

# UK House of Lords Inquiry: Is the UN Convention on the Law of the Sea Still Fit for Purpose?

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## Structured Abstract

Article classification: Overview Essay

*Purpose*—The article discusses the UK House of Lords inquiry with respect to the effectiveness of the UN Convention on the Law of the Sea, 1982 (UNCLOS).

*Design, Methodology, Approach*—Given the due indication of the importance of the UNCLOS, the paper presents the current emerging maritime challenges that maritime global society should overcome. All discussed threats by the invited experts within the UK House of Lords Select Committee on International Relations and Defense are indicated based on the step-by-step approach in light of the UN Convention on the Law of the Sea, 1982. It questions the possibilities and advantages of the amendment of UNCLOS and comes to a conclusion. As for methodology, a comprehensive and complex understanding of the subject matter's various databases were explored and analyzed.

*Findings*—Due to various changes and developments, it is logical and natural to develop a relevant regulatory framework since the needs of the global society are changing at the time. Therefore, the question of the effectiveness and possible amendment of the UNCLOS convention has legitimate grounds to be intensively discussed. However, the question and actions related to the possible amendment or denunciation of the UNCLOS, or the development of new legal instruments to govern the new maritime threats will require global and common efforts. Perhaps the UK's committee is the right forum to address different emerging maritime treaties, however, what consequences will come of such inquiries remains yet unclear.

*Practical Implications*—from the practical implication perspective, the article provides the readers with the various arguments and positions presented by the invited experts

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to the UK House of Lords Select Committee on International Relations and Defense. Nevertheless, it indicates the complications and advantages of possible amendment of the UNCLOS for and by different actors.

*Originality, Value*—In line with the presented arguments by the invited experts to evaluate and assess the effectiveness of the UNCLOS, the position in respect of the amendment of the “Constitution of the Sea” as an effective tool to achieve and regulate the current emerging maritime threats is provided by the article given due regard to Brexit as the pre-existing factor of the inquiry.

Keywords: amendment, fits for purposes, treats and challenges, UNCLOS

## I. Introduction

On June 23, 2016, the United Kingdom (UK) left the European Union. The 2016 referendum over Brexit changed the entire policy of the UK, including shipping and law of the sea matters. However, while Brexit is calculated as a choice by the people, it polarized the values, principles, policies, and priorities of the UK. Moreover, it facilitated a cleavage of its society as well. Within the framework of Brexit, the UK decided to review the effectiveness of the United Nations in terms of the Law of the Sea Convention 1982 (UNCLOS) framework; namely, an inquiry considering the applicability of UNCLOS in the 21st century has been launched by the UK House of Lords Select Committee on International Relations and Defense (Committee).<sup>1</sup> The committee invited academic experts on the law of the sea and ocean global governance to provide relevant oral and 46 pieces of written evidence from academic persons and organizations.<sup>2</sup>

The inquiry examines a wide range of matters, such as human rights protection at sea, human security at sea, concept and challenges of maritime security, autonomous maritime systems, protection and preservation of the maritime environment, provisions of the enforcement of UNCLOS, 1982, and its dispute resolution mechanisms.<sup>3</sup> It is the first attempt by a state to examine whether UNCLOS, 1982, may effectively govern and regulate new and emerging challenges of global maritime society.<sup>4</sup>

The committee heard testimony from Steven Haines, professor of public international law at University of Greenwich and trustee of Human Rights at Sea; Malgosia Fitzmaurice, professor of public international law at Queen Mary, University of London; Sir Malcolm Evans, professor of public international law at the University of Bristol; Dr. Youri Van Logchem, senior lecturer at the Institute of International Shipping and Trade Law at the Hillary Rodham Clinton School of Law at Swansea University; Dr. Richard Caddell, senior lecturer in law at Cardiff Law School; Dr. Sofia Galani, assistant professor in public international law at Panteion University; Professor Natalie Klein, faculty of law at the University of New South Wales, Sydney<sup>5</sup>; Professor Clive Schofield, head of research at WMU-Sasakawa Global Ocean Institute at World Maritime University; Dr. Surabhi Ranganathan, associate professor and co-acting director of the Lauterpacht Centre for International Law at the University of Cambridge; Admiral Sir Philip Jones, former First Sea Lord at Royal Navy<sup>6</sup>; Douglas Guilfoyle, associate professor of law at the University of New South Wales Canberra; Professor Anna Petrig, chair of international law and public law at University of

