

PRESIDENTIAL PROCLAMATION 5928 OF DECEMBER 27, 1988

THE TERRITORIAL SEA OF THE UNITED STATES OF AMERICA

Acronym: Reagan Proclamation

Citation: 54 Fed. Reg. 777 (January 9, 1989).

Executive Purpose:

The Proclamation extends the territorial sea of the United States to 12 nautical miles from the baselines of the United States in accordance with international law.

Summary:

President Reagan's Proclamation on the Territorial Sea ended one of the major anomalies in recent international law -- the U.S. reluctance to extend its sovereignty over its territorial sea, that area claimed as an extension of the mainland, with the coastal nation claiming jurisdiction over the resources and submerged lands and the right to enforcement in the area, beyond three miles from its shore.

The significance of President Reagan's Proclamation on the Territorial Sea is best understood in an historical context. Thomas Jefferson, as Secretary of State to George Washington, first expressed the United States' adoption of a three-mile limitation of a territorial sea in a 1793 letter. Over 100 years later, Jefferson's letter influenced the U.S. Supreme Court to adopt the three-mile limit for the U.S. territorial sea. The United States relied upon such delimitation for almost 200 years until President Reagan's 1988 decision to expand the U.S. territorial sea to twelve miles.

International attempts to define the limits of the territorial sea failed and, consequently, the territorial sea remained at three nautical miles for the United States. However, national practice had begun to diverge from this limit and it soon became customary international law to recognize a larger territorial sea and by 1960, many nations unilaterally claimed a twelve-mile limit. Many nations viewed the three-mile limit inadequate because it did not contain enough resources to be allocated authoritatively within such a relatively small limit.

By proclaiming a 12-mile territorial sea, Reagan brought the United States in conformity with the 1982 United Nations Convention on the Law of the Sea which suggests that every nation endorse a twelve-mile territorial sea limit, even though the U.S. has still not ratified the treaty.

The 1988 Proclamation distinguished between an international boundary where U.S. sovereignty ends and a boundary that determines property rights between the U.S. federal and state governments. Under the Submerged Lands Act, state property boundaries are presently at the three-mile mark for most states. The 1988 Proclamation did not amend or alter the SLA, but did extend the U.S. sovereignty boundary from three to twelve miles for international purposes. This sovereignty includes jurisdiction over the airspace, sea, seabed, and subsoil.



A Proclamation

International law recognizes that coastal nations may exercise sovereignty and jurisdiction over their territorial seas.

The Territorial sea of the United States is a maritime zone extending beyond the land territory and internal waters of the United States over which the United States exercises sovereignty and jurisdiction, a sovereignty and jurisdiction that extend to the airspace over the territorial sea, as well as to its bed and subsoil.

Extension of the territorial sea by the United States to the limits permitted by international law will advance the national security and other significant interests of the United States.

Now, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution of the United States of America, and in accordance with international law, do hereby proclaim the extension of the territorial sea of the United States of America, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

The territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

In accordance with international law, as reflected in the applicable provisions of the 1982 United Convention on the law of the Sea, within the territorial sea of the United States, the ships of all countries enjoy the right of innocent passage and the ships and aircraft of all countries enjoy the right of transit passage through international straits.

Nothing in this Proclamation:

- (a) extends or otherwise alters existing Federal or State law or any jurisdiction, rights, legal interests, or obligations derived therefrom; or
- (b) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of December, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

WHITE HOUSE,
Ronald Reagan