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Rights and obligations in marine scientific research: legal insights from chinese research/survey vessels operating in maritime zones under Vietnam's sovereign rights

Direitos e obrigações na pesquisa científica marinha: análises jurídicas a partir da atuação de embarcações chinesas de pesquisa/exploração em zonas marítimas sob direitos soberanos do Vietnã

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Rights and obligations in marine scientific research: legal insights from chinese research/survey vessels operating in maritime zones under Vietnam's sovereign rights*

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Abstract

This article examines the rights and obligations of coastal States and foreign vessels in conducting maritime scientific research within maritime zones under coastal State sovereign rights, focusing on legal issues arising from the operation of the Chinese research/survey vessel *Bei Diao 996* in Vietnam's exclusive economic zone. The study aims to clarify whether Vietnam has a sufficient legal basis under the 1982 United Nations Convention on the Law of the Sea to require prior authorization for foreign research and survey activities and to assess the adequacy of Vietnam's domestic regulatory framework. Using doctrinal, historical, and comparative legal methods, the article analyses provisions of 1982 United Nations Convention on the Law of the Sea on marine scientific research, Vietnamese legislation governing foreign scientific activities at sea and evaluates the legal distinction between marine scientific research and hydrographic surveying. The findings indicate that although hydrographic surveying differs conceptually from marine scientific research, it does not constitute an unrestricted freedom of the seas when conducted in another State's exclusive economic zone and involving marine data collection relevant to resource management or maritime governance. Accordingly, unauthorized survey activities by the *Bei Diao 996* vessel are inconsistent with United Nations 1982 Convention on the Law of the Sea and infringe Vietnam's sovereign rights. The research further identifies regulatory fragmentation and procedural limitations within Vietnam's maritime scientific research licensing regime and recommends clarifying legal classifications, strengthening authorization procedures, and improving institutional coordination while ensuring compliance with international obligations to facilitate legitimate scientific research. Although limited by reliance on publicly available information and a single case study, the article provides policy – relevant insights for maritime governance and contributes an original, practice – oriented analysis clarifying the evolving legal status of

MSR and maritime survey activities under 1982 United Nations Convention on the Law of the Sea.

Keywords: UNCLOS 1982; marine scientific research; Bei Diao 996; hydrographic survey; sovereign rights; Vietnam.

Resumo

O presente artigo examina os direitos e as obrigações dos Estados costeiros e de embarcações estrangeiras na condução de pesquisa científica marinha em zonas marítimas sob direitos soberanos do Estado costeiro, com enfoque nas questões jurídicas decorrentes da atuação da embarcação chinesa de pesquisa/exploração Bei Diao 996 na zona econômica exclusiva do Vietnã. O estudo tem por objetivo esclarecer se o Vietnã dispõe de base jurídica suficiente, nos termos da Convenção das Nações Unidas sobre o Direito do Mar, para exigir autorização prévia para atividades estrangeiras de pesquisa e levantamento, bem como avaliar a adequação do arcabouço regulatório doméstico vietnamita. Por meio de métodos jurídicos doutrinário, histórico e comparado, o artigo analisa as disposições da UNCLOS de 1982 relativas à pesquisa científica marinha, a legislação vietnamita que rege atividades científicas estrangeiras no mar e examina a distinção jurídica entre pesquisa científica marinha e levantamento hidrográfico. Os resultados indicam que, embora o levantamento hidrográfico se distinga conceitualmente da pesquisa científica marinha, não constitui uma liberdade irrestrita dos mares quando realizado na zona econômica exclusiva de outro Estado e quando envolve a coleta de dados marinhos relevantes para a gestão de recursos ou a governança marítima. Nesse sentido, as atividades de levantamento não autorizadas realizadas pela embarcação Bei Diao 996 mostram-se incompatíveis com a UNCLOS de 1982 e configuram violação dos direitos soberanos do Vietnã. A pesquisa identifica, ademais, fragmentação normativa e limitações procedimentais no regime vietnamita de licenciamento da pesquisa científica marinha, recomendando a clarificação das categorias jurídicas, o fortalecimento dos procedimentos de autorização e a melhoria da coordenação institucional, em conformidade com as obrigações internacionais, a fim de viabilizar a pesquisa científica legítima. Embora limitado pela dependência de informações publicamente disponíveis e pela análise de um único estudo de caso, o artigo oferece con-

tribuições relevantes para a formulação de políticas de governança marítima e apresenta uma análise original, orientada à prática, que esclarece a evolução do estatuto jurídico da pesquisa científica marinha e das atividades de levantamento marítimo no âmbito da UNCLOS de 1982.

Palavras-chave: UNCLOS 1982; pesquisa científica marinha; Bei Diao 996; levantamento hidrográfico; direitos soberanos; Vietnã.

1 Introduction

Marine scientific research (MSR) has long been recognized as a lawful use of the seas under international law. As early as 1956, the International Law Commission affirmed MSR as a freedom of the high seas¹, and the 1982 United Nations Convention on the Law of the Sea (UNCLOS) subsequently devotes Part XIII to regulating the conduct and management of MSR². Under UNCLOS, coastal States have the right to regulate MSR within their exclusive economic zones (EEZs) and continental shelves, and although they may grant or withhold consent, they are not permitted to unreasonably refuse requests in normal circumstances³.

Despite this detailed regulatory framework, UNCLOS does not define the term “marine scientific research”. In fact, during the negotiation of UNCLOS 1982, many proposals were made to define MSR activities; however, none of them were ultimately adopted⁴, and international tribunals have not yet provided

¹ UNITED NATIONS. General Assembly. *Report of the International Law Commission covering the work of its eighth session, 23 April–4 July 1956*. New York: United Nations, 1956. (Vol. II, UNYBILC, p. 253). United Nations. Available at: <https://digitallibrary.un.org/record/710819?v=pdf>. Access on: 27 Jun. 2025.

² UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. Part III. Access on: 27 Jun. 2025.

³ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 238–257; MUKHERJEE, P.K. The Consent Regime of Oceanic Research in the New Law of the Sea. *Marine Policy*, v. 5, n. 2, p. 98–113, Apr. 1981.

⁴ UNITED NATIONS. Office of Legal Affairs. Division for Ocean Affairs and the Law of the Sea. *Marine scientific research: A revised guide to the implementation of the relevant provisions of the United Nations Convention on the Law of the Sea*. New York: United Nations, 2010. Available at: https://www.un.org/Depts/los/doalos_publications/publicationtexts/msr_guide%202010_final.pdf. Access on: 27 Jun. 2025.

authoritative clarification⁵. This definitional ambiguity has led to significant legal uncertainty, especially when distinguishing MSR from other data-gathering activities such as hydrographic surveys. While Part XIII expressly governs MSR, UNCLOS contains no equivalent regime for hydrographic surveys even though modern hydrographic data now has dual civilian, economic, and security applications. This has led to very different academic and practical debates among countries about the legal jurisdiction of the coastal states over this activity. So, is a hydrographic survey a kind of MSR activity, or is it a separate activity from MSR?

The legal and practical consequences of this uncertainty are particularly evident in the East Sea. As a member of UNCLOS 1982⁶, Vietnam is obliged to respect the freedoms of navigation and MSR while exercising its sovereign rights over resources and research within its EEZ and continental shelf. Yet, to date, Vietnam has issued seven MSR licences, reflecting administrative, procedural and doctrinal constraints that may hinder legitimate research activities. At the same time, the repeated presence of Chinese “research” or “survey” vessels—most recently the Bei Diao 996 vessel in June 2025⁷, has heightened controversy regarding the legality of foreign data-gathering operations in areas claimed by Vietnam⁸.

The Bei Diao 996 vessel— a small-waterplane-area twin hull (SWATH)⁹, has underwater capabilities and a

UAV launcher¹⁰. The design of the Bei Diao 996 ship allows for testing of equipment, acoustic sensors and underwater data cables¹¹. With such modern technological equipment, the Bei Diao vessel is completely capable of performing both MSR and hydrographic survey activities. This creates a “grey zone” in the argument about the activities of Chinese vessels in Vietnam’s EEZs, because according to UNCLOS, foreign vessels have the right to freedom of navigation in the EEZ and continental shelf of a coastal state. Therefore, the next question is, what obligations and rights do the UNCLOS impose on foreign vessels, including Bei Diao, when conducting research/surveys in Vietnam’s EEZs? and (ii) what lawful measures are available for Vietnam to both facilitate genuine MSR and respond effectively to unlawful or unconsented research or survey activities?

