



Regional Maritime Security Limitations under UNCLOS

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Abstract: <i>This paper aims to analyze the limitations of regional maritime security under the United Nations Convention on the Law of the Sea. It examines the challenges and constraints that UNCLOS poses on the establishment and enforcement of maritime security measures at the regional level. The analysis also considers the implications of these limitations on the security and stability of maritime regions around the world. Through this study, recommendations for addressing these limitations and enhancing regional maritime security within the framework of UNCLOS will be proposed.</i>	
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Understanding UNCLOS: Scope and Purpose

UNCLOS, or the United Nations Convention on the Law of the Sea, is an international treaty that establishes a comprehensive legal framework for the governance and use of the world's oceans. UNCLOS aims to promote peaceful cooperation among nations, sovereign rights over maritime zones, protection and conservation of the marine environment, and equitable resource management. However, while UNCLOS provides a solid foundation for the establishment of a regional maritime security regime, it has certain limitations that need to be addressed. First, UNCLOS primarily focuses on the legal aspects of maritime governance and does not provide specific mechanisms for addressing maritime security challenges. Second, UNCLOS relies heavily on states' compliance with their obligations under the treaty, but enforcement mechanisms are limited. Lastly, UNCLOS does not adequately address emerging maritime security threats and challenges, such as piracy, illegal fishing, and maritime terrorism. These limitations hinder the effectiveness of UNCLOS as the sole foundation for a regional maritime security regime. Therefore, additional measures and agreements are necessary to supplement UNCLOS and address these issues effectively. The challenge is to reach "a global representative system" of Marine Protected Areas, recognizing that countries need to establish cooperative mechanisms at ecoregion level to address the limitations of UNCLOS in terms of maritime security ([Silva et al., 2012](#)).

Evaluating UNCLOS in Regional Maritime Security Contexts

When evaluating UNCLOS in regional maritime security contexts, it is important to consider its limitations as well as its strengths. UNCLOS provides a solid legal framework for the governance and use of the world's oceans, promoting peaceful cooperation among nations. The example of the Caribbean region, regional organizations such as the Caribbean Community has established their own maritime security regimes to address challenges specific to their region. However, these regional regimes may not align fully with the provisions of UNCLOS, and there can be inconsistencies in terms of jurisdiction and enforcement. However, regional organizations like the Caribbean Community have developed their own maritime security regimes; there are concerns about the effectiveness and practicality of these regional approaches. Critics argue that fragmented and inconsistent regional security regimes can lead to confusion and lack of coordination in responding to maritime security challenges. Additionally, the reliance on regional agreements may result in overlapping jurisdictions and conflicting enforcement mechanisms ([Bateman, 2007](#)), especially when it comes to transnational maritime threats such as piracy and illegal fishing

Furthermore, the establishment of separate regional regimes could complicate international efforts to achieve a cohesive and unified approach to maritime security. This fragmentation may hinder the establishment of a universally applicable and enforceable maritime security framework at the global level. Therefore, while UNCLOS serves as a crucial foundation for maritime security, it is limited in its ability to address the specific challenges and realities faced by different regions.

Limitations of UNCLOS in Addressing Contemporary Maritime Threats

UNCLOS was primarily designed to govern traditional maritime issues such as navigation rights, territorial disputes, and resource exploitation. However, it may not adequately address emerging maritime security threats such as terrorism, piracy, smuggling, and illegal fishing. Additionally, UNCLOS does not provide specific guidance on how to effectively address these threats or establish robust mechanisms for regional cooperation and coordination. Furthermore, UNCLOS lacks enforcement mechanisms and relies on individual states to implement and enforce its provisions (Bateman, 2007). This reliance on voluntary compliance and enforcement by individual states can lead to gaps in implementation and inconsistent responses to maritime security challenges.

UNCLOS: A Framework for Cooperation or a Source of Conflict?

UNCLOS provides a framework for cooperation and the peaceful settlement of maritime disputes. However, it has also been a source of conflict, particularly when it comes to territorial claims and overlapping maritime boundaries. Furthermore, UNCLOS does not have the authority to intervene or mediate in disputes between states, which can further complicate efforts to establish regional maritime security regimes.

Case Studies: Successes and Failures of UNCLOS in Regional Disputes

UNCLOS in the South China Sea Dispute

The South China Sea dispute serves as a prominent example of the limitations of UNCLOS in addressing regional maritime security challenges. UNCLOS was unable to prevent the escalation of tensions and conflicting territorial claims in the region (Song & Tønnesson, 2013). Additionally, UNCLOS does not provide a mechanism for resolving overlapping claims and enforcing decisions. In conclusion, while UNCLOS provides a foundational framework for maritime governance, it has limitations in addressing contemporary maritime security threats and establishing effective regional security regimes.

