

Introduction to the Law of the Sea

*Territorial Sea,
Exclusive Economic Zone &
Continental Shelf*

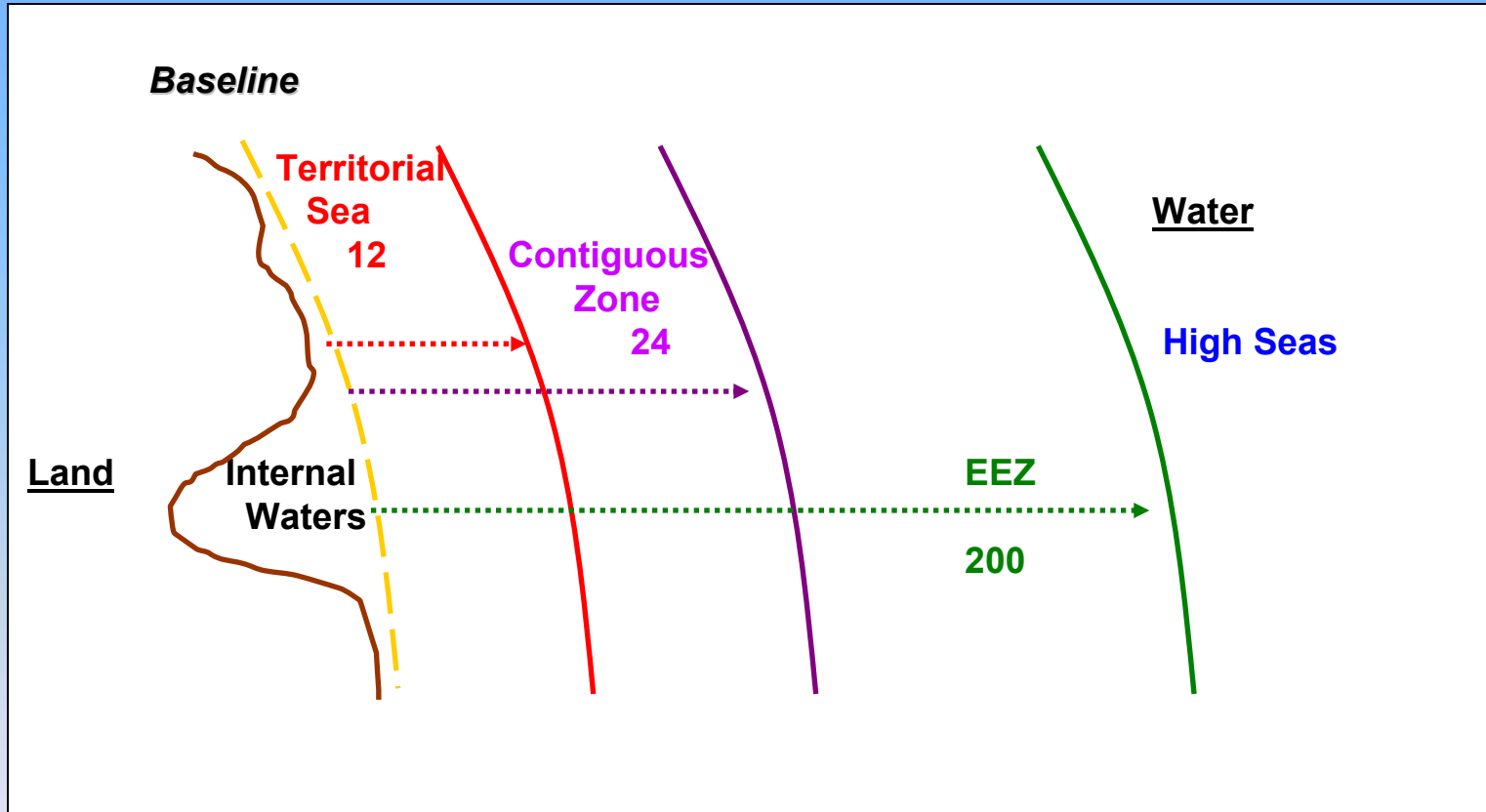
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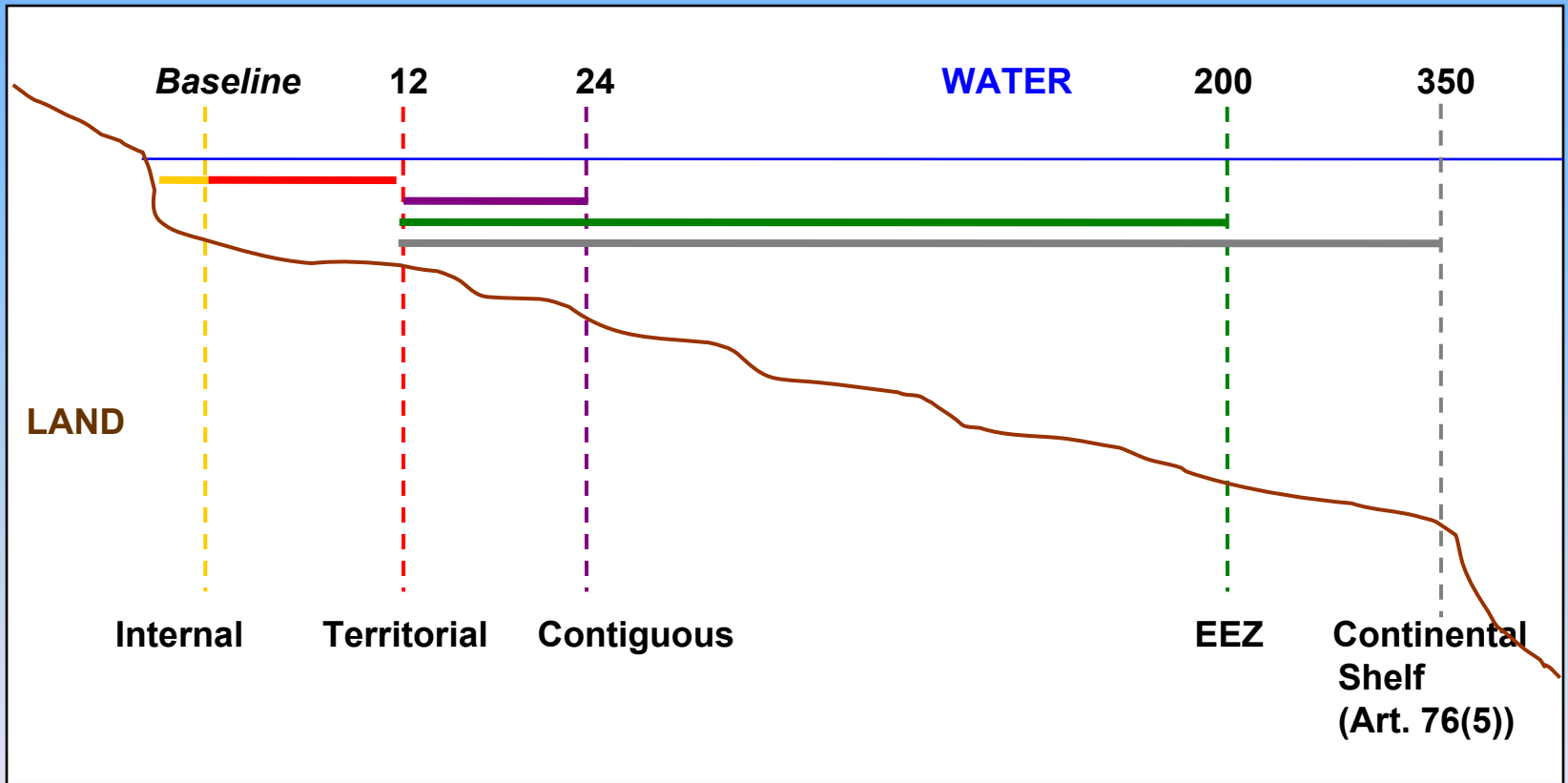
Topics