This paper addresses these questions. It does not examine disputed maritime claims, as the Arbitral Tribunal in the *South China Sea Arbitration (Philippines v. China)* has already rejected China’s nine-dash-line or “historic rights” claim in the relevant maritime area¹². The analysis therefore proceeds on the premise that the operations of the Bei Diao 996 occurred within maritime zones over which Vietnam enjoys sovereign rights under UNCLOS. For the purposes of this study, MSR is understood in the sense contemplated by UNCLOS—namely, research conducted for the benefit

⁵ INTERNATIONAL COURT OF JUSTICE. *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgement, 31 Mar. 2014. Available at: <https://www.icj-cij.org/sites/default/files/case-related/148/148-20140331-JUD-01-00-EN.pdf>. Access on: 27 Jun. 2025. In this case, the Court avoided explaining the concept of marine scientific research under international conventions, but instead approached whether Japan’s whaling practices were consistent with the scientific aims of the Japanese whaling program.

⁶ Vietnam submitted its ratification documents to the UN Secretariat on July 27, 1994.

⁷ DU, Lan. Chinese ship conducts survey off Vietnam but Hanoi’s state media stays silent. *Radio Free Asia*, 2025. Available at: <https://www.rfa.org/english/southchinasea/2025/06/26/vietnam-china-survey-ship/>. Access on: 27 Jun. 2025.

⁸ DU, Lan. Chinese ship conducts survey off Vietnam but Hanoi’s state media stays silent. *Radio Free Asia*, 2025. Available at: <https://www.rfa.org/english/southchinasea/2025/06/26/vietnam-china-survey-ship/>. Access on: 27 Jun. 2025.

⁹ BAIRD MARITIME. VESSEL REVIEW | Bei Diao 996 – New Chinese built deep – sea research and testing support ship. *Baird Maritime*, 22 Jul. 2022. Available at: <https://www.bairdmaritime.com/work-boat-world/research-environment-training/vessel-review-bei-diao-996-new-chinese-built-deep-sea-research-and-testing-support-ship>. Access on: 27 Jul. 2025.

¹⁰ 中国船舶集团有限公司 [China State Shipbuilding Corporation Limited]. 深海装备综合试验船“北调996”首航开赴海南三亚 [The deep-sea equipment comprehensive test ship “Beidiao 996” sets sail for its maiden voyage]. 2022. Available at: <http://www.csic.com.cn/n5/n21/c22360/content.html>. Access on: 29 Jul. 2025.

¹¹ PHẠM. Thanh Vân; et al. *Một phân tích tính pháp lý và hậu quả hoạt động của tàu Bắc Điều 996 trong vùng đặc quyền kinh tế và thềm lục địa của Việt Nam* [A legal analysis and consequences of the operations of the Beidiao 996 vessel in Vietnam’s exclusive economic zone and continental shelf]. *Dự án Đại Sự Ký Biển Đông*, 22 Jun. 2025. Available at <https://dskbd.org/2025/06/22/mot-phan-tich-phap-ly-va-hau-qua-hoat-dong-cua-tau-bac-dieu-996-trong-vung-dac-quyen-kinh-te-va-them-luc-dia-cua-viet-nam/>. Access on: 2 Aug. 2025; BAIRD MARITIME. VESSEL REVIEW | Bei Diao 996 – New Chinese built deep – sea research and testing support ship. *Baird Maritime*, 22 Jul. 2022. Available at: <https://www.bairdmaritime.com/work-boat-world/research-environment-training/vessel-review-bei-diao-996-new-chinese-built-deep-sea-research-and-testing-support-ship>. Access on: 27 Jul. 2025; MEHNAZD. What is a SWATH Ship?. *Marine insight*, 10 Jan. 2021. Available at: <https://www.marineinsight.com/types-of-ships/what-is-a-swath-ship/>. Access on: 27 Jul. 2025.

¹² PERMANENT COURT OF ARBITRATION. *Case 2013-19 in the matter of the South China Sea (Philippines v. China)*, Award, 12 Jul. 2016. Available at: <https://pca-cpa.org/es/cases/7/>

of humankind—and excludes research conducted for military purposes.

2 International legal framework governing the rights and obligations of coastal states and foreign vessels in marine scientific research

2.1 Rights and obligations of foreign research/survey vessels

Coastal states have sovereignty over territorial seas, archipelagic waters and straits used for international navigation in accordance with UNCLOS 1982¹³. MSR in these maritime zones may only be carried out with the consent of the coastal states¹⁴. Coastal states have sovereign rights and jurisdiction in their EEZs and continental shelves¹⁵. MSR in the EEZ and on the continental shelf of coastal states is subject to a specific regulatory regime set out in Part XIII of UNCLOS.

Under Part XIII, all States have the right to conduct MSR¹⁶. However, this right is circumscribed by a set of general obligations that reflect the balance UNCLOS strikes between freedom of the seas and coastal State jurisdiction. Central to this balance is the duty of all States to “promote and facilitate” MSR¹⁷, which demonstrates that UNCLOS treats research as a cooperative endeavour serving the interests of the international community as a whole, rather than as a unilateral entitlement of individual States. MSR must comply with three principles. *Firstly*, MSR must be conducted solely for peaceful purposes. *Secondly*, MSR must be conducted by “appropriate scientific methods and means that do not result in the interference of other lawful uses of

the sea in accordance with other conventions”¹⁸. *Thirdly*, MSR must be conducted in accordance with UNCLOS, including the rules in Part XII on the protection of the marine environment¹⁹. Notably, MSR does not provide a legal basis for any claim to any part of the marine environment or its resources²⁰.

The fundamental requirement for foreign vessels conducting MSR within the maritime zones of another state is to secure prior consent from the coastal State prior to the initiation of any research activities in their EEZs and on their continental shelves²¹. It is incumbent upon these foreign vessels to provide the coastal state with comprehensive information at least six months before the anticipated commencement date of any research project²². According to Article 248 of UNCLOS, this notification should be a complete description of: the nature and objectives of the project; the method and means to be used, including name, tonnage, type and class of vessels and a description of scientific equipment; the precise geographical areas in which the project is to be conducted; the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate; the name of the sponsoring institution, its director, and the person in charge of the project; and the extent to which it is considered that the coastal State should be able to participate or to be represented in the project.

In the specific case of the Bei Diao 996, it is crucial to include detailed specifications regarding the SWATH design, equipment testing targets, underwater acoustic sensors, and the submarine data cables intended for evaluation. Furthermore, the technical capabilities of the vessel—such as its dynamic positioning system and unmanned aerial vehicle (UAV) launch platform—must also be disclosed. Should the coastal state fail to respond within four months of receiving the notification, the Bei Diao 996 is permitted to proceed with the research project six months following the submission of

¹³ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art.2.

¹⁴ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 245.

¹⁵ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 56, 77.

¹⁶ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 238 - Opening provisions of Part XIII.

¹⁷ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 239.

¹⁸ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 240.

¹⁹ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 240.

²⁰ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 241.

²¹ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 246.

²² UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 248.

information to the coastal state, pursuant to the “implied consent” provision stipulated in Article 252 of UNCLOS. However, it is important to note that this provision is not applicable in circumstances where the coastal state has explicitly denied consent or requested further information.

Upon acquiring permission from the coastal state, the foreign vessel undertaking MSR within the EEZ and continental shelf of the coastal state must comply with several obligations as outlined in Article 249 of UNCLOS. Specifically, the foreign vessel must ensure that the coastal state has the opportunity to participate or be represented in the research project, particularly onboard, when feasible. Such participation must occur without any remuneration for scientists from the coastal state and without any requirement for the coastal state to contribute to the project’s costs.

Additionally, the foreign vessel must provide the coastal State with a preliminary report as soon as practicable; the results and conclusions after the completion of the research; the assessment of all data and samples derived from the MSR project; the evaluation of such data, samples, and research results if requested by the coastal State²³. When it comes to the Bei Diao 996, this vessel must ensure that the research results are made available to the international community through appropriate channels; promptly notify the coastal State of any significant changes to the research program; and dismantle scientific research equipment or facilities once the research is completed, unless otherwise agreed.

