

## Sovereignty and Sovereign Rights of Vietnam over the East Sea: An International and National Legal Perspective

 Lê Lan Anh

PhD, Faculty of Law, Hanoi Open University

Received: 06 May 2026 | Received Revised Version: 11 June 2026 | Accepted: 25 June 2026 | Published: 07 July 2026

Volume 08 Issue 07 2026 | DOI: 10.37547/tajir/Volume08Issue07-02

### Abstract

*This article focuses on analyzing the system of international and national legal foundations concerning Vietnam's sovereignty, sovereign rights, and jurisdiction over the East Sea (or South China Sea). By comparative analysis between the 1982 United Nations Convention on the Law of the Sea (UNCLOS 1982) and the 2012 Law on the Sea of Vietnam, the research clarifies the legal substance, boundaries, and administrative-security management regimes for each specific maritime zone: internal waters, the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf. Furthermore, the article analyzes the practical value of the 2016 Arbitral Award by the Permanent Court of Arbitration (PCA) in invalidating China's baseless claims over the "nine-dash line," as well as Vietnam's consistent strategic position in protecting national interests and upholding the rule of law across the oceans.*

Keywords: Law of the Sea, UNCLOS 1982, international law, maritime sovereignty

© 2026 Lê Lan Anh. This work is licensed under a Creative Commons Attribution 4.0 International License (CC BY 4.0). The authors retain copyright and allow others to share, adapt, or redistribute the work with proper attribution.

**Cite This Article:** Anh, L. L. (2026). Sovereignty and Sovereign Rights of Vietnam over the East Sea: An International and National Legal Perspective. *The American Journal of Interdisciplinary Innovations and Research*, 8(07), 09–14. <https://doi.org/10.37547/tajir/Volume08Issue07-02>

### Introduction

The 21st century has been consensually designated by the international community as the "Century of the Oceans." For states with coastal geopolitical advantages like Vietnam, maritime zones and islands serve not only as vital spaces for survival and crucial gateways for trade but also as existential national defense and security buffer zones. The East Sea (known as Biển Đông in Vietnam), serving as a maritime bridge between the Indian and Pacific Oceans, is currently one of the world's maritime zones with the highest density of commercial trade. Concurrently, it remains the epicenter of multilateral, multi-layered disputes characterized by the highest level of complexity and intensity worldwide.

In the context of a highly volatile global landscape, the expansionist rise and baseless sovereignty claims of certain nations directly threaten the territorial integrity and legitimate maritime interests of Vietnam. To firmly safeguard national sovereignty and interests, alongside enhancing national defense capabilities and tangible strength, constructing and consolidating a robust system of legal arguments based on international law and a synchronized national legal system constitutes the ultimate, sharpest, and most enduring "diplomatic weapon." This article aims to systematize the legal regulations regarding Vietnam's sovereignty, sovereign rights, and jurisdiction, thereby reaffirming the country's indisputable sovereign title over its maritime zones and

the two archipelagos of Hoang Sa (Paracel) and Truong Sa (Spratly).

## I. International and National Legal Foundations of The Law of The Sea

### *1.1. The 1982 United Nations Convention on the Law of the Sea (UNCLOS 1982) – "The Constitution of the Oceans"*

Prior to the 20th century, international law of the sea existed primarily in the form of customary practices and fragmented bilateral or multilateral treaties, which were insufficient to establish a stable order. Following years of protracted negotiations, the Third United Nations Conference on the Law of the Sea achieved a historic milestone: the adoption of the 1982 United Nations Convention on the Law of the Sea (UNCLOS 1982). This document was signed on December 10, 1982, in Montego Bay, Jamaica, with 107 initial signatory states. To date, the number of ratifying parties has reached 168 states and international organizations.

