



The Historical Development of the Law of the Sea

Codification and the Law of the Sea: Part 2

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UNCLOS III: Overview

UNCLOS III was convened in late 1973

It was negotiated over 9 sessions from 1973 to 1982
and finally adopted on 10 December 1982

Extremely ambitious international law making effort
involving most of the States of the international
community and covering a huge range of politically
sensitive and highly technical issues

UNCLOS III: Negotiations

Most negotiations undertaken in smaller or more informal meetings but then referred to the larger or more formal bodies.

Always on the basis of consensus

A 'Package deal'

States grouped themselves to face particular issues and to protect clearly identifiable interests

UNCLOS III: Interest groups

- Management and control over biological and mineral resources within national jurisdiction
- Recognition for a new regime of archipelagic waters
- Access to the sea and a share of living resources for landlocked states
- Protection for States bordering straits used for international navigation
- Access to the seabed mineral resources beyond national jurisdiction and a predictable legal framework for development

UNCLOS III: General Concerns

- Practically all nations wanted to preserve the freedoms of navigation, commerce and communication
- International community as a whole needed to ensure that the new oceans regime would:
 - safeguard the marine environment/rationally manage marine resources
 - Manage the discharge or dumping of noxious substances into the ocean
 - Manage the conduct of marine scientific research

UNCLOS III: Conclusion

- Deals were struck on most of these issues and on 10 December 1982 the LOSC was adopted and signed by 117 States
- LOSC entered into force on 16 November 1994

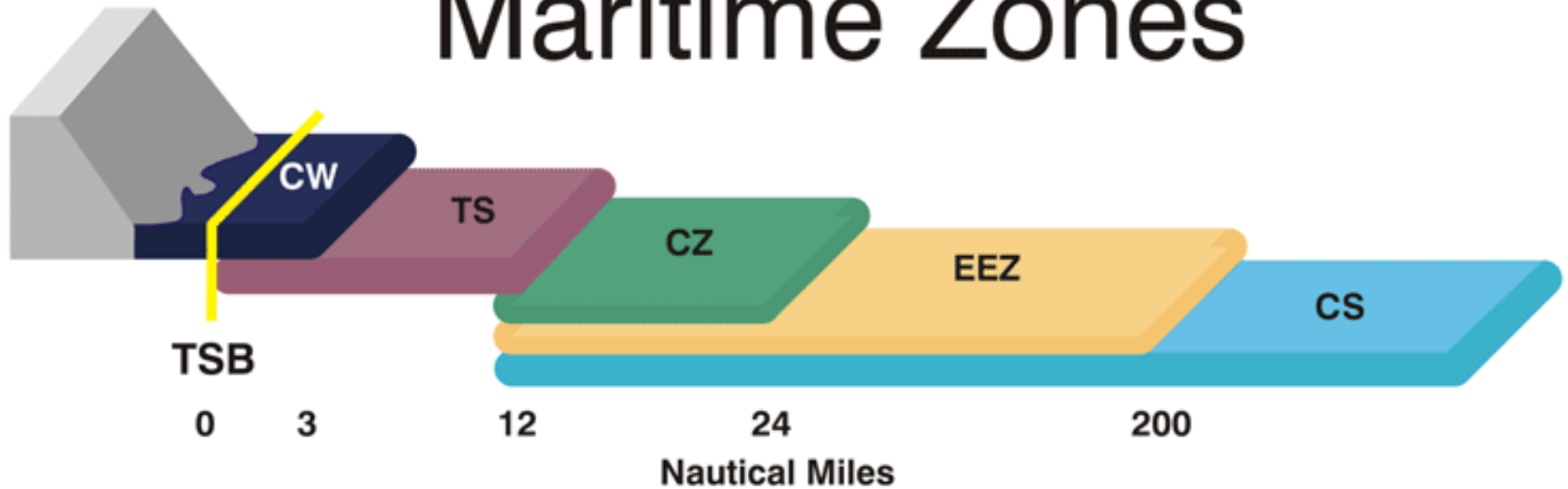
1982 United Nations Convention on the Law of the Sea

- The LOSC establishes a comprehensive framework for the regulation of all ocean space
- It has 320 articles, 17 Parts, 9 annexes and 2 implementing agreements
- Post 1982 LOSC implementing agreements on:
 - Part XI Deep Seabed
 - 1995 Fish Stocks Agreement

LOSC - Major Features

- ✓ Agreed limits on maritime zones
- ✓ EEZ and Territorial Sea regimes – freedom of navigation
- ✓ Conservation/optimum use of resources in EEZ regime
- ✓ Protection of marine environment
- ✓ Deep seabed common heritage regime
- ✓ Equitable sharing of resources beyond 200nm
- ✓ Compulsory dispute resolution procedures

Maritime Zones



TSB territorial sea baseline

CW coastal waters

TS territorial sea

CZ contiguous zone

EEZ exclusive economic zone

CS continental shelf



LOSC – Practical Problems

- Ambiguous language of articles dealing with the remaining disputes of negotiating States can be hard to understand and implement
- Few terms in the LOSC are defined
- Authentic in six UN languages (English, Arabic, Chinese, Spanish, French, Russian) and translated into many non UN languages

Post- UNCLOS III

- Entry into force
- Deep seabed
- Part XI Implementation Agreement
- UN Fish Stocks Agreement

LOSC - Gaps

- As the LOSC increases in age and oceans issues become increasingly complex some regulatory gaps not covered by the LOSC are emerging
- Governance of marine areas beyond national jurisdiction (ABNJ) is perhaps the most important of these – marine living resource management and protection of the environment in particular

Prospects for the LOSC

- Unlikely that States Parties will want to unravel the package deal represented by the LOSC
- Review conference is unlikely to occur in the near future
- More implementing agreements to take into account new developments in international law and policy which affect the oceans are likely
- There may be parts of the LOSC which become outdated and are augmented by other more dynamic parts of international law in the future such as marine environmental law