**Beehive Forensics Institute 2018:Public Forum Camp Evidence**

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

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**\*DEFINITIONS & RESOLUTIONAL ANALYSIS\***

**The United States:** Made up of the 50 federated states, American Samoa, District of Columbia, Johnston Island, Guam, Wake and Midway Islands, Northern Marianas and US Virgin Islands.

**What is UNITED STATES? definition of UNITED STATES (Black's Law Dictionary). (2014, April 14). Retrieved from https://thelawdictionary.org/united-states/.**

**Accede:** To enter upon the [duties](https://www.collinsdictionary.com/us/dictionary/english/duty) (of an office); attain (*to*); to give assent; give in; agree (*to*); to become a party (*to* a treaty) between nations

**Accede definition and meaning | Collins English Dictionary. (n.d.). Retrieved from** [**https://www.collinsdictionary.com/us/dictionary/english/accede**](https://www.collinsdictionary.com/us/dictionary/english/accede)**/.**

**United Nations Convention of the Law Of Sea (UNCLOS aka Law of the Sea Treaty/LOST):** In 1982 the United Nations adopted the U.N. Convention of the Law of the Sea-- “a legal regime governing activities on, over, and under the world’s oceans.” The convention was and is “an unprecedented attempt by the international community to regulate all aspects of the resources of the sea and uses of the ocean, and thus bring a stable order to mankind's very source of life.” The United States is the only coastal nation yet to acede and this is due to descent from a few key senators, despite historic support by each president.

**Gallagher, M. E. (2014). The Time is Now: The United States Needs to Accede to The United Nations Convention on the Law of the Sea to Exert Influence Over the Competing Claims to the South China Sea. Temple International and Comparative Law Journal, 5-6. Retrieved from**

[**http://www.comitersinger.com/wp-content/uploads/2018/01/2269\_001.pdf/.**](http://www.comitersinger.com/wp-content/uploads/2018/01/2269_001.pdf/)

**Without Reservations:** Without limitation and/or completely.

[**Without Reservation. (n.d.). Retrieved from https://www.merriam-webster.com/dictionary/without**](http://www.merriam-webster.com/dictionary/without) **reservation**

# \*AFFIRMATIVE CAMP CASE\*

It is because the U.N. Convention of the Law of the Sea has been ratified and signed by every other coastal country in the world that we affirm today’s resolution.

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

To clarify today’s debate, my partner and I provide the following definitions.

**The United States:** Made up of the 50 federated states, American Samoa, District of Columbia, Johnston Island, Guam, Wake and Midway Islands, Northern Marianas and US Virgin Islands.

**What is UNITED STATES? definition of UNITED STATES (Black's Law Dictionary). (2014, April 14). Retrieved from https://thelawdictionary.org/united-states/.**

**Accede:** To enter upon the [duties](https://www.collinsdictionary.com/us/dictionary/english/duty) (of an office); attain (*to*); to give assent; give in; agree (*to*); to become a party (*to* a treaty) between nations

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**United Nations Convention of the Law Of Sea (UNCLOS):** In 1982 the United Nations adopted the

* 1. Convention of the Law of the Sea-- “a legal regime governing activities on, over, and under the world’s oceans.” The convention was and is “an unprecedented attempt by the international community to regulate all aspects of the resources of the sea and uses of the ocean, and thus bring a stable order to mankind's very source of life.” The United States is the only coastal nation yet to acede and this is due to descent from a few key senators, despite historic support by each president.

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**Without Reservations:** Without limitation and/or completely.

[**Without Reservation. (n.d.). Retrieved from https://www.merriam-webster.com/dictionary/without**](http://www.merriam-webster.com/dictionary/without) **reservation**

Due to these definitions, we argue that the criteria for this debate should be comparative advantage. Meaning that if the world is better off with U.S. accession, the affirmative wins the debate. We meet this burden because accession would provide three large advantages. First, not acceding to the UNCLOS uniquely harms U.S. interests in maritime boundary disputes in the Arctic., second, the U.S. would gain access to the International Seaboard Authority, and finally, the U.S. would gain influence in the South China Sea.

First, Not acceding to the UNCLOS uniquely harms U.S. interests in maritime boundary disputes in the Arctic.

**Almond,** R. G. (**2017**, May 25). U.S. Ratification of the Law of the Sea Convention. Retrieved from <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Roncervert Ganan Almond, a partner at the Wicks group and former adviser for the US-China Economic and Security Review Commission.

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US-China Economic and Security Review Commission explains that given that the United States has not ratified UNCLOS, U.S. nationals may not serve as members of the Commission on the Limits of the Continental Shelf. It is not clear whether the United States, as a non-state party, can even make a legally recognized submission to the commission to assert its claim and fully protect its proprietary rights and energy interests. In contrast, Russia, which may be entitled to almost half of the Arctic region area and coastline, has already made its submission for vastly extending its continental margin, including a claim to the Lomonosov Ridge , an undersea feature spanning the Arctic from Russia to Canada. Russia and Canada are the two countries with which the United States has potentially overlapping extended continental shelf claims. This maritime boundary dispute is no small matter. The U.S. Geological Survey Estimates that the Arctic holds 22 percent of the world’s undiscovered oil and gas, amounting to more than 412 billion barrels of oil equivalent.

**Titley**, D. W., Ph.D. (**2018**, July 2). The United States Role in Maritime Transportation in the Arctic. Address presented at Briefing to the United State House of Representatives Subcommittee on Coast Guard and Maritime Transportation. David Titley was a Rear Admiral USN (Ret.). He currently hold a Ph.D and is the Professor and Director, Center for Solutions to Weather and Climate Risk The Pennsylvania State University.

* + 1. **David Titley Ph.D. says that Now is the time to think carefully about how to manage that very different world and what we want that world to look like. We must think of this in terms of our security, our economy, the likely actions of our friends and rivals, and critically, engage in a meaningful and sustained way with the indigenous people who have lived in the arctic for thousands of years.** UNCLOS was written primarily by the U.S. to encode maritime advantages inherent to our economic and security well-being. UNCLOS is the governance structure for the world’s oceans, including the Arctic Ocean. **Accession to UNCLOS, among many other advantages, would allow the U.S. to file a claim for seabed resources north of Alaska in an area that is nearly the size of California.**

Next, the U.S. would gain access to the International Seaboard Authority.

**Liljestrand,** K. (**2018**, February 08). The Deep-Sea Reasons for the Accession of the United States to the 1982 Convention on the Law of the Sea. Retrieved from

<https://gelr.org/2018/02/08/the-deep-sea-reasons-for-the-accession-of-the-united->states-to-the-1982-convention-on-the-law-of-the-sea/

A. According to Katherine Liljestrand of the Georgetown Law review, while the United States remains a non-party to UNCLOS, access to the Council of the International Seabed Authority.– and, subsequently, to the subject jurisdictions it covers – are denied.The second important environmentally-related mechanism the United States is missing out on is the Council of the International Seabed Authority and its unique process. The International Seabed Authority is the primary body that deals with the Area. The Area, as defined in Article I of UNCLOS, includes the seabed, ocean floor, and subsoil beyond the limits of national jurisdiction.[[15](https://gelr.org/2018/02/08/the-deep-sea-reasons-for-the-accession-of-the-united-states-to-the-1982-convention-on-the-law-of-the-sea/#_ftn15)] The International Seabed Authority is the international body that regulates and controls all mineral-related activities in the Area, and only parties to UNCLOS can sit on the Council. The United States has a reserved, permanent spot on the Council due to having the largest economy at the time of UNCLOS’ ratification but is unable to take that spot unless it becomes a party to UNCLOS. As of currently, the United States is missing out on partaking in the Authority’s defining of the future of seabed mineral mining.

