Table 4 Excessive Territorial Sea Claims Rolled Back (31)

|  |  |  |  |
| --- | --- | --- | --- |
| State | Year of Excessive Claim | Breadth of Excessive Claim | Date Rolled Back to 12 miles |
| Albaniaa | 1976 | 15 M[[1]](#footnote-1) | 1990 |
| Argentinaa | 1967 | 200 M[[2]](#footnote-2) | 1991 |
| Angolaa | 1975 | 20 M[[3]](#footnote-3) | 1992 |
| Benina | 1976 | 200 M[[4]](#footnote-4) | 1998 |
| Brazila | 1970 | 200 M[[5]](#footnote-5) | 1993 |
| Cameroona | 1967  1974 | 18 M  50 M[[6]](#footnote-6) | 2000 effect. 1985 |
| Cape Verdea | 1975 | 200 M[[7]](#footnote-7) | 1977 |
| Congoa | 1977 | 200 M[[8]](#footnote-8) | 2008 |
| Ecuadora | 1966 | 200 M[[9]](#footnote-9) | 2012 |
| El Salvador | 1950 | 200 M[[10]](#footnote-10) | 2004 |
| Gabona | 1970  1972  1972 | 25 M  30 M  100 M[[11]](#footnote-11) | 1992  1984 |
| Germanya,b,c | 1985 | 16 M[[12]](#footnote-12) | 1995 |
| Ghanaa | 1963  1973  1977 | 12 M  30 M  200 M[[13]](#footnote-13) | 1986 |
| Guineaa | 1964  1965 | 130 M  200 M[[14]](#footnote-14) | 1980 |
| Guinea‑Bissaua | 1974 | 150 M[[15]](#footnote-15) | 1978 |
| Haitia,b,c | 1972  1977 | 12 M  100 M[[16]](#footnote-16) | 1977 |
| Liberiaa | 1977 | 200 M[[17]](#footnote-17) | 2013 |
| Madagascara,b,c | 1963  1973 | 12 M  50 M[[18]](#footnote-18) | 1985 |
| Maldivesa | 1964 | rectangle[[19]](#footnote-19) | 1976 |
| Mauritaniaa | 1962  1962  1972  1977 | 6 M  12 M  30 M  70 M[[20]](#footnote-20) | 1988 |
| Nicaraguaa | 1979 | 200 M[[21]](#footnote-21) | 2002 |
| Nigeriaa | 1971 | 30 M[[22]](#footnote-22) | 1998 |
| Panamaa | 1967 | 200 M[[23]](#footnote-23) | 1996 |
| Peru | 1947 | 200 M[[24]](#footnote-24) | 2012 |
| Philippinesa | 1961 | Varies up to 285 M[[25]](#footnote-25) |  |
| Senegala,c | 1961  1968  1976 | 6 M  12 M  200 M[[26]](#footnote-26) | 1985 |
| Sierra Leonea | 1971 | 200 M[[27]](#footnote-27) | 1996 |
| Somalia | 1972 | 200 M[[28]](#footnote-28) | 2014 |
| Syria | 1981 | 35 M[[29]](#footnote-29) | 2003 |
| Tanzaniaa | 1963  1973 | 12 M  50 M[[30]](#footnote-30) | 1989 |
| Tongaa,b,c | 1889 | rectangle | 1972 |
| Uruguaya | 1969 | 200 M[[31]](#footnote-31) | 1992 |

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a Party to 1982 LOS Convention.

b Party to 1958 Territorial Sea Convention.

c Party to 1958 High Seas Convention.

