

United Nations Convention on the Law of the Sea 1982: Key Provisions and Practical Application in Vietnam

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Abstract: The United Nations Convention on the Law of the Sea (UNCLOS) of 1982 is a significant international legal document that serves as the foundation for managing maritime zones and oceans. It establishes the sovereignty and jurisdictional rights of nations over maritime areas such as territorial waters, contiguous zones, exclusive economic zones, and continental shelves, while also setting principles for resource exploitation, environmental protection, and maritime security. UNCLOS provides mechanisms for dispute resolution through legal and diplomatic channels, contributing to the maintenance of legal order at sea. Vietnam is among the countries that have applied UNCLOS to define maritime sovereignty, safeguard maritime rights, and address disputes in the South China Sea. The convention has provided a solid legal framework for Vietnam to develop maritime management policies, promote international cooperation, and protect national interests in the maritime sector. Given its crucial role in regional stability, UNCLOS continues to make significant contributions to fostering cooperation and ensuring maritime security on a global scale.

Keywords: UNCLOS, Vietnam, Law of the Sea 1982, maritime, South China Sea

1. Some Key Contents of the United Nations Convention on the Law of the Sea (UNCLOS) of 1982

After five years of preparation (1967–1972) and nine years of negotiation (1973–1982), spanning 11 sessions, the Third United Nations Conference on the Law of the Sea adopted a new international maritime convention on April 30, 1982. Subsequently, 119 national delegations officially signed the convention on December 10, 1982. The act of 107 countries signing the UNCLOS at Montego Bay, Jamaica, 30 years ago was a significant achievement of the Third United Nations Conference on the Law of the Sea. The adoption of the United Nations Convention on the Law of the Sea (UNCLOS) in 1982 fulfilled the international community's aspirations for a fair and globally applicable legal standard covering all maritime and oceanic issues, including the seabed and its subsoil. The drafting and negotiation process of UNCLOS involved extensive discussions spanning many years, with the participation of over 150 countries and multiple international organizations, including non-governmental organizations. As of today, UNCLOS has 164 member states.

UNCLOS not only defines the rights and obligations of coastal states but also addresses the rights of landlocked nations or those geographically disadvantaged in accessing the sea. Consequently, UNCLOS has been widely accepted, including by states without direct maritime access. The convention laid the foundation for a new legal order governing ocean-related matters. UNCLOS comprehensively covers all aspects of maritime affairs, considering the interests of all nations—whether industrialized or developing, large or small, coastal or landlocked. Since its enforcement on November 16, 1994, UNCLOS has become an essential legal framework within international law for addressing maritime issues and resolving disputes, often regarded as the constitution of the oceans.

Over the past 30 years, many nations have effectively applied UNCLOS to settle complex and longstanding maritime sovereignty disputes, helping to prevent potential conflicts. Aligning with global and regional trends, as well as recognizing the convention's significance and universality, the Vietnamese National Assembly officially ratified UNCLOS on June 23, 1994. Vietnam, with a coastline exceeding 3,260 kilometers and a maritime area spanning over 1 million square kilometers, has substantial economic and strategic interests tied to its maritime domain. Fully aware of the importance of maritime sovereignty, Vietnam actively participated in UNCLOS negotiations and discussions, making continuous efforts to implement its provisions. Vietnam consistently upholds UNCLOS principles and objectives, taking concrete actions to enforce the convention and contribute to regional and international maritime governance.

2. Practical Application in Vietnam

2.1 Application in the Development of the Legal Framework on Maritime and Islands

Even before the adoption of UNCLOS, Vietnam actively incorporated relevant provisions of international law in developing legal documents related to the sea. The planning and implementation of Vietnam's maritime policies throughout various feudal dynasties were clearly demonstrated across all historical

periods, continuously inherited and developed through successive governmental institutions. Particularly, Vietnam's maritime policies affirmed the sovereignty of the Vietnamese state over the Paracel and Spratly Islands. Historical evidence has confirmed the process of establishing sovereignty over Vietnam's entire maritime territories, including the Paracel and Spratly Islands, as one of the fundamental aspects of maritime policy development under feudal Vietnamese states (Nguyen Thanh Minh, 2014).

Following the progressive development of international maritime law and global practices, in 1977, Vietnam issued the Government's Declaration on Vietnam's Maritime Zones, marking the first legal document establishing a 200-nautical-mile exclusive economic zone (EEZ), expanding Vietnam's sovereign rights and jurisdiction over maritime areas. Additionally, this declaration not only defined fishing rights but also outlined other sovereign rights and jurisdiction over the EEZ and continental shelf. With this declaration, Vietnam, along with Kenya, Myanmar, Cuba, Yemen, the Dominican Republic, Guatemala, India, Pakistan, Mexico, and Seychelles, was recognized as a pioneer in introducing the concept of EEZs, which later became a fundamental component of UNCLOS.

