

The United States and the Law of the Sea: Time to Ratify

What Is Law of the Sea?

The U.N. Convention on the Law of the Sea (UNCLOS) is a set of rules for the use of the world's oceans, which cover 70 percent of the Earth's surface. The Convention was negotiated in 1982 to replace the 1958 High Seas Treaty, which was out of date and unfavorable to America's economy and security. UNCLOS came into force in 1994, and to date, 152 countries have ratified the treaty. The United States has not.

UNCLOS Functions

Its primary functions are to define maritime borders, protect the environment, preserve freedom of navigation and establish clear guidelines for businesses that depend on the sea for resources.

Necessary Changes To U.S. Law Or Policy

In 1983, Ronald Reagan directed U.S. agencies to comply with all of the provisions in UNCLOS except for Part XI, which concerns deep seabed mining. With U.S. leadership, Part XI was reworked and the Convention was officially modified by 1994, addressing all U.S. concerns. Since 1983, the U.S. has been in voluntary compliance with the entire Convention and thus ratification would not result in any changes to current U.S. domestic or foreign policy.

UNCLOS And The U.S. Senate

In 2004 all 18 members of the Senate Foreign Relations Committee voted unanimously in favor of UNCLOS. Although not a single Senator abstained or voted against the treaty, then Majority Leader Frist never brought it to the floor for a vote.

Why Ratify? It Helps Our Military

The U.S. military, which relies heavily on its ability to navigate on and fly freely over the sea, has been a strong advocate of UNCLOS. In the absence of shared law, countries often make unreasonable and irresponsible claims on marine territory to stop the U.S. military from defending U.S. interests. The U.S. has tried to talk around these claims, but without a legal framework to support us we risk compromising our intelligence and military operations at sea. Ratifying UNCLOS will help us protect our military's ability to freely navigate the oceans.

UNCLOS Helps Us Protect The Environment

Oceans cover over 70 per cent of the Earth. In the U.S., we have laws to keep marine resources available for future generations. UNCLOS sets a global standard so that all countries are legally bound to protect the marine environment and prevent pollution with as much care as the U.S. does. Joining UNCLOS would send a message to the world that we care about the global environment; rejecting the treaty would signal U.S. indifference to polluting nations around the globe.

UNCLOS Benefits American Business

Each country has exclusive rights to manage the resources in areas near its coast. Under the terms of UNCLOS, which maps out the boundaries of these areas, the American zone is larger than that of any country in the world. The size of this zone is 3.36 million square miles – bigger than the lower 48 states combined.

UNCLOS also opens up a world of possibilities to businesses who want to explore resources beyond this exclusive area, in parts of the ocean that do not belong to any nation. New technologies are being created that will allow companies to explore and extract gas, oil and minerals from the deep seas. Businesses view this possibility with excitement, but without any way to regulate their claims to mining sites, it is too risky to attempt. Industry groups are lining up to support UNCLOS because it establishes a credible mechanism to protect their interests at sea.

Under UNCLOS, the five Arctic states — Norway, Denmark, Russia, Canada and the U.S. — can lay claim to the Arctic seabed, including mineral and oil extraction rights, stretching 200 miles from the end of each country's continental shelf. However, the U.S. hasn't ratified the Law of the Sea and therefore cannot claim these extra rights over the seabed, raising the question: Will the U.S. miss out on the world's last great land grab — the scramble for the Arctic?

We Can Do More As A Member Than As An Outsider

One benefit of membership is a permanent position on the International Seabed Authority, an organization of countries set up to regulate deep sea mining. With the world's most powerful economy, the U.S. would have by far the most powerful vote on the council – or none at all if we choose to reject UNCLOS.

Moreover, as of November 2004, members of UNCLOS have the right to modify the treaty. As a member, the U.S. can use the treaty to seize new opportunities and protect our interests. By contrast, if we choose not to join, we put in jeopardy all of the provisions that U.S. negotiators worked tirelessly to negotiate into the treaty over the last three decades. Without the U.S. at the table, countries will be free to make changes to suit their own ends, perhaps at the expense of the U.S.

Joining UNCLOS Sends A Positive Message About American Principles

The U.S. is a nation that values conviction, responsibility, and cooperation. Ratifying UNCLOS tells the 152 countries that have already ratified the treaty, including all of our allies, that we are committed partners in protecting the planet and its people.

What U.S. Officials Are Saying About UNCLOS

President George W. Bush: “As a matter of national security, economic self-interest, and international leadership, the administration is strongly committed to U.S. accession to the U.N. Convention on the Law of the Sea.”

Secretary of State Condoleezza Rice: “The administration supports early Senate action on the Convention.”

General Richard Myers, former Chairman of the Joint Chiefs of Staff: “The Convention remains a top national security priority...It supports efforts in the War on Terrorism by providing much-needed stability and operational maneuver space, codifying essential navigational and overflight freedoms.” (2004)

Admiral Vern Clark, former Chief of Naval Operations: “The Convention supports U.S. efforts in the war on terrorism...while leaving unaffected intelligence collection activities. Further threats will likely emerge in places and ways that are not yet known. For these and other as yet unknown operational challenges, we must be able to take maximum advantage of the established navigational rights codified in the Law of the Sea Convention to get us to the fight rapidly.”

Senator Richard Lugar, Senate Foreign Relations Committee (R-IN): “Opponents seem to think that if the U.S. declines to ratify the Law of the Sea, it will evaporate into the ocean mists...Unlike some treaties...where U.S. non-participation renders the treaty irrelevant or inoperable, the Law of the Sea will continue to form the basis of maritime law regardless of whether or not the U.S. is a party...My message...is that it is irresponsible for us to wait to ratify the Law of the Sea until we feel the negative consequences of our absence from the Convention. The Senate should ratify the Law of the Sea Convention now in the interest of U.S. national security, the U.S. economy and the American people.” (2005)

Ambassador John Bolton, former U.S. Ambassador to the United Nations: “The administration has submitted the Law of the Sea Treaty as one of its priorities, and I support that.” (2004)

Other Supporters of UNCLOS

Business:

American Chemistry Council
American Geological Institute
American Geophysical Institute
American Geophysical Union
American Petroleum Institute
AT&T
Chamber of Shipping of America
International Association of Drilling Contractors
National Marine Manufacturers Association
National Oceans Industries Association
U.S. Tuna Foundation
Western Pacific Regional Fishery Management Council

Military:

Gen. Richard Myers, Chairman, Joint Chiefs of Staff
Vice Admiral Vern Clark, Chief of Naval Operations
Navy League of the United States
Naval Reserve Association

Environmental and Public Interest:

Center for International Environmental Law
Environmental Defense
Humane Society of the United States
IUCN/World Conservation Union
League of Conservation Voters
National Environmental Trust
Natural Resources Defense Council
Ocean Conservancy
Oceana
Physicians for Social Responsibility
Scenic America
U.S. Public Interest Research Group
World Wildlife Fund

Administration:

President George W. Bush
President Bill Clinton
Secretary of State Condoleezza Rice
Secretary of State Colin Powell
All living State Department Legal Advisors

Legal and Research:

American Bar Association
Council on Ocean Law
Maritime Law Association of the United States
Pew Oceans Commission
Transportation Institute
U.S. Arctic Research Commission
U.S. Commission on Ocean Policy

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