Finally, the U.S. would gain influence in the South China Sea.

**Cardin**, B. (**2016**, July 13). The South China Sea Is the Reason the United States Must Ratify UNCLOS. Retrieved from [https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the- united-states-must-ratify-unclos/](https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the-united-states-must-ratify-unclos/). Ben Cardin is a Senator from Maryland.

**A. Failure to accede to the UNCLOS undermines US influence in the South China Sea. Acceding is the only way to guarantee influence. Ben Cardin, Senator for the state of Maryland explains that: Our failure to ratify the treaty also undermines our ability to fully work with our allies and partners in the South China Sea region.** If we are not party to UNCLOS, it is difficult for the United States to rely on the treaty to determine the legal entitlements of mid-ocean features, which claims are lawful, and what exactly constitutes the high seas. **It’s also harder for us to suggest it as the basis for resolving claims and arbitrating disputes** — or to rely on EEZs [exclusive economic zones] drawn under UNCLOS’s auspices. **Moreover, a broad set of stakeholders including the U.S. Chamber of Commerce, environmental organizations, the military, and industry specific trade groups representing commercial fishing, freight shipping and mineral extraction all support U.S. accession to the treaty. Perhaps most importantly, our military leaders have stated that U.S. participation will help them maintain navigational rights — and with less risk to the men and women they command.**

It is because we believe that acceding would provide the greatest benefit to the United States and Global Community that we proudly affirm. Thank you.

# \*AFFIRMATIVE CARDS\*

## Our rivals are paying attention to the changing Arctic, even if we are not.

**Titley**, D. W., Ph.D. (**2018**, July 2). The United States Role in Maritime Transportation in the Arctic. Address presented at Briefing to the United State House of Representatives Subcommittee on Coast Guard and Maritime Transportation. David Titley was a Rear Admiral USN (Ret.). He currently hold a Ph.D and is the Professor and Director, Center for Solutions to Weather and Climate Risk The Pennsylvania State University.

**While the United States has shown, at best, sporadic and episodic interest in the Arctic, our great power rivals, as defined in our National Security Strategy, have made deliberate investments in planning and resources. The Russians are actively monetizing their Northern Sea Route and rebuilding their Arctic military capabilities,** albeit from a very low post-cold war level. After western sanctions were imposed following Russian actions in Crimea and the Ukraine, Russia has courted Chinese investment for their fossil fuel industry. **China meanwhile released its Arctic Strategy in January of this year. China declares itself to be a “near Arctic State” and hopes to jointly build a “Polar Silk Road” – likely the Northern Sea Route --** as the northern flank in its “Belt and Road” initiative. China continues to court the Nordic states and Greenland, likely looking for a combination of natural resources and an Atlantic terminus to any future

trans-polar shipping route.

While we tend to think that the days of geographic exploration ended in the 18th and 19th Centuries, in many aspects, the changes in the Arctic will likely create a wave of human exploration and “National Security and the Accelerating Risks of Climate Change.”, CNA Corporation, May 2014. **Now is the time to think carefully about how to manage that very different world and what we want that world to look like. We must think of this in terms of our security, our economy, the likely actions of our friends and rivals, and critically, engage in a meaningful and sustained way with the indigenous people who have lived in the arctic for thousands of years.** UNCLOS was written primarily by the U.S. to encode maritime advantages inherent to our economic and security well-being. UNCLOS is the governance structure for the world’s oceans, including the Arctic Ocean. **Accession to UNCLOS, among many other advantages, would allow the U.S. to file a claim for seabed resources north of Alaska in an area that is nearly the size of California.**

## While the United States remains a non-party to UNCLOS, access to the Commission of the Limits of the Continental Shelf – and, subsequently, to the subject jurisdictions it covers – is denied.

**Liljestrand**, K. (**2018**, February 08). The Deep-Sea Reasons for the Accession of the United States to the 1982 Convention on the Law of the Sea. Retrieved from

<https://gelr.org/2018/02/08/the-deep-sea-reasons-for-the->accession-of-the-united-states-to-the-1982-convention-on-the-law-of-the-sea/

The Commission on the Limits of the Continental Shelf is the foremost international body which “consider[s] the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76 . . . “What this means is the Commission determines whether or not a country is able to claim its outer continental shelf (OCS) extends past the 200 nautical mile Exclusive Economic Zone (EEZ) thereby expanding its territorial rights to drill. As the United States is not currently a member of UNCLOS, the United States cannot currently claim any drilling rights over any potentially-extended continental shelf. Also, as the United States is not on the Commission, the United States cannot nominate or elect experts to a seat on the Commission and thus has no say in the establishment of outer continental shelves for other countries, as when Russia submitted an overly expansive claim to its outer continental shelf. The current administration seems to be moving forward with all hands on deck in regards to offshore oil drilling, so acceding to UNCLOS and nominating experts to the Commission could further those efforts. The United States needs to be on the Commission because its voice needs to be heard for the present and future of both our own extended continental shelf and the extended continental shelves of other countries.

## While the United States remains a non-party to UNCLOS, access to the Council of the International Seabed Authority.– and, subsequently, to the subject jurisdictions it covers – is denied.

**Liljestrand,** K. (**2018**, February 08). The Deep-Sea Reasons for the Accession of the United States to the 1982 Convention on the Law of the Sea. Retrieved from

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**The** second **important environmentally-related mechanism the United States is missing out on is the Council of the International Seabed Authority and its unique process. The International Seabed Authority is the primary body that deals with** the Area. **The Area, as defined in Article I of UNCLOS, includes the seabed, ocean floor, and subsoil beyond the limits of national jurisdiction.**[**[15**](https://gelr.org/2018/02/08/the-deep-sea-reasons-for-the-accession-of-the-united-states-to-the-1982-convention-on-the-law-of-the-sea/#_ftn15)**] The International Seabed Authority is the international body that regulates and controls all mineral-related activities in the Area, and only parties to UNCLOS can sit on the Council. The United States** has a reserved, permanent spot on the Council due to having the largest economy at the time of UNCLOS’ ratification but **is unable to take that spot unless it becomes a party to UNCLOS. As of currently, the United States is missing out on partaking in the Authority’s defining of the future of seabed mineral mining.**The International Seabed Authority issues permits to private parties – mainly companies – for the exploitation and mining of deep seabed minerals[[18]](https://gelr.org/2018/02/08/the-deep-sea-reasons-for-the-accession-of-the-united-states-to-the-1982-convention-on-the-law-of-the-sea/#_ftn18), such as the highly profitable polymetallic manganese nodules. It is the International Seabed Authority that determines how these permits are distributed and any restrictions on those with the permits.[[19]](https://gelr.org/2018/02/08/the-deep-sea-reasons-for-the-accession-of-the-united-states-to-the-1982-convention-on-the-law-of-the-sea/#_ftn19) In order for a private company to get a permit for deep sea mining, the company must be sponsored by a country to begin the application process with the International Seabed Authority. Thus, United States companies have no access to this process or the permits for deep sea mining. This hurts United States-based companies who could otherwise feasibly take part in the race for claiming highly valuable seabed minerals through excavation.

