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## UNCLOS as Customary Law: Legal Constraint and Strategic Instrument in U.S. Maritime Policy

By Fabian Eryk Shelton

### Introduction

The Sino-US competition has now been elevated to the forefront of geopolitical tensions: a rivalry which has upended previous international norms, having global repercussions. Both the United States and the People's Republic of China (PRC) have competed across several strategic fields: from cyber to space to semiconductors to medical innovation. However, maritime affairs have particularly been shaken throughout U.S. and China's great power rivalry. UNCLOS, the United Nations Convention on the Law of the Sea, outlines a comprehensive regime of law and order for the world's oceans, establishing rules for the allocation of States' rights and jurisdiction in maritime spaces, the peaceful use of the oceans and the management of their resources.<sup>35</sup> With this charter, the United Nations has provided a measure for states to preserve their maritime sovereignty and ability to conduct Freedom of Navigation Operations (FONOPs).

American adversaries have exploited UNCLOS and its sister documents towards their own ambitions. For example, China has interpreted UNCLOS in a fashion to cater to its interests: territorial aggrandizement. We see this with China's unilateral claims of territories, such as Japan's Ryukyu islands and some islands off the shores of the Philippines – i.e. the Scarborough Shoal and the Spratly Island archipelago (Fiery Cross Reef, Second Thomas Shoal, and Mischief Reef).<sup>36</sup> Taiwan has especially been targeted by China's abuse of UNCLOS, with the latter claiming that it is its rightful territory since the former's inception. Indeed, China has utilized UNCLOS's clauses on FONOPs to execute live fire military drills such as Operation Strait Thunder and Justice Mission<sup>37</sup>; indeed, from 2020-2023, there were recurring large-scale naval exercises within the Paracel Islands (located within the South China Sea), Taiwan Strait, and East China Sea.<sup>38</sup> Should China remain unchecked in its militarization within the region, the South China Sea would become a flashpoint for military confrontation between the PRC and other Asian countries, an event which could involve the United States in another costly war.

It is imperative to ensure stability and security within maritime matters. Further, it is imperative that the United States embrace the tenets of UNCLOS. Although it has not ratified it, the United States of America has observed UNCLOS' legal framework, relying on its principles to ensure its Indo-Pacific alliance network (i.e., the QUAD and AUKUS agreements) and to conduct FONOPs, such as the annual military exercise Talisman Sabre. This essay argues that the United States treats the United Nations Convention on the Law of the Sea as binding customary law: a benchmark to legally structure FONOPs and alliance-based maritime security. The adherence to

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<sup>35</sup> United Nations Office of Legal Affairs, *United Nations Convention on the Law of the Sea* (New York: United Nations, 1997)

<sup>36</sup> Mira Rapp-Hooper, *China's Maritime Disputes* (Washington, DC: Council on Foreign Relations, 2016).

<sup>37</sup> Nathan Attrill, "That Isn't Signaling. China's Military is Seriously Rehearsing Around Taiwan," *Australian Strategic Policy Institute*, January 2026

<sup>38</sup> U.S. Department of Defense, *Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2023*, Washington, D.C.

UNCLOS illustrates international law to be a strategic instrument and a constraining framework in the United States' deterrence strategy, such as with U.S.-China great-power competition. In doing so, the United States would be a stronger ally in the Indo-Pacific, assuaging the fears of allies such as Australia, Japan, and South Korea. Furthermore, UNCLOS represents a key component of American deterrence: by upholding freedom of navigation and sovereignty, China would be deterred from becoming more aggressive towards Taiwan, preventing a potential military invasion or blockade.

The first section will pertain to UNCLOS, the logic of *opinio juris*, and customary law - tools that provide the legal basis of the United States' maritime practices; subsequently, the paper will then detail the legal definition of FONOPs, and how they are relevant towards U.S. in order to set up context for the understanding the legal implications of U.S. security policy within South China Sea and the greater Indo-Pacific theater, arguing that U.S. FONOPs are not acts of law enforcement or power projection alone, but legally calibrated operations designed to contest excessive maritime claims while remaining within the bounds of international law. Finally, the paper will explain how, despite structuring its maritime policy, UNCLOS also imposes significant legal constraints on the scope and conduct of U.S. maritime activities, reducing UNCLOS' overall advantage for American naval policy.

