Shipwreck: The Case Against Law of the Sea

By "Coach Vance" Trefethen

***Resolved: The United States should accede to the United Nations Convention on the Law of the Sea without reservations.***

Most other nations have ratified the UN Convention on Law of the Sea (UNCLOS) since it was written in 1982. The US was reluctant to join until some amendments were made, but after the amendments, Pres. Clinton finally signed it in 1994. It's been sitting in the US Senate awaiting ratification for well over 20 years now. And that's just fine. Most of the treaty only reiterates existing international law that the US agreed to in 1961, so we really don’t have anything to gain by ratifying it. The only thing UNCLOS adds are some downsides, like additional burdens and risks by opening us up to litigation and regulation by outside agencies not accountable to U.S. citizens.

Shipwreck: The Case Against Law of the Sea 3

Contention 1. No Security Benefits 3

We don't have to join UNCLOS to use international waters 3

China is a good example of how international treaties like UNCLOS can’t make bad actors be good. 3

Contention 2. No Economic Benefits 4

The U.S. already exploits ocean resources just fine without Law of the Sea 4

Joining UNCLOS would restrict, not promote, our ability to do seabed mining 4

Contention 3. Risks and Problems 5

Unacceptable liabilities and risks in the area of environmental regulation 5

The Law of the Sea Treaty will become a “Green Trojan Horse” of litigation. In fact, it’s already begun 5

CON-AT: The Case Against Law of the Sea 6

NEGATIVE PHILOSOPHY 6

Except for seabed mining, the US already follows all the same policies as UNCLOS requires regarding navigation & overflight 6

We lose nothing by not joining UNCLOS: Treaty members have no power to take away existing rights from non-members 6

NO NATIONAL SECURITY BENEFITS 7

South China Sea 7

Already tried & failed: Philippines filed a claim against China under UNCLOS. But China won’t abide by UNCLOS decisions 7

China rejects international decision on maritime sovereignty, when challenged by fellow UNCLOS member Philippines 7

UNCLOS won’t solve sovereignty and sea boundary issues in the South China Sea 7

US Navy Operations 8

US Navy conducts operations just fine without UNCLOS 8

A/T “US Navy advocates” – 1) because it guarantees rights they already have. 2) they ignore other negative aspects that don’t affect them 8

A/T “Defense Dept. advocates” – 1) they admit national security is fine without UNCLOS. 2) can’t define any specific impact without it 8

NO ECONOMIC BENEFITS 9

US already has adequate jurisdiction over resources in the continental shelf without UNCLOS 9

No legal barrier to US seabed mining while we remain outside UNCLOS 9

US and international law (outside of UNCLOS) already legalize seabed mining in international waters 9

Turn: Joining UNCLOS is more likely to restrict seabed mining than not-joining 9

NO POLITICAL BENEFITS 10

A/T “US loses influence / seat at the table by not joining” – We have plenty of influence without UNCLOS 10

A/T “Need to codify/solidify the rules” - Convention on the High Seas, ratified by the US in 1961, set up the rules just fine 10

NEW RISKS AND PROBLEMS 11

UNCLOS will penalize US mining companies with additional taxes and unaccountable bureaucratic regulations 11

Risks and problems outweigh the minimal / hypothetical economic & security benefits 11

Too many unknown, confusing implications and hidden agendas 11

Climate change lawsuits will cost the U.S. a lot if we join UNCLOS 12

Works Cited 13

Shipwreck: The Case Against Law of the Sea

Please join us in denying that The United States should accede to the United Nations Convention on the Law of the Sea without reservations. "UNCLOS" was written in 1982, and after some amendments were made, Pres. Clinton signed it in 1994. But there are good reasons why the U.S. Senate has never ratified it, and those are that it it adds no benefits, only risks and problems. Let's start with…

Contention 1. No Security Benefits

Existing international law already recognizes and upholds the rights of U.S. military and other vessels. The fact is…

We don't have to join UNCLOS to use international waters

Steven Groves explains in 2011 QUOTE:

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

For more than 200 years, the United States has successfully preserved and protected its navigational rights and freedoms by relying on naval operations, diplomatic protests, and customary international law. U.S. membership in the United Nations Convention on the Law of the Sea (UNCLOS) would not confer any maritime right or freedom that the U.S. does not already enjoy. The U.S. can best protect its rights by maintaining a strong U.S. Navy, not by acceding to a deeply flawed multilateral treaty.

