

Rights and Responsibilities of Parties under UNCLOS in the Exclusive Economic Zone (EEZ) and Continental Shelf

R. Bhanu Krishna Kiran

Kiran.ravella@gmail.com

- 1. Introduction**
- 2. Rights and Responsibilities of Parties in EEZ**
- 3. Rights and Responsibilities of Parties in Continental Shelf**
- 4. Balance of Rights and Responsibilities**
- 5. Responsibility of Parties to UNCLOS:
Basic Principles**
- 6. Conclusion**

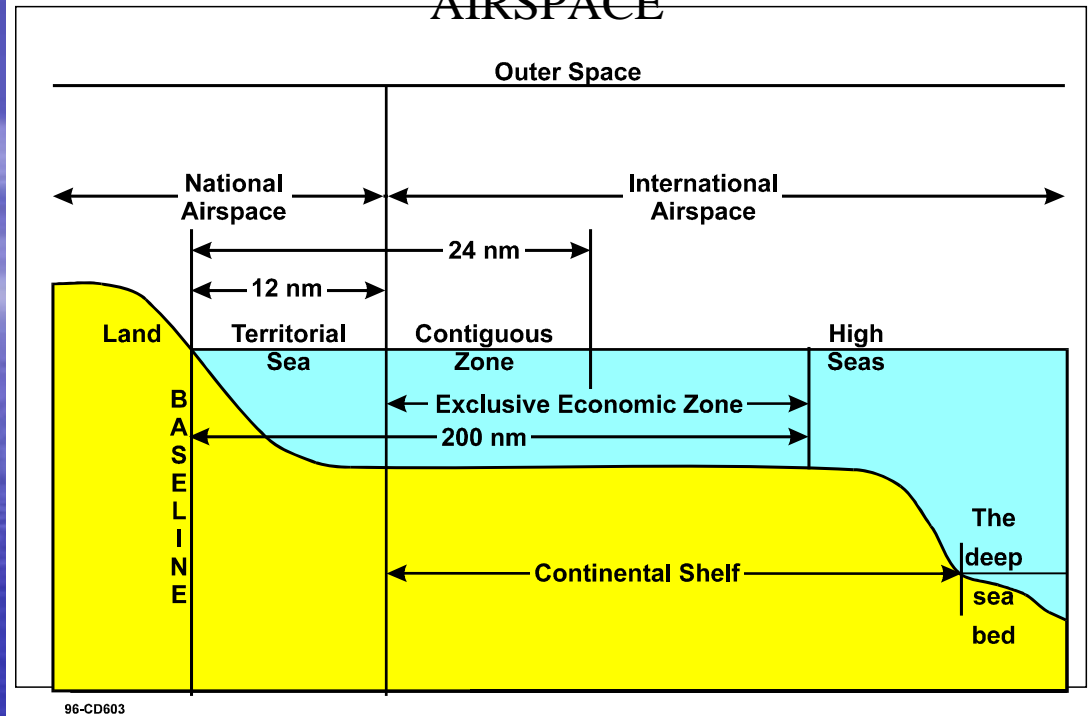
1. Introduction

- United Nations Convention on the Law of the Sea, 1982(UNCLOS) entered into force in 1994
- As of 4 May 2009, 158 States and EU are parties
- It establishes an EEZ and the Continental Shelf, and provides certain rights and responsibilities to parties
- Coastal States enjoy sovereign rights in these zones
- All states have navigational and other freedoms of communications
- Land-locked (LLS) and other Geographically Disadvantaged states (GDS) have specific rights: Participation in fisheries and marine scientific research

1.1 EEZ

- Part V (Articles 55-75)
- An area beyond and adjacent to the territorial sea. Article 55
- Not extend beyond 200 nautical miles (370 km) from the baselines from which the breadth of the territorial sea is measured. Article 57

LEGAL REGIMES OF THE OCEANS AND AIRSPACE



- If the sea is not open for the distance, agreements are to be made with opposite or adjacent coastal states. Article 74
- The coastal state has to publish charts showing the zone and deposit a copy with the UN Secretary General. Article 75 (2)

