

## **Historical Evolution of Freedom of Navigation**

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With the ability of coastal/port states to enforce treaties outside of their EEZs, has the time of the "high seas" come to an end?

Do you see increasing regulation of shipping and pollution in the open ocean?  
What effects do you think increasing regulation will have on ocean commerce and the environment?

How can a state impress upon its vessel operators that ocean pollution is, in fact, a serious problem?

- education as part of licensing?
- mandatory fines for violations?
- others?

A nation can only enforce its environmental laws up to a point certified as an international standard by treaty or the IMO. With respect to marine accidents, could a nation who has implemented accident response units along its coasts require financial responsibility of the flag state of vessels carrying noxious or hazardous materials as a condition of passage within its territorial waters? EEZ?

Some states argue that many parts of some treaties are new and therefore do not represent customary international law. Others argue that law codified in treaty is in fact, international law. Where is the line drawn?

- by signatories?
- by use of a particular state in the past?
- by recognition of that law by other states?

## The International Whaling Commission

### Introduction

What is the status of fishing on the high seas  
See Article 87.

Examine Article 64, and Article 65,  
and the list of Highly Migratory Species.

Why are migratory species treated separately?  
What rules govern their exploitation?

What are the obligations of coastal states? Are "conservation" and "optimum utilization" compatible? (See Articles 61 and 62). Would the whales be better off under national jurisdiction or as now viewed as "common property"?