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**RESEARCH ARTICLE**

## **Analysis of the Jurisprudence of Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS) and the Positions of West African Countries**

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**ABSTRACT**

Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS) addresses the rights and obligations of States in the exclusive economic zones (EEZ) of other States. It guarantees third-party States the freedom of navigation, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these activities. However, these rights must be exercised in accordance with the laws and regulations of the coastal State and the UNCLOS itself. The jurisprudential analysis of this article reveals various interpretations, often influenced by distinct national contexts and interests. Disputes related to the EEZ mainly focus on issues of maritime delimitation, the exploitation of natural resources, and the protection of the marine environment. West African countries, rich in marine resources, have diverse positions depending on their economic, security, and environmental interests. Some favor a strict application of their sovereign rights to maximize economic benefits and resource sustainability, while others advocate for regional cooperation to manage potential conflicts and strengthen maritime security. In summary, Article 58 of UNCLOS is essential for balancing the interests of coastal States and third-party States in the EEZ while allowing for the harmonious management of maritime resources and maritime security.

**KEYWORDS**

International maritime law, article 58 (UNCLOS), article 58 of UNCLOS disputes and resolutions, legal importance of article 58 of UNCLOS, Exclusive Economic Zone of ECOWAS.

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**1. Introduction**

Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS) deals exclusively with the rights and duties of coastal and non-coastal states within the Exclusive Economic Zone EEZ (CNUDM, 1982). According to Article 58 of the United Nations Convention on the Law of the Sea, in the Exclusive Economic Zone, all states, whether coastal or landlocked, enjoy, in accordance with the provisions of the said Convention, the freedoms of navigation, overflight, laying of submarine cables and pipelines, as well as other activities economically exploitable in accordance with the rules of the said Convention. It should be noted, however, that these rights must be exercised with the utmost respect for the rights and interests of the coastal country, that is, the country possessing the Exclusive Economic Zone, and must not infringe on the provisions of the said Convention or cause conflicts with other international agreements.

The balance recommended by Article 58 of the United Nations Convention on the Law of the Sea regarding the rights of coastal and other states raises various legal and practical questions, particularly concerning environmental protection, resource management, and maritime security. It is important to emphasize, therefore, that Article 58 of the United Nations Convention on the Law of the Sea embodies a compromise between the sovereignty of coastal states over their marine resources and the freedom of the seas advocated by other states.

West Africa, with its vast coasts and rich marine biodiversity, is also affected by the provisions of Article 58 of UNCLOS. All West African countries, like other countries, must navigate between their national, regional interests and the international obligations stipulated by the United Nations Convention on the Law of the Sea.

The jurisprudential analysis under consideration shows that the application and interpretation of Article 58 of the United Nations Convention on the Law of the Sea by West African states face several challenges. On the one hand, there is the relevance of protecting their maritime resources against overexploitation and environmental pollution, and on the other hand, there is the obligation to facilitate innocent passage and freedom of navigation.

For example, the conflicts between national economic interests, most frequently in fishing activities, oil extraction, and other sea-related activities, not to mention the imperatives of marine environmental protection, highlight this issue.

Regarding maritime disputes, the case between Côte d'Ivoire and Ghana, adjudicated by the International Tribunal for the Law of the Sea (ITLOS), provides significant insights into regional issues concerning the delimitation of the Exclusive Economic Zone and resource exploitation (Judgment of the International Tribunal for the Law of the Sea in the case of the maritime dispute between Ghana and Ivory Coast, 2017). In this specific case, the tribunal sought to balance the sovereign rights of coastal states with principles of justice and equity, reflecting the underlying objectives of Article 58 of the United Nations Convention on the Law of the Sea.

Some regional institutions of West African countries, such as the Gulf of Guinea Commission, have also attempted to coordinate their maritime policies and adherence to international standards, including those of the United Nations Convention on the Law of the Sea (Gulf of Guinea Commission, Reports and publications on maritime safety and environmental protection, 2001). These efforts aim to normalize the economic benefits of the region while ensuring better environmental protection and maritime security.

Can jurisprudential notions serve as a cornerstone for the law of the sea?

Does jurisprudence contribute to the development of the law of the sea? In the following development, let's try to provide some clarifications.

## **2. Legal Importance of Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS)**

Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS) holds significant legal importance by establishing the rights and duties of coastal and non-coastal states within the Exclusive Economic Zone (EEZ). It seeks to balance the interests of coastal states and other states by allowing freedom of navigation and overflight, as well as the right to lay submarine cables and pipelines. Article 58 of UNCLOS also ensures the fair and sustainable use of resources, thus promoting good international cooperation and the respect of maritime laws in general, which are essential for maintaining international peace and security.

### **2.1 The Content and Provisions of Article 58 of UNCLOS**

Article 58 of the United Nations Convention on the Law of the Sea also clarifies that the rights of states must be exercised with respect for the interests and rights of the coastal state without infringing on its sovereign rights over the natural resources of its Exclusive Economic Zone (EEZ). All activities conducted in the EEZ must also comply with the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and other international rules.

This provision aims to ensure that non-coastal states can benefit from maritime freedoms while respecting the sovereignty and resource management rights of coastal states. Thus, activities such as navigation, overflight, and the installation of submarine cables and pipelines must be conducted in a manner that does not interfere with the legitimate rights of the coastal state, including environmental protection and sustainable resource management.

#### **2.1.1 Content of Article 58 of UNCLOS**

Article 58 of the United Nations Convention on the Law of the Sea specifies that within Exclusive Economic Zones (EEZs), all states, whether coastal or landlocked, enjoy, under the conditions provided by the relevant provisions of the convention, freedoms of navigation and overflight, as well as the freedom to lay submarine cables and pipelines as outlined in Article 87. Additionally, they have the freedom to use the sea for other internationally lawful purposes related to the exercise of these freedoms and compatible with other provisions of the convention, particularly in the context of the operation of ships, aircraft, and submarine cables and pipelines.

The United Nations Convention on the Law of the Sea (UNCLOS), also known as the Montego Bay Convention, is designed as an international treaty that was adopted on December 10, 1982 and entered into force on November 16, 1994, after being ratified by a certain number of states. The said Convention addresses various aspects of maritime law and its boundaries, navigation, conservation and use of marine resources, and the protection of the marine environment. By its nature and importance, the said article deals with the rights and duties of states in the Exclusive Economic Zone (EEZ).

#### **2.1.1.1 Definition and Context of Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS)**

The Exclusive Economic Zone (EEZ) is a maritime zone that extends up to 200 nautical miles from the coast of the coastal state. In this zone, the coastal state has sovereign rights for the exploration, exploitation, conservation, and management of natural resources, both living and non-living, of the seabed, its subsoil, and the superjacent waters, as well as for other economic activities, such as energy production from water, currents, and winds.

#### **2.1.1.2 Provisions of Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS)**

Article 58 of UNCLOS sets out the principles governing the rights and duties of states in the EEZ. It consists of three paragraphs, which can be summarized as follows:

1. The first paragraph specifies that in the EEZ, all states, whether coastal or landlocked, enjoy, in accordance with the relevant provisions of the convention, freedoms of navigation and overflight, as well as the freedom to lay submarine cables and pipelines, and other lawful activities for international passage.
2. The second paragraph states that states must respect the rights and duties of the coastal state while complying with the laws and regulations adopted by that state within the framework of the convention concerning the preservation and protection of the marine environment.
3. The third paragraph emphasizes that the regime of submarine cables or pipelines in the EEZ must not prejudice what is agreed upon in the section relating to the high seas and must be in accordance with the provisions of the convention.

#### **2.1.1.3 Analysis and Importance of Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS)**

In analyzing Article 58 of UNCLOS, it is evident that it emphasizes the balance between the interests of coastal states and other states. While the coastal state enjoys sovereign rights over the resources of its EEZ, other states retain certain traditional freedoms associated with the high seas.

