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Marine Conservation in the East Sea: Legal, Political, and Economic Constraints on Vietnam's Environmental Governance

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Article	Abstract
<p>Keywords: Geopolitical Tensions, Legal Frameworks, Marine Biodiversity, Resource Management, The 1982 UNCLOS Provisions.</p> <p>Article History Received: Aug 21, 2025; Reviewed: Jan 4, 2025; Accepted: Jan 20, 2026; Published: Jan 31, 2026.</p> <p>DOI: 10.28946/slrev.v10i1.5104</p>	<p>The study investigated the challenges and prospects of marine resource management in regions with overlapping maritime claims. It particularly focused on Vietnam's efforts to conserve Vietnam's East Sea. Geopolitical constraints, legal uncertainties, and economic mechanisms are the main factors that impede the effective management of maritime resources in disputed areas, as seen in the 1982 UNCLOS and regional legal regimes. This qualitative study employed a structural, analytical approach to exploit secondary resources, using case studies and literature analysis to evaluate the effectiveness of Vietnam's policies in sustainable fisheries management, marine protected areas, and international collaborations with neighbouring countries. The results reveal that Vietnam has made progress in adopting preventive measures pursuant to the 1982 UNCLOS; however, it also faces serious challenges in implementing them, including insufficient regional cooperation, territorial disputes, and scientific uncertainties. The study underscores the urgent need for a robust legal and institutional framework to facilitate sustainable resource management across overlapping maritime claims. Therefore, the findings highlight the necessity of enhanced cooperation, stronger enforcement of legal frameworks, and greater scientific collaboration to address the conservation challenges of Vietnam's East Sea.</p>

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INTRODUCTION

The conservation of marine biological resources in Areas Beyond National Jurisdiction (ABNJ) has gained global concern as these areas cover more than 70% of the Earth's surface.¹ Besides, ABNJs are important for conserving biodiversity, regulating the climate, and supporting key

¹ Bodansky, Daniel. "Four Treaties in One: The Biodiversity Beyond National Jurisdiction Agreement." *American Journal of International Law* 118, no. 2 (March 12, 2024): 299–323. <https://doi.org/10.1017/ajil.2024.9>.

global industries, such as fisheries, tourism, and transportation.² Sustainable marine ecosystems are crucial for both marine species and the livelihoods of billions of people, especially in coastal nations like Vietnam, where marine resources are essential for food security, income, and cultural heritage.³ Despite the substantial influence, marine biodiversity has been increasingly damaged by human activities such as overfishing, pollution, habitat destruction, and the effects of climate change. This alarming situation becomes more severe in the ABNJs that fall outside national jurisdiction and are often subject to overlapping maritime claims, creating legal uncertainties and governance complexities.⁴ Remarkably, the United Nations Convention on the Law of the Sea (hereinafter referred to as the 1982 UNCLOS),⁵ which entered into force in 1982, provides a global legal framework obliging all States to comply with its regulations. This legislative convention emphasises the responsibility of States to protect the marine environment, conserve marine living resources, and promote cooperation in the management of ABNJs. Typically, Articles 61 and 192 of the 1982 UNCLOS stipulate the protection of the marine environment and the conservation of marine living resources. Despite binding regulations, implementing precautionary measures has encountered numerous insurmountable obstacles, especially in overlapping maritime claims, such as in Vietnam's East Sea (Biển Đông; *see* Appendix A).⁶ These complexities arise from legal ambiguities and an unwillingness to cooperate among States and often lead to ineffective conservation efforts, resulting in more severe environmental degradation. In the context of these overlapping claims, Vietnam's sovereign rights in Vietnam's East Sea are grounded in the 1982 UNCLOS provisions on the Exclusive Economic Zone (EEZ) and continental shelf. Under Articles 56, 57, 76, and 77 of UNCLOS, Vietnam is entitled to exercise exclusive rights to explore, exploit, conserve, and manage natural resources within 200 nautical miles from its baselines and beyond, where its continental shelf extends. These entitlements are generated independently of Vietnam's mainland and its islands, irrespective of competing claims. Vietnam has incorporated

² Barnes, Richard. "Fisheries and Areas Beyond National Jurisdiction: Advancing and Enhancing Cooperation." In *Brill | Nijhoff eBooks*, 124–53, 2020. https://doi.org/10.1163/9789004437753_009.

³ Nguyen, Nhu Ha, and Hong Le Luu. "Law on the Conservation and Use of Marine Genetic Resources - China's Experience and Lessons for Vietnam." *Multidisciplinary Science Journal* 7, no. 12 (June 26, 2025): 2026032. <https://doi.org/10.31893/multiscience.2026032>.

⁴ Ardito, Giovanni, Gemma Andreone, and Marzia Rovere. "Overlapping and Fragmentation in the Protection and Conservation of the Marine Environment in Areas Beyond National Jurisdiction." *Frontiers in Marine Science* 9 (January 12, 2023). <https://doi.org/10.3389/fmars.2022.1094266>; Henry, Lea-Anne, Jason Cleland, Anna Gebruk, Richard Emmerson, Janos Hennicke, Tammy Davies, and J. Murray Roberts. "Navigating a Transformative Policy Route for High Seas Conservation." *Marine Policy* 180 (June 5, 2025): 106785. <https://doi.org/10.1016/j.marpol.2025.106785>.

⁵ The United Nations (UNCLOS), United Nations Convention on the Law of the Sea (1982), <https://treaties.un.org/doc/Publication/MTDSG/Volume%20II/Chapter%20XXI/XXI-6.en.pdf>.

⁶ "Vietnam's maritime zone in the East Sea (Vietnamese name: Biển Đông) extends from 8°30' to 23°22' North latitude and from 102°08' to 117°20' East longitude. In the north, Vietnam's waters border China in the Gulf of Tonkin, roughly between 17°–21° North latitude. To the east, Vietnam's East Sea area stretches toward the Philippines between 9°–21° North latitude and 115°–121° East longitude. To the south and southwest, Vietnam's waters adjoin Malaysia, Indonesia, Cambodia, and Thailand within approximately 3°–10° North latitude. This maritime space features diverse geomorphology, a wide continental shelf, multiple islands and archipelagos, and is strongly influenced by the tropical monsoon climate and major ocean currents."; Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. "Probing Vietnam's Legal Prospects in the South China Sea Dispute." *Asia Policy* 16, no. 3 (July 1, 2021): 105–31. <https://doi.org/10.1353/asp.2021.0035>.

these international rights into domestic legislation, most notably the 2012 Law on the Sea and the 2017 Law on Fisheries, which formally define the scope of sovereign rights over its EEZ and continental shelf. These legal instruments demonstrate that Vietnam identifies, asserts, and operationalises its sovereign rights in accordance with UNCLOS, even while maritime boundaries remain disputed.

Many studies have examined the challenges of legal and ecological mechanisms for marine conservation in ABNJs.⁷ However, few studies have examined the specific difficulties that developing countries like Vietnam face in implementing precautionary measures in areas with overlapping maritime claims. For example, Anisimov and Guliaeva⁸ point out the loophole in the 1982 UNCLOS for marine genetic resources. They further confirm that although the convention encompasses many provisions for conservation, it still lacks unforeseen regulations to address emerging challenges, such as the exploitation of marine genetic resources in ABNJ. Similarly, a recent study, among many others, conducted by Berebon⁹ analyses the inequitable access to marine genetic resources. It concludes that current international legal instruments fail to ensure fair benefit-sharing in contested regions. In general, recent studies have called for stronger governance and regulatory frameworks to manage marine resources sustainably in ABNJ, especially in areas with overlapping claims. In Vietnam, the country has faced serious difficulties in marine conservation due to overlapping claims, especially with China, over areas such as the Spratly and Paracel Islands.¹⁰ As Vietnam's East Sea is rich in marine biodiversity and resources, including fisheries, oil, and gas, it has become a geopolitical flashpoint over the past few years. Consequently, the ongoing territorial claims, particularly China's unlawful dominance over Vietnam's East Sea, have severely restricted dialogue efforts. This increasing tension has negative impacts on natural economic interests, such as fisheries and resource extraction. It also conflicts with environmental protection. Besides, territorial claims lead to a lack of cooperation between States, severely weakening the enforcement of conservation measures.¹¹ Specifically, the overlapping maritime claims in Vietnam's East Sea further intensify these governance challenges, as several portions of Vietnam's Exclusive Economic Zone (EEZ), generated in accordance with the 1982 UNCLOS, intersect with claims put forward by China, the Philippines, and Malaysia, particularly around the Paracel (Hoàng Sa)

⁷ Andreone, Gemma. "The Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction: A Critical Assessment." *The Italian Yearbook of International Law Online* 33, no. 1 (November 22, 2024): 131–51. <https://doi.org/10.1163/22116133-03301007>.; Ardit, Giovanni, Gemma Andreone, and Marzia Rovere. (2023). *See Op. cit.* 4.; Gjerde, Kristina M., and Siddharth Shekhar Yadav. "Polycentricity and Regional Ocean Governance: Implications for the Emerging UN Agreement on Marine Biodiversity Beyond National Jurisdiction." *Frontiers in Marine Science* 8 (August 26, 2021). <https://doi.org/10.3389/fmars.2021.704748>.