## The US Gives Humanitarian Aid, a Little More for a Foot in the Arctic won’t hurt.

**Haycox**, S. (**2018**, March 22). Why signing the Law of the Sea treaty would mean a tougher U.S. position in the Arctic. Retrieved [from https://www.adn.com/opinions/2018/03/22/why-signing-the-law-of-the-sea-treaty-would-mean](https://www.adn.com/opinions/2018/03/22/why-signing-the-law-of-the-sea-treaty-would-mean) -a-tougher-u-s-position-in-the-arctic/

**Advocates for U.S. signing of the treaty argue that the U.S. already provides aid to other countries through several avenues, a humanitarian effort with good, practical results.** Further, they assert, **participation in the full treaty regime would give the U.S. greater credibility in its international relations, and would strengthen its Arctic claims,** including U.S. insistence that the Northwest Passage is not sovereign Canadian water, as that government asserts, but a free-navigation, international waterway. **And since the U.S. holds only 8 percent of the Arctic circumference while Russia holds 44 percent, signing would significantly toughen U.S. regional presence.**

## UNCLOS Would Bolster American Leadership.

**Cronin**, P. M., & Ha, M. (**2018**, June 22). Toward a New Maritime Strategy in the South China Sea Image Credit: U.S. Navy photo by Mass Communication Specialist 2nd Class Declan Barnes/Released Toward a New Maritime Strategy in the South China Sea How the US can reformulate its approach to China in the maritime domain. Retrieved from

<https://thediplomat.com/2018/06/toward-a-new-maritime-strategy-in-the-south-china-sea/>.

Finally, it’s time to deny China the hollow claim that Beijing follows international maritime law, while Washington flouts it. The opposite is true. **China has ratified the** United Nations Convention on the Law of the Sea **(UNCLOS) but adheres to it selectively by privileging domestic law and unilaterally asserting historical rights. In contrast, the United States** Department of Defense **abides by UNCLOS as a matter of customary international law,** even though the United States has never ratified the treaty. **The United States should at long last ratify UNCLOS to advance America’s interests by reinforcing favorable rules for the governance of the world’s oceans on which we depend. Adopting UNCLOS would bolster American leadership at a time when many question its reliability and staying power.** These [four] steps are not a substitute for a comprehensive Indo-Pacific strategy. But collectively, **these steps could be the beginning of a stronger network of partners and provide the means of preventing any single nation from unilaterally determining the rules for the world heading into the 21st century.**

## The United States has much to gain by acceding to the UNCLOS, including a massive expansion of territory that would fall within US sovereignty.

**Cardin**, B. (**2016**, July 13). The South China Sea Is the Reason the United States Must Ratify UNCLOS. Retrieved from <https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the-united-states-must-ratify-unclos/>. Ben Cardin is a Senator from Maryland.

But just like when we helped forge UNCLOS more than 40 years ago, **we have much to gain from joining today. We shaped the treaty to be very favorable to the United States: we reserved the only permanent seat on the international council** that will oversee deep seabed mining, including potentially rich sources of untapped energy resources, minerals, and precious metals. **That permanent seat remains embarrassingly vacant, and decisions are being made about seabed mining in international waters without U.S. participation. Moreover, the estimated additional area the United States could claim sovereignty under the continental shelf expansion provisions of the treaty is an area across the Atlantic and Pacific seaboard estimated at roughly one and a half times the size of Texas.**

## Failure to accede to the UNCLOS undermines US influence in the South China Sea.

**Cardin**, B. (**2016**, July 13). The South China Sea Is the Reason the United States Must Ratify UNCLOS. Retrieved from [https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the- united-states-must-ratify-unclos/](https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the-united-states-must-ratify-unclos/). Ben Cardin is a Senator from Maryland.

**Our failure to ratify the treaty also undermines our ability to fully work with our allies and partners in the South China Sea region.** If we are not party to UNCLOS, it is difficult for the United States to rely on the treaty to determine the legal entitlements of mid-ocean features, which claims are lawful, and what exactly constitutes the high seas. **It’s also harder for us to suggest it as the basis for resolving claims and arbitrating disputes** — or to rely on EEZs [exclusive economic zones] drawn under UNCLOS’s auspices.

Moreover, a broad set of stakeholders including the U.S. Chamber of Commerce, environmental organizations, the military, and industry specific trade groups representing commercial fishing, freight shipping and mineral extraction all support U.S. accession to the treaty. Perhaps most importantly, our military leaders have stated that U.S. participation will help them maintain navigational rights — and with less risk to the men and women they command.

## Acceding to the UNCLOS strengthens U.S. interests in the Asia-Pacific region.

**Cardin**, B. (**2016**, July 13). The South China Sea Is the Reason the United States Must Ratify UNCLOS. Retrieved from [https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the- united-states-must-ratify-unclos/](https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the-united-states-must-ratify-unclos/). Ben Cardin is a Senator from Maryland.

**Congressional ratification of UNCLOS will help secure U.S. interests in the Asia-Pacific region, and** will **reaffirm the principles of freedom of navigation in international waters and airspace in accordance with international law. Few actions could be more important as** we contemplate the choppy waters we must now navigate to secure and safeguard U.S. interests and values in the region, and as **we support our partners and allies in building a stable, prosperous rules-based order in the Asia-Pacific.**

## The UNCLOS strengthens U.S. military interests by establishing clear maritime jurisdictions and rights.

**Patrick**, S. M. (**2012**, June 13). (Almost) Everyone Agrees: The U.S. Should Ratify the Law of the Sea Treaty. Retrieved from [https://www.theatlantic.com/international/archive/2012/06/-almost-everyone-agrees-the-us-should-ratify- the-](https://www.theatlantic.com/international/archive/2012/06/-almost-everyone-agrees-the-us-should-ratify-the-law-of-the-sea-treaty/258301/)

[law-of-the-sea-treaty/258301/](https://www.theatlantic.com/international/archive/2012/06/-almost-everyone-agrees-the-us-should-ratify-the-law-of-the-sea-treaty/258301/). Stewart M. Patrick is a Senior Fellow at the Council of Foreign Relations.

**The treaty’s primary value to the U.S. military is that it establishes clear rights, duties, and jurisdictions of maritime states.** The treaty defines the limits of a country territorial sea and establishes rules for transit through international straits, and defines exclusive economic zones (EEZs) **in a way compatible with freedom of navigation and overflight. It further establishes the sovereign inviolability of naval ships** calling on foreign ports, **providing critical protection for U.S. vessels.** More generally, the treaty allows states party to exempt their militaries from its mandatory dispute resolution provisions--allowing the United States to retain complete military freedom of action. At the same time, **the treaty does nothing at all to**

interfere with critical U.S.-led programs like the Proliferation Security Initiative (PSI). Nor does it subject any U.S. military personnel to the jurisdiction of any international court.

