

Divisions of Oceans, IMO and Law of the Seas

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Maritime Zones

- The rights of coastal States to regulate and exploit areas of the ocean under their jurisdiction are one the foundations of the LOSC.
- These rights need to be balanced with the freedom of navigation and access to resources outside State control – the freedom of the seas.
- To demarcate the proverbial rules of the road, the LOSC permits coastal States to establish several different maritime zones.
- These zones give coastal States different jurisdictional rights.
- In general, a State has more rights in zones near to its coastline than it does further into the ocean.
- The main challenges associated with these zones are how variations in geography affect where zones end and where new zones begin.

Baselines and Internal Waters

Baselines: The baseline is the boundary from which a nation may begin measurements to determine the portion of the adjacent oceans or continental shelf over which it may exercise sovereignty. Baseline is the low-water line along the coast

Problems of the Baseline Cases

- 1.Faced due to geography
- 2.Coastline is deeply indented
- 3.Numerous islands running parallel to the coast
- 4.Bays cutting into the coastline

International Waters: Internal waters are those that are contained on the landward side of the baseline. These waters fall under the exclusive sovereignty of the nation in which they are contained.

Territorial Sea or Territorial Waters

- Extension of territorial sea
- Visual horizon theory: distance up to a man could see
- Horizon theory: where sky appears to fall on the earth, approx. 25 miles
- 24 hrs navigation by a ship
- Bynkershok: canon shot rule, 3 miles
- Galiani: italian jurist delinked territorial sea from canon shot.
- Problem of breadth of territorial waters
- Hague codification of 1930
- UNCLOS 1, 1958: Different countries, different proposals, min. 3, max, 12 miles
- UNCLOS 2, 1960: USA formula
- Drawing of baseline: lower water mark

Anglo-Norwegian fisheries case, 1951: UK v. Norway

- Anglo—Norwegian Fisheries Case – 1951 (Between UK & Norway) Points raised:
- Validity of Royal Decree of 1935 de-limiting Norwegian Fisheries Zone
- Fisheries Zone
- Territorial Sea
- Special Characteristics of Norwegian coast
- Skjergaao – Base line for measuring breadth of Territorial Sea.
- Trace parallel Method.
- Envelops of arcs of circles method
- Strait Baseline Method.
- 10 miles rule for bays.
- Length of strait baselines
- International Interest in de-limitation of Maritime areas
- General direction of the coast
- Economic dependence
- Personable & Justice etc.

Corfu channel case 1949: UK v. Albania

- I.C.J rules that during peace time the warships of the other states may pass through the territorial waters of a state.
- In this case the court ruled that Albania was guilty of causing loss to the British ships by firing at them or otherwise by laying mines in that part of the sea and it was, therefore it is a clear violation of International Law and Court said Albania should pay £ 8,44,000 to United Kingdom.

Corfu channel case 1949: UK v. Albania

- ICJ laid down during peace time, warships did possess the right to innocent passage.
- Issue 1: Is Albania responsible for explosion and liable to pay compensation?
- Albania was responsible for causing damage to the UK warships,
- Compensation almost 844, 000 pounds ordered to be paid.
- Issue 2: has the UK violated I law by acts of the navy in international waters?
- No, right to innocent passage was held prominent.

Characteristics of territorial sea

- Littoral or coastal states have supreme authority and sovereign jurisdiction over its sea, air and outer space.
- Merchant ships: right of innocent passage
- Warships have right of innocent passage during time of peace
- Reserve cabotage, right over living and non-living resources.
- **Problem of Breadth of Territorial sea**
- Hague codification of 1930: Under the league of nations has failed to definite Breadth of territorial sea.
- UNCLOS I 1958: Under the auspicious of I.L.C. Different countries, different proposals. Ex. Norway, Sweden 4 miles. Italy, Spain, Portugal, Mexico 6 miles. C.E.P. countries 200 miles. (1) Mini. – 3 miles; (2) Maxi. – 12 miles.
- UNCLOS II 1960: America proposed breadth of territorial sea. 6+6 formula.

Territorial Sea and UNCLOS III

Part II: Territorial Sea and Contiguous Zone. Art: 2 to 33:

Section I: General provisions Art. 2: Legal status of the Territorial Sea; of Air Space over the territorial sea & of its bed & subsoil

Section II: Limits of the Territorial Sea. Art. 3-16:

UNCLOS III and Territorial Water

- Art 2-33: various provisions
- 3- extent of territorial sea, 12 nautical miles
- Delimitation of TS between states of adjacent and opposite coasts. Agreement.
- Opposite states: median line
- Adjacent states: equidistant principle

Contiguous Zone

- Not much relevance in the context of EEZ
- Contiguous zone is that part of the sea which is beyond and adjacent to the territorial sea of the coastal state. According to Art 33 of the UN Convention on the Law of the sea, 1982. In a zone contiguous to its territorial sea, the coastal state may exercise the control necessary to;
 - (a) Prevent infringement of its customs, fiscal, immigration or statutory regulations with in its territory or territorial sea.
 - (b) Punish infringement of above regulation of the above regulations committed with in its territory or territorial sea thus the contiguous zone imposes certain restriction on the freedom of the high seas.

