



Blurred Lines of Sovereignty and Self-help in West African Maritime Security Enforcement

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About AkaboguLaw

- Specialist focus on shipping and maritime law.

- Other practice areas:

International trade



Energy and natural resources



- Typical clients

Ports and terminals



Shipowners



Financial institutions



Cargo interests



Government



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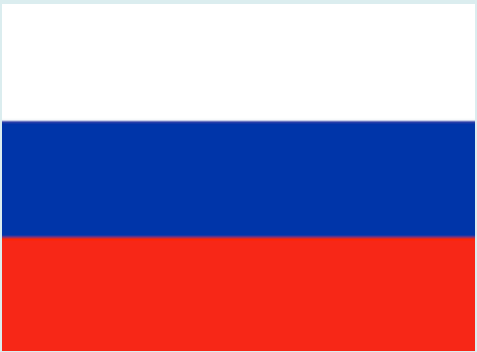


INTRODUCTION

“vain and extravagant pretensions of ownership by early powers”

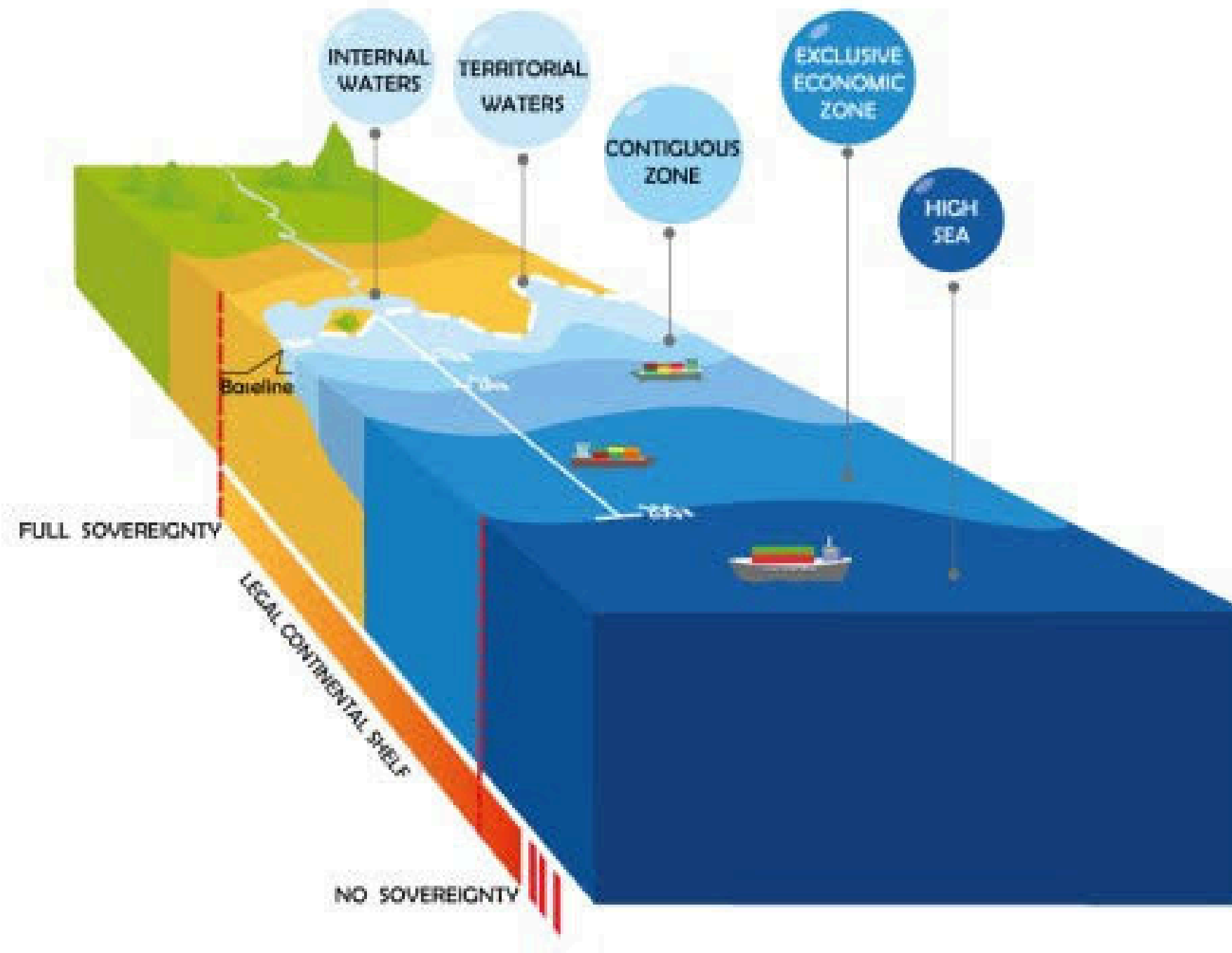


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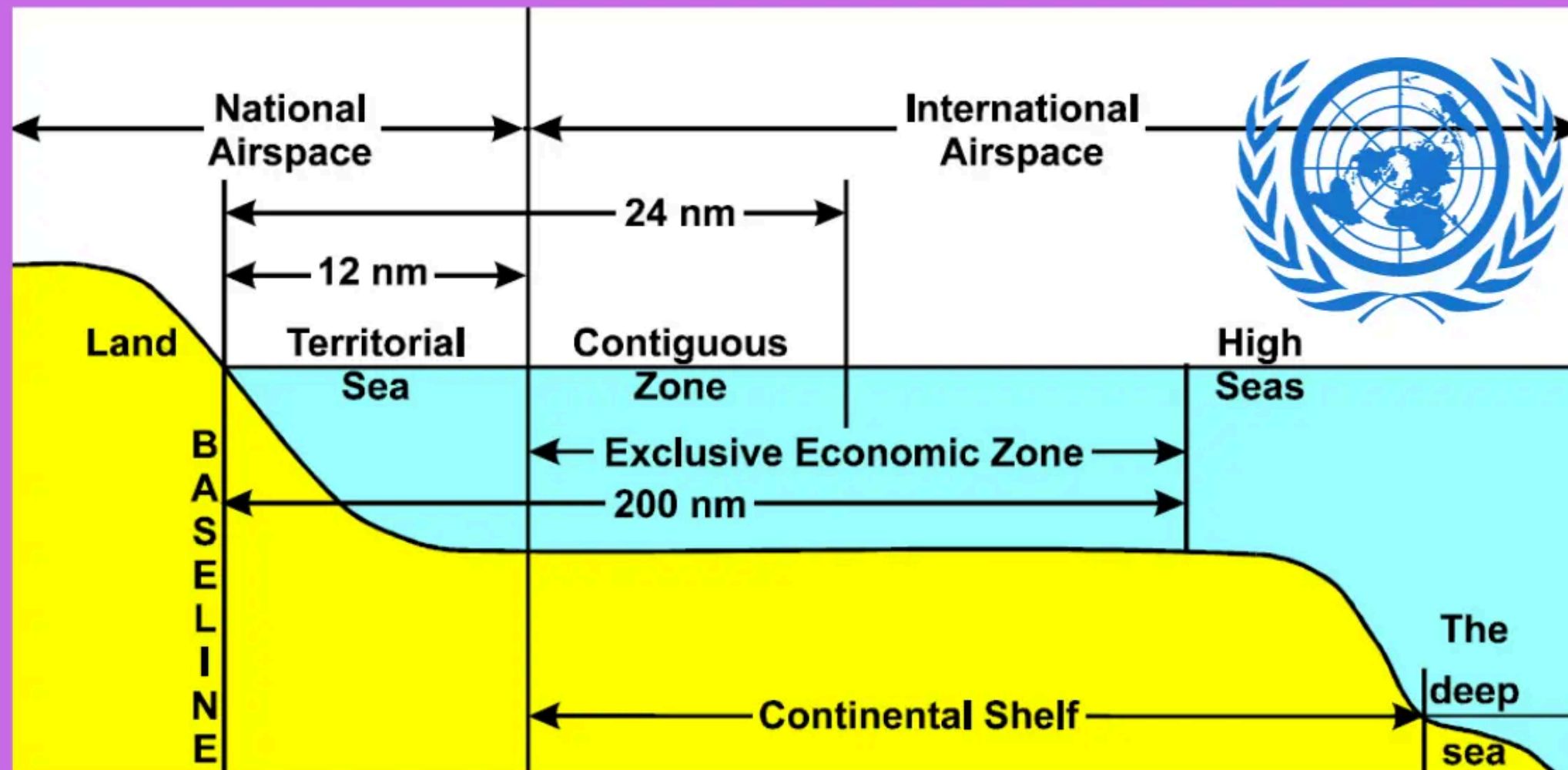
Sovereignty in international maritime law

