

# Department of Defense Report to Congress



## Annual Freedom of Navigation Report

**Fiscal Year 2019**

Pursuant to Section 1275 of the National Defense Authorization Act  
for Fiscal Year (FY) 2017 (P.L. 114-328)

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## **A National Interest in Freedom of the Seas**

Since its founding, the United States has stood for—and fought for—freedom of the seas. As a result of that commitment, freedom of navigation has been enshrined as a fundamental tenet of the rules-based international order for the last 75 years. In that time, it has proved essential to global security and stability and the prosperity of all nations.

International law as reflected in the 1982 Law of the Sea Convention provides to all nations certain rights and freedoms. Rights to engage in traditional uses of the sea 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.

Unlawful and sweeping maritime claims that are inconsistent with customary international law as reflected in the Law of the Sea Convention 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 unlawfully restrict the 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 infringe the freedom of the seas entitled to all nations.

Because freedom of the seas benefits all people, the international community has an enduring role to play in preserving it around the globe. Promoting U.S. values, like liberty and respect for the rule of law, requires the United States to act as a champion of those principles.

No member of the international community should be intimidated or coerced into giving up their rights and freedoms. As long as some countries continue to claim and assert limits on rights that exceed what is provided for under international law as reflected in the Law of the Sea Convention, the United States will continue to 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.

## **Forty Years of the U.S. Freedom of Navigation Program**

Although the national interest in freedom of navigation dates back to the very founding of our country, in 2019, the United States marked forty years of demonstrating its resistance to excessive maritime claims through a formal U.S. Freedom of Navigation (FON) Program.

Established in 1979, the program consists of a complementary, interagency effort to safeguard the unimpeded traffic of lawful commerce and the global mobility of U.S. forces: The Department of State diplomatically protests excessive maritime claims, advocating for adherence to international law. The Department of Defense (DoD) exercises the United States' maritime

rights by conducting tangible, 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." Their comprehensive, regular, and routine execution supports the longstanding and global U.S. national interest in freedom of the seas. Activities conducted by DoD under the FON Program are deliberately planned, legally reviewed, properly approved, and professionally conducted. DoD's actions reinforce international law in an even-handed, principled manner without provoking armed conflict.

As illustrated by this report, FON assertions challenge excessive maritime claims made by a wide variety of coastal states, including allies, partners, and competitors. They are not focused on any particular claimant, and they are not tied to current events. Rather, they are designed to reinforce international law peacefully and in a principled, unbiased manner.

### **The Annual DoD FON Report:**

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

Below is a summary of excessive maritime claims DoD challenged during the period of October 1, 2018, through September 30, 2019, 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 22 claimants. Many excessive claims were challenged multiple times. The claimant states' specific laws, regulations, and other proclamations articulating the excessive maritime claims are cited 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 a complete list of all coastal states making excessive maritime claims, as well as the years those claims were last operationally challenged by U.S. forces under the FON Program, see the DoD Maritime Claims Reference Manual, available online at [www.jag.navy.mil/organization/code\\_10\\_mcrm.htm](http://www.jag.navy.mil/organization/code_10_mcrm.htm).

<b>Freedom of Navigation Operational Challenges Fiscal Year 2019</b>		
<b>Claimant</b>	<b>Excessive Maritime Claim</b> An asterisk indicates multiple operational challenges to the excessive claim.	<b>Geographic Area or Location</b>
Bangladesh	Prior consent required for military exercises or maneuvers, in particular those involving the use of weapons or explosives, in the exclusive economic zone. [Declaration upon Ratification of 1982 Law of the Sea Convention, Dec. 14, 2009.]	Bay of Bengal
Burma	Straight baseline claims. [Myanmar Territorial Sea and Maritime Zones Law (The Pyidaungsu Hluttaw Law No.14, 2017), July 17, 2017.]	Gulf of Martaban
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. 8617 of 4 January 1993, on the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Continental Shelf.]	South Atlantic Ocean
Cambodia	Straight baseline claims. [Decree of the Council of State, July 13, 1982.]	Gulf of Thailand
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.]	Paracel Islands
	* 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 survey activity by foreign entities in the exclusive economic zone. [Order No. 75, Surveying and Mapping Law, Dec. 2002.]	South China Sea and East China Sea
	* Jurisdiction over airspace above the exclusive economic zone. [Order No. 75, Surveying and Mapping Law, Dec. 2002.]	South China Sea and East China Sea
	* Security jurisdiction over the contiguous zone. [Law on the Territorial Sea and Contiguous Zone, Feb. 1992.]	South 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.]	Paracel Islands and Spratly Islands
	* Territorial sea and airspace around features not so entitled ( <i>i.e.</i> , low-tide elevations). [Actions and statements indicating such a claim.]	Spratly Islands
Dominican Republic	Straight baseline claims. [Act 66-07, May 22, 2007.]	Caribbean Sea
Ecuador	Prior consent required for foreign military exercises or maneuvers of any type in its “maritime spaces,” including its exclusive economic zone. [Declaration upon Ratification of 1982 Law of the Sea Convention, Sept. 24, 2012.]	Pacific Ocean
	Straight baseline claims. [Supreme Decree No. 959-A of 28 June 1971 Prescribing Straight Baselines for the Measurement of the Territorial Sea; Declaration upon Ratification of 1982 Law of the Sea Convention, Sept. 24, 2012.]	Galapagos Islands
India	Prior consent required for military exercises or maneuvers, in particular those involving the use of weapons or explosives, in the exclusive economic zone. [Declaration upon Ratification of the 1982 Law of the Sea Convention, June 29, 1995.]	Indian Ocean
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, Art. 16, Apr. 20, 1993.]	Persian Gulf
	Straight baseline claims. [Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea, Art. 16, Apr. 20, 1993.]	Persian Gulf

