

THE CONTIGUOUS ZONE

By means of a formal proclamation made public to the international community, a coastal state may establish a zone contiguous to the territorial sea and extending a maximum of twenty-four nautical miles from the baseline.¹ Consequently, the breadth of the contiguous zone itself depends on the distance proclaimed and on the breadth of the territorial sea. If the territorial sea of the coastal state has the maximum breadth of twelve nautical miles², then the contiguous zone can have a maximum breadth of only twelve nautical miles.

The contiguous zone enjoys independent legal status only as long as the coastal state has not proclaimed an exclusive economic zone³ exceeding the outer limits of the contiguous zone. If an exclusive economic zone is established, it begins beyond and adjacent to the territorial sea⁴, with the resultant effect that the contiguous zone becomes a part of the exclusive economic zone, and all provisions which apply to the latter also apply completely and fully (as there are no exceptions) in the contiguous zone. The principle of freedom of navigation applies in this zone as well as elsewhere⁵ outside the territorial sea, but other states are to have due regard for the rights of the coastal state in the exclusive economic zone and to comply with its laws and regulations⁶.

The rights derived from this provision are of two types: "prevention"⁷ and "extended power"⁸. Rights of "prevention" mean that the coastal state exercises police force limited to "control" necessary to prevent infringements of customs, fiscal, immigration, or sanitary laws in the territorial sea or territory of the coastal state, including boarding and searching and even prohibiting the foreign vessel from entering the territorial sea. If there is no such infringement, the coastal state has no further rights. "Extended power" to apply national criminal law goes into effect if there has been an infringement of the laws listed above within the territory or territorial sea of the coastal state. In many instances of such infringements, coastal states would also be able to exercise the right of hot pursuit.⁹ There seems to be hardly any need for the concept of a contiguous zone, particularly now that the territorial sea has been extended from three to twelve nautical miles.

Finally, it is worthy of mention that the Convention unexpectedly and rather curiously grants special status to the contiguous zone in one other area: in order to control traffic in historical and archaeological objects, the coastal state may presume that the removal of any such objects from the contiguous zone without the state's approval would violate the laws mentioned in Article 33, and the state may act accordingly.¹⁰ The law of salvage and other international rules and agreements remain unaffected¹¹.

¹ Art. 33, Para. 2; Art. 5-14

² Art. 3

³ Art. 57

⁴ Art. 55

⁵ Art. 58, 87

⁶ Art. 58, Para. 3

⁷ Art. 33, Subpara. 1 (a)

⁸ Art. 33, Subpara. 1 (b)

⁹ Art. 111

¹⁰ Art. 303, Para. 2

¹¹ Art. 303, Para. 3-4

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Within the contiguous zone, the coastal state is invested with the power

- to prevent infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory or territorial sea (Article 33, Subparagraph 1(a));
- to punish infringement of the above laws and regulations committed within its territory or territorial sea (Article 33, Subparagraph 1(b)).

| Activity | Rights of Foreign Nationals in the Contiguous Zone |
|---|---|
| Navigation | Full navigation rights if compatible with Convention (Articles 58, Paragraph 1, and 87; 58, Paragraph 2, and 88-115) Restricted by Article 33 (see above) in, general only; boarding and search by coastal state only to prevent and punish infringement of specific coastal state laws Removal of historical and archaeological objects only with approval of coastal state (Article 303, Paragraph 2) |
| Over-flight | Full rights of over-flight |
| Fishing | No rights after establishment of exclusive economic zone (Exceptions: Article 62, Paragraph 2) |
| Scientific Research | Consent of coastal state is required when economic zone has been established (Article 246) |
| Laying of Cable | Full rights (Article 58, 79), consent of coastal state for routing required (Article 79, Paragraph 5) |
| Mining | No rights (Rights of coastal state over continental shelf need not be claimed) (Article 76, Paragraph 3) |
| Observance of environmental legislation | Must observe sanitary laws of coastal state (Article 33); must observe pollution laws (Part XII) applicable in exclusive economic zone |