

☰☰☰ Topic Page: [Law of the sea](#)

Definition: **Law of the Sea** from *The Encyclopedia of Tourism and Recreation in Marine Environments*
Also known as Admiralty Law or Maritime Law, it is a body of law that governs questions and offences on the seas of the world. Typically, ships and vessels fall under the maritime laws of the country that claims the waters within which they are navigating, whether or not the vessel is of that nationality.

Related internet sources

Cornell Law School: <http://www.law.cornell.edu/wex/index.php/Admiralty>

The Admiralty and Maritime Law Guide: <http://www.admiraltylawguide.com>

Bruce A. Larson



Image from: [A Chinese flag flies from a vessel engaged in oil... in Cultural Sociology of the Middle East, Asia, and Africa](#)

Summary Article: **Law of the Sea**

From *Encyclopedia of Global Studies*

The seas and oceans cover over seven tenths of the Earth's surface and have often been described as one of the global commons, or *res communis*. They have long formed an international arena where states have had to regulate their conduct and reach pragmatic accommodations of interests. The law of the sea (which forms a significant part of general international law) protects and balances common interests of all nations in the use and enjoyment of maritime space. The law of the sea applies not only to all parts of the sea's surface but also to the water column, the seabed and subsoil, and the airspace and atmosphere above. It is relevant, therefore, to such global interests as maintaining international peace and security; providing parts of world food and energy supplies; ensuring global communications; protecting the natural marine environment; studying Earth sciences, climatology, and oceanography; and facilitating transnational trade and commerce.

Many of the issues that arise in this ocean space are closely interrelated and need to be considered as a whole. The current legal order facilitates global communications by means of international shipping, air services, and submarine cables and pipelines. It promotes the peaceful uses of the seas and oceans by the nations of the world. It also promotes the equitable and efficient utilization of marine resources, including the conservation and management of the living resources. It advances the study, protection, and preservation of the marine environment. This legal order for the seas and oceans takes due account of the sovereignty of states over national territory and coastal waters. In these ways, it promotes international peace and security, as well as economic and social advancement worldwide.

Historical Development

Throughout history, in different parts of the world, notably Asia and Europe, coastal states have found a need to regulate their conduct on the seas. In the early 17th century, a debate took place within the European powers as to whether the seas should be open to all (the doctrine of *mare liberum* advocated by the Dutch jurist, Hugo Grotius) or should be subject to national control (the doctrine of *mare clausum* advocated by John Selden and supported by Portugal and Spain). From the 17th century to the middle of the 20th century, the doctrine of *mare liberum* prevailed and the seas and oceans

were subject to a legal order composed of a narrow coastal band of waters subject to national control, beyond which the freedoms of the high seas were available to be enjoyed by all nations. These freedoms included the freedom of navigation, the freedom of fishing, and the freedom to lay submarine cables. This legal order, based on the accepted practice of states, reflected the interests of the leading, mainly European, nations during the age of empires.

The Emergence of the Modern Legal Framework

During the second half of the 20th century, this relatively simple legal order was modified in response to two developments: first, the ever-increasing uses of the seas and oceans by humankind; and, second, the demand for the protection of the interests of the growing number of coastal states, including many newly independent states in Africa, Asia, and the Caribbean. Technological advances, in finding and then exploiting both living and nonliving resources, as well as an enhanced awareness of the need to protect the global marine environment, showed the need for a new, multifaceted legal order. Modifications were made through the practice of states and, especially, through international conventions.

After a period of uncertainty and some jurisdictional disputes, by the end of the 20th century a new balance had been established between the national interests of each coastal state and the wider, community interests. The global legal framework includes, notably, the United Nations Convention on the Law of the Sea and its two Implementation Agreements on deep seabed mining and high seas fish stocks. The convention entered into force in 1994 and had 161 States Parties, plus the European Union, in June 2011. It provides the legal framework for the regulation of maritime affairs on a global and regional basis. Within that framework, many maritime activities are being regulated on a global basis through global institutions, including the United Nations, the International Seabed Authority, the Intergovernmental Oceanographic Commission, the Food and Agriculture Organization, and the International Maritime Organization.

Maritime Areas Under National Sovereignty or Jurisdiction

Today, there exists a global consensus on the limits of national jurisdiction of coastal states. The three principal limits are those in respect of the territorial sea, the exclusive economic zone (EEZ), and the continental shelf. With regard to the first, it is recognized that coastal states are entitled to exercise sovereignty over a belt of territorial sea extending to a maximum of 12 nautical miles measured from the low-water line or other baselines around the coasts, including offshore islands. Sovereignty over territorial waters carries with it ownership of all the resources and administrative and enforcement jurisdiction with regard to the waters, the seabed and its subsoil, and the superjacent airspace. At the same time, this belt of sovereignty is subject to rights of passage in favor of the ships flying the flag of other states when going about their normal course of business, provided that the vessels do not act in such a way as to threaten the coastal state or its interests.

