

# Stemmed from the UN: Modern Maritime Law



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From the early 1800s to modern day, many legal articles have been formed regarding maritime law. More recently, the United Nations held a conference in 1982 that resulted in the UN Convention on the Law of the Sea (UNCLOS). This vital piece of international legislature has in turn created an important instrument in the judicial process for maritime law, the International Tribunal for the Law of the Sea (ITLOS). While examining the issues settled by ITLOS, critics also place issue with the Tribunal itself such as jurisdiction and sovereignty. Another large issue with maritime law in general involves the United States, in the fact that they have yet to ratify UNCLOS. This prevents the United States from participating in certain disputes that are pertinent to them. As tensions rise across the world, a few individuals in legislature are preventing the United States from adhering to UNCLOS. Many scholarly experts and politicians (bipartisan support), such as Dr. George K. Walker and President George W. Bush, advocate for ratification but the multiple attempts have been futile.

## UNCLOS: United Nations Convention on the Law of the Sea

The UN has hosted multiple conferences regarding maritime law, specifically three. Resulting from each conference were pieces of international legislation (UNCLOS). The most recent UNCLOS was a product that took over twenty years to create, beginning in 1973 until something was entered into force in 1982, plus the revisions from 1990 to 1994. There are 167 parties to UNCLOS, but notably, the United States of America has not ratified it. UNCLOS has 302 Articles (divided into seventeen Parts), nine Annexes, and an additional nine Annexes that are specific to Part XI (Articles 133-191). Maritime topics range from classifying oceanic zones to states' rights in regards to fishing, the environment, research, and even passage ways for freighters.

## ITLOS: International Tribunal for the Law of the Sea

Created by UNCLOS, specifically Article 287, ITLOS is one of the four venues for settling maritime disputes. Although it was planned in 1982, it was not in effect until 1996. It is composed of a panel of judges, who are considered experts in maritime law and come from various countries (based on rules to ensure geographic distribution/representation).



The other three venues in Article 287 are the International Court of Justice (ICJ), a general arbitration tribunal that meets the qualifications set by Annex VII of UNCLOS, and special tribunals based on specific topics outlined in Annex VIII of UNCLOS.

## ITLOS Quick Facts:

- Current President: Vladimir Vladimirovich Golitsyn (Russia)
- First Female Judge: Elsa Kelly (Argentina, 2011-present)
- Official languages: English & French
- 2015-2016 Annual Budget: approx. €18 million (approx. \$20 million)
- Budget funds are allocated from a trust fund

## EEZ: Exclusive Economic Zone

Defined as "whereby a coastal State assumes jurisdiction over the exploration and exploitation of marine resources in its adjacent section of the continental shelf, taken to be a band extending 200 miles from the shore." Many disputes have arisen over the years due to this principle. Lately, the South China Sea has been a hotbed for disputes regarding EEZs. (Definition from Organization for Economic Co-operation and Development)

## ITLOS:

- 20 years old (1996)
- 25 cases
- Narrow jurisdiction
- 21 judges
- Hamburg, Germany

