

Department of Defense Report to Congress



Annual Freedom of Navigation Report

Fiscal Year 2017

Pursuant to Section 1275 of the National Defense Authorization Act for Fiscal Year 2017

The estimated cost of report or study for the Department of Defense is approximately \$13,000 in Fiscal Years 2017-2018. This includes \$50 in expenses and \$13,000 in DoD labor.

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Background:

The U.S. Freedom of Navigation (FON) Program was formally established in 1979 and consists of a two-pronged complementary strategy to maintain the global mobility of U.S. forces and unimpeded commerce by protesting and challenging attempts by coastal States to unlawfully restrict access to the seas.

- The Department of State (DOS) leads the first prong by diplomatically protesting foreign laws, regulations, or other claims of coastal States that are inconsistent with international law (called “excessive maritime claims”).
- The Department of Defense (DoD) leads a second prong that complements DOS protests by conducting operational challenges against excessive maritime claims.

FON operations (FONOPs) support the longstanding U.S. national interest of freedom of the seas. While not a defined term under international law, DoD uses “freedom of the seas” to mean all of the rights, freedoms, and lawful uses of the sea and airspace, including for military ships and aircraft, guaranteed to all nations under international law. DoD ensures freedom of the seas by preserving the global mobility of U.S. forces and unimpeded commerce through comprehensive, regular, and routine FONOPs worldwide.

As President Reagan 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, if left unchallenged, could impinge on the rights, freedoms, and lawful uses of the sea and airspace guaranteed to all States under international law. As stated in the 1983 U.S. Oceans Policy, the United States “will not...acquiesce in unilateral acts of other states designed to restrict the rights and freedom of the international community.”

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 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). Activities conducted by DoD under the FON Program are deliberately planned, legally reviewed, properly approved, and conducted with professionalism.

Annual Report:

Each year, DoD releases an unclassified summarized FON Report identifying the coastal States and excessive maritime claims that are challenged by U.S. forces. The FON Report also includes general geographic information to transparently demonstrate non-acquiescence in excessive maritime claims while still maintaining operational security of U.S. military forces. Below is a summary of excessive maritime claims that were challenged by DoD operational assertions and activities during the period of

October 1, 2016, to September 30, 2017, in order to preserve the rights, freedoms, and uses of the sea and airspace guaranteed to all nations by international law. For a complete list of all coastal States making excessive maritime claims, as well as the years those claims were challenged by U.S. forces under the FON Program, see the DoD Maritime Claims Reference Manual (available online at www.jag.navy.mil/organization/code_10_mcrm.htm):

Freedom of Navigation Challenges Fiscal Year 2017		
Claimant	Excessive Maritime Claims	Geographic Location
Albania	Prior authorization required for foreign warships to enter the territorial sea (TTS)	Adriatic Sea
	Excessive straight baselines	Adriatic Sea
Algeria	Prior authorization required for passage of warships in the TTS	Mediterranean Sea
Cambodia	Excessive straight baselines	Gulf of Thailand
China	* Excessive straight baselines	Paracel Islands
	* Jurisdiction over airspace above the exclusive economic zone (EEZ)	South China Sea and East China Sea
	* Restriction on foreign aircraft flying through an Air Defense Identification Zone (ADIZ) without the intent to enter national airspace	East China Sea
	* Domestic law criminalizing survey activity by foreign entities in the EEZ	South China Sea
	Prior permission required for innocent passage of foreign military ships through the TTS	Paracel Islands
	* Actions/statements that indicate a claim to a TTS around features not so entitled	Spratly Islands
Croatia	Prior notification required for foreign warships to exercise innocent passage in the TTS	Adriatic Sea
Ecuador	* Actions/statements that indicate prior notification or permission is required for State aircraft to conduct overflight of EEZ	Pacific Ocean
India	* Prior consent required for military exercises or maneuvers in the EEZ	Indian Ocean

Indonesia	* Limits on archipelagic sea lane passage through normal routes used for international navigation	Java Sea
Iran	* Asserts that only Parties to the United Nations Convention on the Law of the Sea are entitled to the right of transit passage through the Strait of Hormuz	Strait of Hormuz
	* Prohibition on foreign military activities and practices in the EEZ	Persian Gulf
Malaysia	* Prior authorization required for nuclear-powered ships to enter the territorial sea	Strait of Malacca
	* Military exercises or maneuvers in EEZ requires prior consent	South China Sea
Maldives	* Prior authorization required for foreign ships to enter the EEZ	Indian Ocean
Malta	* Passage by foreign warships through the TTS subject to prior consent or prior notification	Mediterranean Sea
	Excessive straight baselines	Mediterranean Sea
Montenegro	Prior notification required for passage of foreign warships through the TTS	Adriatic Sea
Oman	* Prior permission required for innocent passage of foreign military ships through the TTS	Arabian Sea
	* Requirement for innocent passage through the Strait of Hormuz, an international strait	Strait of Hormuz
	Excessive straight baselines	Gulf of Oman
Philippines	* Claims archipelagic waters as internal waters	Sulu Sea
Slovenia	Prior notification required for passage through the TTS by foreign military vessels	Adriatic Sea
	Foreign military vessels required to confine innocent passage to designate sea lanes in the TTS	Adriatic Sea
Sri Lanka	Prior consent required for foreign warship to enter or pass through the TTS	Indian Ocean
	Claims a security jurisdiction in the contiguous zone (CZ)	Indian Ocean

Taiwan	* Prior notification required for foreign military or government vessels to enter the TTS	Paracel Islands
Tunisia	Excessive straight baselines	Gulf of Tunis
Venezuela	* Prior permission for overflight of EEZ or in the Flight Identification Region (FIR)	Caribbean Sea
Vietnam	* Prior notification required for foreign warships to enter the TTS	Paracel Islands
	Excessive straight baselines	South China Sea
Yemen	* Prior authorization required for passage through the TTS by foreign warships	Red Sea and Gulf of Aden

*Note: * designates multiple challenges to the excessive maritime claim during the reporting period.*