### 1. The UNCLOS and the Logic of *Opinio Juris*

Despite not ratifying the legal charter, the United States still observes UNCLOS in its practices in the South China Sea as the treaty reflects customary law that even binds non-parties. It is a misconception to view the United States' refusal to ratify UNCLOS as an instance of its aversion to international organizations and its rules and principles; on the contrary, it has been made clear the United States and its negotiations were concerned over its commercial implications for American companies. U.S. President Ronald Reagan positively viewed UNCLOS' clauses pertaining to free seas and Exclusive Economic Zones (EEZs); rather than ratify it, the Reagan Administration released the 1983 U.S. Ocean Policy Statement, which served as the United States' official position on freedom of navigation and EEZs.

The 1983 U.S. Ocean Policy Statement reveals the United States as acquiescing to some semblance of customary law. The document states that "the United States is prepared to accept and act in accordance with the balance of interests relating to traditional uses of the oceans – such as navigation and overflight...so long as the rights and freedoms of the United States and others under international law are recognized by such coastal states."<sup>39</sup> From the excerpt it is clear that the United States views some international norms as traditional and even unalienable. State sovereignty and EEZs, are accepted by the United States, not as a basis for rhetoric but a tangible right for states to exercise. This is a powerful example of customary law and its logic of *opinio juris* and state practice. Although not ratified officially, the United States believes that *opinio juris*, or the obligation to preserve some traditional legal norms, justifies state intervention when said norms are challenged.<sup>40</sup> As such, the United States is able to call upon the principles of UNCLOS in its actions as it observes the treaty in *opinio juris*

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<sup>39</sup> United States Department of State, "Presidential Statement on United States Oceans Policy, March 10, 1983," *Ronald Reagan Presidential Library and Museum*, <https://www.reaganlibrary.gov/archives/speech/statement-united-states-oceans-policy>.

<sup>40</sup> Bernard H. Oxman, "The 1982 Law of the Sea Convention and the United States," *American Journal of International Law* 88, no. 4 (1994): 687–715

and the basis of customary law. This serves as the legal basis for U.S. maritime policy having maintained that it is in the interests of the United States.<sup>41</sup> The United States views it as customary for some states to possess EEZs and have the right to protect them. All maritime operations the United States have executed serve to advance this aim, be it having naval bases across the globe or conducting joint naval exercises with allies and partners.

In *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania, 1949)*, the International Court of Justice (ICJ) established the precedent of customary international law. The dispute arose out of the explosions of mines by which some British warships suffered damage while passing through the Corfu Channel in 1946, a zone in Albanian waters which had been previously swept. The explosions resulted in ship damage and the deaths of crew members. The United Kingdom accused Albania of having laid or allowed a third State to lay the mines after mine-clearing operations had been carried out by the Allied naval authorities.<sup>42</sup> The ICJ ruled that states have a right of innocent passage, through international straits used for international navigation without the consent of the coastal state, provided the passage is not prejudicial to peace and security. This was a landmark ruling for freedom of navigation and significant for customary law. Having been ruled prior to UNCLOS (it was signed in 1982), the ICJ established the tradition of limiting coastal state sovereignty in favor of upholding navigational freedom. Having been ruled by the ICJ before any official convention dictating specific laws grounded in freedom of navigation, *Corfu Channel*, represented a clear instance of how there are some traditional legal procedures that are shaped by common norms.

*Guyana v. Suriname* entrenches UNCLOS as a binding customary law for maritime matters. Guyana initiated arbitral proceedings which arose in relation to the activities of holders of oil concessions granted by Guyana in a maritime area claimed by both countries. A Guyanese oil rig and drill ship were ordered to leave and escorted from the area by the Surinamese navy in June 2000.<sup>43</sup> The ICJ ruled that the Surinamese naval actions constituted a threat of use of force, contrary to international law. Furthermore, EEZs do not grant full sovereignty towards a nation. Although coastal states possess sovereign rights (such as resource exploitation), this does not extend to territorial control. *Guyana v. Suriname* is relevant as it is a textbook case of UNCLOS. The court proceeding clarifies the limits of coastal state enforcement powers in disputed maritime zones, entrenching the role of UNCLOS in preserving navigational freedoms and prohibiting unilateral coercion, including within EEZs. Within the ruling, the ICJ referred to Articles 74(3) and 83(3) of UNCLOS which relate to the delineation of EEZs between states with opposite coasts and delimitation of the continental shelf between states with opposite coasts, respectively. Therefore, the ICJ depended on UNCLOS to serve as an authoritative expression of general law, strengthening its position as a document for customary law.<sup>44</sup>