**Sources:** US NTM 1(57)20; UK NTM 1(12)20; MCRM.

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1. Decree No. 5,384 of Feb. 23, 1976, FBIS-EEU, No. 41, Mar. 1, 1976, at B1; protested by the United States by Diplomatic Note delivered July 21, 1989, on behalf of the United States by the French Embassy in Tirane, pursuant to instructions contained in State Dep’t telegram to American Embassy Paris 193134, June 17, 1989. Article 1 of the Decree No. 4650, as amended by Decree No. 7366, dated March 9, 1990, on the State Border of the People’s Socialist Republic of Albania, reduced the territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/\ALB\_1990\_7366.pdf>. [↑](#footnote-ref-1)
2. Law 17, 094-M-24, Dec. 29, 1966, in which navigation and overflight beyond 12 miles was unaffected, which may be found in UN Legislative Series: National Legislation and Treaties Relating to the Law of the Sea., UN Doc. ST/LEG/SER. B.15, at 45 [hereinafter, UN, Legislative Series B.15], was protested by American Embassy Buenos Aires Note dated March 2, 1967 (pursuant to instructions contained in State Department telegram 146551, Mar. 1, 1967); also protested by the **United Kingdom** on June 23, 1967, **Norway** on May 22, 1967, and **Sweden** and **Denmark** in 1967 (American Embassy Buenos Aires Airgram A-961, June 24, 1967, State Dep’t File POL 33-4 Arg), and was rolled back to 12 miles in 1991 by Law No. 23,968 of Aug. 14, 1991, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ARG\_1991\_23968.pdf>. [↑](#footnote-ref-2)
3. Decree No. 159/75, Nov. 6, 1975. By Law 21/92 of Aug. 28, 1992, Angola reduced its territorial sea claim to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/AGO\_1992\_Law21.pdf>. [↑](#footnote-ref-3)
4. Decree No. 76-92 of Apr. 2, 1976, asserting a 200-mile territorial sea, may be found in UN, Legislative Series B/19, at 7, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/BEN\_1976\_Decree.pdf>; protested by the United States on Dec. 7, 1989, State Dep’t telegram 275853, Aug. 28, 1989, American Embassy Cotonou telegram 03297, Dec. 8, 1989 (the **United Kingdom** had previously protested this claim on Oct. 11, 1976). Benin ratified the LOS Convention in 1997. The 2019 edition of US NTM lists Benin as claiming 12 M, noting that “[i]n December 1998, a representative of the Benin Foreign Ministry provided an informal statement to US State Department that Benin now claims a 12 M territorial sea and a 200 M EEZ.” However, the 1976 decree remains on the UN Law of the Sea website, and the UN continues to list the claim as 200 M. In addition, UK NTM 1(12)20 lists Benin’s territorial sea as 200 M. [↑](#footnote-ref-4)
5. Decree Law No. 1098 of Mar. 25, 1970, asserting a 200 mile territorial sea, may be found in UN Legislative Series B/16, at 4; protested by State Dep’t Note to the Brazilian Embassy delivered Apr. 21, 1970, and reported in State Dep’t telegram 059824, Apr. 22, 1970, File POL 33-4 BRAZ (Brazil ratified the LOS Convention on Dec. 22, 1988), and rolled back to 12 miles by article 1 of Law 8,617, Jan. 4, 1993, the text of which may be found in UN, LOS Bull., No. 23 (1993), at 17. [↑](#footnote-ref-5)
6. Law No. 67/LF/25 of Nov. 3, 1967, amending the Cameroon Merchant Marine Code, asserting an 18-mile territorial sea, may be found in UN, Legislative Series B.15, at 51; potested by American Embassy Yaounde Note delivered in January 1968, pursuant to instructions contained in State Dep’t telegram 091170, Dec. 29, 1967, File POL 22-4 CAM; subsequently extended to 50 miles by Law No. 74/16, of Dec. 5, 1974 (which may be found in UN, Legislative Series B/19, at 130 and *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/CMR\_1974\_Act.pdf>). By Law No. 2000-2, 17 April 2000, effective Nov. 19, 1985, Official Gazette of the Republic of Cameroon, Jan. 2000, at 42–47, Cameroon reduced its territorial sea to 12 miles, *available at* <http://www.spm.gov.cm/en/documentation/laws-and-statutory-instruments/laws-and-statutory-instruments/article/loi-n-200002-du-17-avril-2000-relative-aux-espaces-maritimes-de-la-republique-du-cameroun.html>. [↑](#footnote-ref-6)
7. Article 7 of Law 60/IV/92 of Dec. 21, 1992 reduced the territorial sea of Cape Verde to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/CPV\_1992\_Law.pdf>. [↑](#footnote-ref-7)
8. Ordinance No. 49/77 of Dec. 20, 1977, asserting a 200-mile territorial sea, may be found in UN, LOS Bull., No. 2 (1985), at 15; protested by American Embassy Brazzaville Note No. 191/87 of Dec. 15, 1987 (State Department telegram 382072, Dec. 10, 1987; American Embassy Brazzaville telegram 0520, Feb. 26, 1988). DOALOS advised the author that the territorial sea rolled back on Congo’s ratification of the LOS Convention on July 9, 2008, by virtue of article 184 of the 2002 Congo Constitution. [↑](#footnote-ref-8)
9. Decree Law No. 1542 of Nov. 10, 1966, asserting a 200-mile territorial sea, may be found in UN, Legislative Series B.15, at 78; originally protested by American Embassy Quito Note 63 of Jan. 23, 1967 (State Dep’t telegram 122548, Jan. 20, 1967; American Embassy Quito telegrams 03129, Jan. 23, 1967 and 03264, Jan. 30, 1967), subsequently protested by American Embassy Quito Note of Feb. 24, 1986 (American Embassy Quito telegram 01651, Feb. 25, 1986, pursuant to instructions contained in State Dep’t telegram 033256, Feb. 3, 1986, II Cumulative Digest 1763) (also protested by the Federal Republic of **Germany** in November 1986 and in its Note 025/92 dated May 29, 1992, to the United States as depositary of the 1946 International Convention for the Regulation of Whaling, State Department File No. P92 0070-1325; by State Department Circular Note dated May 1, 1992, to the parties to the Whaling Convention, State Department File No. P92 0060-1226; and by **Russia** in its Note No. 11 dated Feb. 10, 1992, to the Department of State as depositary, State Dep’t File No. P92 0106-0536). Ecuador’s 200-mile territorial sea claim also appears in article 628 of the Civil Code as amended by Decree No. 256-CLP of February 27, 1970, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/CU\_1970\_Code.pdf>.