1. Measurements of ocean areas and competences (charts)
2. Territorial sea
3. Exclusive economic zone
4. Continental shelf

Measurements of Areas of Sea



Competences in Areas of the Sea



Territorial Sea

Overview

1. Sovereign authority
2. Breadth & Measurement
3. Rights of Ships (innocent passage)
4. Rights and jurisdiction of coastal state

Territorial Sea

- **Sovereignty, subject to the *Law of the Sea Convention* (Art. 2)**
- 1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.
- 2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.
- 3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

Territorial Sea

- **Breadth (Art. 3)**
 - Up to 12 nautical miles from baseline...
- **Measurement – baseline (Art. 5):**
 - Except where otherwise provided in this Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Territorial Sea

- **Rights of Ships – innocent passage (Arts 17-18)**

Art. 17: Subject to this Convention, ships of all States...enjoy the right of innocent passage through the territorial sea.

Art. 18: 1. Passage means navigation through the territorial sea for the purpose of:

- (a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
- (b) proceeding to or from internal waters or a call at such roadstead or port facility.
- 2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Territorial Sea

Meaning of Innocent Passage (Art. 19):

- 1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.
- 2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if in the territorial sea it engages in any of the following activities:
 - [*Paraphrased*: threat or use of force, weapon exercise, espionage, launching or landing of aircraft or other military device, violation of customs, fiscal, immigration or sanitary laws, willful and serious pollution, fishing, research or surveying activities, interfering with communications or other facilities, or “any other activity not having a direct bearing on passage”]

Territorial Sea

- **Rights and Jurisdiction of Coastal State – prevent or suspend innocent passage**
- **Art. 25(1)**: “The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.”
- **Art. 25(3)**: coastal state may temporarily suspend innocent passage through specified areas of territorial sea.

Territorial Sea

Civil Jurisdiction in Relation to Foreign Ships (Art. 28)

- 1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.
- 2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.
- 3. Paragraph 2 is without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

Territorial Sea

Criminal Jurisdiction on Board a Foreign Ship (Art. 27)

- 1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed on board the ship during its passage, save only in the following cases:
 - (a) if the consequences of the crime extend to the coastal State;
 - (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea;
 - (c) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or
 - (d) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

Exclusive Economic Zone

Overview

1. Specific legal regime – special nature
2. Breadth
3. Rights, jurisdiction of coastal state
4. Rights and duties of other states
5. Enforcement jurisdiction

Exclusive Economic Zone

Specific Legal Regime Created by *UNCLOS*

- **Art. 55** - The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Breadth

- **Art. 57** - The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Exclusive Economic Zone

Art. 56 - Rights, jurisdiction and duties of the coastal State in the EEZ

- 1. In the exclusive economic zone, the coastal State has:
 - (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
 - (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to: ... (ii) marine scientific research; (iii) the protection and preservation of the marine environment;
 - (c) other rights and duties provided for in this Convention.
- 2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States
- 3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI [Continental Shelf].

Exclusive Economic Zone

Art. 58 - Rights and duties of other States in the EEZ

- 1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.
- 2. Articles 88 to 115 [rights and duties on the high seas] and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.
- 3. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

Exclusive Economic Zone

Art. 73 - Enforcement of laws and regulations of the coastal State

- 1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.
- 2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.
- 3. Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment.
- 4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