This marks a fundamental compromise in UNCLOS between the interests of coastal states seeking to extend their jurisdiction over offshore resources and the interests of naval states favoring freedom of navigation.

#### **2.1.1.4 Implementation and Interpretation of Article 58 of UNCLOS**

The implementation and interpretation of Article 58 require a thorough understanding of the rights and obligations it imposes.

Disputes related to the EEZ are often complex and may involve issues such as the delimitation of the EEZ, which is often a source of conflict, fishing rights, oil and gas exploration and exploitation, environmental protection measures, and freedom of passage.

In conclusion, Article 58 of UNCLOS represents a significant effort in maritime management to harmonize various interests and activities in the EEZ, a zone of great strategic and economic importance. By clearly defining the rights and duties of coastal states and other states, UNCLOS seeks to promote peace, security, and cooperation in the use of the global ocean while ensuring the conservation and sustainable use of marine resources. This underscores the importance of international maritime law as a cornerstone for regulating relations between states in the global maritime context and highlights the need for mutual understanding and respect for the principles set forth in the convention.

#### **2.1.2 Key Provisions of Article 58 of UNCLOS**

The United Nations Convention on the Law of the Sea (UNCLOS), also known as the Montego Bay Convention, constitutes the legal framework governing activities carried out at sea. Entered into force on November 16, 1994, this convention remains an international treaty for navigation, conservation of maritime resources, protection of the marine environment, and the rights and duties of states worldwide.

##### **2.1.2.1 Analysis of Article 58 of UNCLOS**

Article 58 of UNCLOS focuses solely on the Exclusive Economic Zone (EEZ). It specifies the balance between the sovereign rights of the coastal state over resources and certain rights and freedoms for other states.

#### **2.1.2.1.1 First Paragraph: Rights of Other States**

In this first paragraph, Article 58 of UNCLOS reaffirms that, in the EEZ, other states enjoy certain freedoms recognized traditionally within the exclusive economic zone for a long time. These include navigation, overflight, laying of cables, and other lawful uses of the sea associated with these freedoms, as long as they take into account the interests of the coastal state.

#### **2.1.2.1.2 Second Paragraph: Compliance with Laws and Regulations**

In this second paragraph, Article 58 of UNCLOS emphasizes that the exercise of freedoms by other states must overall comply with the laws and regulations adopted by the coastal state within the framework of its sovereign rights and the Convention. This indicates that, while freedoms are granted, they are not absolute and must necessarily respect the sovereignty of the coastal state.

#### **2.1.2.1.3. Third Paragraph: Duties of States**

This third paragraph of Article 58 of UNCLOS mentions the obligations of states regarding the protection and preservation of the marine environment, which is a concern for all coastal and other states. It states that states must act in accordance with the provisions of UNCLOS, as well as with other international agreements collectively in force for the conservation and management of the marine environment.

#### **2.1.2.1.4. Analysis of the Rights of the Coastal State and those of Navigation by Other States**

Article 58 of UNCLOS clearly delineates a clear distinction between the rights of the coastal state over its natural resources and the rights of navigation and use by other states. These are efforts made by UNCLOS to balance all the interests of states, recognizing the need to protect sovereign rights while allowing the international community to benefit from certain freedoms on the high seas.

#### **2.1.3 Legal and Practical Repercussions**

In practice, Article 58 of UNCLOS combines efforts for close cooperation between states to avoid potential conflicts. Coastal states must ensure that their laws and regulations are flawlessly in line with UNCLOS, and other states must also respect these laws when exercising their freedoms in the EEZ. This has implications for various activities, including fishing, which is a contentious area in the sector, deep-sea mining, navigation, often a source of conflict, and efforts for the conservation of marine resources.

In conclusion, one of the concerns of Article 58 of UNCLOS is to introduce complexity into maritime law while balancing the sovereign rights of coastal states over their natural resources with traditional freedoms on the high seas for all. The idea of this balance and complexity only serves to promote peace, stability, security, and good international cooperation in maritime affairs while emphasizing the protection, conservation, and preservation of the marine environment forever. Persistent challenges include the uniform interpretation of these provisions and their effective application to resolve disputes related to states' use of the sea.

### **3. Legal Effect and Impact of Article 58 of UNCLOS**

Article 58 of UNCLOS also has a remarkable impact on the management of maritime resources and the conduct of maritime activities, influencing policies on fishing, exploration, and exploitation of energy resources, and the protection of the marine environment in the EEZ. Its effective application is crucial for international cooperation and the sustainable development of the oceans.

#### **3.1. Legal Effects of Article 58 of UNCLOS**

Article 58 of UNCLOS constitutes a comprehensive legislative framework governing rights and duties in maritime activities (The 1982 United Nations Convention on the Law of the Sea ). Among its provisions, Article 58 of UNCLOS plays a crucial role in balancing the rights and duties of coastal states while emphasizing those of other states in the EEZ.

The key idea of this analysis brings implications of this article's legal effect, based on three main paragraphs, discussing its impact on the practice of international maritime activities.

##### **3.1.1 General Context of Article 58 of UNCLOS**

Article 58 of UNCLOS is situated in Part V of UNCLOS, dedicated to the EEZ, an area extending up to 200 nautical miles from the baseline of a coastal state. In this zone, the coastal state exercises sovereignty as it holds sovereign rights over said zone concerning the exploitation of natural resources but also owes other states certain rights recognized by UNCLOS and other international regulations and conventions. Article 58 of UNCLOS establishes the legal regime applicable to these rights and obligations imposed on all activities conducted at sea.

### **3.1.2 Analysis of the Provisions of Article 58 of UNCLOS**

This analysis refers to the observation of three paragraphs that provide nuances on the provisions of UNCLOS.

#### **3.1.2.1 Recognition of Rights and Freedoms of Other States in the First Paragraph**

Article 58 of UNCLOS reaffirms the freedoms of navigation, overflight, laying of cables and pipelines underwater, as well as other economically legal activities in the EEZ. These freedoms exercised at sea, essential to ensure innocent passage and international trade, are strictly limited by the sovereign rights of the coastal state over the natural resources of the EEZ.

#### **3.1.2.2 Recognition of Obligations of Respect in the Second Paragraph**

Article 58 of UNCLOS imposes on states to act in accordance with all provisions of UNCLOS and the rights of the coastal state when exercising their freedoms in the EEZ. This shows that activities conducted must not infringe upon the rules of the coastal state's sovereign rights but must also comply with conservation and resource management measures adopted by it.

#### **3.1.2.3 Recognition for Dispute Settlement in the Third Paragraph**

In this third paragraph, Article 58 of UNCLOS addresses the settlement of disputes concerning the interpretation or application of rights and obligations in the EEZ. It encourages all states to resolve their disputes through peaceful means and emphasizes the importance of negotiation, arbitration, mediation, or other peaceful methods in line with international law.

#### **3.1.2.4 Impact and Interpretation of Article 58 of UNCLOS**

Decisions on the interpretation and effective application of Article 58 of UNCLOS have sometimes necessitated intervention by international tribunals, such as the International Tribunal for the Law of the Sea (ITLOS), to clearly enumerate the rights and obligations of states in specific situations (The official website of the International Tribunal for the Law of the Sea (<https://www.itlos.org/>))

These judicial decisions play an important role in understanding and developing maritime law. Finally, Article 58 of UNCLOS embodies the spirit of cooperation and mutual respect underlying the Convention, promoting peaceful and sustainable use of maritime spaces (Works specializing in international law of the sea, which often offer detailed analyzes of the various provisions of UNCLOS, 1982) . Judicial interpretations and state practices will continue to shape the scope and application of this article, reflecting the adaptation of maritime law to contemporary challenges.