Basel, Richard Barnes, Professor of International Law at the University of Lincoln<sup>7</sup>; the Right Hon. Lord Goldsmith of Richmond Park Minister for the Pacific and the International Environment at Foreign, Commonwealth and Development Office and Department for Environment, Food and Rural Affairs; and Andrew Murdoch, legal director at Foreign, Commonwealth and Development Office.<sup>8</sup>

The article emphasizes key areas of oral speeches given by invited witnesses and opens a dialogue for readers to identify the consequences of such an inquiry as a matter of positive law development or as an act that will polarize the UK and challenge its current positions.

## II. Origins of UNCLOS

UNCLOS is an international agreement that establishes a legal order for the seas and oceans. It was signed in 1982 and it came into force in 1994.<sup>9</sup> The convention has been ratified by 168 state parties.<sup>10</sup> The convention crystalized all existing customary international law within a more global perspective through the development of new and quite modern rules.<sup>11</sup> It governs all aspects of ocean space, such as delimitation, environmental control, marine scientific research, economic and commercial activities, transfer of technology, and the settlement of disputes relating to ocean matters.<sup>12</sup> More importantly, the convention has created three new institutions, including:

- i. The International Tribunal for the Law of the Sea, Hamburg;
- ii. The International Seabed Authority, Kingston; and
- iii. The Commission on the Limits of the Continental Shelf, United Nations Headquarters, New York.

There are two amendments of UNCLOS—one is the Agreement concerning Part XI of the Convention dated July 1994, and another is the Fish Stocks Agreement, ratified in August 1995.

## III. New Emerging Threats for Global Maritime Society

### *3.1 UNCLOS Still Fit for Purposes?*

Within the framework of committee hearings, the main question on whether UNCLOS is still fit for its purposes, Prof. Malgozia expressed that UNCLOS, 1982 has the whole nexus of certain provisions, rules, and regulations bringing into the fold of the convention organizations and treaties, which enables the other institutions and other conventions to participate in the development of the law of the sea.<sup>13</sup> Importantly, all invited experts in their testimonies highlighted that UNCLOS, 1982 is indeed a living treaty, “a Constitution for the Oceans” which crystalized all existing customary international law and created a package deal for ratifying countries. However, there is no doubt that UNCLOS was a product of the necessity and concerns of its time and space, therefore the living treaty cannot be considered an ideal system trying to predict and preserve

all types of challenges existing today.<sup>14</sup> Invited experts considered the amendment of UNCLOS as an anathema and suggested developing the soft law taking into account subsequent practice and agreement.