## Without acceding to the UNCLOS, the US locked out of negotiating the development and protection of the Arctic. We must act before it is too late.

**United States Naval Institute** News report, July 19, 2017

**Sen. Angus King** (I-Maine), also a member of the [Senate Energy and Natural Resources] committee, **called the Senate’s failure to ratify the pact “a huge self-inflicted wound,”** speaking Wednesday at the Center for International and Strategic Studies. **The failure to ratify based on arguments of loss of American sovereignty if approved means “right now we’re not in the game**” in deciding broad maritime issues[…] “**Our reality [in the Arctic] has been limited by access” from port to roads to telecommunications**, [Lisa] Murkowski [R-Alaska, chair of the committee] said. She added that before development takes place the United States and other Arctic nations need “to ensure certain protocols are in place.” **Noting also that an Italian energy firm will begin exploration** later this year in American waters, Murkowski said, **“and no one wants to see an oil spill.”**

## Acceding to the UNCLOS will give the United States access to vital resources in international negotiations.

**Almond**, R. G. (**2017**, May 25). U.S. Ratification of the Law of the Sea Convention. Retrieved from <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Roncervert Ganan Almond, a partner at the Wicks group and former adviser for the US-China Economic and Security Review Commission.

**Ratification will give the United States a direct voice in UNCLOS bodies** like the International Tribunal for the Law of the Sea, the Commission on the Limits of the Continental Shelf, and the International Seabed Authority. **For instance,** at a recent gathering at the American Society of International Law (ASIL),Douglas Burnett, a maritime attorney and advisor to the International Cable Protection Committee, explained that, **in the current landscape, U.S. telecommunications companies are forced to seek foreign state sponsors to voice their concerns in UNCLOS disputes over undue interference by coastal states to the freedom to lay undersea cables. An estimated 98 percent of worldwide internet data is transmitted through the web of fiber optic cables lying on the ocean floor, which are the arteries of the global economy, and, therefore, a significant U.S. concern.**

## The benefits of accession are substantial and the costs are insignificant because current US policy largely already reflects the UNCLOS.

**Almond**, R. G. (**2017**, May 25). U.S. Ratification of the Law of the Sea Convention. Retrieved from <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Roncervert Ganan Almond, a partner at the Wicks group and former adviser for the US-China Economic and Security Review Commission.

In addition, UNCLOS reflects current U.S. policy with respect to living marine resource management,

conservation, and exploitation. **For example,** from within the treaty, **the United States can more effectively** exert its leadership in managing depleted fish stocks, which migrate internationally across maritime zones and the high seas. Organizations as disparate as the World Wildlife Fund and theU.S. Chamber of Commerce have strongly supported U.S. accession. According to John Norton Moore, director of the Center for Oceans Law and Policy at the University of Virginia, since the U.S. already follows the treaty, the costs of compliance are insignificant, particularly when weighed against the U.S. capacity to influence institutional development in global maritime policy.

**UNCLOS Contains Measures to Protect Marine Life, the US should accede in order to help. Yiallourides**, C. (**2017**, December 7). Protecting and preserving the marine environment in disputed areas: Seismic noise and provisional measures of protection. Retrieved from https://www.tandfonline.com/doi/full/10.1080/02646811.2017.1403741?scroll=top&needAccess=true/.

**There are known environmental risks that include permanent injuries to marine organisms or even immediate death.** Other effects may include temporary injuries that may or may not directly result in death but that may make marine organisms less fit, resulting in lower chances of survival. These risks are in addition to less well understood but nonetheless plausible risks to marine ecosystems, such as the potential for

noise-derived behavioural disturbance. **This could have an impact on animals’ feeding, movement and reproduction, and might also have short- or long-term effects on catch success rates.** The paper examines the possible **application of provisional measures of protection under Article 290 of the** United Nations Convention on the Law of the Sea **(UNCLOS)**. This provision **enables a court or tribunal exercising jurisdiction under UNCLOS to prescribe provisional measures not only to preserve the rights of the disputants, but also, or even solely, to prevent serious harm to the marine environment.**

## Not acceding to the UNCLOS uniquely harms U.S. interests in maritime boundary

**disputes in the Arctic. This territory is believed to have 22% of the world’s undiscovered oil and gas reserves.**

**Almond,** R. G. (**2017**, May 25). U.S. Ratification of the Law of the Sea Convention. Retrieved from <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Roncervert Ganan Almond, a partner at the Wicks group and former adviser for the US-China Economic and Security Review Commission.

Given that the United States has not ratified UNCLOS, U.S. nationals may not serve as members of the Commission on the Limits of the Continental Shelf. It is not clear whether the United States, as a

**non-state party, can even make a legally recognized submission to the commission to assert its claim and fully protect its proprietary rights and energy interests. In contrast, Russia,** which may be entitled to almost half of the Arctic region area and coastline, **has already made its submission for vastly extending its continental margin,** including a claim to the Lomonosov Ridge , an undersea feature spanning the Arctic from Russia to Canada. **Russia and Canada are the two countries with which the United States has potentially overlapping extended continental shelf claims. This maritime boundary dispute is no small matter. The U.S. Geological Survey Estimates that the Arctic holds 22 percent of the world’s undiscovered oil and gas, amounting to more than 412 billion barrels of oil equivalent.**

## United States and the Freedom of Navigation Geopolitical Futures, The US Weighs Its Options in the South China Sea. (2018, June 28). Retrieved from https://geopoliticalfutures.com/us-weighs-options-south-china-sea/

At minimum, **the U.S. appears primed to accelerate the pace of freedom of navigation operations.** The goals and mechanics of these operations, and how they fit into U.S. strategy in the Western Pacific and beyond, are often mischaracterized. Since we’re likely to be hearing a lot about them in the coming years, it’s worth understanding how they work and what they can and cannot achieve. **The basic goal of FONOPs is to reinforce norms (such as free navigation and maritime law), particularly those outlined under the U.N. Convention on the Law of the Sea, which came into force in 1994. (The U.S. is not an UNCLOS signatory, providing much rhetorical and propaganda fodder to China, which is. Nonetheless, the U.S. treats UNCLOS as customary international law and is effectively its staunchest enforcer.)** Since the late 1970s, **the U.S. has quietly conducted scores of FONOPs around the world each year, only publicizing them, with minimal detail, in an annual report. China is not the only target; in 2017, the U.S. targeted excessive maritime claims of 22 countries,** including allies and partners like the Philippines, Vietnam, Malaysia, Taiwan, India and Indonesia.

## U.S. Checkback on China Island Building.

**Geopolitical Futures**, The US Weighs Its Options in the South China Sea. (**2018**, June 28). Retrieved from https://geopoliticalfutures.com/us-weighs-options-south-china-sea/

In the South China Sea, U.S. FONOPs have taken on a much higher profile, in part because [China’s](https://geopoliticalfutures.com/chinese-military-installations-south-china-sea/) [territorial claim](https://geopoliticalfutures.com/chinese-military-installations-south-china-sea/)s are so vast and its violations of UNCLOS have been so flagrant. China has reclaimed more than 3,000 acres of land atop seven reefs that previously were at least partially submerged.