### **3.2 Impacts of Article 58 of UNCLOS**

The United Nations Convention on the Law of the Sea (UNCLOS) stands as one of the most significant treaties in the realm of oceans and seas (United Nations Convention on the Law of the Sea (UNCLOS)). It specifies the legal framework governing all maritime and oceanic activities. Among its various articles, Article 58 holds particular importance concerning the rights and duties established between states in the Exclusive Economic Zone (EEZ).

#### **3.2.1 Legal and Geopolitical Impacts of Article 58 of UNCLOS**

The significance of Article 58 of UNCLOS lies in stabilizing geopolitical tensions between states and presenting a positive image to the international community. It calls upon coastal states to emphasize peaceful, equitable access to international waterways through their international resources.

Treating all states on equal footing diminishes geopolitical tensions, particularly in strategic zones like the South China Sea, where territorial claims clash with principles of freedom of navigation. Article 58 of UNCLOS contributes to establishing a framework for resolving these tensions through mediation and respect for international law (Rothwell, D.R., and Stephens, T. (2016). "The International Law of the Sea". Hart Publishing. China, a developing country with extensive experience in maritime law, is concerned about its maritime security and seeks to develop sovereign rights over maritime spaces, opposing American maritime hegemony. The international concern of the United States regarding excessive maritime claims could impede their right to freedom of navigation and overflight.

#### **3.2.2. Impacts on Marine Resources and Biodiversity**

The distinction made by Article 58 of UNCLOS between the defense of sovereign rights of coastal states over their natural resources and the navigation rights of other states is of crucial importance for the conservation and protection of marine resources and biodiversity (Tanaka, Y., 2015). "The International Law of the Sea", Second Edition. Cambridge University Press.)

It allows other coastal states to manage their resources sustainably and effectively in the EEZ while ensuring that the activities of other states do not compromise their navigation and marine environment management.

### **3.2.3. Subsequent Legal Developments**

It's noteworthy that the impact of Article 58 of UNCLOS is not limited to UNCLOS itself; it also influences the development of other legal instruments and regional and sub-regional initiatives concerning good ocean governance. For example, it has served as the basis for the development of regional agreements on fishing, marine environmental protection, and combating piracy and illicit trafficking (United Nations (n.d). "United Nations Convention on the Law of the Sea: A historical perspective". Retrieved from [https://www.un.org/depts/los/convention\\_agreements/convention\\_historical\\_perspective.htm](https://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm)) .

## **4. The Relationship between Article 58 of UNCLOS and Other International Laws and Regulations**

Article 58 of UNCLOS must be consistent with international laws and regulations, ensuring respect for global commitments while facilitating cross-border cooperation for more unified and effective legislation.

### **4.1 The Relationship between Article 58 of UNCLOS and Other Laws**

Article 58 of UNCLOS establishes relationships with other laws, also interfering with various areas of international and national law. The development of states' domestic legislation refers to international law (Shaw, Malcolm N, "Droit international", Cambridge University Press, septième édition, 2014.)

It plays an important role in which states interpret and implement their international obligations. It plays a crucial role in situations of conflict of laws. It is important to note that Article 58 of UNCLOS is also part of the Vienna Convention on the Law of Treaties of 1969, which consolidates and clarifies international rules governing treaties between states (Vienna Convention on the Law of Treaties, 1969) . This specific article also addresses the issue of "Relations between a treaty and another international instrument."

It provides that the creation of a treaty can be conditioned by or linked to another international agreement, thus establishing a hierarchy and interdependence between different legal instruments.

#### **4.1.1. Interaction of Article 58 of UNCLOS with International Law**

Article 58 of UNCLOS plays a decisive role in the hierarchy of international standards, especially concerning treaties and other international agreements (Aust, Anthony, "Handbook of International Law", Cambridge University Press, second edition, 2010)

It helps understand how treaties interact with each other, especially in cases where provisions may appear conflicting or require harmonious interpretation to prevent contradictions. This article thus promotes a systemic and coherent approach to international law, emphasizing the importance of interpretation in line with the principles of good faith and normative integrity.

#### **4.1.2. Relation between Article 58 of UNCLOS and Domestic Law**

This relationship between Article 58 of UNCLOS and states' domestic law lies in the principle of dualism or monism, whereby international treaties are integrated and applied into the national legal order. The provisions of Article 58 of UNCLOS can influence how states interpret international treaties in relation to their own legislation. In some cases, this may require adaptation or modification of national laws to ensure compatibility with international obligations, highlighting the importance of cooperation between national and international jurisdictions and institutions.

#### **4.1.3. Conflicts of Laws**

Concerning conflicts of laws, Article 58 of UNCLOS has significant implications when two international agreements or an international agreement and a national law are in disagreement.

It provides a framework for resolving such conflicts, favoring an interpretation that seeks to harmonize different jurisdictions and promote the achievement of the general objectives of international law (Corten, Olivier and Klein, Pierre. "The Vienna Conventions on the Law of Treaties: Commentary article by article". Noisy, 200, 2000). This illustrates the complexity of the international legal system and the need for careful interpretation and application of treaties and international agreements.

Article 58 of UNCLOS establishes an essential foundation for states to understand the interactions between different legal instruments within international law and with the domestic law of states (Akande, Dapo. "The Jurisdiction of the International Court of Justice and Treaties of a Human Rights Nature": International and Comparative Law Quarterly, Vol. 46, No1, 1997). It underscores the importance of interdependence, harmonious interpretation, and conflict resolution to maintain the stability, coherence, and integrity of the international legal system. As such, the relationship between Article 58 of UNCLOS and other laws reflects the

complexity and dynamism of international law in managing global affairs, demanding constant attention and in-depth understanding from states, legal experts, and international actors.

#### **4.2. The Relationship between Article 58 of UNCLOS and Other International Regulations**

Article 58 of UNCLOS clearly defines the scope of rights and obligations in the EEZ, extending up to 200 nautical miles beyond the baseline from which the territorial sea is measured (United Nations Convention on the Law of the Sea (1982)). This article signifies that while the coastal state has sovereignty over its natural resources' exploration, exploitation, conservation, and management, other states enjoy navigation rights, overflight, submarine cable and pipeline laying, and other legal activities related to navigation.

##### **4.2.1. Interaction of Article 58 of UNCLOS with Other International Regulations**

###### **a. Environmental Law**

International environmental regulations such as the Ramsar (Ramsar Convention, 1971) Convention (1971) on Wetlands and the Convention on Biological (Convention on Biological Diversity (1992) Diversity (1992) complement the role of Article 58 of UNCLOS by imposing obligations for the protection and conservation of the marine environment (Ramsar Convention, 1971). These conventions encourage states to cooperate and adopt an integrated approach to preserving marine and coastal ecosystems within their EEZ.

###### **b. Maritime Security**

The International Ship and Port Facility Security Code (ISPS) (International Maritime Organization (IMO) International Ship and Port Facility Security (ISPS) Code, in December 2002 and came into effect on 1 July 2004.), developed by the International Maritime Organization (IMO), although primarily focused on preventing illegal acts against ships, interacts with Article 58 of UNCLOS by reinforcing the rights and obligations related to navigation.

It also emphasizes the importance of cooperation between states to ensure maritime security, a crucial aspect of the freedoms granted by Article 58 of UNCLOS.

###### **c. Sustainable Fisheries**

The United Nations Convention on Straddling Fish Stocks and Highly Migratory Fish Stocks (New York Agreement, 1995) is designed to ensure the conservation and sustainable management of transboundary and high-seas fish stocks (United Nations Fish Stocks Convention, 1995). It leverages the importance of responsible resource management, as mentioned in Article 58 of UNCLOS, by imposing requirements on states to assess the impact of fishing on the overall marine ecosystem.