   Ecuador refused to sign the LOS Convention in part in defense of its 200-mile territorial sea claim; 16 UN, Official Records, para. 29, at 155, 17 Official Records, para. 202, at 97.

   The Government of Ecuador replied to the 1967 protests by the United States, Great Britain, Sweden, The Netherlands, Denmark and West Germany of the 1966 Ecuadoran claim, in identical notes the substance of which was published in a news report in the Guayaquil daily newspaper *El Universo* on Nov. 21, 1967. The American Embassy’s unofficial English translation reads in relevant part as follows:

   ... referring to Decree Number 1542 (Official Register Number 158 of November 11, 1966) by which the Government of Ecuador has revised Article 633 of the Civil Code, fixing the territorial sea at two-hundred nautical miles, measured from the most salient points of the Ecuadoran coast and from the outermost extremes of the outermost islands of the Colón Archipelago.

   The Government of Ecuador considers that the issuance of the aforesaid Decree, which is now the law of the Republic, constitutes the exercise of its clear rights as a free and sovereign country.

   The antiquated rule of three miles as territorial sea, respected when the range of a cannon shot was no longer than that distance, is now to be found to be completely abandoned, as is recognized by the most distinguished authors of treatises on international law and by the practice of states.

   New factors have been accepted as determinants of the breadth of the territorial sea. These have been indicated in Paragraph II [*sic* Paragraph I] of the Declaration of Santiago, signed on August 18, 1952 by Ecuador, Peru and Chile (ratified by Ecuador in Official Register Number 1029 of January 24, 1956), which states:

   Owing to the geological and biological factors affecting the existence, conservation and development of the marine fauna and flora of these waters adjacent to the coasts of the declarant countries, the former extent of the territorial sea and contiguous zone is insufficient to permit the conservation, development and use of those resources, to which the coastal countries are entitled.

   These factors led the Governments of the three countries to set forth in the Declaration of Santiago:

   The Governments of Chile, Ecuador and Peru therefore proclaim as a principle of their international maritime policy that each of them possess sole sovereignty and jurisdiction over the area of the sea adjacent to the coast of its own country and extending not less than 200 nautical miles from the said coast. Their sole jurisdiction and sovereignty over the zone thus described includes sole sovereignty and jurisdiction over the sea floor and subsoil thereof.

   The position of these three countries—that for this reason was not a unilateral act of Ecuador—found its support in the resolution adopted in February of 1956 by the Inter-American Juridical Council entitled “Principles of Mexico on the Juridical System of the Sea,” a position that in October of 1957 was reaffirmed by the Third Hispano-Luso American Congress on International Law, according to which today “each State has the right to fix its territorial sea out to reasonable limits, taking into consideration geographic, geologic and biologic factors as well as economic necessities of its population and its security and defense.”