**Under UNCLOS, if China’s holdings met the definition of an island – a feature always above water and capable of sustaining human life or economic activity – then they would grant China three things: a territorial sea within the surrounding 12 nautical miles, a contiguous zone** between 12 and 24 nautical miles, **and an exclusive economic zone extending out 200 nautical miles. A state can exercise sovereign control over a territorial sea, making and enforcing its own laws in the waters (as well as the airspace above) free from outside interference. In an exclusive economic zone, the state has exclusive resource rights.** However, if the China-occupied feature were considered merely rock – always above water but incapable of sustaining human life or economic activity – then it would give Beijing a territorial sea and a contiguous zone but no exclusive economic zone. And if determined to be at a low-tide elevation – i.e., a maritime feature that is submerged at high tide – it would generate none of the three. (Transforming a rock or low-tide elevation into an artificial island does not alter its legal character).

## UNCLOS is Effective in Resolving International Issues

**Law and Crime Prevention**. Sea boundaries treaty by Australia and Timor-Leste 'example to follow' – UN chief | UN News. (**2018, March 6).** [Retrieved from https://news.un.org/en/story/2018/03/1004362](https://news.un.org/en/story/2018/03/1004362)/.

**Australia and Timor-Leste** on Tuesday **signed a bilateral maritime boundaries treaty, which United Nations Secretary-General António Guterres hailed as a ground-breaking event that could inspire other countries to peacefully settle disputes through mediation.**The treaty establishing their maritime boundaries in the Timor Sea [was signed](https://www.un.org/sg/en/content/sg/note-correspondents/2018-03-06/note-correspondents-signing-maritime-boundaries-treaty) at UN Headquarters in the presence of Mr. Guterres, putting an end to the decade-long dispute between the two sides and marking the first-ever successful recourse by States to conciliation proceedings under [Annex V](http://www.un.org/depts/los/convention_agreements/texts/unclos/closindx.htm) to the UN Convention on the Law of the Sea ([UNCLOS](http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm)).**“This ceremony demonstrates the strength of international law and the effectiveness of resolving** [**disputes**](https://www.un.org/sg/en/content/sg/statement/2018-03-06/secretary-generals-remarks-signing-ceremony-new-maritime-boundary)[**through peaceful means**](https://www.un.org/sg/en/content/sg/statement/2018-03-06/secretary-generals-remarks-signing-ceremony-new-maritime-boundary)**,**” the UN chief said.“**A central element in the Charter of the United Nations, the peaceful settlement of disputes is also a cornerstone of the United Nations Convention on the Law of the Sea, to which both Australia and Timor-Leste are parties**,” he added. T**he Secretary-General said the agreement is “a further contribution to establishing legal certainty in the world’s oceans, an essential condition for stable relations, peace and security, and the achievement of sustainable development**,” and puts both countries in a better position to exercise their respective rights and obligations under the Convention. It should also ensure that both States fully benefit from the sustainable exploitation of natural resources in the Timor Sea.

## Law of the Sea is Good for Marine Life

**Northrop**, E. (**2018**, July 6). Ocean Conservation Is an Untapped Strategy for Fighting Climate Change. Retrieved from <http://www.ipsnews.net/2018/07/ocean-conservation-untapped-strategy-fighting-climate-change/>.

**The ocean contributes $1.5 trillion annually to the global economy and assures the livelihood of 10-12 percent of the world’s population.** But there’s another reason to protect marine ecosystems—**they’re crucial for curbing climate change.** This year is shaping up to be a critical one for ocean action. The 53member countries of the Commonwealth adopted the Commonwealth Blue Charter on Ocean Action earlier this year, a plan to protect coral reefs, restore mangroves and remove plastic pollution, among other actions. A new United Nations assessment has found the world’s oceans to be in dire shape. **Ocean conservation was a centerpiece of the G7 meeting resulting in** the ‘Charlevoix Blueprint for Healthy Oceans, Seas and Resilient Communities’ which commits the G7 to supporting better adaptation planning, emergency preparedness and recovery; support innovative financing for coastal resilience; and launch a joint G7 initiative to deploy Earth observation technologies and related applications to scale up capacities for integrated coastal zone management. In addition, the leaders of Canada, France, Germany, Italy, the UK and the European Union agreed to tackle ocean plastic in the ‘Ocean Plastics Charter.’ Such action lays important groundwork for substantial negotiations for the first ever international treaty for conservation of the high seas to begin in September. The negotiations will last 2 years, culminating in 2020. The high seas cover nearly half the planet and are filled with marine life, from fish to plankton that are crucial to generating oxygen and regulating the global climate. Approximately 40 percent of all CO2 emissions from burning fossil fuels is absorbed by the ocean. **The new treaty** will be **negotiated under the UN Convention on the Law of the Sea, joining other agreements that govern seabed mining and highly migratory fish stocks. It has been dubbed the “Paris Agreement for the Ocean”, potentially enabling the creation of large marine protected areas in the high seas** that have long been called for as crucial to curbing the decline of global fish stocks and other marine life. Speaking of the Paris Agreement, this year is also a turning point for international climate action. The first stocktake of progress under the Paris Agreement on climate change, known as the Talanoa Dialogue, is currently underway, and is expected to highlight tangible opportunities for countries to further advance climate action. Countries are also expected to agree later this year on a rulebook for implementing the Paris Agreement. The ocean and coastal ecosystems provide an untapped, nature-based climate solution that needs to be part of both conversations.

## Accession is Good for International Relations

**Roughneen**, S. (**2018**, June 13). Shifting US policy leaves Asian allies at sea. Retrieved from [https://asia.nikkei.com/Spotlight/Cover-Story/Shifting-US-policy-leaves-Asian-allies-at-se](https://asia.nikkei.com/Spotlight/Cover-Story/Shifting-US-policy-leaves-Asian-allies-at-sea)a/.

James Mattis defended the naval operations by citing a 2016 international tribunal decision that dismissed China’s expansive “nine-dash line” claim to much of the sea. The ruling said **China’s claims contravened the 1982 United Nations Convention on the Law of the Sea, or UNCLOS. But** Mattis was on shaky ground, **since the U.S. has never ratified UNCLOS thanks to opposition from conservative lawmakers who see it as limiting American sovereignty. This failure undermines U.S. criticism of China over rulings based on the convention.The uneven aspects of American foreign policy have left South China Sea claimants questioning the reliability of the U.S. as a partner.**“Inconsistency [in U.S. foreign policy] is what the regional powers are concerned about,” said Huong Le Thu, senior analyst at the Australian Strategic Policy Institute.

Philippine President Rodrigo Duterte has been outspoken in questioning whether the U.S. -- a treaty partner of the Philippines -- would defend the country if there were a showdown with China over the disputed waterway. “Can I rely on America and drop the first bomb when we attack?” he said to media on June 5. Former President Barack Obama’s plan for an “Asia Pivot” was meant to shift the focus of American foreign policy to the Asia-Pacific region, home to the world's most dynamic major economies and, in China, an increasingly wealthy and assertive rival to the U.S.

# \*NEGATIVE CASE\*

It is because the U.N. Convention of the Law of the Sea does not provide unique benefits to the United States, and would harm its economy that we negate today’s resolution.

