Investigation 2A

Ocean Policy in Action

Objectives

National laws and international treaties govern how we as a society and as individuals interact with the ocean and use its resources. These policies are the accepted plans of action and behavior among nations and between groups within nations, evolving over time and reflecting the perspectives of their respective people. For this reason, there is a continuing need to review and alter policies or propose new ones to accommodate changing situations.

In this investigation, we will:

- Analyze the historical development and key drivers behind the formation of the current ocean policy
- Evaluate the impacts of major ocean policies currently in effect on environmental protection, resource management, and national interests

Law of the Sea

The open ocean is a global commons, shared and influenced by all. However, in the early 1500s, countries began to split the ocean into parts that belonged to one nation or another. In Europe, this process began with Spain and Portugal, who requested that the Pope divide the ocean between them, granting the ruling nation the authority to navigate or conduct trade in these regions. Other nations rejected the idea of dividing the ocean among sovereign states. In 1609, it was proposed that no nation could claim ownership or control over the sea, making the partitioning of the entire ocean legally and politically unfeasible.

In 1702, two ideas were suggested for how far a country's control over the sea should extend from its coastline. One was called the "rule of cannon shot," which meant a country could claim as much sea as a cannon could reach from land. However, this distance changed over time as cannons improved. The other idea was to set a fixed limit of about 3 nautical miles (5.5 km), which was easier to measure and apply consistently.

1. The "rule of cannon shot" suggested that a nation could claim a portion of the ocean that _____.

    a. they could defend with their navy
    b. they could defend from land
    c. was proportional to its area
    d. was proportional to the length of their coastline

Later in the 1700s, the international freedom-of-the-seas doctrine was established to govern the ocean and its resources. In response to the Portuguese claim that the Dutch had no right to travel across its claim to the West Indies, this doctrine declared that every nation is free to travel to and trade with every other nation. This set the precedent that the ocean was a global commons, free for use by anyone and the responsibility of everyone.

2. Describing the open ocean as a global commons means it is _____.

    a. owned by first world nations
    b. split between coastal nations
    c. shared and influenced by all nations
    d. only used by maritime nations

Approximately two-thirds of the ocean is international waters, or the *high seas*, beyond the boundaries of any single country. These waters are open for navigation, fishing, and other activities without interference from others. However, this freedom is balanced with the ocean as our common heritage as humans that should be preserved for future generations. These waters are governed by maritime law, which addresses various issues, including navigation, shipping, seafarer welfare, piracy, fishing, marine pollution, and conservation.

In 1982, after 9 years of deliberations, the United Nations (UN) *Convention on the Law of the Sea* (LOS) established territorial seas extending 12 nautical miles (NM), over which nations have exclusive rights, and **exclusive economic zones** (EEZs) that extend 200 NM from a nation's coastline. EEZs are the internationally agreed jurisdictional areas where the coastal country controls the exploration and exploitation of marine resources. There have been considerable challenges in ratifying this Convention, and it is limited in its influence on what occurs inside each country's EEZ. **Figure 2A-1** shows the limits of EEZs in blue with the U.S. EEZ outlined in yellow. Recall from *Investigation 1A* how flat maps can distort geography and compare the size of Greenland and Australia. In reality, Greenland is slightly smaller than Australia.