UNCLOS 1982 is not merely an ordinary international treaty; it is widely regarded as "The Constitution of the Oceans" for humankind. The Convention establishes a comprehensive legal order, balancing the conflicting interests among coastal states, archipelagic states, and landlocked states. It explicitly defines the legal regime of all maritime zones under national sovereignty and jurisdiction, the legal regime of the High Seas, and the international Seabed Area—the latter designated as the common heritage of mankind. In addition, UNCLOS 1982 introduces mandatory regulations on the protection of the marine environment, marine scientific research, maritime safety and security, and establishes a highly progressive compulsory dispute settlement mechanism through specialized judicial bodies.

### *1.2. Internalization of UNCLOS and the 2012 Law on the Sea of Vietnam*

As an active and responsible member of the international community, Vietnam officially ratified UNCLOS 1982 on June 23, 1994, before the Convention officially entered into force globally. This ratification demonstrated the Vietnamese State's commitment to international law, laying the foundation for resolving maritime disputes through peaceful means.

To materialize international commitments and establish a synchronized legal framework for domestic

management, on June 21, 2012, at its 3rd Session, the 13th National Assembly of the Socialist Republic of Vietnam officially passed the Law on the Sea of Vietnam (Law No. 18/2012/QH13), which took effect on January 1, 2013. Comprising 7 chapters and 55 articles, the 2012 Law on the Sea is the supreme legal instrument delineating the baselines, internal waters, territorial sea, contiguous zone, exclusive economic zone, and continental shelf, as well as the legal regime for islands and archipelagos under Vietnamese sovereignty. The promulgation of the 2012 Law on the Sea marked a historic advancement, affirming Vietnam's legislative autonomy in complete alignment and harmony with the standards of modern international law.

Pursuant to Article 3 of the 2012 Law on the Sea, in absolute harmony with the spirit of UNCLOS 1982, Vietnam's maritime zones comprise five spatial components extending seaward from the coast. Each maritime zone possesses distinct geographical boundaries and legal regimes, prescribing varying degrees of authority exercised by the coastal State.

#### *1.2.1. The Baseline System and Internal Waters*

**a) Vietnam's Straight Baselines** – The baseline is the technical starting line used to measure the breadth of the territorial sea and other adjacent maritime zones. Under international law, there are two methods to determine the baseline: the normal baseline (following the low-water line) and the straight baseline (joining the outermost points of the coast and fringe islands). Due to Vietnam's deeply indented coastline and numerous coastal islands running along the continental landmass, the Government of the Socialist Republic of Vietnam announced its Straight Baseline on November 12, 1982, consisting of 11 points connecting from Hon Nhan (Tho Chu Archipelago) to Con Co Island. For unresolved areas such as the Gulf of Tonkin and historic waters bordering Cambodia, Vietnam has entered into specific boundary delimitation agreements.

**b) Legal Regime of Internal Waters** – Internal waters are the waters on the landward side of the straight baseline and adjacent to the coast. Geopolitically, internal waters constitute an organic part of the coastal state's sovereign territory, identical to the landmass. Within its internal waters, the State exercises full, absolute, and exclusive sovereignty. Foreign vessels wishing to enter Vietnam's internal waters must obtain prior permission and strictly comply with administrative,

security, health, and customs control procedures implemented by Vietnamese competent authorities.

### ***1.2.2. The Territorial Sea and the Maritime National Border***

The territorial sea, stipulated in Article 11 of the 2012 Law on the Sea and in conformity with Article 3 of UNCLOS 1982, is a maritime zone whose breadth does not exceed 12 nautical miles (1 nautical mile equals 1,852 meters) measured from the baseline toward the sea. The outer limit of the territorial sea constitutes the boundary line delimiting Vietnam's maritime territory.

The sovereignty of the State of Vietnam over its territorial sea is full and complete, extending not only to the water column but also to the airspace above the territorial sea, as well as to its seabed and subsoil. However, unlike internal waters, sovereignty in the territorial sea is limited by a specific international legal obligation: the right of innocent passage of foreign vessels.

