

Department of Defense Report to Congress



Annual Freedom of Navigation Report

Fiscal Year 2020

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Preserving the Rules-Based International Order

International law as reflected in the 1982 Law of the Sea Convention recognizes the rights and freedoms of all nations to engage in traditional uses of the sea. These rights and freedoms are deliberately balanced against coastal States' control over maritime activities. 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 maritime claims—or incoherent legal theories of maritime entitlement—that are inconsistent with international law 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 attempts by coastal States to restrict unlawfully the rights and freedoms of navigation and overflight and other lawful uses of the sea. These claims are made through laws, regulations, or other pronouncements that are inconsistent with international law as reflected in the 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 the coastal State authority reflected under 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

For more than 40 years, the U.S. Freedom of Navigation (FON) Program has continuously reaffirmed the United States' 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 thus prevents those claims from becoming accepted in international law.

Formally established in 1979, the 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 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 against 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 Law of the Sea Convention.

DoD's operational challenges are also known as “FON assertions,” “FON operations,” and “FONOPs.” The comprehensive, regular, and routine execution of these operations supports the

longstanding U.S. national interest in freedom of the seas worldwide. Activities conducted by DoD under the FON Program are deliberately planned, legally reviewed, and professionally conducted. DoD's actions reinforce international law in an even-handed, principled manner without provoking armed conflict.

As this reports illustrates, FONOPs challenge a wide variety of excessive maritime claims made by allies, partners, and competitors. FONOPs are not focused on any particular claimant, and they are not executed in response to current events. Rather, their purpose is to reinforce international law peacefully and in a principled, unbiased manner.

In Fiscal Year 2020, a number of like-minded partners voiced strong public support for the 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 have commented favorably on the United States' peaceful vigilance of 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 excessive maritime claims. The Department of Defense will continue supporting 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

Every year, DoD releases an unclassified report identifying the excessive maritime claims that U.S. forces operationally challenged over the last fiscal year.

Below is a summary of excessive maritime claims that DoD challenged during the period of October 1, 2019, through September 30, 2020, 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 the excessive maritime claims of 19 claimants. Many excessive claims were challenged multiple times. The report cites each claimants' specific laws, regulations, and other proclamations articulating the excessive maritime claims in brackets. To maintain the operational security of U.S. military forces, the DoD Annual FON Report includes only general geographic information on the location of operational challenges.

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/organization/code_10_mcrm.htm. The MCRM tracks the maritime claims of 158 claimants around the world. Individual entries are updated on a continual basis and may not reflect all excessive maritime claims. Specific inquiries may be directed to the Office of the Under Secretary of Defense for Policy via DoD Public Affairs.

Freedom of Navigation Operational Challenges Fiscal Year 2020		
Claimant	Excessive Maritime Claim An asterisk indicates multiple operational challenges to the excessive claim.	Geographic Area or Location
Algeria	Requires foreign warships request permission at least 15 days prior to conducting innocent passage, except in cases of force majeure. [Decree No. 72-194 of October 5, 1972 for the Peacetime Regulation of the Passage of Foreign Warships through the Territorial Waters and of their Calls]	Mediterranean Sea
Argentina	* Prior notification required before warships enter the approaches to the Strait of Magellan. [Declaration upon Ratification of the 1982 Law of the Sea Convention, Dec. 1, 1995.]	Strait of Magellan
Brazil	Prior consent required for military exercises or maneuvers, in particular those involving the use of weapons or explosives, in the exclusive economic zone. [Law No. 8,617 of January 4, 1993, on the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Continental Shelf.]	South Atlantic Ocean
China	* Straight baseline claims. [Declaration of the Government of the People's Republic of China on the Baselines of the Territorial Sea of the People's Republic of China, May 15, 1996.]	South China Sea
	* Restrictions on foreign aircraft flying through an Air Defense Identification Zone (ADIZ) without the intent to enter national airspace. [Ministry of National Defense Announcement, Nov. 23, 2013.]	East China Sea
	* Criminalization of surveying and mapping activities by foreign entities which do not obtain approval from or cooperate with the People's Republic of China (PRC). [Surveying and Mapping Law of the People's Republic of China, Apr. 27, 2017.]	South China Sea and East China Sea
	* Jurisdiction over all surveying and mapping activities "in the territorial air, land, and waters, as well as other sea areas under PRC jurisdiction," without distinction between marine scientific research and military surveys. [Surveying and Mapping Law of the People's Republic of China, Apr. 27, 2017.]	South China Sea and East China Sea

