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## Introduction

In the light of Russia's recent comments regarding their possible withdrawal from the United Nations Convention on the Law of the Sea (UNCLOS), the international community must re-think the integrity of the current maritime order, assess the present challenges and examine different perspectives for the governance of the seas. Following decades of negotiations, in 1982, the United Nations adopted UNCLOS, the Convention that sets the modern standards and encapsulates the principles of international maritime law. As one of the most widely ratified international treaties, UNCLOS has enjoyed decades of being unchallenged, yet the current unsteady political landscape — with big countries such as China and Russia claiming to be unsatisfied with the Convention — puts UNCLOS in a precarious position regarding compliance and observance of international maritime norms.

After a brief overview of the Convention and the evolution of Russia as a member of UNCLOS, the paper will analyse the relevant legal framework of the Law of Sea, focusing on Russia's bid for the Arctic and its process with the Commission on the Limits of the Continental Shelf (CLCS). Finally, the paper will examine Russia's latest threat to withdraw from the Convention, addressing legal and geopolitical implications, including how rather than following a different 'maritime strategy', these threats might reflect a strategic narrative aimed at promoting a multipolar world order.

## UNCLOS - Context

Fuelled by a proliferation of breaches in the freedom of high seas and the spread of claims to exclusive jurisdiction and maritime sovereignty, the United Nations General Assembly adopted in 1957 the resolution 1105 XI. The aim was to create a "more stable legal order for the oceans and promote better use and management of its resources" (Pedrozo, 2022). This started a long process of codification and elaboration of a series of legal instruments, including the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas, the Convention on the Continental Shelf, and the Optional Protocol of Signature Concerning the Compulsory Settlement of Disputes, which provided a historic contribution to codification of the Law of the Sea (Pedrozo, 2022). These norms were finalised through two main instruments developed in the Second and Third United Nations Conference on the Law of the Sea, taking place in 1960 and in 1973, respectively. Finally, the Conference in 1973 led to the Convention on the Law of the Sea (hereby UNCLOS) (Pedrozo, 2022). The Third Conference also introduced 'the Arctic Provision' in Section 8, titled "Ice-covered areas" which is encompassed in UNCLOS (Cooper & Chuffart, 2024). This is a fundamental point — particularly considering Russian interests—as initially the Arctic waters were excluded from explicit mention within the Convention (Cooper & Chuffart, 2024).

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UNCLOS is a multilateral treaty adopted in 1982, following a nine years-long debate and seven conference sessions held between 1973 and 1982. It came into force in 1994, and it is generally regarded as “the Constitution of the Sea” (Koh, 1982). UNCLOS has been signed and ratified by 168 parties, specifically 167 states including 164 UN member states, Palestine, the Cook Islands and Niue, and the European Union, as UN Observer states) (UNCLOS, n.d.). Among these, only 14 UN member states have signed without ratifying the Convention (UNCLOS, n.d.).

Based on customary international law (hereby IL), UNCLOS defines and codifies the modern standards and principles of international maritime law (UNCLOS, n.d.). It establishes a comprehensive regime that defines the governing rules of the sea, its use, and its resources (IMO, 2019). Additionally, it provides a working framework for states to navigate complex relations and it establishes rules and related institutions aimed towards managing emerging disputes, including the International Tribunal for the Law of the Sea (ITLOS), the International Seabed Authority (ISA) and the Commission on the Limits of the Continental Shelf (CLCS) (Tuerk, 2017): Notably, in one instrument the Convention compiles all traditional rules for the utilisation of the oceans and introduced new legal concepts and regimes to address emerging concerns (IMO, 2019).

Since this landmark, the evolution of the Law of the Sea has maintained a steady pace, particularly regarding the ‘health’ of oceans and the proliferation of international treaties that affect ocean usage (Bateman, 2006). One recent example is the Treaty of the High Seas (BBNJ), set to “protect the ocean, promote equity and fairness, tackle environmental degradation, fight climate change, and prevent biodiversity loss in the high seas” (European Commission, 2023). This landmark demonstrates the recent turn in maritime law towards sustainability and the fight against climate change.