In summary, the regulatory framework governing MSR is subject to coastal state control over activities in the territorial sea, the exclusive economic zone, and on the continental shelf. Although flag states maintain jurisdiction over MSR conducted from their vessels, this jurisdiction may be concurrent with coastal state jurisdiction in their maritime zones. Consequently, MSR is conducted under the principle of freedom of navigation on the high seas only when performed beyond national jurisdiction. Therefore, the freedom to conduct MSR applies only in maritime areas that lie outside of national jurisdiction.

²³ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 249 (1).

2.2 Rights and obligations of coastal states in marine scientific research

Coastal states have the obligation to cooperate and facilitate the conduct of MSR²⁴, to enact appropriate regulations and to provide procedures to promote MSR²⁵, Coastal states have exclusive jurisdiction to regulate MSR in their territorial seas²⁶. However, coastal states must ensure, “in normal circumstances”, that they consent to MSR projects for peaceful purposes and to increase scientific knowledge of the marine environment for the benefit of mankind²⁷. In which, the definition of “normal circumstances” that is mentioned in UNCLOS can be inferred from Article 246 (3) and Article 246(4)²⁸. Accordingly, the “normal circumstances” are those that: (i) do not result in an unjustifiable prohibition on the granting of authorization for MSR for peaceful purposes and for the advancement of scientific knowledge of the marine environment for the benefit of mankind (coastal states must adopt regulations and procedures to ensure such authorization) and (ii) the absence of diplomatic relations between the coastal state and the state conducting the MSR would not be a reason for the absence of the normal circumstances.

In normal circumstances, coastal states shall grant permission for MSR activities. However, in certain circumstances, a coastal state may withhold permission to conduct MSR in the EEZ and continental shelf if the project has “direct significance” for the exploration and exploitation of natural resources, involves drilling on the continental shelf or the use of explosives, involves the construction, operation or use of artificial islands, installations and structures, or is communicated by a proposal containing inaccurate information²⁹. Foreign vessels conducting MSR in the EEZ and on the continental shelf of another state may rely on the tacit

²⁴ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*: UNCLOS. [1982]. Art. 243.

²⁵ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*: UNCLOS. [1982]. Art. 245.

²⁶ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*: UNCLOS. [1982]. Art. 245.

²⁷ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*: UNCLOS. [1982]. Art. 246.

²⁸ GRAGL, P. Marine scientific research. In ATTARD, David; et al. *The IMLI manual on international maritime law: Volume I: The law of the sea*. The United States of America: Oxford University Press, 2014. Chapter 14, p. 396-430.

²⁹ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*: UNCLOS. [1982]. Art. 246 (5), 252.

consent of that state if the coastal state has not notified its decision to refuse permission³⁰. A decisive principle that is essential to understanding the scope and limits of coastal state jurisdiction over MSR in the EEZ and on the continental shelf is that MSR shall be conducted solely for peaceful purposes and “to increase scientific knowledge of the marine environment for the benefit of all mankind”³¹.

The purpose of MSR is to benefit all mankind, meaning that information collected for exclusive purposes and not for the benefit of all mankind is not MSR. Therefore, marine data collected for limited purposes, such as commercial enterprises or for military or intelligence operations, and will not be shared with the global scientific community for the benefit of all humanity, is not MSR.

In short, it can be said that the MSR regulations are established to give coastal states greater control over whether to consent or not to foreign research activities in their waters, their sovereign rights. This regime reflects sovereignty and jurisdiction over activities designed to promote understanding of the marine environment.

3 Hydrographic survey – one of the marine data collection activities outside the marine scientific research regime under UNCLOS

The MSR regime in UNCLOS was designed for research on board vessels of non-military expeditions, which is also known as the primary method of ocean research in the post-World War II period³². However, even when UNCLOS was being negotiated as well as when it entered into force, new methods of data collection and new purposes for the data emerged. Some of these, such as data collection in the Area or natural resource exploration in the EEZ, on the continental shelf, were included in UNCLOS but were outside Part

XIII³³. With the development of scientific methods, marine data may be collected under other provisions of UNCLOS or not addressed in the Convention. For example, vessels of all flag States may collect marine or oceanographic data to support the safe transit of ships. While oceanographic data collection may be used to pursue knowledge that benefits all mankind, it is primarily used for real-time weather forecasting to ensure the safety of navigation. Therefore, such data collection in this manner is not regulated by the MSR regime. Generally, the exceptions to Part XIII are those activities that are not intended to promote MSR and therefore are not regulated through the MSR regime in Part XIII, even if they use similar or sometimes identical MSR facilities³⁴.

Hydrographic surveys are among the activities not regulated by Part XIII of UNCLOS. Currently, the legality of hydrographic survey activities by other States in the EEZ without the permission of the coastal State is a controversial issue³⁵. The lack of uniformity in the provisions of UNCLOS 1982 is the cause of this controversy. To be more specific, the clear distinction between the two concepts (1) MSR and (2) Hydrographic survey is expressed in Articles 19, 21, 40 of the UNCLOS 1982. According to Article 21 (g), coastal States may invoke laws and regulations relating to innocent passage through their territorial sea in connection with marine scientific research and hydrographic survey. However, regarding the jurisdiction of coastal states over EEZ, Article 56 UNCLOS 1982 only mentions MSR activities but does not mention hydrographic survey activities. Furthermore, while UNCLOS devotes Part XIII to specific regulations on the regulation and management of MSR in the EEZ and continental shelf, UNCLOS does not have corresponding provisions for hydrographic survey. This leads to debates on the legal jurisdiction of coastal states over this activity. The question arises whether hydrographic surveying is a kind of MSR or a separate activity from MSR. If hydrographic

³⁰ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 246(3).

³¹ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 246(3).

³² KRASKA, James. Marine Data Collection Outside the MSR Regime. In NGUYEN, Lan Anh T.; VU, Hai Dang. (eds.). *Viability of UNCLOS amid Emerging Global Maritime Challenges*. [S.I.]: Springer, 2025. Chapter 4, p. 41-58.

³³ Exploration of natural resources in the EEZ, on the continental shelf may be regulated by the coastal State under separate legal jurisdictions, including Parts V, VI of UNCLOS; Data collection in the Area may be regulated by Part XI of the Convention if it relates to seabed minerals.

³⁴ KRASKA, James. Marine Data Collection Outside the MSR Regime. In NGUYEN, Lan Anh T.; VU, Hai Dang. (eds.). *Viability of UNCLOS amid Emerging Global Maritime Challenges*. [S.I.]: Springer, 2025. Chapter 4, p. 41-58.

³⁵ TREVES, Tullio. Coastal States' rights in the maritime areas under UNCLOS. *Brazilian Journal of International Law*, v.12, n.1, p.39-48, 2015.

surveying is part of MSR, then it will be within the jurisdiction of the coastal State. However, if it is not, the absence of mention of this activity within the jurisdiction of coastal States raises the question of whether it is freely exercised by other States.

Firstly, the origins of hydrographic surveying lie in marine scientific research, and this partly explains why the boundary between marine scientific research and hydrographic surveying is challenging to draw³⁶. Secondly, the inconsistency of the provisions of UNCLOS may be caused by the fact that the provisions relating to MSR were negotiated and drafted by different committees. During the drafting of UNCLOS 1982, several committees were responsible for drafting provisions relating to MSR³⁷. During the negotiations of UNCLOS III (1973–1982), technical experts from the International Hydrographic Organization (IHO), the agency responsible for navigation safety and mapping of coastal waters, were consulted. Before the deployment of the Navistar Global Positioning System (GPS) in the 1990s, accurate surveying beyond territorial waters was technologically not feasible without the assistance of coastal stations established by the coastal States. Therefore, the drafters considered that the provisions on hydrographic surveys within the territorial sea were sufficient and they did not foresee widespread hydrographic survey activities beyond the territorial sea. In addition, hydrographic surveys were identified to serve the purpose of safety of navigation, including the activities of warships. Survey data could be used to create navigation charts and digital terrain models³⁸. Security issues were raised during the discussion of the EEZ regime but were not accepted because the EEZ is not sovereign national territory.

Thus, the absence of a provision for hydrographic surveys in the sea beyond the territorial sea reflects a historical assumption, not a tacit acceptance of the

freedom of offshore hydrographic surveys. The development of GPS, technology and subsequent survey platforms have made hydrographic surveys beyond the territorial sea possible³⁹. Moreover, this the potential of hydrographic survey data has extended beyond its original purpose of serving the safety of navigation, for example, to include economic potential, supporting coastal zone management, and coastal science and engineering⁴⁰. Hydrographic surveys can be carried out without the need for onshore facilities near the hydrographic survey sites. Therefore, hydrographic survey activities in the EEZ have become a controversial issue in recent decades, as it is difficult for coastal states to identify these activities in their own waters. Differences in views between countries have led to many clashes in the EEZ, including the incident in which Chinese ships and aircraft blocked the US warships Impeccable and Victorious while they were conducting hydrographic surveys in China's EEZ⁴¹.

