

**THE TERM TERRITORIAL WATERS AS DEFINED UNDER
THE ADMIRALTY (JURISDICTION AND SETTLEMENT OF
MARITIME CLAIMS) ACT, 2017**

In the context of admiralty jurisdiction, the term "territorial waters" holds significant importance in determining the reach of a nation's legal and judicial authority over maritime matters. As per Section 2(k) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, the term "territorial waters" is assigned the same meaning as defined under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976. This legislative framework aligns India's maritime boundaries with international norms while ensuring that the country's admiralty jurisdiction extends to these areas. Territorial waters, as defined in the 1976 Act, refer to that portion of the sea extending up to 12 nautical miles from the baseline of the coast, within which the coastal state has sovereignty over the water, the seabed, and the airspace above.

The significance of this territorial definition extends beyond mere geography—it serves as the foundation upon which legal jurisdiction in admiralty matters is built. Section 3 of the Admiralty Act establishes that the High Courts of India are vested with jurisdiction over maritime claims within their respective territories, including the territorial waters as defined by the 1976 Act. This ensures that each High Court has the authority to adjudicate matters related to maritime disputes, vessel arrests, and other claims arising within its territorial purview, subject to the limitations and provisions of Sections 4 and 5 of the Admiralty Act.

A comparative analysis of India's definition of territorial waters and its implications under admiralty law with foreign jurisdictions reveals notable similarities and distinctions. In India, the Territorial Waters, Continental Shelf, Exclusive Economic Zone, and Other Maritime Zones Act, 1976, closely

aligns with the provisions of the United Nations Convention on the Law of the Sea (UNCLOS). Like other signatories to UNCLOS, India recognizes its sovereignty over territorial waters, but this sovereignty is subject to the right of innocent passage for foreign vessels, as per customary international law. In contrast, countries like the United States have developed their own specific statutes governing territorial waters, such as the Outer Continental Shelf Lands Act and the Magnuson-Stevens Fishery Conservation and Management Act, which focus heavily on resource management and fisheries within these waters.

The Indian courts, in interpreting the extent of their admiralty jurisdiction under the Admiralty Act, have been influenced by the international legal principles embedded in UNCLOS and domestic legislation. For instance, in the case of *Videsh Sanchar Nigam Ltd. v. The Kapitan Kud*, the Bombay High Court dealt with the issue of whether a foreign vessel, arrested within the Indian territorial waters for damages, was subject to Indian admiralty law despite being a foreign ship. The Court held that under Indian admiralty law, as codified by the Admiralty Act, jurisdiction over maritime claims extended to foreign vessels within India's territorial waters, reaffirming India's sovereign authority over its maritime zones.

Moreover, Section 3 of the Admiralty Act provides for the possibility of extending the High Court's jurisdiction beyond territorial waters. This is contingent upon a notification from the Central Government, which may expand the jurisdiction of the High Court up to the limits defined under Section 2 of the 1976 Act, covering areas like the contiguous zone, the continental shelf, and the exclusive economic zone (EEZ). This extension of jurisdiction plays a crucial role in addressing claims related to resource exploitation, environmental damages, and maritime pollution, particularly in areas beyond the territorial sea but within the maritime zones under Indian control.

Comparatively, the United Kingdom's admiralty jurisdiction, which historically influenced Indian maritime law, is governed by the Senior Courts Act, 1981. Under the UK regime, admiralty jurisdiction is exercised over maritime claims concerning vessels irrespective of where they may be located, but the geographic scope is generally aligned with the principles of territorial waters under UNCLOS. The UK courts have recognized the global nature of maritime commerce and the need for a flexible jurisdictional approach. Similarly, India, under the Admiralty Act, recognizes the fluid and international nature of maritime law by allowing for jurisdiction over foreign vessels and claims that may transcend the rigid boundaries of territorial waters.

In practice, Indian courts have exercised their extended admiralty jurisdiction with caution, especially in cases involving foreign parties and vessels. The case of *M.V. Elisabeth v. Harwan Investment and Trading Pvt. Ltd.* marked a significant turning point in Indian admiralty law. The Supreme Court, in this landmark judgment, held that Indian courts could exercise admiralty jurisdiction over foreign ships even if the cause of action arose outside Indian waters, provided the ship was within the Indian territorial waters at the time of the arrest. The ruling established the principle that maritime claims could have extraterritorial implications, reinforcing the global nature of admiralty law while asserting India's jurisdiction over maritime claims within its territorial waters.

In addition, Section 3's proviso, allowing the Central Government to extend the High Courts' jurisdiction, mirrors international practices where coastal states extend their jurisdiction for specific purposes, such as environmental protection or resource exploitation. For example, under US law, the state's authority extends beyond territorial waters for regulating activities on the continental shelf, such as oil drilling, under the Outer Continental Shelf Lands Act. Similarly, Canada's Oceans Act empowers the government to exercise jurisdiction over marine activities in the EEZ for environmental and resource-

related matters. In both instances, the extension of jurisdiction beyond the territorial sea is seen as a necessary evolution of maritime law to address contemporary issues like environmental conservation and the economic exploitation of marine resources.

The interplay between the Admiralty Act and the 1976 Maritime Zones Act in India ensures that the courts are equipped to handle the complexities of modern maritime claims. The central government's power to extend the High Courts' jurisdiction further solidifies India's ability to respond to new challenges in maritime law, such as disputes over offshore resources, piracy, and environmental degradation. Indian courts have, on multiple occasions, relied on this provision to address cases involving maritime zones beyond the territorial sea, emphasizing the importance of maintaining judicial authority over these critical areas of national interest.

The framework established by the Admiralty Act, with its incorporation of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, ensures that India's admiralty jurisdiction is robust and adaptable. By allowing the extension of jurisdiction beyond the territorial sea, the Act provides a mechanism for addressing the growing complexities of maritime law in an era where global maritime trade, environmental concerns, and resource management are increasingly intertwined.

Furthermore, Indian case law has continued to evolve in light of these statutory provisions. In the case of *M.V. Sea Success v. Liverpool and London Steamship Protection and Indemnity Association Ltd.*, the Bombay High Court dealt with the issue of a ship arrest within Indian territorial waters based on a maritime lien. The case illustrated the court's ability to interpret the jurisdictional provisions of the Admiralty Act, balancing the rights of foreign claimants with India's sovereign authority over its territorial waters.

Comparing Indian law with foreign jurisdictions highlights the universal recognition of territorial waters as the primary zone of maritime jurisdiction. However, Indian courts, under the Admiralty Act, possess a distinct advantage with the statutory provision allowing for the extension of jurisdiction, a feature not commonly seen in other jurisdictions like the United Kingdom or Australia. This flexibility places Indian admiralty courts in a stronger position to address issues that arise in areas beyond the territorial sea, particularly in relation to offshore installations and activities in the EEZ.

The Admiralty Act, 2017, in conjunction with the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, provides a comprehensive legal framework for the exercise of admiralty jurisdiction in India. Indian courts have embraced this framework, as demonstrated by their handling of complex maritime disputes, often involving foreign vessels and international parties. The extension of jurisdiction beyond territorial waters allows for greater judicial oversight in the EEZ and continental shelf, reflecting India's growing importance in global maritime affairs. The comparison with foreign case laws underscores the adaptability of Indian admiralty law, positioning it as a dynamic and forward-looking legal system capable of addressing the challenges of modern maritime commerce and law.