However, despite the proliferation of regulations, the new treaties are not focusing on ensuring parties’ compliance of previous instruments. This is illustrated by the fact that the number of maritime disputes is still high. In fact, only 168 out of an estimated 640 maritime border disputes have been formally settled (Prescott & Schofield, 2004; Canon, 2016). Subsequently, this large number of non-compliance cases brings the Convention’s effectiveness into question (Bateman, 2006). Specifically, disputes regarding boundaries are challenging to resolve, because IL does not always provide an adequate framework for their settlement (Bateman, 2006). New developments regarding seabeds’ measurements bring to light economic and political interests that often result in resource conflicts and disputes (Østhagen, 2020). The current situation in the South China Sea is a prime example of maritime disputes. A major issue is the current contentious delimitation of the Paracel Islands. Additionally, China’s “nine-dash line” asserts “historic rights” to areas that overlap on the Exclusive Economic Zones (hereby EEZ) of the Philippines, Indonesia, Vietnam, Brunei and Malaysia (Graffy, 2022). Similarly, Greece and Turkey have numerous unresolved issues regarding maritime boundaries with over 2,400 islands (Graffy, 2022). Meanwhile, Israel and Lebanon, whom both claim around 860 square kilometres of the Mediterranean Sea as part of their own EEZ (Graffy, 2022).

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And Russia and Ukraine also have on-going disputes regarding the Azov Sea (Graffy, 2022). Russia was the first state to submit a claim to the CLCS, aiming to extend the outer limits of its Continental Shelf. Russia's submission to the CLCS to extend its continental shelf serves the country's national interests (Wahden, 2024). Yet despite benefiting from this process, Russia has often expressed dissatisfaction with UNCLOS due to several reasons which will be explored in the next section.

## **Russia as a Member of UNCLOS**

After UNCLOS entered into force in 1995, Russia took two more years to ratify it (Cirkovic, 2018). The Soviet Union voiced its doubts regarding the Convention's Part XI, which established a regime for the deep seabed, Part XI and its ability to protect their interests, as well as its dissatisfaction against the concept of 'common heritage of mankind' (Karev, 1995). While Russia is not considered as a 'sea power' in the geopolitical sense described by Mackinder, historically, Russia has enjoyed almost complete control and presence in all its maritime regions, with long-lasting interests in the areas and their resources (Nossova, 2013; 2014). Despite its small population percentage-wise, the surface of the Russian Arctic makes up 20% of Russia's GDP comprising 22% of its exports and 15% of Russian fishery, while it also produces a very high percentage of its minerals (Nossova, 2014). Following the protection of these interests and exploitation of these and other resources, in the decades since the ratification of UNCLOS, Russia has made use of UNCLOS in two ways: by submitting maritime claims before the CLCS or via involvement in maritime disputes.

Russia has been involved in 5 out of 33 total maritime disputes brought before the International Tribunal of the Law of the Sea (ITLOS) including Ukraine v. Russian Federation in 2019, the Kingdom of the Netherlands v. Russian Federation in 2013, and two cases with Japan v. Russian Federation in 2007 and Russian Federation v. Australia in 2002 (ITLOS, n.d.). Despite the existence of ITLOS, most maritime disputes are solved bilaterally without the use of international courts (Østhagen, 2020). This is foreseen in Annex VII of UNCLOS, which constitutes an Arbitral Tribunal (UNCLOS, 1982), which Ukraine and Russia have used said Tribunal in their dispute of 2019 (Permanent Court of Arbitration, 2019).