END QUOTE.

And UNCLOS adds nothing to our ability to negotiate or mitigate security risks with other nations. Friendly nations will resolve disputes without Law of the Sea. Unfriendly nations won’t resolve them even with Law of the Sea.

China is a good example of how international treaties like UNCLOS can’t make bad actors be good.

Speaking in context about Law of the Sea, Bromund, Carafano and Schaefer explained in 2018 QUOTE:

Dr. Ted Bromund, James Carafano, Brett Schaefer 2018. (Bromund – PhD; senior research fellow at Heritage Foundation. Carafano - irector of the Kathryn and Shelby Cullom Davis Institute for International Studies.at Heritage Foundation. Scheaefer - Jay Kingham fellow in International Regulatory Affairs at The Heritage Foundation.) 2 June 2018 7 Reasons US Should Not Ratify UN Convention on the Law of the Sea <https://www.dailysignal.com/2018/06/02/7-reasons-us-should-not-ratify-un-convention-on-the-law-of-the-sea/>

Nothing has changed to lead the U.S. to reconsider accession today. On the contrary, the inability to force Chinese compliance despite a dispute tribunal [ruling against](https://www.cnn.com/2016/07/12/asia/china-philippines-south-china-sea/index.html) Chinese claims in the South China Sea only serves to illustrate that international organizations lack the ability and authority to prevent such aggressive acts. Between friendly and democratic nations, the convention adds nothing. When a great and autocratic power like China is involved, the convention achieves nothing. To rely on it as a way to restrain a rising China is to make the error of thinking that paper beats scissors.

Contention 2. No Economic Benefits

Similar to the national security situation, existing international law already recognizes our economic interests in the usage of international waters as well as waters under our jurisdiction. We don't need to join UNCLOS to continue doing what we already have every right to do. A good example is oil and gas exploration, where…

The U.S. already exploits ocean resources just fine without Law of the Sea

Steven Groves and Nicolas Loris explained in 2012 QUOTE:

Steven Groves and Nicolas Loris 2012 (Groves - J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation. Loris – master’s degree in economics; research fellow at Heritage Foundation) Law of the Sea Treaty: Bad for American Energy Policy 9 July 2012 <https://www.heritage.org/report/law-the-sea-treaty-bad-american-energy-policy?_ga=2.240366017.315779934.1534610486-1000197162.1534610486>

Proponents of UNCLOS argue that without joining the convention, the U.S. would be unable to demarcate the extent of its continental shelf beyond 200 nautical miles. This is simply untrue. The U.S. regularly demarcates the limits of its continental shelf and declares the extent of its maritime boundaries with presidential proclamations, acts of Congress, and bilateral treaties with neighboring countries. As a result of bilateral treaties between the U.S. and Mexico, the Department of the Interior’s Bureau of Ocean Energy Management currently leases areas of the U.S. ECS in the Gulf of Mexico to American and foreign oil and gas companies for exploration and development.