### *3.2 Human Rights*

Protection of human rights has been one of the most vital questions discussed during hearings. Based on oral evidence heard from experts, UNCLOS, 1982 fails to protect human rights at sea. In this respect, Prof. Sir. Evans and Mr. Andrew Murdoch<sup>15</sup> underlined that UNCLOS, 1982 has extraordinarily little to say about the protection of humans ensuring their rights and security at sea.<sup>16</sup> Experts such as Prof. Klein and Lord Goldsmith stated that Flag States have to ensure that human rights obligations are protected and enforced at sea<sup>17</sup>; in addition, Professor Petrig indicated that proper law enforcement is a very important component in the quest to enforce human rights at sea.<sup>18</sup> Lord Goldsmith underlined that there is a limit to how policeable some of the commitments of UNCLOS, 1982 are on the high seas and there is no complete legal apparatus that enables a state to enforce it. It has been stated by witnesses, that the two concepts such as “Free Sea” and the “exclusive jurisdiction of the Flag State” hinder the effective enforcement, preservation, monitoring, and compliance with human rights at sea. The abuses of human rights on the high seas, migration, and refugees moving by sea, unexplained deaths and missing seafarers, physical abuse of young cadets, sexual harassment incidents onboard commercial and cruise ships, abandoned seafarers in foreign ports, mental distress, and suicides at sea are critical and emerging challenges of current maritime society. In addition, there are also legal, political, and operational challenges that interrupt the effective protection of human rights at sea. Therefore, it was advised by experts, to supplement UNCLOS, 1982 with a new regulation enabling relevant states and/or international organizations to effectively protect human rights in the ocean.

### *3.3 Maritime Environment. Climate Change and Pollution*

Another current and global emerging challenge that had been discussed was climate change and maritime pollution. It has been highlighted by experts that even though there are several International Maritime Organization (IMO) conventions regulating fisheries, marine pollution, exploitation, and exploration of resources, they are not efficient or effective to address new emerging challenges of the global ocean. Experts highlighted that UNCLOS, 1982 does not address either issue such as the conservation of biodiversity, CO<sub>2</sub> sequestration, the use of marine genetic resources, consequences of global warming, sea-level rise, utilization, exploration, and exploitation of Arctic and energy sources.<sup>19</sup>

In his speech, Professor Clive Schofield underlined a few important challenges regarding ocean warming, ocean chemistry changes, acidification, deoxygenation, impacts on the circulation system, terms of increasing frequency and intensity of extreme weather events and their effects on the stock of capelin fish, and changes and delays in the migration of the stock and the spawning periods. The Professor emphasized that those events are consequences of climate change on the oceans, which is not related directly to UNCLOS,

1982. Following his argumentations, UNCLOS, 1982 is climate blind and climate silent and not adequate to the climate changes impacts.<sup>20</sup> Professor Schofield and Dr. Surabhi Ranganathan consider that the International Tribunal for the Law of the Sea (ITLOS) will be an obvious forum to hear climate change disputes.<sup>21</sup> Dr. Surabhi Ranganathan addressed new issues regarding marine spatial planning, which is a new instrument/tool for competing interests in ocean space.<sup>22</sup> Professor also talked about the Arctic and the Ilulissat Declaration of 2008<sup>23</sup> and highlighted that the Arctic countries, such as Canada, Denmark on behalf of Greenland, Norway, the Russian Federation, and the United States of America, recognized the importance of UNCLOS as governing the legal regime of the Arctic Ocean.<sup>24</sup>

The effects of climate change on fisheries had been addressed by Dr. Surabhi Ranganathan as well and he stated that the climate change effects on fisheries matter shall not be governed by UNCLOS, 1982, but contrary to the provisions of the fish stocks agreement and the regional treaties that exist for the conservation, use, distribution of fishery resources, conditions for fishing activities, and enforcement of coastal and economic zone regulations. In his speech, Dr. Surabhi also addressed major pollutants of the ocean such as plastics, and the melting of ice in the Arctic which opens new perspectives for the extraction of oil and gas, fisheries, and navigational resource.<sup>25</sup> He spoke about the London Protocol of the International Maritime Organization<sup>26</sup> dealing with geoengineering, deep-sea mining, and ecosystem-based management of the ocean and considers the provisions and language of UNCLOS, 1982 in respect of the marine environment as weak.<sup>27</sup> He also underlined that the UK may also play important role in the promotion of the protection of Pacific blue economies by supporting the elimination of distant water fishing subsidiaries of industries in the global north and supporting market measures that protect the blue economies of Pacific States.<sup>28</sup>