Second, each coastal state is entitled to establish an EEZ extending to a maximum of 200 nautical miles from its baselines in which it enjoys sovereign rights over both the living and the nonliving resources, whether in the water column, on the seabed, or in the subsoil. A significant part of the global fish catch comes from EEZs, as well as large quantities of crude oil and natural gas. In addition, a coastal state may exercise jurisdiction over the protection and preservation of the marine environment and over marine scientific research in the EEZ. The widespread introduction of EEZs during the second half of the last century created over 400 overlapping claims or boundary situations. To date, agreed

boundaries have been established in just under half of those situations by means of agreements or judicial decisions. Ships flying the flag of other states enjoy freedom of navigation in the EEZ, subject to paying due regard to the lawful rights of the coastal state.

The third limit of national jurisdiction lies on the continental shelf beyond the 200-mile limit of the EEZ, where the coastal state may establish a title to the adjacent continental shelf if the natural prolongation of its land mass under the sea can be shown to continue without interruption as far as certain defined outer limits. Submissions by coastal states of scientific evidence about the natural prolongation are examined by the UN Commission on the Limits of the Continental Shelf, an expert body created by the UN Convention on the Law of the Sea with the power to make recommendations to ensure compliance with the outer limits. In respect of its entire continental shelf, the coastal state enjoys exclusive sovereign rights to explore and exploit the natural resources of the seabed, including oil and gas in the subsoil and sand and gravel in the seabed. It is entitled to exercise prescriptive and enforcement jurisdiction over what are major offshore industrial activities.

The High Seas

Beyond the limits of national jurisdiction, the seas and oceans have the legal status of high seas where the freedoms of the seas apply. The high seas are open to all states on a basis of equality. National claims to sovereignty over the high seas are prohibited. Every state, whether coastal or landlocked, has the right to sail ships flying its flag on the high seas. Ships sail under a single flag and are subject on the high seas to the exclusive jurisdiction of the flag state, save in exceptional circumstances. Landlocked states have the right of access to the sea for the purpose of exercising rights of navigation and enjoying other freedoms of the high seas. Freedom of navigation on the high seas has the effect of facilitating global trade and commerce. Similarly, there is freedom of overflight for aircraft of all kinds. The freedom to lay and maintain submarine cables facilitates global telecommunications. Public order on the high seas is maintained through the requirement that every flag state must exercise effective control in administrative, technical, and social matters over the ships flying its flag, as well as by the criminalization of piracy and the prohibition of transporting slaves. Cooperative arrangements exist for the suppression of drug smuggling by sea. In principle, all states have the right for their nationals to engage in fishing on the high seas, but the exercise of this right is subject to qualifications contained in global and regional fisheries agreements and to the duties to take, and to cooperate with other states in taking, all necessary measures for the conservation of the living resources of the high seas.

The International Seabed Area

The nonliving or mineral resources of the seabed area beyond the limits of national jurisdiction are administered by the International Seabed Authority as the common heritage of humans. These resources include polymetallic nodules found on the seabed, polymetallic massive sulfides, and cobalt-rich crusts. National claims to appropriate any part of this seabed area are prohibited, and claims to sovereignty would not be recognized. Mining activities are to be carried out in the seabed area for the benefit of people as a whole. To this end, the International Seabed Authority is required to share equitably financial and other benefits arising from mining activities. During its first 16 years, the International Seabed Authority has adopted parts of its mining code and approved several applications from its member-states for plans of work for exploration in defined areas of interest for nodule mining.

The Marine Environment

All states have the obligation to protect and preserve the marine environment, including the duty to

take measures needed to prevent, reduce, and control marine pollution from all sources and without transferring pollutants from one area to another. States retain the right to exploit their natural resources, but in doing so they must respect the obligation to protect and preserve the marine environment. They are under a duty to cooperate with other states in establishing, whether through global conventions or the decisions of worldwide institutions, international rules and standards for the protection and preservation of the marine environment, including construction and operational standards for shipping and the “rule of the road” at sea. Once established, such rules and standards must be respected by the ships of all states.

Marine Scientific Research

In recent years, there have been notable advances in oceanography, marine technology, and marine scientific research in general. The law of the sea recognizes the right of all states, coastal or landlocked, and competent international organizations to conduct marine scientific research, provided there is no unjustifiable interference with other legitimate uses of the sea.

Peaceful Settlement of Disputes

Disputes between states over maritime issues may be submitted for settlement to the International Court of Justice or the International Tribunal for the Law of the Sea, both global judicial bodies. Such disputes are to be settled exclusively by peaceful means and in accordance with the applicable principles of the law of the sea. Decisions are binding on the parties.

See also:

Civil Society, Global, Global Environmental and Energy Issues, Global Governance and World Order, International Maritime Organization, Legal Systems, Oceans, Trade

Further Readings

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