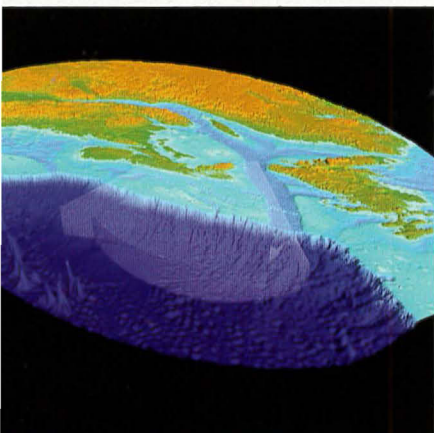




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CANADA'S OCEANS ESTATE

A Description of Canada's Maritime Zones

Introduction:

The intention of this paper is to provide a general description of maritime zones. It is not the object of the paper to enter into complicated scientific, technical or legal descriptions which are often needed to fully understand some horizontal and vertical measurement characteristics which are the responsibility of Foreign Affairs and International Trade Canada [DFAIT], the Geological Survey of Canada [NRCan], the Canadian Hydrographic Service [DFO], and Justice Canada on occasion.

The surface area of Canada's oceans estate is approximately 7.1 million square kilometres.

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) provides a description of maritime zones. Canada contributed significantly to the negotiation of UNCLOS and ratified the Convention in 2003. Termed the "Constitution of the Oceans", UNCLOS sets out the framework for areas in which states have jurisdiction and sovereign rights, which diminish as one moves away from its coast.

The main elements of this system are:

The Baselines:

Measurements of areas of the sea are made from baselines. The normal baseline is the low-water line along the coast, islands, rocks and even low-tide elevations as marked on large-scale charts officially recognized by the coastal state. Where a coast, such as Canada's, is very irregular, straight baselines joining appropriate points on the coast may be drawn.

Basically, all marine areas seaward of the baseline are considered 'offshore' and all marine areas landward of the baselines are considered 'internal waters'.

Canada's straight baselines have been drawn using a list of reference-points permitted under UNCLOS. These are set out in regulations which were made under the *Territorial Sea and Fishing Zones Act* now subsumed by the *Oceans Act*. The latitude and longitude of each baseline reference point is described in these regulations, and each position is related to the referenced chart from which it was derived. There are a few places along Canada's coast where baselines have not been drawn due to international legal considerations. In these places, Canada has drawn 'fisheries closing lines' (Bay of Fundy, Gulf of St. Lawrence, for example). The USA and the EU dispute Canada's straight baselines enclosing the Arctic Archipelago.



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Internal Waters:

Internal waters are generally treated in the same way as land territory in terms of the coastal state having full sovereignty. There are a few minor exceptions described in UNCLOS. Internal waters are defined as being those waters landward of baselines established for determining the location of the territorial sea. The internal waters of Canada consist of all the areas of the sea on the landward side of the baselines of the territorial sea of Canada or those areas over which Canada has historic or other title of sovereignty. In general terms, all lakes, rivers and harbours are internal waters, including some, but not all, bays.

Canada's internal marine waters have a surface area of approximately 2.5 million square kilometres.

The Territorial Sea:

The territorial sea is an area of the sea which has an outer limit extending 12 nautical miles measured seaward from the baselines. The coastal state exercises sovereignty in this area which extends to the airspace, sea-bed and sub-soil; in this respect, the territorial sea is akin to a state's land territory. Ships of all states enjoy the right of innocent passage through the territorial sea.

Canada has exercised jurisdiction over the territorial sea on its east and west coasts out to 12 nautical miles since 1970, first under the *Territorial Sea and Fishing Zones Act* and now under the *Oceans Act*. The baselines for measuring the territorial sea were originally set in 1967.

Canada's territorial sea has a surface area of approximately 0.2 million square kilometres.

The Contiguous Zone:

The contiguous zone is an area of the sea beyond and adjacent to the territorial sea and has an outer limit measuring 24 nautical miles from the baseline. This band of the sea is considered a buffer zone where the coastal state may exercise control to prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea. The coastal state can also punish such infringements.

The contiguous zone is located within the first 12 nautical miles of the exclusive economic zone.

The Exclusive Economic Zone:

The Exclusive Economic Zone (EEZ) is an area of the sea beyond and adjacent to the territorial sea extending out to 200 nautical miles from the baselines.

Within the EEZ, a coastal state has sovereign rights for the purpose of exploring and exploiting, conserving and managing living and non-living natural resources of the waters superjacent to the seabed and of the seabed and its subsoil, as well as jurisdictional rights with regard to other activities for the economic exploitation and exploration of the zone (eg: over marine scientific research and protection of the marine environment). States other than the coastal state enjoy certain freedoms, notably, freedoms of navigation and overflight.

Canada has exercised its 200 nautical mile fisheries jurisdiction since 1977.

Canada's EEZ was formally "established" in 1997 when the *Oceans Act* entered into force and has a surface area of approximately 2.9 million square kilometres.

Canada's Oceans Estate



As well, of particular importance to Canada is Article 234 of UNCLOS, which allows Canada to enforce a strict pollution prevention regime in the Arctic EEZ. Negotiated into UNCLOS by Canada as the "Arctic Clause", Article 234 is a specific provision concerning the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the EEZ. Under the provisions of the *Arctic Waters Pollution Prevention Act*, Canada currently exercises pollution jurisdiction to 100 nautical miles and is considering extending it to 200 nautical miles.

The Continental Shelf:

In simple terms, the continental shelf of a coastal state comprises the seabed 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, whichever distance is greater.