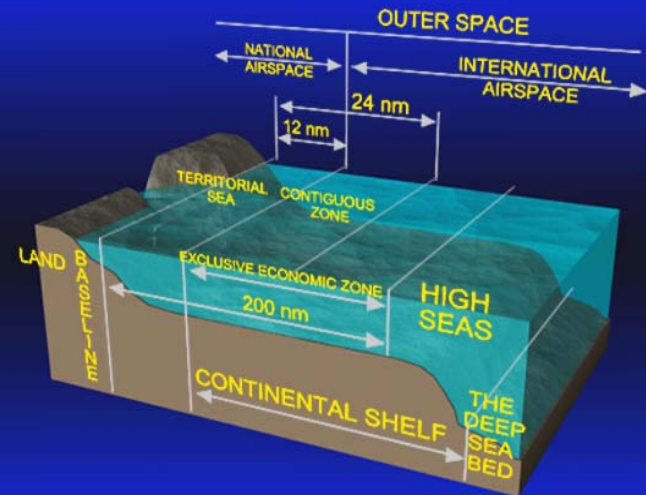
- It is neither part of the high seas nor subject to the sovereignty of the coastal state. Article 55 and Article 86
- It is an intermediate area
- The general concept of the EEZ has now become part of customary international law.
- In the *Libya/Malta Continental Shelf* case the ICJ said that it is "incontestable that ...the EEZ...is shown by the practice of States to have become part of customary law." *ICJ Reports*. 1985, 13 at 33.
- Confirmed in the *Franco-Canadian Fisheries* arbitration

1.2. Continental Shelf

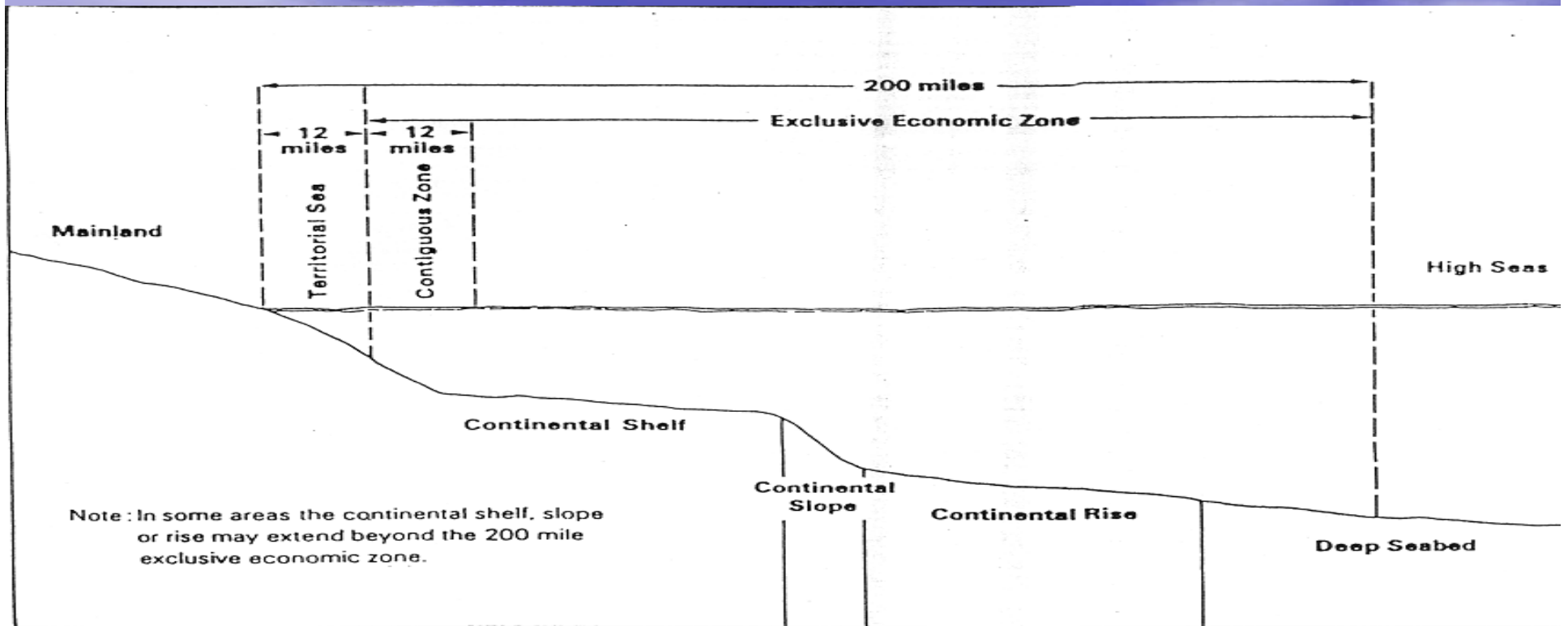
➤ Part VI, (Articles 76-85)

➤ It is defined as the natural prolongation of the land territory under the sea till the end of the continental margin.