Vietnam participated in the Third United Nations Conference on the Law of the Sea in Montego Bay, Jamaica. Immediately after UNCLOS was adopted on April 30, 1982, Vietnam was among the 107 nations that signed the convention. Prior to its enforcement, on June 23, 1994, Vietnam's National Assembly passed a resolution ratifying UNCLOS, demonstrating Vietnam's commitment to establishing a fair legal order that promotes maritime development and cooperation. Clause 1 of this resolution states: *"By ratifying the 1982 United Nations Convention on the Law of the Sea, the Socialist Republic of Vietnam expresses its determination to work with the international community to build a fair legal order, encourage development, and foster cooperation at sea"* (Resolution of the National Assembly of Vietnam, June 23, 1994, on the ratification of UNCLOS).

The ratification confirmed Vietnam's sovereignty over its internal waters, territorial sea, sovereign rights, and jurisdiction over the contiguous zone, EEZ, and continental shelf, in accordance with UNCLOS and international law principles. The resolution reiterated Vietnam's sovereignty over the Paracel and Spratly Islands, affirming a diplomatic approach to territorial disputes in the South China Sea based on peaceful negotiations, mutual respect, and adherence to international law, particularly UNCLOS. The resolution further emphasized that all parties must maintain stability by preserving the status quo, avoiding actions that complicate the situation, and refraining from the use or threat of force.

The National Assembly stressed the importance of distinguishing the resolution of disputes over the Paracel and Spratly Islands from the protection of Vietnam's maritime territories and continental shelf, which are governed by UNCLOS principles (Resolution of the National Assembly of Vietnam, June 23, 1994, on the ratification of UNCLOS). Vietnam also called upon other countries to respect its sovereign rights and jurisdiction.

Through the application of UNCLOS provisions and international legal practices, Vietnam has gradually enhanced its maritime legal framework, creating a regulatory foundation for maritime governance and economic activities. This development has facilitated international integration and cooperation, supporting regional and global peace—particularly in safeguarding stability in the South China Sea.

To fulfill its obligations under UNCLOS regarding maritime patrol, monitoring, and enforcement, and recognizing the necessity for a specialized state force to enforce maritime law, Vietnam established the Vietnam Coast Guard in 1998, following the enactment of the Vietnam Coast Guard Ordinance. Over the following decade, the 1998 Ordinance contributed to the development of the Vietnam Coast Guard, strengthening national security and maritime law enforcement. To further modernize the force, the 1998 Coast Guard Ordinance was replaced with the 2008 Coast Guard Ordinance.

On June 21, 2012, the Vietnamese National Assembly enacted the Law on the Sea of Vietnam, based on UNCLOS provisions, with references to international maritime practices and national realities. This law consists of seven chapters with 55 articles, covering maritime governance principles, territorial sea boundaries, EEZs, continental shelf regulations, island governance, maritime activities in Vietnam's waters, search and rescue operations, environmental protection, maritime scientific research, economic development, maritime patrol and monitoring, and international cooperation. The Law on the Sea of Vietnam officially took effect on January 1, 2013.

With the adoption of the Law on the Sea, Vietnam has harmonized its maritime regulations with UNCLOS and international maritime practices. By affirming peaceful resolution of maritime and territorial disputes through adherence to international law, particularly UNCLOS, Vietnam has reaffirmed its commitment to being a responsible member of the international community, demonstrating respect for international law, regional stability, cooperation, and sustainable development.

Earlier, on June 14, 2005, the National Assembly enacted the revised Vietnam Maritime Code, effective from January 1, 2006, regulating maritime transportation and port access. Additionally, Vietnam has enacted

various laws related to maritime management, including the Petroleum Law (1993), Water Resources Law (1998), Environmental Protection Law (1993), National Border Law (2003), Fisheries Law (2004), and multiple ordinances and decrees.

2.2 Application in Maritime Management and Effective Implementation of Maritime Economic Sectors

Based on the provisions of UNCLOS, Vietnam has been effectively managing and implementing maritime economic activities within its exclusive economic zone (EEZ) and continental shelf, aiming to support national economic development and improve citizens' livelihoods. The Vietnamese government consistently protects the legitimate interests of foreign partners in economic cooperation, maritime management, and resource exploitation in compliance with UNCLOS regulations. Additionally, Vietnam has actively engaged in environmental protection efforts, maritime rescue operations, disaster prevention, and crime prevention at sea—particularly piracy and armed robbery—contributing to the full implementation of UNCLOS provisions.