###### **d. Right of Innocent Passage**

The relationship between Article 58 of UNCLOS and the rule of innocent passage, primarily governed by Article 17 of UNCLOS, manifests the interaction between the rights of coastal states and those of third-party states.

While Article 58 of UNCLOS grants specific freedoms in the EEZ, Article 17 ensures that these freedoms are not impeded as long as the passage does not threaten the peace, good order, or security of the coastal state.

###### **e. Challenges and Perspectives**

The interpretation and application of Article 58 of UNCLOS in relation to other international regulations continue to be a major challenge for the international community. Disputes arising from the delimitation of EEZs, fishing activities, and environmental protection require international collaboration and adherence to the principles established by UNCLOS and other agreements.

Finally, Article 58 of UNCLOS establishes a legal framework for the rights and obligations of states in EEZs, influencing and being influenced by various other international regulations. Its interaction with conventions on the environment, maritime security, and sustainable fishing demonstrates the interconnectedness of maritime issues and the need for a concerted approach to ocean governance. As the world continues to evolve, the importance of these interactions and the need to adapt international legislation to new challenges become increasingly evident.

#### **5. Positions and Perspectives of West African Countries**

West African countries generally recognize the legal importance of Article 58 of the UNCLOS for the management of maritime resources and national sovereignty, emphasizing the importance of regional cooperation and the adoption of measures in accordance with international standards to protect their maritime interests.

### **5.1. Common Position of West African Countries**

West African countries also support Article 58 of UNCLOS, emphasizing its legal significance for freedom of navigation, protection of the marine environment, and management of shared maritime resources.

#### **5.1.1. Scope of the Position**

The United Nations Convention on the Law of the Sea (UNCLOS), adopted in 1982, establishes the legal framework governing maritime activities and the management of ocean resources (United Nations Convention on the Law of the Sea (1982)). In particular, Article 58 of UNCLOS plays a predominant role in examining the rights and obligations of states in the EEZ. For West African countries rich in maritime resources but facing challenges such as overexploitation, piracy, and marine environmental degradation, this article is particularly significant.

#### **a. Common Position of West African Countries**

Through regional initiatives such as the Gulf of Guinea Commission (GGC) and the Maritime Security and Safety Agency of West Africa (MASE), West African countries have adopted a common position. This position emphasizes the securing of their waters, sustainable management of maritime resources, and regional cooperation (Gulf of Guinea Commission (CGG). [MASE website (<https://www.mase-program.org/>, 2001). It also underscores the importance of Article 58 of UNCLOS to ensure that the management of maritime activities respects the marine environment and supports sustainable economic development of coastal states.

#### **b. Implications of Article 58 of UNCLOS for West African States**

For West African countries, Article 58 of UNCLOS provides a legal framework to govern fishing activities, protect the marine environment, and promote regional cooperation.

This includes combating piracy and other forms of transnational crime. However, challenges remain, including limited surveillance capacity at sea and the need for increased international cooperation.

#### **c. Challenges and Perspectives**

Despite challenges, the common position of West African countries demonstrates a regional commitment to promoting maritime governance that respects the principles of sustainable development and international cooperation (Report on the state of maritime security in West Africa. Africa Strategy Center, 2021). To overcome these obstacles, a multi-level approach involving local, regional, and international actors is necessary.

In conclusion, the common position of West African countries regarding Article 58 of UNCLOS reflects their commitment to responsible maritime management and contributes to international maritime peace and security.

### **5.1.2 Convergence of Common Interests**

The convergence of common interests among West African countries around Article 58 of UNCLOS is a highly significant subject. This shared interest is rooted in the provisions of this article, which deal with the rights and duties of states in the EEZ, a strip of sea extending up to 200 nautical miles from the coast beyond the territorial sea.

#### **a. Regional Context**

West Africa alone covers an area of 6,148,568 km<sup>2</sup>, approximately one-fifth of the African continent. The northern part is occupied by the Sahel, forming a strip of land 160 to 240 km wide. West Africa, a region endowed with a long coastline, has vast marine resources that play a predominant role in the economy of its countries. The importance of its geographical location implies that the management and use of marine and submarine resources must be regulated to avoid conflicts, promote sustainable exploitation, and ensure mutual benefits among neighboring nations (The United Nations Agency for Maritime Affairs and the Law of the Sea (DOALOS), 1982).

#### **b. Legal Significance**

This provision of Article 58 of UNCLOS is crucial for West African countries for several important reasons :

1/ Maritime Security: It allows for regional cooperation in monitoring and protecting maritime routes against piracy, illegal fishing, and toxic spills (Reports and documents of the African Union Commission on Maritime Safety and Security in Africa).

2/ Resource Management: It encourages West African countries to collaborate for the sustainable exploitation of fishery, energy (oil, gas), and mineral resources, which are essential for economic development.



3/ Protection: It emphasizes the need for ecological management of marine areas, crucial for the preservation of marine and coastal ecosystems.

### **c. Convergence of Interests**

West African countries converge in their interest in Article 58 of UNCLOS for a variety of reasons related to sustainable development, security, and regional cooperation.

a/ Sustainable Development: Article 58 of UNCLOS encourages environmentally respectful exploitation practices, crucial in a region where fishing and tourism are vital for local economies.

b/ Regional Security and Stability: Cooperation in maritime surveillance promotes security in Exclusive Economic Zones, essential for the economic and social well-being of the countries concerned.

c/Regional Integration and Cooperation: Article 58 of the UNCLOS serves as the basis for regional agreements for the joint management of marine resources, fostering increased economic integration (United Nations Convention on the Law of the Sea Montego Bay, 1982).

d/ Challenges and Perspectives: However, the effective implementation of Article 58 of UNCLOS poses challenges, including the delimitation of EEZs, territorial disputes, and the capacity for surveillance and resource management. Regional cooperation and international technical assistance are essential to overcome these obstacles.

In conclusion, convergence around Article 58 of UNCLOS is, therefore, a strategic and important pillar for West Africa, capable of reinforcing lasting peace, security, and significant development in the region. It implies a reinforced commitment from states to maneuver jointly and with the international community to optimally exploit this legal framework in the service of their common interests.

e/ Integration and Regional Cooperation: Article 58 of UNCLOS serves as the basis for regional agreements for the joint management of marine resources, conducive to increased economic integration.

## **6. Claims and Demands of West African Countries**

West African countries advocate for the strict application of Article 58 of UNCLOS, demanding respect for their rights in the EEZ for sustainable and equitable management of shared maritime resources in the area.

### **6.1. Claims of West African Countries**

The United Nations Convention on the Law of the Sea (UNCLOS), adopted in 1982, is an international treaty that establishes a regulatory framework for the use and conservation of the oceans and their resources. Article 58 of UNCLOS plays a crucial role, especially for West African countries, as it examines the rights and duties of states in the EEZ. This zone extends up to 200 nautical miles beyond the baseline of a coastal state, and Article 58 of UNCLOS specifies the rights of other states in these areas, emphasizing freedom of navigation, overflight, laying of cables and pipelines, as well as other economic activities.

#### **6.1.1 Importance of Article 58 of UNCLOS for West African Countries**

For West African countries rich in maritime resources and with vast coastlines, the importance of Article 58 of UNCLOS lies in the potential for economic development and environmental protection it offers. The region is known for its diverse marine ecosystems, including significant fish stocks, making fishing a major economic activity.

Additionally, the potential for hydrocarbons in certain areas of West Africa attracts interest in offshore exploration and exploitation. Added to this is the development of maritime transport, essential for international trade in the region.

##### **6.1.1.1 Sustainable Development and Environmental Protection**

Article 58 of UNCLOS, by giving coastal states the right to regulate economic exploitation in their EEZs, allows West African countries to develop policies for sustainable management of maritime resources, essential for preserving ecosystems and promoting sustainable development.