Professor Petrig and Professor Douglas Guilfoyle considered climate change and sea-level rise as a current maritime threat and underlined that ITLOS may provide its advisory opinion regarding the consequences of sea-level rise on baselines and the outer limits of maritime areas, islands, and rocks, and the rights and obligations of states regarding the protection of oceans as part of the climate system.<sup>29</sup> Lord Goldsmith also formulated the position regarding climate change, sea-level rise, and support of the climate change refugees<sup>30</sup> and added that those matters will be interpreted based on rules, state practice, declarations, or other instruments which might be needed to give certainty together with UNCLOS, 1982.<sup>31</sup> Professor Douglas Guilfoyle addressed the issues of protection and preservation of the marine environment and stated that based on article 212, States may adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the atmosphere, applicable to the air space under their sovereignty and to vessels flying their flags. Therefore, in case of CO<sub>2</sub>, or indirectly excess heat energy (which would be relatively straightforward to class as pollution of the ocean under Article 1 of UNCLOS), states will be urged to clarify their obligations, develop laws and regulations to protect and preserve the marine environment and address the matters of climate change.<sup>32</sup>

In respect of environmental issues, it has been stated by witnesses<sup>33</sup> that governing pollution of the ocean and the Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ), the UK may play important role in bringing together different delegations and

different interest groups to achieve consensus. Lord Goldsmith also covered the matters of Arctic and Antarctic and stated that the UK tries to bring China and Russia with the protection of those areas and added that the UK wants maximum protection.<sup>34</sup>

### *3.4 State Jurisdiction/Dispute Settlement*

All maritime threats, regardless of how complex, or triangled it might not be, require the state to define, adopt, regulate, ratify, implement relevant legal instruments and develop appropriate capacity-building mechanisms. In committee hearings, Commander Caroline Tuckett underlined that UNCLOS, 1982 is an example of international consensus on how to use the oceans lawfully and gives coastal states certain rights and responsibilities in controlling aspects of the ocean,<sup>35</sup> and indicated that UNCLOS, 1982 lays out the principles of state responsibility and shall not be flexible.<sup>36</sup> However, he underlined that how reliant the willingness of states is to follow the provisions of UNCLOS, 1982 is another matter. Commander stated that from the Royal Navy perspective, UNCLOS, 1982 is fit for purpose because it outlines state responsibilities and demonstrates where states have to provide accountability for their actions. On the other hand, Prof. Haines was critical about the concept of free seas and spoke about the vacuum of Flag State jurisdiction and the abuse of the flag's jurisdiction by the open registries.<sup>37</sup>

### *3.5 Maritime Security*

Protection of maritime security had been considered an important maritime challenge. As had been underlined by Dr. Galani, there is not a fixed definition of maritime security as it is challenging to agree on what maritime security means to different actors and different regions. It has also been stated that UNCLOS does not refer to maritime security and does not have a definition of maritime security either, and it cannot deal with all the existing threats to maritime security of the XXI century.<sup>38</sup> However, Andrew Murdoch stated more details of maritime security are expressly provided by the other instruments adopted by the IMO.<sup>39</sup>

Through committee hearings, Admiral Sir Philip Jones discussed challenges of interpretation of provisions of UNCLOS, 1982 in the waters of the South China Sea and the East China Sea.<sup>40</sup> He spoke about maritime security issues in areas of the Northern Gulf, with the waters of Iran, Iraq, Kuwait, and Saudi Arabia, and emphasized the need to police who is in those waters at any time.<sup>41</sup> The Admiral also admitted the interpretation of UNCLOS, 1982 rules in the enforcement of the rules-based international system at sea in the Arctic, in China, and Africa. He underlined that navies play important role in maritime security and the Government shall invest in it. He came up with the recommendation to use and implement the drip-drip of partly military action, capacity-building, and political engagement in challenging areas.<sup>42</sup> Lord Goldsmith spoke about the South China Sea; the problem with the nine-dash line; the eastern Mediterranean area, where Turkey is being particularly aggressive around the EEZs of Cyprus and Greece; territorial seas and innocent passage right of Ukraine hindered by the Russian Federation; the Taiwan Strait; the Gulf of Guinea and others. Lord Goldsmith mentioned that in this area, the UK tries to promote and protect the rights of freedom of navigation and its international compliance.<sup>43</sup>



