TERRITORIAL SEA

• a maritime area beyond and adjacent to the internal waters, and shall not extend beyond twelve nm from the baselines

• in the territorial sea the coastal State exercises sovereignty extending to the air space over the territorial sea as well as to its bed and subsoil
  – In principle, the coastal State exercises complete prescriptive and enforcement jurisdiction, subject to the provisions of law of the sea conventions and other rules of international law
  – Sovereignty is a priori restricted by the right of innocent passage that all States, whether land-locked States or coastal States, enjoy in the territorial sea

• Breadth of the territorial sea – horizontal and vertical extension?
• The exercise of the sovereignty of the coastal State over its territorial sea is subject to the right of innocent passage
  – an attempt to reconcile the navigational right of all other States with the sovereignty of the coastal State concerned
  – residue of the principle of the freedom of navigation in the territorial sea
  – ships on innocent passage enjoy neither immunity nor indemnity (any contravention of the laws and regulations of the coastal State would expose the ships to potential punishment by the same State)
– **Not absolute**, must be exercised in accordance with
  • the rules of *international* law mainly prescribed in LOSC
  • the national laws and regulations properly adopted by the
    coastal State
  • measures, laws and regulations laid down by the *flag State*
    with regard to safety of navigation, protection of the marine
    environment and social matters
– right of innocent passage
  • has not yet amounted to an exception to coastal State
    sovereignty or jurisdiction
  • no more than a special restriction on coastal State
    jurisdiction

**RIGHT OF INNOCENT PASSAGE – BASIC ELEMENTS**

I PASSAGE

1. Lateral passage
   • passage without entering internal waters
2. Passage to or from a port facility
   • navigation through the territorial sea to or from internal waters
3. Stoppage and anchorage as components of passage
   • exceptional cases to the rule of „continuous and expeditious”
     – incidental to ordinary navigation
     – rendered necessary by *force majeure* or by distress
     – where a ship seeks to render assistance (distress)
II CONTINUOUSNESS AND EXPEDITIOUSNESS OF PASSAGE

• foreign ships are not allowed to hover or hang around in the territorial sea
• expeditiousness – foreign ships shall proceed ahead at their usual operational speed, taking account of specific circumstances including navigational and hydrographical conditions

III INNOCENCE

• two-step method to define innocence of passage
• Art. 19 (1) LOSC - the definition of innocence in general terms from the perspective of the nature of passage
  – not prejudicial to the peace, good order or security of the coastal State
• Art. 19(2) LOSC – term clarified by setting out the activities that would render passage of a foreign ship "prejudicial" in this context and thus non-innocent
Relationship between art. 19(1) and 19(2) LOSC

- Art. 19(1) lays down a general and basic definition of innocence, while Para. 2 seeks to elucidate the scope of the expression "prejudicial to the peace, good order or security of the coastal State"
- although engaging in any of the listed activities would, no doubt, render the passage non-innocent, these activities (art. 19(2)) do not exhaust all tests of non-innocence because they are not sine qua non for passage to be non-innocent, as the wording of the Convention suggests
- art. 19(1) stands on its own feet and can be applied alone, without necessarily being dependent on the provisions of Para. 2

Assessment of art. 19 LOSC – right of innocent passage appears to have been narrowed:

- Art. 19(2)(1) – "any other activity not having a direct bearing on passage" → non-exhaustive list of proscribed activities
- except in the case of "wilful and serious pollution", other items listed in art. 19(2) are so general and loose, regardless of the degree of seriousness of violation, as to enable coastal States to interfere with foreign shipping for quite trivial infractions
- commission of any of the listed acts would automatically render passage non-innocent, without it being necessary for coastal States to establish that such acts virtually cause or have caused prejudice to their peace, good order or security
DUTIES OF SHIPS DURING INNOCENT PASSAGE

1. Duty of Observation of Laws and Regulations
   - exercising right of innocent passage in the territorial sea implies submission to the legal regime of the coastal [art. 21(4) LOSC] + Art. 21(1) LOSC – scope of coastal State legislative jurisdiction
   - the duty to observe local laws and is basically separate from the test of the innocence of passage

2. Duty of Continuousness and Expeditiousness
   - any violation would render a voyage to be non-passage
   - foreign ships on that voyage may not rely on the right of innocent passage.

