NOTES

Settlement of Disputes and Law of the Sea: Public International Law

Julie Nigam · 14 Sep 2026

Introduction

The sea has the ability to link different countries, but it can also lead to serious disagreements. These disagreements might concern fishing rights, oil and gas resources, maritime boundaries, navigation, pollution, the detention of ships or the legality of naval activities.

For example, two adjacent coastal states might lay claim to the same area as part of their Exclusive Economic Zones. A fishing vessel could be seized by one state while the state which is the vessel's flag state says that the seizure was illegal. Such an international disputes cannot be settled by the use of force and must instead be resolved by peaceful means and by having clear maritime rules.

This article discusses what an international dispute is and explains why it is important to resolve such disputes peacefully. It then goes on to look at negotiation, mediation, conciliation, arbitration and judicial settlement.

Meaning and importance of international dispute settlement

An international dispute is a disagreement on a matter of fact or law or conflicting interests between states. The Permanent Court of International Justice defined it as a disagreement regarding law or fact or a clash of legal views or interests in **Mavrommatis Palestine Concessions (1924)**.

Settlement of an international dispute means a peaceful and legally acceptable resolution. The UN Charter, in **Article 2(3)**, calls for peaceful settlement, whereas **Article 2(4)** bans the threat or use of force. **Article 33** specifies negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement and other peaceful means. This is particularly important at sea, since overlapping claims have an impact on fishing, drilling, navigation and security.

Methods of international dispute settlement

Different methods may be used depending on the nature and circumstances of an international dispute,

Negotiation

Negotiation consists of direct talks between the two countries involved in an international dispute. It is flexible, permits compromise and usually results in agreements concerning maritime boundaries without the need for third parties to be involved.

Good offices and mediation

Good offices enable states to start or restart discussions. Mediation goes a step further in that a third party takes an active role and might propose a settlement, but usually cannot enforce one.

Inquiry and conciliation

A commission responsible for an inquiry looks into contested facts, while conciliation involves both investigating the facts and putting forward proposals for settlement. The report drawn up by such a conciliation commission is generally of a recommendatory nature, though it can assist states in avoiding litigation.

Arbitration

In arbitration the parties to an international dispute select the arbitrators and set the issues to be decided. The award is binding pursuant to the arbitration agreement, which is one of the reasons why arbitration is suitable for technical maritime disputes. In the **South China Sea Arbitration (Philippines v. China) (2016)** the tribunal looked at the maritime rights and the status of some features, while China did not take part and rejected the award.

Judicial settlement

The disagreement is referred to a permanent court, particularly the ICJ. While the court bases its decisions on international law, its authority is subject to the consent of the states in question, obtained through a treaty, a clause or a special agreement. In the case of the **North Sea**

Continental Shelf (1969) the ICJ placed emphasis on an equitable outcome and on the relevant geographical circumstances.

Settlement of Disputes and Law of the Sea under Public International Law

INTERNATIONAL DISPUTE

A disagreement about facts, law or conflicting interests between States.

The UN Charter requires peaceful settlement and bans the threat or use of force.

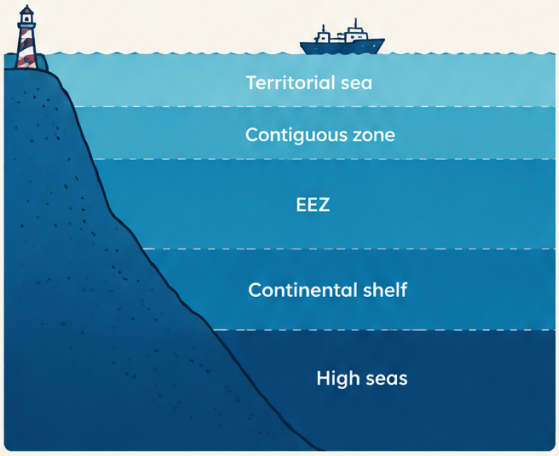


PEACEFUL METHODS

1. **Negotiation** — direct talks between States.
2. **Mediation / good offices** — a third party helps States begin or continue talks; mediation may suggest a settlement.
3. **Inquiry / conciliation** — investigates facts; conciliation also proposes solutions.
4. **Arbitration** — parties choose arbitrators; the award is binding.
5. **Judicial settlement** — a court such as the ICJ decides, with State consent.