UNCLOS establishes a legal foundation for customary law, preserving navigational rights as evinced from *Corfu Channel* and limits maritime enforcement, seen from *Guyana v. Suriname*. These legal precedents

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<sup>41</sup> Office of the Staff Judge Advocate, "U.S. Position on the U.N. Convention on the Law of the Sea," *Stockton Center for International Law* 97, no. 81 (2021): 81–88

<sup>42</sup> *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)*. ICJ Reports 1949, General List No. 1, Judgment of April 9, 1949, International Court of Justice

<sup>43</sup> *Guyana v. Suriname*. PCA Case No. 2004-04. Award, September 17, 2007. Permanent Court of Arbitration

<sup>44</sup> Naomi Burke and Jill Barrett, "Report on the Obligations of States under Articles 74(3) and 83(3) of UNCLOS in respect of Undelimited Maritime Areas." *British Institute of International and Comparative Law, June 2016, pp. 8-14*

underscore how UNCLOS is a convention which permits states to conduct FONOPs. Although states possess individual EEZs, other states are allowed to have ships and other naval vehicles within said EEZs, so long as they observe innocent passage, revealing a precedent of high seas freedoms and limited maritime enforcement. Referring to Corfu Channel, there are certain norms that are traditional and customary, which do not need an official document to be enforced (which is clear from the 1983 U.S. Ocean Policy Statement). UNCLOS takes these shared legal norms and codifies them, making a binding legal document that obligates all parties, even those who have not ratified it, to enforce FONOPs and EEZs, a strong example of *opinio juris*.

China's maritime ambitions are an instance of a competing legal vision that clashes with UNCLOS-based order. This is observed from China's "Nine-Dash line", an outline of nine dashes creating a semicircular boundary extending from the Gulf of Tonkin to the east of Taiwan.<sup>45</sup> The Nine-Dash line represents China's territorial claims in the South China Sea, employed by the PRC since 1948 to claim sovereignty and maritime rights in the region. China's claims of sovereignty over the Nine-Dash line area clash with the sovereignty claims of Vietnam, Malaysia, and the Philippines. Such challenges have resulted in inflamed tensions between China and coastal states that possess EEZs within the South China Sea.

However, this is more than a mere power struggle, but also a legal conflict with a great-power deviating from the tenets of UNCLOS. Referring to *The Republic of the Philippines v. The People's Republic of China*, there is explicit judicial articulation of the UNCLOS-based maritime order that the United States seeks to uphold, and the clearest legal rejection of China's contrarian claims; therefore, *Philippines v. China*, is an ideal case to explore legal contestation in the South China Sea. Within the court case *Philippines v. China* there are clear instances of this. The arbitration arose from the role of historic rights and the source of navigational entitlement in the South China Sea, the status of certain nautical features in the South China Sea, and the lawfulness of certain actions by China in the South China Sea that the Philippines alleged to be in violation of UNCLOS.<sup>46</sup> Throughout the proceedings, the People's Republic of China adopted a position of non-acceptance and non-participation.

The outcome of the legal ruling established a precedent in denying expansive maritime influence towards revisionist powers. The legal tribunal ruled that the nine-dash line established by China had no legal bearing under the principles of UNCLOS; therefore, the PRC's claim to historic rights beyond maritime zones was rejected. Additionally, UNCLOS exhaustively allocates maritime entitlements: states cannot layer extra claims on top of EEZs and high seas freedoms. The ruling reaffirmed a rules-based maritime order aimed at preserving navigational freedoms and clearly delineating EEZ rights. This is significant in outlining the clear lines of naval territories possessed by a state. Until the mid-twentieth century, the scope of the territorial sea was limited to a narrow maritime belt, and vast areas of the oceans remained part of the high seas. Coastal States, including China, increasingly extended their jurisdiction toward the high seas to assert control over offshore resources.<sup>47</sup> The ruling in *Philippines v. China* curtailed China's continued attempts to assert arbitrary maritime claims extending beyond its lawful boundaries.

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<sup>45</sup> Oral, Nilufer, "Navigating the Oceans: Old and New Challenges for the Law of the Sea for Straits Used for International Navigation," *Ecology Law Quarterly* 46, no. 1 (2019): 163–90.