⁸ Anisimov, Igor Olegovich, and Elena Evgenyevna Guliaeva. "Legal framework of marine genetic resources: Filling the gaps of the United Nations Convention on the law of the Seas." *Revista Opinião Jurídica (Fortaleza)* 20, no. 34 (April 11, 2022): 164. <https://doi.org/10.12662/2447-6641oj.v20i34.p164-179.2022>.

⁹ Berebon, Charles. "Evolving Trends and Challenges in International Environmental Law: A Case-Based Analysis." *DergiPark (Istanbul University)*, January 4, 2025. <https://dergipark.org.tr/tr/pub/ijepem/issue/89840/1613283>.

¹⁰ Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit.* 6.

¹¹ Bodansky, Daniel. (2024). *See Op. cit.* 1; Ong, David M. "The Interaction Between an Agreement on Biodiversity Beyond National Jurisdiction and the Law of the Sea." In *Edward Elgar Publishing eBooks*, 220–65, 2023. <https://doi.org/10.4337/9781839107696.00027>.

and Spratly (Trường Sa) archipelagos. These contested areas encompass ecologically sensitive habitats and economically essential zones, including major fishing grounds, coral reefs, and offshore hydrocarbon deposits. In practice, unresolved claims constrain Vietnam's ability to apply conservation measures uniformly, as foreign fleets frequently disregard seasonal closures, gear restrictions, and sustainability regulations issued under Vietnamese law. Similarly, proposed marine protected areas (MPAs) in offshore zones cannot be effectively established or enforced due to geopolitical sensitivities and jurisdictional limitations. Although Vietnam's sovereign rights to explore, exploit, conserve, and manage living resources in these areas are firmly grounded in Articles 56, 61, and 73 of the 1982 UNCLOS, tensions in the East Sea continue to limit Vietnam's capacity to conduct scientific research, implement surveillance, and enforce measures against illegal, unreported, and unregulated (IUU) fishing. Consequently, the persistence of overlapping maritime entitlements not only deepens diplomatic complexity but also weakens the effectiveness of Vietnam's marine conservation efforts and long-term resource sustainability in the East Sea.

This research sheds light on the loophole by investigating how the precautionary approach under the 1982 UNCLOS can be operationalised within the context of managing marine resources in disputed waters. It selected Vietnam as a critical case study. The research carefully examined the legal, political, and environmental constraints on the conservation of living marine resources in Vietnam.¹² Also, it identified the strengths and weaknesses of current conservation measures in addressing contested maritime jurisdictions and possible policy alternatives to enhance marine governance. Besides, it provided an overview of the legal and institutional framework in Vietnam and regional cooperation mechanisms that could fill the shortcomings in the current marine resource management. The research further compared local and regional experiences to propose practical recommendations for enhancing marine conservation in the context of overlapping maritime claims.¹³ Ultimately, this study sought to review global efforts to conserve marine biodiversity and ensure the sustainable use of marine resources. These insights into how a developing country like Vietnam can overcome the complexities of marine governance in disputed maritime areas would provide valuable guidance to support regional cooperation, scientific exchange, and international dispute-resolution mechanisms.¹⁴ These measures, in turn, are vital to improving the potential for marine conservation in Vietnam's East Sea and other overlapping maritime jurisdictions. In other words, this research would provide practical and theoretical refinements to international law to address new issues in marine resource management in contested waters. Overall, the following questions would highlight the research study on how overlapping maritime claims affect marine resource governance in Vietnam's East Sea, the challenges Vietnam faces in

¹² Nguyen, Lan Ngoc. *The Development of the Law of the Sea by UNCLOS Dispute Settlement Bodies*, 2023. <https://doi.org/10.1017/9781108980296.>; Vu, Xuan Dinh, Elmar Csaplovics, Christopher Marrs, and Trung Thanh Nguyen. "Criteria and Indicators to Define Priority Areas for Biodiversity Conservation in Vietnam." *Forests* 13, no. 9 (August 23, 2022): 1341. <https://doi.org/10.3390/f13091341>.

¹³ Reiter, Sarah, and Dillon Post. "Ecological Law and Marine Biodiversity on the High Seas." In *Routledge eBooks*, 212–38, 2024. <https://doi.org/10.4324/9781032622378-15>.

¹⁴ Saqib, Muhammad, and Yen-Chiang Chang. "Lan Anh T. Nguyen and Hai Dang Vu (Eds). Viability of UNCLOS Amid Emerging Global Maritime Challenges." *European Journal of International Law*, June 29, 2025. <https://doi.org/10.1093/ejil/chaf034>.

applying precautionary measures under UNCLOS, and how regional cooperation and scientific research can improve marine conservation in contested areas.

RESEARCH METHODS

This study uses a descriptive-analytical research design, applying a qualitative approach to explore precautionary measures in marine resource management within overlapping maritime claims, focusing on Vietnam and similar developing countries. The case study method is based on the concept by Yin¹⁵ analyses real-life situations, drawing on Vietnam's experience and that of other nations facing geopolitical challenges in contested waters. Data is collected primarily from secondary sources, including a literature review of studies, governmental reports, and legal documents. Key sources include the United Nations Convention on the Law of the Sea¹⁶ and Vietnam's Law on the Sea,¹⁷ which guide policies on marine resource management in disputed areas, particularly in Vietnam's East Sea. The study analyses and compares current conservation strategies, such as MPAs and sustainable fisheries management, highlighting deficiencies within the scope of previously implemented measures. It comprehensively reviews the application of global frameworks such as the BBNJ Agreement in regions with overlapping claims. It is guided by a content analysis of policies and legal frameworks to identify the main themes in relation to marine governance. A comparative analysis of how other developing countries, such as the Philippines and Malaysia, manage marine resources in contested maritime zones provides Vietnamese policymakers with practical guidelines. The research seeks to contribute more comprehensive policy guidelines to enhance marine governance and conservation initiatives.

ANALYSIS AND DISCUSSION

Marine biological resources in overlapping maritime claims: Ecosystem pressures and challenges in Vietnam's exclusive economic zone

The overlap of marine biological resources across maritime claims is highly important for ecology, the economy, and geopolitics. Accordingly, Vietnam's East Sea is selected as a case study to examine, because it is one of the most biodiverse marine habitats in the world. This area is home to a wealth of species, from valuable fisheries to coral reefs and marine ecosystems with numerous marine organisms.¹⁸ Geographically, this region spans more than 3.5 million square kilometres and encompasses the exclusive economic zones (EEZs) of several countries, including Vietnam, China, the Philippines, Malaysia, and Brunei. Given the overwhelming advantages of Vietnam's East Sea, managing and protecting marine resources has become complicated due to overlapping claims. The challenge originates from the fact that competing territorial States tend to prioritise their economic and political interests over

¹⁵ Yin, Robert K. *Case Study Research and Applications: Design and Methods*, 2017. <http://cds.cern.ch/record/2634179>.

¹⁶ The United Nations (UNCLOS), (1982). See Op. cit. 5. <https://treaties.un.org/doc/Publication/MTDSG/Volume%20II/Chapter%20XXI/XXI-6.en.pdf>.

¹⁷ The National Assembly of Vietnam, "Vietnam Law on Sea, Law No. 18/2012/QH13" (2012), <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=163056>.