### **6.1.1.2 Maritime Security**

Piracy and illicit activities at sea are significant threats to West African countries. Article 58 of UNCLOS provides a legal framework that encourages international cooperation in maritime surveillance, which is essential for the security of maritime routes and the fight against these scourges.

### **6.1.1.3 Economic Development**

The evident need for a clear legal framework for the use of EEZs can attract foreign investment in sectors such as fishing, hydrocarbon exploitation, and maritime infrastructure, thereby contributing to the economic development of the region.

### **6.1.1.4 A demand at the heart of development by African countries**

The claims of West African countries regarding Article 58 of UNCLOS primarily focus on :

a/Equitable Access to Resources: West African countries demand equitable access to resources in their EEZs, calling for international measures to combat overfishing and illegal fishing practices, often carried out by foreign fleets.

b/Strengthening of International Cooperation: There is a constant call to strengthen international cooperation for maritime security and environmental protection, emphasizing the need for technical and financial support for developing countries.

c/Adaptation to Climate Change: Given the region's vulnerability to climate change, there is a growing demand to integrate climate risk management into EEZ management in accordance with Article 58 of UNCLOS.

In conclusion, Article 58 of UNCLOS represents a crucial legal pillar for West African countries, enabling them to claim and protect their rights in the exploitation and conservation of their maritime resources. The effective and efficient implementation of this article will promote the sustainable economic development of the region while preserving its valuable marine ecosystems. International cooperation, in line with the spirit of UNCLOS, remains crucial in addressing the security, environmental, and economic challenges faced by these countries at sea.

## **6.2 Demands of West African Countries**

A region strongly influenced by oceanic and maritime dynamics, this text explores the specific demands of these countries regarding the legal importance of Article 58 of UNCLOS, relying on international and regional legislative frameworks.

### **6.2.1 Legal Context**

Article 58 of UNCLOS specifies the rights and duties of states in the EEZ, particularly concerning freedom of navigation, overflight, and the laying of cables and pipelines underwater (United Nations,1982). Convention on the Law of the Sea. Retrieved from: [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos-e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos-e.pdf)). It also asserts that these rights must be exercised while respecting the interests and rights of the coastal state.

### **6.2.2 Demands of West African Countries**

These demands are significant and effective for their EEZs.

#### **6.2.2.1 Management of Natural Resources**

West African countries, endowed with rich maritime resources, demand sustainable management of the natural resources in their EEZs. Article 58 of UNCLOS reinforces their position by allowing them to regulate resource exploitation while ensuring the conservation of the marine environment.

#### **6.2.2.2 Maritime Security**

Maritime security is a major concern for West African countries, facing challenges such as piracy (Center for International Maritime Law (2017). Maritime security in West Africa and UNCLOS. Retrieved from: <http://www.imli.org>). Although Article 58 of UNCLOS does not directly address maritime security issues, it establishes a framework for cooperation between states, thus fostering regional initiatives for maritime security and surveillance.

#### **6.2.2.3 Sustainable Development**

West African countries emphasize the importance of sustainable development in the use of marine resources. Article 58 of UNCLOS, in conjunction with other provisions of UNCLOS, encourages practices that respect ecological balance and promote the economic development of coastal states.

### **6.2.3 Examples of Implementation**

#### **6.2.3.1 Gulf of Guinea Commission (GGC)**

An example of implementing the principles of Article 58 of UNCLOS is the establishment of the GGC, which aims to promote regional cooperation for sustainable management of maritime resources and maritime security (Gulf of Guinea Commission (CGG). (n,d). About the CGG. Retrieved from: <http://www.gogcommission.org>).

#### **6.2.3.2 Fishing Agreements**

Artisanal fishing and family farming provide nearly 90% of the region's (Jacques Berthelot for SOL, Unctad propagated the myth of Africa's enormous food dependence, 2021) food needs and employ approximately 50% of the population (ECOWAS, Agriculture and food in West Africa, Change, Agricultural performance and policies, 2015). West African countries have also concluded various fishing agreements with third countries and international organizations, relying on the provisions of Article 58 of UNCLOS to regulate access to their fishery resources.

### **6.2.4 Challenges of Implementation**

Despite these efforts, implementing Article 58 of UNCLOS presents challenges, particularly in terms of monitoring vast maritime spaces and combating illegal, unreported, and unregulated (IUU) fishing.

In conclusion, Article 58 of UNCLOS provides a vital legal framework for West African countries, enabling them to manage and protect their maritime resources. By fully exploiting this article, these countries can promote maritime security, economic development, and environmental conservation in their EEZs. However, the success of this endeavor requires enhanced regional and international cooperation, as well as strengthening national capacities.

## **7. The Position of West African Countries and Interaction with the International Community**

West African countries actively engage with the international community, seeking to develop economies and infrastructure while combating challenges such as poverty, climate change, and conflicts. This region, rich in cultures and resources, aspires to enhance collaboration for sustainable and inclusive development.

### **7.1. Position of West African Countries**

West African countries, with their vast coastal areas along the Atlantic Ocean, have always considered the sea as a crucial source of prosperity and development.

The United Nations Convention on the Law of the Sea (UNCLOS), signed in 1982, is an international treaty that establishes a comprehensive legal framework regulating all aspects of ocean and sea use (United Nations Convention on the Law of the Sea (1982)). Article 58 of UNCLOS specifically addresses the rights and obligations in the exclusive economic zone (EEZ), a key concept for West African coastal states. This analysis seeks to detail the position of West African countries regarding the legal importance of Article 58 of UNCLOS.

#### **7.1.1 Context and Implications of Article 58 of UNCLOS**

The prerogatives of coastal states over the EEZ are less extensive than those over their territorial waters but still confer sovereign rights for exploration, exploitation, conservation, and management of natural resources.

#### **7.1.2 Position of West African Countries**

West African countries attach great importance to Article 58 of UNCLOS, considering the EEZ as a cornerstone of economic development, especially for fishing, hydrocarbon, and mineral exploitation, not to mention marine environmental protection. The position of these states rests on several pillars :

1. Application and Strengthening of Sovereign Rights: West African countries seek to strengthen their capacity to exercise their sovereign rights for exploration and exploitation of resources in their EEZ, as proposed by Article 58 of UNCLOS (Office of Ocean Affairs and the Environment: Oceans and law of the sea [Link to official website]).

2. Regional Cooperation: Recognizing the need for cooperative resource management and conflict resolution, West African countries, through regional organizations like the Sub-Regional Fisheries Commission (SRFC), aim to coordinate their policies and actions for sustainable marine resource utilization (Sub-Regional Fisheries Commission (CSRFP): [Link to CSRFP activities and publications]).

3. Sustainable Development and Environmental Protection: West African coastal states emphasize the importance of environmental protection and marine biodiversity while exploring their EEZs. This aspect reflects a growing awareness of the environmental implications of activities on the high seas.

4. Capacity Building and Technical Assistance: Faced with technical and security challenges such as piracy and illegal fishing, these countries seek substantial international assistance to strengthen their EEZ surveillance and management capacities.

### ***7.1.3 Implications of the West African Position on the International Stage***

The firm position expressed by West African states in the application of Article 58 has significant international repercussions. It contributes to the development of jurisprudence concerning EEZs and encourages the strengthening of international maritime law. Moreover, it highlights the necessity of international collaboration for responsible and sustainable exploitation of maritime resources.

In conclusion, Article 58 of UNCLOS holds significant importance in the strategy of West African countries for the development and sustainable management of their marine resources (African Union reports and publications on the maritime strategy for West Africa). By emphasizing their rights and obligations, these states seek to balance the economic exploitation of their EEZs with environmental protection. The effective implementation of this article requires increased regional cooperation and international support, suggesting a shared vision for the future of global ocean governance.