Professor Richard Barnes suggested that the UK, together with other states, shall develop the best policy outcomes and be more engaged in high-level policy initiatives through diplomatic activities with the framework of the IMO. Professor Barnes stated that due to Brexit, the UK is now an independent state rather than part of the EU. This raises both opportunities and challenges, as the UK can pursue its policy agenda, however, it lacks the same weight that 28 member states and a powerful market have in their ability to influence other states. With respect to Russia and China, Professor Barnes stated that, based on legal commitments under international law, the UK shall have to try to cooperate with good faith, even though Russia and China are outliers in all aspects of the law of the sea, in the sense of annexation of the Crimean Peninsula and restrictions on navigation in waters around it by Russia and the exorbitant claims to jurisdiction by China in the South China Sea.

The matters of maritime terrorism, cybersecurity, and illegal, unreported, and unregulated fishing, have also been discussed. It had been indicated by witnesses that UNCLOS, 1982 as an overarching framework was never designed to address above mentioned matters.<sup>44</sup>

### *3.6 New Technologies*

Within the committee hearings, new issues such as technological development were discussed as well. The main focus has been shifted to autonomous capability at sea. Commander Caroline Tuckett underlined that there are no references in UNCLOS, 1982 for regulating uncrewed vessels.<sup>45</sup> However, the principles of UNCLOS, 1982, which provides freedom of navigation, apply to such vessels and technology.<sup>46</sup> He underlined that IMO reviews the conventions such as collision regulations,<sup>47</sup> SOLAS,<sup>48</sup> and the search and rescue convention.<sup>49</sup> The problem with the autonomous capabilities is that nobody knows who owns such vessels, and more importantly, they might be registered to a flag state registry in one country but remotely operated from another state, therefore the matters of jurisdiction are a challenge.<sup>50</sup> In this respect, Professor Anna Petrig, mentioned the challenges of unmanned ships and autonomous ships, which navigate without a crew on board, human-machine or machine-machine interaction, and maritime crimes, and urged the committee to develop a series of rules or procedures addressing matters of connection with a ship without crew onboard, ships nationality, certificates, and law enforcement strategies.<sup>51</sup> Professor Anna stated that UNCLOS, 1982 has an almost symbiotic relationship between the onboard crew and the ship as many provisions refer to the ship engaging in prohibited activity rather than the person. Professor added to her argumentation that UNCLOS, 1982 does not contain rules in respect of offense when a crime is committed through the use of a remote-controlled or pre-programmed craft.<sup>52</sup> On the other, hand, it had been underlined the positive sides of technological innovation in areas of extracting useful minerals from seawater and it could support improved compliance with existing obligations provided by the convention on the preservation and protection of the marine environment, however, it comes with certain risks,<sup>53</sup> for example, Mr. Andrew Murdoch considered geoengineering and carbon dioxide storage through the use of iron filings, controversial and risky.<sup>54</sup>

Within the framework of committee hearings, it had been underlined the role of IMO in developing generally accepted international rules, laws, and standards and supports

capacity building, collaboration, and cooperation in the various field of shipping, pollution, safety, and security at sea, environmental issues, including ship noise, and ballast water emissions.

#### IV. Possibility of Amending the Convention

It's important to mention that rapid technological development enabled our global maritime society to create unmanned, autonomous ships, drones, robots, artificial intelligence, blockchain, big data, etc. However, technological innovation requires the global maritime society to adopt innovative legal solutions *mutatis mutandis*, as it touches the interests of maritime security, cybersecurity threats, and maritime crimes. The current edition of UNCLOS is lacking a means of dealing with those threats. Having stated that, is it possible to require the amendment of UNCLOS, 1982 and if yes, what are the due procedures to amend it?