The position of the maritime powers (e.g., the United States or the United Kingdom) on this issue is that hydrographic surveys are carried out freely in the EEZ without the permission of the coastal states⁴². The basis

³⁹ TANAKA, Yoshifumi. *The International Law of the Sea*. 1. ed. Cambridge: Cambridge University Press, 2012.

⁴⁰ BATEMAN, Sam. Hydrographic surveying in the EEZ: differences and overlaps with marine scientific research. *Marine Policy*, v. 29, n. 2, p. 163-174, Mar. 2005. Available at: <https://www.defence.gov.uk/upload/ebooks/Hydrographic%20surveying%20in%20the%20EEZ-%20differences%20and%20overlaps%20with%20marine%20scientific%20research.pdf>. Access on: 22 Jul. 2025; CONNOR, Brian Douglas; NAIRIN, Rod. Economic impact of hydrographic surveys. In: FIG Congress, 24., 2010, Australia. *Facing the Challenges – Building the Capacity: proceedings*. [S.I.]: FIG, 2010. Available at: https://www.fig.net/resources/proceedings/fig_proceedings/fig2010/papers/ts08i/ts08i_connon_nairn_4588.pdf. Access on: 28 Jul. 2025.

⁴¹ PEDROZO, Raul. Close encounters at sea: the USNS Impeccable incident, *Naval War College Review*, v. 62, n. 3, p. 100-11, 2009. Available at: <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1692&context=nwc-review>. Access on: 22 Jul. 2025; MORGAN, David. U.S. says Chinese vessels harassed Navy ship. *Reuters*, 9 Mar. 2009. Available at: <https://www.reuters.com/article/world/us-politics/us-says-chinese-vessels-harassed-navy-ship-idUSTRE52845A/>. Access on: 22 Jul. 2025; O'ROURKE, Ronald. U.S.-China Strategic Competition in South and East China Seas: Background and Issues for Congress. The US: Congress, 2025. Available at: https://www.congress.gov/crs-product/R42784#_Toc197064723. Access on: 22 Jul. 2025; BATEMAN, Sam. Hydrographic surveying in the EEZ: differences and overlaps with marine scientific research. *Marine Policy*, v. 29, n. 2, p. 163-174, Mar. 2005. Available at <https://www.sciencedirect.com/science/article/abs/pii/S0308597X04000855>. Access on: 22 Jul. 2025.

⁴² COUNCIL FOR SECURITY COOPERATION IN THE

³⁶ GORINA-YSERN, Montserrat & TSAMENYI, Martin. Defence Aspects of Marine Scientific Research. *Maritime Studies*, v. 1997, n. 96, p. 13-23, Oct. 1997.

³⁷ UNITED NATIONS. Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs. *Marine scientific research: A revised guide to the implementation of the relevant provisions of the United Nations Convention on the Law of the Sea*. New York: United Nations publication, 2010. Available at: https://www.un.org/Depts/los/dao-los_publications/publicationtexts/msr_guide%202010_final.pdf. Access on: 27 Aug. 2025.

³⁸ U.S. NAVY, U.S. MARINE CORPS, & U.S. COAST GUARD. *The commander's handbook on the law of naval operations*. US: Navy warfare development command, 2022.

of this position is the peaceful use of the sea related to the freedom of navigation and overflight under Article 58 UNCLOS 1982. On the contrary, some coastal states, such as Australia and Canada, hold the view that hydrographic survey activities in the EEZ must be approved by the coastal states⁴³. China has been one of the leading countries in advocating this view. In December 2002, China announced that it had enacted a new law requiring Chinese permission for all survey and mapping activities within China's EEZ and stating that unauthorized ocean survey activities would be subject to fines, and confiscation of equipment and data⁴⁴. There is a growing trend among states to regulate hydrographic surveys under consent or notification to the coastal state as a regime of MSR⁴⁵. In practice, the International Hydrographic Organization implicitly supports coastal State jurisdiction over hydrographic surveys beyond the territorial sea, under a licensing regime model as for MSR⁴⁶.

In short, in the UNCLOS 1982 negotiations, hydrographic survey was a different concept from MSR. However, over time, with technological evolution, these two kinds of activities have technical similarities in practice, and hydrographic survey data have not only signi-

ficance for maritime safety but also have economic potential and maritime management. In fact, hydrographic surveys are reflected in the MSR regime of UNCLOS. Therefore, applying the interpretation of development, that is, interpretation is based upon an evolution intended by the parties to the treaty for the unclear provisions in UNCLOS⁴⁷. Specifically, in this case, hydrographic surveys in the EEZ must have the permission of the coastal State and should only be conducted with the participation of that State. Even though "hydrographic surveys and nautical charting" is not identical to MSR, States exercising their rights and performing their duties in EEZ of the coastal states shall have "due regard to" the rights and duties of the coastal states in the spirit of Article 58(3) UNCLOS. According to the International Hydrographic Organization, hydrographic surveys include

the measurement and description of the physical features of oceans, seas, coastal areas, lakes and rivers, as well as with the prediction of their change over time, for the primary purpose of safety of navigation and in support of all other marine activities, including economic development, security and defense, scientific research, and environmental protection.⁴⁸

Due to the potential implications related to the sovereign rights and jurisdiction of coastal states recognized by the Convention, obtaining permission when conducting hydrographic surveys in the EEZ is an expression of the "due regard" obligation. As Tullio Treves noted: "It is an obligation for both States to exercise their rights respecting those of the other States and to endeavour in good faith to find accommodations permitting the exercise of the rights of both."⁴⁹ Coastal states generally consent to hydrographic surveys if they are solely related to the safety of navigation, but consent may be withheld if the surveys are related to the exploration or exploitation of resources. Technological developments have made hydrographic survey data economically viable and difficult to distinguish from MSR. This has given coastal states the basis to require foreign

ASIA PACIFIC. *Memorandum 6: "The practice of the law of the sea in the Asia Pacific"*. Kuala Lumpur: CSCAP, 2002. Cited in: BATEMAN, Sam. Hydrographic surveying in exclusive economic zones: Jurisdictional issues. *The International Hydrographic Review*, v.5, n. 1, p. 24-33, Apr. 2004. Available at: <https://journals.lib.unb.ca/index.php/ihr/article/view/20645>. Access on: 22 Jul. 2025. Cited in: BATEMAN, Sam. Hydrographic surveying in the EEZ: differences and overlaps with marine scientific research. *Marine Policy*, v. 29, n. 2, p. 163-174, Mar. 2005. Available at: <https://www.defence.lk/upload/ebooks/Hydrographic%20surveying%20in%20the%20EEZ-%20differences%20and%20overlaps%20with%20marine%20scientific%20research.pdf>. Access on: 22 Jul. 2025.

⁴³ BATEMAN, Sam. Hydrographic surveying in the EEZ: differences and overlaps with marine scientific research. *Marine Policy*, v. 29, n. 2, p. 163-174, 2005. Available at: <https://www.sciencedirect.com/science/article/abs/pii/S0308597X04000855>. Access on: 22 Jul. 2025.

⁴⁴ SHIP AND OCEAN FOUNDATION; EAST – WEST CENTER. *The Regime of the Exclusive Economic Zone: Issues and Responses: A Report of the Tokyo Meeting*. Honolulu, Feb. 2003, p.39. Available at: <https://www.eastwestcenter.org/sites/default/files/private/EEZTokyoMeeting.pdf>. Access on: 27 Jul. 2025.

⁴⁵ BATEMAN, Sam. Hydrographic surveying in the EEZ: differences and overlaps with marine scientific research. *Marine Policy*, v. 29, n. 2, p. 163-174, 2005. Available at <https://www.sciencedirect.com/science/article/abs/pii/S0308597X04000855>. Access on: 22 Jul. 2025.

⁴⁶ AUSTRALIA. Department of Foreign Affairs. *Report of the Australian Delegation*. Canberra: Australian Government Publishing Service, 1977.

⁴⁷ BJORGE, Eirik. *The Evolutionary Interpretation of Treaties*. The United States of America: Oxford University Press, 2014. Chapter 3, p. 56-141.

