



The Law of the Sea

**National Legislation on the
Exclusive Economic Zone**



**Division for Ocean Affairs and the Law of the Sea
Office of Legal Affairs
United Nations**

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INTRODUCTION

This compilation contains the national legislation of States on the exclusive economic zone and the economic zone including declarations thereon. This legislation is based on the new concept of the exclusive economic zone introduced into the law of the sea by the Third United Nations Conference on the Law of the Sea.

Since the last publication by the United Nations of national legislation on the exclusive economic zone, the economic zone and the exclusive fishery zone, including declarations thereon, 1/ more than 20 legislative instruments have been received. The present publication has therefore been prepared with a view to updating the previously published compilation.

An examination of this series of national maritime legislation 10 years after the opening for signature of the United Nations Convention on the Law of the Sea (hereinafter referred to as "the Convention") reveals, first of all, that the concept of the exclusive economic zone which was introduced in the law of the sea by the Third United Nations Conference on the Law of the Sea has increasingly been accepted by States. 2/ The sui generis concept reflected a new trend among coastal States to assert further control over increased maritime areas (geographical claim), and to claim greater regulatory powers (functional claim).

Nevertheless, on some aspects, some of these legislations often diverge from the provisions on the exclusive economic zone embodied in the Convention (Part V, articles 55-75). It should be noted that several of these laws were adopted in the 1970s and were based on earlier versions of the text, particularly the informal single negotiating text. 3/ The legislative texts which establish fishing zones are not reflected in the present compilation; they have been published previously. 4/

As of 15 January 1993, 87 States have proclaimed an exclusive economic zone. Fifteen States still claim a fishery zone of 200 miles and four States a fishery zone between 12 and 15 miles.

1/ See United Nations Publication, Sales No. E.85.V.10, New York, June 1986.

2/ Not all relevant national legislation has been made available to the Secretary-General. The Secretary-General takes this opportunity to request States to provide him with copies of their maritime legislations.

3/ The informal single negotiating text, was prepared in 1975 by the Chairmen of the three main committees at the request of the President of the Conference. It was meant "to serve purely as a procedural device ... and only to provide a basis of negotiation".

4/ See footnote 1.

As can be seen from the nomenclature of their legislation, rather than a fishing zone, States tend more to claim an exclusive economic zone or economic zone, which, along with the claim of a territorial sea, includes the assertion of sovereign rights for all purposes, and particularly, fishing jurisdiction. It is limited only by the obligation to respect the traditional freedoms of communication at sea, i.e., navigation, overflight and laying of submarine cables and pipelines. Therefore, the claim to an exclusive economic zone makes fishery limits unnecessary. Yet some States prefer to enact exclusive fishery zones legislation, thus confining their claims to sovereign rights over the living resources (fish) to be found in the superjacent waters of the exclusive economic zone.

The exclusive economic zone -- a brief analysis

The United Nations Convention on the Law of the Sea gives coastal States the right to establish an exclusive economic zone which may extend to 200 nautical miles from the baselines from which the territorial sea is measured. The coastal State has sovereign rights over all the resources to be found in this zone and "with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds." The coastal State also has certain competences under the Convention which go beyond its sovereign rights over resources. These include jurisdiction with regard to the establishment and use of artificial islands, installations and structures; marine scientific research; and the protection and preservation of the marine environment.

Certain important rights have been preserved for other States in the exclusive economic zone -- rights which in fact belong to the international community, in contrast to those which belong to the coastal State. All States enjoy the freedom of navigation and overflight, as well as the freedom to lay submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines.

The exclusive economic zone is subject to a "specific regime". The regime is specific in the sense that the legal regime of the exclusive economic zone is different from both the territorial sea and the high seas. It is a zone which partakes of some of the characteristics of both regimes but belongs to neither.

Though coastal States have sovereign rights over the living resources of the exclusive economic zone, they also have certain duties regarding the conservation and management of these resources, in particular with respect to fisheries. Coastal States must ensure that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. Towards this end, the coastal State must adopt proper conservation and management measures. Such measures must ensure that the populations of harvested species are maintained or restored at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors.

The coastal State also has the obligation to promote the objective of optimum utilization of the total allowable catch which would permit a maximum sustainable yield in its zone. To this end it is empowered to determine the allowable catch of the living resources in the exclusive economic zone and to determine its own capacity to harvest those resources.

