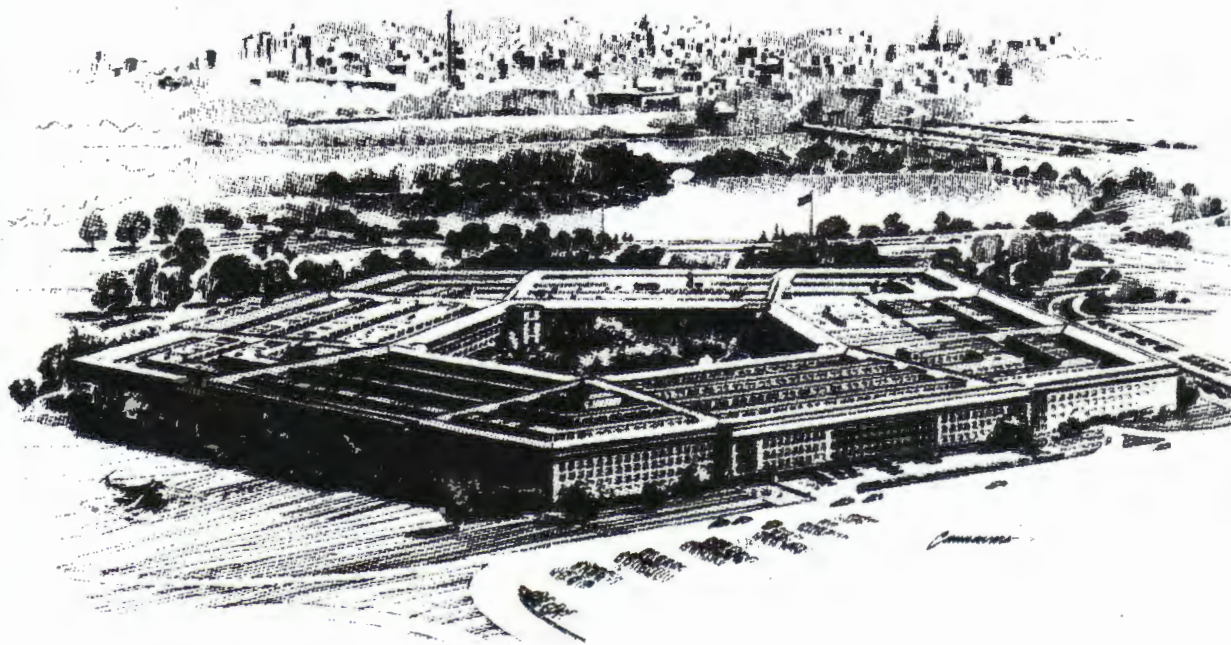


# Annual Report

to the  
President  
and the  
Congress



William J. Perry  
Secretary of Defense



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## MOBILITY AND THE LAW OF THE SEA

On October 7, 1994, the President transmitted the 1982 U.N. Law of the Sea (LOS) Convention, with its Deep Seabed Mining Implementing Agreement, to the Senate for advice and consent. DoD has long supported the United States becoming a party to the Convention, provided concerns with its deep seabed mining provisions could be adequately addressed. The agreement implementing Part XI of the 1982 LOS Convention removed those concerns and cleared the way for U.S. acceptance of the entire Convention, which is of major strategic and economic importance to the United States.

The value of the LOS Convention lies in the fact that it provides an authoritative compilation of the law governing the world's oceans, which supports operational rights essential to the planning and execution of the national defense strategy. By ratifying the treaty, the nations of the world, once and for all, are agreeing to be bound to principles that strike a complex but deliberate balance between maritime and coastal interests. On the one hand, the law that is codified in the Convention allows the United States to meet its national security requirements by assuring operational mobility and flexibility on, under, and over the world's oceans. At the same time, it recognizes a coastal state's interest in managing and protecting valuable offshore resources and coastal areas. It is this balance which the United States believes will lead to the Convention's widespread acceptability among diverse interest groups and promote the legal stability for the oceans that has been sought for so long.

Specifically, the Convention strengthens U.S. national security by confirming high seas freedoms of navigation and overflight, detailing passage rights through international straits and archipelagic waters, guaranteeing the right of innocent passage through foreign territorial seas, establishing limits on coastal state rights to extend maritime zones to the detriment of traditional navigational freedoms, and preserving the sovereign immune status of U.S. armed forces ships and aircraft. By confirming these rights in a universally recognized treaty, the Convention will also reduce prospects for disagreements with coastal nations during military operations.

In short, the international law of the sea spelled out in the LOS Convention ensures operational rights that are essential to the planning and execution of U.S. national defense strategy. It does this by guaranteeing that key sea and air lines of communication will remain open as a matter of legal right—not contingent upon approval by coastal and island states along the route or in the area of operations. The benefits of the Convention can best be realized by the United States becoming a party to the Convention and continuing its leadership role in maritime matters.

## FREEDOM OF NAVIGATION

Despite the entry into force of the 1982 U.N. Law of the Sea Convention on November 16, 1994, several coastal states maintain maritime claims considered excessive when measured against the Convention. Many of these claims are excessive because they impair freedoms of navigation and overflight. Although not yet a party, the United States views the Convention's navigation and overflight provisions as generally confirming existing maritime law and practice and, as such, available for all nations to enjoy. The United States also believes that unchallenged excessive maritime claims may, in time, become valid through acquiescence. Accordingly, it is necessary for maritime nations, such as the United States, to protest excessive coastal claims through diplomatic channels and to exercise their navigation and overflight rights in the disputed regions. The United States has accepted this responsibility by establishing a Freedom of Navigation program. Established in 1979, the Freedom of Navigation program continues as an active tenet of national policy. From October 1, 1993, to September 30, 1994, Freedom of Navigation assertions were conducted by the U.S. military units against the following countries maintaining claims contrary to international law:

Country	Excessive Claims Challenged
Burma*	Prior permission for warship to enter 12 nautical mile (nm) territorial sea
Cambodia*	Prior permission for warship to enter 12 nm territorial sea; excessive straight baselines
China*	Prior permission for warships to enter 12 nm territorial sea
Djibouti*	Excess straight baselines
Ecuador*	200 nm territorial sea
Egypt	Prior notification for warship to enter 12 nm territorial sea
India*	Prior notification for warship to enter 12 nm territorial sea; historic claim to Gulf of Mannar
Maldives*	Prior permission for warship to enter 12 nm territorial sea
Mauritania	Excess straight baselines; recognizes only innocent passage, not transit passage, through international straits
Peru*	200 nm territorial sea
Philippines	Excessive straight baselines; claims archipelagic waters as internal waters
Somalia*	200 nm territorial sea
Sudan*	Prior permission for warship to enter 12 nm territorial sea
Sweden	Prior permission for warship to enter 12 nm territorial sea

\*Denotes that Freedom of Navigation assertion was also conducted in FY 1993.

In addition, military craft frequently conducted routine transits on, over, and under international straits, such as the Strait of Gibraltar and Strait of Hormuz, and through archipelagic sea lanes, such as those of Indonesia and the Philippines, in accordance with the 1982 Law of the Sea Convention.