LEGAL REGIMES OF OCEANS AND AIRSPACE AREA



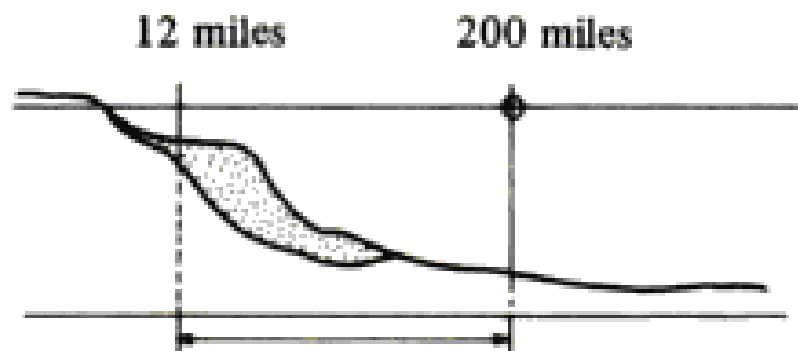
- The continental margin consists of the seabed and subsoil of the shelf, the slope and the rise.



- "It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof." Article 76 (2)
- Minimum and maximum width of 200 and 350 nautical miles

➤ The continental shelf of a coastal State comprises :

- the submerged prolongation of the land territory of the coastal State - the seabed and subsoil of the submarine areas that extend beyond its territorial sea to the outer edge of the continental margin, or
- to a distance of 200 nautical miles where the outer edge of the continental margin does not extend up to that distance. Article 76 (1)



(Art. 76, para. 1)

- In some cases, the outer limit of the continental margin can be located beyond 200 nautical miles. Article. 76(4) and (6).
- A coastal state may exercise sovereign rights to resources of the sea-bed beyond the territorial sea, even where an EEZ has not been established. The ICJ in the ***Libya/Malta Continental Shelf*** case said that there can be a continental shelf without an EEZ but there cannot be an EEZ without a continental shelf. *ICJ Reports*, 1985, 13 at 33.
- In the ***North Sea Continental Shelf case***, the International Court of Justice (ICJ) noted that: "the rights of the coastal state in respect of the area of continental shelf that constitutes a natural prolongation of its land territory into and under the sea exist *ipso facto and ab initio*, by virtue of its sovereignty over the land, and as an extension of it in an exercise of sovereign rights for the purpose of exploring the seabed and exploiting its natural resources. In short there is here an inherent right."

1.3. Distinction between the EEZ and the Continental shelf Zones

- Both are separate regimes
- The limits of the EEZ are not affected by geological and geomorphologic conditions.
- Continental shelf regime is intended for seabed and is affected by geological and geomorphologic conditions
- The continental shelf concept is dependent upon on the rise of the shelf and can basically be applied only up to a certain depth of the sea bed
- The EEZ's outer limits are in terms of the distance from the baselines of the coast, regardless of the depth of the water

- A state party has to proclaim an EEZ, whereas the continental shelf rights exist for the coastal state independent of any proclamation or occupation. Article. 77(3)
- If the two legal regimes EEZ and continental shelf exist: Sea-bed of the EEZ is the "primary sea-bed," and sea-bed beyond the limits of the EEZ is the "outer shelf."
- Primary seabed is governed by the EEZ regime, with reference to continental shelf provisions. (Article.56 (3).) The outer shelf would be governed by Part VI for the continental shelf only.