⁴⁸ International Hydrographic Organization. *Definition & Importance of Hydrography*. [2019]. https://legacy.iho.int/srv1/index.php?option=com_content&view=article&id=299&Itemid=289&language=en. Access on: 2 Mar. 2026.

⁴⁹ TREVES, Tullio. Coastal States' rights in the maritime areas under UNCLOS. *Brazilian Journal of International Law*, v.12, n.1, p.39-48, 2015.

states to provide at least information on the nature of the activities they are conducting in their EEZ.

4 Vietnam's practice on marine scientific research - assessment from the perspective of international law enforcement

4.1 Vietnam's legal framework on marine scientific research

Before Vietnam became a member of UNCLOS⁵⁰, the Council of Ministers issued Decree No. 242/HDBT in 1991, which regulated the entry of foreign parties and foreign means into the seas of the Socialist Republic of Vietnam for marine scientific research, contributing to creating favorable conditions for foreign MSR activities in Vietnam⁵¹. In 2016, Decree No. 242/HDBT officially expired and was replaced by Decree No. 41/2016/ND-CP on detailing the licensing of foreign organizations and individuals to conduct scientific research in Vietnam's maritime zones, in accordance with the Constitution, laws and treaties. Currently, Vietnam's legal documents such as the Law on the Sea of Vietnam (2012)⁵², the Law on Marine and Island environmental resources (2015) have provisions related to MSR activities⁵³, the Law on science, technology, and innovation (2025)⁵⁴. The basic science development Program in the fields of chemistry, life sciences, earth sciences and marine sciences for the period 2017-2025 was approved by the Prime Minister on April 25, 2017, MSR has become an important priority area in the development policy of Vietnam. Vietnam also prioritizes building a team of highly qualified scientists in accordance with internatio-

nal standards⁵⁵. These efforts contribute to the goal of making Vietnam a strong and prosperous country based on its maritime resources⁵⁶.

- Regarding the definition of marine scientific research

Like UNCLOS 1982, Vietnamese law does not define the term "marine scientific research". However, this term is mentioned in Article 4(2) Law on Marine and Island environment resources (2015) with the provision:

The State mobilizes resources, encourages and promotes basic investigation and scientific research on marine and island resources and environment; giving priority to deep sea, distant sea, islands, adjacent international waters...⁵⁷.

Additionally, Article 2 Decree No. 242/HDBT once listed an open list of MSR activities and the objectives of these activities, including "investigation, exploration, research on resources, natural conditions, marine environment and other activities for civil purposes and serving peaceful purposes"⁵⁸. Scientific research activities on marine and island resources and environment must be for "peaceful purposes" and carried out in accordance with international law and Vietnamese law⁵⁹, including law on science and technology, law on marine and island resources and environment⁶⁰.

Regarding hydrographic survey, the approach of Vietnamese law is like that of UNCLOS 1982 when "hydrographic survey" is separate from "MSR"⁶¹. The Law on the Sea of Vietnam 2012 has a separate provision, Article 36, regulating MSR, which is compatible with regulations in UNCLOS. By contrast, hydro-

⁵⁰ VIETNAM. National Assembly. *Resolution of 23 June 1994 on ratifying the 1982 UNCLOS*. Hanoi, 1994.

⁵¹ VIETNAM. Council of Ministers. *Decree No. 242/HDBT of 5 August 1991 on the entry of foreign parties and foreign means into scientific research in the sea areas of the Socialist Republic of Vietnam*. Hanoi, 1991.

⁵² UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 36.

⁵³ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 19 - 20 on licensing and rights and obligations of foreign organizations and individuals conducting marine scientific research in Vietnam's waters.

⁵⁴ UNITED NATIONS. General Assembly. *United Nations Convention on the Law of the Sea*. UNCLOS. [1982]. Art. 3, 6-7) explain the terms "scientific activities", "basic research", "applied research".

⁵⁵ VIETNAM. Prime Minister. *Decision No. 562/QĐ-TTg of 10 March 2025 on approving the Program on the development of basic sciences in chemistry, life sciences, earth sciences, and marine sciences for the period 2017-2025*. Hanoi, 2017.

⁵⁶ VIETNAM. Communist Party of Vietnam. *Resolution No. 36-NQ/TW of 22 October 2018 on Strategy for Sustainable Development of Vietnam's marine economy by 2030, with Visions towards 2045*. Hanoi, 2018.

⁵⁷ VIETNAM. National Assembly. *Law No.82/2015/QH13 of 10 July 2015 on Marine and Island environment resources*. Hanoi, 2015.

⁵⁸ VIETNAM. Council of Ministers. *Decree No. 242/HDBT of 5 August 1991 on the entry of foreign parties and foreign means into scientific research in the sea areas of the Socialist Republic of Vietnam*. Hanoi, 1991.

⁵⁹ VIETNAM. National Assembly. *Law No. 82/2015/QH13 of 10 July 2015 on Marine and Island environment resources*. Hanoi, 2015.

⁶⁰ VIETNAM. National Assembly. *Law No.18/2012/QH13 of 21 June 2012 on the Sea of Vietnam*. Hanoi, 2012. Art. 17.

⁶¹ VIETNAM. National Assembly. *Law No.18/2012/QH13 of 21 June 2012 on the Sea of Vietnam*. Hanoi, 2012. Art. 25.

graphic measurement is only mentioned together with MSR, and it is not regulated separately. Based on Decree No. 242/HDBT and Vietnam's response to incidents of Chinese survey vessels (e.g. Haiyang Dizhi 8⁶², Bei Diao 996) operating in Vietnam's EEZ, it can be shown that foreign vessels/ships conducting hydrographic surveys in Vietnam's waters must also carry out prior permission procedures like MSR.

- Regarding marine scientific cooperation

Foreign organizations and individuals conducting scientific research in Vietnam's internal waters and territorial sea must obtain permission from the competent Vietnamese government authority. If this activity is conducted in Vietnam's EEZ and continental shelf, it must be approved by a competent Vietnamese state agency⁶³. This permission/approval is demonstrated by a decision to grant a scientific research license.

Conditions, responsibilities, and rights of foreign organizations and individuals are stipulated in Articles 19, 20 and 21 of the law on Marine, Island resources and Environment (2015). Some conditions for being licensed are that scientific research activities are conducted for peaceful purposes; MSR does not harm national sovereignty, defense, and security activities of Vietnam; does not pollute the marine environment; and does not hinder the legitimate activities of organizations and individuals in Vietnam's sea areas.

- Regarding the expense for licensing appraisal

Foreign organizations and individuals must pay licensing appraisal costs at the levels prescribed in Circular No. 07/2024/TT-BTC, specifically:

Table 1 – The expense for MSR licensing appraisal in Vietnam

No.	Licensing appraisal	Expense (VND/each appraisal)			
		Grant	Amendments and supplements	Extend	Re-issue
1	MSR that are outside the internal waters and territorial waters of Vietnam and do not use drilling methods on the seabed or underground under the seabed	4.000	3.700	2.200	1.300
2	MSR are conducted within the scope of Vietnam's internal waters and territorial waters Vietnam, and in which, there is no using drilling methods on the seabed or underground under the seabed.	5.300	4.000	3.400	2.200
3	MSR uses the method of drilling on the seabed, underground under the seabed	6.000	4.500	3.700	2.500

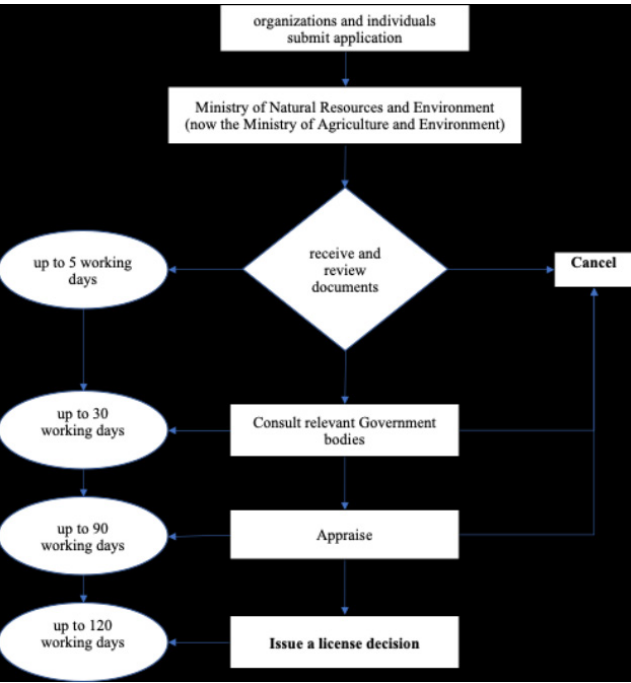
⁶² VIETNAM. Embassy of the Socialist Republic of Vietnam in Austria. *Statement by the spokesperson of the Vietnamese Ministry of Foreign Affairs Le Thi Thu Hang regarding the Chinese vessel Haiyang Dizhi 8's resumption of its violation of the Vietnamese Exclusive Economic Zone and Continental Shelf*. Available at: <http://www.vietnamembassy.at/en/news/statement-spokesperson-vietnamese-ministry-foreign-affairs-le-thi-thu-hang-regarding-chinese>. Access on: 5 Sep. 2025.

