

Mechanisms for Implementation of the United Nations Convention on the Law of the Sea of 1982

ASEAN Regional Forum
Seminar on the United Nations
Convention on the Law of the Sea
Manila, 8-9 March 2011



Outline

- Introduction - United Nations Convention on the Law of the Sea
- Universal and unified character of the Convention, The Convention as the legal framework
- Current status of the Convention,
- Mechanisms for implementation:
 - States Parties, including the progress of harmonization of national legislation with the provisions of UNCLOS
 - Regional Cooperation
 - Global cooperation -United Nations System and international organizations
 - Role of the Secretary-General of the United Nations
 - Role of the bodies established under UNCLOS

The United Nations Convention on the Law of the Sea



■ On 10 December 1982, the United Nations Convention on the Law of the Sea was opened for signature at Montego Bay, Jamaica. On the first day, it was signed by 117 States and two other entities

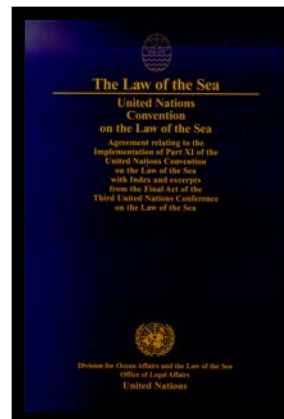
■ A comprehensive regime "dealing with all matters relating to the law of the sea, . . . bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole" was established.

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United Nations Convention on the Law of the Sea of 10 December 1982

- United Nations Convention on the Law of the Sea of 10 December 1982
- "Constitution for the oceans"
- legal regime governing all ocean space
- It entered into force on 16 November 1994.



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Convention as a “package”

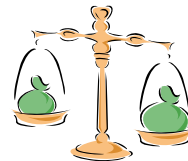
- The conceptual underpinnings of the Convention as a “package” is its most significant feature, and has contributed to the remarkable achievement of the Convention in offering solutions to the vast number of often competing interests.

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The United Nations Convention on the Law of the Sea, continued...

- The Convention ensures:
 - A balance between the need to protect and preserve the marine environment and the rights of nations to use the oceans and their resources.
 - A balance between global community needs (for example international navigation) and demands of national sovereignty and jurisdiction.



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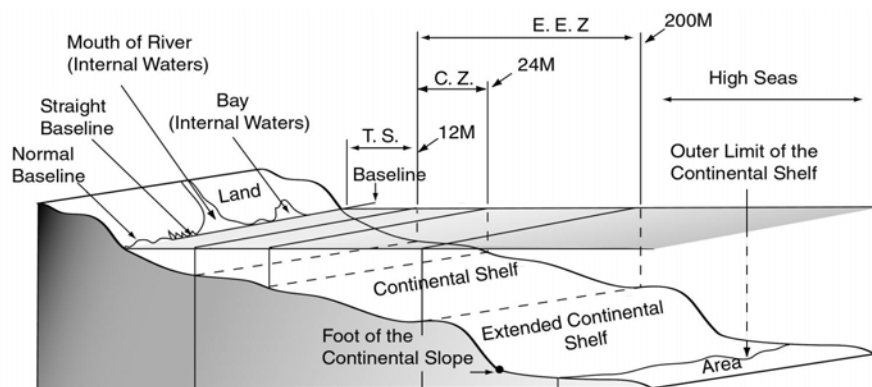
The United Nations Convention on the Law of the Sea, continued

Maritime Space	▶ TERRITORIAL SEA AND CONTIGUOUS ZONE - PART II EXCLUSIVE ECONOMIC ZONE - PART V CONTINENTAL SHELF - PART VI HIGH SEAS PART - VII THE AREA - PART XI and Agreement on Part XI
States with special geographical characteristics	▶ ARCHIPELAGIC STATES - PART IV REGIME OF ISLANDS - PART VIII LAND-LOCKED STATES and FREEDOM OF TRANSIT - PART X
Special areas needing cooperation	▶ STRAITS USED FOR INTERNATIONAL NAVIGATION - PART III ENCLOSED OR SEMI-ENCLOSED SEAS - PART IX
Cross-cutting issues	▶ PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT - PART XII MARINE SCIENTIFIC RESEARCH - PART XIII DEVELOPMENT AND TRANSFER OF MARINE TECHNOLOGY - PART XIV
Conflict resolution	▶ SETTLEMENT OF DISPUTES - PART XV
Procedural/Organizational Issues	▶ INTRODUCTION - PART I GENERAL PROVISIONS - PART XVI FINAL PROVISIONS - PART XVII

