

## THE INDIAN OCEAN

### INTERNATIONAL LAW OF THE SEA

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) and its implementing agreements, Part XI of UNCLOS and the 1995 UN Fish Stocks Agreement, form a comprehensive legal regime for all maritime activities. UNCLOS has several key provisions. Firstly, it defines maritime zones such as the territorial, contiguous, and exclusive economic zones (EEZ) of all littoral states. Crucially, the convention also defines the right of navigation and passage. The conditional right to innocent passage for foreign ships in territorial waters is upheld and conditional rights of transit passage are also granted to all ships and aircraft through straits used for international navigation. UNCLOS also forms a basis for maritime peace and security, defining piracy, whilst also setting out a framework for littoral and flag states in relation to the exercising of criminal jurisdiction and cooperation against illicit activities. The convention also forms a framework for the protection, conservation and preservation of marine life, environments and resources.<sup>1</sup>

UNCLOS also established two intergovernmental organisations: The International Seabed Authority and the International Tribunal for the Law of the Sea. The former is responsible for the regulation of activities carried out in the international seabed and ocean floor beyond any limits of national jurisdiction.<sup>2</sup> The International Tribunal for the Law of the Sea is an independent judiciary body and has jurisdiction over any disputes concerning the interpretation or application of the UNCLOS.<sup>3</sup>

Currently, 168 entities, including the EU, are party to the Convention. Non-parties include the landlocked central-Asian states, such as Tajikistan, but also Turkey and Venezuela. The US has signed the agreement but objected to the Convention based upon Part XI. However, it implements much of the Convention based on customary maritime law.

### BUSINESS OVERVIEW

The Indian Ocean has extreme geopolitical and economic importance, not just to its littoral states, but to nations around the globe. This is largely owing to the Ocean being the shortest route between the growing economies of Asia and Africa, Europe and crucially the Middle East. Indeed, nearly 50% of global trade traverses the Indian Ocean. The Indian Ocean possesses numerous maritime chokepoints, passage through which is vital to the global maritime trade network. These include, the Suez Canal, Bab el-Mandeb, Strait of Hormuz, the Ten Degree Channel, the Six Degree Channel, the Strait of Malacca, the Indonesian Straits, and the Mozambique Channel. In particular, the Ocean is vital to the movement of hydrocarbons. 19 million barrels of crude oil and petroleum liquids pass through the Strait of Hormuz per day; 16 million barrels per day flow through the Straits of Malacca, and thus the Six and Ten Degree Channels; 4.8 million barrels per day pass through the Bab el-Mandeb and 5.5 million through the Suez.<sup>4</sup> The economies of south and east Asia are wholly reliant on petroleum and gas imports, for example 80% of China's and India's oil imports in 2016 passed through the Indian Ocean.<sup>5</sup> Furthermore, the Indian Ocean's sea lines of communication (SLOCs) are critical for the global trade of industrial and manufactured goods. As the Asian economies continue to expand, their reliance on the energy

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<sup>1</sup> [http://www.un.org/depts/los/convention\\_agreements/pamphlet\\_unclos\\_at\\_30.pdf](http://www.un.org/depts/los/convention_agreements/pamphlet_unclos_at_30.pdf);  
[http://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

<sup>2</sup> <https://www.isa.org.jm/authority>.

<sup>3</sup> <https://www.itlos.org/en/the-tribunal/>.

<sup>4</sup> [https://www.eia.gov/beta/international/analysis\\_includes/special\\_topics/World\\_Oil\\_Transit\\_Chokepoints/wotc.pdf](https://www.eia.gov/beta/international/analysis_includes/special_topics/World_Oil_Transit_Chokepoints/wotc.pdf).