3. Duty of Refraining from Engaging in Non-innocent Activities

4. Duty of Navigation on the Surface and Showing the Flag
   - submarines and other underwater vehicles navigate on the surface and show their flag
   - applicable to all ships (military as well as commercial submarines and other underwater vehicles)
   - the submerged passage of those ships can be seen, with good reason, as a prejudice to the peace, good order or security of the coastal State
5. Duty of Compliance with Sea Lanes and Traffic Separation Schemes

- foreign ships shall comply with local laws and regulations, including those concerning
  - the safety of navigation and the regulation of maritime traffic
  - all generally accepted international regulations respecting collision prevention
- foreign ships shall confine their innocent passage to the designated sea lanes and traffic separation schemes established by the coastal State in accordance with LOSC (art. 22 LOSC)
- unclear from the provisions of the Convention what the consequences of a breach of this duty are

- the passage of any tankers, nuclear-powered ships and ships of a dangerous nature which meanwhile commit an infraction against the said schemes would more likely be judged as non-innocent in comparison to other ships
- Meanwhile, a minor breach thereof should not lead passage of a foreign ship to non-innocence

6. Duty of Ships with Highly Dangerous Characteristics

- an additional duty in art. 23 for foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances
- Obligation to carry documents and observe special precautionary measures established for such ships by international agreements
- subject to a duty to notify the specified information to the competent authorities of coastal/port States
7. Duty to Pay for Specific Services

- Art. 26 LOSC excludes any charges in respect of navigation itself (the limitation to the coastal State's competence)
- the main task would be to distinguish between general and specific services
- general services include those that are basically provided for any ships passing by, such as lighthouse erection, buoyage placement, operation of other navigational aids, safety management and supervision
- specific services are those directed at a particular ship or ships, for example, pilotage, towage, pushing services, urgent repairing, salvage, provision of necessities, particular weather forecasting

- payment for specific services rendered should be reasonably commensurate with the cost of providing such services
- charges cannot be virtually transformed into a disguised tax on mere passage that would contradict art. 26(1)
- the failure to pay should not compromise the right of innocent passage, notwithstanding that the coastal State or service provider can, without question, make claims in other ways than disrupting the ongoing innocent passage
DUTIES OF COASTAL STATES

1. Duty of Abstention
   • not to hamper the innocent passage of foreign ships except as otherwise regulated in LOSC
   • the right of innocent passage under the new regime may be subject, in practice, to the other rules embodied elsewhere in the Convention, such as
     – suspension of innocent passage
     – civil and criminal jurisdiction
     – environmental protection

2. Duty of Non-discrimination
   • Art. 24(1)(b) LOSC prohibits discrimination in the application of the Convention and any duly adopted laws and regulations
   - the prohibited discrimination falls into two types:
     – discrimination against the nationality of ships and
     – that against the State of departure, State of destination or State owning the cargoes
   - relationship between the enforcement of embargoes as well as other sanction measures adopted by the UN and the prohibition of discrimination in art. 24(1)(b)
     – the obligations derived from the UN Charter prevail legally over that from LOSC
   - cases in which special treatment, granted by one State to another or some other States, may be fully justified on the basis of bilateral or multilateral treaties.
3. Duty of Information

• established in the Corfu Channel case in 1949 to inform foreign ships of any danger to navigation within its territorial sea if it had knowledge thereof
• coastal State is expected to maintain some basic navigational aids and the like essential for ordinary shipping activities, such as lighthouses and a rescue capability
• The duty of information as a whole comprises:
  – limits of the territorial sea [art. 16(2)]
  – all adopted laws and regulations [art. 21(3)]
  – sea lanes and traffic separation schemes [art. 22]
  – suspension of innocent passage in the territorial sea [art. 25(3)]

COSTAL STATE JURISDICTION IN TERRITORIAL SEA

I LEGISLATIVE JURISDICTION

• power of coastal States to adopt laws and regulations springs from the sovereignty
• in principle adopt rules in respect of any activities and matters of foreign ships in the territorial sea (*unless expressly prohibited by international law)
• Art. 21 LOSC circumscribes the scope of laws and regulations that coastal States may enact by exhaustively enumerating the matters being covered
  – for States Parties LOSC the exercise of legislative jurisdiction at the national level is subject to the scope as prescribed in art. 21
The relationship between art. 21(1) and 19(2) LOSC

- activities listed in art. 19(2) are against the interests of the coastal State and thus make passage of a foreign ship non-innocent
- art. 19(2) per se does not (except item (g)) shed any light on whether the activities are illegal in the context of local legislation
- Art. 21(1) covers a broad range of matters, including those dealt with in art. 19(2)
- violation of art. 19(2) will render passage of a foreign ship non-innocent /// violation of national legislation does not necessarily lead to non-innocence, although the ship involved in the violation may be subject to penalties imposed by the coastal State