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Maritime zones (detail)



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IMPLEMENTING AGREEMENTS

- Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982;
- The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

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General Assembly resolution 65/37 of 7 December 2010

- Emphasizing the pre-eminent contribution provided by the Convention to the strengthening of peace, security, cooperation and friendly relations among all nations in conformity with the principles of justice and equal rights and to the promotion of the economic and social advancement of all peoples of the world, in accordance with the purposes and principles of the United Nations as set forth in the Charter of the United Nations, as well as to the sustainable development of the oceans and seas

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General Assembly resolution 65/37 of 7 December 2010

- Emphasizing also the universal and unified character of the Convention, and reaffirming that the Convention sets out the legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained, as recognized also by the United Nations Conference on Environment and Development in chapter 17 of Agenda 21



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General Assembly resolution 65/37 of 7 December 2010

- *Conscious* that the problems of ocean space are closely interrelated and need to be considered as a whole through an integrated, interdisciplinary and intersectoral approach, and reaffirming the need to improve cooperation and coordination at the national, regional and global levels, in accordance with the Convention, to support and supplement the efforts of each State in promoting the implementation and observance of the Convention, and the integrated management and sustainable development of the oceans and seas,



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Status of the Convention

- Number of parties: 161, including the European Union
- Status of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 – 140 Parties, including the European Union

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Implementation mechanisms

- Individual States Parties – the national level
- Regional and subregional organizations – the regional level
- United Nations system and other international organizations and cooperation mechanisms – the global level

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Implementation mechanisms States Parties

- United Nations General Assembly:
- *Calls upon* States to harmonize their national legislation with the provisions of the Convention and, where applicable, relevant agreements and instruments, to ensure the consistent application of those provisions and to ensure also that any declarations or statements that they have made or make when signing, ratifying or acceding to the Convention do not purport to exclude or to modify the legal effect of the provisions of the Convention in their application to the State concerned and to withdraw any such declarations or statements;

A/RES/65/37, para. 5

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National Legislation

During the years since the entry into the force of the Convention, a considerable number of coastal States updated their legislation, some of them adopting a comprehensive approach and promulgating acts of substantial complexity in the form of maritime codes or ocean acts.

Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 25,
No. 310, 14th November, 1986

Fifth Session Second Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 23 of 1986

[L.S.]

AN ACT to amend the Continental Shelf Act, Chap. 1:52

(Assented to 7th November, 1986)

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Continental Shelf (Amendment) Act, 1986.

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Implementation mechanisms at the regional level

- Regional action, coordination and cooperation in the marine sector to support and supplement the efforts of each State in promoting the implementation and observance of the Convention, and the integrated management and sustainable development of the oceans and seas

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Implementation mechanisms at the regional level - examples

- Regional economic integration organizations (EU, AU)
- Other regional organizations (ASEAN, SPF,)
- Regional fisheries management organizations and arrangements (including those under FAO)
- Regional Seas Programme (UNEP)
- Other forms of regional cooperation (Arctic Council, (RECAAP - to combat piracy), port State enforcement, tsunami warning and mitigation systems, regional meetings, etc.)

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Implementation mechanisms at the global level

- Need to improve cooperation and coordination at the global level, in accordance with the Convention, to support and supplement the efforts of each State in promoting the implementation and observance of the Convention, and the integrated management and sustainable development of the oceans and seas;

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Implementation mechanisms at the global level

- Global forums and processes dealing with oceans and law of the sea issues, including sustainable fisheries:
- United Nations System: United Nations (General Assembly, Security Council, ICJ, UNEP), FAO, IMO, IOC UNESCO, World Bank, WMO,
- Global Environment Facility
- UNCLOS institutions: ISA, ITLOS, CLCS, Meeting of States Parties
- Intergovernmental organizations and secretariats of global Conventions
- Other forms of global cooperation: Ocean Observing System

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United Nations – General Assembly



- Annual consideration of developments relating to ocean affairs and the law of the sea
- United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea
- A regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects (regular process) - the Ad Hoc Working Group of the Whole
- Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction

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Responsibilities of the Secretary-General under the Convention

A/RES/52/26

- United Nations General Assembly:
- *Noting* the responsibilities of the Secretary-General under the Convention and related resolutions of the General Assembly, in particular resolution 49/28, and emphasizing the importance of the performance of such responsibilities for the effective and complete implementation of the Convention, (A/RES



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Responsibilities of the Secretary-General under the Convention