<sup>5</sup> <https://www.cfr.org/backgrounder/competition-indian-ocean>; <https://chinapower.csis.org/much-trade-transits-south-china-sea/>.

exporters of the Middle East and Africa will translate into a growing dependency; The geopolitical and economic importance of the Indian Ocean will increase accordingly.<sup>6</sup>

The Indian Ocean's seabed is also home to a wealth of natural resources. 40% of the world's offshore oil production takes place in the Indian Ocean, as large reserves of hydrocarbons exist in offshore areas of Saudi Arabia, Iran, Australia, India, Myanmar.<sup>7</sup> Furthermore, reserves have recently been discovered off the coast of Africa, such as Mozambique and Tanzania; the disputed maritime zone between Kenya and Somalia may also have reserves of natural gas and petroleum.<sup>8</sup> Offshore deposits of heavy minerals, such as seafloor massive sulphides, polymetallic nodules and cobalt-rich crusts, are also beginning to be exploited by India and China., the latter of which seeks to maintain its near monopoly over rare earth element and precious metal deposits.

The Indian Ocean is also a critical source of food security of its littoral states. The Indian Ocean possess 45% of the world's fisheries which produces 20% of the global fish catch and aquaculture production. Indeed, the populations of the Indian Ocean's littoral state receive between 20-50% of their animal protein through fish and many people further depend upon the fishing industry for their income, as well as food security.<sup>9</sup> Furthermore, fishing fleets from Russia, South Korea, Japan and Taiwan also exploit the international waters of the Indian Ocean.

However, overfishing is a substantial issue in the Indian Ocean. It is estimated 94% of fishing stocks in the Western Indian Ocean are fully or overexploited, and the number may be similar for Eastern Indian Ocean. Although the Southern Indian Ocean Fisheries Agreement aims to ensure the sustainable use of fishery resources in the Southern Indian Ocean, only nine parties are contracted to it.<sup>10</sup> The current rate of overfishing, combined with the rapid warming of the Indian Ocean means that in the near future, the biodiversity of the Ocean could collapse.

## AREA OVERVIEW

The Indian Ocean is the world's third largest body of water and itself incorporates 19 marginal seas, gulfs, and straits, including the Arabian Sea, Bay of Bengal and the Gulf of Aden.<sup>11</sup>

The area encompassed by the Indian Ocean can be roughly defined by the following boundaries: The Malacca Straits and those other straits through the Indonesian archipelago to the north-east; the Arafura Sea and the Bass Strait between Australia and Tasmania to the East; Cape Agulhas to the West and the Suez Canal to the north-west. The southern boundary is defined as a line extending along 60°00'S, below which is defined as the Southern Ocean.<sup>12</sup>

36 countries and territories, including British and French overseas territories, have a coastline on the Indian Ocean, such as India, Iran, Yemen, Israel, Somalia, South Africa, Australia and Indonesia. Nevertheless, the Indian Ocean does not suffer the multitude of overlapping sovereignty claims that plagues the South China Seas.

Although some claims do exist, such as that between Kenya and Somalia, the littoral states shown a willingness to abide by UNCLOS and UN Tribunal decisions, as India and Bangladesh have. Furthermore,

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<sup>6</sup> [https://hcss.nl/sites/default/files/files/reports/HCSS\\_FI-13\\_09\\_10\\_Indian\\_Ocean.pdf](https://hcss.nl/sites/default/files/files/reports/HCSS_FI-13_09_10_Indian_Ocean.pdf).

<sup>7</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/xo.html>.

<sup>8</sup> <https://www.eia.gov/beta/international/regions-topics.cfm?RegionTopicID=EEAE>.

<sup>9</sup> <https://www.dni.gov/files/documents/nic/NICR%202013-38%20Fisheries%20Report%20FINAL.pdf>.

<sup>10</sup> <https://worldoceanreview.com/en/wor-2/fisheries/state-of-fisheries-worldwide/2/>; <http://www.siofa.org/>.

<sup>11</sup> Names and Limits of Oceans and Seas, International Hydrographic Organisation, Special Publication No. 23 (2002), Chapter 5.

<sup>12</sup> Names and Limits of Oceans and Seas, International Hydrographic Organisation, Special Publication No. 23 (2002), Chapter 5.

disputes that do exist are not militarised in the same way that those disputes of the South China Seas are.<sup>13</sup>

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<sup>13</sup> <http://www.css.ethz.ch/en/services/digital-library/articles/article.html/bc0d13c3-8948-4477-b660-4cc74d0574a8/pdf>.