Exclusive Economic Zone

- Truman Proclamation of Sep.1945, which emphasized the need for protection of fisheries resources and notified the establishment of conservation zones in the high seas
- After the two proclamations by Truman, other states also started claiming the portions of the high seas
- Fisheries Jurisdiction Case – 1974 between UK VS Iceland
- UNCLOS III: rights and responsibilities of the coastal states, and rights and freedoms of other states jurisdiction and duties of coastal states in EEZ, breadth of EEZ as 200 nautical miles from baseline from which the breadth of the territorial waters is measured. Articles from 60 to 68 describe the conservation utilization and development of various resources.

EEZ Cont..

- a region that stretches a distance of no more than 200 nautical miles from a nation's baselines
- Within its EEZ, a nation may exploit the natural resources (both living and inanimate) found both in the water and on the seabed, may utilize the natural resources of the area for the production of energy (including wind and wave/current), may establish artificial islands, conduct marine scientific research, pass laws for the preservation and protection of the marine environment, and regulate fishing
- Article 56: Rights, jurisdiction and duties of the coastal State in the exclusive economic zone
 - (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources
 - (b) rights - the establishment and use of artificial islands, installations and structures marine scientific research the protection and preservation of the marine environment.

EEZ Cont..

- Article 57 Breadth of the exclusive economic zone-The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured Article 58 Rights and duties of other States in the exclusive economic zone - all the states whether coastal or land locked, enjoys freedoms of free navigation, over-flight, laying of submarine cables or pipelines.
- Article 59 Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the EEZ - conflict should be resolved on the basis of equity. Article 60 Artificial islands, installations and structures in EEZ
- Article 61 Conservation of the living resourcesThe coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.Article 62 Utilization of the living resources The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to Article 61 The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone.
- Article 64 - Highly migratory species Article 65 - Marine Mammals

UNCLOS III and High Seas

- **Article 87** of the UN Convention on the Law of Sea 1982 provided that high seas are open for all the states, whether coastal or land locked. It also provides for the Freedom of the high seas,
- Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:
- The freedoms are:
 - (a) Freedom of navigation;
 - (b) Freedom of over flight;
 - (c) Freedom to lay submarine cables and pipelines, subject to Part VI;
 - (d) Freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;
 - (e) Freedom of fishing, subject to the conditions laid down in section 2;
 - (f) Freedom of scientific research, subject to Parts VI and XIII.

Continental shelf

- Article 1 of the Geneva Convention defines the Continental shelf the Continental shelf is
- The sea bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea to the depth of 200mts or beyond that limit to where the depth of superjacent waters admit of the exploitation of the natural resources of the said areas.
- The seabed and subsoil of the similar submarine areas adjacent to the coast of islands.
- The definition of Continental shelf consists of 3 elements
- Adjacency
- Depth
- Exploitability

Continental shelf

- Continental shelf is defined as natural prolongation of the land territory to the continental margin's outer edge, or 200 nautical miles from the coastal state's baseline, whichever is greater.
- State's continental shelf may exceed 200 nautical miles until the natural prolongation ends, but it may never exceed 350 nautical miles, or 100 nautical miles beyond 2,500 meter isobath, which is a line connecting the depth of 2,500 meters. States have the right to harvest mineral and non-living material in the subsoil of its continental shelf, to the exclusion of others.
- Aside from its provisions defining ocean boundaries, the convention establishes general obligations for safeguarding the marine environment and protecting freedom of scientific research on the high seas, and also creates an innovative legal regime for controlling mineral resource exploitation in deep seabed areas beyond national jurisdiction, through an International Seabed Authority.
- Landlocked states are given a right of access to and from the sea, without taxation of traffic through transit states.

The important cases are

- North Sea Continent shelf cases (1969)
- Federal Republic of Germany vs. Denmark and Federal Republic of Germany vs. Netherlands
- Issue is the rule of international law applicable to the delimitation of the continental shelf in the North Sea. Arguments by Denmark and Netherlands was that article 6 of continental shelf convention 1958 be declared binding upon Germany i.e. equidistance method.
- Germany not a party to the convention opposed the doctrine of just and equitable share. Court held that: Article 6 of the convention was not binding on Germany and applied equitable principles.
- In the Tunisia- Libya Continental shelf case (1982)
- This case is also concerned with delimitation of the common shelf boundary in the pelagial zone. In this case ICJ gave primary attention to relevant physical structure along with equitable principles.