¹⁸ Barnes, Richard. (2020). See Op. cit. 2; Kazara-Belja, Elda. "Conservation of Living Marine Resources." In *Edward Elgar Publishing eBooks*, 162–77, 2023. <https://doi.org/10.4337/9781839107696.00023>.

environmental sustainability.¹⁹ As for Vietnam, its EEZs in Vietnam's East Sea extend from the coast out to 200 nautical miles pursuant to the 1982 UNCLOS provisions. Accordingly, Vietnam has the right to explore, exploit, conserve, and manage marine resources within this area, because this region is an integral part of its economy and food security, particularly its rich marine biodiversity and fisheries.²⁰ However, the status of marine biodiversity in Vietnam's EEZ is under increasing threat from both natural and anthropogenic factors. Currently, Vietnam's EEZ in the East Sea has been extensively exploited for its fish stocks, mineral resources, and oil reserves. This causes significant degradation of marine ecosystems. Fisheries, in particular, are vital for the livelihoods of millions in the region, but overfishing, illegal, unreported and unregulated (IUU) fishing, and the expansion of industrial fishing practices have significantly reduced fish stocks and led to ecosystem imbalances.²¹

Pollution from land-based and marine sources adds to the pressures on marine biological resources in Vietnam's East Sea. Industrialisation in coastal regions, untreated wastewater, and oil releases from shipping activities and offshore drilling contribute significantly to marine pollution.²² Furthermore, maritime traffic in the area, due to oil and gas exploitation and commercial shipping routes, emits noise pollution and causes severe physical disturbances, which have an adverse effect on marine mammals, sea turtles, and coral reef systems. The degradation of coral reef ecosystems, which are widely regarded as among the most important habitats in Vietnam's East Sea, has extensive ecological and socio-economic consequences. Aside from the evident reduction in biodiversity, reef degradation undermines natural coastal protection against coastal flooding and sea-level rise, thereby increasing the impacts of global climate change.²³ These environmental pressures are further exacerbated by intensifying territorial disputes, wherein overlapping maritime claims continue to obstruct collective governance efforts and hinder multilateral responses to shared environmental challenges. Unregulated fishing is among the countless causes of ecological degradation, posing the greatest threat to marine biodiversity in contested maritime zones.²⁴ Although Vietnam's East

¹⁹ Frank, Veronica. "Options for Marine Protected Areas Under a New Agreement on Marine Biodiversity of Areas Beyond National Jurisdiction." In *Brill | Nijhoff eBooks*, 101–23, 2020. https://doi.org/10.1163/9789004437753_008.; Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit.* 6.

²⁰ Ardron, Jeff A., Daniel Kachelriess, Christopher H. C. Lyal, Chilene Nwapi, Muriel Rabone, Aysegul Sirakaya, and Alison Swaddling. "Considerations Concerning State Ratification of the BBNJ Agreement." In *Sustainable Development Goals Series*, 225–39, 2025. https://doi.org/10.1007/978-3-031-72100-7_10.

²¹ Cicin-Sain, Biliana. "Conserve and Sustainably Use the Oceans, Seas and Marine Resources for Sustainable Development." *United Nations Chronicle/UN Chronicle* 51, no. 4 (June 24, 2015): 32–33. <https://doi.org/10.18356/8fcfd5a1-en.>; Gjerde, Kristina M., and Siddharth Shekhar Yadav. (2021). *See Op. cit.* 7.

²² Davies, Tammy E., Ana P. B. Carneiro, Bruna Campos, Carolina Hazin, Daniel C. Dunn, Kristina M. Gjerde, David E. Johnson, and Maria P. Dias. "Tracking Data and the Conservation of the High Seas: Opportunities and Challenges." *Journal of Applied Ecology* 58, no. 12 (September 18, 2021): 2703–10. <https://doi.org/10.1111/1365-2664.14032.>; Ong, David M. (2023). *See Op. cit.* 11.

²³ Cicin-Sain, Biliana. (2015). *See Op. cit.* 21.; Kazara-Belja, Elda. (2023). *See Op. cit.* 18.

²⁴ Alger, Justin. *Conserving the Oceans*. Oxford University Press eBooks, 2021. <https://doi.org/10.1093/oso/9780197540534.001.0001.>; Constantinos, Yiallourides, and Natalia Ermolina. "States' Environmental Obligations in Disputed Maritime Areas and the Limits of International Law," May 18, 2021. <https://hdl.handle.net/10037/21528.>

Sea is acknowledged as one of the world's largest fisheries, weak regulatory frameworks and inconsistent enforcement have facilitated unsustainable fishing practices. As fishery resources become increasingly depleted, the prevalence of IUU fishing has grown, further accelerating the depletion of ecologically and commercially valuable stocks.²⁵ In this aspect, coastal States, including Vietnam, have confronted long-standing constraints in exercising effective fisheries governance within their EEZs.²⁶ Such limitations primarily stem from inadequate monitoring infrastructure, improper reporting mechanisms, and a lack of enforcement capacity. These challenges are compounded by the persistent presence of distant-water fleets from States with competing territorial claims, which intensifies pressure on existing disputed marine resources.²⁷ In this regard, Articles 74(3) and 83(3) of the 1982 UNCLOS explicitly require States with overlapping EEZ and continental shelf claims to enter into "provisional arrangements of a practical nature" while negotiations on boundary delimitation are ongoing. These provisions emphasise that parties must refrain from actions that would jeopardise or hamper the reaching of a final agreement. However, developments in Vietnam's East Sea demonstrate that although Vietnam has consistently expressed openness to such provisional arrangements – particularly in fisheries coordination, scientific research, and pollution prevention – reciprocity from other claimant States has been limited. China's insistence on its unilateral "historic rights" narrative has undermined the legal framework for cooperative measures. At the same time, periodic bilateral or multilateral engagements have produced only short-lived or ad hoc mechanisms, such as temporary hotlines or incident-avoidance communications. These have not evolved into robust, binding, or institutionalised arrangements as envisioned under UNCLOS, thus highlighting the practical gap between the treaty obligations and real-world implementation in contested maritime zones. Likewise, the industrialisation of fishing across Vietnam's East Sea, driven by rising demand for high-value species such as tuna and shrimp, has further exacerbated unsustainable fishing practices in this region. This expansion has led to severe overfishing in coastal and offshore waters, threatening vulnerable species such as giant clams, sea turtles, and corals. The use of lethal gears, particularly blast fishing and bottom trawling, has increased habitat destruction and compromised the long-term health of the ecosystem.²⁸

Pollution constitutes another critical source of marine resource degradation in Vietnam's East Sea, because overlapping States' interests place additional strain on fragile ecosystems in

²⁵ Lothian, Sarah Louise. *Marine Conservation and International Law*, 2022. <https://doi.org/10.4324/b22996>.

²⁶ Liu, Nengye. "Establishing Marine Protected Areas in the Southern Ocean, Lessons for the BBNJ Agreement." *Marine Policy* 165 (May 20, 2024): 106216. <https://doi.org/10.1016/j.marpol.2024.106216.>; MacKay, Katharina, and Richard Collins. "Reorienting Approaches to Maritime Boundary Disputes: A Case for Hydro-diplomacy?" *Marine Policy* 171 (October 23, 2024): 106442. <https://doi.org/10.1016/j.marpol.2024.106442>.

²⁷ Ardron, Jeff A., Daniel Kachelriess, Christopher H. C. Lyal, Chilene Nwapi, Muriel Rabone, Aysegul Sirakaya, and Alison Swaddling. (2025). See Op. cit. 20.; Ch, María Catalina García, and Joyeeta Gupta. "Environmental and Sociocultural Claims Within Maritime Boundary Disputes." *Marine Policy* 139 (March 30, 2022): 105043. <https://doi.org/10.1016/j.marpol.2022.105043>.

²⁸ Choi, Junghwan, and Sangseop Lim. "Re-evaluating Particularly Sensitive Sea Areas as an Area-based Management Tool: Advancing the Implementation of the BBNJ Agreement." *Frontiers in Marine Science* 12 (May 1, 2025). <https://doi.org/10.3389/fmars.2025.1556856>.

contested areas. According to the United Nations Environment Programme (UNEP),²⁹ plastic debris, nutrient loading from agricultural runoff, and oil spills are among the most severe dangers to marine biodiversity in the region.³⁰ With the rapid expansion of industrial activities such as offshore oil exploration, shipping, and seabed mining, pollution levels have reached alarming thresholds and have jeopardised ecologically vital habitats, including coral reefs, mangroves, and seagrass meadows.³¹ In response, the Vietnamese government has adopted several national strategies to reduce land-based pollution and marine discharges; however, progress has remained limited due to the competing imperatives of industrialisation and economic growth.³² Otherwise, Vietnam's East Sea's status as one of the world's busiest maritime trade routes further exacerbates risks, as oil spills, chemical discharges, and associated habitat destruction are expected to increase alongside intensifying shipping activities. As there have been insufficient cooperative responses among shared coastal countries, regional marine ecosystems continue to face mounting pressures due to the absence of coordinated initiatives among neighbouring States.³³ Similarly, Vietnam also faces structural challenges in governing marine resources within overlapping maritime zones. Although the 1982 UNCLOS provides an overarching legal framework, the absence of clear maritime delimitation in Vietnam's East Sea complicates the design and enforcement of effective management regimes.³⁴ Domestic legislation, such as the 2012 Vietnam Law on the Sea,³⁵ provides a legal foundation for resource governance; nonetheless, competing claims with China, the Philippines, and other regional actors have hindered full implementation. In addition, the lack of meaningful regional cooperation on marine conservation further complicates the management of shared resources in areas beyond ABNJs.³⁶ Thus, geopolitical tensions and limited financial capacity have constrained Vietnam's ability to expand MPAs, enforce sustainable fisheries, and reduce pollution. The growing involvement of external actors with competing territorial claims has also made conservation increasingly difficult, despite

²⁹ The United Nations Environment Programme (UNEP), "The UNEP Regional Seas Programme," n.d., <https://www.unep.org/topics/ocean-seas-and-coasts/regional-seas-programme/about-unep-regional-seas-programme>.