### *The bid for the Arctic*

With a longer coastline than any other littoral Arctic State, the Russian Arctic coastline expands along 16.000 kilometres and comprises the current most extended maritime boundary in the world, encompassing around 1.800 nautical miles (3,333.6 km) (Nossova, 2013). Established in 1990, the agreement settled the border between the United States and the Soviet Union (McNeill, 1991). More recently, in 2007, Norway and Russia amended their 1957 agreement, establishing the current border between the two states which expands along 1750 km (Østhagen, 2020). Both agreements enable Russia to have a "Special Area", also considered a "loophole" where Russia exercises sovereign rights and jurisdiction in what otherwise would be within the US and Norway's EEZ, in the Agreements' Article 3 (Østhagen, 2020).

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In today's current political climate, these agreements would have never been reached (Østhagen, 2020), as the Arctic has become a prominent zone of competing interests and geopolitical clashes among adversarial powers. The melting ice of the Arctic and the potential opening of new navigable routes entail implications for trade and resource exploitation that have made Arctic politics a priority for many countries, particularly those with part of their territory within it. As part of the Arctic coastal states, Russia has unambiguously stated its strong interest in the region (Humpert, 2023), prioritising the Arctic in its foreign policy agenda through its National Policy and Arctic Policy (of 2008, 2020 and 2022).

In fact, the new Foreign Policy document prioritises 'counteracting unfriendly states' and suggests that the militarisation of the region is limiting Russia's ability to exercise its sovereign rights in the Arctic (Ministry of Foreign Affairs of the Russian Federation, 2023). However these interests are constrained by IL, particularly UNCLOS. While Article 193 recognises the sovereign right of States to exploit their natural resources, it limits the exploration of resources to the EEZ, as stated in Articles 56.1.a; 61; 62.1 and 62.2. Additionally, under Part XII of Article 192 of UNCLOS, States have an obligation to protect and preserve the marine environment and Article 89 restricts their capacity to claim sovereignty over the high seas.

To bypass these limitations and claim more maritime territory, Russia has used two strategies: first by filing requests to re-measure the starting points of its seabed to ultimately extend the EEZ, and second, as a last resort, through unlawful "theatrics" (Cooper & Chuffart). To date, Russia's claims have been denied. In response, in 2007, Russia first hoisted a one-meter-high titanium Russian flag on the underwater Lomonosov ridge (The Guardian, 2007). Russian scientists repeated this symbolic gesture in 2023 by erecting a 1,400 square meter Russian flag on the sea ice (The Barents Observer, 2007).

Russia's lawful attempts to extend the limits of its territory through its continental shelf began in 2001 with the first submission to the CLCS, proposing new outer limits of the continental shelf (CLCS, 2001). This petition was made based on Article 76 of UNCLOS and endeavoured to convince the CLCS that the new measurements sustain the extension of the Russian territory in the Arctic. The recommendations of the Commission, as outlined in report A/57/57/Add.1, paragraphs. 38-41 (GA, 2002), requested more information regarding all petitions, including those for the Barents Sea, the Bering Sea, the Sea of Okhotsk and the Central Arctic Ocean. This submission was highly protested by the US, which argued that the Russian submission had "major flaws" (Pedrozo, 2024).



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The Russian Delegation provided the corrections in the revised submission in 2015, with a focus on the Arctic Ocean (CLCS, 2024). While addressing the US concerns, this new claim presented to the UN, comprised an additional 1.2 million square kilometres (High North News, 2016). Other littoral states noted overlaps with their continental shelves, notably Denmark and Canada (CLCS, 2023). These two countries reiterated in their communications that Article 9 Annex II dictates that “the actions of the Commission shall not prejudice matters relating to the delimitation of the continental shelf between states with opposite or adjacent coasts”, limiting the Commission’s range of actions in this matter. Nonetheless, the considerations of the partially revised submission were included in the provisional agenda for the next ordinary session of the Commission (CLCS, 2015). Moreover, the CLCS has recently elected a sub-commission to examine the submission (CLCS, 2023).