	* Security jurisdiction over the contiguous zone. [Law on the Territorial Sea and Contiguous Zone, Feb. 25, 1992.]	South China Sea and East China Sea
	* Prior permission required 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
	* Territorial sea and airspace around features not so entitled (<i>i.e.</i> , low-tide elevations). [Actions and statements implying such a claim.]	South China Sea
Ecuador	Express consent required for military exercises or maneuvers of any type in the exclusive economic zone. [Declaration upon Accession to the 1982 Law of the Sea Convention, Sep. 24, 2012.]	South Pacific Ocean
Haiti	Unpublished but inferred straight baseline claims. [Decree No. 38 of 8 April 1977.]	Gulf of Gonave
Iran	* Restrictions on the right of transit passage through the Strait of Hormuz to Parties of the United Nations Convention on the Law of the Sea. [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 exclusive economic zone. [Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea, article 16, Apr. 20, 1993.]	Persian Gulf
Japan	Straight baseline claims. [Enforcement Order of the Law on the Territorial Sea and the Contiguous Zone (Cabinet Order No. 210 of 1977, as amended by Cabinet Order No. 383 of 1993, Cabinet Order No. 206 of 1996 and Cabinet Order No. 434 of 2001).]	Tsushima Strait
Malaysia	Prior authorization of passage required before nuclear-powered vessels enter the territorial sea. [Declaration upon Ratification of the 1982 Law of the Sea Convention, Oct. 14, 1996.]	Strait of Malacca
	* Prior consent required for military exercises or maneuvers in the exclusive economic zone. [Declaration upon Ratification of the 1982 Law of the Sea Convention, Oct. 14, 1996.]	South China Sea

Maldives	* Prior authorization required for all foreign vessels to enter the exclusive economic zone. [Maritime Zones of Maldives Act No. 6/96.]	Indian Ocean
Nicaragua	Straight baseline claims. [Presidential Decree 17-2018, Decree of Reform to Decree No. 33-2013, “Baselines of the Maritime Spaces of the Republic of Nicaragua in the Caribbean Sea,” 10 October 2018.]	Caribbean Sea
Pakistan	* Prior consent required for military exercises or maneuvers in the exclusive economic zone. [Declaration upon Ratification of the 1982 Law of the Sea Convention, Feb. 26, 1997.]	North Arabian Sea
Republic of Korea	Straight baseline claims. [Territorial Sea and Contiguous Zone Act, Law No. 3037, promulgated on 31 December 1977, as amended by Law No. 14607, promulgated on 21 March 2017.]	Yellow Sea
Samoa	Prior authorization required for vessels carrying radioactive wastes or other inherently dangerous, noxious or hazardous wastes, or substances harmful to the environment, through the territorial sea. [Maritime Zones Act 1999, No. 18, Aug. 25, 1999.]	South Pacific Ocean
Taiwan	* Prior notification required for foreign military or government vessels to enter the territorial sea. [Law on the Territorial Sea and the Contiguous Zone, article 7, Jan. 21, 1998.]	South China Sea
Uruguay	Prior authorization required for foreign military exercises or any other military activities, particularly those involving the use of arms, explosives or other aggressive or polluting means, in the exclusive economic zone. [Act 17.033 of 20 November 1998.]	Atlantic Ocean
Vietnam	* Prior notification required for foreign warships to enter the territorial sea. [Law of the Sea of Vietnam, Law No. 18/2012/QH13, article 12, June 21, 2012.]	South China Sea
Venezuela	* Prior permission required for military operations in the exclusive economic zone and Flight Identification Region (FIR). [Actions and statements implying such claims.]	Caribbean Sea
	Attempted enforcement of a security zone beyond the lawful limit of the territorial sea. [Actions and statements implying such a claim, contrary to the repeal of article 3 of the Territorial Sea, Continental Shelf, Fisheries Protection and Airspace Act of 27 July 1956.]	Caribbean Sea

Yemen	* Prior permission required for foreign warships to transit the territorial sea. [Declaration upon Ratification of the 1982 Law of the Sea Convention, July 21, 1987.]	Bab al-Mandeb Strait
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