Right of Visit.

- As High Sea is the common heritage of mankind, every ship has a right to pass through the High Sea. It is well recognised in customary international law that warships have a right of approach to ascertain the nationality of ships. But it is not justified in boarding it unless there is reasonable ground for suspecting that:
 - (a) The ship is engaged in **piracy**;
 - (b) The ship is engaged in the **slave trade**;
 - (c) The ship is engaged in **unauthorized broadcasting** and the flag State of the warship has jurisdiction under Art 109;
 - (d) The ship is **without nationality**; or
 - (e) Though flying a foreign flag or **refusing to show its flag**, the ship is, in reality, of the same nationality as the Warship.

Right of Hot Pursuit

- **Article 111** provides that:
- The right of hot pursuit of a foreign ship is a principle designed to ensure that a vessel which has infringed the rules of a coastal state cannot escape punishment by fleeing to the high seas. A coastal state may seize a ship which is suspected of infringing its laws.
- The hot pursuit of a foreign ship may commence when the authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State.
- Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted.

Duties of States on High Sea.

- **Protection of Marine Environment-**
- With the development of marine traffic, states began to dump noxious substances to the sea. And instances of oil spills and tank disasters began to happen on the High Seas.
- Geneva Convention on the High Seas 1958 failed to establish minimum standard on marine pollution.
- The UN Convention on the Law of Sea mentions about five kinds of pollution sources: Activities on land, exploration and exploitation of sea-bed resources, dumping of wastes, shipping, and pollution from atmosphere.
- All States have the duty to take such measures necessary for the conservation of the living resources of the high seas. (Art.117).
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The Fundamental Objectives of UNCLOS III

- The convention aims to promote the maintenance of International peace and security – conflicting claims by coastal states with universally agreed principles on EEZ, T.S., contiguous zone & continental shelf.
- New rules for the protection and preservation of the marine environment from pollution.
- World community in the conservation & optimum utilization of living resources through extension of EEZ.
- Freedom of Navigation will be facilitated by important compromises on the EEZ, Innocent passage through T.S; Transit passage, archipelagic sea-lanes passage.
- Rules on Marine Scientific research in the seas.
- Dispute settlement Mechanism for peaceful settlements.
- Concept of common “heritage of mankind in sharing the sea-bed resources.
- International sea-bed Area: This convention comprised of 320 Articles & 9 Annexes divided into 17 parts.
- International Tribunal for the law of the sea.

IMO Background

- Specialized agency of the UN •
- Established by the Convention on the International Maritime Organization, 1948
 - 171 Member States; 3 Associate Members (Faroes, Hong Kong & Macau) •
- Arguably one of the most successful intergovernmental organizations1948UN Maritime Conference adopts Convention on the Inter-Governmental Maritime Consultative Organization (IMCO)
- **1982 Name was changed in International Maritime Organisation (IMO)**
IMO's mission statement
- The mission of the International Maritime Organization (IMO) as a United Nations specialized agency is to promote safe, secure, environmentally sound, efficient and sustainable shipping through cooperation. This will be accomplished by adopting the highest practicable standards of maritime safety and security, efficiency of navigation and prevention and control of pollution from ships, as well as through consideration of the related legal matters and effective implementation of IMO's instruments with a view to their universal and uniform application.

Background Cont...

- It has always been recognized that the best way of improving safety at sea is by developing international regulations that are followed by all shipping nations and from the mid-19th century onwards a number of such treaties were adopted. Several countries proposed that a permanent international body should be established to promote maritime safety more effectively, but it was not until the establishment of the United Nations itself that these hopes were realized. In 1948 an international conference in Geneva adopted a convention formally establishing IMO (the original name was the Inter-Governmental Maritime Consultative Organization, or IMCO, but the name was changed in 1982 to IMO).
- The IMO Convention entered into force in 1958 and the new Organization met for the first time the following year

Background Cont...

- IMO's first task was to adopt a new version of the International Convention for the Safety of Life at Sea (SOLAS), the most important of all treaties dealing with maritime safety. This was achieved in 1960 and IMO then turned its attention to such matters as the facilitation of international maritime traffic, load lines and the carriage of dangerous goods, while the system of measuring the tonnage of ships was revised.
- But although safety was and remains IMO's most important responsibility, a new problem began to emerge - pollution. The growth in the amount of oil being transported by sea and in the size of oil tankers was of particular concern and the **Torrey Canyon** disaster of 1967, in which 120,000 tonnes of oil was spilled, demonstrated the scale of the problem.