³⁰ De Santo, E.M., Á. Ásgeirs Þóttir, A. Barros-Platiau, F. Biermann, J. Dryzek, L.R. Gonçalves, R.E. Kim, et al. "Protecting Biodiversity in Areas Beyond National Jurisdiction: An Earth System Governance Perspective." *Earth System Governance* 2 (April 1, 2019): 100029. <https://doi.org/10.1016/j.esg.2019.100029>.

³¹ Rafaly, Vonintsoa. "The Concept of 'Marine Living Resources': Navigating a Grey Zone in the Law of the Sea." *Canadian Yearbook of International Law/Annuaire Canadien De Droit International* 59 (October 10, 2022): 285–312. <https://doi.org/10.1017/cyl.2022.14>.

³² Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit.* 6.

³³ Alger, Justin. (2021). *See Op. cit.* 24.

³⁴ Kittichaisaree, Kriangsak. "Roles and Future Developments of UNCLOS." In *Viability of UNCLOS amid Emerging Global Maritime Challenges*, 3–14, 2024. https://doi.org/10.1007/978-981-97-5838-8_1; Morris-Sharma, Natalie Y. "Marine Genetic Resources in Areas Beyond National Jurisdiction: Issues With, in and Outside of UNCLOS." *Max Planck Yearbook of United Nations Law* 20, no. 1 (August 29, 2017): 71–97. https://doi.org/10.1163/13894633_02001004.

³⁵ The National Assembly of Vietnam, (2012). Law No. 18/2012/QH13. *See Op. cit.* 17.

³⁶ Young, Margaret A., and Andrew Friedman. "Biodiversity Beyond National Jurisdiction: Regimes and Their Interaction." *AJIL Unbound* 112 (January 1, 2018): 123–28. <https://doi.org/10.1017/aju.2018.47>.

Vietnam's efforts to strengthen its legal frameworks and implement new conservation measures.³⁷

The role and application of precautionary approaches in marine resource management: Challenges in overlapping maritime claims

The precautionary approach enshrined in the 1982 UNCLOS is a valuable instrument to rely on in protecting the oceans and managing their resources sustainably, particularly in areas where scientific certainty is lacking for assessing risks to marine ecosystems.³⁸ In this context, Article 61 of the 1982 UNCLOS stipulates that States shall ensure the conservation of living resources in their EEZs, even where such resources are not fully scientifically acknowledged. This approach also recognises that inaction based on a lack of scientific data may result in irreversible damage to the marine environment.³⁹ The relative significance of the precautionary principle for the conservation of marine biodiversity is also likely to be greater in marine ecosystems, since damage from uncontrolled exploitation or environmental degradation may be irreversible.⁴⁰ Likewise, Article 192 of the 1982 UNCLOS further reinforces this principle by creating an obligation for States to protect and preserve the marine environment. It also mandates that States must take preventive measures where there are reasonable grounds for believing that human activities are liable to cause harm to the marine environment.⁴¹ Furthermore, this article underscores that a lack of evidence of harm should not be a reason to delay or avoid action to conserve biodiversity, because early action is required to prevent long-term ecological damage. In the application of Vietnam's policy on the management and conservation of marine resources, this precautionary principle has been integrated into national policies and the legal system. As Vietnam is a coastal country with a vast EEZ in the East Sea, it relies heavily on the exploitation of marine resources, including fisheries and oil and gas reserves⁴² The 2017 Vietnam Law on Fisheries⁴³ and the 2012 Vietnam Law on Sea⁴⁴ and other relevant legal regulations have given greater priority to the sustainable management of fisheries, marine biodiversity conservation, and environmental protection.⁴⁵ In this respect, these laws reflect the precautionary principle in the 1982 UNCLOS, which can serve to prioritise conservation over exploitation when risks to marine ecosystems remain uncertain.

³⁷ Ardito, Giovanni, Gemma Andreone, and Marzia Rovere. (2023). *See Op. cit.* 4.

³⁸ Nguyen, Lan Ngoc. (2015). *See Op. cit.* 12.; Odeyemi, Christo. "UNCLOS and Maritime Security: The 'Securitisation' of the South China Sea Disputes." *Defense and Security Analysis* 31, no. 4 (October 2, 2015): 293–302. <https://doi.org/10.1080/14751798.2015.1101186>.

³⁹ Ardito, Giovanni, Gemma Andreone, and Marzia Rovere. (2023). *See Op. cit.* 4.

⁴⁰ Ch, María Catalina García, and Joyeeta Gupta. (2022). *See Op. cit.* 27.; Stöfen-O'Brien, Aleke. "The Environmental Rule of Law for Oceans: Designing Legal Solutions, Edited by Froukje Maria Platjouw and Alla Pozdnakova." *The International Journal of Marine and Coastal Law*, October 4, 2024, 1–5. <https://doi.org/10.1163/15718085-bja10206>.

⁴¹ Salvador, Santiago, and Marta Chantal Ribeiro. "Socio-economic, Legal, and Political Context of Offshore Renewable Energies." *Wiley Interdisciplinary Reviews Energy and Environment* 12, no. 2 (October 3, 2022). <https://doi.org/10.1002/wene.462>.

⁴² Vu, Xuan Dinh, Elmar Csaplovics, Christopher Marrs, and Trung Thanh Nguyen. (2022). *See Op. cit.* 12.

⁴³ The National Assembly of Vietnam, "Law on Fisheries, Law No. 18/2017/QH14" (2017), <https://datafiles.chinhphu.vn/cpp/files/vbpq/2017/12/18.signed.pdf>.

⁴⁴ The National Assembly of Vietnam, (2012). Law No. 18/2012/QH13. *See Op. cit.* 17.

⁴⁵ Nguyen, Nhu Ha, and Hong Le Luu. (2025). *See Op. cit.* 3.

More importantly, Vietnam has promulgated several MPAs in its EEZ to conserve key ecosystems, including coral and seagrass habitats that are crucial to supporting biodiversity and sustainable livelihoods.⁴⁶ The Vietnamese government has also introduced plans to address IUU fishing, which represents a serious challenge to the sustainability of the marine resources. These initiatives include precautionary measures, such as reducing fishing quotas, prohibiting harmful fishing practices like bottom trawling and dynamite fishing, and regulating the use of marine resources to prevent overexploitation.

However, implementing the precautionary principle in Vietnam's marine management is challenging. Overlapping maritime claims in Vietnam's East Sea, particularly disputes with China over the Spratly and Paracel Islands, complicate the effective implementation of conservation measures. Vietnam's East Sea is rich in resources, including fish stocks, oil, and natural gas reserves, all of which are claimed by neighbouring territories.⁴⁷ Like other nations, Vietnam faces difficulties exercising its sovereign rights over marine resources in contested areas. This means that the authorities are unable to regulate fishing activities, manage pollution, and enforce sustainable practices. Vietnam's East Sea is not only a hotspot for territorial disputes but also for exploiting its resources, with numerous countries, including China, conducting oil and gas exploration in disputed sovereign waters. The lack of clearly defined maritime boundaries has led to unilateral resource extraction, undermining collective conservation efforts and worsening environmental degradation.⁴⁸ The absence of cooperation by claimants in Vietnam's East Sea also limits the use of preventive measures. While the 1982 UNCLOS encourages States to cooperate in managing and conserving marine resources in overlapping areas, for all practical purposes, regional cooperation in Vietnam's East Sea is quite limited.⁴⁹ Sovereignty disputes over some of the key islands and reefs in the Spratly and Paracel islands have prevented Vietnam and its neighbouring countries from creating joint marine protected areas, coordinating fisheries management, or addressing environmental threats, such as pollution and unsustainable fishing practices.⁵⁰ In the absence of a binding regional legal regime for marine governance, the precautionary principle has rarely been followed as States prioritise national interests over the shared need to protect the marine environment. This lack of coordination has enabled the rise of illegal, unreported, and

⁴⁶ Reiter, Sarah, and Dillon Post. (2024). *See Op. cit.* 13.