END QUOTE. Another example is the often repeated claim that we need UNCLOS to unlock the riches of deep seabed mining. But that, too is already legally available under existing international law. In fact,

Joining UNCLOS would restrict, not promote, our ability to do seabed mining

Steven Groves explains in 2012 QUOTE:

Steven Groves 2012 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 4 Dec 2012 The U.S. Can Mine the Deep Seabed Without Joining the U.N. Convention on the Law of the Sea <https://www.heritage.org/report/the-us-can-mine-the-deep-seabed-without-joining-the-un-convention-the-law-the-sea?_ga=2.215195093.315779934.1534610486-1000197162.1534610486>

By acceding to UNCLOS, the United States would place itself and its seabed mining companies under the regulatory power and control of the International Seabed Authority, an international organization created by the convention. U.S. companies would be forced to pay excessive fees, costs, and an as yet undetermined percentage of royalties to the Authority to fund its operations and to be redistributed to developing countries. In short, U.S. accession would represent a radical sea change because it would create an unprecedented layer of international bureaucratic authority, oversight, and regulatory burden on American companies. However, the United States may advance its national interests without acceding to the archaic and needlessly complex regime established by UNCLOS. Mining the deep seabed is and always has been a high seas freedom that every nation may exercise regardless of membership in any treaty.

Contention 3. Risks and Problems

In addition to adding nothing to our national security or our economy, UNCLOS creates new problems and pitfalls we don't have now. One example is an open-ended commitment to follow unknown and unknowable future environmental regulations and associated costs created by an unelected body outside of US jurisdiction. This means UNCLOS will create…

Unacceptable liabilities and risks in the area of environmental regulation

Senators Rob Portman and Kelly Ayotte summarized the risks in 2012 when they wrote QUOTE:

Sen. Rob Portman & Sen. Kelly Ayotte 2012 (Portman – US Senator, R-Ohio. Ayotte – US Senator, R-New Hampshire) letter to Sen Harry Reid, 16 July 2012 <https://www.portman.senate.gov/public/index.cfm/files/serve?File_id=317ccc22-1649-4982-944f-ca1d97e14075>



END QUOTE. And Doug Bandow explains in 2012 how environmentalists admit, or even actively advocate, that

The Law of the Sea Treaty will become a “Green Trojan Horse” of litigation. In fact, it’s already begun

Doug Bandow 2012. (J.D. from Stanford; senior fellow at the Cato Institute and former special assistant to President Ronald Reagan) 19 March 2012 “Dragging America into Court: Law of the Sea And Global Litigation” <https://www.cato.org/publications/commentary/dragging-america-court-law-sea-global-litigation> (brackets added)

A decade ago Ireland relied on LOST [Law of the Sea Treaty] to sue Great Britain over the commissioning of a mixed oxide plant because of the latter’s alleged impact on the Irish Sea. The plant had been approved not only by Britain, but also the European Union (EU). Ireland dropped the suit, but only because the EU sued Ireland for not filing its case in the European Court of Justice. Many environmentalists believe that LOST could be used against the U.S. in the same way. A few years ago an environmental activist mistakenly sent me an email after our debate on the treaty. He acknowledged that it might be difficult to convince Americans that the treaty would not similarly bind America when the World Wildlife Federation and Citizens for Global Solutions were promoting LOST by claiming that the convention would stop Russia from polluting the Arctic. He worried that this inconsistency suggested that the treaty was in fact “some kind of green Trojan Horse.” It is.

END QUOTE. In summary, it's all risk and no benefit. Clearly we should continue refuse to ratify the Law of the Sea Treaty.

CON-AT: The Case Against Law of the Sea

NEGATIVE PHILOSOPHY

Except for seabed mining, the US already follows all the same policies as UNCLOS requires regarding navigation & overflight

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

As demonstrated throughout this paper, the consistent practice of states—maritime states, coastal states, UNCLOS members, and nonmembers—indicates that the UNCLOS navigational provisions are almost universally accepted law. The *Restatement of the Law, Third, of the Foreign Relations Law of the United States* notes:  
[B]y express or tacit agreement accompanied by consistent practice, the United States, and states generally, have accepted the substantive provisions of the Convention, other than those addressing deep sea-bed mining, as statements of customary law binding upon them apart from the Convention.  
This has long been the U.S. position. Since the Reagan Administration, the official U.S. policy has been that the UNCLOS provisions on the traditional uses of the oceans, including the provisions on navigation and overflight, confirm international law and practice.