2. Rights and Responsibilities of Parties in EEZ

2.1 Rights and Responsibilities of Coastal State

2.1.1 Rights

- **Economic**: Sovereign right to explore, exploit, conserve, and manage living and non-living resources of water column, seabed and subsea strata; and Right to economic activities, such as the production of energy from the water, currents and winds; Article 56(1) (a)
- **Exclusive** right to construct and establish artificial islands and installations Article.56 (1) (b) and Article.60 (1)
- **Jurisdictional** rights over artificial structures, marine scientific research, and marine environmental protection; Article 56(1) (b)

Other Rights

➤ Article 56(1)(c)

“other rights and duties provided for in this Convention”

- Rights related to the contiguous zone. Article 56(1) (c), Article 33 (Overlapping of contiguous zone up to 12 nautical miles in EEZ)
- Right of hot pursuit. Article 111(2)
- Right of laying submarine cables and pipe lines on the continental shelf. Article 79
- Drilling on the continental shelf for all purposes. Article 81
- Exploiting the subsoil by means of tunnelling, irrespective of depth of water above the subsoil. Article 85

Artificial Structures

- Exclusive jurisdiction over its own structures and jurisdiction for customs, fiscal, health, safety and immigration over all structures. Article 60(2)

Marine scientific research

- Right to regulate, authorize, and conduct marine scientific research. Article 246
- Right to suspension or cessation of marine scientific research activities. Article 253

Marine environmental protection

- Right to permit, regulate and control dumping. Article 210(5)
- **Right to enforce** the relevant laws and regulations with respect to pollution by **dumping**. Article 216(1) (a).
- Right to enforce **pollution laws** and regulations which conform to generally accepted international rules and standards. Article. 220(3)
- Right to adopt, special discharge and navigational requirements for special area. Article 211(6) (subject to IMO approval)
- Right to prosecute foreign vessels where an actual pollution discharge has occurred. Article 220
- Right to apply pollution prevention and control measures in ice-covered waters. Article 234

Fishing

- Right to establish the regulations for nationals of other states fishing in their EEZ Article 62(4).
- Right to establish regulations on equipment, areas, and seasons for fishing. Article 62(4).
- Special rights to establish conservation measures for marine mammals, anadromous and catadromous stocks. Articles 65-67
- Right to institute cooperative measures regarding straddling stocks and highly migratory species. Article 64
- Right to pass and enforce its laws for the purpose of conserving and managing living resources e.g. to inspect, arrest and institute proceedings against transgressors; Article. 73(1)

2.1.2. Responsibilities

Due Regard

- Due regard to the rights and duties of other states; Article 56(2) i.e. observe rights and duties of other states
- Duty to act in a manner compatible with the provisions of the UNCLOS; Article 56(2)

Marine Scientific Research

- Duty to adopt reasonable rules and regulations to facilitate marine scientific research and assist research vessels. Article 255

➤ Non interference with the shipping

- Obligation to deploy and use any type of scientific research installation or equipment shall not constitute an obstacle to established international shipping route. Article 261

- Responsibility to give identification marks and warning signals regarding the scientific installations or equipment to ensure the safety of navigation. Article 262

➤ Responsible and liable for damage caused by pollution of the marine environment arising out of marine scientific research. Article 263(3) and Article 235.

➤ Promote international cooperation in marine scientific research for peaceful purposes Article 242(1)

➤ Create favourable conditions to study the processes occurring in the marine environment through bilateral and multilateral agreements. Article 243.

Conservation

- Conservation and management measures of natural resources. Article 56(1)(a)
 - Ensure that the living resources in the EEZ are not endangered by over exploitation Article.61 (2)
 - Promote the objective of **optimum utilization** of the living resources. 62(1)
 - Conservation of dependent and associated species. Article. 61(4)
 - To ensure sustainable harvesting of species. Article (61) (3)
 - Give due to notice of conservation and management of laws and regulations. Article 62(5).

Marine Environment Protection

- Duty to protect and preserve the marine environment .Articles 192-237
- Coastal state is responsible and liable for damage to the marine environment. Article 304

Fishing

- Obligation to exchange available scientific information on catch and fishing effort with competent international organizations. Article. 61(5)
- Cooperate with the coastal states whose EEZs overlap with that of coastal state to coordinate management measures in respect of the shared stocks. Article 63

Installations

- Duty to notify the parties in relation to construction of artificial islands and other Installations. There should also be permanent means of giving warning to other states of the existence of such islands Article. (60) (3)
- To remove abandoned installation structures. Where the entire structure is not removed, the coastal state is obligated to give due notice of its position, depth, and dimensions. Article. 60(3)
- To take care in such a way that these structures are not erected in recognized international sea lanes. Article. 60(7)

Safety Information

- The coastal state has to provide vessels passing through its EEZ with adequate charting and maritime safety information. Article.

