



ANNEX 3-04 COUNTERSEA OPERATIONS

INTERNATIONAL LAW

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To effectively conduct [countersea operations](#), commanders, planners, and aircrews must be aware of the legal issues that can impact such operations. National policy and legal requirements dictate that countersea operations be conducted in compliance with international law. The law relating to countersea operations is particularly complex in that much of the law is customary international law developed throughout naval history. In addition, commanders, planners, and aircrews must have knowledge of the air navigation regimes that dictate where aircraft can lawfully fly. Part of the preparation for countersea operations must be a review of the [law of armed conflict](#) (LOAC) and law of the sea requirements, which affect these operations.

Portions of the United Nations Law of the Sea Convention of 1982 are consistent with customary international law concerning maritime navigation and overflight rights. Air Force members involved in countersea operations must be aware of the rights of aircraft over the various maritime zones. These zones include the high seas, exclusive economic zones, contiguous zones, territorial seas, internal waters, archipelagic waters, international straits, and archipelagic sea lanes. These zones are important because they determine the amount of control that a coastal state may exercise over foreign aircraft and ships. All of these zones are measured from national baselines, hence knowledge of where these baselines are located is essential if aircraft are to be able to assert and exercise their lawful rights in conducting countersea operations.

Some nations assert security zones beyond the limits of their territorial sea but international law does not recognize any such zone. Military aircraft generally have freedom of navigation rights outside of territorial seas. Any nation may declare a temporary warning zone including over areas of the high seas. These zones do not restrict the right of navigation but advise ships and aircraft of hazardous (but lawful) activities. These may include missile testing, gunnery practice, and space vehicle recovery operations. In the exercise of their inherent right of self-defense under the United Nations Charter, nations may declare various forms of maritime control areas. These may include air or maritime exclusion zones, or other types of defensive sea areas in which a measure of control is exercised over foreign ships and aircraft. During times of conflict, Air Force units must be particularly aware of the rights of neutral nations. These rights protect the sovereignty of neutral nations, which includes national ships and aircraft.

The upper limits of airspace have not been authoritatively defined by international law. There is a different legal regime that governs outer space, which begins at an unidentified point at which artificial satellites can be placed in orbit without freefalling to earth.

In the [maritime domain](#), LOAC, customary international law as recognized by the United States, international conventions to which the United States is a party, and national policy directives are all relevant. When planning and conducting countersea operations, commanders, planners, and aircrew should obtain the legal advice of the supporting [judge advocate](#).