UNCLOS MARITIME ZONES



1. **Territorial sea** — coastal State has sovereignty; foreign ships have innocent passage.
2. **Contiguous zone** — up to 24 nautical miles; preventive enforcement for customs, fiscal, immigration and sanitary laws.
3. **EEZ** — up to 200 nautical miles; coastal State has rights over living and non-living resources, while other States retain navigation and overflight freedoms.
4. **Continental shelf** — seabed and subsoil; exclusive rights over minerals and other non-living resources.
5. **High seas** — open to all States for navigation, overflight, cables, fishing and research; piracy is prohibited.

KEY RULES

1. **Hot pursuit** must begin in the relevant zone, be continuous and follow a stop signal.
2. **Land-locked States** have rights of transit to the sea and navigation on the high seas.



IMPORTANT CASES

1. **South China Sea Arbitration** (2016) — maritime rights and status of features.
2. **North Sea Continental Shelf** (1969) — equitable delimitation with relevant geographical circumstances.
3. **Corfu Channel** (1949) — warning duty for mines and innocent passage.
4. **M/V Saiga (No. 2)** (1999) — UNCLOS conditions and proportionality in enforcement.

Prize courts

The prize court has the responsibility of deciding if the capture of an enemy or neutral ship together with its cargo in the course of an armed conflict was legitimate. It looks at the ship, its flag, the cargo, the destination and the circumstances involved and can then direct that the ship be condemned, released or that restitution be made.

Such courts serve to monitor naval power and to safeguard neutral shipping. In the case of **The Zamora (1916)** the English courts emphasized that questions of prize should be decided by legal means and not simply by executive order.

United Nations: Principles and Purposes

The UN Charter is founded upon the principle of sovereign equality, peaceful relations, cooperation and respect for human rights. According to Article 1, the aim of the United Nations is to maintain international peace and security, to promote friendly relations among nations, to achieve international cooperation and to coordinate the actions of States. It is these aims which serve to guide the settlement of both maritime and land disputes.

The United Nations offers forums, diplomatic means and the capacity for collective security. States can make use of national, regional or judicial mechanisms, but are not allowed to use force.

General Assembly

The General Assembly has the possibility of discussing questions concerning the Charter and making recommendations. Although it usually cannot force upon States a binding decision, its resolutions may indicate the international opinion, encourage negotiations and help in the development of international law. It backed the conferences and the codification process which led to the adoption of UNCLOS.

Security Council

The Security Council has the main responsibility for maintaining peace and security. It can look into the matter and suggest peaceful methods of procedure under **Chapter VI**. And under **Chapter VII** it can introduce binding measures, such as sanctions, if it determines that there is a threat to the peace, a breach of the peace or aggression. It is at its strongest when a maritime

dispute is likely to lead to an armed conflict, even though it is not normally acting as a court of boundaries.

International Court of Justice

The International Court of Justice is the main judicial body of the United Nations. It settles international disputes between states and provides advisory opinions to authorized UN organs and agencies. It will only render a decision when states have accepted its jurisdiction.

In the case of the **Corfu Channel (1949)** the Court found Albania liable for not having given ships warning about the mines in its territorial waters and acknowledged the significance of innocent passage. The case of **Fisheries (UK v. Norway) (1951)** looked into Norway's coastal baselines. In **Bangladesh/Myanmar (ITLOS, 2012)** and in **Bangladesh v. India (2014)** equitable principles were applied to the determination of maritime boundaries.

Law of the Sea under UNCLOS

UNCLOS is frequently referred to as the constitutional framework for the oceans and divides up the authority between coastal States, flag States, port States and the international community. The table below gives a summary of the main maritime areas.

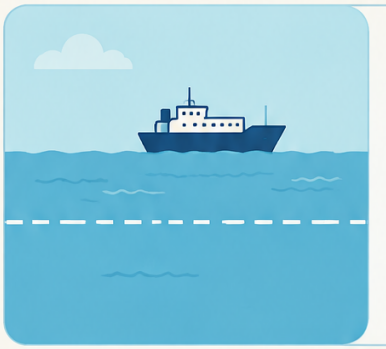
Maritime Areas under UNCLOS



TERRITORIAL SEA

Main extent or character
Up to 12 nautical miles from the baseline

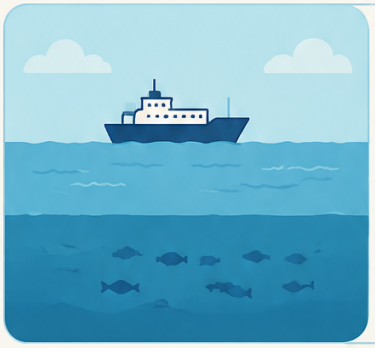
Main rights and duties
Coastal State sovereignty, subject to innocent passage