Safeguards against undue detention

- Coastal states have to follow safeguards against undue detention, such as:
 - Arrested vessels and crew are to be promptly released if a reasonable bond or other security is posted.
 - No non-monetary penalties for violations of fisheries laws: No imprisonment, or any other forms of corporal punishment.
 - If a foreign fishing vessel is arrested, the coastal state has to promptly notify the flag state. Article. 73(2) to (4)

LLS and GDS

- To give access to LLS and GDS the surplus to allowable catch
A.62 (2)

2.2. Rights and Responsibilities of User States

2.2.1 Rights

Frederoms

- Freedom of navigation; Articles 58(1), 87, 58(2), 88-115
- Freedom of overflight , if compatible with the convention (e.g. Article 222, Pollution)
- Freedom to lay submarine cables and pipelines: consent for routing required Articles 56 (3), 58 (1); 79, 112-115

Fishing

- Accessed through the agreements Article 62

Scientific research

With the consent of the coastal state MSR can be conducted
Article.246 (2).

Right of visit

- Any ship can be boarded in EEZ if there is reasonable ground for suspecting that: Article 110
 - It is engaged in piracy
 - It is engaged in slave trade
 - It is engaged in unauthorized broadcasting
 - It is without nationality

LLS and GDS

- Right to exploit the surplus regarding living resources Article .62, 69, 70
- Freedom of navigation, over-flight, laying of submarine cables

2.2.2. Responsibilities

Due Regard

- Rights and duties comply with the laws and regulations adopted by the coastal state in accordance with the provisions of UNCLOS and other rules of international law
- To observe laws of coastal states passed in accordance with the convention Article. 58(3)

Marine Scientific Research

- Responsibility to provide full details of the research project undertaken to the coastal states. Article 248.

➤ Duty to comply with certain conditions like participation of coastal state, providing preliminary reports and final results to coastal state, access of all data and samples to coastal state etc.

Article 249

➤ User states undertaking a pure research project in the EEZ of a coastal state must notify neighboring LLS and GDS of the project.

Article 254,

➤ Duty to respect the safety zones created around scientific research installations of coastal state. Article 260

➤ Responsible and liable for damage caused by pollution of the marine environment arising out of marine scientific research.

Article 263(3) and Article 235.

Abide by conservation measures

➤ Nationals of other states that engage in fishing activities in the EEZ are required to comply with conservation measures and other terms and conditions specified in the laws and regulations of the coastal state. (Article. 62)

Cooperation

➤ Cooperate to the fullest possible extent in the repression of piracy, illicit traffic in narcotic drugs and psychotropic substances, suppression of unauthorized broadcasting in the EEZ. Art. 58(2), 101, 108, 109

3. Rights and Responsibilities of Parties in Continental Shelf

3.1. Rights and Responsibilities of Coastal State

3.1.1. Rights

➤ Rights pertain to sea-bed and subsea strata, not to super-adjacent water column. Water column rights covered by EEZ

Inherent Right

➤ Right to explore and exploit living, "sedentary" species, (E.g. life forms such as clams, crabs, corals, scallops, sponges, and mollusks) Article 77(4), 68

➤ Right to explore and exploit non-living resources of the seabed and subsoil of the continental shelf, (E.g. minerals such as ferromanganese crusts, ferromanganese nodules, gas hydrate deposits, and petroleum) Article 77(4)

➤ If the coastal state does not explore or exploit its natural resources, no one may undertake these activities without the consent of the state. Article 77(2)

▪ The ICJ observed in the ***North Sea Continental Shelf cases***: " - - if the coastal state does not choose to explore or exploit the areas of shelf appertaining to it, that its own affair, but no one also may do so without its express consent." (ICJ Reports, 1969, p. 22)

Control

- Exclusive control over marine scientific research on the seabed of outer shelf. Consent of the state is required for other states. Article 246 (2)
- Control over the construction, operation and use of artificial islands, installations and structures. Article. 60, 80
- Control over the setting down of the course for laying pipelines. Article 79

Drilling and Mining

- Exclusive right to authorize and regulate drilling and mining; Article 81, 56(3)
- Coastal state has right to exploit the subsoil by means of tunneling. Article 85.