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

To clarify today’s debate, my partner and I provide the following definitions.

**The United States:** Made up of the 50 federated states, American Samoa, District of Columbia, Johnston Island, Guam, Wake and Midway Islands, Northern Marianas and US Virgin Islands.

**What is UNITED STATES? definition of UNITED STATES (Black's Law Dictionary). (2014, April 14). Retrieved from https://thelawdictionary.org/united-states/.**

**Accede:** To enter upon the [duties](https://www.collinsdictionary.com/us/dictionary/english/duty) (of an office); attain (*to*); to give assent; give in; agree (*to*); to become a party (*to* a treaty) between nations

**Accede definition and meaning | Collins English Dictionary. (n.d.). Retrieved from** [**https://www.collinsdictionary.com/us/dictionary/english/accede**](https://www.collinsdictionary.com/us/dictionary/english/accede)**/.**

**United Nations Convention of the Law Of Sea (UNCLOS):** In 1982 the United Nations adopted the

* 1. Convention of the Law of the Sea-- “a legal regime governing activities on, over, and under the world’s oceans.” The convention was and is “an unprecedented attempt by the international community to regulate all aspects of the resources of the sea and uses of the ocean, and thus bring a stable order to mankind's very source of life.” The United States is the only coastal nation yet to acede and this is due to descent from a few key senators, despite historic support by each president.

**Gallagher, M. E. (2014). The Time is Now: The United States Needs to Accede to The United Nations Convention on the Law of the Sea to Exert Influence Over the Competing Claims to the South China Sea. Temple International and Comparative Law Journal, 5-6. Retrieved from**

[**http://www.comitersinger.com/wp-content/uploads/2018/01/2269\_001.pdf/.**](http://www.comitersinger.com/wp-content/uploads/2018/01/2269_001.pdf/)

**Without Reservations:** Without limitation and/or completely.

[**Without Reservation. (n.d.). Retrieved from https://www.merriam-webster.com/dictionary/without**](http://www.merriam-webster.com/dictionary/without) **reservation**

We believe that it is not necessary for the U.S. to accede to the UNCLOS for three reasons. First, it would be a large economic harm to the nation, second, it would open the doors to costly environmental lawsuits that would uniquely harm American consumers, finally, bilateral negotiations do a better job of guaranteeing U.S. ocean influence.

First, acceding to the UNCLOS would be a large economic harm to the United States.

**Groves, S., & Loris, N**. (**2012**, July 9). Law of the Sea Treaty: Bad for American Energy Policy. Retrieved from <https://www.heritage.org/report/law-the-sea-treaty-bad-american-energy-policy/>. Steven Groves and Nicolas Loras, senior fellows at the Heritage Foundation.

* + 1. **Accession would cost the U.S. billions of dollars that wound need to be transferred to the International Seabed Authority. Steven Groves and Nicolas Loras, senior fellows at the Heritage Foundation explain that: accession to UNCLOS will result in billions of dollars in revenue distributed away from the U.S. Treasury to an international bureaucracy that would transfer the wealth to developing nations. Under current U.S. law and policy**, all royalties and other **revenue generated from exploitation of the U.S. ECS [extended continental shelf] belong to the U.S. and would be deposited into the U.S. Treasury and dispensed in the best interest of the U.S. and the American people.** Accession to the treaty would mean transferring a large portion of those royalties to the International Seabed Authority, an international organization established by UNCLOS and seated in Kingston, Jamaica, which would in turn distribute the royalty revenue to various developing nations in a manner that might not advance U.S. national interests.

**Gallagher**, M. E. (**2014**). The Time is Now: The United States Needs to Accede to The United Nations Convention on the Law of the Sea to Exert Influence Over the Competing Claims to the South China Sea. Temple International and Comparative Law Journal, [5-6. Retrieved from http://www.comitersinger.com/wp-content/uploads/2018/01/2269\_001.pd](http://www.comitersinger.com/wp-content/uploads/2018/01/2269_001.pdf)f

* + 1. **According to the Temple International and Comparative Law Journal, Critics are concerned with the lost profits that would be generated if the United States acceded to the Treaty.** Currently, the Bureau of Ocean Energy Management in the U.S. Department if the Interior manages the sale of offshore natural mineral leases. **The minimum annual royalty rate is 12.5%. Since the United States would be required to offer 7% of profits the the Authority after twelve years of profits, the United States could end up giving away more than half of its total revenue from the drilling,** as 7% of profits would come out of the 12.5% royalty revenue from the lease. The U.S. treasury would retain the difference, or 5.5%. **Not only are the dissenters upset that money would otherwise go to the federal government may go elsewhere, but they are also upset that these funds may go to countries whose interests the United States does not support. Steven Groves of the Heritage Foundation details that that United States would not be able to prevent the Authority from giving proceeds to “state sponsors of terrorism,… the undemocratic, despotic, and/or brutal regimes… [or] corrupt regimes.” Critics also worry that there are no rules of guidelines as to how the developing nations should use the money.** Countries are not required to spend the revenue on anything maritime related, nor are they obligated “to spend the revenue on humanitarian or development projects, even though most, if not all, of the eligible recipients are supposed to be poor, developmental countries.”

Second, affirming would open the door to costly lawsuits that would uniquely harm American Consumers.

**Groves, S., & Loris, N**. (**2012**, July 9). Law of the Sea Treaty: Bad for American Energy Policy. Retrieved from <https://www.heritage.org/report/law-the-sea-treaty-bad-american-energy-policy/>. Steven Groves and Nicolas Loras, senior fellows at the Heritage Foundation.

**A. The previously cited Steven Groves and Nicolas Loras explain that: Acceding** to UNCLOS **would create an opportunity to pursue environmental lawsuits against the U.S. based on virtually any maritime activity, such as alleged pollution of the oceans 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 to U.S. taxpayers. **Not only that, but any adverse judgment in a climate change lawsuit that imposes penalties or forces the U.S. to curb greenhouse gas emissions would be extremely costly for American consumers. Since a large majority of our energy use comes from**

**carbon-emitting fossil fuels, any emission control measures would increase costs for businesses that would then pass those costs on to consumers.** To make matters worse, any adverse judgment would be final, not subject to appeal, and enforceable in the United States.

Finally, bilateral negotiations do a better job of guaranteeing that the U.S. has influence over, in, and on the ocean.

**Groves, S., & Loris, N**. (**2012**, July 9). Law of the Sea Treaty: Bad for American Energy Policy. Retrieved from <https://www.heritage.org/report/law-the-sea-treaty-bad-american-energy-policy/>. Steven Groves and Nicolas Loras, senior fellows at the Heritage Foundation.

A. 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 [Extended Continental Shelf] in the Gulf of Mexico to American and foreign oil and gas companies for exploration and development. The U.S. maintains jurisdiction and control over its ECS on a global basis and will do so regardless of whether it ever accedes to UNCLOS.

It is for these reasons, and many more that we proudly negate.