⁴⁷ Krabbe, Niels, and David Langlet T He United. *Marine Bioprospecting, Biodiversity and Novel Uses of Ocean Resources*. Hart Publishing eBooks, 2024. <https://doi.org/10.5040/9781509968305.>; Vierros, Marjo, Curtis A. Suttle, Harriet Harden-Davies, and Geoff Burton. "Who Owns the Ocean? Policy Issues Surrounding Marine Genetic Resources." *Limnology and Oceanography Bulletin* 25, no. 2 (April 23, 2016): 29–35. <https://doi.org/10.1002/lob.10108>.

⁴⁸ Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit.* 6.

⁴⁹ Odeyemi, Christo. "UNCLOS and Maritime Security: The 'Securitisation' of the South China Sea Disputes." *Defense and Security Analysis* 31, no. 4 (October 2, 2015): 293–302. <https://doi.org/10.1080/14751798.2015.1101186.>; Saqib, Muhammad, and Yen-Chiang Chang. (2025). *See Op. cit.* 14.

⁵⁰ Barnes, Richard. (2020). *See Op. cit.* 2; Qu, Yunfeng, and Ruiyang Liu. "A Sustainable Approach Towards Fisheries Management: Incorporating the High-Seas Fisheries Issues Into the BBNJ Agreement." *Fishes* 7, no. 6 (December 14, 2022): 389. <https://doi.org/10.3390/fishes7060389>.

unregulated IUU fishing, with vessels from various countries operating in disputed waters without adequate monitoring or regulation.⁵¹

Moreover, the lack of scientific data in Vietnam's East Sea complicates efforts to take preventive action. While Vietnam has endeavoured to manage its marine resources within its EEZs, there is limited scientific assessment of the coastal ecosystem and its long-term impacts from human activities.⁵² There are several political sensitivities which restrict the development of marine scientific research in the disputed areas, and competing claims among claimant States also hamper the holding and sharing of scientific data and the pursuit of joint research. Also, the absence of scientific certainty reduces Vietnam's and other countries' capacity to make informed decisions on marine resource management and conservation.⁵³ In addition, economic considerations contribute to weakening adherence to the line of defence measures. High demand for marine resources, including fish, oil, and gas, is linked to both domestic needs and international markets. This has led to overexploitation of marine resources, as industries prioritise economic gains over sustainable practices.⁵⁴ For instance, the potential environmental impacts of offshore oil drilling, such as oil spills and habitat destruction, are difficult to manage due to maritime territorial disputes. Tanaka et al.⁵⁵ opine that economic interests in the exploitation of a regional marine resource often outweigh the importance of sustainability, and even if the precautionary principle calls for preventive action to avert unrest, regional economic pressures can hinder the effective implementation of such actions.

International legal frameworks: UNCLOS and regional instruments for overlapping claims

The 1982 UNCLOS⁵⁶ serves as the foundational legal framework for the governance of the world's oceans, including the management of marine resources in areas with overlapping maritime claims. The 1982 UNCLOS plays a pivotal role in fostering international cooperation on the sustainable use and conservation of marine biological resources, particularly in regions where sovereignty over maritime zones remains contested. One of its central contributions lies in establishing legal mechanisms to facilitate the peaceful resolution of maritime disputes and encourage cooperation among coastal States with overlapping claims, such as those in Vietnam's East Sea. A defining feature of the 1982 UNCLOS is its explicit emphasis on peaceful settlement procedures for boundary delimitation. Article 74 governs the delimitation of the EEZ between States with opposite coasts, whereas Article 83 addresses the delimitation of the continental shelf between adjacent States. Both provisions underscore the necessity of negotiations conducted in good faith and in accordance with the principles of equity to ensure fairness and equitable resource sharing. They further stipulate that unresolved disputes should

⁵¹ Vierros, Marjo, Curtis A. Suttle, Harriet Harden-Davies, and Geoff Burton. (2016). *See Op. cit.* 47.

⁵² Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit.* 6.; Vu, Xuan Dinh, Elmar Csaplovics, Christopher Marrs, and Trung Thanh Nguyen. (2022). *See Op. cit.* 12.

⁵³ Gjerde, Kristina M., and Siddharth Shekhar Yadav. (2021). *See Op. cit.* 7.

⁵⁴ Salvador, Santiago, and Marta Chantal Ribeiro. (2022). *See Op. cit.* 41.

⁵⁵ Tanaka, Yoshifumi, JüRgen Rüland, and Astrid Carrapatoso. "Interaction Between Global and Regional Ocean Governance: Three Models." In *Edward Elgar Publishing eBooks*, 323–33, 2022. <https://doi.org/10.4337/9781800377561.00034>.

⁵⁶ The United Nations (UNCLOS), (1982). *See Op. cit.* 5.

be settled through negotiation, arbitration, or judicial means, thereby embedding dispute resolution within the broader framework of international law. These provisions are of particular significance in regions, especially Vietnam's East Sea, where overlapping claims concern not only EEZs and continental shelves but also maritime features including islands, reefs, and shoals. The 1982 UNCLOS, thus, provides a legal foundation for addressing such disputes, with the broader aim of promoting cooperation in the management of shared marine resources.⁵⁷ Nonetheless, the application of the 1982 UNCLOS has encountered persistent challenges in practice. Typically, the ongoing disputes among Vietnam, China, and other Southeast Asian countries illustrate the difficulty of implementing the convention's provisions, particularly where claims overlap in areas that are both resource-rich and strategically significant. Conflicting interpretations of the 1982 UNCLOS, combined with competing sovereignty claims, have complicated efforts to resolve disputes in the region.⁵⁸ As such, Vietnam's approach to managing these overlapping claims under the 1982 UNCLOS has emphasised asserting its sovereign rights over its EEZ and continental shelf while simultaneously seeking peaceful solutions through diplomacy and regional cooperation. As outlined in Article 1 of the 1982 UNCLOS, Vietnam has grounded its claims in the legal entitlements provided by the convention, while working with neighbouring countries to promote regional stability and collaborative approaches to resource governance.⁵⁹ In this way, Vietnam has sought to balance the protection of its sovereign rights with the pursuit of cooperative mechanisms for sustainable marine resource management.

Vietnam's reliance on international collaboration in marine resource conservation is also evident in its engagement with regional frameworks, most notably the ASEAN Declaration on the Conduct of Parties in the East Sea.⁶⁰ Although the Declaration is not legally binding, it underscores the importance of maintaining peace and stability in the region. It calls upon member States to resolve disputes through dialogue and cooperative mechanisms rather than through coercion or the use of force.⁶¹ In practice, Vietnam has utilised ASEAN as a platform to advocate for multilateral approaches to marine resource management and to promote the sustainable use of fisheries in contested maritime areas. In the same vein, Vietnam has expressed strong support for the development of the Code of Conduct (COC) for Vietnam's East Sea, which aims to establish a cooperative framework and to prevent the escalation of maritime tensions. Nonetheless, the absence of a binding legal instrument has constrained the COC's effectiveness, as national interests often take precedence over collective commitments to sustainable resource management. Beyond the ASEAN Declaration,⁶² the 1982 UNCLOS provides the overarching legal architecture that underpins regional and international efforts to conserve marine resources. An illustrative initiative is the United Nations Environment

⁵⁷ Kittichaisaree, Kriangsak. (2024). *See Op. cit.* 34.; Nguyen, Lan Ngoc. (2015). *See Op. cit.* 12.

⁵⁸ Saqib, Muhammad, and Yen-Chiang Chang. (2025). *See Op. cit.* 14.

⁵⁹ Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit.* 6.

⁶⁰ The Association of Southeast Asian Nations (ASEAN), "The ASEAN Declaration on the Conduct of Parties in the South China Sea" (2012), <https://asean.org/declaration-on-the-conduct-of-parties-in-the-south-china-sea-2/>.

