Part 1

The Development of the Modern Law of the Sea
Chapter 1

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The law of the sea has to do with the status and governance of the seas and oceans which cover over 70% of the Earth. It provides the regulatory framework for the growing number of human activities in the marine environment. It affects the political, strategic, economic and other important interests of States. It is one of the oldest parts of the law of nations, having developed slowly through the practice of States over the centuries. Paradoxically, it is also the part that has seen the greatest changes, mostly brought about through negotiations in Conferences convened by the United Nations coupled with state practice. This Chapter, which serves as an introduction to many of the essays that follow, will review some of the main trends in the law of the sea over the past five centuries. In order to provide context, some earlier European history will be recalled briefly. The Chapter, however, concentrates upon the development of the modern law and the central issue of the limits of national jurisdiction.

I Earlier History: Mare Clausum and Mare Liberum

The history of the law of the sea has been set out by learned authorities.¹ O’Connell in particular points out that throughout modern history two competing doctrines have