# \*NEGATIVE CARDS\*

## Critics have monetary concerns about acceding to the UNCLOS.

**Gallagher**, M. E. (**2014**). The Time is Now: The United States Needs to Accede to The United Nations Convention on the Law of the Sea to Exert Influence Over the Competing Claims to the South China Sea. Temple International and Comparative Law Journal, [5-6. Retrieved from http://www.comitersinger.com/wp-content/uploads/2018/01/2269\_001.pdf](http://www.comitersinger.com/wp-content/uploads/2018/01/2269_001.pdf)

**Critics are concerned with the lost profits that would be generated if the United States acceded to the Treaty.** Currently, the Bureau of Ocean Energy Management in the U.S. Department if the Interior manages the sale of offshore natural mineral leases. **The minimum annual royalty rate is 12.5%. Since the United States would be required to offer 7% of profits the the Authority after twelve years of profits, the United States could end up giving away more than half of its total revenue from the drilling,** as 7% of profits would come out of the 12.5% royalty revenue from the lease. The U.S. treasury would retain the difference, or 5.5%. **Not only are the dissenters upset that money would otherwise go to the federal government may go elsewhere, but they are also upset that these funds may go to countries whose interests the United States does not support. Steven Groves of the Heritage Foundation details that that United States would not be able to prevent the Authority from giving proceeds to “state sponsors of terrorism,… the undemocratic, despotic, and/or brutal regimes… [or] corrupt regimes.” Critics also worry that there are no rules of guidelines as to how the developing nations should use the money.** Countries are not required to spend the revenue on anything maritime related, nor are they obligated “to spend the revenue on humanitarian or development projects, even though most, if not all, of the eligible recipients are supposed to be poor, developmental countries.”

## Acceding to UNCLOS would open up the U.S. to costly environmental lawsuits that would uniquely harm American consumers.

**Groves, S., & Loris, N**. (**2012**, July 9). Law of the Sea Treaty: Bad for American Energy Policy. Retrieved from <https://www.heritage.org/report/law-the-sea-treaty-bad-american-energy-policy/>. Steven Groves and Nicolas Loras, senior fellows at the Heritage Foundation.

The previously cited Steven Groves and Nicolas Loras explain that: Acceding to UNCLOS would create an opportunity to pursue environmental lawsuits against the U.S. based on virtually any maritime activity, such as alleged pollution of the oceans 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 to U.S. taxpayers. Not only that, but any adverse judgment in a climate change lawsuit that imposes penalties or forces the U.S. to curb greenhouse gas emissions would be extremely costly for American consumers. Since a large majority of our energy use comes from carbon-emitting fossil fuels, any emission control measures would increase costs for businesses that would then pass those costs on to consumers. To make matters worse, any adverse judgment would be final, not subject to appeal, and enforceable in the United States.

## Accession to the UNCLOS would cost the U.S. billions of dollars that wound need to be transferred to the International Seabed Authority.

**Groves, S., & Loris, N**. (**2012**, July 9). Law of the Sea Treaty: Bad for American Energy Policy. Retrieved from <https://www.heritage.org/report/law-the-sea-treaty-bad-american-energy-policy/>. Steven Groves and Nicolas Loras, senior fellows at the Heritage Foundation.

Moreover,**accession to UNCLOS will result in billions of dollars in revenue distributed away from the U.S. Treasury to an international bureaucracy that would transfer the wealth to developing nations. Under current U.S. law and policy**, all royalties and other **revenue generated from exploitation of the U.S. ECS [extended continental shelf] belong to the U.S. and would be deposited into the U.S. Treasury and dispensed in the best interest of the U.S. and the American people.** Accession to the treaty would mean transferring a large portion of those royalties to the International Seabed Authority, an international organization established by UNCLOS and seated in Kingston, Jamaica, which would in turn distribute the royalty revenue to various developing nations in a manner that might not advance U.S. national interests.

## Bilateral negotiations with other nations are far less restrictive than the UNCLOS and accomplish the same goals.

**Groves, S., & Loris, N**. (**2012**, July 9). Law of the Sea Treaty: Bad for American Energy Policy. Retrieved from <https://www.heritage.org/report/law-the-sea-treaty-bad-american-energy-policy/>. Steven Groves and Nicolas Loras, senior fellows at the Heritage Foundation.

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 [Extended Continental Shelf] in the Gulf of Mexico to American and foreign oil and gas companies for exploration and development. The U.S. maintains jurisdiction and control over its ECS on a global basis and will do so regardless of whether it ever accedes to UNCLOS.

**Currently, U.S. Companies Have No Problem Drilling. Groves**, S. (**2012**, June 14). Retrieved July 02, 2018, from <https://www.heritage.org/testimony/the-law-the-sea-costs-us-accession-unclos/>.

T**he United States exercises jurisdiction and control over its ECS** as evidenced by the fact that the Department of the Interior has made **the western gap in the Gulf of Mexico available for hydrocarbon development since August 2001. Specifically,** the Bureau of Ocean Energy Management **(BOEM) offered the northern portion of the western gap for lease almost immediately after the 2000 U.S.–Mexico ECS delimitation treaty was ratified.** That treaty entered into force on January 17, 2001. Seven months later, on August 22, **BOEM offered the area of U.S. ECS in the western gap in Lease Sale** 180. In that lease sale, **three U.S. companies** (Texaco, Hess, and Burlington Resources Offshore) and one foreign company (Petrobras) **submitted bids totaling more than $2 million for seven lease blocks in the western gap.**

**BOEM has offered western gap ECS blocks in 19 lease sales between 2001 and 2010.** Seven U.S. companies (Burlington, Chevron, Devon Energy, Hess, Mariner Energy, NARCA Corporation, and Texaco) submitted bids to lease ECS blocks in the western gap. Five foreign companies—BP, Eni Petroleum (Italy), Maersk Oil (Denmark), Petrobras, and Total (France)—also bid on western gap ECS blocks during those sales. BOEM collected more than $47 million in bonus bids in connection with lease sales on those ECS blocks. **Of the approximate 320 blocks located in whole or in part on the western gap ECS, 65 (approximately 20 percent) are currently held under active leases by nine U.S. and foreign oil exploration companies.**

## The UNCLOS does little to resolve international disputes because there are no mechanisms to enforce decisions.

**Sanders,** I. (**2018**, June 05). Bogged down in the South China Sea. Retrieved from <https://www.policyforum.net/bogged-south-china-sea/>. Imogen Sanders is a writer for the Asia and Pacific Policy Society.

In 2013, the Philippines brought arbitral proceedings against China pursuant to the United Nations Convention on the Law of the Sea (UNCLOS). The convention, unlike many international treaties, provides for a compulsory dispute resolution mechanism. China rejected the jurisdiction of the Arbitral Tribunal and refused to participate directly in the proceedings, instead publically issuing a series of ‘position papers’. These included an argument that any **disputes between China and an ASEAN member regarding the South China Sea needed to be settled by negotiation in light of the 2017 China-ASEAN Declaration of Conduct (‘DOC’) in the South China Sea:** a document the Arbitral Tribunal held to be political in nature, and not legally binding.

The tribunal was then free to determine the merits of the case. It found that China’s artificial island building on Mischief Reef was a breach of Article 60 of UNCLOS, which gives the Philippines the exclusive right to construct artificial islands within its exclusive economic zone. Further, it found that China had breached its environmental obligations because of the “devastating and long-lasting damage to the marine environment” caused by the construction activities. Despite this, China has continued construction and fortification of the artificial islands. There are no mechanisms to enforce the tribunal’s decisions”.