Article 12 of the 2012 Law on the Sea specifies: Ships of all states, whether coastal or landlocked, enjoy the right of innocent passage through the territorial sea of Vietnam on the basis of respect for the peace, independence, sovereignty, and laws of Vietnam. Passage must be continuous and expeditious. Foreign warships intending to exercise the right of innocent passage through Vietnam's territorial sea are obliged to give prior notice to the competent authorities of Vietnam. Foreign aircraft possess no right of overflight in the airspace above the territorial sea except with the prior consent of the Government of Vietnam.

### ***1.2.3. The Contiguous Zone and Enforcement Authority***

The contiguous zone is the maritime space adjacent to and beyond the territorial sea of Vietnam, having a breadth of 12 nautical miles from the outer limit of the territorial sea (totaling 24 nautical miles from the baseline). This is not a maritime zone under the territorial sovereignty of the coastal state, but rather an intermediary zone where the coastal state exercises preventive and punitive authority.

According to Article 14 of the Law on the Sea of Vietnam, the State exercises the necessary control within the contiguous zone to: (i) Prevent infringement of customs, fiscal, immigration, or sanitary laws and

regulations within its territory or territorial sea; (ii) Punish infringement of the above-mentioned laws and regulations committed within its territory or territorial sea. This legal regime shields the nation from threats of cross-border smuggling, infectious diseases, or tax evasion from the sea.

### ***1.2.4. The Exclusive Economic Zone (EEZ) – Sovereign Rights and Jurisdiction***

The Exclusive Economic Zone (EEZ) represents one of the most progressive legal institutions of UNCLOS 1982, resolving the conflict between the expansionist tendencies of coastal states and the freedom of navigation of other states. Pursuant to Article 15 of the 2012 Law on the Sea, the EEZ of Vietnam is the maritime zone adjacent to and beyond the territorial sea, forming with the territorial sea a zone extending 200 nautical miles from the straight baseline.

Within the EEZ, Vietnam does not possess territorial sovereignty as it does in the territorial sea, but enjoys sovereign rights and national jurisdiction according to the following core tenets:

- **Regarding sovereign rights:** Vietnam holds exclusive sovereign rights for the purpose of exploring, exploiting, managing, and conserving all natural resources, whether living (marine fauna and flora) or non-living (oil, gas, and seabed minerals) of the superjacent waters, the seabed, and its subsoil. This also includes other economic exploration and exploitation activities, such as the production of energy from water, currents, and winds.
- **Regarding national jurisdiction:** Vietnam exercises supreme authority regarding: (a) The establishment and use of artificial islands, installations, and fixed structures at sea; (b) Marine scientific research; (c) The protection and preservation of the marine environment, and pollution control.

Moreover, Vietnam respects the freedoms of navigation, overflight, and the laying of submarine cables and pipelines by all other states, provided that such activities do not prejudice Vietnam's national defense interests and sovereign rights (in accordance with UNCLOS, Articles 56(2) and 58(3)). Any foreign state wishing to lay submarine cables or pipelines through Vietnam's EEZ must obtain the written consent of the competent authorities of the State of Vietnam.

### ***1.2.5. The Continental Shelf of Vietnam and Exclusive Rights***

Geologically, the continental shelf is the natural prolongation of the land territory submerged beneath the sea. Legally, Article 17 of the 2012 Law on the Sea (aligned with Article 76 of UNCLOS 1982) defines the continental shelf of Vietnam as comprising the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin. Where the outer edge of the continental margin does not extend up to 200 nautical miles from the baseline, the continental shelf defaults to a distance of 200 nautical miles. In cases where the outer edge of the continental margin extends beyond 200 nautical miles, the coastal state may extend its continental shelf, but it must not exceed a maximum limit of 350 nautical miles from the baseline or 100 nautical miles from the 2,500-meter isobath.

The legal regime of the continental shelf is highly exclusive. Under Article 77 of UNCLOS 1982 and Article 18 of the Law on the Sea of Vietnam, Vietnam exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources. The "exclusive" nature dictates that if Vietnam chooses not to explore or exploit the natural resources of its continental shelf, no one may undertake these activities without the express written agreement and permission of the Government of Vietnam. Furthermore, Vietnam's rights over the continental shelf exist ipso facto and ab initio, independent of occupation, effective title, or any express proclamation.