We lose nothing by not joining UNCLOS: Treaty members have no power to take away existing rights from non-members

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

Some speakers discussed the legal question of the rights and duties of States which do not become party to the Convention adopted by the Conference. Some of these speakers alleged that such States must either accept the provisions of the Convention as a “package deal” or forgo all of the rights referred to in the Convention. This supposed election is without foundation or precedent in international law. It is a basic principle of law that parties may not, by agreement among themselves, impair the rights of third parties or their obligations to third parties.

NO NATIONAL SECURITY BENEFITS

South China Sea

Already tried & failed: Philippines filed a claim against China under UNCLOS. But China won’t abide by UNCLOS decisions

Sreenivasa Rao Pemmaraju 2016 (Special adviser in the office of the Attorney-General, State of Qatar and Visiting Professor at the Center for International law studies, Jawaharlal Nehru University, New Delhi ) CHINESE JOURNAL OF INTERNATIONAL LAW 20 June 2016 “The South China Sea Arbitration (The Philippines v. China): Assessment of the Award on Jurisdiction and Admissibility “ <https://academic.oup.com/chinesejil/article/15/2/265/2548386>

All the countries abutting the South China Sea are parties to the Convention. China in particular also made a declaration on 25 August 2006 to state that it does not accept any of the procedures provided for in section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in Paragraph1(a)-(c) of Article 298 of the Convention.The Philippines, which also submitted an “understanding”,however initiated arbitration under Annex VII of the Convention on 22 January 2013 against China seeking to resolve a dispute over the Parties’ respective “maritime entitlements”and the lawfulness of Chinese activities in the South China Sea.

China rejects international decision on maritime sovereignty, when challenged by fellow UNCLOS member Philippines

THE GUARDIAN 2016 (journalists Tom Phillips, Oliver Holmes and Owen Bowcott) 12 July 2016 “Beijing rejects tribunal's ruling in South China Sea case” <https://www.theguardian.com/world/2016/jul/12/philippines-wins-south-china-sea-case-against-china>

China has said it will not accept a ruling against it in a key international legal case over strategic reefs and atolls that Beijing claims would give it control over disputed waters of the [South China Sea](https://www.theguardian.com/world/south-china-sea). The judgment by an international tribunal in The Hague came down overwhelmingly in favour of claims by the [Philippines](https://www.theguardian.com/world/philippines) and is likely to increase global diplomatic pressure on Beijing to scale back military expansion in the area. By depriving certain outcrops of territorial-generating status, the ruling from the permanent court of arbitration effectively punches holes in China’s all-encompassing “nine-dash” line that stretches deep into the South China Sea. The Chinese president, Xi Jinping, said China’s “territorial sovereignty and marine rights” in the seas would not be affected by the ruling, which declared large areas of the sea to be neutral international waters or the exclusive economic zones of other countries.

UNCLOS won’t solve sovereignty and sea boundary issues in the South China Sea

**Gewirtz advocates US ratifying UNCLOS in order to gain moral authority, but he admits in 2016:**

Prof. Paul Gewirtz 2016 (Professor in Globalization and the Rule of Law at Peking University Law School, and is also a member of the American Law Institute and the Council on Foreign Relations) “Limits of Law in the South China Sea “ <https://www.brookings.edu/wp-content/uploads/2016/07/Limits-of-Law-in-the-South-China-Sea-2.pdf>

UNCLOS is a major treaty, but it covers only a very limited number of issues being contested in the South China Sea—excluding the most fundamental issues of sovereignty and sea boundary delimitations. Thus it will provide only very few “law-based” and “rules-based” answers to these contested matters.