Delimited zone by the Convention of the Law of The Sea



Sovereignty in maritime law is the control over activity in, and access to, a body of water.

Sovereignty under the United Nations Convention on the Law of the Sea (UNCLOS)



Convention On The Territorial Sea And The
Contiguous Zone <https://lowbar98660.com/>

Territorial Sea: Coastal states have full sovereignty over this zone (up to 12 nautical miles), including the water, airspace, seabed, and subsoil.

Exclusive Economic Zone (EEZ): Extends up to 200 nautical miles; coastal states have sovereign rights for resource exploration and economic activities, but not full sovereignty.

High Seas: Beyond national jurisdiction; open to all states with freedoms of navigation, fishing, and overflight, governed by international law..

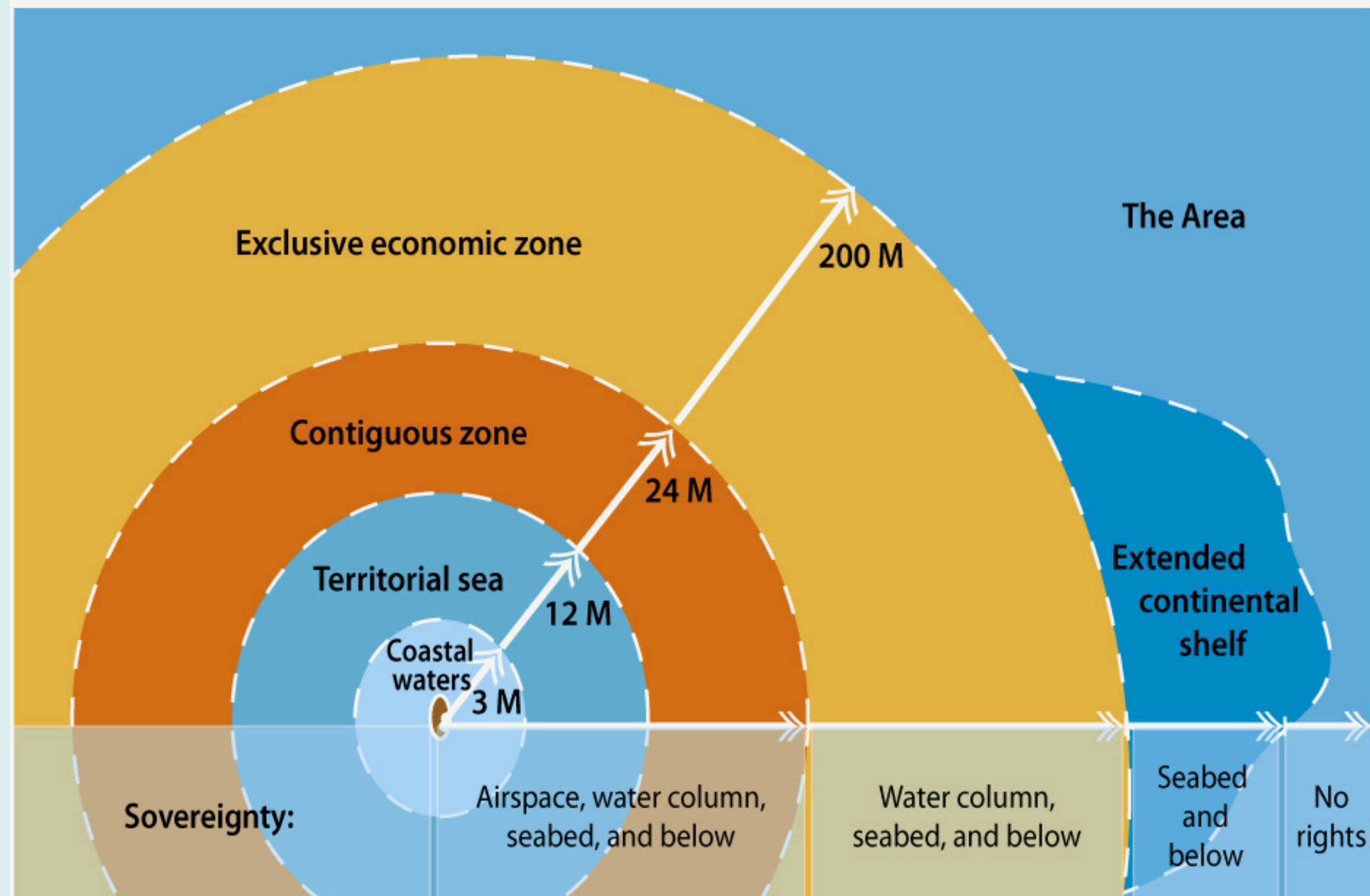
Sovereignty and enforcement of maritime security