- LOSC seeks to dissociate the concept of non-innocence of passage from that of non-compliance with local laws and regulations as well as relevant rules of international law
- The dissociation of the two concepts is underlined by the fact that the obligation to comply is laid down in a separate article (art. 21(4))
- As a result, according to the majority view, a violation of local laws will not necessarily deprive passage of its innocence.
- It is interesting to note that art. 19(2)(g) represents the only case in which the breach of relevant laws and regulations of the coastal State is mentioned.
Violations of local laws and regulations:

- Not serious enough to render passage non-innocent
- Coastal State is allowed to take reasonable enforcement measures provided that they are in accordance with LOSC
- Violations only allow interference with passage, but not annulment of the right itself
- The type of enforcement action must stand a test of reasonableness (necessity and proportionality)
  - Ships in innocent passage can still be detained and brought into port, although from a legal perspective the right of innocent passage does not cease to exist
  - Expulsion or denial of entry are not exclusively reserved for cases in which passage became non-innocent

Design, construction, manning or equipment standards (DCME) [special case]

- primacy of generally accepted international rules and standards
- art. 21(2) LOSC → national laws and regulations may not affect the DCME of foreign ships through the territorial sea, unless they correspond with generally accepted international rules and standards
- Coastal States may not adopt and apply national DCME standards that exceed international ones
  - SOLAC Convention 1974
  - STCW Convention 1978
  - ILO 147 Convention
II ENFORCEMENT JURISDICTION

• in the interest of innocent passage: any enforcement against foreign ships during passage in the territorial sea may be more limited than the laws and regulations may apply

A) interference with the innocent authorized in some cases

- art. 25(2) any breach of port entry conditions
- arts. 27 and 28 criminal or civil jurisdiction
- Art. 220(2) environmental violations

• the hampering of the innocent passage of foreign ships through the territorial sea is allowed as an exception
• the interference has to stand the test of not having "the practical effect of denying or impairing the right of innocent passage".

B) violations against which measures are not explicitly set out

- LOSC
  - duty not to hamper the innocent passage of foreign ships
  - infringing foreign ships would only be subject to appropriate enforcement measures after they have arrived in ports or other parts of internal waters of coastal States
  - justifiable for coastal States to interfere with the passage of a foreign ship committing a flagrant offence or the passage of “leper ships”
  - a foreign merchant ship is involved in a maritime incident or casualty with the gross violation of applicable rules
• The coastal State enforcement jurisdiction in the territorial sea is in principle complete, except for:
  – Jurisdiction in relation to lateral passage with antecedent crimes
  – Jurisdiction in civil matters to arrest a ship in connection with liabilities not incurred through the territorial sea

II Enforcement criminal jurisdiction
1) Lateral passage
• Art. 27(1) LOSC establishes the rule that a coastal State should not arrest any person or to carry out any investigation concerning any crime committed on board a foreign merchant ship merely passing through its territorial sea
• Subject to four exceptional circumstances (arrest or investigation may be effected by the coastal State)
  – the consequences of the crime extend to the coastal State
  – crime is of a kind to disturb the peace of the country or the good order of the territorial sea
  – the assistance of the local authorities has been requested by „the flag State”
  – measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances
Is the list exhaustive?
2) Outward-bound passage

- Art. 27(2) LOSC
  - passing through territorial sea after leaving the internal waters
  - irrespective of whether on innocent passage or no
  - take any steps authorized by their laws for the purpose of arrest or investigation

3) Inward-bound passage

- Art. 27 is silent on the scenario where the crime is committed aboard a foreign ship in the territorial sea, while the ship is proceeding to internal waters
- Art. 27(5) indirectly empowers coastal States
- coastal States always prefer to take enforcement action after the ship enters a port

4) Lateral passage with antecedent crimes

- art. 27(5) LOSC prohibition on the assertion of coastal State criminal jurisdiction against a foreign ship in the territorial sea with regard to crimes committed beyond the territorial sea if the ship is merely on the way of lateral transit

- Exceptions:
  - marine environmental protection [art. 220 LOSC]
  - enforcement of laws and regulations in the exercise of their sovereign rights on the living resources in the EEZ [art. 73 LOSC]