## ICJ:

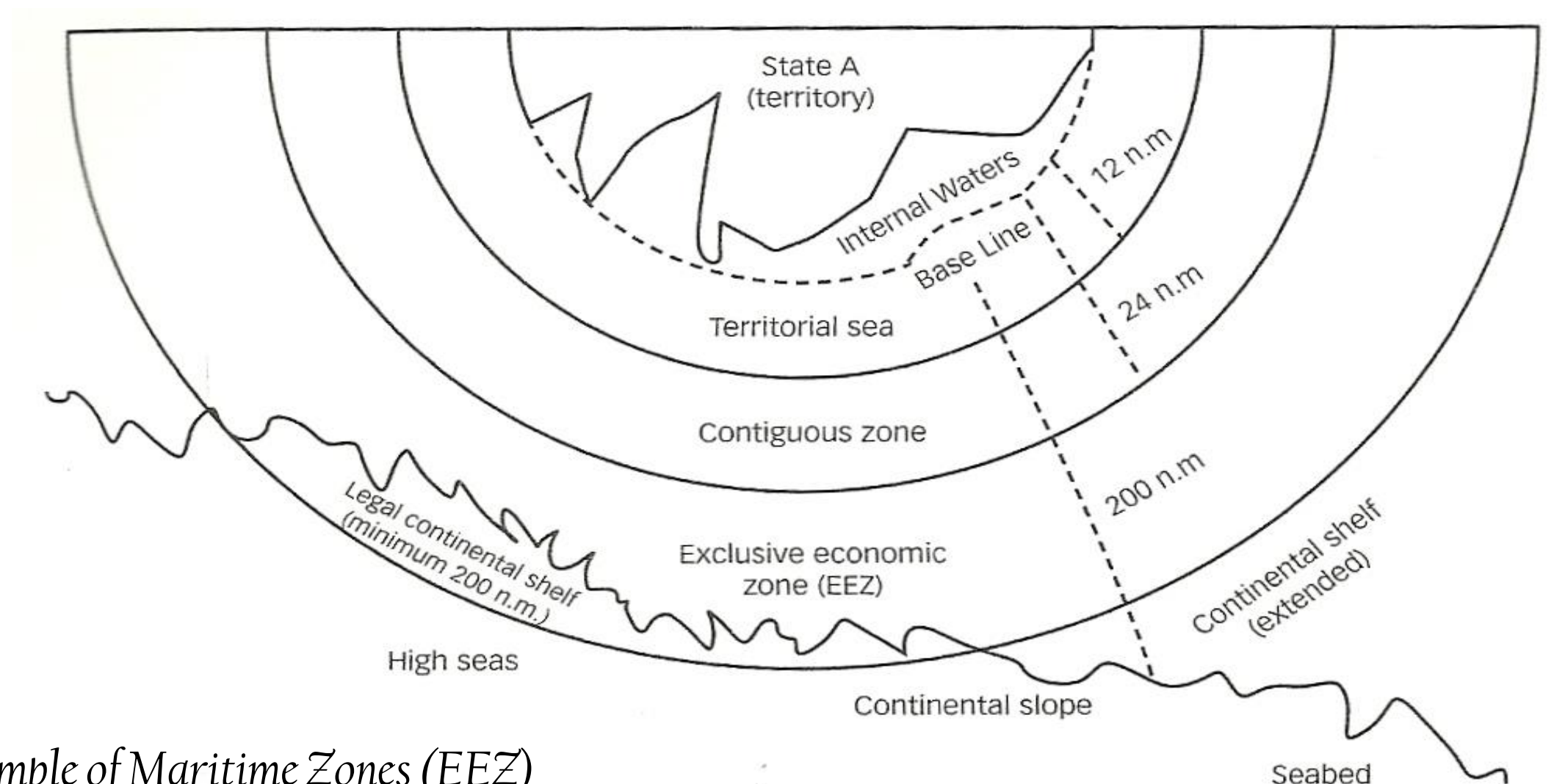
- 70 years old (1945)
- approx. 25 maritime cases
- Broad jurisdiction
- 15 judges
- The Hague, Netherlands

## Geographic distribution of ITLOS judges:

- Africa: 5
- Asia: 5
- Eastern Europe: 3
- Latin America and the Caribbean: 4
- Western Europe and other States: 4



ITLOS Judges



## The United States & UNCLOS

The US was a strong component in creating UNCLOS in 1982, however they never ratified it. At the time President Reagan accepted all of UNCLOS except for Part XI. That particular portion referred to economic and sovereign rights, President Reagan felt contradicted the American government and favored Communist states instead. Because the US never ratified UNCLOS, an agreement was made in 1994, with "amendments" in mind geared towards the US. President Reagan said it would be ratified, but again never was. Since then, a few conservatives in the Senate have thwarted multiple attempts for ratification, claiming the same reasons as President Reagan. In 2004, the Senate Foreign Relations Committee had endorsed the ratification. Later presidents such as George W. Bush (2007) and Barack Obama (2009) have urged the Senate to ratify, leading to bipartisan support in the modern times.

## Quote from Former Secretary of State, Hillary Clinton May 23, 2012

"Now, one could argue, that 20 years ago, 10 years ago, maybe even five years ago, joining the convention was important but not urgent. That is no longer the case today. Four new developments make our participation a matter of utmost security and economic urgency..."

(Her four points summarized: EEZ protection for oil/gas companies, resources from seabed mining, protecting/exploiting the Arctic, and US power/influence over other UNCLOS members if the US ratifies.)

