

TABLE OF CONTENTS

	Page
FOREWORD	xi
PREFACE	xiii
PART ONE—INTRODUCTION	1
CHAPTER I—MAINTAINING FREEDOM OF THE SEAS	3
CHAPTER II—IDENTIFICATION OF EXCESSIVE MARITIME CLAIMS	11
Historic Bays	12
Baselines	12
Territorial Sea Breadth	13
Contiguous Zones	13
Exclusive Economic Zones	14
Continental Shelves	14
Archipelagos	15
Innocent Passage in the Territorial Sea	16
International Straits	16
Overflight Restrictions	17
Archipelagic Sea Lanes Passage	18
PART TWO—LEGAL DIVISIONS OF THE OCEANS AND AIRSPACE	21
CHAPTER III—HISTORIC WATERS	23
Criteria	23
United States Waters	23
Foreign Waters Considered Not to be Historic	23
Argentina and Uruguay (Rio de la Plata)	25
Australia (Anxious, Encounter, Lapepede and Rivoli Bays)	25
Cambodia and Vietnam (Gulf of Thailand)	26
India and Sri Lanka (Gulf of Mannar and Palk Bay)	27
Italy (Gulf of Taranto)	27
Libya (Gulf of Sidra)	27
Panama (Gulf of Panama)	31
USSR (Peter the Great Bay)	31
USSR (Northeast Passage)	33

vi **Contents**

Vietnam (Gulf of Tonkin)	33
Historic Bay Claims Rolled Back	34
Bays Now Qualifying as Juridical Bays	34
Egypt (Bay of El-Arab)	34
CHAPTER IV—BASELINES	41
Normal Baseline	41
Harbor Works	41
Reefs	42
Straight Baselines	42
Unstable Coastlines	43
River Mouths	43
Low-tide Elevations	43
Straight Baselines Policy of the United States	43
Excessive Straight Baseline Claims	43
Coastline Not Deeply Indented and Cut Into	49
Coastline Not Fringed With Islands	58
Non-Independent Archipelagos	63
Baseline Departs From the General Direction of the Coast	67
Waters are Not Closely Linked to the Land Domain	69
Low-tide Elevation Improperly Used as a Basepoint	71
Terminus Located on a Maritime Boundary at Sea	73
Terminus Located on the Territory of Another State	74
Basepoints Located at Sea	74
Terminus Not Located on Own Mainland	77
Overlarge Bays and Gulfs	77
Baselines Not Published	80
CHAPTER V—TERRITORIAL SEA	93
United States Policy	93
Excessive Claims Rolled Back	96
Territorial Sea Claims Greater Than 12 Miles	97
CHAPTER VI—CONTIGUOUS ZONE	103
Juridical Regime	103
Excessive Claims	104
CHAPTER VII—EXCLUSIVE ECONOMIC ZONE	109
Juridical Regime	109
Status as Customary Law	110
United States Policy	113
Excessive Claims	115

Contents vii

CHAPTER VIII—CONTINENTAL SHELF	121
Geologic Definition	121
Juridical Definition	121
Delimitation of the Outer Edge of the Continental Shelf	124
Excessive Claims	126
CHAPTER IX—ARCHIPELAGOS	131
Archipelagic States	131
Island-Mainland States	132
Baseline	132
PART THREE—NAVIGATION AND OVERFLIGHT RIGHTS	141
CHAPTER X—IN THE TERRITORIAL SEA	143
Right of Innocent Passage	143
Permissible Restrictions on Innocent Passage	144
Temporary Suspension of Innocent Passage	145
Excessive Restrictions on Innocent Passage	146
Time Limits for Passage; Prohibited Zones	146
Compulsory Pilotage for Sovereign Immune Vessels	147
Passage Limited to Sea Lanes	148
Prior Notice or Permission for Passage of Warships	154
Enforcement of Violations	159
Limitation on Number of Warships	160
Nuclear Powered Warships	160
Claims Rolled Back	162
Hazardous Waste	163
CHAPTER XI—INTERNATIONAL STRAITS	177
Legal Regime	177
Transit Passage	177
Innocent Passage	181
International Straits Not Completely Overlapped by Territorial Seas	182
“Straits Used for International Navigation”	182
Navigational Regimes of Particular Straits	182
Aland	182
Bab el Mandeb	183
Bosporous and Dardanelles	183
Gibraltar	185
Hormuz	189

