

MARITIME SECTORS OF INDIA & ADMIRALTY LAW

Maritime Transport is the 'backbone of Global Trade and the Global Economy. Shipping plays an important role in the economic development of the country. Every country relies on maritime trade to sell and buy goods and services or what they need. Merchant vessels and ships transport cargo and passengers from port to port.

Maritime Sector of India

The maritime Sector of India comprises of ports, shipping, shipbuilding, ship repair, and Inland Water Transport System, etc. India has 9 coastal states 12 major ports 200 non-major ports etc. The Indian shipping industry has over the years played a crucial role in the transport sector of India's economy. Shipping continues to remain unchallenged as the world's most efficient means of transportation.

Nine Coastal States of India

India has a long coastline of about 7517 km, spread on the western and eastern shelves of the mainland and also along with the Islands. It is an important natural resource for the country's trade. The nine Coastal States of India are Gujarat, Maharashtra, Goa, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Odisha, West-Bengal. There are 12 Major Ports in India out of which 6 are located on the East Coast and 6 on the West Coast. These are - Kolkata Port, Paradip Port, Visakhapatnam Port, Kamarajar Port Limited (ENnore) Chennai Port, Chidambaram Port, Cochin Port, New Mangalore Port, Mormugao Port, Jawaharlal Nehru Port, Mumbai Port, Deenadayal Port.

Maritime Zone – The Law of Sea is that law by which states, coastal and land-locked, and international organizations regulate their relationship in respect of those areas subject to coastal state jurisdiction and of sea and sea-bed beyond national jurisdiction. The law of the sea was uniform. The different states have different view, opinions or matters and issues. UNCLOS - The United Nations Convention on the Law of the Sea, UNCLOS 1: 1958, Geneva, Switzerland