<sup>46</sup> *Philippines v. China* (South China Sea Arbitration). PCA Case No. 2013-19. Award, July 12, 2016. Permanent Court of Arbitration

<sup>47</sup> Tanaka, Yoshifumi, *The International Law of the Sea*, 3rd ed. (Cambridge: Cambridge University Press, 2019), pp. 17-21

There are strong institutional implications for this ruling. With China rejecting the ruling, *Philippines v. China* illustrates how international law, especially UNCLOS, operates not simply as an impartial arbiter that resolves great-power disputes; indeed, international law is a contested framework through which states advance and resist competing visions of maritime order. This is a quintessential case of law without enforcement: international law can still retain authority even when enforcement fails; for example, *Philippines v. China* has established a strong precedent for legal jurisprudence which has been instrumental in shaping diplomatic discourse, alliance coordination, and third-party legal assessments of maritime conduct within regions such as the Indo-Pacific. Therefore, *Philippines v. China* exemplifies how legal judgments can influence behavior indirectly by shaping legitimacy and reputational costs rather than compelling compliance. Furthermore, it clarifies territorial sovereignty in the case of maritime issues in which the arbitration distinguishes between territorial seas from high seas, in which the latter a state may enjoy innocent passage without facing interstate aggression.

## 2. FONOPs and U.S. Maritime Security Policy

FONOPs are the primary tools which the United States employs to operationalize its interpretation of international maritime law in the Indo-Pacific. As such, FONOPs are legal assertions of navigational rights, designed to contest what the United States and its allies and partners characterize as excessive and dubious maritime claims. Conducting naval transits and exercises considering UNCLOS provisions (i.e. innocent passage, transit passage, and high seas freedoms), the United States operates with the intention to both signal adherence to international law and deterring unlawful unilateral restrictions imposed by coastal states.<sup>48</sup> FONOPs supplemented with an assertive foreign policy are essential to challenge excessive maritime claims posited by the United States' adversaries; additionally, FONOPs are peaceful exercises of rights/freedoms of navigation which are recognized under UNCLOS.

FONOPs are critical components of the United States' deterrence policy within the Indo-Pacific. Not only do they reassure its alliance network, but they also reflect the United States' commitment to upholding freedom of navigation and ensuring the clear, safe lanes of communication for goods, ideas, and people. They are non-binding instruments that have been interpreted as necessary to affirm existing rules of customary international rule, in this case, UNCLOS. The advantage of integrating FONOPs within American deterrence strategy is that they are not acts of aggression: FONOPs are legal and accepted forms of exercises as they are not enforcement actions nor challenges to sovereignty; rather, FONOPs function less as coercive acts and more as a legal signaling mechanism, reinforcing normative expectations while limiting the risk of escalation.<sup>49</sup>

The legality of FONOPs has clear precedent from previous court rulings. Such precedent has been reinforced by prior international jurisprudence which established limited coastal state authority over navigation, prohibiting unilateral maritime enforcement. As already mentioned within this paper, *Corfu Channel* ensures

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<sup>48</sup> Pham, Trang, and Truong-Minh Vu, "From Clash of Vision to Power Struggle: The US, China, and Freedom of Navigation," *E-International Relations*, October 2014.

<sup>49</sup> USINDOPACOM, "Freedom of Navigation Operations (FONOPS) – Peaceful, Principled Upholding International Law (Countering PRC Flawed Narratives)," pp. 1-2

navigational rights for all parties, justifying the legality of the United States pursuing its FONOPs whereas in *Guyana v. Suriname*, the ICJ ruled that coastal states possess sovereign rights (such as resource exploitation), this does not extend to territorial control meaning they cannot conduct coercive enforcement of territories.

In a similar vein, the United States ensures that its FONOPs align with the principles of UNCLOS. Before the United States decides whether to respond diplomatically or operationally to a maritime claim asserted by a coastal state, the appropriate lawyers, policy advisers, and technical experts within the U.S. government conduct a coordinated analysis of that foreign maritime claim in relation to the applicable international law and assess whether that claim is consistent with that body of law.<sup>50</sup> Additionally, for any action that the U.S. government does decide to take against an excessive maritime claim, the appropriate lawyers, policy advisers, and technical experts within the government are also involved in drafting, planning, and carrying out those actions. In a word, these official U.S. actions are deliberate and lawful.