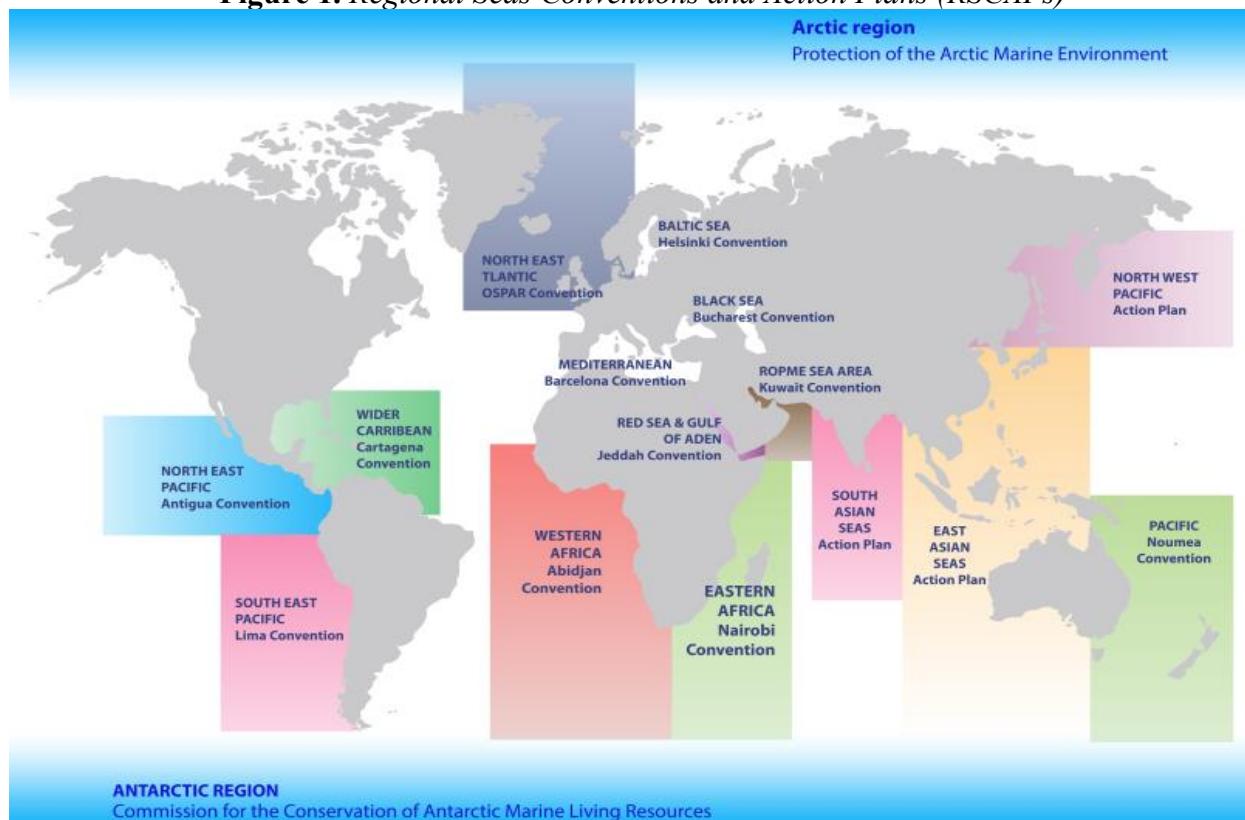
⁶¹ Nguyen, Lan Ngoc. (2015). *See Op. cit.* 12.

⁶² The Association of Southeast Asian Nations (ASEAN), (2012). *See Op. cit.* 60.

Programme's (UNEP) Regional Seas Programme (see Fig.1),⁶³ which promotes cooperative action to protect marine and coastal environments. Although not specifically tailored to Vietnam's East Sea, this framework has inspired regional models that could be adapted to the context of contested waters.

Besides, Vietnam's participation in global institutions further reflects its commitment to aligning domestic conservation policies with international standards. Its engagement with the International Maritime Organisation (IMO)⁶⁴ and the Convention on Biological Diversity (CBD)⁶⁵ demonstrates efforts to address transboundary challenges, including marine pollution, biodiversity loss, and the sustainable use of marine ecosystems. These platforms provide Vietnam with avenues for cooperation, knowledge exchange, and policy alignment, thereby reinforcing its role in promoting sustainability even in the absence of fully resolved territorial disputes.

Figure 1. Regional Seas Conventions and Action Plans (RSCAPs)



Source: UN environmental programme⁶⁶.

Despite the existence of international and regional frameworks, instruments such as the ASEAN Declaration⁶⁷ on Vietnam's East Sea remain constrained by significant limitations. The

⁶³ The United Nations Environment Programme (UNEP), (n.d.). *See Op. cit.* 29.

⁶⁴ The International Maritime Organization, "IMO – the International Maritime Organization," n.d., <https://www.imo.org>.

⁶⁵ The Convention on Biological Diversity (CBD), "The Convention on Biological Diversity (CBD)," n.d., <https://www.cbd.int>.

⁶⁶ <https://www.unep.org/topics/ocean-seas-and-coasts/regional-seas-programme/about-unep-regional-seas-programme>

⁶⁷ The Association of Southeast Asian Nations (ASEAN), (2012). *See Op. cit.* 60.

absence of enforceable legal provisions and the lack of clearly defined mechanisms for joint resource management in disputed waters have impeded the development of effective cooperative governance in the region.⁶⁸ Vietnam's East Sea continues to serve as a focal point of competing interests among regional powers, particularly China, whose actions have increasingly challenged the principles articulated under both the 1982 UNCLOS and ASEAN Declaration. For example, China's large-scale land reclamation projects and the construction of artificial islands in the Spratly Islands directly contradict the objectives of peaceful cooperation and equitable resource sharing set out in Articles 74 and 83 of the 1982 UNCLOS.⁶⁹ Such unilateral actions not only undermine regional trust but also complicate the enforcement of marine conservation measures. While the 1982 UNCLOS obliges States to cooperate in protecting the marine environment and managing resources sustainably, overlapping claims in Vietnam's East Sea have instead produced fragmented governance. This lack of a unified regulatory framework has enabled the persistence of unsustainable practices, including IUU fishing and the overexploitation of marine biodiversity.⁷⁰ The precautionary principle, enshrined in Articles 61 and 192 of the 1982 UNCLOS,⁷¹ calls for preventive action amid scientific uncertainty about the ecological impacts of human activities. However, without coordinated governance mechanisms, precautionary approaches have not been effectively applied in Vietnam's East Sea, thereby exacerbating ecological degradation and intensifying pressures on already vulnerable marine ecosystems.

Analysing Vietnam's marine resource management: Policies, initiatives, and international cooperation amid overlapping maritime claims

Vietnam, situated in Southeast Asia with an extensive coastline and rich marine biodiversity, faces distinctive challenges in the governance and conservation of its marine biological resources, particularly within Vietnam's East Sea. Overlapping maritime claims, most notably disputes with China over the Spratly and Paracel Islands, complicate Vietnam's capacity to exercise authority over its EEZ and manage resources sustainably.⁷² Despite these geopolitical constraints, Vietnam has made notable progress in advancing conservation policies, including promoting sustainable fisheries, establishing MPAs, and participating in international cooperative frameworks.⁷³ Vietnam's marine conservation strategy is anchored in its domestic legal framework, particularly the 2012 Law on the Sea⁷⁴ and the 2017 Law on Fisheries.⁷⁵ These legislative instruments provide the foundation for safeguarding marine biodiversity and ensuring the sustainable utilisation of marine resources. The 2017 Law on Fisheries places

⁶⁸ Anisimov, Igor Olegovich, and Elena Evgenyevna Guliaeva. (2022). *See Op. cit. 8.*; Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit. 6.*

⁶⁹ Barrie, None George. "The 1982 United Nations law of the sea convention: Unresolved issues remain." *Obiter* 42, no. 3 (December 6, 2021). <https://doi.org/10.17159/obiter.v42i3.12900>.

⁷⁰ Choi, Junghwan, and Sangseop Lim. (2025). *See Op. cit. 28.*

⁷¹ The United Nations (UNCLOS), (1982). *See Op. cit. 5.*

⁷² Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit. 6.*

⁷³ Ardron, Jeff A., Daniel Kachelriess, Christopher H. C. Lyal, Chilene Nwapi, Muriel Rabone, Aysegul Sirakaya, and Alison Swaddling. (2025). *See Op. cit. 20.*

⁷⁴ The National Assembly of Vietnam, (2012). Law No. 18/2012/QH13. *See Op. cit. 17.*

⁷⁵ The National Assembly of Vietnam, (2017). Law No. 18/2017/QH14. *See Op. cit. 43.*

particular emphasis on regulating fishing activities, protecting ecosystems, and reducing IUU fishing. This approach aligns with Article 61 of the 1982 UNCLOS,⁷⁶ which obliges States to adopt conservation measures for marine living resources within their EEZs.⁷⁷ In practice, Vietnam's fisheries management policies are designed to address overexploitation, ease pressure on vulnerable species, and maintain the long-term sustainability of fish stocks. Key policy instruments include the introduction of fishing quotas, seasonal bans on fishing, and prohibitions on destructive methods such as bottom trawling and blast fishing.⁷⁸ To reinforce these efforts, Vietnam has strengthened monitoring and regulatory capacity through the establishment of the Vietnam Fisheries Surveillance Department⁷⁹ and the promotion of VietGAP certification standards for sustainable fisheries. Together, these initiatives illustrate Vietnam's attempt to balance its developmental needs with the imperatives of marine biodiversity conservation amid legal and geopolitical complexities.