The preservation of natural resources and marine environmental protection remains a priority for the Vietnamese government. Relevant maritime management laws encompass marine transportation, oil and gas exploration, aquaculture, fisheries, and maritime patrol, monitoring, and enforcement. Vietnam has also proactively proposed initiatives to refine international maritime legal frameworks, specifically regarding sustainable marine resource exploitation, environmental protection, and climate change adaptation related to rising sea levels.

Recognizing the importance of search and rescue operations as mandated by UNCLOS for coastal states, Vietnam established the National Committee for Search and Rescue through Decision No. 780/TTg on October 23, 1996, issued by the Prime Minister. This committee is responsible for directing and organizing search and rescue missions for people and vessels—including aircraft, ships, and oil rigs—facing emergencies at sea and in adjacent areas between Vietnam and relevant countries in the South China Sea region. Vietnam has now joined the International Convention on Maritime Search and Rescue and is preparing to negotiate maritime search and rescue zone delimitations with neighboring countries in the South China Sea.

2.3 Application in International Maritime Cooperation

With a consistent policy of resolving maritime disputes and disagreements through peaceful means, Vietnam has made significant efforts to effectively apply UNCLOS in resolving maritime boundary disputes with neighboring countries, always emphasizing fairness to achieve reasonable solutions. Specifically, Vietnam has signed: The Agreement on Maritime Boundary Delimitation with Thailand on August 9, 1997; The Agreement on the Delimitation of Historical Waters with Cambodia in 1982; The Joint Exploitation Agreement with Malaysia in 1992; The Agreement on Maritime Delimitation in the Gulf of Tonkin and the Agreement on Fisheries Cooperation in the Gulf of Tonkin with China on December 25, 2000; The Agreement on Continental Shelf Delimitation with Indonesia on June 26, 2003. Vietnam is currently negotiating the delimitation of areas outside the Gulf of Tonkin with China and the exclusive economic zone (EEZ) boundary with Indonesia, while preparing for maritime negotiations with other neighboring countries like Cambodia. The negotiation and signing of maritime delimitation agreements between Vietnam and its neighbors reflect Vietnam's creative application of UNCLOS provisions, contributing to and enriching international maritime law on boundary delimitation.

Negotiation Outcomes on Maritime Delimitation Between Vietnam and Thailand, and Between Vietnam and China The negotiation results between Vietnam and Thailand, as well as between Vietnam and China, affirm the undeniable trend of using the median or equidistant line as a starting point to reach a fair delimitation solution. Additionally, the trend toward a single delimitation line for both the exclusive economic zone (EEZ) and continental shelf has been increasingly recognized. On the other hand, Vietnam actively advocates for international law, including UNCLOS 1982. Accordingly, in discussions on disputes in the South China Sea, Vietnam consistently demands respect for the principles of international law and UNCLOS, considering them fundamental for resolving sovereignty disputes. Vietnam has endeavored to incorporate this principle into ASEAN documents, including the Declaration on the Conduct of Parties in the South China Sea (DOC) and ASEAN's Six-Point Statement on the South China Sea dated July 20, 2012.

With Vietnam's efforts, a long-term fundamental dispute resolution approach based on international legal principles and UNCLOS has been included in the Agreement on Basic Principles Guiding the Settlement of Maritime Issues between Vietnam and China, signed on October 11, 2011. This demonstrates that Vietnam not only proactively adheres to UNCLOS regulations but also actively promotes respect for and full implementation of UNCLOS provisions.

Based on recommendations in Article 74 and Article 83 of UNCLOS, Vietnam is always ready to cooperate with relevant parties for joint development in genuinely disputed areas in accordance with UNCLOS provisions. In 1992, Vietnam signed an Agreement with Malaysia on joint exploitation of mineral resources in

overlapping continental shelf areas, which has been effectively implemented. Currently, Vietnam is negotiating cooperation in a trilateral overlapping maritime zone involving Vietnam, Thailand, and Malaysia.