Right to adopt laws and regulations

- Regarding exploration and exploitation of minerals, other non-living resources, and sedentary species (Art. 77).
- Concerning pollution from pipelines, seabed activities, dumping, artificial islands. Article 208.

3.1.2. Responsibilities

- Not to interfere with navigational rights of other states. Article 78(2)
- Need to respect freedoms of pipeline and cable laying. Article 79(2)
- Any mining that occurs on the outer limits of the continental shelf (i.e. beyond the 200 miles zone), will need to be accounted for and a proportion paid to the ISBA. Article 82
- The coastal state has to provide vessels passing through its outer limit lines of the continental shelf with adequate charting and maritime safety information. Article 84.

3.2. Rights and Responsibilities of User States

3.2.1. Rights (Outer Shelf)

- Freedom of navigation. Article 87
- Freedom overflight. Article 87
- Right to lay submarine cables and pipelines: Free but consent for routing required. Article 79
- Right to fishing. Articles 87, 116-120, except sedentary species. Article 77 (4)
- Right to do marine scientific research. Water column. Article. 87. Consent required for sea bed. Article. 246 (2)

3.2.2. *Responsibilities*

- Due regard to the rights of coastal state
- To take the consent of the coastal state for delineation of the course for the laying of such pipelines. Article. 79(3)
- To take the consent of the coastal state for scientific research on sea bed. Article 246 (2)
- Coastal state may not withhold permission for MSR in outer shelf unless they have been designated as areas within which exploitation or exploration is being undertaken within a reasonable period of time. Article 246(6)

4. Balance of Rights and Responsibilities of Parties

4.1 Military Activities

- The controversial question: Whether military activities can be conducted in EEZ of another state
- Military activities include exercises, naval maneuvers, conducting surveys, operating military devices, ship and aircraft operations, and launching and landing of air craft
- Article 58 (1), which guarantees 'internationally lawful uses of the seas related to these freedoms ... with the operation of ships, aircraft...' is intended to facilitate military navigation

➤ States have right to carry out military activities but with limitations

➤ Limitations (Beckman)

Peaceful Purposes

➤ Article 301, Article 58(2) and Article 88

▪ Article 301: “In exercising their rights and performing their duties under this Convention, States Parties shall **refrain from any threat or use of force** against the territorial integrity or political independence of any State, or in any manner inconsistent with the principles of international law embodied in the **Charter of the United Nations**”

▪ Article 2(4) of UN Charter: "All Members shall **refrain** in their international relations from the **threat or use of force** against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

▪ Article 58(2) of UNCLOS: "Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone - - - "

▪ Article 88: "The high seas shall be reserved for **peaceful purposes.**"

➤ EEZ must be used for peaceful purposes with reference to Article 88 and Article 301

Due Regard

➤ States must have "due regard". Article 56(2) and Article 58(3)

Article 58(3): "In exercising its rights and performing its duties under the Convention in the exclusive economic zone, **States shall have due regard to the rights and duties of the coastal States** and shall comply with the laws and regulations adopted by coastal state in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this part."

➤ State engaging military activities can not reasonably interfere with the right of coastal state to explore and exploit natural resources of EEZ

- Military exercises like firing of weapons can not be done in
 - Fishing areas, particular sensitive area, or near artificial islands
 - Marine areas declared to protect fragile eco systems as well as habitat of depleted and threatened and endangered species. Article 194(5)
 - The areas with special circumstances adopted on technical reasons in relation to oceanographical and ecological conditions
 - The areas with special circumstances adopted for the utilization or protection of resources. Article 211 (6) (a)
- *Abuse of Rights*
- States must not do so in a manner, which would constitute an abuse of their rights. Article 300

Obligation to Cooperate

- It is a fundamental principle in the prevention of pollution of the marine environment under Part XII of the UNCLOS. Article 197
- The ITLOS established it in *MOX Plant case (Ireland vs. UK)*.
- It arises when planned activities within the jurisdiction or control of one state pose a significant risk to the environment of other states
- *sic utere tuo ut alienum non laedas*: The principle that one should not use one's property in such a way as to injure one's neighbour
- Precedents like the *Corfu Channel Case* and the *Trail Smelter case* seem to be central in highlighting the principle