## **II. The 2016 Arbitral Award and Its Value to Vietnam**

### ***2.1. Dispute Settlement Mechanisms under UNCLOS 1982***

Article 287 of UNCLOS 1982 provides four compulsory mechanisms for the settlement of disputes concerning the interpretation or application of the Convention: (1) The International Tribunal for the Law of the Sea (ITLOS); (2) The International Court of Justice (ICJ); (3) An arbitral tribunal constituted in accordance with Annex VII; (4) A special arbitral tribunal constituted in accordance with Annex VIII. Among these, the Permanent Court of Arbitration (PCA) based in The Hague, Netherlands, serves as a highly efficient

administrative registry for arbitral tribunals established under Annex VII.

### ***2.2. Core Substance of the Arbitral Award of July 12, 2016***

In 2013, the Philippines officially initiated arbitration proceedings against China before an Annex VII Arbitral Tribunal to determine the legal status of features and claims in the East Sea. Despite China's "three nos" policy (non-participation, non-recognition, non-compliance), the Arbitral Tribunal proceeded with the adjudication in strict compliance with procedural rules and issued its Final Award, which is final and binding, on July 12, 2016. The Award contained two revolutionary determinations for the international law of the sea:

**a) Complete Invalidation of the Legal Basis of the "Nine-Dash Line"** – The Tribunal observed that prior to the entry into force of UNCLOS 1982, fishermen from various nations enjoyed exploitation rights around the East Sea. However, upon signing and ratifying UNCLOS, the Convention completely superseded any pre-existing historic rights. Consequently, the Tribunal concluded that there was no legal basis for China to claim historic rights to resources in the sea areas encompassed by the so-called "nine-dash line" (or "U-shaped line") insofar as those claims exceeded the limits of China's maritime entitlements under UNCLOS.

**b) Condemnation of Environmental Destruction and Threats to Maritime Safety** – The Arbitral Tribunal also ruled that China's large-scale land reclamation and artificial island building activities in the Spratly Islands had caused irreversible harm to the coral reef ecosystem, violating the obligation to protect the marine environment under the Convention. Additionally, the Tribunal concluded that Chinese law enforcement vessels engaged in dangerous maneuvers and interfered with Philippine fishing and official vessels, thereby directly violating the International Regulations for Preventing Collisions at Sea, 1972 (COLREG), and Article 94 of UNCLOS regarding maritime safety.

### ***2.3. Strategic Significance of the 2016 East Sea Arbitral Award for Vietnam***

Although Vietnam was not a direct party to the arbitration, the 2016 Award delivers immense legal and strategic value to Vietnam in its struggle to protect its maritime zones and islands.

**First, regarding the neutralization of the "nine-dash line" claim:** The 2016 Award marked a turning point in international legal discourse concerning the East Sea by completely rejecting the legitimacy of the so-called "historic rights" within the "nine-dash line." For Vietnam, this conclusion holds paramount strategic value, as it dismantles the sole legal basis China uses to claim most of the East Sea. By reaffirming that these claims are incompatible with UNCLOS 1982, the award indirectly established that Vietnam's EEZ and continental shelf cannot overlap or be overridden by groundless claims of historic rights. This generates a solid legal foundation for Vietnam to assert jurisdiction over natural resources within its 200-nautical-mile limit under international law.

**Second, regarding the institutionalization of the legal status of features in the Spratly Islands:** One of the most vital contributions of the award is the clarification of the definition of "islands" and "rocks" under Article 121(3) of UNCLOS 1982. The Tribunal concluded that the entitlement of a feature to maritime zones depends on: (a) the objective capacity of the feature; (b) in its natural condition, to sustain either (c) an unstable community of inhabitants; or (d) economic activity of its own that is not dependent on outside resources or purely extractive in nature. The presence of official personnel living and working on some of these features, or new construction and reclamation, does not alter the feature's original legal status. The strategic consequence for Vietnam is the narrowing of the scope of maritime disputes: the features illegally built up by China can generate a territorial sea of at most 12 nautical miles, rather than a surrounding 200-nautical-mile EEZ. This prevents China's maritime claims from "blanketing" maritime zones under Vietnam's sovereign rights, thereby clarifying maritime boundaries and safeguarding the nation's space for blue economic development.