Article 76 of UNCLOS provides a complex formula for determining the outer limit of a state's continental shelf beyond 200 miles. The determination depends on the thickness of sedimentary rocks, which underlines the idea that the shelf is the natural prolongation of a state's land territory. The maximum limit is 350 nautical miles from the baselines or 100 nautical miles from the 2500 metre isobath, whichever is greater.

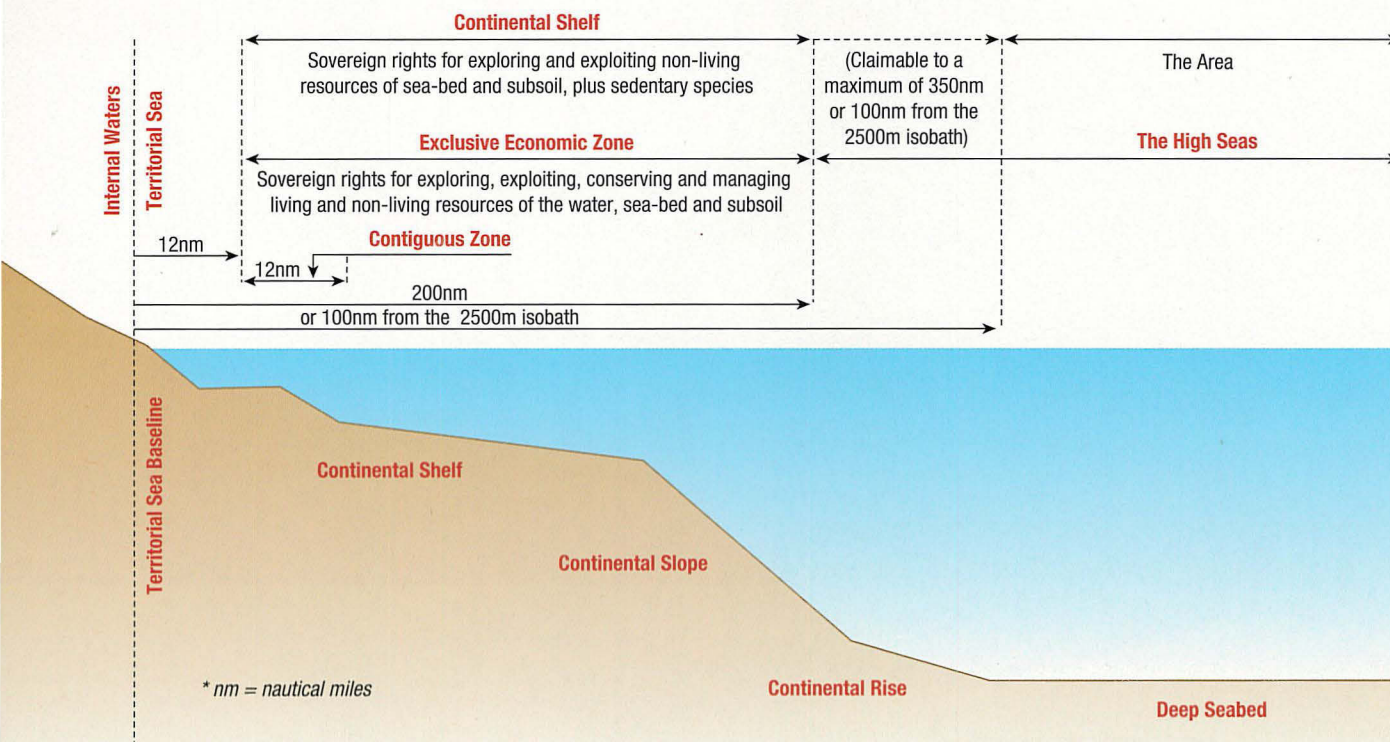
If a coastal state's continental shelf extends beyond 200 nautical miles from the baselines, it must submit the scientific, technical and legal details in relation to the limits of its continental shelf to the Commission on the Limits of the Continental Shelf (the Commission), which is a United Nations body established under UNCLOS. The Commission will make recommendations to the coastal state regarding the establishment of its outer limit. The coastal state has ten years from the time that UNCLOS came into force for that state to present this information to the Commission.

Canada is currently collecting and analyzing scientific, technical and legal information in preparation to make such a submission to the Commission. It is estimated that Canada's continental shelf beyond the EEZ represents an area of about 1.5 million square kilometres on the Atlantic and Arctic coasts. Canada has no extended continental shelf in the Pacific. Since Canada ratified UNCLOS in 2003, it has until 2013 to present its information to the Commission.

High Seas:

This is the area beyond the EEZ. No state has sovereignty or jurisdiction over the high seas. Indeed, UNCLOS specifically provides that no state may purport to subject any area of the high seas to its sovereignty.

Maritime Zones



The Area:

This is the ocean floor beyond the continental shelf and, in accordance with UNCLOS, is the common heritage of mankind. No single state has sovereign rights or jurisdiction over it. Rather, activities in the Area are organized by all states through the International Seabed Authority (the Authority), which is constituted pursuant to UNCLOS. The Authority is the organization through which states parties to UNCLOS are to manage the mineral resources of the Area. The ultimate objective is that benefits derived from mining of the minerals from the seabed by way of royalties paid to the Authority will be distributed primarily to developing states.

As well, the Authority will distribute royalties paid for the exploitation of non-living resources of the continental shelf beyond 200 nautical miles.

For more information, please visit the following Web site:

www.dfo-mpo.gc.ca