viii **Contents**

Kuril Straits	191
Etorofu Strait	191
Golovnina Strait	192
Magellan	194
Malacca and Singapore	194
Messina	197
Northeast Passage	200
Northwest Passage	207
Transit by USCG Icebreaker Polar Sea, August 1985	207
Agreement on Arctic Cooperation	212
Transit of the USCG Icebreaker Polar Star, October 1988	214
The Oresund and the Belts	215
Sunda and Lombok	218
Tiran	219
United Kingdom Straits	221
 CHAPTER XII—OVERFLIGHT RESTRICTIONS	 231
 CHAPTER XIII—ARCHIPELAGIC SEA LANES	
PASSAGE	235
Criteria	235
Excessive Claims	236
 CHAPTER XIV—NAVIGATION IN EXCLUSIVE	
ECONOMIC ZONES	241
Criteria	241
Excessive Claims	241
Survey Activities in the Exclusive Economic Zone	247
Survey Activities vs. Marine Scientific Research	247
Definitions	248
Military Activities	249
 PART FOUR—CONCLUSIONS	 253
 CHAPTER XV—THE FUTURE OF U.S. OCEAN	
POLICY	255
Implementation of U.S. Ocean Policy	255
Freedom of Navigation Program: The “Lever” of U.S. Ocean	
Policy	255
Promulgation of Policy Guidance for Maritime Forces	256
Development of Conventional International Law	258
Emerging Ocean Policy Issues	259
Environmental Protection and Resource Conservation	259

Contents ix

Environmental Protection	260
Conservation of Living Marine Resources	262
Sovereign Immunity of Warships and Military Aircraft	263
Maritime Counter-Drug Operations	265
U.S. Ocean Policy for the 21st Century	265

APPENDICES

1. President's Ocean Policy Statement, March 10, 1983	275
2. Proclamation 5030, Exclusive Economic Zone, March 10, 1983	277
3. Proclamation 5928, Territorial Sea, December 27, 1988 . . .	279
4. Joint Statement by the United States and Soviet Union, with Uniform Interpretation of the Rules of International Law Governing Innocent Passage, September 23, 1989	281
5. Ratifications and Accessions to the 1982 United Nations Convention on the Law of the Sea	283
6. Relevant Articles of the 1982 United Nations Convention on the Law of the Sea	285

LIST OF TABLES

1. Claims Made to Historic Bays	23
2. Claims Made to Straight Baselines	44
3. Territorial Sea Claims	94
4. Territorial Sea Claims of 12 Miles or Less	94
5. Excessive Territorial Sea Claims Rolled Back	96
6. Territorial Sea Claims Greater than 12 Miles	97
7. States Claiming a Contiguous Zone Beyond the Territorial Sea	103
8. States Claiming Security as a Contiguous Zone Interest . . .	106
9. Exclusive Economic Zones	112
10. Restrictions on Warship Innocent Passage	158

LIST OF FIGURES

1. Continental Shelf	123
--------------------------------	-----

x Contents

LIST OF MAPS

1. Rio de la Plata	25
2. India-Sri Lanka Maritime Boundary	28
3. Gulf of Taranto	29
4. Gulf of Sidra	30
5. Peter the Great Bay	32
6. Oman Claimed Straight Baselines	51
7. Egypt Claimed Straight Baselines	52
8. Egypt: Red Sea Claimed Straight Baseline	53
9. Albania Claimed Straight Baselines	56
10. Vietnam Claimed Straight Baselines	59
11. Djibouti Claimed Straight Baselines	64
12. Canadian Arctic Straight Baselines	66
13. United Kingdom Straight Baselines (Falkland Islands)	68
14. Burma Claimed Straight Baselines	70
15. Germany's Territorial Sea Extension in the North Sea	72
16. Venezuela Straight Baseline Claim	75
17. Maldives Claimed Territorial Sea	76
18. Costa Rica Claimed Straight Baselines	78
19. Mauritania Claimed Straight Baselines	81
20. Indonesian Archipelago	133
21. Cape Verde Archipelago	135
22. Philippine Archipelago	136
23. Black Sea Bumping Incident	151
24. Bab el Mandeb	184
25. Strait of Gibraltar	186
26. Strait of Hormuz	190
27. Straits of Malacca and Singapore	195
28. Strait of Messina	198
29. Northwest Passage	208
30. Danish Straits	216
31. Strait of Tiran	220