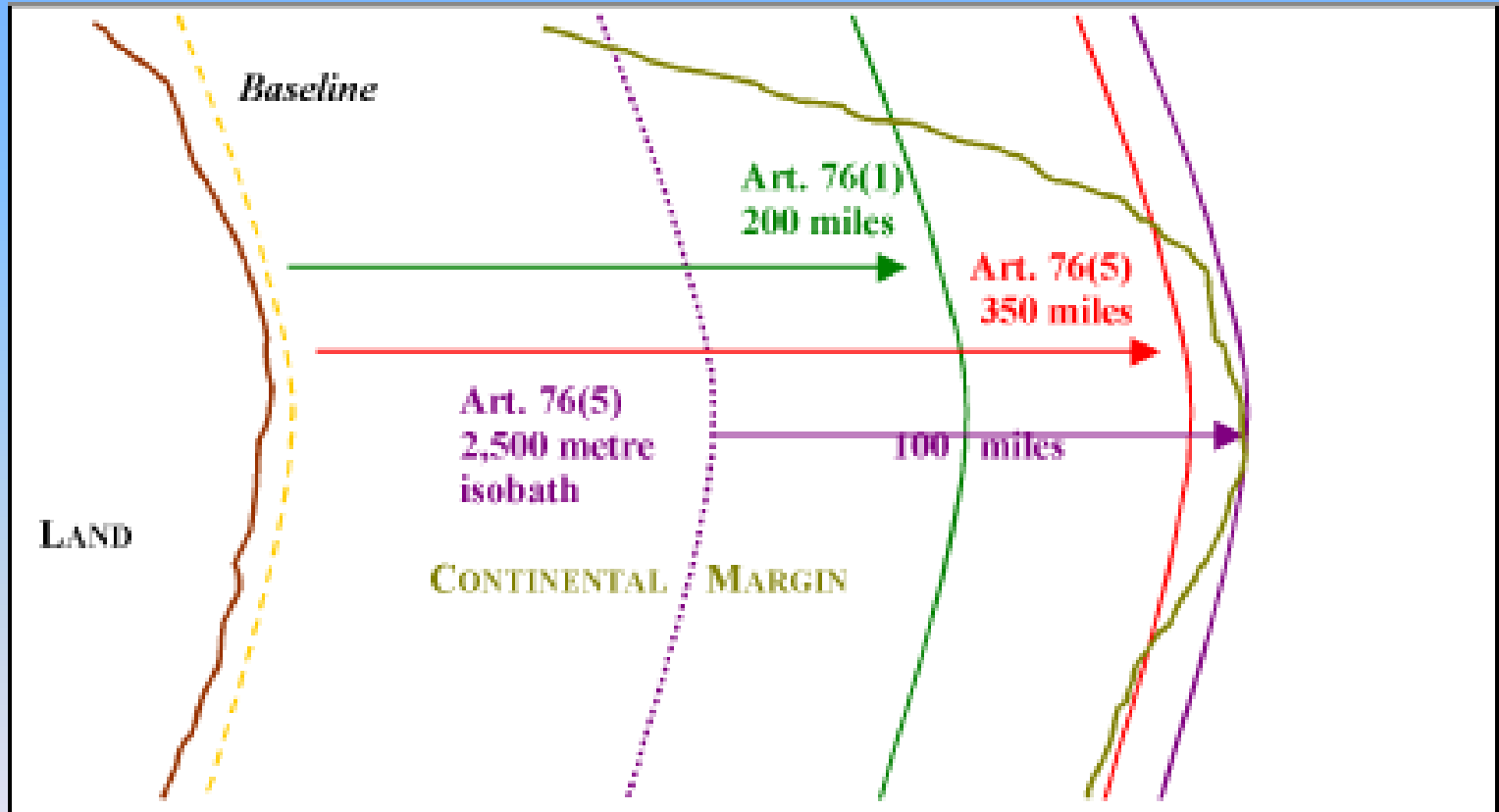
Continental Shelf

Overview

1. Measuring & isobath rule
2. Rights of coastal state
3. Legal status of waters and airspace
4. Rights and freedoms of other states