⁶³ VIETNAM. Government. *Decree No. 41/2016/ND-CP of 15 May 2016 on detailing the licensing for foreign organizations and individuals to conduct scientific research in the maritime zones of Vietnam*. Hanoi, 2016. Art 3(1)(b).

According to the table, the licensing fee for MSR in Vietnam's maritime zones depends on the geographical location and the use of drilling methods on the seabed and underground. Compared to that of other countries, some countries have specific fees, such as the Bahamas (about 56 USD)⁶⁴, the UK (about 50 to 2,200 pounds)⁶⁵, etc. Some countries, such as the US, China, and Australia do not have specific regulations on this fee, so the fee is decided depending on each project. When it comes to Vietnam, it has implemented the provisions of UNCLOS on not imposing costs and requirements that hinder MSR in the EEZ and on the continental shelf.

The licensing process for foreign organizations and individuals to conduct research and surveys in Vietnam's maritime zones is implemented according to Decree No. 41/2016/ND-CP as follows:

Figure 1 – MSR licensing process



In the above procedure for granting scientific research licenses, the competent authority receiving the application is the Ministry of Agriculture and Environment. Additionally, the processing time for MSR licensing applications is clear. Accordingly, at least 245 days from the date of receiving the application (more than 8 months), the scientific license is granted.

Compared to other countries, this process usually lasts about 6 months, and the application is submitted to a diplomatic agency, in addition to the marine management agency. For example, the agencies receiving applications in the US, China and Australia are the US Department of State and the National Oceanic and Atmospheric Administration⁶⁶; the Chinese Embassy and the State Oceanic Administration⁶⁷; the Australian Embassy, the Department of Foreign Affairs and Trade⁶⁸, respectively.

- Regarding the network of monitoring stations serving basic investigation and monitoring of the marine environment

Vietnam has built a system of monitoring stations serving basic investigation and monitoring of the marine environment along the coastal strip. Currently, there are 117 stations in this network, including 27 meteorological and oceanographic stations, of which 25 are automated; 90 water environment stations and 04 resource monitoring stations⁶⁹. The distribution density of meteorological and oceanographic stations is 27 stations/3260km of coastline, equivalent to about 121km/station.

According to the Station Network Plan to 2030, with a vision to 2050, by 2030, the national station network will be upgraded and developed with a total of 27 oceanographic stations, 3 marine radar stations and 6 marine environmental stations. By 2050, the total number of oceanographic stations will be increased to 79 stations, 21 marine radar stations, 14 marine buoy stations and 30 marine environmental stations⁷⁰. This network of

⁶⁴ BAHAMAS. Department of marine resources. *Scientific research permit*. 2025. Available at: <https://www.bahamas.gov.bs/service/scientific-research-permit>. Access on: 7 Sep. 2025

⁶⁵ UNITED KINGDOM. Marine management organisation. *Apply for a marine licence*. 2024. Available at: <https://www.gov.uk/apply-marine-licence>. Access on: 7 Sep. 2025.

⁶⁶ THE UNITED STATES OF AMERICA. *President of the United States. Proclamation No. 100710 of 09 September 2020 - Revision to United States Marine Scientific Research Policy*. Available at: <https://www.presidency.ucsb.edu/documents/proclamation-100710-revision-united-states-marine-scientific-research-policy>. Access on: 10 Sep. 2025.

⁶⁷ CHINA. State Council. *Decree No. 199 of 10 January 1996 on regulation on administration of foreign - related marine scientific research*. Available at: <http://www.lawinfochina.com/display.aspx?lib=law&tid=12053&CGid=&EncodingName=big5>. Access on: 27 Sep. 2025.

⁶⁸ AUSTRALIA. Department of Foreign Affairs and Trade. *Marine scientific research*. Available at: <https://www.dfat.gov.au/international-relations/themes/environment-sea-law/marine-scientific-research/Pages/marine-scientific-research>. Access on: 27 Sep. 2025.

⁶⁹ VIETNAM. Prime Minister. *Decision No. 433/QĐ-TTg of 24 March 2021 on approving the task of planning the national network of Hydro-Meteorological stations for the period 2021-2030, with a vision to 2050*. Hanoi, 2021.

⁷⁰ VIETNAM. Prime Minister. *Decision No. 224/QĐ-TTg of 7 March 2024 on approving the master plan for national environmental monitoring for the 2021-2030 period, with a vision to 2050*. Hanoi, 2024.

monitoring stations is the basic data in MSR activities, facilitating foreign research agencies, organizations and individuals to assess the current status of meteorological, hydrographic and marine environmental data in the research marine areas before conducting specific scientific research activities in these areas. This also shows the interest and encouragement of the Vietnamese Government for MSR.

- Regarding the results of handling requests for licensing for hydrographic survey/measurement activities

Since Decree No. 41/2016/ND-CP took effect from 2016 to 2025, the Ministry of Natural Resources and Environment (now the Ministry of Agriculture and Environment) has granted 07 licenses to foreign organizations and individuals to cooperate in research in Vietnam's maritime zones, including:

Table 2 - List of for hydrographic survey/measurement projects licensed by competent authorities of Vietnam in the period 2016 to 2025

No.	Foreign organization	Partner organizations in Vietnam	Survey period	Maritime zones	The objective
	Georgia Institute of Technology - USA	<i>the Institute of Oceanography - Vietnam Academy of Science and Technology</i>	June, 2016	Internal waters, territorial waters, and contiguous zone in southern Vietnam	Study on nutrient dynamics and plankton under the biogeochemical impact of material flow from the Mekong River to the sea

No.	Foreign organization	Partner organizations in Vietnam	Survey period	Maritime zones	The objective
	Pacific Institute of the Bioorganic chemistry of the Far Eastern Branch of Russian Academy of Sciences	<i>the Institute of Oceanography - Vietnam Academy of Science and Technology</i>	November – December, 2016	Internal waters, territorial waters, and contiguous zone of Vietnam	Further research and updating documents on biodiversity and biological community structure, collecting specimens for biochemical and environmental research
	Pacific Institute of the Bioorganic chemistry of the Far Eastern Branch of Russian Academy of Sciences	<i>the Institute of Oceanography - Vietnam Academy of Science and Technology</i>	July, 2018	Internal waters, territorial waters, and contiguous zone in southern Vietnam	Additional research and updating documents on biodiversity, environment, biochemistry, marine toxins and community structure of organisms, microorganisms, and seaweed for biomedical and pharmaceutical research

No.	Foreign organization	Partner organizations in Vietnam	Survey period	Maritime zones	The objective
	V. I. Ilichev Pacific Oceanological Institute of the Far Eastern Branch of Russian Academy of Sciences	Institute of Marine Geology and Geophysics, Vietnam Academy of Science and Technology	December, 2019	Internal waters, territorial waters, and contiguous zone of Vietnam	Research on geology, marine environment and assessment of oil and gas potential in some sedimentary basins on the continental shelf of Vietnam
	Pacific Institute of the Bioorganic chemistry of the Far Eastern Branch of Russian Academy of Sciences	<i>the Institute of Oceanography - Vietnam Academy of Science and Technology</i>	May, 2021	Internal waters, territorial waters, and contiguous zone in northern Vietnam	Additional research and updating documents on biodiversity, environment, biochemistry, marine toxins and community structure of organisms, microorganisms, and seaweed for biomedical and pharmaceutical research

No.	Foreign organization	Partner organizations in Vietnam	Survey period	Maritime zones	The objective
	Pacific Oceanographic Institute of the Far Eastern Branch of Russian Academy of Sciences (POI FEB RAS)	Institute of Marine geology and geophysics, Vietnam Academy of Science and Technology (VAST)	May-June, 2023		Area I on Southeast continental shelf (Nam Con Son sedimentary basin, Southeast sub-basin in the deep depression in the East Sea); Area II on the continental shelf in South Central Vietnam (Phu Khanh sedimentary basin), and Area III on the continental shelf in North Central Coast of Vietnam (south of the Red River sedimentary basin)
					Sampling of bottom sediments, marine minerals, water, microorganisms and measuring geophysics, oceanographic and hydroacoustic parameters; conducting some on-site analytical experiments in laboratories equipped on board

ANH, Dao Le Thi; DUC, Dung Le; BAC, Ha Pham Thi. Rights and obligations in marine scientific research: legal insights from chinese research/survey vessels operating in maritime zones under Vietnam's sovereign rights. Revista de Direito Internacional, Brasília, v. 22, n. 3, p. 125-145, 2025.

