

THE WHITE HOUSE
Office of the Press Secretary
FACT SHEET

UNITED STATES OCEANS POLICY

Today the President announced new guidelines for U.S. oceans policy and proclaimed an Exclusive Economic Zone (EEZ) for the United States. This follows his consideration of a senior interagency review of these matters.

The EEZ Proclamation confirms U.S. sovereign rights and control over the living and non-living natural resources of the seabed, subsoil and superjacent waters beyond the territorial sea but within 200 nautical miles of the United States coasts. This will include, in particular, new rights over all minerals (such as nodules and sulphide deposits) in the zone that are not on the continental shelf but are within 200 nautical miles. Deposits of polymetallic sulphides and cobalt/manganese crusts in these areas have only been recently discovered and are years away from being commercially recoverable. But they could be a major future source of strategic and other minerals important to the U.S. economy and security.

The EEZ applies to waters adjacent to the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (consistent with the Covenant and UN Trusteeship Agreement), and United States overseas territories and possessions. The total area encompassed by the EEZ has been estimated to exceed two million square nautical miles.

The President's statement makes clear that the proclamation does not change existing policies with respect to the outer continental shelf and fisheries within the U.S. zone.

Since President Truman proclaimed U.S. jurisdiction and control over the adjacent continental shelf in 1945, the U.S. has asserted sovereign rights for the purpose of exploration and exploitation of the resources of the continental shelf. Fundamental supplementary legislation, the Outer Continental Shelf Lands Act, was passed by Congress in 1953. The President's proclamation today incorporates existing jurisdiction over the continental shelf.

Since 1976 the United States has exercised management and conservation authority over fisheries resources (with the exception of highly migratory species of tuna) within 200 nautical miles of the coasts, under the Magnuson Fishery

Conservation and Management Act. The U.S. neither recognizes nor asserts jurisdiction over highly migratory species of tuna. Such species are best managed by international agreements with concerned countries. In addition to confirming the United States sovereign rights over mineral deposits beyond the continental shelf but within 200 nautical miles, the Proclamation bolsters U.S. authority over the living resources of the zone.

The United States has also exercised certain other types of jurisdiction beyond the territorial sea in accordance with international law. This includes, for example, jurisdiction relating to pollution control under the Clean Water Act of 1977 and other laws.

The President has decided not to assert jurisdiction over marine scientific research in the U.S. EEZ. This is consistent with the U.S. interest in promoting maximum freedom for such research. The Department of State will take steps to facilitate access by U.S. scientists to foreign EEZ's under reasonable conditions.

The concept of the EEZ is already recognized in international law and the President's Proclamation is consistent with existing international law. Over 50 countries have proclaimed some form of EEZ; some of these are consistent with international law and others are not.

The concept of an EEZ was developed further in the recently concluded Law of the Sea negotiations and is reflected in that Convention. The EEZ is a maritime area in which the coastal state may exercise certain limited powers as recognized under international law. The EEZ is not the same as the concept of the territorial sea, and is beyond the territorial jurisdiction of any coastal state.

The President's proclamation confirms that, without prejudice to the rights and jurisdiction of the United States in its EEZ, all nations will continue to enjoy non-resource related freedoms of the high seas beyond the U.S. territorial sea and within the U.S. EEZ. This means that the freedom of navigation and overflight and other internationally lawful uses of the sea will remain the same within the zone as they are beyond it.

The President has also established clear guidelines for United States oceans policy by stating that the United States is prepared to accept and act in accordance with international law as reflected in the results of the Law of the Sea

Convention that relate to traditional uses of the oceans, such as navigation and overflight. The United States is willing to respect the maritime claims of others, including economic zones, that are consistent with international law as reflected in the Convention, if U.S. rights and freedoms in such areas under international law are respected by the coastal state.

The President has not changed the breadth of the United States territorial sea. It remains at 3 nautical miles. The United States will respect only those territorial sea claims of others in excess of 3 nautical miles, to a maximum of 12 nautical miles, which accord to the U.S. its full rights under international law in the territorial sea.

Unimpeded commercial and military navigation and overflight are critical to the national interest of the United States. The United States will continue to act to ensure the retention of the necessary rights and freedoms.

By proclaiming today a U.S. EEZ and announcing other oceans policy guidelines, the President has demonstrated his commitment to the protection and promotion of U.S. maritime interests in a manner consistent with international law.

Questions

1. Can the 1982 Law of the Sea Convention be viewed as an all-or-nothing package deal that nations must accept or reject in its entirety? Or should it be viewed as a series of compromises on many subjects, some of which will emerge as customary law even if the Convention does not come into force?
2. Are there any restrictions on the ability of non-signatory nations to claim 200-mile exclusive economic zones?
3. What is the U.S. position on the current status of the law of the sea? When President Reagan issued his Oceans Policy Statement on March 10, 1983, the accompanying "Fact Sheet" asserted that "The concept of the EEZ is already recognized in international law ..." Is that statement correct?
4. How does customary international law develop? Is it necessary for time to elapse? How much "state practice" is required? What is the role of opinio juris? Can one nation prevent a norm that all other nations agree upon from becoming a binding principle? In all circumstances? Some? None? What types of statements or actions are necessary for a nation to register its dissent from a principle that is generally accepted by all other nations? What is the role of a protracted multinational conference on the development of customary international law? Can detailed rules become customary norms, or is the customary international law regime limited only to broader and less subtle principles?