UNCLOS in the Aegean Sea

The Aegean Sea dispute between Greece and Turkey highlights the challenges of using UNCLOS as the foundation for a regional maritime security regime. UNCLOS does not provide clear guidance on how to address the complex issues of sovereignty and territorial disputes in the Aegean Sea (Larson, 1985). This lack of clarity and guidance has hindered the establishment of a comprehensive maritime security regime in the region, leading to ongoing tensions and incidents between Greece and Turkey.

The Future of UNCLOS in Regional Maritime Security Dynamics

The limitations of UNCLOS as the foundation for a regional maritime security regime highlight the need for additional mechanisms and agreements that can address the evolving nature of maritime security challenges. These mechanisms and agreements should take into account the complexities of territorial disputes, overlapping claims, and emerging threats such as piracy, terrorism, and illegal activities. Territorial disputes and overlapping claims are significant contributors to regional maritime security challenges. The South China Sea dispute is a well-known example, with multiple countries, including China, the Philippines, Vietnam, and Malaysia, making competing territorial claims over various islands and maritime zones. The lack of clarity and consensus on maritime boundaries has led to heightened tensions and even military confrontations in the region.

In the East China Sea, there is a longstanding dispute between China and Japan over the sovereignty of the Senkaku/Diaoyu Islands (Beckman & Sun, 2017), which has posed a persistent challenge to regional maritime security. Similarly, in the Arctic region, overlapping claims to maritime territories by Russia, Canada, Denmark, and the United States have raised concerns about potential conflicts and the need for effective security arrangements.

Emerging threats such as piracy, terrorism, and illegal activities further complicate the maritime security landscape. Piracy in the Gulf of Guinea and the waters off the coast of Somalia (Hong & Ng, 2010) has been a persistent concern, leading to disruptions in maritime trade and posing risks to the safety of seafarers. The threat of maritime terrorism, including attacks on commercial vessels and port facilities, has also become a

pressing issue, highlighted by incidents such as the 2008 Mumbai attacks carried out by terrorists using the sea route to access the city.

Illegal activities such as unregulated fishing, smuggling of goods and narcotics, and human trafficking add another layer of complexity to maritime security. These activities often transcend national borders, making it challenging for individual states to address them effectively. This underscores the need for enhanced international cooperation and coordinated efforts to combat these transnational maritime threats.

In response to these challenges, regional initiatives and agreements such as the Regional Cooperation Agreement on Combating Piracy and Armed Robbery ([Refworld | Security Council resolution 1816 \(2008\) \[on acts of piracy and armed robbery against vessels in territorial waters and the high seas off the coast of Somalia\], 2008](#)) against Ships in Asia and the Djibouti Code of Conduct ([Djibouti Code of Conduct, 2019](#)) have been established to facilitate collective action in addressing maritime security threats. These initiatives underscore the importance of regional cooperation and coordination in addressing the limitations of UNCLOS and enhancing maritime security in specific geographic areas.

In light of these examples and challenges, it is evident that addressing territorial disputes, overlapping claims, and emerging maritime threats requires a multifaceted approach that goes beyond the provisions of UNCLOS. While UNCLOS lays the legal foundation for maritime governance, addressing contemporary maritime security challenges necessitates the development of complementary mechanisms and agreements that can effectively tackle these complex and evolving issues.

What needs to be with UNCLOS and Regional Maritime Security?

What needs to be done with UNCLOS and regional maritime security is the establishment of a cooperative mechanism that addresses ocean governance issues separately from the legal and political aspects of UNCLOS ([Bateman, 2007](#)). This cooperative mechanism can be based on the general framework provided by UNCLOS Part IX, but it requires political will and good sense to implement.

In several countries, the political will in terms of UNCLOS has brought positive results in the establishment of effective maritime security regimes. For example, in the South Pacific region, countries such as Fiji, Vanuatu, and Solomon Islands have shown strong commitment to UNCLOS principles and have actively worked towards the development of regional cooperation mechanisms for maritime security. These countries have recognized the importance of UNCLOS in addressing maritime security challenges and have taken proactive steps to align their national laws and policies with the provisions of the convention.

Furthermore, in the European Union, UNCLOS has served as a framework for cooperation among member states in addressing maritime security issues in the Baltic Sea and the Mediterranean. The political will demonstrated by EU member states has led to the development of joint initiatives and agreements that aim to ensure effective maritime security within the region ([Law of the Sea Mechanisms: Examining UNCLOS Maritime Zones, 2014](#)), demonstrating the positive impact of UNCLOS in promoting cooperation and collective action.

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