Beyond fisheries management, Vietnam has also expanded the use of MPAs to safeguard critical habitats such as coral reefs and seagrass beds, which deliver essential ecological services. The first MPA, established in 1995 at Con Dao National Park, encompasses diverse ecosystems, including coral reefs, mangroves, and seagrass meadows, and serves as an important sanctuary for endangered species such as the green sea turtle and the dugong. Since that time, the MPA network has grown to include sites such as Mui Ca Mau National Park, Cat Ba National Park, and Ba Na National Park, each of which plays a significant role in protecting marine biodiversity.⁸⁰ These initiatives align with Article 192 of the 1982 UNCLOS,⁸¹ which obliges States to protect and preserve the marine environment even in the absence of complete scientific certainty regarding the impacts of human activities. By establishing MPAs, Vietnam has demonstrated a clear commitment to conserving ecologically significant areas and sustaining ecosystem services. IUU fishing, however, remains one of the greatest threats to the long-term sustainability of Vietnam's marine resources. To address this, Vietnam has pursued cooperation with both regional and international actors. The country is a member of the Regional Plan of Action to Promote Responsible Fishing Practices in Southeast Asia,⁸² which seeks to combat IUU fishing by encouraging best practices in fisheries management and strengthening regional collaboration.⁸³ Bilateral agreements with neighbouring States, including Indonesia and the Philippines, further emphasise shared governance, coordinated enforcement, and information exchange to mitigate illegal fishing activities, particularly in contested maritime zones. Nevertheless, challenges persist. Vietnam continues to face difficulties in

⁷⁶ The United Nations (UNCLOS), (1982). See Op. cit. 5.

⁷⁷ Barrie, None George (2021). See Op. cit. 69.

⁷⁸ Nguyen, Lan Ngoc. (2015). See Op. cit. 12.

⁷⁹ The Directorate of Fisheries of Vietnam, "The Fisheries Surveillance Department of Vietnam," n.d., <https://tongcucthuysan.gov.vn/en-us/VietNam-Fisheries>.

⁸⁰ Vu, Xuan Dinh, Elmar Csaplovics, Christopher Marrs, and Trung Thanh Nguyen. (2022). See Op. cit. 12.

⁸¹ The United Nations (UNCLOS), (1982). See Op. cit. 5.

⁸² The RPOA-IUU, "Regional Plan of Action to Promote Responsible Fishing Practices," n.d., <https://rpoaiuu.org>.

⁸³ Höglund, Lisa Eurén. "Area-Based Management Tools, Including Marine Protected Areas—Reflections on the Status of Negotiations." In *Brill | Nijhoff eBooks*, 90–94, 2021. https://doi.org/10.1163/9789004422438_006; Kazara-Belja, Elda. (2023). See Op. cit. 18.

curbing IUU fishing due to weak enforcement mechanisms in disputed waters and the activities of distant-water fleets from non-claimant States, which exacerbate resource depletion and undermine cooperative management efforts.⁸⁴ A comparative examination of the Philippines and Malaysia shows that other developing coastal States encounter similar structural limitations in managing marine resources within contested maritime zones. The Philippines has attempted to enhance marine resource governance through the amended Fisheries Code (2015), the establishment of localised protected areas, and community-based enforcement models; however, its ability to patrol and regulate fishing activity in the vicinity of the Kalayaan Island Group remains severely restricted by overlapping claims and the presence of foreign fleets. Malaysia has adopted a more centralised regulatory approach, strengthening vessel monitoring systems, licensing controls, and domestic fisheries zoning, yet its enforcement capabilities remain largely effective only within undisputed maritime spaces. Beyond these zones, Malaysia faces challenges comparable to those of Vietnam, including inconsistent compliance by foreign vessels, political sensitivities that hamper coordinated patrols, and limited leverage to establish offshore MPAs. These comparative cases confirm that Vietnam's constraints are neither isolated nor unique but instead reflect a broader pattern affecting developing States operating under contested maritime jurisdictions.

Vietnam's approach to marine conservation is also shaped by its obligations under international law, particularly the 1982 UNCLOS and related global agreements. As a signatory to the 1982 UNCLOS, Vietnam is legally bound to protect the marine environment and ensure the sustainable exploitation of living resources. Nevertheless, overlapping maritime claims in Vietnam's East Sea complicate the implementation of these obligations. Vietnam has consistently invoked the 1982 UNCLOS to affirm its rights over its EEZ, underscoring that its claims are grounded in international law and the convention's provisions. However, China's continued land reclamation, construction of artificial islands, and military installations in Vietnam's East Sea pose a direct challenge to Vietnam's ability to regulate and conserve marine resources within its EEZ.⁸⁵ In response, Vietnam has pursued diplomatic and regional channels to address these disputes, particularly through ASEAN and the COC negotiations for Vietnam's East Sea. While the ASEAN Declaration⁸⁶ on Vietnam's East Sea and the ongoing COC discussions emphasise peaceful cooperation and environmental protection, the absence of a binding legal framework has limited Vietnam's capacity to enforce its conservation measures effectively. Vietnam has repeatedly called for a legally binding COC that would provide a more robust foundation for regional cooperation in marine resource management and biodiversity conservation.⁸⁷ Despite these constraints, Vietnam has sought to strengthen its role in regional marine governance. As a member of ASEAN, the country has supported initiatives to advance regional conservation efforts and promote the sustainable use of marine resources. Nevertheless, significant challenges remain. The lack of effective regional cooperation, largely due to overlapping jurisdictional claims and conflicting national interests, undermines

⁸⁴ Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit. 6.*

⁸⁵ Nguyen, Lan Ngoc. (2015). *See Op. cit. 12.*

⁸⁶ The Association of Southeast Asian Nations (ASEAN), (2012). *See Op. cit. 60.*

⁸⁷ Barrie, None George (2021). *See Op. cit. 69.*

coordinated management.⁸⁸ At the same time, Vietnam's limited enforcement capacity, particularly in contested waters, hinders its ability to address illegal exploitation and destructive practices. Economic pressures generated by the fisheries and hydrocarbon sectors further compete with conservation goals, complicating the implementation of precautionary and sustainable measures. Nonetheless, Vietnam's ongoing commitment to international cooperation, its efforts in sustainable fisheries management, and the expansion of MPAs highlight its determination to advance marine conservation, even amid the geopolitical and economic obstacles that characterise Vietnam's East Sea.

Challenges in marine conservation: Political, legal, and economic barriers, and the impact of overlapping claims

Many countries with coastlines, notably Vietnam, have also faced significant challenges in implementing effective marine conservation policies and applying precautionary approaches amid a complex political, legal, and economic environment. These challenges are exacerbated by overlapping maritime boundary claims over Vietnam's East Sea, as competing territorial and resource claims create additional impediments to effective marine management.⁸⁹ While Vietnam has taken a positive stance on marine conservation in terms of adhering to international requirements such as the 1982 UNCLOS principles and legislative instruments on the regional level, there is still tension and difficulty in achieving the conservation goals due to several political, legal, and economic problems that hinder the application of sustainable practices.

One of the most significant political barriers to Vietnam's marine conservation efforts is the complex geopolitical context in the East Sea. Vietnam has competing sovereignty claims with several other countries, including China, the Philippines, Malaysia, and Brunei, over strategic maritime intersections in the region, such as the Spratly Islands and Paracel Islands.⁹⁰ The disputed waters are rich in marine biodiversity and resources, including fisheries, oil, and gas reserves. The unclear territorial boundaries in Vietnam's East Sea make it difficult for Vietnam to fully exercise sovereignty over its EEZ and enforce its conservation measures, particularly in areas where jurisdiction is disputed.⁹¹ These disputes generate political tensions that generally obstruct potential cooperation among claimant States, thereby hampering collective conservation efforts. For example, China's construction of artificial islands and the creation of military facilities on contested features in Vietnam's East Sea have increased tensions and hindered diplomatic efforts to resolve conflicts and promote sustainable resource management.⁹² Vietnam has always upheld the peaceful settlement of disputes based on international law, particularly the 1982 UNCLOS, but the lack of a binding, enforceable agreement on resource management in Vietnam's East Sea has posed challenges. These

⁸⁸ Höglund, Lisa Eurén. (2021). *See Op. cit.* 83.

⁸⁹ Humphreys, John, and Robert W.E. Clark. "A Critical History of Marine Protected Areas." In *Elsevier eBooks*, 1–12, 2019. <https://doi.org/10.1016/b978-0-08-102698-4.00001-0>.

⁹⁰ Nguyen, Hong Kong To, Manh Tung Ho, and Quan-Hoang Vuong. (2021). *See Op. cit.* 6.

⁹¹ Höglund, Lisa Eurén. (2021). *See Op. cit.* 83.