No.	Foreign organization	Partner organizations in Vietnam	Survey period	Maritime zones	The objective
	French National research Institute for sustainable development (IRD)	Institute of Marine Environmental Resources, Vietnam Academy of Science and Technology	May-July/2024	Vietnam's maritime zones	General survey of marine ecology and environment

Source: The Vietnam Administration of Seas and Islands, Ministry of Agriculture and Environment

4.2 Assessing the legality of the activities of the Bei Diao 996 in Vietnam's maritime zones

The provisions of UNCLOS and Vietnamese law provide additional nuance and context when thinking about the activities of the Bei Diao 996 vessel in Vietnam's EEZ and extended continental shelf. According to publicly available data from Marine Traffic, the Bei Diao 996, flying the flag of the People's Republic of China, departed from Hainan province on 10 June 2025. After conducting operations in the Spratly Islands on 15 June 2025, it proceeded to conduct activities approximately 160 nautical miles off the coast of Tuy Hoa, within maritime zones that, under Articles 56 and 76 of UNCLOS, constitute Vietnam's EEZ and extended continental shelf⁷¹.

The *Bei Diao 996*, equipped for underwater acoustic testing, sensor deployment, environmental data collection, and other research functions, is capable of conducting both marine scientific research (MSR) and hydrographic surveys⁷². The dual-purpose nature of such activities—potentially serving both civilian and military objectives—raises legal questions regarding their conformity with the MSR regime under Part XIII of UNCLOS, particularly in relation to the requirement of

coastal State consent for research conducted within its EEZ and continental shelf. Consequently, the vessel's operations in these zones warrant scrutiny under both international law and Vietnamese domestic law governing research and survey activities in maritime areas under national jurisdiction.

The movements of the Bei Diao 996 vessels in Vietnam's EEZ exhibit characteristics consistent with scientific or survey activities rather than mere navigation. The vessel's recorded movements—marked by slow speed, systematic and grid-like trajectories, repeated crossings, and intermittent stationary periods—are indicative of data collection operations controlled by onboard equipment. Such patterns, when assessed in light of UNCLOS, may be functionally equivalent to marine scientific research (MSR) activities, thereby subject to the specific consent regime applicable under Part XIII of the Convention⁷³.

Under Article 58 of UNCLOS, foreign vessels enjoy the freedom of navigation within the EEZ of coastal States, provided that such activities are consistent with the rights and duties of the coastal State under Article 56. The legal complexity arises from the blurred distinction between MSR and hydrographic surveys. While hydrographic surveys are traditionally associated with navigational safety and may fall under the general freedom of navigation, an increasing number of States have sought to regulate them under the MSR regime, requiring prior consent or notification. The absence of explicit provisions on hydrographic surveys beyond the territorial sea in UNCLOS creates a normative “gray area,” leaving room for divergent interpretations and potential jurisdictional disputes. This ambiguity constitutes a significant legal bottleneck in determining the appropriate response of Vietnam to such foreign operations.

The determination of whether the activities of a foreign vessel in Vietnam's maritime zones constitute legitimate navigation or unauthorized research/survey

⁷¹ VIETNAM. *Statement of 12 May 1977 on Vietnam's territorial waters, contiguous zone, exclusive economic zone and continental shelf*. Hanoi, 1977; VIETNAM. *Declaration of 12 November 1982 on baselines of Vietnam*. Hanoi, 1982; VIETNAM. National Assembly. *Law No.18/2012/QH13 of 21 June 2012 on the Sea of Vietnam*. Hanoi, 2012.

⁷² THE MARITIME EXECUTIVE. Shipbuilder CSSC Builds Base for “National Defense” Sonar Testing. *The Maritime Executive*, 19 Jun. 2023. Available at: <https://maritime-executive.com/article/vietnam-objects-to-chinese-seismic-activity-in-its-eez>. Access on: 19 Aug. 2025.

⁷³ PHẠM, Thanh Vân et al. *Một phân tích tính pháp lý và hậu quả hoạt động của tàu Bắc Triều 996 trong vùng đặc quyền kinh tế và thềm lục địa của Việt Nam* [A legal analysis and consequences of the operations of the Beidiao 996 vessel in Vietnam's exclusive economic zone and continental shelf]. *Dự án Đại Sự Kỵ Biển Đông*, 22 Jun. 2025. Available at <https://dskbd.org/2025/06/22/mot-phan-tich-phap-ly-va-hau-qua-hoat-dong-cua-tau-bac-dieu-996-trong-vung-dac-quyen-kinh-te-va-them-luc-dia-cua-viet-nam/>. Access on: 2 Aug. 2025.

operations is contingent upon access to detailed information regarding the vessel's equipment and objectives—information that is often unavailable in the case of Chinese State-operated vessels. Nevertheless, regardless of whether the *Bei Diao 996* was engaged in MSR or hydrographic surveying, both categories of activity are subject to Vietnam's jurisdictional and regulatory authority when conducted within its EEZ and continental shelf. As established in prior analysis, UNCLOS differentiates MSR from hydrographic surveying, and the latter cannot automatically be considered an exercise of freedom of navigation under Article 87 or 58. The omission of explicit reference to hydrographic surveys in areas beyond the territorial sea should not be construed as granting implicit freedom to conduct such activities without coastal State consent.

Vietnam's formal protest against the operations of the *Bei Diao 996*⁷⁴ underscores the legal position that the vessel entered and conducted research or survey activities within Vietnam's EEZ and continental shelf without prior consent, in contravention of Articles 246 and 258 of UNCLOS. The absence of notification or information from China concerning the nature and purpose of the vessel's activities further reinforces Vietnam's claim that such operations were inconsistent with the legal regime governing the rights and obligations of States in the EEZ and on the continental shelf under international law.

5 Solutions and recommendations for Vietnam

5.1 Recommendations on Vietnam's policies and laws

In light of the evolving practice of States and the growing international consensus on the regulation of hydrographic surveys⁷⁵, Vietnam should consider adop-

ting a legal instrument that explicitly classifies hydrographic surveys within the regime of marine scientific research (MSR) under the United Nations Convention on the Law of the Sea (UNCLOS). Such recognition would ensure consistency between Vietnamese domestic law and international legal developments while strengthening Vietnam's regulatory authority over foreign research and survey activities in its maritime zones. Furthermore, Vietnam should improve and amend some regulations on licensing to organizations and individuals that want to conduct MSR/hydrographic surveys, as follows:

- Regarding the time to process MSR license applications

Vietnam should shorten the processing period for MSR license applications to fewer than six months. An expedited procedure would enhance administrative efficiency, promote legitimate scientific cooperation, and align Vietnam's practice with that of many coastal States that facilitate timely authorization of research activities within its maritime jurisdictions. This reform would also demonstrate Vietnam's commitment to the UNCLOS principles of promoting and facilitating MSR (Article 239).

- Regarding the handover and preservation of research stem specimens to competent authorities:

According to Article 20 (2) (i) Law on Marine and Island resources and environment 2015, researchers must submit original specimens to the Ministry of Natural Resources and Environment upon the completion of MSR. However, this provision lacks clarity concerning the procedural steps, designated authorities, and technical standards for specimen handover and preservation. Given that marine specimens—biological, environmental, and sedimentary—often require specialized storage conditions and costly preservation equipment, it is necessary for the Ministry to issue detailed guidelines specifying the methods, responsibilities, and financial arrangements for handling such materials. In addition, it is necessary to specify the responsibilities of functional units (such as the Institute of Oceanography, Institute of Marine Resources and Environment, Institute of Marine Research, Institute of Geological Sciences and Mineral Resources, etc.) so that they can receive the above stem specimens.