   The United Nations Conferences on the Law of the Sea, held at Geneva in 1958 and 1960, did not arrive at any agreement with respect to the breadth of the territorial sea. The Conventions that were approved at that time did not contain any rules establishing this breadth and, even in the hypothetical case that they had, Ecuador is not a party to any of these instruments nor is it a signatory. The proposals that were presented in the Conferences, including that which advocated a territorial sea of six miles plus an exclusive fishing zone of six miles [in 1960], were not approved whatever the number of votes that they obtained. The results of these Conferences proved, therefore, that it was impossible to arrive at an international agreement establishing the breadth of the territorial sea. Therefore, in the absence of such an agreement, it has been recognized that this expanse can be determined by the sovereign acts of the riparian state. Given such right, the states have extended their territorial sea: (1) because of defense requirements; (2) in consideration of the expanse of the sea which bathes their coasts; and (3) for reasons of economic defense.

   Based on these antecedents, the Complimentary Convention to the Declaration of Santiago on the Maritime Zone of 200 Miles, also ratified by Ecuador and by that reason the Law of the Republic (Official Register Number 376 of November 18, 1964) states:

   Chile, Ecuador and Peru will proceed by common accord in the juridical defense of the principle of sovereignty over the maritime zone out to a minimum distance of 200 marine miles, including the respective soil and subsoil ...

   As a consequence, the Government of Ecuador considers that, in issuing Decree Number 1542, it was complying with international commitments contracted and was following the modern practice recognized by States.

   Ministry of Foreign Relations Note No. 15 AT dated Feb. 14, 1967, enclosed with American Embassy Quito Airgram A-306, Feb. 18, 1967, and Ministry of Foreign Relations Notes dated Nov. 9, 1967, American Embassy Quito Airgram A-202, Nov. 28, 1967, State Dep’t File No. POL 33-4 Ecuador. The Santiago Declaration may be found in MacChesney, Situation, Documents and Commentary on Recent Developments in the International Law of the Sea, 51 Naval War College, International Law Situation and Documents 1956, at 265–267 (1957). It does not appear that Chile ever claimed a 200-mile territorial sea; rather by Supreme Resolution No. 179 of April 1953, Chile claimed a 3-mile territorial sea, and by Law No. 18.565 of October 1986, a 12 mile territorial sea.

   On December 9, 2011 the United States “reiterate[d] its longstanding protest of the 200 nautical mile territorial sea claim of the Government of Ecuador. This objection has been communicated to the Government of Ecuador on several occasions since 1967. Since that time, the United States has exercised its freedoms of navigation and overflight in those areas of claimed territorial sea that exceed the limits permitted by international law.” 2011 Digest 409. *See further infra* section 10.3.4 note 64 and accompanying text.