⁹² Falco, Francesca Libera, Shlomo Preiss-Bloom, and Tamar Dayan. "Recent Evidence of Scale Matches and Mismatches Between Ecological Systems and Management Actions." *Current Landscape Ecology Reports* 7, no. 4 (August 26, 2022): 104–15. <https://doi.org/10.1007/s40823-022-00076-5>.

geopolitical tensions also affect regional cooperation mechanisms, such as ASEAN, hindering Vietnam's ability to advance multilateral efforts on marine conservation in the region.⁹³

In addition to political challenges, legal constraints also significantly restrict Vietnam's capacity to develop effective marine conservation practices. Despite UNCLOS's 1982 legal basis for the conservation and management of marine resources, implementing its provisions is often complicated by overlapping claims in Vietnam's East Sea. Vietnam has relied on UNCLOS 1982 to assert its rights to marine resources and establish MPAs within its EEZ. However, the lack of clear maritime boundaries due to overlapping claims has impeded the full realisation of Vietnam's rights over its marine environment and poses challenges to legal enforcement efforts.⁹⁴ Moreover, jurisdictional uncertainties arising from overlapping claims have made it difficult for Vietnam to regulate fishing, oil and gas exploration, and pollution in the contested waters. Vietnam has been in the process of reinforcing its national legal frameworks, such as the 2017 Vietnam Law on Fisheries⁹⁵ and the 2012 Vietnam Law on the Sea,⁹⁶ to protect marine biodiversity and control the sustainable use of natural resources. These regulations contain precautionary measures to ensure the long-term sustainability of living marine resources and are consistent with the principles of the 1982 UNCLOS. However, the implementation of these legal frameworks is often hindered by difficulties in enforcement and jurisdiction in overlapping maritime zones.⁹⁷ For example, despite national regulations to control IUU fishing, the lack of a comprehensive regional fisheries management framework means that illegal fishing vessels from external actors continue to exploit marine resources in contested waters.⁹⁸ Therefore, Vietnam's efforts to enforce its laws and policies effectively have been heavily influenced by the absence of a legally binding regional agreement on marine resource management in the East Sea.

Economic constraints constitute another major factor limiting Vietnam's capacity to adopt precautionary approaches to marine conservation. As a developing State, Vietnam continues to grapple with restricted financial resources, limited technological capacity, and inadequate institutional infrastructure, all of which hinder the effective governance and protection of marine resources.⁹⁹ Although the government has emphasised marine conservation through the establishment of MPAs and the regulation of fisheries, enforcing these measures remains prohibitively costly, particularly in contested maritime zones where exploitation pressures are most intense. The fisheries sector illustrates this dilemma most clearly because it is one of Vietnam's key economic industries and sustains the livelihoods of millions of people.¹⁰⁰ However, overfishing, exacerbated by IUU fishing and other unsustainable practices, has placed severe strain on national fish stocks. Heavy subsidies to the sector, coupled with strong

⁹³ Nguyen, Lan Ngoc. (2015). *See Op. cit.* 12.

⁹⁴ Gjerde, Kristina M., and Siddharth Shekhar Yadav. (2021). *See Op cit.* 7.

⁹⁵ The National Assembly of Vietnam, (2017). Law No. 18/2017/QH14. *See Op. cit.* 43.

⁹⁶ The National Assembly of Vietnam, (2012). Law No. 18/2012/QH13. *See Op. cit.* 17.

⁹⁷ Frank, Veronica. (2020). *See Op. cit.* 19.

⁹⁸ Barnes, Richard. (2020). *See Op. cit.* 2

⁹⁹ Anisimov, Igor Olegovich, and Elena Evgenyevna Guliaeva. (2022). *See Op. cit.* 8.; Kazara-Belja, Elda. (2023). *See Op. cit.* 18.

¹⁰⁰ Vu, Xuan Dinh, Elmar Csaplovics, Christopher Marrs, and Trung Thanh Nguyen. (2022). *See Op. cit.* 12.

economic incentives for resource extraction, often result in fishing practices that pay little attention to long-term sustainability.¹⁰¹ Beyond fisheries, oil and gas exploration in Vietnam's East Sea creates additional economic pressures that conflict directly with conservation objectives. Vietnam possesses substantial offshore reserves, many of which overlap with areas simultaneously claimed by other regional powers, including China. The extraction of these resources carries profound ecological costs, ranging from oil spills and habitat destruction to broader forms of marine pollution.¹⁰² Nevertheless, oil and gas revenues remain essential to Vietnam's economic development, creating a persistent tension between environmental protection and the imperatives of economic growth. While these activities provide critical financial resources for the national economy, they simultaneously accelerate the degradation of marine ecosystems and undermine long-term conservation objectives.

Scientific uncertainty represents one of the most pressing challenges to marine conservation, particularly in regions characterised by overlapping maritime claims. In Vietnam's East Sea, the absence of comprehensive, up-to-date scientific data on marine ecosystems significantly constrains informed decision-making and effective resource management. Although Vietnam has sought to strengthen marine science through national institutions and international partnerships, political sensitivities inherent in the contested region often limit opportunities for systematic exploration and data collection.¹⁰³ The lack of reliable baseline data on critical ecosystems, such as coral reefs, seagrass meadows, and fisheries, further complicates the application of precautionary management measures. Without robust scientific assessments of ecosystem health and the impacts of anthropogenic pressures, including overfishing, pollution, and resource extraction, both Vietnam and other coastal States are constrained in their ability to evaluate ecological degradation and implement targeted conservation measures. In Vietnam's East Sea, limited mechanisms for data sharing and collaborative research exacerbate the scientific knowledge gap. At the same time, ongoing geopolitical tensions prevent the establishment of cooperative programs that might otherwise generate comprehensive ecosystem assessments.¹⁰⁴ The lack of consensus among claimant States regarding both the status of marine resources and the appropriate conservation strategies has led to fragmented governance structures and weak enforcement of sustainable practices. In turn, this perpetuates ecological vulnerabilities and undermines the long-term sustainability of marine resources.

CONCLUSION

The governance of marine biological resources in Vietnam's East Sea remains deeply constrained by unresolved overlapping maritime claims, which significantly limit Vietnam's capacity to implement precautionary measures and sustainable management strategies. Although Vietnam has established a robust domestic legal framework – grounded in the 1982 UNCLOS and supported by national legislation on fisheries and marine protection – the

¹⁰¹ Cicin-Sain, Biliana. (2015). *See Op. cit.* 21.

¹⁰² De Santo, E.M., Á. Ásgeirsdóttir, A. et al. (2019). *See Op. cit.* 30.

¹⁰³ Gjerde, Kristina M., and Siddharth Shekhar Yadav. (2021). *See Op. cit.* 7.

¹⁰⁴ Ardron, Jeff A., Daniel Kachelriess, Christopher H. C. Lyal, Chilene Nwapi, Muriel Rabone, Aysegul Sirakaya, and Alison Swaddling. (2025). *See Op. cit.* 20.; Ong, David M. (2023). *See Op. cit.* 11.

effectiveness of these instruments is restricted by jurisdictional uncertainty and competing assertions from other claimant States. These conditions weaken enforcement efforts, impede scientific research, and reduce the feasibility of establishing marine protected areas in ecologically sensitive offshore zones. The findings of this study demonstrate that while Vietnam has made progress in adopting conservation-oriented policies, it continues to confront substantial obstacles in operationalising UNCLOS principles, particularly Articles 56, 61, 73, 74(3), and 83(3). The absence of stable provisional arrangements, as envisioned under UNCLOS, further complicates sustainable resource governance. At the same time, increasing pressure from IUU fishing and unilateral actions by external actors exacerbates ecological degradation and undermines long-term conservation objectives. To address these challenges, strengthened regional cooperation is essential. Greater coordination among claimant States – particularly in fisheries management, scientific data sharing, environmental monitoring, and incident prevention – would enhance the resilience of shared ecosystems and reduce the risks of resource depletion. Building institutional capacity within Vietnam is equally important, especially in surveillance technology, scientific research, and interagency coordination. Furthermore, Vietnam should continue promoting peaceful dispute-resolution mechanisms consistent with UNCLOS to ensure that marine resource governance is grounded in legally recognised entitlements and is not subject to unilateral expansion of claims. Overall, this research underscores that sustainable marine conservation in Vietnam's East Sea requires a combination of legal certainty, scientific cooperation, and multilateral engagement. These elements – introduced at the outset of this study – remain crucial to safeguarding biodiversity, ensuring equitable resource use, and stabilising governance frameworks in one of the world's most contested maritime regions.

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Appendix A

The map of Vietnam's East Sea (Source: Internet)