- the expression "may not" is used in art. 27(5), while the term "should not" is employed in art. 27(1) [different jurisdictional nature of the maritime zones in which the alleged offences took place]
II Enforcement civil jurisdiction

1) art. 28(1) LOSC – civil jurisdiction over persons on board
   • a ship not susceptible of any stop or diversion by the coastal
     State only for the sake of exercising civil jurisdiction in respect of
     a person on board

2) art. 28 (2) LOSC – execution against or arrest of the ship
   • only confined to the cases concerning obligations or liabilities
     assumed or incurred by the ship itself from certain events [in the
     course or for the purpose of voyage], including:
     – collision
     – salvage
     – pilotage
     – towage
     – during the current passage through the waters

• Prohibited: execution against or arrest of the ship with regard
  to such civil obligations or liabilities as may have come forward
  previously, i.e. not during the ongoing passage
• Covers: lateral, outbound and inbound passage

3) art. 28(3) LOSC – a foreign merchant ship lies in the territorial
   sea or navigates therein after leaving the internal waters
   • Ship lying in the territorial sea: may self-evidently not invoke
     the right of innocent passage
   • exceptional stopping and anchoring (art. 18 in the case of
     emergency) should not be taken as "lying in the territorial sea"
     in the sense of art. 28(3).
II Enforcement administrative jurisdiction

- administrative prerogatives appear to be acknowledged as being absolutely within the ambit of coastal States’ jurisdiction
- covers many vital fields, inter alia:
  - maritime traffic management
  - rights of protection and levy of charges for specific services
  - fisheries
  - customs
  - revenue
  - immigration
  - quarantine
  - protection of navigational aids and submarine cables and pipelines

Sea lanes and traffic separation schemes [special case]

- LOSC permits coastal States to designate their sea lanes and TSSs. [fully within the discretion of coastal States either to submit their TSS to the IMO for adoption or not]
- Art. 22 LOSC - a coastal State may require foreign ships (…) to use duly designated sea lanes and TSSs
  - what legal consequences would follow if foreign ships disregarded this requirement
  - coastal States can, at least, issue warnings of disregard against delinquent ships and enforce appropriate punishments when the ships are in ports
Ild Jurisdiction over marine environment – special case: pollution from ships

- the exercise of enforcement jurisdiction had broadly been considered to be the responsibility of the flag State
- Art. 220 LOSC - departure from the principle of the exclusive jurisdiction of the flag State
- coastal State enforcement competence varies with loci delicti and the seriousness of the pollution or the damage caused
  - Art. 220 (2) physical inspection [track, pursue, request information, board, direct into port] = clear grounds, navigation in the territorial sea, violation of coastal State’s laws and regulations [no distinction between innocent and non-innocent passage]

- Art. 220(3) LOSC – require the ship to furnish information
  - infringing ship sails in the territorial sea or the EEZ
  - the violation was committed in the EEZ
- Art. 220 (5) LOSC – physical inspection
  - clear grounds
  - a substantial discharge causing or threatening significant pollution of the marine environment
  - ship sails in the territorial sea or EEZ
  - violation committed in EEZ
  - refusal to give the requested information
- Art. 220 (6) LOSC – institute proceedings
  - clear objective evidence
  - violation led to “a discharge causing major damage or threat of major damage” to the coastline / related interests / any resources of its territorial sea or EEZ
RIGHTS OF PROTECTION OF COASTAL STATES

I Entitlement of coastal States for confirmation of non-innocence

- coastal States are entitled to define and confirm the non-innocence of passage [verify the innocent character of the passage]
- the confirmation of non-innocence of passage of foreign ships ought to stand the test of international law [especially art. 19 LOSC]
- in practice foreign ships should be allowed to explain their operations on being suspected prior to the confirmation of non-innocence

II Prevention of non-innocent passage

- foreign ships would fall fully under coastal State jurisdiction if the foreign ships ceased to be on innocent passage
- the coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent art. 25 (1)
- it is completely within the discretion of coastal States to decide on what specific steps will be taken to prevent non-innocent passage
  - steps shall conform to the basic rules of general international law, such as
    - Necessity
    - Proportionality
    - Non-discrimination
– warning, warning shot
– stopping, boarding, inspection, detention
– institution of proceedings
– diversion or expulsion
– in the case of non-innocent passage, the captain (or person in charge of a foreign merchant ship) could face punishment in the form of either a fine or imprisonment pursuant to the penal code of the coastal State concerned

