



U.S. Department of Defense Freedom of Navigation (FON) Program

Historical Background

Since the founding of the nation, the United States has asserted a vital national interest in preserving the freedom of the seas, calling on its military forces to protect that interest. One of the first missions of the U.S. Navy was to defend U.S. commercial vessels in the Atlantic Ocean and Mediterranean Sea from pirates and other maritime threats. Similarly, President Woodrow Wilson told Congress during his Fourteen Points speech that one of the universal principles for which the United States and other nations were fighting World War I was “absolute freedom of navigation upon the seas.” Likewise, months before entering World War II, President Franklin Roosevelt declared “upon our naval and air patrol...falls the duty of maintaining the American policy of freedom of the seas.” More recently, President Barack Obama added that the United States “will continue to fly, sail, and operate wherever international law allows.” As history shows, the U.S. national interest in preserving the freedom of the seas is long-standing in nature and global in scope.

U.S. Freedom of Navigation Program

As stated in the U.S. Oceans Policy (1983), the United States “will exercise and assert its rights, freedoms, and uses of the sea on a worldwide basis in a manner that is consistent with the balance of interests” reflected in the Law of the Sea Convention. Some coastal States assert excessive maritime claims -- that is, claims to maritime zones or jurisdiction that are inconsistent with the international law of the sea and, if left unchallenged, could impinge on the rights, freedoms, and uses of the sea and airspace guaranteed to all States under international law. The United States, however, “will not...acquiesce in unilateral acts of other states designed to restrict the rights and freedom of the international community.”

Since 1979, U.S. Presidents have directed the U.S. Government to carry out a Freedom of Navigation (FON) Program to preserve this national interest. The U.S. FON Program includes: (1) consultations and representations by U.S. diplomats (i.e., U.S. Department of State), and (2) operational assertions by U.S. military forces (i.e., U.S. Department of Defense (DoD) FON Program).

DoD Freedom of Navigation Program

The DoD FON Program is comprehensive in scope and executed in an even-handed manner, challenging excessive maritime claims based on principle rather than identity of the coastal State asserting the claim. The DoD

challenges excessive maritime claims asserted by a wide variety of coastal States including allies, partners, and other nations on a worldwide basis to maintain global mobility of U.S. forces. The Program depends on the employment of U.S. forces from each branch of the Military Services, including the U.S. Coast Guard. The Program includes both planned FON assertions (i.e., operations that have the primary purpose of challenging excessive maritime claims) and other FON-related activities (i.e., operations that have some other primary purpose, but have a secondary effect of challenging excessive maritime claims), to gain efficiencies in a fiscally-constrained environment.

The Department executes the DoD FON Program lawfully and responsibly. Activities conducted under the DoD FON Program are deliberately planned, legally reviewed, properly approved, and conducted with professionalism.

Each year, the Department compiles an annual FON Report summarizing operations conducted by U.S. forces, and identifying specific coastal States and excessive maritime claims challenged in that year. The reports are published on the Department's website and transparently demonstrate U.S. non-acquiescence to excessive maritime claims, while maintaining operational security of U.S. military forces.

Website: <http://policy.defense.gov/OUUSDPOffices/FON.aspx>

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**U.S. Department of Defense (DoD)
Freedom of Navigation (FON) Report
for Fiscal Year (FY) 2016**

Below is a summary of excessive maritime claims that were challenged by DoD operational assertions and activities during the period of October 1, 2015 through September 30, 2016, in order to preserve the rights, freedoms, and uses of the sea and airspace guaranteed to all nations under international law:

Claimant	Excessive Maritime Claims
Albania*	Prior authorization required for foreign warships to enter the territorial sea (TTS); excessive straight baselines.
Brazil	Consent required for military exercises or maneuvers in the exclusive economic zone (EEZ).
Cambodia	Excessive straight baselines.
China*	Excessive straight baselines; jurisdiction over airspace above the EEZ; restriction on foreign aircraft flying through an Air Defense Identification Zone (ADIZ) without the intent to enter national airspace; domestic law criminalizing survey activity by foreign entities in the EEZ; prior permission required for innocent passage of foreign military ships through the TTS.
Croatia	Prior notification required for foreign warships to exercise innocent passage in the TTS.
India*	Prior consent required for military exercises or maneuvers in the EEZ; security jurisdiction claimed in the contiguous zone.
Indonesia*	Limits on archipelagic sea lane passage through normal routes used for international navigation; prior notification required for foreign warships to enter the TTS and archipelagic waters; restriction on stopping, dropping anchor, or cruising without legitimate reason in seas adjoining TTS.
Iran*	Restrictions on right of transit passage through Strait of Hormuz to Parties of the United Nations Convention on the Law of the Sea; prohibition on foreign military activities and practices in the EEZ.
Italy	Claimed historic bay status for the Gulf of Taranto.
Japan	Excessive straight baselines.
Malaysia*	Prior authorization required for nuclear-powered ships to enter the TTS; military exercises or maneuvers in the EEZ requires prior consent.
Maldives*	Prior authorization required for foreign ships to enter the EEZ.

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Malta	Passage by foreign warships through the TTS subject to prior consent or prior notification.
Oman*	Prior permission required for innocent passage of foreign military ships through the TTS; requirement for innocent passage through the Strait of Hormuz (an international strait).
Pakistan*	Prior consent required for foreign warships to conduct military exercises or maneuvers in the EEZ.
Philippines*	Claims archipelagic waters as internal waters.
South Korea	Excessive straight baselines; prior notification required for foreign military or government vessels to enter the TTS.
Taiwan*	Prior notification required for foreign military or government vessels to enter the TTS.
Thailand	Excessive straight baselines; consent required for military exercises in the EEZ.
Tunisia	Excessive straight baselines.
Venezuela*	Prior permission for overflight of the EEZ and Flight Identification Region (FIR).
Vietnam*	Prior notification required for foreign warships to enter the TTS.

*Note: * designates multiple challenges to the claim(s) during the reporting period.*