

Department of Defense Report to Congress



Annual Freedom of Navigation Report

Fiscal Year 2023

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Preserving the Rules-Based International Order

Customary international law as reflected in the 1982 United Nations Law of the Sea Convention (UNCLOS) recognizes the rights and freedoms of all nations to engage in traditional uses of the sea, balanced with coastal states' control over activities in their maritime zones. As a nation with both a vast coastline and a significant maritime presence, the United States is committed to preserving this legal balance as an essential part of the stable, rules-based international order.

Some countries do not share this commitment. Unlawful and sweeping excessive maritime claims—or incoherent legal theories of maritime entitlement—pose a threat to the legal foundation of the rules-based international order. Consequently, the United States is committed to confronting this threat by challenging excessive maritime claims.

"Excessive maritime claims" are unlawful attempts by coastal states to restrict the rights and freedoms of navigation and overflight as well as other lawful uses of the sea. They are made through coastal state laws, regulations, or other pronouncements that are inconsistent with customary international law as reflected in the 1982 Law of the Sea Convention. If left unchallenged, excessive maritime claims could permanently infringe upon the freedom of the seas enjoyed by all nations.

As long as some countries continue to assert limits on maritime rights and freedoms that exceed coastal state authorities nested under customary international law, the United States will continue to challenge such unlawful claims. The United States will uphold the rights, freedoms, and lawful uses of the sea for the benefit of all nations—and will stand with like-minded partners doing the same.

The U.S. Freedom of Navigation Program

Formally established in 1979, the Freedom of Navigation (FON) Program consists of complementary diplomatic and operational efforts to safeguard lawful commerce and the global mobility of U.S. forces. The Department of State (DOS) protests excessive maritime claims, advocating for adherence to international law, while the Department of Defense (DoD) exercises the United States' maritime rights and freedoms by conducting operational challenges to excessive maritime claims. In combination, these efforts help preserve for all states the legal balance of interests established in customary international law as reflected in the 1982 Law of the Sea Convention.

Since its establishment, the U.S. FON Program has continuously reaffirmed the U.S. policy of exercising and asserting its navigation and overflight rights and freedoms around the world. These assertions communicate that the United States does not acquiesce to the excessive maritime claims of other nations and prevents them from becoming accepted customary international law.

DoD's operational challenges are also known as "FON assertions," "FON operations," and "FONOPs." The regular and routine execution of these operations supports the longstanding U.S. national interest in worldwide freedom of the seas. Activities conducted by DoD under the FON Program are planned with deliberation, subjected to legal review, and professionally conducted. DoD's actions reinforce

international law in an even-handed, principled manner with no intent to be provocative. This report illustrates that U.S. FONOPs challenge a wide variety of excessive maritime claims made by allies, partners, and competitors. They are not focused on any particular excessive claimant, and they are not executed in response to current events. Rather, their purpose is peacefully to reinforce international law in a principled, unbiased manner.

A number of like-minded U.S. allies and partners continue to voice strong public support for the 1982 Law of the Sea Convention as the legal framework within which all activities in the oceans and seas must be carried out. Moreover, many nations continue to comment favorably on the United States' peaceful vigilance in responding to excessive maritime claims. The United States invites these and other nations to conduct their own freedom of navigation operations and to publicly—and peacefully—contest such claims. DoD will continue to support a growing chorus of nations upholding international law and the rules-based order that has proven essential to global security and the stability and prosperity of all nations.

The Annual DoD FON Report

DoD releases an annual unclassified report identifying the excessive maritime claims that U.S. forces challenged over the previous fiscal year.

Below is a summary of excessive maritime claims that DoD challenged during the period of October 1, 2022, through September 30, 2023, to preserve the rights, freedoms, and uses of the sea and airspace guaranteed to all nations by international law. In sum, the United States challenged 29 excessive maritime claims of 17 claimants. The report cites in brackets each claimant's specific laws, regulations, and other proclamations articulating the excessive maritime claims. To maintain the operational security of U.S. military forces, DoD Annual FON Reports include only general geographic information on the location of operational challenges and do not specify the precise number of challenges to each excessive maritime claim.

For the most up-to-date list of all excessive maritime claims made around the world, as well as the years U.S. forces operationally challenged those claims under the FON Program, see the DoD Maritime Claims Reference Manual (MCRM), available online at www.jag.navy.mil/national-security/mcrm/. The MCRM currently tracks the maritime claims of 156 claimants. The DoD Representative for Oceans Policy Affairs continuously updates individual entries to keep pace with current claims. The MCRM also contains U.S. information regarding diplomatic protests of excessive claims made by the DOS.

For an authoritative treatment of U.S. diplomatic communications on freedom of navigation matters, see the Digest of United States Practice in International Law at <http://www.state.gov/digest-of-united-states-practice-in-international-law/>. The DOS Office of the Legal Adviser publishes this digest to provide the public with a historical record of the views and practice of the Government of the United States in public and private international law.