   On September 12, 2014, Ecuador acceded to the Law of the Sea Convention. One declaration (II.2) accompanying its instrument of accession reduced Ecuador’s 200-mile territorial sea claim to 12 nautical miles, *available at* <https://www.un.org/Depts/los/convention\_agreements/convention\_declarations.htm#Ecuador Upon ratification>. [↑](#footnote-ref-9)
10. Article 7 of the Political Constitution of El Salvador of Sept. 7, 1950, asserting a claim to 200-mile territorial sea with navigation and overflight permitted, may be found in UN, Legislative Series B/6, at 14 and 4 Whiteman 801–802 (1965); protested by American Embassy San Salvador Diplomatic Note No. 160 delivered Dec. 12, 1950, 4 Whiteman 802 (and by the United Kingdom on the same date). Article 84 of the 1983 Constitution asserts El Salvador “exercises sovereignty and jurisdiction over the sea, the sea bed and subfloor to a distance of 200 nautical miles ..., all in accordance with international law”. 6 Constitutions of the Countries of the World, El Salvador, at 43 (Blaustein & Flanz eds. 1992); *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/SLV\_1983\_Constitution.pdf>. In December 2004 article 574 of the Civil Code rolled back the territorial sea claim to 12 miles. *See* <http://www.oas.org/dil/esp/Codigo\_Civil\_El\_Salvador.pdf> (in Spanish). While the MCRM, UK NTM 1(12)20 and 2020 US NTM lists El Salvador’s territorial sea at 12 M, the 2011 UN DOALOS website lists its territorial sea at 200 M. [↑](#footnote-ref-10)
11. By article 1 of decree 002066/PR/MHCUCDM of Dec. 4, 1992 Gabon reduced its territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/GAB\_1992\_Decree.pdf>. [↑](#footnote-ref-11)
12. Federal Gazette Notice 85‑574, Nov. 12, 1984, effective Mar. 16, 1985, establishing certain straight baselines in the North Sea which had the effect of establishing a 16-mile territorial sea in certain areas of the Helgolander Bucht (*see* Map 9), may be found in UN, Current Developments No. I, at 20–22; protested by State Dep’t Note to the Embassy of the Federal Republic of Germany, Mar. 15, 1985, *reported in* State Dep’t telegram 080298, Mar. 16, 1985. This claim was rolled back in 1994, and replaced by a deep-water anchorage. *See* UN, LOS Bull., No. 27, at 55 (1995) and paragraph 4.6.5 *supra*. [↑](#footnote-ref-12)
13. Paragraph 1 of the Maritime Zones (Delimitation) Law, 1986, reduced Ghana’s territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/GHA\_1986\_Law.pdf>. [↑](#footnote-ref-13)
14. Article 1 of decree No. 336/PRG, July 30, 1980, National Limits of Jurisdiction, reduced Guinea’s territorial sea claim to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/GIN\_1980\_Decree.pdf>. [↑](#footnote-ref-14)
15. Article 2 of Act No. 3/85 of May 17, 1985, on the Maritime Boundaries, reduced Guinea-Bissau’s territorial sea claim to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/GNB\_1985\_Act3.pdf>. [↑](#footnote-ref-15)
16. By declaration of April 6, 1977 Haiti established its territorial sea at 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/HTI\_1977\_Declaration.pdf>. [↑](#footnote-ref-16)
17. Act of Feb. 16, 1977, to 200-mile territorial sea, may be found in UN, LOS Bull., No. 2, March 1985, at 53, and <https://www.un.org/Depts/los/LEGISLATIONAND TREATIES/PDFFILES/LBR\_1977\_Act.pdf>; protested by American Embassy Monrovia Diplomatic Note dated Mar. 14, 1977, American Embassy Monrovia telegram 1886, Mar. 18, 1977. Reduced to 12 miles by Executive Order No. 48, 10 January 2013, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/LBR\_10Jan2013\_Act\_EO48.pdf>. [↑](#footnote-ref-17)
18. Article 1 of Ordinance No. 85-013 determining the limits of the maritime zones (territorial sea, continental shelf and exclusive economic zone) of the Democratic Republic of Madagascar, Sept. 16, 1985 as amended and ratified by Law No. 85-013 of Dec. 11, 1985) reduced the territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/MDG\_1985\_ Ordinance.pdf>. [↑](#footnote-ref-18)
19. Article 4 of the Maritime Zones of Maldives Act No. 6/96 reduced the territorial sea to 12 miles measured from archipelagic baselines, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/MDV\_1996\_Act.pdf>. [↑](#footnote-ref-19)
20. Article 1 of Ordinance 88-120 of Aug. 31, 1988 establishing the limits and the legal régime of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of the Islamic Republic of Mauritania reduced the territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/MRT\_1988\_Ordinance.pdf>. [↑](#footnote-ref-20)
21. Decree No. 205 dated Dec. 19, 1979, asserting a 200-mile territorial sea, may be found in UN, LOS Bull., No. 2 (1985), at 62; protested by American Embassy Managua notes of April 23, 1982 (State Dep’t telegram 107747, Apr. 24, 1982, American Embassy Managua telegram 02939, June 28, 1982), June 17, 1985 (State Dep’t telegram 180536, June 13, 1985, American Embassy Managua telegram 03686, June 17, 1985), and State Dep’t Note dated Sept. 30, 1993 (State Dep’t File No. P93 0113-1248). Accompanying Nicaragua’s signature of the convention on Dec. 9, 1984 was the following declaration:

    In accordance with article 310, Nicaragua declares that such adjustments of its domestic law as may be required in order to harmonize it with the Convention will follow from the process of constitutional change initiated by the revolutionary State of Nicaragua.