## ***7.2 Relations with the International Community***

The legal significance of Article 58 of UNCLOS for West African countries lies in defining the rights and duties of states in the EEZ. This provision is crucial for West African coastal countries, whose food security, economic prosperity, and environmental protection largely depend on the use and safeguarding of their maritime resources.

### ***7.2.1 Context***

UNCLOS, which established a comprehensive legal framework for the oceans and seas and the management of their resources, defines the EEZ in Articles 55 to 75. Article 58 of UNCLOS specifies the rights, duties, and freedoms of coastal states and other states in the EEZ. West African countries, with their extensive coastlines, are directly affected by these provisions, which influence their relations with the international community.

### ***7.2.2 Rights and Duties According to Article 58 of UNCLOS***

Article 58 of UNCLOS lays the groundwork for the freedom of navigation, overflight, laying of cables and pipelines, and other lawful uses of the sea by third-party countries, always respecting the interests and laws of the coastal state. It establishes a balance between the coastal state's rights over its EEZ and the freedoms of the international community, underscoring the importance of cooperation and respect for international law.

For West African countries, these provisions are essential in the following areas :

1. Exploitation of Marine Resources: West African countries have the exclusive right to exploit natural resources within their EEZs. However, Article 58 of UNCLOS acknowledges that other states may exercise certain freedoms, necessitating management and international cooperation.

2. Environmental Protection: Coastal states have the responsibility to protect and preserve the marine environment within their EEZs. This includes measures against pollution and overfishing in collaboration with the international community.

3. Maritime Security: Article 58 of UNCLOS, by guaranteeing freedom of navigation, raises issues of maritime security, particularly concerning the fight against piracy and illicit trafficking, which is problematic in certain parts of West Africa.

### ***7.2.3 Implications for International Relations***

West African countries, under Article 58 of UNCLOS, engage in multiple interactions with the international community:

a. Negotiating Fisheries Agreements: These agreements with foreign states or companies must adhere to the conditions established by UNCLOS, ensuring sustainable use of maritime resources.

b. Participating in International Initiatives: Cooperation on issues such as environmental protection, maritime security, and marine scientific research is encouraged and regulated by Article 58 of UNCLOS and other provisions of the convention.

c. Conflict Resolution: The provisions provide a legal framework for resolving disputes related to EEZs, promoting stability and lasting peace in the region.

In conclusion, Article 58 of UNCLOS remains crucial for West African countries in managing their relations with the international community regarding the use and protection of their EEZs. This provision fosters international cooperation while affirming coastal states' sovereignty over their maritime resources, significantly impacting economic development, security, and environmental protection in the region.

## **8. Article 58 of UNCLOS: Disputes and Resolutions.**

In the EEZ, disputes often revolve around resource exploitation, protection of the marine environment, and freedom of navigation. Resolution involves international mediation or resorting to specialized tribunals.

### **8.1 Controversies and Differences in Article 58 of UNCLOS.**

Article 58 of UNCLOS raises debates around rights and duties within the EEZ. The differences mainly concern the interpretation of navigation freedoms, overflight, and disputes regarding natural resources. These controversies reflect the complexity of state interests at sea.

#### **8.1.1 Controversies in Article 58 of UNCLOS.**

UNCLOS covers a wide range of issues, such as maritime zone delimitation, navigation rights, conservation of marine biological resources, and protection of the marine environment. Article 58 of UNCLOS, relating to the rights and obligations of states in the EEZ, has sparked various controversies and interpretations over the years. This article will examine the main controversies related to Article 58 of UNCLOS based on examples and analyses drawn from international doctrine and jurisprudence (United Nations Convention on the Law of the Sea, 1982).

##### **8.1.1.1 Main controversies:**

###### **a. Interpretation of other activities lawfully permitted**

One of the main sources of controversy lies in the interpretation of the notion of "other activities lawfully permitted." The question is to what extent states can carry out these activities in the EEZ of another state without infringing on its sovereign rights. Disagreements have arisen, particularly concerning marine scientific research activities and military exercises.

###### **b. Balance between the rights of the coastal state and those of other states**

Determining the appropriate balance between the coastal state's sovereign rights over resources and the navigation freedoms and other rights of other states in the EEZ has also been a source of controversy. Cases such as the dispute between the United States and China in the South China Sea illustrate the challenges of interpreting and applying these provisions.

###### **c. Environmental protection and economic activities**

Reconciling resource exploitation and environmental protection in the EEZ also raises questions. Article 58 of UNCLOS, in conjunction with Articles 192 and following, which require states to protect and preserve the marine environment, has been at the center of debates on states' obligations regarding environmental protection in their EEZ resource exploitation policies.

###### **d. Jurisprudence and doctrine**

Institutions such as the International Tribunal for the Law of the Sea (ITLOS) and the International Court of Justice (ICJ) (International Court of Justice was in 1945, and it began its work in 1946.) have dealt with issues related to the interpretation and application of Article 58 of UNCLOS (International Tribunal for the Law of the Sea. Arctic Sunrise case, 2014).

International doctrine, on the other hand, offers various perspectives on these controversies. Authors like Rothwell and Stephens (2010) in their work "The International Law of the Sea" provide a more in-depth analysis of rights and obligations in the EEZ, while Tanaka (2015) (Tanaka, Y. (2015). The International Law of the Sea. Cambridge University Press.), in "The International Law of the Sea," highlights environmental issues related to Article 58 of UNCLOS (Rothwell, D.R., and Stephens, T. (2010). The International Law of the Sea. Hart Publishing.)

Finally, Article 58 of UNCLOS has raised significant controversies reflecting tensions between coastal states' sovereign rights and other states' freedoms in the EEZ.

Despite these challenges, UNCLOS remains an important instrument for ocean governance, providing a framework to balance divergent interests. International jurisprudence and doctrine continue to play a significant role in interpreting this article, contributing to its evolution and application in a constantly evolving maritime context.

### **8.1.2 Divergences in Article 58 of UNCLOS**

Article 58 of UNCLOS, although aimed at balancing the rights of coastal states with those of other states, its interpretation and application give rise to various divergences and debates.

#### **a. Divergences in interpretation**

Divergences regarding Article 58 of UNCLOS often stem from the duality between the sovereign rights of the coastal state over its resources and the freedoms of third-party states, namely :

- 1/ Extent of sovereign rights: The exact scope of the coastal state's sovereign rights, especially concerning the exploitation of non-biological resources like wind or wave energy, remains a subject of debate.
- 2/ Freedom of navigation: Despite UNCLOS protecting freedom of navigation, disputes have arisen concerning the restrictions coastal states can impose on this freedom, such as in the case of military navigation or exercises.
- 3/ Environmental protection: Articulating the coastal state's rights regarding environmental protection and the activities conducted by third-party states in the EEZ can generate tensions, especially concerning exploitation projects that may affect the marine ecosystem.
- 4/ Regulation of cables and pipelines: The modalities of laying and maintaining cables and pipelines also raise questions, particularly regarding measures to avoid infringing on the coastal state's sovereign rights or harming the marine environment.

#### **b. International jurisprudence**

Several cases before international tribunals have highlighted divergent interpretations of Article 58 of UNCLOS. For example, in the South China Sea arbitration case (2016), the Permanent Court of Arbitration emphasized states' obligations to respect the sovereign rights of coastal states while navigating in their EEZ, thus enriching the interpretation of Article 58 of UNCLOS.

