

Territorial Sea

Professor Stuart Kaye

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UNIVERSITY
OF WOLLONGONG
AUSTRALIA

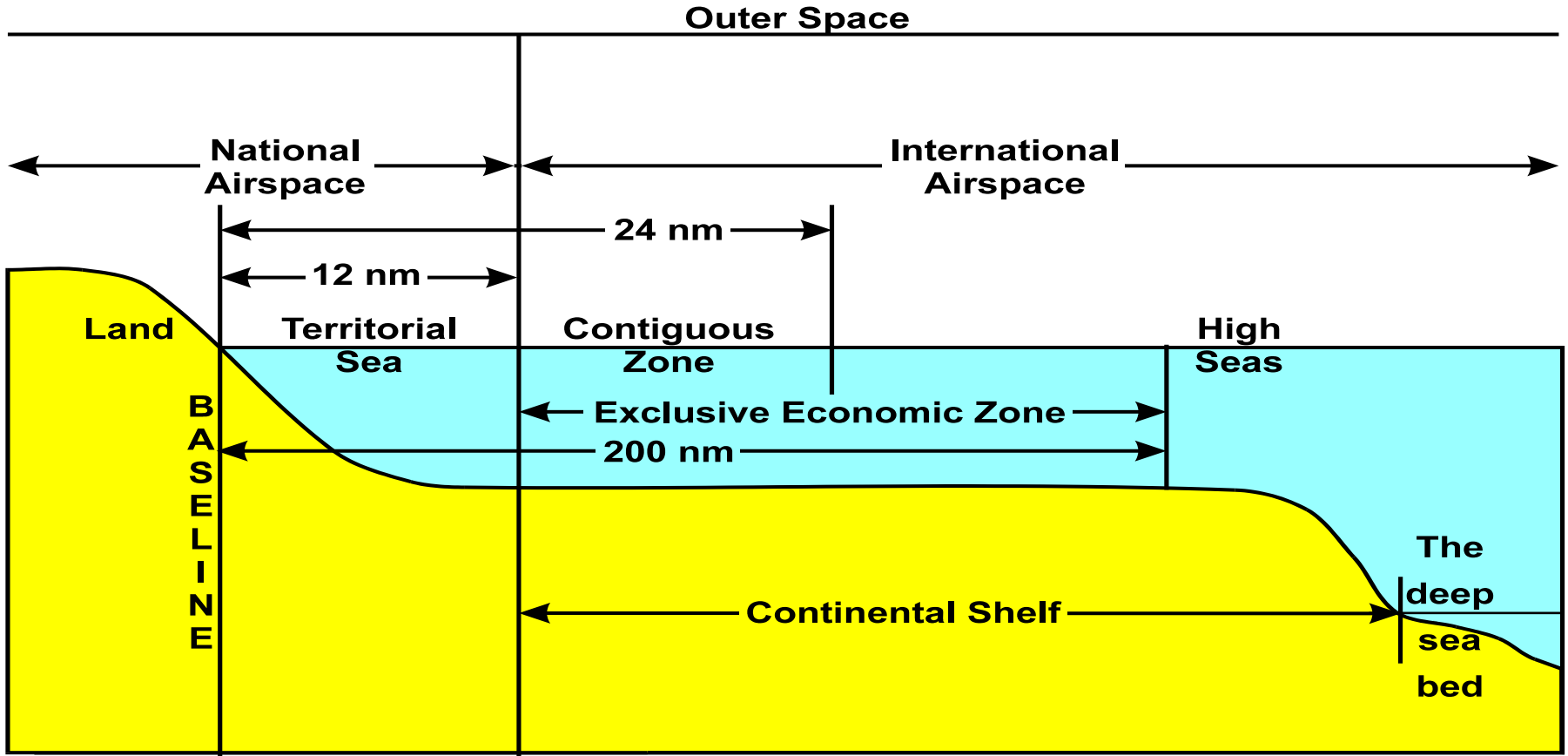


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Outline

- Maritime Zones
- Territorial sea
 - Width
 - Innocent passage
 - Coastal State jurisdiction



Functions of zones of jurisdiction

- Establish the outer limits of States
- Define the competence of coastal States to enforce their laws against other States and their nationals
- Define the rights and duties of other States and their nationals in specific parts of the sea

Functions of zones of jurisdiction

The maritime zones determine:

- Powers of coastal States over foreign vessels and their nationals
- Rights of foreign States and their nationals in various maritime zones
- Rights for the international community as a whole

Functions of zones of jurisdiction

Three categories:

1. Zones under sovereignty of states
2. Zones under sovereign rights of states
3. Waters not subject to sovereignty or sovereign rights of states