UNCLOS, 1982 is an international convention that can be amended by the member states. By Article 312 of the UNCLOS, 1982, an amendment may be done after the expiry of a period of 10 years from the date of entry into force of the convention. However, state parties shall address this by written communication to the Secretary-General of the United Nations and shall propose specific amendments to the convention. The written communication shall be circulated to all member states of the convention by the Secretary-General of the United Nations. If within 12 months from the date of the circulation no less than one-half of the states parties reply favorably to the request, then the Secretary-General shall convene the conference.

The decision regarding the amendment of the convention shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea unless otherwise will be decided by the conference. The above-mentioned article encourages member states to make every effort to reach an agreement on any amendments by consensus.<sup>55</sup>

Article 315 of UNCLOS, 1982 sets out that the amendments to the convention shall be open for signature by the member states for 12 months from the date of its adoption unless otherwise provided for in the amendment.

As a final step, Amendments will enter into force for the member states by ratifying or acceding to them following the deposit of instruments of ratification or accession by two-thirds of the state's parties, or by 60 state parties.<sup>56</sup> However, the amendment may also require a larger number of ratifications or accessions for its entry into force.<sup>57</sup>

Based on section 2 of Article 40 of the VCLT, 1969 any proposals to amend the multilateral treaties have to be notified to all the contracting states and each one has to have the right to participate in the negotiation, decision-making process, in the conclusion of any agreement for the amending of the treaty.<sup>58</sup> Those are due procedures defined by the convention which have to be protected while amending multilateral treaties like UNCLOS, 1982. However, are the above-mentioned challenges equally common and essential for all contracting states of UNCLOS, 1982 to employ those provisions? Are there any possibilities that the state Party will naturally avoid any conference regarding the amendment of the convention? More importantly, will the state Party object to the proposed amendments or adopt them without any objection? Those are a number of the questions that have to be



taken into account while amending the convention as it will play an important role to finalize the negotiation process successfully.<sup>59</sup>

## V. Hurdles to Amendment

Multilateral treaties with a quasi-legislative function are difficult to be renegotiated. Additionally, amendments and entry through force are time-consuming, while the current challenges are emerging and require an effective mechanism to be governed, regulated, and addressed. Is it a solution to consider UNCLOS, 1982's all-purposes legislation and amend the convention? Will this approach create legal certainty, stability, and equity? UNCLOS, 1982 has been amended before, and contracting states already have some experience on this matter. Despite the fact that current maritime threats are complex, globally significant, and require an immediate, collective, and innovative response to all states to address them with due diligence and true statesmanship, it is uncertain whether the position of the UK, based on the results of the discussion to propose a specific amendment to the convention or a supplementary regulation, will be shared by other parties of UNCLOS. One thing remains clear, there are a lot of maritime matters. Therefore, member states of the convention should know what their expectations are and how they can act to achieve a packaged deal without any ambiguities and vagueness in its provisions. This helps avoid uncondusive legal certainty and meet the needs of effective ocean governance, by balancing global interest, sovereign power, and jurisdiction of state.<sup>60</sup>

It is clear that the UK cannot address all maritime threats as an independent actor. The Sea is common now, and in this respect, the engagement of different states is important, even more crucial. Historically, the UK was considered a naval power country and it is obvious that the UK wants to secure its position in respect of maritime issues over its maritime zones through leading international maritime organizations or institutions. However, how the UK, not a party of UNCLOS, 1982, considers promoting, straightening, or engaging in different dimensions of the maritime activities, will be interesting to investigate. It remains doubtful that the denunciation of UNCLOS, 1982 by the UK, based on rules and provisions of international law, will be an effective mechanism for the UK to reach its goal and secure its potential as a global maritime actor. It's also unclear if the UK has an appetite to amend UNCLOS, 1982. It is obvious that any amendment of UNCLOS or statement to amend UNCLOS, requires relevant support from the member states as well. Perhaps the global conference held in Glasgow in 2021 was not enough for the UK to consider that sound amount of state support in its decision to amend or share the same spirit to amend the convention. Therefore, the logical chain of the process makes clear that either the UK will remain a part of UNCLOS, 1982 and will address relevant international organizations forum to define the legal regulatory framework, or the UK will denunciate UNCLOS, 1982 as the convention unfit for the 21st century, creating another model of a single state in Europe, similar to the U.S.