A/RES/52/26

- (a) Preparing annually a comprehensive report for the consideration of the General Assembly on developments relating to ocean affairs and the law of the sea;
- (b) Preparing periodically special reports on specific topics such as fisheries, transit problems of the landlocked developing States or other topics of current interest, including those requested by intergovernmental conferences and bodies, taking into account the provisions of the Convention;

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Responsibilities of the Secretary-General under the Convention

A/RES/52/26

- (c) Developing and maintaining the appropriate facilities for the deposit by States of charts and geographical coordinates concerning maritime zones, including lines of delimitation, and to give due publicity thereto, as required by article 16, paragraph 2, article 47, paragraph 9, article 75, paragraph 2, article 76, paragraph 9 and article 84, paragraph 2, of the Convention;

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Responsibilities of the Secretary-General under the Convention

A/RES/52/26

- (d) Strengthening the existing system for the collection, compilation and dissemination of information on ocean affairs and the law of the sea and, in cooperation with the relevant international organizations, furthering the development of a centralized system for providing coordinated information and advice;
- (e) Undertaking efforts to promote better understanding of the Convention and the Agreement [on Part XI] in order to ensure their effective implementation;
- (f) Ensuring appropriate responses to requests of States, in particular developing States, for advice and assistance in implementing the provisions of the Convention and the Agreement;

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Responsibilities of the Secretary-General under the Convention

A/RES/52/26

- (g) Preparing for and convening the Meetings of States Parties to the Convention and providing the necessary services for such meetings, in accordance with the Convention;
- (h) Preparing for and convening the meetings of the Commission and providing it with the necessary services in accordance with the Convention;

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Responsibilities of the Secretary-General under the Convention

A/RES/52/26

- (i) Strengthening training activities in ocean and coastal area management and development;
- Importance of ensuring the uniform and consistent application of the Convention and a coordinated approach to its overall implementation, and of strengthening technical cooperation and financial assistance for this purpose
- Continuing importance of the efforts of the Secretary-General to these ends, and GA invitation to the competent international organizations and other international bodies to support these objectives;

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Commission on the Limits of the Continental Shelf

- Purpose - to facilitate the implementation of UNCLOS in respect of the establishment of the outer limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
- Under UNCLOS, the coastal State establishes such outer limits on the basis of the recommendation of the CLCS. The CLCS makes recommendations to coastal States on matters related to the establishment of those limits; its recommendations and actions shall not prejudice matters relating to the delimitation of boundaries between States with opposite or adjacent coasts.
- The United Nations Secretariat provides services and support to the CLCS and its members.

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International Tribunal for the Law of the Sea

- Established by UNCLOS, Based in Hamburg, opened in 1996;
- Together with ICJ, central forum for the settlement of the disputes under UNCLOS;
- 21 Judges of different nationalities;
- United Nations relationship with ITLOS based on the Agreement on Cooperation and Relationship of 18 December 1997.



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International Seabed Authority

- An autonomous international organization
- Established by UNCLOS and pursuant to the Agreement on Part XI of UNCLOS;
- Through the Authority, States Parties to UNCLOS organize and control activities in the International Seabed Area;
- Headquarters in Kingston, Jamaica, came into existence upon the entry into force of UNCLOS.
- Agreement concerning the Relationship between the United Nations and the International Seabed Authority of 14 March 1997;

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Role of the Meeting of States Parties to UNCLOS

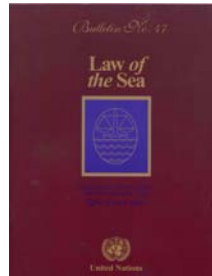
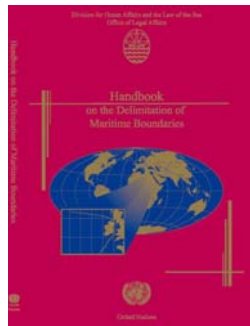
- Convened in accordance with article 319, paragraph 2 (e) - Secretary-General "shall convene necessary meetings of States Parties in accordance with this Convention".
- Elects the members of ITLOS and the members of the CLCS.
- Considers, annually, the report of the Tribunal and deals with its budgetary and administrative matters.
- Receives information provided by the Secretary-General of the ISA and the Chairman of the CLCS on the activities of these bodies
- Receives the Report of the Secretary-General under article 319 for the information of States parties on issues of a general nature, relevant to States parties, that have arisen with respect to the United Nations Convention on the Law of the Sea.

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INFORMATION RESOURCES

www.un.org/Depts/los



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