



Mark Carwardine's **AT A GLANCE...**

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LAW OF THE SEA

WHAT IS THE LAW OF THE SEA?

The United Nations Convention on the Law of the Sea (UNCLOS) is an attempt to manage how everyone uses the sea and make it fair and sustainable. Dubbed a “constitution for two-thirds of the planet”, it covers everything from the definition of territorial waters, marine pollution and the rights of shipping traffic to fisheries and mineral resources management.

WHY WAS IT SET UP?

For a long time, a nation’s territorial waters were measured by the maximum range of a cannon ball (three nautical miles, or 5.6km) and everything else was a free-for-all. It was good enough for pirates and profiteers but there was no legal framework to control the chaos or reign in the unreasonable interests of greedy states. With more and more commercial ship traffic, and countries venturing into deeper waters for fish and mineral resources, it was clear that the ‘freedom of the seas’ no longer worked in the modern world and desperately needed an upgrade.

WHEN WAS IT SET UP?

In a testament to how long it can take countries to agree on anything, UNCLOS was nearly 40 years in the making. It eventually came into force in 1994. Initially, there were only 60 signatory countries, but now there are nearly 170 (and many of the remaining 25 non-signatories recognise it as a useful

starting point in potential disputes). It continues to evolve, and over the years has become a substantial body of customs, treaties and international agreements, which become enshrined in the national laws of its signatories.

WHAT DOES IT DO?

Critically, it created 12-nautical-mile (22.2km) territorial seas – with full sovereignty – in which each country is free to enforce its own laws and regulations, and to use any of its territorial resources. It also grants each signatory state an Exclusive Economic Zone (EEZ), out to 200 nautical miles (370km) from shore, in which it has exclusive rights to fisheries, minerals and other resources. It allows for innocent passage of ships through both territorial seas and EEZs, provided they do no harm or break any of the country’s laws (military ships need special permission). And, among many other things, it set up the International Tribunal for the Law of the Sea, which has jurisdiction over all disputes concerning the interpretation or application of the convention.

WHAT ABOUT MARINE CONSERVATION?

Marine conservation is an increasingly important element of the Law of the Sea. It states, for example, that when fishing the high seas, countries have a duty to adopt conservation



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measures and to cooperate with others on conservation initiatives. There are guidelines on the rights for marine research, as well as promoting the establishment of national research institutes and the exchange of technologies. And there are many other agreements covering everything from pollution to seabed use.

DOES IT WORK?

Broadly, yes, though inevitably there are some gripes. Land pollution isn’t fully addressed – yet it is responsible for 70 per cent of marine pollutants – and neither is biodiversity (partly because its richness was poorly understood when the convention was originally agreed) or the need for Marine Protected Areas. And, of course, not all countries have signed up: the USA, in particular, is not a signatory (even though it shaped the original convention and still attends meetings). However, thanks to lobbying by NGO groups such as the High Seas Alliance and the International Union for the Conservation of Nature, this year the UN opens negotiations for a new treaty on high seas biodiversity. So it continues to evolve and improve. 🗳️

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MARK CARWARDINE is a frustrated and frank conservationist.

Every month he demystifies some of the most important issues affecting the world’s wildlife and assesses the organisations that protect it.

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