    Nicaragua deposited its instrument of ratification on May 3, 2000. Law No. 420, adopted March 5, 2002 and published in Gazette No. 57, March 22, 2002, reduced Nicaragua’s territorial sea to 12 miles, *available at* <http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28$All%29/334ED3BA3AAC68B2062570A10058109E?OpenDocument>. [↑](#footnote-ref-21)
22. Nigeria [a party to the 1958 Territorial Sea Convention] Territorial Waters: (Amendment) Decree No. 38 of Aug. 26, 1971 assertion to a 30-mile territorial sea, may be found in UN, LOS Bull., No. 2 (1985), at 63; protested by *demarches* in Lagos on Nov. 29, 1984 (American Embassy Lagos telegram 14309, Dec. 4, 1984) and Sept. 2, 1986 (State Dep’t telegram 113743, Apr. 11, 1986, American Embassy Lagos telegram 09631, Sept. 2, 1986) (also protested by the Federal Republic of Germany). Section 2(a) of the Territorial Waters (Amendment) Decree 1998, Jan. 1, 1998, reduced Nigeria’s territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/NGA\_1998\_Decree.pdf>. [↑](#footnote-ref-22)
23. Law 31 of Feb. 2, 1967, asserting a 200-mile territorial sea, may be found in UN, Legislative Series B.15, at 105; originally protested by American Embassy Panama City Note No. 471 of March 28, 1967 (American Embassy Panama City Airgram A-643, July 24, 1968), subsequently by *demarche* on February 3 & 4, 1988 (American Embassy Panama City telegram 01438, Feb. 5, 1988) (also protested by the **Federal Republic of Germany** in June 1987). By Law 38 of June 4, 1996 ratifying the Law of the Sea Convention, Panama reduced its territorial sea claim to 12 miles, promulgated in Official Journal No. 23.056, June 12, 1996. [↑](#footnote-ref-23)
24. Presidential Decree No. 781, August 1, 1947, Concerning Submerged Continental or Insular Shelf <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/PER\_1947\_Decree.pdf>. On December 3, 2012, the agent for Peru (Wagner) declared before the ICJ in the *Maritime Dispute (Peru v. Chile)*

    Mr. President, on behalf of the Government of Peru, I wish formally to place on record Peru’s commitment to the modern law of the sea as reflected in the 1982 United Nations Convention on the Law of the Sea. Peru’s Constitution of 1993, its internal law, and Peru’s practice are in full conformity with the contemporary law of the sea. The term ‘maritime domain’ used in our Constitution is applied in a manner consistent with the maritime zones set out in the 1982 Convention; the Constitution refers expressly to freedom of international communication.

    In short, Peru accepts and applies the rules of the customary international law of the sea as reflected in the Convention.

    *Maritime Dispute (Peru v. Chile)*, Verbatim record 2012/27, at 22 paras. 26–27 <https://www.icj-cij.org/files/case-related/137/137-20121203-ORA-01-00-BI.pdf>. In its judgment the Court took note of this declaration:

    Peru claims a 200‑nautical mile “maritime domain”. Peru’s Agent formally declared on behalf of his Government that “[t]he term ‘maritime domain’ used in [Peru’s] Constitution is applied in a manner consistent with the maritime zones set out in the 1982 Convention”. The Court takes note of this declaration which expresses a formal undertaking by Peru.