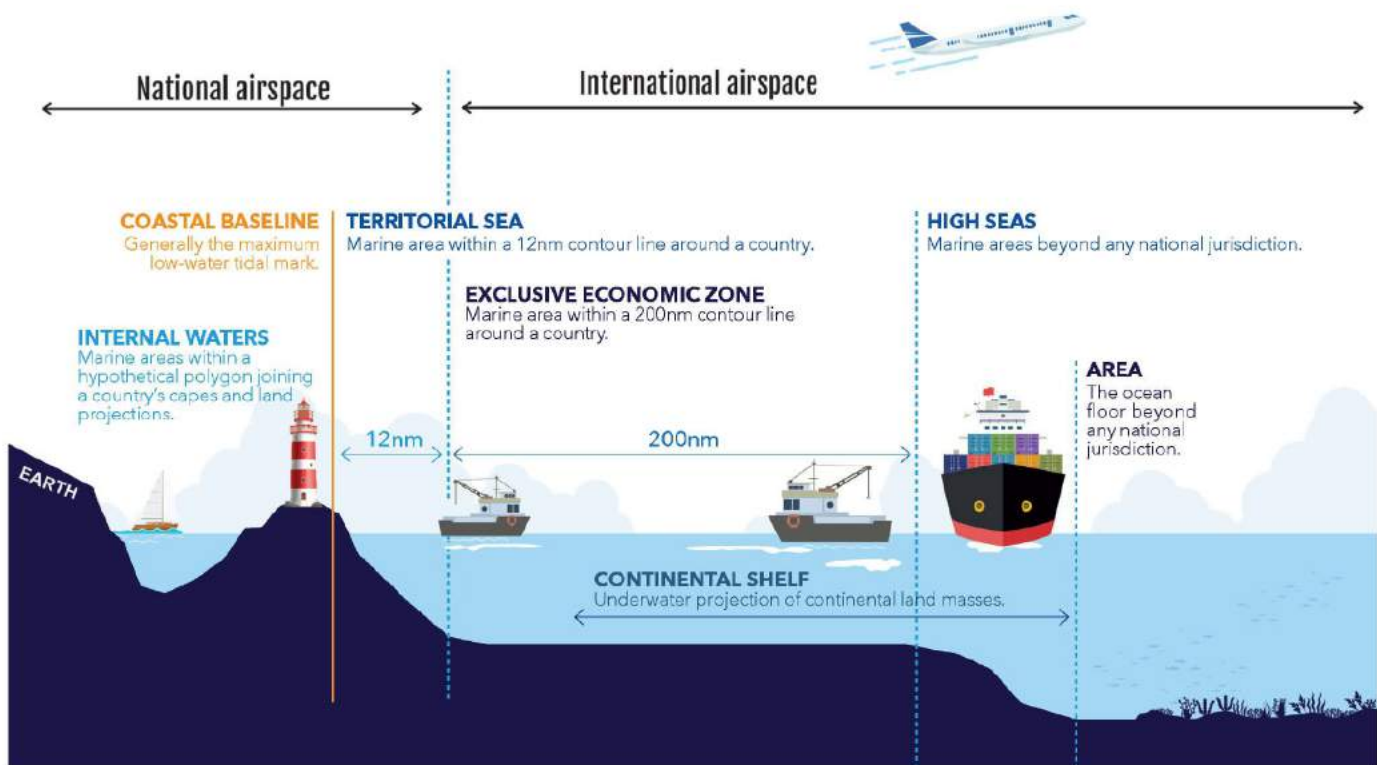


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UNCLOS II : 1960, Geneva, Switzerland, UNCLOS III: 1973, New York, UNCLOS IV: 1982, New York, definitions of maritime zones. According to the UNCLOS III of 1982, the sea is divided in to the following sectors to define the definite areas of sea for each state. These are:

- (1) Base Line (2) Internal Water (3) Territorial Sea (4) Contiguous Zone (5) Exclusive Economic Zone (6) High Sea (7) Continental Shelf.

1. **Base Line:** Base line is the line along the coast from which the seaward limits of a state's territorial sea and certain other maritime zones of jurisdiction are measured, such as state's exclusive economic zone. Normally, a sea baseline follows the low water line of a coastal state.
2. **Internal Waters** that are so nearly surrounded by land as not to be considered part of the sea for measurement of the territorial sea zones. In these internal waters, the coastal state has its absolute and complete sovereignty and civil and criminal jurisdiction, but the ship of all states shall enjoy the rights of innocent passage through this water.
3. **Territorial Waters** extends 12 nautical mile Considered "sovereign territory" of the state One restriction – foreign vessels must be granted the "right of innocent passage" Submarines must surface and show flag Airplanes do not have right of innocent passage in this zone.
4. **Contiguous Zone** extends 24 nautical miles from coast. The state may exercise the control necessary maintain control of its – Customs-



Fiscal regulations-immigration concerns-Sanitary regulations.

5. **Exclusive economic zone** – Extends up to 200 nautical miles from the coast awards control over “living and non-living resources” (aquatic, sea-bed, and sub-soil). Allows the state power over “exploring, exploiting, conserving and managing” these resources.
6. **Continental Shelf** – Defined as sea-bed to a depth of 200 meters “natural prolongation of and territory”. States have sovereignty for exploring and exploiting the shelf even beyond the territorial waters, may extend beyond the EEZ Rights this far from the mainland are still being debated, conventions between concerned states currently govern most of these situations.
7. **High Seas**- Areas of open sea beyond the EEZ of any state 2/3rd of all the world’s waters. No more “freedom of the seas” as the high sea is governed by international law and various international conventions.

In India the Maritime Zone Act 1976:

An Act to provide for certain matters relating to the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India.

Definition - In this Act, “limit”, concerning the territorial waters, the continental shelf, the exclusive economic zone, or any other maritime zone of India, means the limit of such waters, shelf, or zone concerning the mainland of India as well as the individual or composite group or groups of islands constituting part of the territory of India.

Admiralty and Maritime Law

Admiralty Law consists of both domestic law on maritime activities, and private international law governing the relationships between private parties operating or using ocean-going ships.