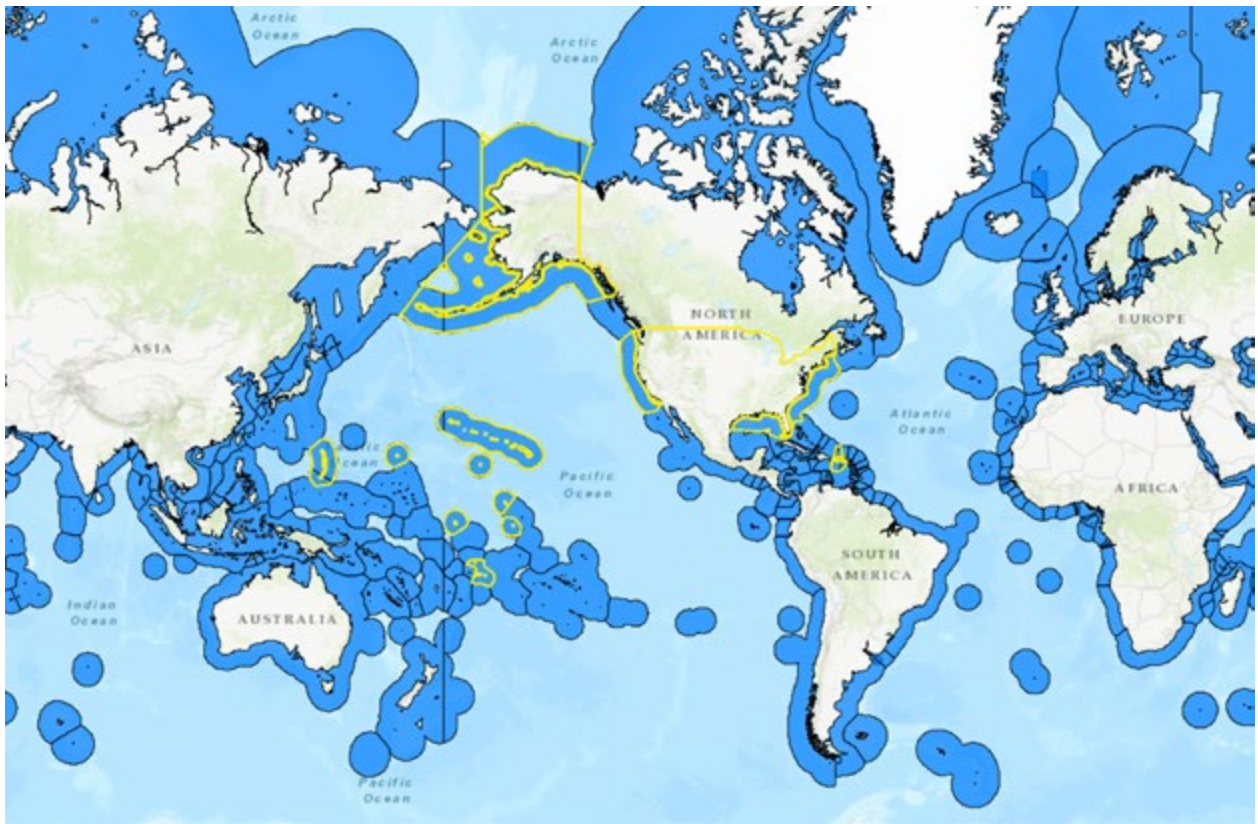

Figure 2A-1. Map of ocean EEZs with the U.S. EEZ outlined in yellow.

3. From Figure 2A-1, you can see that _____ have a large amount of ocean in the EEZ around them

compared to their land area. These can add a significant area to a country's EEZ, giving them access to significantly more resources in and under the ocean (e.g. seafloor mining and natural resource extraction). This has led to battles over seemingly insignificant places, except that the surrounding ocean is rich in resources.

a. large continents
b. small islands

4. Many locations around the world have overlapping EEZs, leading to disputes about which nation governs them. These conflicts frequently arise around _____.

a. South America
b. North America
c. Oceania
d. Africa

5. Look at the U.S.'s EEZ, outlined in yellow. The U.S. controls some or most of the _____, which is essential for international trade.

a. Panama Canal, in Panama
b. Bering Strait, between Alaska and Russia
c. Strait of Malacca, between Malaysia and Singapore
d. Strait of Gibraltar, between Spain and Morocco

The LOS is an incredibly comprehensive document that outlines the precedents for international ocean ownership and conduct. The LOS required significant amendments, so it did not enter into force until 1994 when 60 nations ratified it. 169 out of the 193 UN member nations have ratified as of 2025. Ratifying the LOS means that the nation will abide by its policies and is under the International Tribunal for the Law of the Sea's and International Seafloor Authority's jurisdiction. It also gives that nation a seat on these regulatory organizations and, therefore, a voice in negotiations and decisions.

U.S. Ocean Policy

From its founding until World War II, the maritime concerns of the United States were dominated by the right of free navigation and asserting jurisdiction over fishing and law enforcement in its waters. Following World War II, the quest for natural resources moved seaward and more jurisdiction passed into federal hands. International competition accelerated with the Cold War and the 1957 launch of the Russian satellite Sputnik, ultimately creating the National Oceanic and Atmospheric Administration (NOAA) in 1970. In 1972, several key ocean-related policies were enacted, including the Marine Protection, Research, and Sanctuaries Act, the Marine Mammal Protection Act, and the Coastal Zone Management Act.