Implementation of Coastal State Rights and Obligations under UNCLOS, following nearly three years of effort from 2007 to 2009, Vietnam successfully completed a quality-assured report defining the outer limits of its continental shelf. This report was based on scientific and legal foundations and delineated Vietnam's extended continental shelf in the South China Sea, in full compliance with the standards and regulations set by the United Nations Commission on the Limits of the Continental Shelf (CLCS). In early May 2009, Vietnam submitted to the United Nations both its report on the northern continental shelf boundary and a joint report with Malaysia on the southern continental shelf boundary, meeting the UN's submission deadline. On August 27 and 28, 2009, Vietnam presented these reports to the CLCS, simultaneously requesting the commission to establish subcommittees for reviewing Vietnam's national submission in accordance with both UNCLOS regulations and the CLCS Rules of Procedure. This move underscores Vietnam's strong commitment to implementing UNCLOS rigorously and proactively.

Vietnam has actively participated in various international mechanisms established under UNCLOS. Vietnam is a member of the Council of the International Seabed Authority and has previously been elected as Vice President of the General Assembly of the International Seabed Authority. Vietnam regularly participates in the annual meetings of UNCLOS member states at the United Nations General Assembly and consistently makes constructive contributions to promoting the effective implementation of UNCLOS. Additionally, the Vietnamese government has participated and contributed significantly to International Seabed Authority conferences, emphasizing the importance of UNCLOS. Vietnam also supports the strengthening of activities by the Commission on the Limits of the Continental Shelf and endorses the judicial role of the International Tribunal for the Law of the Sea. Furthermore, Vietnam contributes to the development of international legal theory to ensure that UNCLOS-established institutions operate effectively. At relevant forums, Vietnam consistently asserts that in maritime activities, all nations must fully comply with UNCLOS regulations and fulfill their rights and obligations accordingly. Vietnam has actively participated in discussions and endorsed the adoption of two United Nations General Assembly resolutions on oceans and fisheries, aligning with sustainable development goals. In addition, Vietnam is engaged in the annual informal consultation process on ocean issues and international law of the sea.

Vietnam has also participated in the development of various international and regional legal instruments related to maritime affairs, such as the International Convention on Maritime Satellite Organization, known as INMARSAT, and the Global Maritime Distress and Safety System, known as GMDSS. Additionally, Vietnam has established a coastal radio communication system to facilitate communication between ships and between ships and shore. Port state control inspections of vessels in Vietnamese ports are conducted in full compliance with regional agreements on port state control. Beyond the International Maritime Organization Convention, known as IMO, Vietnam has acceded to numerous other IMO conventions, including the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol, known as MARPOL 73/78, the Tonnage Measurement Convention, known as Tonnage 69, the International Regulations for Preventing Collisions at Sea, known as COLREG 72, the International Convention for the Safety of Life at Sea, known as SOLAS 74, the International Convention on Load Lines, known as Load Line 66, the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, known as STCW 78/95, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, known as SUA 88, and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf. Additionally, Vietnam has acceded to the International Convention on Civil Liability for Oil Pollution Damage, known as CLC 1992, which Vietnam joined on July 1, 2003, and which took effect in Vietnam on July 1, 2004, the Convention on Facilitation of International Maritime Traffic, known as FAL, and the International Convention on Maritime Search and Rescue, known as SAR 79.

In addition, Vietnam has signed multiple general agreements within the framework of ASEAN cooperation related to maritime transport and shipping services, such as the Agreement on Facilitating the Rescue of Distressed Ships and Persons in Distress at Sea on May 15, 1975, the ASEAN Framework Agreement on the Facilitation of Goods in Transit on December 16, 1998, the General Agreement on Trade in Services (GATS) in December 1995, and the ASEAN Framework Agreement on the Facilitation of Cross-Border Transport on March 26, 2012. Vietnam's participation in regional and international legal instruments related to maritime affairs clearly demonstrates the country's commitment to fully implementing UNCLOS and incorporating international legal regulations on maritime and island affairs.

3. Conclusion

Over the past 30 years since UNCLOS was established and came into effect, its provisions have truly become a solid international legal foundation for defining the rights, obligations, and responsibilities of coastal states. At the same time, UNCLOS serves as the basis for addressing issues related to the seas and oceans, including disputes over maritime sovereignty. As a nation closely linked to the sea and islands, Vietnam has been one of the leading countries in actively implementing UNCLOS regulations during its 21 years as a member. Given the complex developments in the world and the region, particularly regarding maritime sovereignty disputes, it is crucial for all coastal states to fully comply with the rights and obligations stipulated in UNCLOS. By doing so, humanity will not only avoid tensions and conflicts over maritime sovereignty but will also have better conditions for marine exploitation, economic development, and sustainable ocean use for essential human benefits. The Vietnamese government has been, is, and will continue to uphold the objectives, principles, and provisions of modern international maritime law, regional commitments, and UNCLOS regulations, while also urging and calling on other nations to fulfill their obligations accordingly.

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