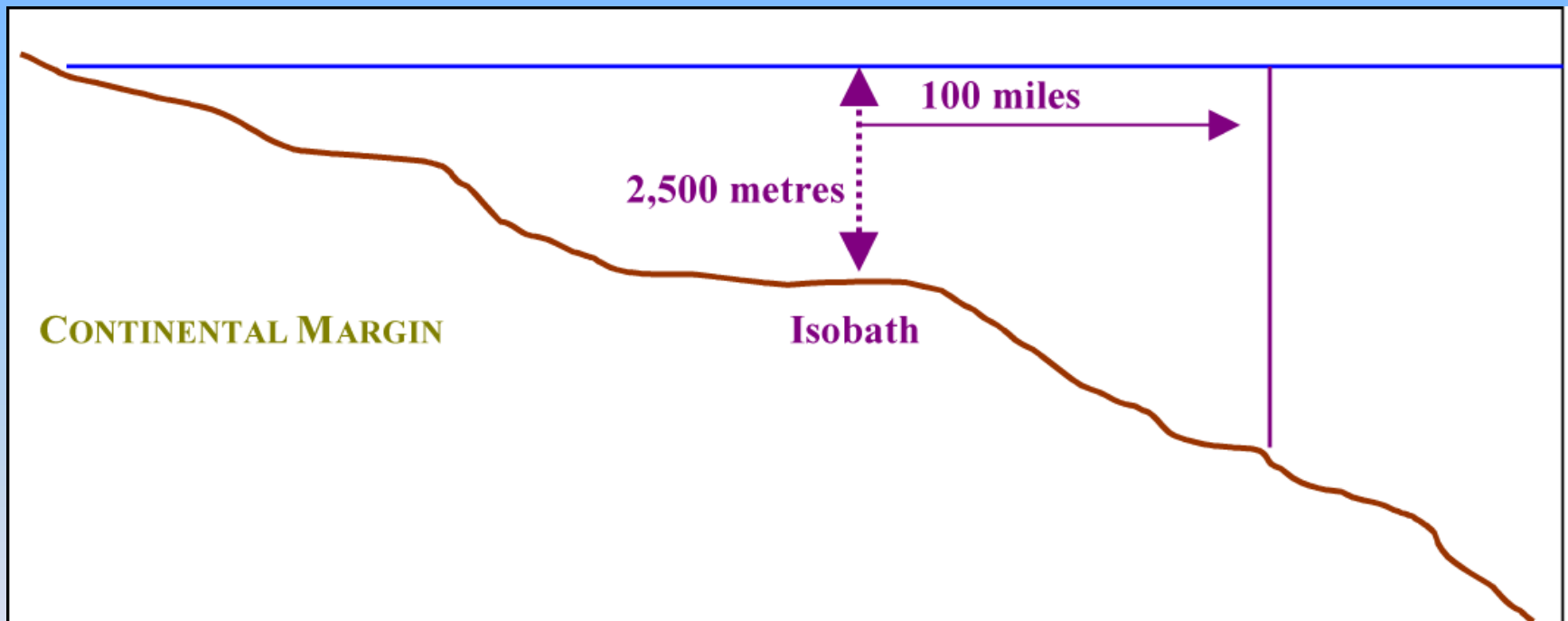
Continental Shelf

General Measurements



Continental Shelf

Isobath Rule



Continental Shelf

Art. 77 - Rights of the coastal State over the continental shelf

- 1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
- 2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.
- 3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
- 4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Continental Shelf

- **Art. 78 - Legal status of the superjacent waters and air space and the rights and freedoms of other States**
- 1. The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.
- 2. The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

Concluding Observations

- The *Montego Bay Convention* establishes a comprehensive, very detailed legal regime. It must be read and applied carefully.
- It creates several new, specially-regulated areas.
- It balances the rights of coastal states with the rights of ocean users (other states, ships).
- **Overall** – the general pattern of *UNCLOS* is that the closer one is to shore, the more rights possessed by the coastal state; the more distant one is from shore, the more rights go to ocean users (ships, other vessels).