Maldives	* Prior authorization required for all foreign vessels to enter the exclusive economic zone. [Maritime Zones of Maldives Act No. 6/96.]	Indian Ocean
	Prior authorization required for foreign warships to enter the territorial sea. [Maritime Zones of Maldives Act No. 6/96.]	Indian Ocean
Oman	* Prior permission required for innocent passage of foreign military ships through the territorial sea. [Declaration upon Ratification of 1982 Law of the Sea Convention, Aug. 17, 1989.]	Strait of Hormuz
	* Requirement for innocent passage through the Strait of Hormuz, an international strait. [Declaration upon Ratification of 1982 Law of the Sea Convention, Aug. 17, 1989.]	Strait of Hormuz
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.]	Arabian Sea
Romania	Prior approval required for foreign warships to enter the territorial sea. [Act Concerning the Legal Regime of the Internal Waters, the Territorial Sea and the Contiguous Zone of Romania, Art. 21, Aug. 7, 1990.]	Black Sea
Russia	Straight baseline claims (including a claim that Peter the Great Bay is an historical bay). [U.S.S.R. Declaration 4604, Feb. 7, 1984; Federal Act on Internal Maritime Waters, Territorial Sea and Contiguous Zone of the Russian Federation, July 17, 1998.]	Peter the Great Bay
Saudi Arabia	Denial that innocent passage applies to its territorial sea where a route to the high seas or an exclusive economic zone is “equally suitable” in terms of navigational and hydrographical features. [Declaration upon Ratification of 1982 Law of the Sea Convention, Apr. 24, 1996.]	Persian Gulf
Sri Lanka	Prior consent required for foreign warships to enter or pass through the territorial sea. [Maritime Zones Law No. 22, § 3, Sept. 1, 1976.]	Laccadive Sea

Taiwan	* Prior notification required for foreign military or government vessels to enter the territorial sea. [Law on the Territorial Sea and the Contiguous Zone, Art. 7, Jan. 21, 1998.]	Paracel Islands, Spratly Islands
	Straight baseline claims. [Law on the Territorial Sea and the Contiguous Zone, Art. 4, Jan. 21, 1998; Decree No. Tai 88 Nei Tze #06161, Feb. 10, 1999.]	Philippine Sea
Thailand	Straight baseline claims. [Announcement of the Office of the Prime Minister, June 12, 1970.]	Gulf of Thailand
	Prior consent required for military exercises or other activities which may affect the rights or interests of the coastal state in the exclusive economic zone. [Declaration upon Ratification of the 1982 Law of the Sea Convention, May 15, 2011.]	Gulf of Thailand
Tunisia	* Straight baseline claims. [Decree No. 73-527 Concerning Baselines, Nov. 3, 1973.]	Gulf of Gabes
Venezuela	* Prior permission required for military operations in the exclusive economic zone and Flight Identification Region (FIR). [Actions and statements indicating such claims.]	Caribbean Sea
	Territorial sea claim in excess of 12 nautical miles. [Actions and statements indicating such a claim.]	Caribbean Sea
Vietnam	* Prior notification required for foreign warships to enter the territorial sea. [Law of the Sea of Vietnam, Law No. 18/2012/QH13, Art. 12, June 21, 2012.]	Paracel Islands, Spratly Islands
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