



Master Programme in European and  
International Law

winter term 2004

Public International Law  
(VAK 06-009)

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## Law of the Sea and International Marine Environmental Law

### Oceans

- 71% of the world surface is covered by water
- 1845: First attempt for a structure of the oceans by the Royal Geographical Society, London
  - Atlantic Ocean
  - Pacific Ocean
  - Indic Ocean
  - Arctic Ocean
  - Antarctic Ocean

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## Law of the Sea and International Marine Environmental Law

400 years  
“Freedom of the High  
Seas”



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## Law of the Sea and International Marine Environmental Law

### History

- 1594: Gerhard Mercator (Proportion of water covered areas to land)
- 1609: Hugo Grotius (*Mare liberum*)
- 1618: John Selden (*Mare clausum*)
- 1702: Cornelius van Bynkershoek (*De dominio maris dissertatio*)
- **1858: Convention on the High Seas**
- 1868: Johann Caspar Bluntschli (Freedom of the High Seas)

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## Law of the Sea and International Marine Environmental Law

### Freedom of the High Seas

- Military interests
  - Blockade (e.g. during World War I and II)
- Economic interests
  - Exploitation of mineral resources (e.g. oil, gas, etc.)
  - Industrial fishery
  - Activities in the sea-bed and ocean floor (e.g. mining)
- Environmental interests

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## Law of the Sea and International Marine Environmental Law

### Law of the Sea Conventions

- Law of the Sea Conventions, 1958
  - Convention on the Territorial Sea and the Contiguous Zone
  - Convention on the High Seas
  - Convention on Fishing and Conservation of the Living Resources of the High Seas
  - Convention on the Continental Shelf
- United Nations Convention on the Law of the Sea (UNCLOS), 1982

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Structure of the Ocean  
[according to the 1982 UNCLOS]

- [Internal Waters]
- Territorial Sea
- Contiguous Zone
- **Exclusive Economic Zone**
- Continental Shelf
- High Seas
- **The Area**

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Territorial Sea

Art. 3: "Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from the baselines [low-water line along the coast] determined in accordance with this convention".

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Contiguous Zone

Art. 33 (2): "The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured".

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Exclusive Economic Zone

Art. 57: "The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured".

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Continental Shelf

Art. 76: "The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance".

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High Seas

Art. 86: "The provisions of this Part [High Seas] apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, [...]".

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### The Area

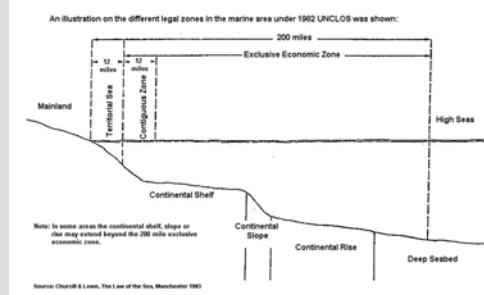
Art. 1 (1): "Area means the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction".

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## Law of the Sea and International Marine Environmental Law

### *res communis*

The *res communis* (High Seas) may not be subjected to the sovereignty of any state and states are bound to refrain from any acts which might adversely affect the use of the high seas by other states or their nationals.

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### High Seas Freedoms

Art. 87 UNCLOS: "The high seas are open to all States, whether coastal or land-locked. [...] It comprises, *inter alia*, both for coastal and land-locked States:

- (a) freedom of navigation; [...]
- (e) freedom of fishing, subject to the conditions laid down in section 2;
- (f) freedom of scientific research, subject to Parts VI and XIII."

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## Law of the Sea and International Marine Environmental Law

### General obligation

Art. 192 UNCLOS: "States have the obligations to protect and preserve the marine environment".

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## Law of the Sea and International Marine Environmental Law

### Sovereign right of States

Art. 193 UNCLOS: "States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment".

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Balance of Interests

general obligation  
(Interest to protect the environment)

vs.

Freedoms of the high seas  
(navigation, fishing, etc.)

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Video Presentation

**Protecting our Sea –  
HELCOM and the Baltic**

2003

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