In 2020, the Russian Delegation presented additional data regarding new outer limit points in the Amundsen and Canada basins. These resulted in a significant change in the outer limits proposed in 2015, which were later included in 2021 as two Addenda submitted to the CLCS (CLCS, 2024). The Commission considered every point carefully, with the Recommendations published in 2023 extending to over 119 paragraphs. The latest recommendations were favourable to Russia, with the Mendeleev-Alpha Rise, the Podvodnikov Basin, and the Lomonosov Ridge accepted as ‘natural extensions of its continental shelf’ and, as such recommended to be used as the new reference points to establish the outer limits of the continental shelf (Pedrozo, 2024; Woker, 2024). However, the Commission rejected the classifications of the Gakkel Ridge and the Nansen and Amundsen Basin (CLCS, 2023, paras. 70-74). Instead, it recommends a partially revised submission, which renders this recommendation unfinalised as of 2024. In compliance with the aforementioned Article 9 of the Annex, the CLCS also acknowledges that the establishment of the final outer limits of the Russian extended continental shelf will depend on the acceptance of neighbouring States (Pedrozo, 2024).

Delineating the continental shelf in the Arctic Ocean will likely continue for a decade or more as the other Arctic coastal states must find a compromise regarding the overlapping continental shelf noted by Canada and Denmark (CLCS, 2015). Considering the current relations between Russia and the West after the full-scale invasion of Ukraine, a scenario in which the five other coastal states reach a compromise with Russia is unlikely. Regardless, this ongoing process will require “lengthy boundary negotiations” (Todorov, 2023). In this uncertain and turbulent situation, Russia has threatened to withdraw from UNCLOS (The Barents Observer, 2024).

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## Russia's threat of withdrawal from UNCLOS and its implications

On March 2024, the Chairman of the Russian Parliament Committee for the Development of the Far East and Arctic, Nikolai Kharitov, declared Russia is considering leaving UNCLOS due to “concerns over NATO activity in the region” (The Barents Observer, 2024). Kharitonov relays President Putin's distrust in ‘their’ [the ‘West’] words and claims that 64% of the Arctic belongs to Russia, as was left by their ancestors (Izvestia, 2024).

Russia frames its continued adherence to UNCLOS as detrimental to their national interests. The country frequently justifies their potential withdrawal from the treaty in observed reconnaissance by NATO's ‘ships and aircrafts’ in the Russian sector of the Arctic (Izvestia, 2023). Despite this justification, Russian authorities have acknowledged that the 12-mile zone has not actually been crossed (Izvestia, 2023).

This is not the first instance in which Russia has shown dissatisfaction with the current legal regime of the Law of the Sea. In response to Russia's failure to be re-elected in the International Maritime Organisation Council in December 2023—over a year after the full-scale invasion of Ukraine—, State Duma representatives declared that they “will discuss the issue of the denunciation of the Convention and put it on the agenda” (Izvestia, 2023). Furthermore, on 12 December 2023, Russia declared the Sea of Azov to be named as ‘Russian internal waters’. This act reflects Russia's partial control of Ukrainian territories since 2014. Earlier in February 2023, on the anniversary of the full-scale invasion, Ukraine's parliament, the Verkhovna Rada, formally denounced the Agreement between Ukraine and the Russian Federation regarding cooperation on the Sea of Azov and the Kerch Strait in response to the ongoing conflict. The termination of this agreement entered into force the following March (Verkhovna Rada, 2023). Similarly, the State Duma denounced the Treaty in June, only three months after (State Duma, 2023).

While UNCLOS provides a clause for parties to withdraw, as per Article 317, no party has yet made use of it. If Russia does, it will be another blow to the rule-based international order (Tuckett & Rowlands, 2024). International experts question what Russia would gain from withdrawal and recall that renouncing the Treaty would not make the country exempt from complying, as the Law of the Sea is customary law (The Barents Observer, 2024). In this line, Article 317.3 asserts that the denunciation “shall not in any way affect the duty of the State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention” (UNCLOS, 1982).