The United States' FONOP in the Paracel Islands serves as an example of the logic of *opinio juris* and preserving the legal precedent of *Philippines v. China*. On October 21, 2016, the U.S. Navy Arleigh Burke-class destroyer *USS Decatur* conducted a FONOP by crossing China's claimed straight baselines in the Paracel Islands chain. This was in response to China's statement in 1996 which established straight baselines, points from which EEZs are measured, around the Paracel Islands in the South China Sea. Said straight baselines, which were drawn between twenty-eight basepoints, enclose the Paracel Islands in their entirety.<sup>51</sup> The *USS Decatur* crossed into the China's claimed territory in the Paracel Islands, the vessel loitering and conducting maneuvering drills in the area.

This instance follows the case of *Philippines v. China*, and its ruling on maritime entitlement. China's issued statement claiming the Paracel Islands as Chinese territory was justified by the People's Republic of China as measure to restore its historic borders; however, following the *Philippines v. China* ruling, states cannot erode high sea freedoms by layering extra historic claims in an effort to acquire EEZs. Having not recognized its straight baselines claim around the Paracel Islands, as UNCLOS only allows archipelagic states to draw straight baselines around island groups, the United States followed *opinio juris* to challenge China's maritime claims. By entering the Paracel Islands, the *USS Decatur* crossed into waters that would have been considered China's internal waters if its straight baseline claims were legal, which they are not. This FONOP signaled to China that it was not transiting under the right of innocent passage, thereby not considering the island chain and its waters part of China's territorial sea. This action deliberately challenged China's claim of straight baselines around the Paracel Islands, acting under precedent from *Philippines v. China* and deterring China's aggressive territorial expansionism.

The United States' FONOPs demonstrate how international law is operationalized through unilateral state practice; however, FONOPs are not isolated in scope. The strategic signaling is enhanced by the presence of U.S. allies and partners, the latter of whose own security commitments and legal obligations shape the broader maritime order of the Indo-Pacific. The legality of the United States and its allies and partners use of collective

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<sup>50</sup> U.S. Department of State, "Limits in the Seas No. 112," March 9, 1992

<sup>51</sup> Freund, Eleanor, "Freedom of Navigation in the South China Sea: A Practical Guide," *Belfer Center for Science and International Affairs, Harvard Kennedy School*, June 2017

defense is structured by law to be interpreted as enabling defense cooperation while constraining escalation.

### 3. The Legality of Collective Defence in UNCLOS

The purpose of the U.S. alliance network within the Indo-Pacific is to not only function as a security structure, but also as a mechanism for coordinating interpretations of UNCLOS. The United States and its allies and partners have a shared understanding as to the purpose of UNCLOS - a document which provides a legal groundwork to establish clear guidelines as to what is permitted within EEZs. Moreover, UNCLOS is a benchmark for legal alignment, which matters more than force projection: common legal footing, provided by UNCLOS, allows for shared interests and reduced fragmentation. This has been affirmed by the United States and the U.K.'s relationship. The strength of the U.S.-U.K. alliance has been bolstered by joint statements affirming UNCLOS, maintaining the necessity of respecting a country's sovereignty and its EEZs. Indeed, both the United States State Department and the United Kingdom Foreign, Commonwealth, and Development Office have stated that they are "committed to reinforcing the primacy of UNCLOS in the South China Sea" by exercising their right of innocent passage in disputed waters and EEZs within the region. The operations that they have conducted, most notably the annual Talisman Sabre exercises, have been consistently couched within the legal framing of UNCLOS, illustrating how law is a common operational language for many FONOPs.

Although the United States often invokes UNCLOS to frame its FONOPs, the Convention also imposes significant legal constraints on the scope and conduct of U.S. maritime activities, reducing its overall advantages for America naval policy; rather than operating solely as a fig leaf to permit U.S. naval presence and strategic mobility, the Convention has been applied more liberally, employed in the endeavor of effective enforcement of good-faith compliance, proportionality, and the protection of coast-state and flag-state rights. Considering such developments, it is possible that UNCLOS might prove detrimental to American interests, restricting its operational flexibility, reducing its strategic posture. UNCLOS is simultaneously a strategic inhibitor of US maritime policy, as evident from the landmark rulings of *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)* and *The Arctic Sunrise Arbitration (Netherlands v. Russia)*.