Admiralty Law which is often referred to as Maritime Law, deals with the issues and disputes that arise overseas that governs nautical issues and private maritime disputes. It deals with matters involving ships, shipping, or crimes occurring on open water, It also deals with matters involving

navigation, loss to the vessel during transit, damage to goods transport by sea, etc.

Black's Law dictionary defines, Maritime Law as:- "the body of Law governing marine commerce and navigation, the carriage of persons and property, and marine affairs in general; the rules governing contract, tort and workers compensation claims relating to commerce on or over water.

Admiralty Law in India

In India the Admiralty law governs maritime questions and offenses. On March 11, 2017, the Lok Sabha passed the Admiralty Bill 2016. It is a body of both domestic law governing maritime activities and private international law governing the relationship between private entities that operates vessel on the oceans. The Admiralty (Jurisdiction and Settlement of Maritime Claim) Act 2017 was brought into force on April 1st 2018 repeals 5 obsolete British Statutes on Admiralty Jurisdiction in civil matters namely.

- a. Admiralty Court Act, 1840
- b. Admiralty Court Act, 1861
- c. Colonial Courts of Admiralty Act, 1890
- d. Colonial Courts of Admiralty (India) Act, 1891
- e. The Provisions of the Letters Patent, 1865.

This Act shall apply to every vessels, irrespective of the place of residents or domicile of the owner. Provided that this act shall not apply to an Inland vessel defined in clause (a) of subsection (1) of section 2 of the Inland Vessel Act, 1917 or a vessel under construction that has not been launched unless it is notified by the Central Government to be a vessel for a purposes of this Act.

Provided further that this Act shall not apply to a warship, naval auxiliary, or other vessel owned or operated by the Central or a State Government and used for any non-commercial purpose, and, shall also not apply to a foreign vessel which is used for any non-commercial purpose as may be notified by the Central Government.

Admiralty Jurisdiction

Subject to the provisions of sections 4 and 5, the jurisdiction in respect of all maritime claims under this Act shall vest in the respective High Courts and be exercisable over the waters up to and

including the territorial waters of their respective jurisdictions by the provisions contained in this Act.

M. V. Elizabeth vs. Harwan Investment and Trading, 1993 AIR SC 1014

Before India gained Independence, under the colonial court of Admiralty Act, 1890, the High Court of Bombay, Madras and Calcutta were the only judicial authority competent to deal with matters relating to Admiralty. The other Courts of Justice were restricted from dealing with issues concerning the Admiralty. Section 35 of the Admiralty Act, 1861 deals with the jurisdiction of Admiralty Court,

The law relating to Admiralty Jurisdiction is relevant even today under Article 372 of the Constitution of India.

The Supreme Court of India is the highest Court in India and its decisions are binding upon all Courts and Tribunals in India. In M. V. Elizabeth vs. Harwan Investment and Trading, 1993 AIR SC 1014 Sea Success case, the Supreme Court held that the principles laid down in 1999 Geneva Arrest Convention could be applied in India on matters concerning Admiralty.

As per Section 3 of the Admiralty (Jurisdiction and Settlement of Maritime Claim) Act 2017, the jurisdiction concerning Admiralty matters shall be vested in the respective High Courts and the courts shall exercise their authority within the territorial water of their jurisdiction. As per the following Courts (Coastal States) have the jurisdiction to deal with Admiralty matters. They are,

- a. High Court of Bombay (Mumbai)
- b. High Court of Calcutta (Kolkata)
- c. High Court of Madras (Chennai)
- d. High Court of Gujarat (Ahmedabad)
- e. High Court of Odisha (Cuttack)
- f. High Court of Karnataka
- g. High Court of Kerala (Cochin)
- h. High Court of judicature at Hyderabad for the State of Telangana and the state of Andhra Pradesh or any other High court as may be notified by the central Government for the purpose of this Act.

These Courts can make orders with respect to the vessels within the waters of Indian Territory.