III Prevention of non-passage
• Ships engaged in navigational activities outside the sphere of the passage (art. 18 LOSC) are likewise subject to full coastal State jurisdiction
• customary international law (stop, expel, arrest)

IV Prevention of breach of port entry conditions
• Art. 25(2) LOSC
• international law generally lays down no specific limitation, except for treaty obligations, on the scope of port entry conditions
• Coastal State discretion in setting out port entry conditions
• Can be laid down in in municipal legislation, or in bilateral navigation treaties or even in a regional agreement
• The fixed conditions may relate to:
  – DCME standards
  – environmental protection as stipulated in art. 211(3)
  – nature of cargoes
  – persons aboard
• "necessary steps“ (the significance of necessity and reasonableness in the enforcement)
V Suspension of innocent passage

- Art. 25(3) LOSC
- the primacy of coastal State sovereignty over the right of innocent passage of foreign ships in the territorial sea v. the right of suspension is under delicately envisioned qualifications
  - temporary [days, weeks or months than years or decades, not to speak of the permanent closure of a certain portion of the territorial sea]
  - only in specified areas of the territorial sea [may not cover the entire territorial sea]
  - essential for the protection of coastal State security, including weapons exercises [environmental concern or traffic considerations may not be invoked to rationalize the suspension]
- no discrimination against foreign ships
- publicity [duly published in advance]

Any intrusion into the suspension areas could logically be treated as non-innocent passage, legitimizing any necessary measures taken by coastal States once the right of innocent passage has been expressly suspended

VI Establishment of military security zones

- closely related to the right to suspend the navigation of foreign ships for the purpose of national defense
- Does establishment of any military security zone at sea in peacetime stand the test of contemporary international law?
  - hardly be justified by the right to suspend innocent passage
– many of such zones tend to reach out to the territorial sea
– uncertain whether such zones still exist now (due to security reasons lack of transparency)
– essential for coastal State security (without no doubt)

NAVAL VESSELS AND RIGHT OF INNOCENT PASSAGE

Definition
- ship belonging to the armed forces of a nation
- bearing the external markings distinguishing the character and nationality of such ships
- under the command of an officer duly commissioned by the government of that nation
- whose name appears in the appropriate service list of officers
- manned by a crew that is under regular armed forces discipline
Relevance of warships:
• only such ships enjoy sovereign immunity
• the right to interfere with international navigation and aviation, both in times of peace and of war is in many cases reserved to warships

Legal status of warships:
• flows from the sovereignty of the State whose flag they fly
• operated exclusively for non-commercial government purposes, thus sharing the flag State’s sovereign immunity

• immune from any exercise of another State’s jurisdiction, especially from arrest or search, whether in national or international waters
• the privilege of sovereign immunity includes protecting the identity of personnel, stores, weapons, or other property on board the
• In times of peace, the immunity of warships ceases if
  – the crew has mutinied, taken control of the ship
  – if it has committed acts of piracy.
Foreign territorial sea:

- Art. 32 LOSC → immunity of warships is limited when navigating in the territorial sea of another State
- limitations or exceptions restricted to the provisions expressly referred to – obligation to comply with:
  - the international rules
  - the coastal State’s domestic laws and regulations concerning innocent passage
- While the coastal State retains its right to prescribe, it is not entitled to enforce such laws and regulations against a foreign warship
  - any exercise of criminal or civil jurisdiction constitutes a violation of the warship’s sovereign immunity
  - warships may neither be visited nor searched or captured (unless commander’s express consent)

Do warships enjoy the right of innocent passage?

- Art. 24 ILC Draft Articles – coastal State entitled to make the passage of warships through the territorial sea subject to previous authorization or notification
- provisions has not been introduced to Geneva Convention 1958 [thus, conference did not approve such rule]
- LOSC – since art. 17 [Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea] appears under the rubric ‘Rules applicable to all ships’, both merchant and warships enjoy the right
- neither treaty nor customary international law provide for exceptions to the right of innocent passage of foreign warships
State practice:

- States have made declarations upon signing or ratifying LOSC and have enacted domestic legislation limiting that right

- As of 31 December 2008, 27 States have made innocent passage of foreign warships dependent upon prior permission/authorization
  - Croatia and Denmark have adopted legislation limiting the number of warships
  - Latvia has banned all warships with nuclear engines or cargoes from its territorial sea.
  - security zones
  - Nicaragua requires 15 days’ prior notice for warships wishing to enter its security zone
  - North Korea has established a 50-nautical-mile security zone beyond its territorial sea banning all foreign warships

