



Surveys, Parcels and Tenure on Canada Lands

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...1 Context

What is the purpose of the handbook?

This handbook has two broad objectives. First, it describes the various types of Canada Lands, and sets out how boundaries and parcels are created and administered on Canada Lands. This description should be of use to land surveyors across Canada (not necessarily limited to Canada Lands Surveyors); to First Nations and other Aboriginal peoples who live on Reserves or in the North; to those who have property rights (possession or use) on Canada Lands; to the government departments who administer those rights; to those with an interest in land tenure on Canada Lands; and to candidates before the Canadian Board of Examiners for Professional Surveyors (CBEPS).

The second broad objective is to inform a diverse audience about the roles of the Surveyor General (SG) and the Surveyor General Branch (SGB) of Natural Resources Canada (NRCan).

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...10 Offshore

What about rights in the offshore?

The definition of property in the offshore has been a matter of contention since the oceans were capable of being exploited. This chapter explores the origins of boundary definitions in Canada's offshore, through its evolution in early claims by maritime powers, through historical and United Nations treaties, to its present state.

...The accepted definition of the offshore is: "the submerged lands and the subsoil below it, the water column and the air above it, seaward from the low water line of the State's mainland and islands."⁶⁶⁶
(p. 147)

...*What is the international law of the sea?*

The international law of the sea is a compilation of various sovereign nations' agreements, customary practices, general principles, and judicial decisions. ⁶⁶⁹ The law of the sea has a long history. Much of it dates back to early merchants, as trade between nations has historically been of pivotal importance. ⁶⁷⁰

...Another cornerstone of the international law of the sea, the territorial sea, appears to have been contemplated as early as the fourteenth century.⁶⁷⁵ The territorial sea was defined by the doctrine of effective control, in that a state can claim sovereignty over an area in which it can demonstrate control.
(p. 148)

...*What is UNCLOS?*

The United Nations Convention on the Law of the Sea (UNCLOS) is an international agreement outlining the extent of rights and responsibilities in the world's oceans. UNCLOS went through three iterations, aptly named UNCLOS I, II and III.

UNCLOS I took place in Geneva in 1958. Eighty-six delegates attended, and four conventions (and one optional protocol) were signed.⁶⁸²
(p. 149)

...Meeting again in Geneva, UNCLOS II took place in 1960, with the goal of addressing the territorial sea limit.
(p. 150)

...In 1967, Arvid Pardo (then a UN ambassador for Malta) proposed to the UN that the ocean and the ocean floor beyond national jurisdiction be part of the "common heritage of mankind", and that any wealth accrued in that area should be used to help bridge the gap between wealthier and poorer nations.⁶⁸⁶
(pp. 150-151)

Pardo's speech led to the establishment of a UN ad-hoc committee to study his suggestions, and eventually to the acceptance of the "common heritage of mankind" as a crucial component of the law of the sea.⁶⁸⁷ The same committee tasked with examining Pardo's suggestions was also tasked with preparing for the third Conference on the Law of the Sea (UNCLOS III). The preparations themselves took five years (1967-72), and the conference itself took nine years (1973-82) before it was concluded. On its completion, UNCLOS III was regarded as "possibly the most significant legal instrument of the century".⁶⁸⁸ The convention itself was a "package deal" to be accepted as is, or not at all. The breadth of the convention was impressive, dealing with (among others):

- ◆ navigational rights,
- ◆ territorial sea limits,

- ◆ economic jurisdiction,
- ◆ legal status of resources on the seabed beyond the limits of national jurisdiction,
- ◆ passage of ships through narrow straits,
- ◆ conservation and management of living marine resources,
- ◆ protection of the marine environment,
- ◆ a marine research regime and,
- ◆ a binding procedure for settlement of disputes between States

When a government signs the convention it agrees not to take any action which might be in conflict with the purposes of the conference. While being a signatory to the conference is relevant, the more pertinent action is that of ratification (or accession). Once a government ratifies the conference it agrees to be bound by all its terms.

...Canada became a signatory to UNCLOS in December 1982, and ratified it in November of 2004.⁶⁸⁹
(p. 151)

What are the accepted boundaries in the offshore?

The accepted boundaries in the offshore come from UNCLOS. There are few nations in the world who do not accept the boundary specifications in the conference as binding.⁶⁹⁰

690 The United States is perhaps the most notable in not ratifying UNCLOS – See Kogan. What goes around comes around: how UNCLOS ratification will herald Europe’s precautionary principle as U.S. Law. *Santa Clara Journal of International Law*.1. pp. 23–176. 2009

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