⁷⁴ VOV. Việt Nam lên tiếng về hoạt động khảo sát trái phép của tàu Trung Quốc trong EEZ [Vietnam speaks up about the Chinese vessel's unauthorised survey in Vietnam's EEZ]. *VOV*, 3 Jul. 2025. Available at: August 5, 2025, from <https://vov.vn/chinh-tri/viet-nam-len-tieng-ve-hoat-dong-khao-sat-trai-phep-cua-tau-trung-quoc-trong-eez-post1212108.vov>. Access on: 5 Aug. 2025

⁷⁵ UNITED NATIONS. Office for Ocean Affairs and the Law of the Sea. *The Law of the Sea: National Legislation, Regulations and Supplementary Documents on Marine Scientific Research in Areas under National*

Jurisdiction. New York: United Nations Publication, 1989.

- Regarding the penalty for violations by foreign organizations and individuals

Vietnamese law currently lacks explicit provisions imposing penalties or enforcement mechanisms against foreign organizations or individuals that violate national regulations on MSR or hydrographic surveys. The absence of such provisions weakens the State's capacity to ensure compliance and protect its sovereign rights under Articles 56 and 246 of UNCLOS. Therefore, Vietnam should introduce specific legal measures establishing administrative and criminal sanctions for non-compliance, including suspension of ongoing operations, confiscation of unlawfully collected data, and restrictions on future research authorizations. The development of a comprehensive enforcement regime would contribute to safeguarding Vietnam's legitimate interests and affirming its jurisdictional authority over MSR and hydrographic activities conducted within its maritime zones.

5.2 Recommendations for Vietnam's legal and policy responses to unauthorized marine scientific research and hydrographic surveys in its maritime zones⁷⁶

In the spirit of applying international legal instruments and national law together with utilizing modern maritime domain identification tools, Vietnam has a fully legal basis and ample historical evidence to assert and protect its rights firmly. There is the fact that, regardless of Vietnam's efforts to strengthen its maritime law enforcement capacity in recent years, China still dominates in terms of quantity, scale, and modernity of its maritime forces. The constant presence of Chinese coast guard and fishing vessels in Vietnam's EEZs may quickly create a protective layer around Chinese research/survey vessels, making it difficult for Vietnam to approach and board the vessel for inspection, and potentially escalating the conflict if miscalculated.

⁷⁶ PHẠM. Thanh Vân; et al. *Một phân tích tính pháp lý và hậu quả hoạt động của tàu Bắc Điều 996 trong vùng đặc quyền kinh tế và thềm lục địa của Việt Nam* [A legal analysis and consequences of the operations of the Beidiao 996 vessel in Vietnam's exclusive economic zone and continental shelf]. *Dự án Đại Sự Ký Biển Đông*, 22 Jun. 2025. Available at <https://dskbd.org/2025/06/22/mot-phan-tich-phap-ly-va-hau-qua-hoat-dong-cua-tau-bac-dieu-996-trong-vung-dac-quyen-kinh-te-va-them-luc-dia-cua-viet-nam/>. Access on: 2 Aug. 2025.

Given this context, several legal and practical measures are recommended to strengthen Vietnam's response to unlawful or unauthorized foreign activities in its maritime zones:

Firstly, enhanced monitoring and evidence collection. Vietnam should prioritize both direct and remote monitoring of foreign vessel activities to collect verifiable evidence of potential violations. This includes the use of coastal radar systems, remote sensing satellites, high-resolution or synthetic aperture radar (SAR) imagery, and aerial reconnaissance. These tools enable Vietnam to identify vessel behaviors indicative of research or survey activities—such as grid-pattern navigation, reduced speed, or equipment deployment—that go beyond the normal exercise of freedom of navigation under Article 58(1) of UNCLOS. Reliable documentation of such patterns would serve as the evidentiary basis for invoking Vietnam's jurisdiction under Articles 56 and 246 of UNCLOS.

Secondly, diplomatic requests for information. Upon surveillance data shows reasonable suspicion that the vessel is conducting activities in maritime zones under Vietnam's jurisdiction and information about the modern equipment equipped on Bei Diao 996, which allows for conducting MSR/hydrographic surveys and activities with potential for economic purposes, Vietnam has the right to request China to provide information based on the principle that Vietnam has jurisdiction over such activities. In accordance with Article 58 (3) UNCLOS, China "shall have due regard to the rights and duties of the coastal states", implying that it is compulsory for China to consider the legitimate interests of the coastal state and to comply with requests for providing information about unusual activities. Vietnam can also invoke Article 300 UNCLOS, which stipulates that member states must exercise the rights and freedoms of navigation in good faith and in a manner that does not constitute an abuse of rights. In this context, Vietnam may invoke both provisions to require China to cooperate in transparency and compliance with applicable legal regimes.

Procedurally, since Bei Diao 996 operates as a civilian vessel under the management of Chinese governmental authorities, the Vietnamese Ministry of Foreign Affairs may submit an official diplomatic note requesting disclosure of operational details through bilateral

channels, consistent with the cooperative obligations of States under Part XIII of UNCLOS.

Thirdly, lawful enforcement measures. If the vessel's activities continue without authorization or satisfactory explanation, Vietnam retains the right to take proportionate enforcement actions consistent with international law. Such measures may include boarding and inspection of the vessel, ordering the temporary suspension of activities pending clarification, or directing the vessel to withdraw from Vietnam's maritime zones where a violation of sovereign rights is reasonably suspected. Any enforcement measure must, however, adhere to the principle of proportionality and avoid escalation inconsistent with the peaceful settlement of disputes under Part XV of UNCLOS.

Fourthly, diplomatic and multilateral responses. In anticipation of China's assertion that such operations occur within waters under its claimed jurisdiction, Vietnam should reaffirm that these activities constitute a violation of its sovereign rights and jurisdiction as defined by Articles 56 and 77 of UNCLOS. Should bilateral dialogues fail to produce compliance, Vietnam may:

- Deliver a diplomatic note (via diplomatic channels and public channels) demanding cessation of unauthorized activities and condemning any MSR or hydrographic survey conducted without Vietnam's permission.

- Enhance the presence of Vietnamese maritime law enforcement forces to monitor and document foreign vessel operations, thereby reinforcing its jurisdictional claim;

- Systematically collect and archive data, imagery, and records of such activities to develop a comprehensive evidentiary dossier for potential use in international legal proceedings or advocacy; and

- Raise the issue within multilateral fora such as ASEAN, the ASEAN Regional Forum (ARF), and the United Nations, thereby generating diplomatic pressure and mobilizing regional support for adherence to UNCLOS norms.

Through these measures, Vietnam can assert its rights under international law in a manner that is both legally grounded and strategically prudent. By combining legal diplomacy, maritime domain awareness, and multilateral engagement, Vietnam would reinforce its position as a coastal State committed to upholding

the rule of law at sea and maintaining stability in the East Sea.

6 Conclusion

Technological advancements have blurred the distinction between hydrographic surveys and marine scientific research (MSR), rendering both activities subject to similar regulatory scrutiny under UNCLOS. Given the dual scientific and economic implications of hydrographic data, such activities should fall within the MSR regime and thus require the prior consent of the coastal State. As a responsible member of UNCLOS, Vietnam must continue to balance its obligation to promote international scientific cooperation with the imperative of safeguarding its sovereign rights and jurisdiction. Strengthening Vietnam's legal framework—through clearer licensing procedures, expedited approval processes, and defined responsibilities for specimen management—will enhance transparency and compliance. At the same time, by combining legal diplomacy, maritime domain awareness, and proportionate enforcement, Vietnam can reinforce its capacity to respond to unauthorized research or survey operations. In doing so, Vietnam affirms its commitment to the rule of law at sea and to fostering peaceful, sustainable, and cooperative marine development in the region.

Author Statement

We the undersigned declare that this manuscript is original, has not been published before and is currently not being considered for publication elsewhere. We confirm that the manuscript has been read and approved by all named authors and that there are no other persons who satisfied the criteria for authorship but are not listed. We further confirm that the order of authors listed in the manuscript has been approved by all of us. We understand that the Corresponding Author is the sole contact for the Editorial process. They are responsible for communicating with the other authors about progress, submissions of revisions and final approval of proofs.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

Data will be made available on request

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