US Navy Operations

US Navy conducts operations just fine without UNCLOS

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

In addition to operational assertions, the Navy routinely transits international straits and archipelagic waters to demonstrate that it enjoys the rights of transit passage and archipelagic sea-lanes passage, regardless of whether the U.S. is party to UNCLOS. For instance, in FY 1997, Navy warships and warplanes “frequently conducted routine transits through international straits,” including the Straits of Gibraltar, Hormuz, and Malacca, and transited through the archipelagic waters of Indonesia and the Philippines on 73 and 47 occasions, respectively.

A/T “US Navy advocates” – 1) because it guarantees rights they already have. 2) they ignore other negative aspects that don’t affect them

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

The Navy is strongly in favor of U.S. accession to UNCLOS. It asserts that U.S. membership in the convention is essential to guaranteeing the Navy’s navigational rights and freedoms. However, the Navy’s vocal and consistent support for UNCLOS is extremely narrow, based largely on the navigational rights and freedoms contained within the convention—its least controversial provisions. That said, for more than 200 years before UNCLOS came into existence in 1982 and during the almost 30 years since then, the United States has successfully preserved and protected its maritime interests regardless of the fact that it has not acceded to the convention.

A/T “Defense Dept. advocates” – 1) they admit national security is fine without UNCLOS. 2) can’t define any specific impact without it

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

That is not to say that the Department of Defense does not currently support U.S. accession to UNCLOS—it certainly does. However, the Department of Defense does not, and cannot, say either that U.S. membership in UNCLOS is absolutely essential to the preservation of navigational rights and freedoms or that the United States is incapable of protecting those rights unless it accedes to the convention. The 1993 report’s conclusion that the United States is successfully protecting its national security interests on the world’s oceans is correct, and the U.S. has done so without being party to UNCLOS.

NO ECONOMIC BENEFITS

US already has adequate jurisdiction over resources in the continental shelf without UNCLOS

Steven Groves 2012. (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 14 May 2012 U.S. Accession to U.N. Convention on the Law of the Sea Unnecessary to Develop Oil and Gas Resources <https://www.heritage.org/report/us-accession-un-convention-the-law-the-sea-unnecessary-develop-oil-and-gas-resources> (brackets added)

The United States may maintain jurisdiction and control over its ECS [extended continental shelf] on a global basis, regardless of whether it ever accedes to UNCLOS, and it should take every action necessary to secure oil and gas resources located on its ECS in the Arctic Ocean, in the Gulf of Mexico, and throughout the world. The United States can accomplish this end while acting as a sovereign nation rather than by joining UNCLOS and seeking the approval of the Commission on the Limits of the Continental Shelf (CLCS), an international committee of geologists and hydrographers located at U.N. headquarters in New York City.

No legal barrier to US seabed mining while we remain outside UNCLOS

Steven Groves 2012 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 4 Dec 2012 The U.S. Can Mine the Deep Seabed Without Joining the U.N. Convention on the Law of the Sea <https://www.heritage.org/report/the-us-can-mine-the-deep-seabed-without-joining-the-un-convention-the-law-the-sea?_ga=2.215195093.315779934.1534610486-1000197162.1534610486>

No legal barriers prohibit U.S. access, exploration, or exploitation of the resources of the deep seabed. Deep seabed mining is a “high seas freedom” that all nations may engage in regardless of their membership or non-membership in UNCLOS or any other treaty.

US and international law (outside of UNCLOS) already legalize seabed mining in international waters

Steven Groves 2012 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 4 Dec 2012 The U.S. Can Mine the Deep Seabed Without Joining the U.N. Convention on the Law of the Sea https://www.heritage.org/report/the-us-can-mine-the-deep-seabed-without-joining-the-un-convention-the-law-the-sea?\_ga=2.215195093.315779934.1534610486-1000197162.1534610486

The U.S. position set forth in 1980 in DSHMRA and again in 1983 at UNCLOS III remains the same today. According to the *Restatement of the Law, Third, of the Foreign Relations Law of the United States*, U.S. citizens and corporations may engage in seabed mining regardless of whether the U.S. accedes to UNCLOS, provided that they conduct such mining without claiming sovereignty over any part of the seabed and as long as the mining activities are exercised with due regard to the rights of other nations engaged in mining. As related by the *Restatement*, “like the fish of the high seas the minerals of the deep sea-bed are open to anyone to take.”