Many events impacted ocean policy, contending either for or against stronger ocean regulation policies. The rapid decline of fish populations in the Georges Bank area during the 1960s and 1970s, along with the blowout of a Union Oil drilling platform in the Santa Barbara Channel in 1969, which caused extensive pollution along California's beaches, highlighted the urgent need for stricter regulations. Conversely, the Arab oil embargo of 1973 and the pursuit of the nation's energy independence led to increased calls for energy exploration and deregulation in offshore areas around the U.S.

6. In the 1960s and 70s, the U.S. aimed to _____ with its ocean policies.

a. expand naval dominance in international waters

b. prevent foreign encroachment on inland waterways
c. balance environmental protection with economic energy interests
d. promote global treaties over domestic regulation

In 1994, when the LOS went into force, the U.S. was not one of its ratifying nations. Although widely supported by the public, opposing parties in Congress blocked its ratification. The United States has not ratified the LOS since then, although it generally recognizes it as customary international law.

7. The United States observes but has not ratified the LOS, which is most likely because _____.

a. the LOS contradicts existing U.S. statutes on navigation rights
b. customary adherence to the LOS offers practical benefits while avoiding formal constraints
c. public opinion remains opposed to international maritime law
d. coastal states vetoed federal participation through legal injunctions

U.S. ocean policy often changes with the current administration and the composition of Congress.

Figure 2A-2 shows the U.S. legally defined boundaries applicable to the ocean and shoreline on which U.S. ocean policy is based. These definitions are generally consistent with the LOS.