- Overlapping enforcement efforts can blur sovereignty boundaries.
- Conflicts arise when coastal state and flag-interest responses to threats differ.

Derogations from marine spatial sovereignty

Maritime sovereignty



- UNCLOS allows certain exceptions to coastal state sovereignty, like the right of innocent passage, enabling ships to transit through territorial seas as long as their actions don't threaten peace or security.
- These exceptions can expose coastal states to risks, as their power to respond, especially with force is restricted under international law.
- Warships have sovereign immunity even within internal waters and ports creating potential conflict between sovereigns

Coastal state sovereign



The warship as sovereign



The Case of “ARA Libertad”

- ITLOS affirmed that a warship represents the sovereignty of its flag state and enjoys full immunity.
- Ghana’s actions preventing “ARA Libertad” from operating breached this immunity.
- Forced boarding and attempted relocation without consent violated international law.
- ITLOS ordered urgent provisional measures under UNCLOS to preserve legal rights and prevent escalation.



Foreign frigates in sovereign territory

Warships and government ships have full immunity on the high seas, but if they violate a coastal state's laws while passing through its territorial sea, the coastal state can demand they leave immediately.



The “Esberne Snare”

In 2021, Denmark's navy killed four suspected pirates off Nigeria's coast without prior agreement with Nigeria, marking the first foreign use of lethal force in the Gulf of Guinea and raising legal and diplomatic concerns.



The legal framework for the EEZ

In the EEZ, coastal states have limited rights and foreign ships must respect them; neither side has absolute priority, so whose interests should prevail?



The phantom of sea sovereignty?