Additionally, the UK knows how UNCLOS, 1982 operates and works to regulate issues regarding the law of the sea and ocean, maritime zones, boundaries, and resource matters. In this respect, the UK benefited from UNCLOS, 1982. It undeniable that certain provisions

of UNCLOS, 1982 are drafted on a vague basis and are uncertain from some perspectives. Additionally, the convention does not address new and emerging challenges, however, it is considered a constitution of the sea, a framework legal basic which opens the possibility to build upon new rules and regulations to define the best standards for regulating new and emerging threats. As a basic document, the constitution shall provide basic principles, so-called starting points, and a general concept of threats, then it is up to legal drafters to regulate the specific problem with more specific provisions.

## VI. Conclusion

It is obvious that the political, economic, social, technological, security, normative, and institutional changes and developments will require a relevant framework of regulation. Likely leading lead to new rules through the amendment, reinterpretation, or replacement of the basic legal instrument. Currently, we are witnessing one of the more important discussions, perhaps a historical moment that will change “what everyone knows is true” with respect to UNCLOS, 1982. However, is it possible for global society to predict future maritime needs, threats, and challenges while addressing them all? The author thinks it is not possible because needs are changing over time and in ways that will be impossible to predict, even if it’s possible to effect. UNCLOS, 1982 was negotiated, signed, and ratified by countries with different perspectives, backgrounds, capabilities, and needs. It governed existing challenges of the global community at a time. This is why it is always referred to as a “package deal.” One thing is clear, the outcomes of the inquiry will lead to a lengthy negotiation process between state parties of the convention, and we hope that the idea and spirit of the ongoing discussion will survive.

It is a non-changeable fact that UNCLOS, 1982 is a document of its time, and it is valid and fair to challenge the document or start to open a dialogue with member states to amend the convention for regulations of new emerging threats. However, is UNCLOS, 1982 the right document to amend? Previously, every emerging issue regarding maritime security, safety, or environment has been solved within the framework of IMO through its international legal instruments. Therefore, is it rational, pragmatic, or practical for the UK to come to the decision to denunciate the convention? UNCLOS, 1982 does not allow States to make a reservation on its provisions, nor does it open perspectives of its applicability based on a case-by-case principle.

Additionally, Brexit shall be taken into account as a pre-existing factor of the inquiry. It isolated the UK and created a single state in the middle of Europe, similar to the U.S. However, even if the UK decides to denounce the convention within the international law framework, the country will still be bound by customary international law. How effectively can the UK try to govern, regulate, or engage in the law of sea-related matters and deal with new emerging challenges while denouncing UNCLOS, 1982 and sharing the same policy and approach as the U.S.? If based on the results of the inquiry, the UK begins preparing the legal ground to denounce or revoke its participation in UNCLOS, 1982 then it remains doubtful such a decision would set a good example for other states to perform their rights and obligations set in the UNCLOS, 1982 under the due diligence principle; especially having taken into account problematic regions discussed several times by the committee, such

as the South China Sea, the Mediterranean Sea, the Russian Federation's assertion of passage rights in Ukrainian's Sea of Azov, etc. There is no doubt that the UK has a strong maritime history as a sea power country. More importantly, it has had a strong position in different international organizations and institutions. Perhaps the UK's committee is the right forum to probe and address different, emerging maritime treaties. However, what consequences will come of such inquiries remains unclear.

## Notes

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