistently.

Screen 15 - Conclusion

In conclusion, UNCLOS is the primary agreement for the use and management of the seas. UNCLOS identifies a number of maritime zones which gives coastal states and vessels rights and responsibilities. The successful implementation of UNCLOS depends upon accurate and up to date marine spatial data.

Screen 16 – Learning outcomes

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- To identify considerations for marine data collection associated with UNCLOS.

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Screen 12:

NASA: <http://spaceflight.nasa.gov/gallery/images/station/crew36/html/iss036e036611.html>

Screen 13:

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