#### **c. Perspectives and solutions**

To address these divergences, several avenues can be considered :

- 1/ Clarification and Amendments: Working towards clarification or amendments to UNCLOS to specify ambiguous terms in Article 58 could be a solution.
- 2/ Rules and Additional Protocols: Adopting additional rules and protocols to specifically regulate certain activities in the EEZ could help reduce areas of friction.
- 3/ Conflict Resolution Mechanisms: Strengthening conflict resolution mechanisms provided by UNCLOS and encouraging their use to peacefully settle disputes.
- 4/ International Cooperation: Promoting further international cooperation and consultation between coastal states and other states could also prove beneficial in managing divergences in the interpretation and application of Article 58 of UNCLOS.

In conclusion, Article 58 of UNCLOS illustrates the complexities of maritime law in seeking to balance the divergent rights and interests of coastal states and other states. While differences in interpretation and application persist, a collaborative approach based on dialogue and mutual respect for the international legal framework appears to be the most promising path toward the harmonious implementation of these principles.

## **9. Article 58 of UNCLOS, Mechanisms and Dispute Settlement Procedures.**

To settle disputes, judicial and arbitration mechanisms are available, favoring peaceful resolution.

### **9.1 Dispute settlement mechanisms of Article 58 of UNCLOS**

One of the most significant innovations of UNCLOS is the establishment of a complex and detailed mechanism for dispute settlement, notably through Article 58 of UNCLOS, which addresses the rights and duties of states in the EEZ (United Nations Convention on the Law of the Sea, 1982).

#### **a. Dispute settlement mechanisms**

UNCLOS has instituted several dispute settlement mechanisms to ensure the application and interpretation of its provisions. These mechanisms primarily include:

1/ International Court of Justice (ICJ): States may choose to submit disputes to the ICJ (International Court of Justice (ICJ): collection of judgments, advisory opinions, and orders. The International Court of Justice (ICJ) has a collection of judgments, advisory opinions, and orders that date back to its establishment in 1946), the principal judicial organ of the United Nations. It was established in San Francisco (United States of America) by the United Nations Charter, which uses French and English as its official languages. The court consists of 15 judges with a dual mission under international law. It settles legal disputes between states that are submitted to it by those states and provides advisory opinions on legal questions. Only states have standing to bring cases before the International Court of Justice in contentious proceedings.

2/ International Tribunal for the Law of the Sea (ITLOS): Established specifically to address disputes regarding the interpretation or application of UNCLOS (International Tribunal for the Law of the Sea (ITLOS): case law and archives). It is an independent judicial body created by the United Nations Convention on the Law of the Sea in 1982 but officially started functioning in October 1996. It is headquartered in Hamburg, Germany. The International Tribunal for the Law of the Sea can handle disputes, among other things, related to the delimitation of maritime zones, the conservation and management of marine biological resources, navigation, the protection and preservation of the marine environment, and marine scientific research.

3/ Arbitral Tribunals: States may also opt for the establishment of an arbitral tribunal following the specified modalities in Annex VII of UNCLOS.

4/ Conciliation Procedure: Finally, a conciliation procedure is available under Annex V, aimed at providing a non-binding solution but facilitating agreement between the parties. It is composed of individuals with whom the parties have confidence and notable expertise in the legal and factual issues at hand.

#### **b. Application and Importance of Article 58 of UNCLOS**

The provisions of Article 58 of UNCLOS have been subject to numerous interpretations in various dispute settlement cases, highlighting the delicate balance between the rights of coastal states and those of other states. The importance of this article lies in its role in ensuring that the EEZ, while being a source of wealth for coastal states, also remains a space of freedom for international activities.

Notable cases include disputes related to fishing, environmental protection, marine scientific studies, and navigation. The jurisprudence stemming from international tribunals, notably ITLOS, has contributed to clarifying the applications of Article 58 of UNCLOS and has offered interpretations allowing for the reconciliation of divergent interests.

Article 58 of UNCLOS illustrates the complexity of international maritime law, balancing the sovereign rights of coastal states with the freedoms of the international community.

The dispute settlement mechanisms of UNCLOS play a crucial role in the application of these principles, providing a legal framework for resolving disputes. These mechanisms encourage states to seek peaceful and law-based solutions, thereby contributing to international stability, security, and peace.

### **9.2 Dispute Settlement Procedures of Article 58 of UNCLOS**

Dispute settlement regarding the law of the sea is a fundamental aspect of UNCLOS adopted on December 10, 1982 (United Nations Convention on the Law of the Sea, 1982). The specific modalities for dispute settlement are scattered throughout the various articles of the Convention, notably Articles 279 to 299, which form a dedicated section on this subject. In this essay, we will explore the dispute settlement mechanisms provided by UNCLOS, focusing on their applications and practical implications.

***a. Dispute Settlement Mechanisms According to UNCLOS***

UNCLOS offers several avenues for the settlement of disputes related to the law of the sea. These mechanisms vary in their diversity, ranging from negotiation to judicial procedures, and include the following:

1/ Direct Negotiation: This is the first recourse in case of a dispute. States are encouraged to settle their disputes through bilateral negotiations in accordance with the principle of good faith.

2/ Mediation and Good Offices: Third parties can act as mediators to facilitate the resolution of the dispute.

3/ Arbitration: This involves a procedure where the parties to the dispute choose arbitrators to form an arbitral tribunal that will render a final and binding decision. Annex VII of UNCLOS is often used to form the constitution of arbitral tribunals.

4/ International Tribunal for the Law of the Sea (ITLOS): The International Tribunal for the Law of the Sea (ITLOS): Created by the UNCLOS, this tribunal (International Tribunal for the Law of the Sea (ITLOS). Official site) handles maritime disputes and issues binding judgments. It is headquartered in Hamburg, Germany.

5/ International Court of Justice (ICJ): States may also choose to submit their disputes to the ICJ (International Court of Justice (ICJ)), the principal judicial organ of the United Nations.

6/ Conciliation Procedure: This is a more flexible method aimed at helping the parties reach a mutually acceptable agreement with the assistance of conciliators.

***b. Application and Practical Implications***

The choice of dispute settlement mechanism often depends on the nature of the dispute and the relations between the states involved. In practice, the preference for direct negotiation or arbitration reflects the desire of states to maintain control over the process and outcome of the dispute. However, bodies like ITLOS have played a crucial role in resolving complex disputes, offering a specialized forum for their resolution.

***c. Notable Cases***

Among the notable cases submitted to ITLOS, the "South China Sea Arbitration" case (Philippines v. China) (South China Sea Arbitration (Philippines v. China), Sentence du 12 juillet 2016, Annexe VII de la CNUDM.) is particularly remarkable. Despite China choosing not to participate in the proceedings, the tribunal rendered a decision in 2016 that reaffirmed certain fundamental principles of maritime law, especially concerning the rights of states in their respective zones.

In conclusion, the dispute settlement system of UNCLOS represents a crucial pivot of the international legal order regarding the law of the sea. By providing several avenues for dispute resolution, UNCLOS promotes the rule of law and cooperation among states. Although there are challenges in the application and effectiveness of these mechanisms, notably regarding universal adherence and compliance with decisions, they nevertheless constitute indispensable tools for the peaceful management of international maritime interactions.

**10. Article 58 of UNCLOS - Practice and Experience in Dispute Settlement**

Article 58 of UNCLOS encourages peaceful settlement, arbitration, and dialogue, thereby fostering cooperation and mutual understanding among states.

***10.1. Practice of Article 58 of UNCLOS in Dispute Settlement***

In terms of dispute settlement, Article 58 of UNCLOS is a crucial asset as it establishes the legal basis upon which the rights of coastal states and those of other states are balanced in the EEZ (United Nations, 1982. United Nations Convention on the Law of the Sea). This analysis will focus on the practice of Article 58 of UNCLOS in the context of maritime dispute settlement.