➤ General principles of international law

▪ 1972 Stockholm Declaration

▪ Principle 21: "States have in accordance with the Charter of the United Nations and the principles of international law, the sovereign rights to exploit their own resources pursuant to their own environmental policies and the **responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States, or to areas beyond the limits of natural jurisdiction**"

▪ Principle 7: "States shall take **all possible steps to prevent pollution to the seas** by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea"

■ Article 30 of the Charter of Economic Rights and Duties of States, 1974

■ " - - - - . **All States have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.** All States should co-operate in evolving international norms and regulations in the field of the environment."

■ Article 194(2) of the UNCLOS

"States shall take all measures necessary to ensure the activities under the jurisdiction or control are so conducted as **not to cause damage by pollution** to other States and their environment, and that pollution arising from incidents or activities under their **jurisdiction or control does not spread beyond the areas** where they exercise sovereign rights in accordance with this Convention."

- Underwater explosions, live weapons fire, use of radioactive materials directly or indirectly damage marine environment
- State undertaking military activity has to inform and to consult
- In cases of serious harm to the natural resources and environment - an obligation to cooperate
- Unexpected military activities prevents the fishing activities where the licenses were granted
 - Article 59: "-----the conflict should be resolved on the basis of equity and in the light of all relevant circumstances, taking into account the respective importance of the interest involved to the parties as well as to the international community as a whole."
 - Operations with weapons, the balance of interests established by Article 59 would in most cases play in favor of the coastal state (Professor Scovazzi)

4.2. Marine Scientific Research (MSR):

Military Surveys

- Hydrographic, oceanographic, geological, geophysical, chemical, biological and acoustic data
- Hydrographic surveying is the mapping of the sea floor in order to facilitate the navigational safety
- Hydrographic surveys are inherently different from marine scientific research.
- Use by the military not by the general scientific community
- Clear regime for MSR, no specific provision for hydrographic surveying

- Article 19(j) restricts the carrying out of research and survey activities in territorial sea.
- Distinct from MSR and not restricted
- China lodged protests over the military surveys by *USNS Bowditch* in the Yellow sea in 2000 and 2002
- In 2001, India lodged protests with US and UK over violations of its EEZ by *USNS Bowditch* and *HMS Scott*
- Recently USNS Impeccable in South China Sea
- The act should not be MSR under the jurisdiction of the coastal state. Consequently, the act should not be resource-related or is not done for scientific purposes

➤ If they undertake activities like use of explosives, introduction of harmful substances into the marine environment or drilling into the continental shelf, that would be MSR under the coastal state jurisdiction

➤ Activity that "involve **drilling** into the continental shelf, the use of explosives, or the introduction of **harmful substances** into the marine environment" need the consent of coastal state.
Article 246(5)(b)

➤ Article 240(a): "marine scientific research shall be conducted for peaceful purposes."

➤ Article 246(3) also provides for the same limitation exclusively for peaceful purposes to grant research projects

➤ Article 211 permitting the coastal states to establish rules on pollution from vessels

- The coastal state under Article 88 and Article 211 would be justified in prohibiting a military activity which causes damage to marine environment
- The military surveys are part of the high seas freedoms of navigation and other internationally lawful uses of the sea related to those freedoms
- Must be conducted with due regard to the rights and duties of the coastal State

4.3. Vessel Source Pollution

- Shipping will be affected by the coastal state's control over vessel-source pollution
- No. of provisions in the UNCLOS to restrict
 1. Legislative jurisdiction: Rules for pollution control (Article 211(5)) and regulations related to design, manning and equipment are constrained by the requirement that international rules and standards are to be applied
 2. Enforcement jurisdiction: inspection, detention and institution of proceedings
 3. Continued detention of vessels and crews, beyond what is required for investigation is discouraged

- Flag State's right of pre-emption which enable the flag state to take over the proceedings itself. Article 228 (1)
- Under Article 297 (1) (c), compulsory dispute settlement procedure is to be applied when a coastal state has acted in violation of specified international rules and standards of the protection and preservation of marine environment
- Other safeguards
 - Procedures for investigation, financial security, release of vessels. Article 226
 - Establishment of monetary penalties. Article 230
 - Notification to flag states and other states concerned
 - Recourse through national courts for loss of unlawful enforcement measures. Article 232