Freedom of Navigation Operational Challenges Fiscal Year 2023		
Claimant	Excessive Maritime Claim	Geographic Area or Location
	An asterisk (*) indicates multiple operational challenges to the excessive claim. A pound sign (#) indicates joint challenge with international partners and allies.	
Cambodia	Straight baselines do not conform with UNCLOS. [1982 Decree of the Council of the State]	Gulf of Thailand
	Claims the Gulf of Thailand as historic waters. [1982 Agreement with Vietnam]	Gulf of Thailand
Colombia	Requires prior authorization for warships and submarines to transit the territorial sea. [2013 Decree No. 1946]	Caribbean Sea
	Straight baselines along the Caribbean and Pacific Coasts do not conform with UNCLOS. [1984 Decree No. 1436]	Caribbean Sea
Croatia	Requires prior notification for warships to conduct innocent passage in the territorial sea. [1994 Maritime Code]	Adriatic Sea
	Excessive restriction on innocent passage, which limits the number of warships allowed to exercise the right of innocent passage at the same time. [1994 Maritime Code]	Adriatic Sea
People's Republic of China	*Straight baselines not drawn in conformance with international law. [Declaration of the Government of the PRC on the Baselines of the Territorial Sea of the People's Republic of China, May 15, 1996]	South China Sea
	*Requires prior approval for military survey activities in the exclusive economic zone (EEZ). [Surveying and Mapping Law of the People's Republic of China, Apr. 27, 2017]	South China Sea
	*Restrictions on foreign aircraft flying through an Air Defense Identification Zone without the intent to enter national airspace. [Ministry of National Defense Announcement, Nov. 23, 2013]	East China Sea
	*Requires prior permission for innocent passage of foreign military ships through the territorial sea. [Law on the Territorial Sea and Contiguous Zone, Feb. 25, 1992]	South China Sea
	*#Claims "historic rights in the South China Sea. [2016 Statement on China's Territorial Sovereignty & Maritime Rights & Interests in the South China Sea]	South China Sea

Dominican Republic	Requires prior authorization for foreign States to conduct military exercises in the EEZ. [2008 Resolution 478-08 adopting the LOS Convention]	Dominican Republic
Iran	*Restrictions on the right of transit passage through the Strait of Hormuz to Parties of UNCLOS. [Declaration upon Signature of the 1982 Law of the Sea Convention, Dec. 10, 1982]	Strait of Hormuz
	*Prohibition on foreign military activities and practices in the EEZ and continental shelf. [Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea, May 2, 1993]	Persian Gulf Strait of Hormuz Gulf of Oman
Japan	*Straight baselines do not conform with UNCLOS. [2002 Enforcement Order of the Law on the Territorial Sea and the Contiguous Zone (Cabinet Order No. 210 of 1977 amended by Orders No. 383 of 1993, No. 206 of 1996 and No. 434 of 2001)]	In vicinity of Tsushima Strait
Latvia	Requires prior permission for foreign warships to enter the territorial sea. [2010 Regulation No. 759 (as modified Nov 2011 amendments)]	Baltic Sea
Maldives	Archipelagic baselines do not conform with UNCLOS. [1996 Maritime Zones Act No. 6/96]	Maldives
	Prior permission requirement for foreign vessels to enter EEZ. [1996 Maritime Zones Act No. 6/96]	Maldives
	Requires prior permission for foreign warships, foreign Nuclear-powered ships, and ships carrying nuclear or other inherently dangers/noxious substances to enter territorial sea. [1996 Maritime Zones Act No. 6/96]	Maldives
Malta	Requires prior notification or permission for nuclear-powered vessels and ships carrying nuclear or other inherently dangerous or noxious substances to transit the territorial sea. [1971 Territorial Waters & Contiguous Zone Act, No.XXXII (as amended by Acts XLVI of 1975, XXIV of 1978, XXVII of 1981, and I of 2002)]	Mediterranean Sea
Oman	*Requirement for innocent passage of vessels transiting through the Strait of Hormuz, an international strait. [Declaration upon Ratification of the 1982 Law of the Sea Convention, Aug. 17, 1989]	Strait of Hormuz

Russian Federation	Requires warships or government vessels to provide one hour notification prior to entering the territorial sea. [Ministry of Foreign Affairs Note to the United States, Jul. 29, 2021]	Bering Strait
Taiwan	*Requires prior notice for foreign military vessels to conduct innocent passage in the territorial sea. [Law on the Territorial Sea and the Contiguous Zone, Jan. 21, 1998]	South China Sea
Thailand	Prior consent required for military exercises or other activities which may affect the rights or interests of the coastal State in the EEZ. [2011 Declaration upon ratification of 1982 LOS Convention]	Andaman Sea
United Arab Emirates	*Requirement to provide documentation for entry into the territorial sea or ports, including statement of cargo, crew and passenger list. [Circular No. 34, May 24, 1994]	Persian Gulf Gulf of Oman
	*Excessive prohibitions on territorial sea entry for vessels over 20 years old. [Ministry of Communications Decree No. 110 of Jan. 1998]	
Vietnam	*Prior notification required for foreign warships to enter the territorial sea. [Law of the Sea of Vietnam, Law No. 18/2012/QH13, Jun. 21, 2012]	South China Sea
	Straight baselines do not conform with UNCLOS. [Law of the Sea of Vietnam, Law No. 18/2012/QH13, Jun. 21, 2012]	South China Sea
Yemen	*Prior permission required for foreign warships and nuclear-powered vessels to transit territorial sea including Bab el-Mandeb Strait. [Declaration upon Ratification of the 1982 Law of the Sea Convention, Jul. 21, 1987]	Bab el-Mandeb Strait