Functions of zones of jurisdiction

Rule of thumb is -

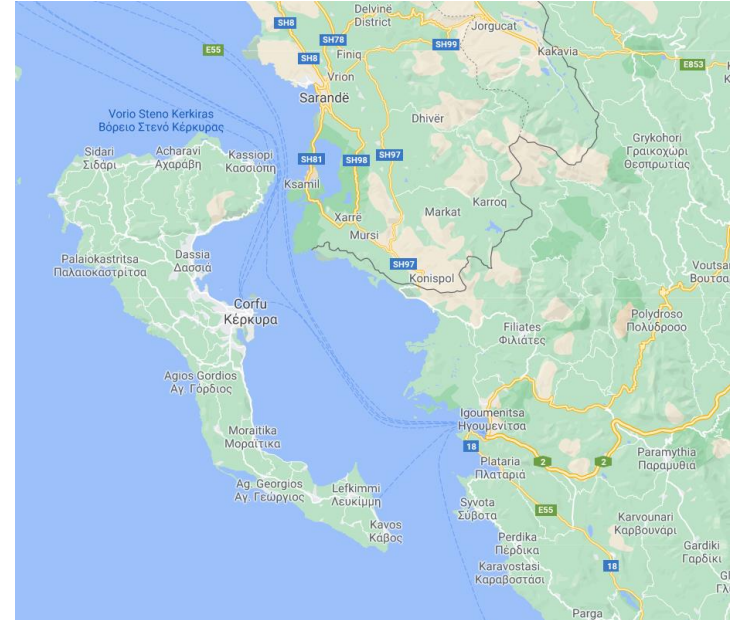
- the closer one gets to land, the stronger the powers of the coastal state
- the further one moves away from the land, the weaker the powers of the coastal state

Territorial Sea

- Sovereignty over waters
- 12 nautical miles maximum
- Subject to right of innocent passage
- Measured from territorial sea baselines
- Generated by land

Innocent Passage

- *Corfu Channel Case*
 - Albanian shore batteries fire on Royal Navy ships – May 1946
 - RN squadron passes through south to north – 2 ships hit by sea mines – 45 dead; 42 injured – Oct 1946
 - RN undertakes minesweeping operation – located a number of recently placed mines – Nov 1946



Innocent Passage

- Language use in *Corfu Channel Case* adopted in 1958 Convention on the Territorial Sea and Contiguous Zone
- Presently in Part II Section 3 of the UN Law of the Sea Convention
- Passage can be to internal waters or not, and may involve stopping at a port or not (Art 18)

Innocent Passage

- Must be continuous and expeditious (Art. 18)
- Stopping or anchoring are possible where:
 - incidental to ordinary navigation
 - rendered necessary by *force majeure* or distress
 - rendering assistance to persons, ships or aircraft in danger or distress
- Can be temporarily suspended for essential security purposes, but not discriminate, and be published in advance (Art. 25(3))

Innocent Passage

- Innocent passage is not prejudicial to the peace, good order or security of the coastal State (Art. 19)
- Examples:
 - threat or use of force
 - weapons exercises
 - acts prejudicial to the defence or security of the coastal State
 - propaganda affecting State security
 - launching or landing aircraft or any military device
 - breaking fiscal, immigration, sanitary or customs regulations
 - wilful pollution
 - fishing
 - research or survey
 - interfering with communications
 - any other activity not having a direct bearing on passage

Innocent Passage

- Submarines must navigate on the surface and show their flag (Art. 20)
- Nuclear vessels (cargo and/or propulsion) or vessels carrying dangerous or noxious substances can pass, but must comply with international conventions applicable (Art. 23)

Innocent Passage

- Coastal State can make laws for: (Art. 21)
 - safety of navigation
 - protection of cables, pipelines, navigational aids and the like
 - marine living resources
 - environmental protection
 - Marine scientific research
 - Fiscal, immigration, sanitary and customs laws

Innocent Passage

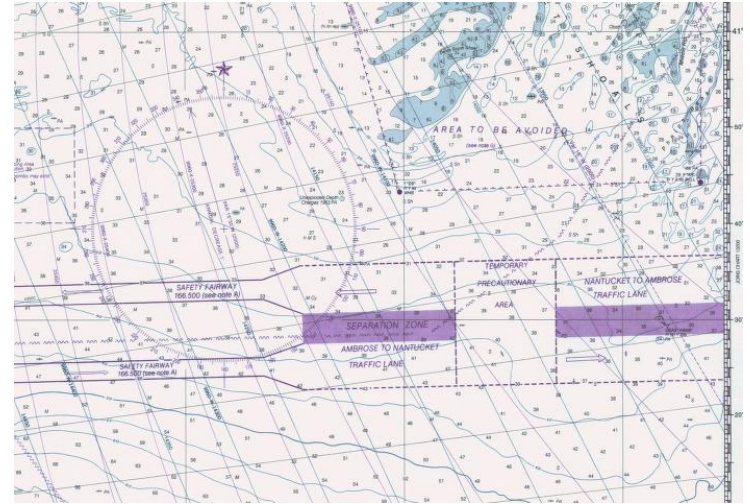
- Criminal jurisdiction over vessels exercising a right of innocent passage is limited to: (Art. 27)
 - Where master calls for assistance
 - Consequences of crime extend to the territorial sea or the State itself
 - Measures to curb the drug trade
 - Diplomatic request

Innocent Passage

- Civil jurisdiction: (Art. 28)
 - None
- Warships and non-commercial government vessels are sovereign immune (Art. 29)
- Non-compliance:
 - Leave immediately
 - Flag State liable for damages

Innocent Passage

- No charge except for services - pilotage et cetera (Art. 26)
- Not available for aircraft
- Traffic separation schemes must be public and IMO consideration is relevant (Art. 22)



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