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## ***An overview of US Behavior in the Peaceful Use of the Seas from the perspective of the UN charter and Convention on the Law of the Sea 1982***

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### **Abstract**

The peaceful use of the various territories of the international community, including land, sea, air and outer space, is one of the basic rules of international law, and the prohibition of the use and threat of force based on paragraph 4 of Article 2 of the United Nations Charter is one of the mandatory rules. None of the members of the United Nations have the right to resort to force in the seas and non-peaceful maritime activities. Although the 1982 Montego Bay Convention on the Law of the Sea was drafted for peacetime, this does not mean that the aforementioned convention loses its validity and executive power when armed conflicts occur.

In this research, using the analytical descriptive method, a review of the behavior of the United States in the peaceful use of the seas from the point of view of the United Nations Charter and the 1982 Convention on the Law of the Sea and the authors' analysis has been done. The findings of this research show that the US government, according to the statements issued by this country, which have been prepared in line with the interests and oceanic policies of this sea power, has provided interpretations or perceptions regarding the maritime activities of the US in relation to the 1982 convention, which can endanger the peaceful use of the seas. The approach of the United States through the seven positions that have been examined in this brief article indicates that this country allows its military activities in order to secure its interests and is not subject to dispute methods resolution and peaceful goals. It does not consider the 1982 Convention as its legal obligation. Therefore, the US wants absolute freedom of navigation in all sea areas. Naturally, this approach of maritime power cannot be a suitable basis for guaranteeing the peaceful use of the seas and institutionalizing maritime diplomacy.

**Keywords:** Peaceful Use of the Seas, UN charter, Convention on the Law of the Sea 1982, US behavior

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## **Introduction**

The peaceful use of the various territories of the international community, including land, sea, air and outer space, is one of the basic rules of international law, and the prohibition of the use and threat of force based on paragraph 4 of Article 2 of the United Nations Charter<sup>1</sup> is one of the mandatory rules. None of the members of the United Nations have the right to resort to force in the seas and non-peaceful maritime activities. Although the 1982 Montego Bay Convention on the Law of the Sea was drafted for peacetime, this does not mean that the aforementioned convention loses its validity and executive power when armed conflicts occur.

The basis of maritime activities in various fields, including shipping, crossing international straits and exploiting the exclusive economic zone and the zone of common heritage of all mankind, is peaceful use. The non-peaceful use of the seas has unfortunate consequences not only for the

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<sup>1</sup> Article 2 United Nations Charter:

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

- 1- The Organization is based on the principle of the sovereign equality of all its Members.
- 2- All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
- 3- All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
- 4- All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
- 5- All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
- 6- The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
- 7- Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.



national sovereignty of coastal states and international shipping, but also has the possibility of disrupting the marine ecosystem.

It should be noted that despite the transparency of the rules of the law of the seas regarding the peaceful use of the seas (Article 99 of the 1982 Convention), the practice and different interpretations of some governments, especially the United States, have caused the use of force in maritime territories in some way.

Despite the non-ratification of the 1982 convention by the United States, this country believes that the rules of the said convention are among the rules of customary international law, and in this sense, it considers itself included in that convention.

Therefore, according to the statements issued by this country, which have been prepared in line with the oceanic interests and policies of this sea power, it has presented interpretations or perceptions regarding the maritime activity of the United States in relation to the 1982 convention, in a way it endangers the peaceful use of the seas.

### **1. Military activities**

The United States of America considers military activities at sea to be its inherent right, and in case of any dispute, it does not consider itself subject to binding methods of dispute resolution. In this way, any military action considers itself exempt from referring to binding dispute resolution methods.

### **2. Peaceful goals**

From the point of view of the United States, the phrase "peaceful objectives" contained in Article 88 of the 1982 Convention does not impose new rights on coastal and third countries, as well as new duties on maritime powers.

### **3. Innocent passage**

The right of harmless passage contained in Article 28 of the 1982 Convention does not create any restrictions on the traffic of third countries of any flag or on any destination and with any type of fuel.

### **4. Transit passage**

According to the procedure of the United States, warships and warplanes have the right to transit through the straits used by international shipping and archipelago passages, and coastal governments cannot restrict this type of passage.

### **5. Exclusive economic zone**

The United States has stated in its statements that the announcement of restrictions on the passage of the exclusive economic zone based on the request for prior consent or prior notification for the passage of warships through the exclusive economic zone is not compatible with the 1892 Convention.

By distinguishing between the two words "survey" and "research", the United States believes that hydrographic or military surveys are different from "Marine Scientific Research" and has stated that marine scientific research requires the consent of the coastal states. Therefore, the US government knows its right to conduct naval military surveys without the consent of the coastal states.

### **6. Excessive claims**

The US government will respond to any excessive claims by coastal governments in any possible way, either through bilateral or multilateral negotiations, and if necessary, military action with naval and air operations.



## **7. Conclusion**

The approach of the United States through the above seven positions indicates that it allows its military activities in order to secure its interests and does not consider the methods of dispute resolution as its legal obligation and the peaceful goals contained in the 1982 Convention. Therefore, the United States wants absolute freedom of navigation in all maritime areas. Naturally, this approach of maritime power cannot be a suitable basis for guaranteeing the peaceful use of the seas and institutionalizing maritime diplomacy.

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