The ruling in *Mauritius v. United Kingdom* showcases how UNCLOS' emphasis on navigational and high sea freedoms would serve to link strategic use of maritime governance mechanisms by powerful states. The United Kingdom established a marine protected area around the Chagos Archipelago,<sup>52</sup> failing to act with due regard towards the country of Mauritius. The tribunal ruled that the United Kingdom had violated the tenets of UNCLOS, specifically, the obligation to act in good faith with developments in another country's EEZ and sovereign fishing rights of Mauritius; furthermore, the tribunal called on specialized agencies to recognize that the Chagos Archipelago "forms an integral part of the territory of Mauritius."<sup>53</sup>

The ruling established by the ICJ in *Mauritius v. United Kingdom* has implications for United States' maritime policy, regardless of the United States not being party to the court hearing. The ruling illustrates that

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<sup>52</sup> *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)*. PCA Case No. 2011-03. Award, March 18, 2015. Permanent Court of Arbitration.

<sup>53</sup> Waitzman, Eren, "UK-Mauritius Treaty on the Chagos Archipelago," *House of Lords Library*, Parliament of the United Kingdom, June 2025

UNCLOS forbids states to employ environmental regulations or maritime zoning as instruments of geopolitical strategy. This is clear within the court papers as the court heard arguments from Mauritius which maintained that, with the country establishing a protected marine area in the Chagos Archipelago, the United Kingdom violated its obligations to national sovereignty and self-determination. *A propos* the United States, the ruling directly challenges the United States' preference for employing maritime regulatory frameworks to advance security and environmental objectives, i.e. using fishery agencies, shipping companies to enhance sea lanes of communication and improve the efficiency of maritime operations.<sup>54</sup> Such a ruling would result in more American operations being classified within Grey Zone operations, which would expose the United States to further legal scrutiny, which would overall hamper the United States in its ambitions in great-power competition.

The Tribunal's ruling in the *Arctic Sunrise (Netherlands v. Russia)* arbitration clarifies UNCLOS' status as guaranteeing the rights of flag-states while imposing limits on maritime enforcement actions. On 4 October 2013, the Kingdom of the Netherlands filed arbitral proceedings against the Russian Federation under Annex VII of the United Nations Convention on the Law of the Sea.<sup>55</sup> The dispute concerned the boarding, seizure, and detention of the Dutch vessel *Arctic Sunrise* in the EEZs of the Russian Federation and the detention of the persons on board the vessel by the Russian authorities; subsequently, the ICJ ruled that Russia's boarding and detention of the *Arctic Sunrise* were unlawful *vis-à-vis* UNCLOS, emphasizing that maritime enforcement (i.e. the conditions under which vessels may be boarded, detained, or diverted) must adhere to a standard that incorporates rigorous adherence to reciprocity and international naval jurisdiction; ergo, *Arctic Sunrise* reinforced that regardless of the purpose of maritime security operations, whether brought upon by benign or bellicose intentions, they must remain firmly within the bounds of international law.

Both the *Chagos Marine Protected Area Arbitration* and *Arctic Sunrise Arbitration* reaffirm that the Law of the Sea Convention is a double-edged sword for the United States: although employed rigorously to justify its FONOPs, UNCLOS functions as a legal framework that disciplines and restricts the United States' maritime behavior. The Convention has good faith, due regard and is proportionately enshrined within its legal structure, inhibiting maritime power and its strategic power to impede a nation's sovereignty.

### Conclusion

The United Nations Convention on the Law of the Sea marked an epoch in maritime regulation operations. The Convention is an official document which outlines clear delineation on EEZ's and territorial control. UNCLOS has remained an authoritative legal document throughout arbitration; it has provided the United States with clear justification to conduct FONOPs to challenge territorial claims made by its adversaries, ensuring that UNCLOS and freedom of navigation are preserved. However, it also serves as a strategic limitation for FONOPs to clarify maritime enforcement actions and limit aggressive interference in another country's EEZ. UNCLOS does not end U.S. maritime posture, it structures it: establishing clear guidelines to ensure that America's naval operations, such as conducting FONOPs, remain within the full bounds of the law, preventing the risk of damage to the United

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<sup>54</sup> Pole Star Global, "Targeted Maritime Security Regulations Across Four Pillars," January 2025.

<sup>55</sup> *Netherlands v. Russia* (Arctic Sunrise Arbitration). PCA Case No. 2014-02. Award, August 14, 2015. Permanent Court of Arbitration. Copyright © The Author(s)

States' international reputation. The United States treats the United Nations Convention on the Law of the Sea as binding customary law: a benchmark to legally structure FONOPs and alliance-based maritime security.

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