Background Cont...

- During the next few years IMO introduced a series of measures designed to prevent tanker accidents and to minimize their consequences. It also tackled the environmental threat caused by routine operations such as the cleaning of oil cargo tanks and the disposal of engine room wastes - in tonnage terms a bigger menace than accidental pollution.
- The most important of all these measures was the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78). It covers not only accidental and operational oil pollution but also pollution by chemicals, goods in packaged form, sewage, garbage and air pollution.

Purpose of IMO

- Article 1 – states the purposes of the organization are:
- To provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade,
- To encourage the removal of discriminatory action and unnecessary restrictions by Governments affecting shipping engaged in international trade
- To provide for the consideration by the Organization of matters concerning unfair restrictive practices by shipping concerns in accordance with Part II;
- To provide for the consideration by the Organization of any matters concerning shipping that may be referred to it by any organ or specialized agency of the United Nations;
- To provide for the exchange of information among Governments on matters under consideration by the Organization

Functions of IMO

- Article 2 – states that IMO provides for the drafting of conventions, agreements or other suitable instruments; provides machinery for consultation among Members and exchange of information; facilitates technical co-operation.
- Article 3 – states that for matters “capable of settlement through the normal processes of international shipping business”, the IMO should recommend their resolution in that manner.

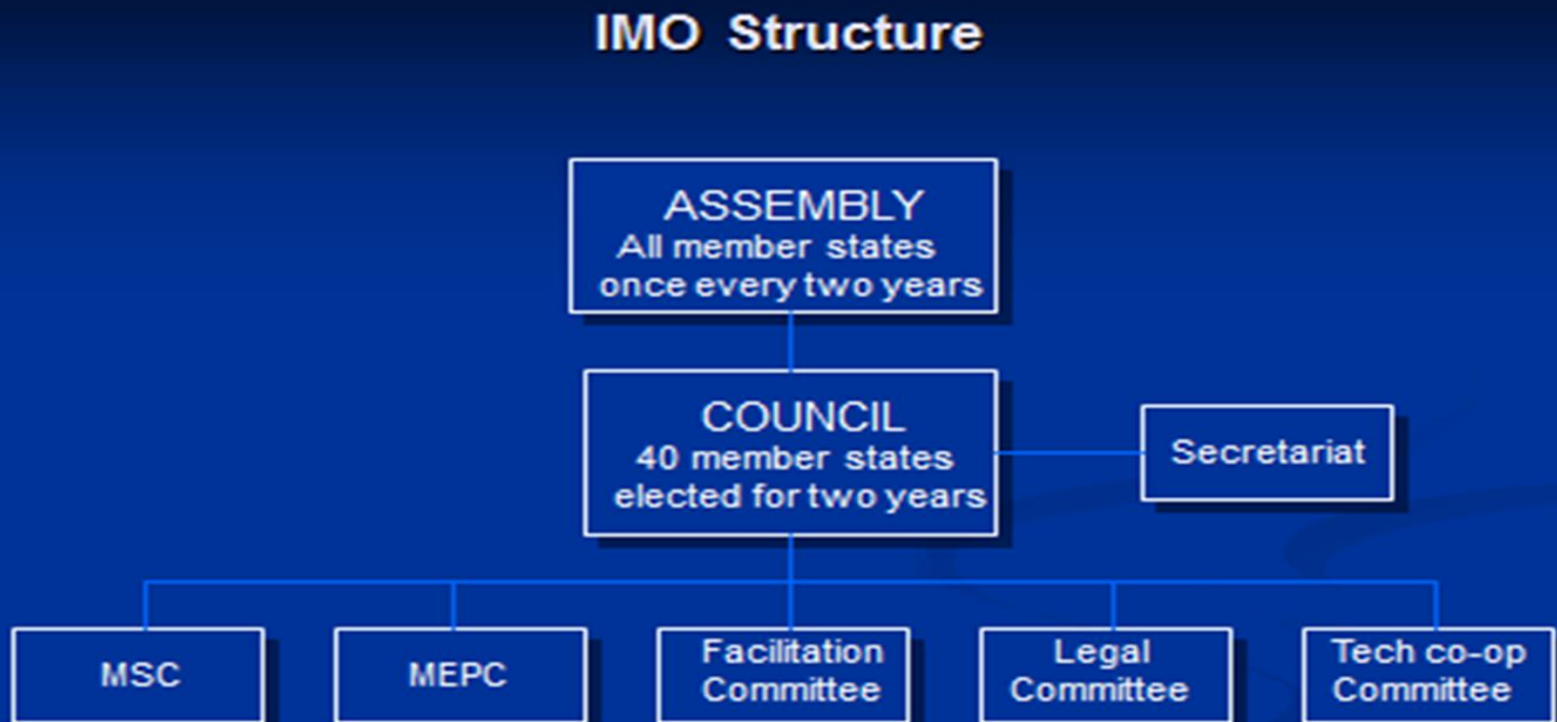
ADMISSION AND MEMBERSHIP TO IMO

- IMO currently has 174 Member States and three Associate Members.
- Non-governmental international organizations that have the capability to make a substantial contribution to the work of IMO may be granted consultative status by the Council with the approval of the Assembly.
- IMO may enter into agreements of cooperation with other intergovernmental organizations on matters of common interest with a view to ensuring maximum coordination in respect of such matters.

INSTRUMENTS OF IMO

- One of the main aims of IMO is to ensure co-operation among maritime governments of the world. It also uses a number of instruments to implement and maintain the highest standards in areas of maritime safety, prevention of marine pollution, and shipping navigation and trade.
- The 5 important instruments of IMO are:
 - Conventions
 - Protocols
 - Amendments
 - Recommendations, codes, and guidelines
 - Resolutions

Structure of IMO



Assembly

- This is the highest governing body of the organization.
- It consists of all the member states and it meets once every two years in regular sessions, but may also meet in an extraordinary session if necessary.
- The assembly is responsible for approving the work programme, voting the budget and determining the financial arrangements of the organization.
- The assembly also elects the council.

Council

- The council is a prestigious institution to be a part of.
- It is elected by the assembly for the two-year terms beginning after each regular session of the assembly.
- The council is executive organ of the International Maritime Organisation and is responsible, under the assembly for supervising the work of the organization.