    *Maritime Dispute (Peru* v. *Chile), Judgment,* [2014] ICJ Rep. 3, 65, para. 178 (Jan. 27) <https://www.icj-cij.org/files/case-related/137/137-20140127-JUD-01-00-EN.pdf>. [↑](#footnote-ref-24)
25. Republic Act No. 3046, June 1961, asserting a territorial sea of up to 285 miles, may be found in UN, Legislative Series B.15, at 105, and available at <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/PHL\_1961\_Act.pdf>, and reaffirmed in Republic Act No. 9522, UN, LOS Bull., No. 70, at 32; protested by American Embassy Manila Note delivered Jan. 29, 1986 (State Dep’t telegram 115912, April 17, 1985, American Embassy Manila telegram 03261, Jan. 29, 1986). In January 2015 the Philippine House passed HB 4889, Philippine Maritime Zones Act, section 6 of which would establish the territorial sea at 12 miles from the archipelagic baselines or low water line, as the case may be. In May 2015, the House passed HB 5487, The Philippine Archipelagic Sea Lanes Act, section 3(h) of which would define the territorial sea as 12 nautical miles from the baselines or from the low-water line, as the case may be. <http://www.congress.gov.ph/legisdocs/?v=bills>. While both acts were reported favorably in June 2015 (Committee Reports No. 171 and 180), the Senate failed to act on these proposed acts before the 16th Congress ended at the end of June 2016. As of May 2020, similar legislation has not been introduced in the 18th Congress. UK NTM 1(12)20 and US NTM 1(57)20 list the Philippine territorial sea as 12 M, while the 2016 MCRM and 2011 UN DOALOS assert the territorial sea claim extends beyond 12 M. [↑](#footnote-ref-25)
26. Article 1 of Act No. 85-14 delimiting the territorial sea, the contiguous zone and the continental shelf, Feb. 25, 1985, reduced Senegal’s territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/SEN\_1985\_Act.pdf>. [↑](#footnote-ref-26)
27. Sierra Leone [a party to the 1958 Territorial Sea Convention] Territorial Sea Act of April 19, 1971, asserting a 200-mile territorial sea, may be found in UN, LOS Bull., No. 2, Mar. 1985, at 76; protested by American Embassy Freetown Diplomatic Note delivered Jan. 30, 1973 (State Dep’t telegram 015074, Jan. 26, 1973; American Embassy Freetown telegram 0153, Jan. 30, 1973). Article 2 of The Maritime Zones (Establishment) Decree, 1996, March 28, 1996, reduced Sierra Leone’s territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/SLE\_1996\_Decree.pdf>. [↑](#footnote-ref-27)
28. Law No. 37 of Sept. 10, 1972, asserting a 200-mile territorial sea, may be found in UN, LOS Bull., No. 2 (1985), at 76, and *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/SOM\_1972\_Law.pdf>; protested by American Embassy Mogadishu Note dated Aug. 28, 1982 (State Dep’t telegram 231502, Aug. 18, 1982; American Embassy Mogadishu telegram 6215, Aug. 29, 1982, II Cumulative Digest 1762). Roll back to 12 M inferred from June 30, 2014 Presidential Proclamation of a 200 M EEZ; UN, LOS Bull., No. 85, at 21–22. [↑](#footnote-ref-28)
29. Law No. 37 of Aug. 11, 1981, asserting a 35-mile territorial sea, may be found in UN, LOS Bull., No. 1 (1983), at 61; protested by State Dep’t Note to the Syrian Embassy in Washington, of Oct. 10, 1981, *reported in* State Dep’t telegram 288959, Oct. 29, 1981, and reaffirmed by American Embassy Damascus Diplomatic Note dated Nov. 21, 1989 (State Dep’t telegram 337081, Oct. 20, 1989; American Embassy Damascus telegram 03212, May 23, 1990) (also protested in 1981 by **Turkey**, by **Israel** on March 12, 1982, the text of which may be found in the UN, LOS Bull, No. 1, at 62, and by **New Zealand** on June 3, 1982, the text of which may be found in *id*. at 63). On Feb. 17, 1982, the Syrian Foreign Ministry stated “Syria remains committed” to the 12-mile limit in the LOS Convention, “if that law is internationally ratified”. 5 FBIS, Middle East and Africa, Feb. 18, 1982, at H4. Article 4 of Law No. 28, Nov. 19, 2003, reduced Syria’s territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/syr\_2003e.pdf>. [↑](#footnote-ref-29)
30. Article 3(2) of Territorial Sea and Exclusive Economic Zone Act, 1989, reduced Tanzania’s and Zanzibar’s territorial sea to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA\_1989\_Act.pdf>. [↑](#footnote-ref-30)
31. Executive Decree D.604/1969, Dec. 3, 1969, to 200-mile territorial sea while preserving freedoms of navigation and overflight beyond 12 miles and innocent passage within 12 miles, may be found in UN, Legislative Series B/19, at 90; protested by American Embassy Montevideo Diplomatic Note delivered Mar. 3, 1970 (State Dep’t telegram 030281, Mar. 2, 1970; American Embassy Montevideo Airgram A-194, Oct. 7, 1970, State Department File POL 33-4 UR). On signing the LOS Convention, and repeated on ratification, Uruguay declared:

    the provisions of the Convention concerning the territorial sea and the exclusive economic zone are compatible with the main purposes and principles underlying Uruguayan legislation in respect of Uruguay’s sovereignty and jurisdiction over the sea area adjacent to its coast and over its bed and subsoil up to a limit of 200 miles.

    UN, Multilateral Treaties Deposited. By Act 17.033 of Nov. 20, 1998, Uruguay reduced its territorial sea claim to 12 miles, *available at* <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/URY\_1998\_Act.pdf>. [↑](#footnote-ref-31)