- Sovereignty on land is clearly defined by a nation's geographic borders, but sovereignty at sea is more complex.
- Boundless infinity of the waters.
- Maps, might and what is right

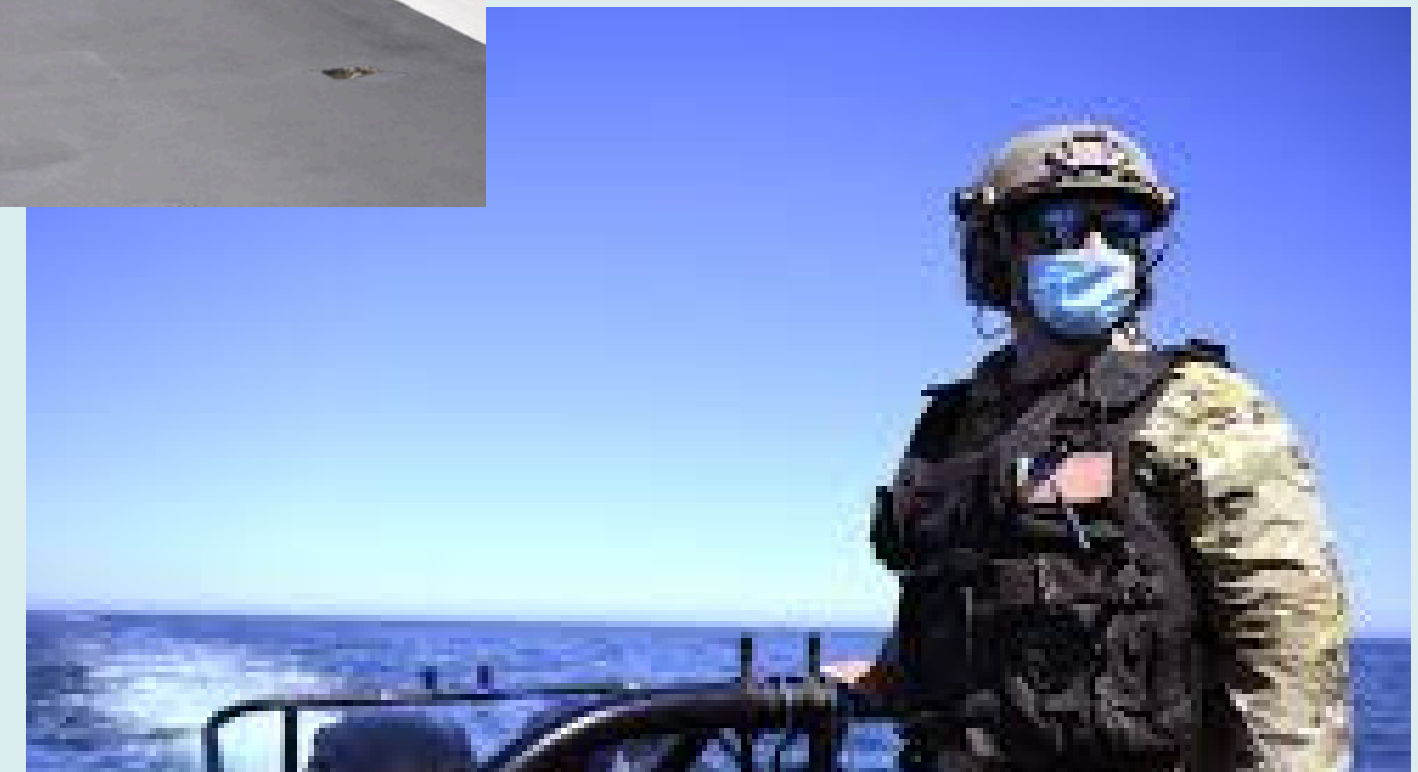


Self-help in maritime security enforcement

>Self-help is unilateral action to address maritime security risks without state involvement.

>Self-help may breach UNCLOS if it oversteps legal bounds, potentially violating coastal state sovereignty.

>Coastal state responses to self-help actions may breach the immunity of the involved flag-ship.



Conclusion

What are the limits of foreign frigates operating in the EEZ?

A wide canvass of this zone's legal regime is coloured in grey.

CMI may want to consider if this needs further clarification.



Thank You

For Your Attention

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