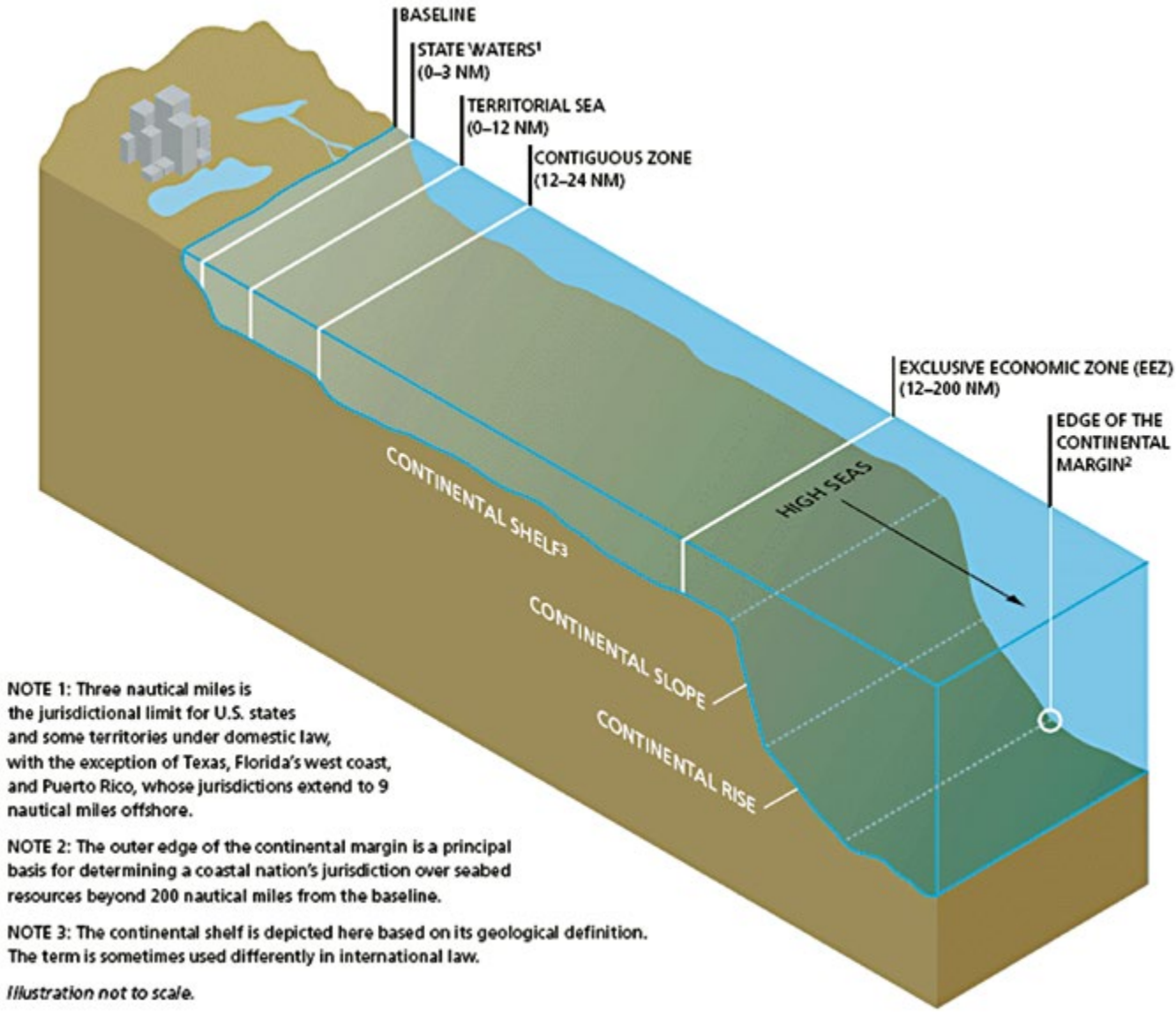

Figure 2A-2. Schematic view of the legal boundaries of the ocean in the U.S. [U.S. Ocean Commission Final Report]

Baseline (0 nautical miles)

In international and domestic law, the baseline is the boundary line dividing land from the ocean. Consistent with the LOS, the baseline is the nation's officially charted lowest water line, continuing across river mouths, bay openings, and along outer points of complex coastlines. Water bodies inside this line are "internal waters."

State Waters (0–3 nautical miles; 0–9 NM for Texas, Florida's Gulf Coast, and Puerto Rico)

After states began to exploit offshore resources, the U.S. Supreme Court in 1947 held that the states had such rights. This was overturned by the 1953 Submerged Lands Act to give such rights to the states for 3 NM from shore with the historical extensions noted. (1 NM = 1.15 mi. or 1.85 km) The federal government retains the right to regulate commerce, navigation, power generation, defense,

and international affairs throughout state waters. However, states have rights to manage, develop, and lease resources of the water column as well as on and under the ocean floor.

States must generally exercise this authority for the public benefit. This concept evolved from Roman and English common law as a general governmental obligation to protect the public interest. This obligation has been extended to recreation, environmental protection, research, and preservation of scenic beauty and cultural heritage.

Territorial Sea (0–12 NM)

By international law every nation has sovereignty over the air space, water column, seabed, and subsoil of its territorial sea, excepting the rights of foreign vessels for passage. The U.S. claimed 2.6 NM until 1988 when President Reagan extended that limit to 12 NM, consistent with the LOS.

Contiguous Zone (12–24 NM)

According to international law, the nation has limited authority in this zone for customs, fiscal, immigration, and sanitary law enforcement purposes.

Exclusive Economic Zone (12–200 NM)

The EEZ extends 200 NM from the baseline at 0 NM. The nation has sovereign rights to explore, exploit, conserve, and manage living and nonliving resources from the ocean water, the seabed, or the subsoil. Also, it has jurisdiction over artificial islands or other structures with economic purposes in the zone.

Continental Shelf (12–200 NM or outer edge of continental margin)

The LOS defines the continental shelf as the ocean floor and subsoil beyond the territorial sea to the outer edge of the continental margin or 200 NM, whichever is further. The legal shelf definition thus overlaps with the EEZ.

High Seas (area beyond national jurisdictions)

As defined by the LOS, all nations have freedom to fly over, fish, lay cables and pipelines, conduct research, and construct artificial islands in this area beyond the EEZ (or continental shelf) subject to the duty to preserve living resources and international cooperation.