Turn: Joining UNCLOS is more likely to restrict seabed mining than not-joining

Steven Groves 2012 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 4 Dec 2012 The U.S. Can Mine the Deep Seabed Without Joining the U.N. Convention on the Law of the Sea <https://www.heritage.org/report/the-us-can-mine-the-deep-seabed-without-joining-the-un-convention-the-law-the-sea?_ga=2.215195093.315779934.1534610486-1000197162.1534610486>

Like other high seas freedoms, the right to engage in deep seabed mining is inherent to all sovereign nations under customary international law. Rather, it is the convention that attempts to restrict access to the deep seabed and infringe on the intrinsic rights of the United States and other nations that have chosen to remain non-parties.

NO POLITICAL BENEFITS

A/T “US loses influence / seat at the table by not joining” – We have plenty of influence without UNCLOS

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

Still others insist that time is running out for the United States to realize the benefits of the convention’s navigational provisions. For instance, in 1995, Admiral William Schachte warned, “This may be our last opportunity to ‘lock in’ those critical navigational and overflight rights so essential to our economic and military security.” A dozen years later, in 2007, the Vice Chief of Naval Operations repeated the same warning to the Senate Foreign Relations Committee: “We need to lock in the navigation and overflight rights and high seas freedoms contained in the Convention while we can.” However, the evidence indicates that the navigational provisions of UNCLOS are already locked in to the extent that any aspect of international law can be. Indeed, the passage of time has demonstrated that nations—UNCLOS members and nonmembers alike—have generally adhered to the convention’s navigational provisions in good faith and that those provisions have endured, not eroded. The United States is no pariah in regard to development of the law of the sea. To the contrary, the United States played a central role in the creation of the customary international law upon which the navigational provisions of UNCLOS are based, as well as the evolution and interpretation of those provisions since the convention was adopted in 1982.

A/T “Need to codify/solidify the rules” - Convention on the High Seas, ratified by the US in 1961, set up the rules just fine

Steven Groves 2011 (J.D.; former assistant attorney general of Florida; senior research fellow, Heritage Foundation) 24 Aug 2011 “Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms” <https://www.heritage.org/defense/report/accession-the-un-convention-the-law-the-sea-unnecessary-secure-us-navigational?_ga=2.240767297.315779934.1534610486-1000197162.1534610486>

The Convention on the High Seas (CHS), one of the 1958 conventions, explicitly set out “to codify the rules of international law relating to the high seas” and adopted a series of provisions as “generally declaratory on established principles of international law.” The CHS codified key principles regarding freedom of the high seas, including that the high seas are open to all nations, whether coastal or landlocked, and that no nation may claim sovereignty over any part of the high seas. Other basic tenets of high seas freedom codified in the CHS include freedom of navigation, freedom of overflight, freedom of fishing, and freedom to lay submarine cables and pipelines. The CHS also addressed issues relating to access to the seas for landlocked nations, flying maritime flags, safety, responding to collisions, rendering assistance, and dealing with piracy. The United States ratified the CHS in April 1961, and the convention remains in force.