- However, the majority of coastal States recognize the right of innocent passage of foreign warships
Coastal State’s rights with regard to warships situated in its territorial sea

- Coastal State right to request a warship to immediately leave the territorial sea
  - a warship engages in any of the activities listed in Art. 19 (2) LOSC (passage becomes non-innocent)
  - a warship does not comply with the coastal State’s laws and regulations concerning passage (and a warship disregards coastal State’s request to comply)
  - if the warship remains in the territorial sea, the coastal State may resort to all necessary and proportionate measures, including the use of force, in order to make the warship comply with such orders
- right of innocent passage may be suspended only in accordance with art. 25 (3) LOSC

- The coastal State is entitled to **visit, search, and temporarily capture a foreign warship** that was engaged in intelligence or other operations prejudicial to the coastal State’s security if that violation of the right of innocent passage was sufficiently clear and grave
**Internal waters:**
- in principle, warships continue to enjoy the same degree of sovereign immunity as in the respective State’s territorial sea
  - obliged to respect the coastal State’s domestic legal order
  - an exercise of jurisdiction against a warship is prohibited
  - may not be subjected to judicial proceedings or any enforcement measure, including foreclosure, capture, or search
- **Exercise of criminal jurisdiction:**
  - prohibited even if in response to criminal acts committed against the host nation or its nationals

- the **commander and the crew** may not be prosecuted if they leave the warship for visits on land
- however, **if members of the crew**
  - have left the ship for other than official purposes
  - and if they have committed a criminal or other act contrary to the host nation’s domestic laws
  - they are no longer protected unless there is a special agreement exempting them from the host nation’s jurisdiction
**CONTIGUOUS ZONE**

an area of sea contiguous to and extending seaward of TS

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**Convention on Territorial Sea and Contiguous Zone:**

- distinctive maritime zone ("in a zone of high sea")?
- zone supplementing the territorial sea regime, both with respect to law enforcement and in protecting the rights and interests of the coastal state
- limit: to 12 nm form the territorial sea baseline
- affirmed as being within the high seas and contiguous to the territorial sea
- no reference is made to any form of sovereignty being exercised over this area other than the limited jurisdictional control provided for
Art. 33 LOSC:
• Distinctive nature of contiguous zone, which gave to the coastal state an additional form of jurisdiction that was quite separate from that being envisaged for the EEZ
• Limit: horizontal and vertical?
• Expansion of the contiguous zone breadth: 24 nm from the territorial sea baseline
• Differences (Geneva Convention 1958 v. LOSC)
  – Contiguous zone to territorial sea (previous connection that existed between the contiguous zone and the high seas no longer remain)
  – No direct reference to the delimitation of overlapping contiguous zone claims

Coastal State jurisdiction in the contiguous zone:
• **scope**: customs, fiscal, immigration and sanitary laws and regulations
• **lack of legislative jurisdiction** [States are not entitled to enact laws and regulations for conduct occurring in the contiguous zone itself; not due or intended to occur in the territory or territorial sea of the coastal State]
• Specifically related to outward and inward bound movement of ships
  – **Inward bound ships** – „control necessary to prevent infringement”
- take into account: freedom of navigation which vessels enjoy within the contiguous zone
- Scope of „control”: inspection, verification, warnings, interdiction of a vessel and its removal from the contiguous zone?
  - **Outward bound ships** – „control necessary to punish infringement”
- Additional enforcement capacity
- Enforcement jurisdiction only in respect of offences committed within the territory or territorial sea of a State (not in respect of anything done within the contiguous zone itself)

### Extension of the enforcement jurisdiction to security interests?
- neither the Convention on the Territorial Sea and the Contiguous Zone nor LOSC include security
- a Polish amendment:
  - added security to the list of protected rights
  - deleted the reference to infringement of the laws within the territory or territorial sea
  - failed to obtain the required majority in the Plenary
- ILC in its 1956 draft articles on the law of the sea excluded security rights
  - extreme vagueness of the term ‘security’ would open the floodgates to abuses
  - enforcement of customs and sanitary regulations would be sufficient in most cases to safeguard the security of the State
Archaeological and historical objects in the contiguous zone

- Art. 303 (2) LOSC
- Twofold legal fiction → the removal of archaeological and historical objects from the seabed in the contiguous zone without the coastal state approval would amount to:
  - a breach of the laws and regulations applicable in its territory and territorial sea
  - relating to customs, fiscal, immigration and sanitary matters