- Between sessions of the assembly, the council performs all the functions of the assembly, except the function of making the recommendations to the governments on the maritime safety and pollution prevention which is reserved for the assembly by Article 15(j) of the convention.

Maritime Safety Committee (MSC)

- The Maritime Safety Committee is the highest technical body of the organization.
- It consists of all the member states.
- The functions of the Maritime Safety Committee are to consider any matter within the scope of the organization concerned with the aids to navigation, construction and equipment of vessels, manning from a safety standpoint the rules for the prevention of the collisions, handling of the dangerous cargoes, maritime safety procedures and requirements that directly affect the maritime security.

The Marine Environment Protection Committee (MEPC)

- MEPC consists of all the member states of the international maritime organization, is empowered to take any decision with respect to the scope of the organization concerned with prevention and control of pollution from ships.
- In particular, it is concerned with the adoption and amendment of conventions and other regulations and measures to ensure their enforcement.
- MEPC was established as a subsidiary body of the assembly but later on, in 1985 it was raised to the full constitutional status.

Legal Committee

- The legal committee is empowered to deal with the legal matters of the organization and helps in deciding the right way even out of the wrong way.
- The Committee consists of all Member States of IMO.
- The committee works together for the administration as well as the organization of the International Maritime Organization.
- The Legal Committee is also empowered to perform any duties within its scope which may be assigned by or under any other international instrument and accepted by the Organization.

Technical Cooperation Committee

- The technical cooperation committee is required to consider any matter within the scope of the organization concerned with the implementation of the technical cooperation projects for which the organization acts as the executing or cooperating agency and any other matters related to the organization's activities in the technical cooperation field.
- It also consists of all the member states of the international maritime cooperation, and was established in 1969 as a subsidiary body of the council.

Facilitation Committee

- The facilitation committee was established as a subsidiary body of the Council in May 1972 and became fully institutionalized in December 2008 as the result of an amendment of the International Maritime organization at their own convention.
- It consists of all the member states of the organization and deals with International Maritime Organization's work in eliminating unnecessary formalities and the red tape in international shipping by implementing all the aspects of the convention on facilitation of the International Maritime Traffic 1965 and any matter within the scope of the IMO and international maritime traffic.

Secretariat

- The Secretary-General of the Organization is Mr. Kitack Lim (Republic of Korea) who was appointed to the position with effect from 1 January 2016, for an initial four-year term.

IMO'S CONTRIBUTION TO INTERNATIONAL MARITIME LAW

- Maritime Security and international regulations in maritime transportation of CBRN materials
- Wider initiative to counter terrorism
- 2005 Protocol to the SUA Convention
- Marine Environment
- Pollution Prevention- Oil, Chemical, Sewage, Garbage, etc.