4.4. Fishing

- Duty for a coastal country to share the surplus of the allowable catch, may be indirectly waived
- Art. 297 (3) (a): "Disputes concerning the interpretation or application of the provisions of UNCLOS with regard to fisheries should be settled in accordance with section 2 of the Convention." However, it further reads that "the coastal state is not obliged to accept the submission to such settlement of any dispute relating to its sovereign rights with respect to the living resources in the EEZ or their exercise, **including its discretionary powers for determining the allowable catch**, its harvesting capacity, the allocation of surpluses to other states and the terms and conditions established in its conservation and management laws and regulations."
- Other countries have no efficient legal mechanism.

4.5 Creeping Jurisdiction

- Article 78 (2), says “the exercise of the rights of the coastal States over the continental shelf must not infringe or result in any **unjustifiable** interference with navigation and other rights and freedoms of other States...”
- Not viable, some freedoms will automatically be infringed in order to access resources
- Question of discretion with the word “unjustifiable”
- Expansion of jurisdiction hampers freedom navigation
- Offshore petroleum at outer shelf affects freedom navigation

5. Responsibility of Parties to UNCLOS: Basic Principles

➤ States legislations and UNCLOS

- "A State which has contracted valid international obligations is bound to make in its legislation such modifications as may be necessary to ensure the fulfillment of the obligations undertaken."
(Exchange of Greek and Turkish Populations, Advisory Opinion, 1925 PCIJ Ser. B, No. 10, at 20.)
- Section 7 (6) and (7), The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 of India
- Section 6 (4) and (5), Territorial Waters and Maritime Zones Act, 1976, of Pakistan

- Section 5.1(1), Section 5.4, Section 13.1(1.8) of Migratory Birds Convention Act, 1994 of Canada
- EU Directive on Ship Source Pollution, 2005
- Parties obligation to meet the terms of UNCLOS with good faith
- Chorzow Factory Case** : “It is a principle of international law, and even a general conception of law, that any breach of an engagement involves an obligation to make reparation.” (PCIJ Series A, no. 17, 1928, p.29.)
- The Preamble of the United Nations Charter: “We the people of the United Nations determined - - - - - to establish conditions under which justice and **respect for the obligation arising from treaties and other sources of international law** can be maintained.”

➤ The Draft Declaration of the Rights and Duties of the States, 1949

▪ Article 13: "Every State has the **duty to carry out in good faith** its obligations arising from treaties and other sources of international law, and it may not invoke provisions in its constitution or its laws as an excuse for failure to perform this duty."

▪ Article 14: "Every State has the duty to conduct its relations with other states in accordance with international law and with the principle that the sovereignty of each state is subject to the supremacy of international law."

➤ Articles 26 and 27 of the Vienna Convention on Law of Treaties

▪ Article 26 approves the norm ***pacta sunt servanda***: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith."

▪ Article 27: "[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."

➤ "States Parties shall **fulfill in good faith the obligations** assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right." Article 300 of UNCLOS

➤ Declaration of Principles of International Law concerning friendly relations and cooperation among states (Resolution 2625): "States have the duty to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and **international co-operation** free from discrimination based on such differences."

- Peaceful settlement of disputes: Article 33 of the UN Charter
Negotiations, Enquiry, Mediation, Conciliation, Arbitration,
Judicial settlement, Resort to regional agencies or
arrangements
- The compulsory dispute settlement scheme provided for in Part
XV. Articles 279-281
- Principle of equivalence and reasonableness
- Preamble last paragraph: "Matters not regulated by UNCLOS
continued to be governed by rules and principles of international
law."
- Article 38(1) of the Statute of ICJ

6. Conclusion

- User state's and coastal state's objectives are different
- Failure to distinguish clearly between sovereignty and sovereign rights.
- "Sovereign rights" concerned with functional jurisdiction
- Maintaining the balance in a reasonable and equitable manner
- Undefined terms: mutual understanding and sincere negotiations
- States responsibility to guarantee the basic aims of UNCLOS
- General principles of international law: good faith and international cooperation