**Third, regarding the consolidation of legal leverage and diplomatic standing:** The 2016 Award establishes a benchmark for resolving disputes through international law, creating a "legal precedent" with robust deterrent value. For Vietnam, this serves not only as a legal reference but also as a leverage tool in bilateral and multilateral negotiations. Invoking arguments from the award enables Vietnam to internationalize concerns over unilateral actions while reinforcing the legitimacy of its position before the international community. Although Vietnam maintains a flexible approach in diplomacy, the existence of this award acts as a fallback "legal option,"

forcing relevant parties to carefully deliberate the legal and reputational repercussions before executing real-world actions that violate international law.

**Fourth, regarding the protection of sovereign rights and maritime economic activities:** The Arbitral Tribunal delivered definitive conclusions against interference with the traditional fishing activities of fishermen and with oil and gas exploration within the EEZs of coastal states, while condemning environmental damage caused by artificial island-building. For Vietnam, these findings provide an essential legal shield to protect key economic projects, particularly in the oil, gas, and fisheries sectors. The Award affirms that Vietnam's economic activities within its EEZ and continental shelf are entirely lawful and compliant with UNCLOS. This not only creates a safe corridor for foreign enterprises and investors cooperating with Vietnam but also serves as a basis for Vietnam to fight for the legitimate rights and safety of its fishermen and the conservation of the marine ecosystem amidst increasingly complex maritime infringements.

## Conclusion

National sovereignty, sovereign rights, and jurisdiction over maritime zones and islands constitute the sacred assets and strategic developmental space of the Vietnamese nation, built and preserved through the blood and sacrifices of generations of ancestors. As the international and regional landscape in the East Sea continues to evolve in complex and unpredictable ways, understanding, mastering, and creatively applying the provisions of international law (UNCLOS 1982) alongside the national legal system (the 2012 Law on the Sea of Vietnam) remains the definitive key.

Vietnam persistently maintains its stance on resolving disputes in the East Sea through peaceful means, in accordance with the United Nations Charter and international law. The tight integration of a robust all-people national defense posture at sea, legal literacy among citizens, and resolute yet sophisticated legal-diplomatic maneuvers forms the most enduring foundation to safeguard the nation's territorial integrity, maintain a peaceful and stable maritime environment, and steer Vietnam toward becoming a strong and prosperous nation enriched by the sea.

## References

1. Ban Ki-moon. (2017). 21st Century is the Century of the Oceans: The MDGs and SDGs. Conference of the United Nations Conference on Trade and Development (UNCTAD).
2. Halili, A. H. (2025). Philippines rejects 'misleading' foreign claims on South China Sea boundaries. BusinessWorld. <https://bworldonline.com/>
3. National Assembly of the Socialist Republic of Vietnam. (1994). Resolution on the Ratification of the 1982 United Nations Convention on the Law of the Sea, 9th Legislature, 5th Session, June 23, 1994.
4. National Assembly of the Socialist Republic of Vietnam. (2012). The Law on the Sea of Vietnam (Law No. 18/2012/QH13), adopted on June 21, 2012, effective from January 1, 2013.
5. Declaration of the Government of the Socialist Republic of Vietnam on the Baselines Used to Measure the Breadth of Vietnam's Territorial Sea, November 12, 1982.
6. Permanent Court of Arbitration (PCA). (2016). The South China Sea Arbitration (The Republic of the Philippines v. The People's Republic of China), Final Award, Annex VII Arbitral Tribunal, The Hague, July 12, 2016.
7. United Nations. (1982). United Nations Convention on the Law of the Sea (UNCLOS). Montego Bay, Jamaica.