CONTIGUOUS ZONE

Main extent or character
Up to 24 nautical miles

Main rights and duties
Control necessary to prevent or punish customs, fiscal, immigration and sanitary violations



EEZ

Main extent or character
Up to 200 nautical miles

Main rights and duties
Sovereign rights over natural resources and jurisdiction over certain activities



CONTINENTAL SHELF

Main extent or character
Seabed and subsoil to the outer edge of the continental margin, or at least 200 nautical miles under UNCLOS rules

Main rights and duties
Rights to explore and exploit seabed resources



HIGH SEAS

Main extent or character
Areas beyond national maritime jurisdiction

Main rights and duties
Freedom of navigation, overflight, fishing and other lawful uses, subject to international law

Territorial sea and innocent passage

A coastal state has sovereignty over its territorial sea, its airspace, its seabed and its subsoil. This sovereignty, however, is subject to the right of innocent passage. Foreign ships may pass continuously and expeditiously provided that their passage is not prejudicial to the peace, good order or security of the coastal state. Passage which involves threats, weapons exercises, serious pollution or unlawful intelligence activities can cease to be innocent.

Contiguous zone

The contiguous zone reaches a distance of 24 nautical miles from the baseline. Although the coastal State does not have full sovereignty in this area, it may take action to prevent or punish violations of its customs, fiscal, immigration or sanitary laws which take place within its territory or territorial sea. It is thus a zone for preventive enforcement.

Exclusive Economic Zone

The EEZ can extend to a distance of 200 nautical miles. The coastal state enjoys sovereign rights with regard to both living and non-living resources and has jurisdiction over artificial islands, scientific research and environmental protection. However, other states still have the freedoms of navigation, overflight and the laying of cables and pipelines. It follows that the EEZ is not to be regarded as either a territorial sea or the high seas, but rather as a special balance zone.

Continental shelf

The continental shelf includes the seabed and subsoil and not the water column as a whole. The coastal State enjoys exclusive rights with regard to minerals and other non-living resources. These rights arise by operation of law and are not based on occupation. The North Sea Continental Shelf judgment stated that delimitation should be carried out by means of agreement and on the basis of equitable principles, considering the relevant geographical circumstances.

Hot pursuit

A coastal state has the right to pursue a foreign vessel into the high seas if that vessel has breached the laws of the coastal state in an area where those laws are in force. Such a pursuit has to start while the ship or one of its boats is in the relevant maritime zone, must be unbroken, and

must respond to a visible or audible stop signal. It comes to an end when the vessel enters the territorial sea of its own state or that of another state.

In case of **M/V Saiga (No. 2) (1999)**, ITLOS stressed that enforcement at sea must adhere to the conditions set out in UNCLOS and the principle of proportionality.

Freedom of the high seas

The high seas are accessible to coastal and land-locked states. The freedoms allowed include navigation, overflight, the use of cables and pipelines, fishing and scientific research, provided that reasonable regard is paid to the interests of other states. Piracy, the trafficking of slaves and unauthorised broadcasting are prohibited. Ships are generally brought within the jurisdiction of their flag state, with exceptions in the case of piracy.

Land-locked States

A state that is landlocked has no sea coast, yet UNCLOS does not deny it maritime rights. It has the right to transit through the territories of transit states in order to reach the sea and also the right to navigate on the high seas. The specific arrangements are made by agreement with the transit states, which still retain sovereignty over their own territory.

Furthermore, land-locked states may take part in the equitable sharing of the living resources of appropriate parts of the EEZs of coastal states in the same area, provided that the conditions of UNCLOS are met.

Conclusion

International Disputes at sea concern sovereignty, resources, security and the common character of the oceans. In response, public international law makes use of peaceful settlement and a well-balanced law of the sea. Negotiation and mediation can help to maintain relations, arbitration and courts give binding decisions. The United Nations provides diplomatic and collective-security assistance, and UNCLOS establishes the maritime rights and limitations.

The main point is simply that the sea is not lawless. It is a common area regulated by rules, cooperation and the peaceful settlement of disputes.