NEW RISKS AND PROBLEMS

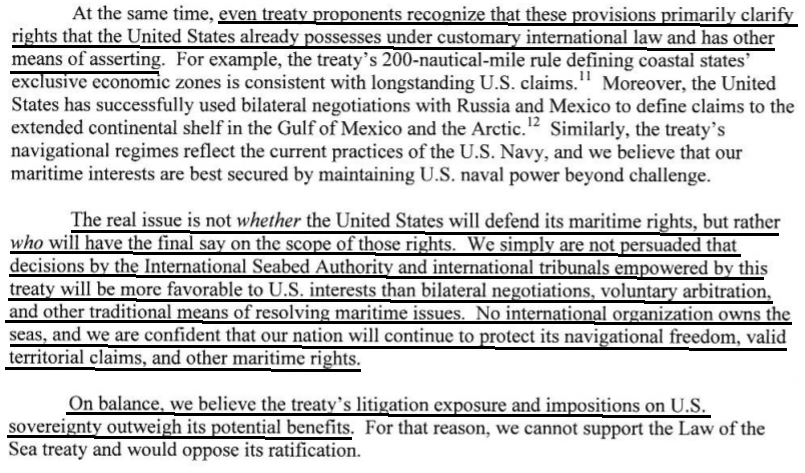
UNCLOS will penalize US mining companies with additional taxes and unaccountable bureaucratic regulations

Dr. Ted Bromund, James Carafano, Brett Schaefer 2018. (Bromund – PhD; senior research fellow at Heritage Foundation. Carafano - irector of the Kathryn and Shelby Cullom Davis Institute for International Studies.at Heritage Foundation. Scheaefer - Jay Kingham fellow in International Regulatory Affairs at The Heritage Foundation.) 2 June 2018 7 Reasons US Should Not Ratify UN Convention on the Law of the Sea <https://www.dailysignal.com/2018/06/02/7-reasons-us-should-not-ratify-un-convention-on-the-law-of-the-sea/>

For more than 30 years, through domestic law and bilateral agreements, the U.S. has established a legal framework for deep-seabed mining. U.S. accession would penalize U.S. companies by subjecting them to the whims of an unelected and unaccountable bureaucracy and would force them to pay excessive fees to the International Seabed Authority for redistribution to developing countries.

Risks and problems outweigh the minimal / hypothetical economic & security benefits

Sen. Rob Portman & Sen. Kelly Ayotte 2012 (Portman – US Senator, R-Ohio. Ayotte – US Senator, R-New Hampshire) letter to Sen Harry Reid, 16 July 2012 <https://www.portman.senate.gov/public/index.cfm/files/serve?File_id=317ccc22-1649-4982-944f-ca1d97e14075>



Too many unknown, confusing implications and hidden agendas

Doug Bandow 2012. (J.D. from Stanford; senior fellow at the Cato Institute and former special assistant to President Ronald Reagan) 19 March 2012 “Dragging America into Court: Law of the Sea And Global Litigation” <https://www.cato.org/publications/commentary/dragging-america-court-law-sea-global-litigation> (brackets added)

Treaty advocates recognize that the American people aren’t likely to favor buying a pig in a poke. So treaty negotiator Bernard Oxman suggested silence. Back in 1996 he admitted that the text “is amply endowed with indeterminate principles, mind-numbing cross-references, institutional redundancies, exasperating opacity and inelegant drafting.” Thus, he recommended “restraint in speculating on the meaning of the convention.” After all, he added, “it is essential to measure what we say in terms of its effect on the goal. Experienced international lawyers know where many of the sensitive nerve endings of governments are. Where possible, they should try to avoid irritating them.” What should irritate Americans even more, however, is the knowledge that LOST [Law of the Sea Treaty] proponents are attempting to hide their ambitions.

Climate change lawsuits will cost the U.S. a lot if we join UNCLOS

Doug Bandow 2012. (J.D. from Stanford; senior fellow at the Cato Institute and former special assistant to President Ronald Reagan) 19 March 2012 “Dragging America into Court: Law of the Sea And Global Litigation” <https://www.cato.org/publications/commentary/dragging-america-court-law-sea-global-litigation> (brackets added)

 There may be good political reasons to mitigate the distress of island countries, but such matters belong in international negotiations, not international courts. However, as [Steven] Groves warned, acceding to the treaty “would expose the U.S. to lawsuits on virtually any maritime activity, such as alleged pollution of the marine environment from a land-based source or even through the atmosphere. Regardless of the case’s merits, the U.S. would be forced to defend itself against every such lawsuit at great expense.”

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