A U.S. Ocean Policy Scenario

Consider the following hypothetical situation: A large oil company begins exploration and identifies a substantial reserve of oil located beneath the ocean floor at a depth of about 500 m (1600 ft.) and 2.5 NM offshore. However, it is adjacent to a popular state wildlife refuge and beneath productive fishing grounds, which draws fishing boats to the waters next to the refuge. Furthermore, the local economy is experiencing a slump, and it’s a state and federal election year.

The oil company wishes to proceed with test wells to determine the resource’s feasibility. This discussion will require officials from the following organizations:

(a) the oil company

(b) a consortium of twelve environmental groups, including Friends of the Refuge

(c) the fishing trade organization

(d) the state Commissioner of Environmental Protection and Secretary of Trade

(e) the federal Secretary of Commerce and Secretary of the Interior

(f) the general public

A public hearing will be held as the first step in the issuance of any necessary drilling permits.

8. Based on the legally defined boundaries, listed above, the _____ government would have primary jurisdiction in this case.

    a. state
    b. federal
    c. local

9. It would be _____ that all the interested parties would be on the same side, either favoring or opposing the drilling permit.

    a. very likely
    b. very unlikely
    c. possible

10. If the oil reserve were located an additional 3.5 NM from shore, the _____ government would have primary jurisdiction.

    a. state
    b. federal
    c. local

11. This different location would alter the process required for the company to _____.

    a. pay for additional exploration
    b. conduct environmental impact assessments
    c. obtain the necessary drilling permits

12. This different location _____ result in changing the position of the political parties listed above in either favoring or opposing the issuance of a drilling permit.

    a. could
    b. would not

There are many sides to this scenario. The oil companies want to create profits, and the economy could use the boost that would come with the jobs the oil company would bring to the community. However, the environmental groups and the fishery trade organization worry about possible effects on the nearby wildlife refuge and pollution that may affect the fisheries. An election year means that the federal and state politicians are concerned with the general public's opinion and the potential for reelection. Such projects often involve complex negotiations in which no single stakeholder achieves all their desired outcomes.

While a country has the right to regulate and exploit the resources in its own EEZ under the LOS, the UN governs the high seas. In 2023, after nearly 20 years of deliberation, the UN adopted the High Seas Treaty, intended to care for and protect marine biodiversity. This landmark treaty requires countries to conduct environmental impact assessments on planned activities in the high seas, such as seafloor mining and changes in fishing policies. As of the beginning of 2025, 113 countries, including the U.S., signed the High Seas Treaty, but the U.S. has not yet ratified it. For the treaty to enter into force, it re-

quires ratification by 60 countries, but only 17 countries have ratified it.

The High Seas Treaty requires countries to conduct environmental impact assessments for activities on the high seas, such as seafloor mining. The High Seas Treaty established the International Seabed Authority (ISA) to enforce the treaty and issue permits; however, it does not have an official set of regulations finalized and lacks a means to enforce them.

13. The main goal of the High Seas Treaty is to _____.

    a. stop seafloor mining indefinitely
    b. regulate international trade
    c. protect the marine environment
    d. develop renewable energy sources

In the meantime, some countries are permitting mining exploration in their EEZs, some without the extensive environmental impact assessments that would be necessary in the high seas.

Summary

Partitioning of the coastal ocean started in the 1500s, but the freedom-of-the-seas doctrine was instituted in the late 1700s, establishing that every nation is free to travel and trade with every other nation. In the early 1980s, the International Law of the Sea Treaty established territorial seas and exclusive economic zones (EEZ) for each coastal country extending to 200 NM from the coast or, in special cases, out to the edge of the continental shelf. This has caused disputes over previously inconsequential islands to control the marine resources around them.

Individual countries, including the U.S., regulate their marine resources inside their EEZ differently based on their economic interests and the need to conserve these resources for the future. Seafloor resources may soon become valuable enough to mine, necessitating the Treaty of the High Seas to regulate and monitor mining efforts.

References

Figure 2A-1 – SeaAroundUs, 2024: EEZ. Accessed 13 January 2025, https://www.seaaroundus.org/data/#/eez.

Figure 2A-2 – U.S. Commission on Ocean Policy, 2004: Primer on ocean jurisdictions: Drawing lines in the water. Accessed 15 January 2025, https://govinfo.library.unt.edu/oceancommission/documents/full_color_rpt/03a_primer.pdf.