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One of the most prevalent and immediate legal implications of Russia's withdrawal from UNCLOS would be the uncertainty this situation would leave for both the Azov Sea (de facto controlled by Russia per the occupation of the Ukrainian territories) and the Black Sea. The Black Sea borders Bulgaria, Georgia, Romania, Russia, Turkey and Ukraine, and the entrance to the Mediterranean through the Bosphorus Strait. If Russia were to denounce UNCLOS, it would no longer be bound by its dispute mechanisms, including the Annex VII tribunals, and the International Tribunal on the Law of the Sea (ITLOS) (Tuckett & Rowlands, 2024). While Russia would be bound to comply with customary law, any on-going issues being discussed both at ITLOS or the Arbitral Tribunal — as the pending dispute concerning Coastal State Rights in the Black Sea, Sea of Azov (PCA, 2016) — would cease or would need to be started again somewhere else, which would complicate negotiations and the resolution of disputes. A Russia that is not bound by the Law of the Sea is a state signalling wishing to act outside of the borders of international legal norms.

However, if Russia's perceived isolation from the international community is the main driver behind its actions, it is unlikely that it would follow through with a threat to leave one of the most widely ratified treaties in existence (Tuckett & Rowlands, 2024). Not only this movement would only serve to ostracise Russia more, but it would be detrimental to its interests, as demonstrated by the partially admitted claims in the Arctic. Arguably, it benefits Russia more than it works to its detriment: from jurisdictional advantages to the freedom of navigation and open sea-lanes, guaranteed by the Convention (Wahden, 2024). This suggests that the motivation behind Russia's recent manoeuvre is not following a new 'maritime strategy' but something else (Wahden, 2024).

The other possibility is that this threat of withdrawal is part of the current Russian narrative as anti-hegemonic power pursuing "great power prerogatives" (Wahden, 2024). On the one hand, Russia might be attempting to de-stabilize the current international rule-based system, which does not tolerate its infractions or interpretations of the law. This is a similar position to China's, which has also manifested dissatisfaction with UNCLOS (The Diplomat, 2019). On the other hand, this might be another movement to counter Western hegemony and tip the balance towards multipolarity, one of Russia's main Foreign Policy aims. The idea of multipolarity is popular in Russian foreign political discourse and proposes a multipolar world order that "does not limit the circle of global centres of power to Washington, Beijing, and/or Brussels" (Kragh & Umland, 2023). This concept allows Russia to be included as an 'equal player' of great power politics (Kragh & Umland, 2023).



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By contrasting and comparing Russian actions to Western ones (such as the US declaration of new geographic coordinates defining the outer limits of the US's continental shelf outside of the procedures of the CLCS (US Department of State, 2023), Russia is implying that the West, particularly the US applies international rules selectively (Wahden, 2024). They identify this 'concession' to selectively act outside of the law as a 'great power status' privilege that Russia wishes to enjoy as well (Wahden, 2024). Such strategy serves two purposes: On the one hand, legally, it undermines the validity of the current legal systems, which can be 'exceptionally' overlooked and neglected by certain powers without repercussions. This is a dangerous premise, as the law should be applied equally and impartially to retain legitimacy and validity, particularly IL. On the other, politically, and specifically for its domestic audience, this narrative strengthens President Putin's message of a great, powerful Russia. Internationally, it confuses the international community about Russia's intentions and next move, following Russia's latest trend of acting unpredictably and against Western predictions.

## **Conclusion**

The withdrawal of Russia from UNCLOS would undermine the stability of the international Law of the Sea regime and call into question the solidity of the current system. Despite Russia's general tendency to abide by the Law of the Sea which overall benefits its interests, the latest comments from Duma representatives have concerned the international community. This paper has outlined the legal framework surrounding Russian maritime claims and the ongoing procedures with the CLCS, as well as analysed the geopolitical and legal implications of Russia's threats to withdraw. These threats may reflect a broader narrative aimed at challenging the current international order and promoting a multipolar world, positioning Russia as an equal player in global power dynamics.

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