***10.1.1 Legal Framework of Article 58 of UNCLOS***

Article 58 of UNCLOS sets out the rights and obligations of states in the EEZ, which extends up to 200 nautical miles from the coast. According to Article 58 of UNCLOS (1), in the EEZ, all states, whether coastal or non-coastal, enjoy the freedoms of navigation and overflight and the laying of submarine cables and pipelines in accordance with the provisions of the convention. However, these freedoms must be exercised, taking into account the interests and rights of the coastal state (Art.58(3)).



### **10.1.2 Practice in Dispute Settlement**

The implementation of Article 58 of UNCLOS raises complex issues in dispute settlement. Disputes often arise due to divergent interpretations of the rights and obligations of states in the EEZ, particularly concerning the scope of permissible activities for non-coastal states and the conservation measures that the coastal state may impose.

#### **10.1.2.1 Illustrative Practical Cases**

A prominent example of a dispute concerning the application of Article 58 of UNCLOS is the arbitration case between Bangladesh and Myanmar in 2012 concerning their maritime boundaries in the Bay of Bengal (Arbitral Tribunal Constituted under Annex VII of UNCLOS. (2012). Bay of Bengal Maritime Dispute Case (Bangladesh/Myanmar)). The arbitral tribunal had to interpret Article 58 of UNCLOS in the context of fishing rights and natural resource exploration in the EEZ. The tribunal emphasized the importance of the coexistence of the interests of coastal states with those of other states in accordance with Article 58(3).

#### **10.1.2.2 Dispute Settlement Mechanisms**

UNCLOS provides several dispute settlement mechanisms related to the interpretation and application of Article 58 of UNCLOS. The most notable is the compulsory arbitration procedure under Annex VII of UNCLOS, as in the case between Bangladesh and Myanmar. Other mechanisms include the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), and conciliation. The border dispute between Angola and the Democratic Republic of Congo (DRC) was amicably settled for the well-being of both countries. The two countries agreed to a zone of common interest with equal exploitation and revenue for offshore deposits, signed and ratified in 2008. To preserve peace and harmony, Equatorial Guinea and Nigeria agreed to an agreement that led to a signature in 2000, a maritime boundary delimitation agreement, which ultimately took another form called the Joint Development Zone (JDZ) in 2002 before the International Court of Justice (ICJ) was seized. In 2001, a treaty on a joint development zone the joint (The joint development zone can be understood, according to the British Institute of International and Comparative Law, as a maritime area where the resources to be exploited relate exclusively to the gas and oil present in the continental shelf which 2 neighboring States agree to develop and share. See HAZEL FOX and AL, "Joint Development of Offshore Oil and Gas", London, British Institute of International and Comparative Law, 1989 p. 45. See also James E. HORGAN, "Unitization of Petroleum Reservoirs Extending Across Sub - Sea Boundary Lines of Bordering States in the North Sea" Natural Resources Lawyer 67 pp. 73 - 74.) development zone can be understood according to the situation that occurred between Nigeria and Sao Tome and Principe on a negotiation basis. Following this agreement, Sao Tome and Principe obtained 40%, and Nigeria obtained 60% of the joint exploitation of marine resources in general and oil in particular.

#### **10.1.2.3 Challenges and Perspectives**

The practice of Article 58 of UNCLOS and the resulting dispute settlement encounter several challenges. One of the main challenges is the balance between the rights of the coastal state to regulate activities in its EEZ and the freedoms of other states. Moreover, the complexity of marine ecosystems and the significant economic interests associated with the EEZ accentuate the challenges of disputes (UN. Division for Oceans. Case and the Law of the Sea. Dispute resolution under the United Nations Convention on the Law of the Sea, 1982).

The perspectives for resolving disputes under Article 58 of UNCLOS include improving regional cooperation and increasing the use of negotiation and preventive (Rothwell, D.R., et Stephens, T. (2016). The International Law of the Sea. Hart Publishing.). Emphasis on preventive diplomacy and regional agreements could help avoid disputes and promote a more harmonious international governance of the oceans.

In conclusion, the practice of Article 58 of UNCLOS in dispute settlement illustrates the inherent challenges in balancing rights and interests in the EEZ. While UNCLOS provides a legal framework for the resolution of maritime disputes, international cooperation and a consensus interpretation of the Convention's provisions remain crucial for peaceful and sustainable ocean governance.

### **10.2 Experience with Article 58 of UNCLOS in Dispute Settlement**

Conceived in 1982 and entered into force in 1994, UNCLOS aims to regulate maritime activities by coordinating a universal legal framework covering all aspects of maritime law (United Nations Convention on the Law of the Sea, 1982). This section examines the experience with Article 58 of UNCLOS in dispute settlement by examining specific cases, the mechanisms used, and their effectiveness.

#### **10.2.1 Legal Foundation and Objective of Article 58 of UNCLOS**

Article 58 of UNCLOS governs relations between states in the EEZ, covering up to 200 nautical miles from the coast. The primary objective is to ensure peace, maritime security, and international cooperation at sea, taking into account all relevant interests.

### **10.2.2 Dispute Settlement Mechanisms under Article 58 of UNCLOS**

Article 58 of UNCLOS is an integral part of the broader framework of UNCLOS, which includes several dispute settlement mechanisms, such as the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), arbitration procedures, and conciliation. These mechanisms offer states various options to resolve their disputes peacefully.

### **10.2.3 Notable Experience Involving Article 58 of UNCLOS**

#### **a. Case of Arbitration between Bangladesh and Myanmar:**

In 2012, ITLOS (International Tribunal for the Law of the Sea, <https://www.itlos.org/>) rendered its decision in a maritime dispute between Bangladesh and Myanmar concerning the delimitation of their respective EEZs in the Bay of Bengal (Hamilton, C. (2014). "Maritime delimitation in the Bay of Bengal: Bangladesh versus Burma." *International Law Review*).

This case is notable for its application of Article 58 of UNCLOS, particularly regarding the equitable sharing of resources. This decision was widely regarded as a successful example of dispute settlement through arbitration under UNCLOS.

#### **b. Spratly Islands Conflict**

The territorial conflict in the South China Sea (Beckman, R. And Davenport, T. (2016). "Dispute Resolution in the South China Sea: The Case of the Philippines versus China".

*Journal of Territorial and Maritime Studies*), notably over the Spratly Islands, involves several states and raises complex issues under Article 58 of UNCLOS. Although the 2016 decision of the Permanent Court of Arbitration (Permanent Court of Arbitration, <https://www.pca-cpa.org/disputes>) rejecting China's claims based on its nine-dash line does not resolve the conflict, it represents a significant interpretation of Article 58 of UNCLOS related to states' rights in the EEZ.

#### **c. Efficiencies and Challenges**

The experience with Article 58 of UNCLOS in dispute settlement shows both its potential and its limitations.

The application of this article and UNCLOS mechanisms has enabled the resolution of some disputes more effectively. However, success largely depends on states' willingness to comply with decisions and their commitment to the process. Challenges persist, particularly in situations where states choose not to participate in the process or do not accept judgments.

### **11. Conclusion:**

Article 58 of UNCLOS (United Nations Convention on the Law of the Sea) addresses the rights and responsibilities of states in Exclusive Economic Zones (EEZs). A notable strength is the clear legal framework it provides for the use of these zones, as well as for the protection of marine resources. However, a weakness lies in the varied interpretations by states, leading to jurisdictional conflicts, particularly among West African countries, sometimes resulting in unresolved disputes.

Future research could focus on a more in-depth comparative analysis of the specific positions of West African countries regarding Article 58, examining how these interpretations influence regional cooperation and the management of marine resources.

Some questions remain, notably unresolved ones: How do divergent interpretations of Article 58 affect marine conservation policies? Furthermore, what role does international law play in resolving regional disputes? Future studies could build on this research by exploring specific cases of maritime disputes and proposing mechanisms to harmonize the interpretations and applications of UNCLOS.

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