## Enforcement of UNCLOS provisions would be difficult because parties that the U.S. may have territorial disputes with – like China and Russia – have veto power and would reject proceedings.

**Sanders**, I. (**2018**, June 05). Bogged down in the South China Sea. Retrieved from <https://www.policyforum.net/bogged-south-china-sea/>. Imogen Sanders is a writer for the Asia and Pacific Policy Society

E**ven if another country decided to use the UNCLOS provisions – perhaps to challenge China on ongoing breaches of its environmental obligations – the practical effort of such proceedings is questionable.** It seems unlikely China would participate in the proceedings, and any decision against it is not subject to enforcement. **Under international law, disputes can also be resolved through the International Court of Justice: a forum which does have limited enforcement options. However, such options are only available through a United Nations Security Council resolution which, given China’s veto power, would seem impossible. Moreover, as China has not accepted the compulsory jurisdiction of the Court,** it would have to agree to have the case heard: again, a seeming impossibility.

## U.S. Would Not Control Its Own Money.

**Holmes**, K. (**2012**, July 14). Retrieved July 02, 2018, from [https://www.heritage.org/defense/commentary/un-sea-treaty-still-bad-deal-us/.](http://www.heritage.org/defense/commentary/un-sea-treaty-still-bad-deal-us/)

Though redundant, **the navigational provisions of UNCLOS are actually pretty good.** That’s why President Ronald Reagan supported them. **But** Reagan and others objected to the unaccountable international bureaucracy created by the treaty. **UNCLOS reflects the 1970’s “new economic order” ideology that viewed ocean riches as the “common heritage of mankind.” Consequently, it establishes a bureaucracy to redistribute the wealth of the deep seabed and the extended continental shelf. Were the U.S. to join, it would have to share with “developing” nations any royalty revenue generated on its continental shelf** beyond the 200 nautical mile mark. **The International Seabed Authority would decide just how these revenues are distributed. The U.S. by itself would have no veto over its decisions.**

Consensus often works against U.S. interests in the U.N. General Assembly, and it would do so in this international body. Imagine how a U.N.-like body with a “right” to distribute U.S. revenues would behave.

**International Disputes Would be Full of “International Politics”. Holmes**, K. (**2012,** July 14). Retrieved July 02, 2018, from [https://www.heritage.org/defense/commentary/un-sea-treaty-still-bad-deal-us/.](http://www.heritage.org/defense/commentary/un-sea-treaty-still-bad-deal-us/)

**The convention would also force the U.S. to settle any claim brought against it by another treaty member through a dispute resolution process.** This process would be bound by American law, but be **buffeted by the fancies of international politics.** Corrupt nations game the U.N. for selfish gain. Given the chance, they would do so here. **Opportunistic nations would lodge any number of specious allegations, charging anything from environmental degradation to poisoning the ocean with carbon emissions. The U.S. would be treaty-bound to adhere to whatever decisions are handed down.**Treaty supporters like to claim that, were he alive today, Reagan would support the treaty. It’s hard to see how they can divine this conclusion. In June 1982, Reagan noted in his diary that he would oppose ratification of this treaty even if the deep seabed mining provisions did not exist. Former Attorney General Ed Meese, Reagan’s friend and confidant, says Reagan’s objection to the convention was largely philosophical. He didn’t like the idea of **establishing an international bureaucracy that would supersede U.S. rights of sovereignty**. He knew that other nations **would** use this treaty to **work against U.S. interests in ways not imagined in the benign scenarios painted by its supporters.**

## UNCLOS Has Complicated, Not Simplified, Maritime Security.

**Giarra**, P. S. (**2012**[, May 28). The Folly of UNCLOS. Retrieved from https://thediplomat.com/2012/05/the-folly-of-unclos/](https://thediplomat.com/2012/05/the-folly-of-unclos/). Paul S. Giarra is the president of Global Strategies & Transformation, a national defense and strategic planning consultancy

UNCLOS is deeply flawed. [The U.S. Senate should be deeply skeptical](http://www.abs-cbnnews.com/-depth/05/22/12/us-senate-mulls-unclos-ratification) of claims that, because it’s an international agreement, we should therefore accede as a matter of course. One can be all for the rule of law, yet conclude that United Nations Convention on the Law of the Seas has complicated rather than simplified maritime law and security. UNCLOS enshrined customary maritime law, but it also contradicted it by extending national claims far to sea, well beyond traditional claims, in the form of *sui generis* Exclusive Economic Zones. By fiat, this creation of EEZs established new claims and conflicts that never before existed. This strikes me not as smart lawyering, but rather as quite a bad idea. Somewhere along the line, [proponents of UNCLOS](https://thediplomat.com/2012/03/23/u-s-must-remove-unclos-handcuffs/) have adopted the argument that accession itself is the standard of behavior, and that having a seat at the table is of paramount importance. This becomes particularly problematic where the United Nations is concerned.

## UNCLOS Expands Chinese Power, Rather Than Limiting it. Bringing to Question How Accession Would affect U.S.-China Relations.

**Giarra**, P. S. (**2012**[, May 28). The Folly of UNCLOS. Retrieved from https://thediplomat.com/2012/05/the-folly-of-unclos/](https://thediplomat.com/2012/05/the-folly-of-unclos/). Paul S. Giarra is the president of Global Strategies & Transformation, a national defense and strategic planning consultancy.

Further, **China has espoused the doctrine of strict enforcement of its self-perceived UNCLOS rights through military and political intimidation.** Moreover, **China has**, based upon its unitary interpretation of UNCLOS, **assumed rights in the EEZs that not only weren’t intended by the framers, but which are troubling in their implications.** These rights would extend security as well as economic rights to the limits of the EEZ, and in so doing preclude even routine military surveillance. **The widespread recognition of these fabricated rights would be the death knell of freedom of the seas, not its enablement. Furthermore, raising the ante of EEZ rights isn’t just problematic, but threatening** in the old-fashioned sense – especially because, while the Chinese have prudently toned down their rhetoric in international fora, their aggressive operations in the maritime commons belie any notions that Beijing has moderated its opinions or policies regarding Chinese rights.The particular issue of China within the UNCLOS accession debate has emerged only lately. I would suggest that earlier American endorsements of UNCLOS – every Chief of Naval Operations (CNO), for instance – are obsolete, and have been negated by new circumstances unimagined at the time of the convention’s framing.The trouble is that bad law drives out good law.

My bottom line is first, that law is not always the answer; and second, that this isn’t the time to call for UNCLOS accession. **It is time,** instead, f**or a clear-eyed debate on the merits and demerits of UNCLOS, in** [**the wider perspective of the rise of China**](https://thediplomat.com/2011/07/24/china%E2%80%99s-two-pronged-maritime-rise/)**, where we are headed with Beijing, and the role of international law in affecting the ambitions of rising powers.**

## UNCLOS Does Not Resolve Issues, Rather it Creates Them

**Valencia**, M. J. (**2018,** June 21). US and China battle for control of 'global order' in South China Sea. Retrieved from <http://www.scmp.com/comment/insight-opinion/united-states/article/2151808/how-us-china-battle-control-global-order-being>

**The problem is that the US conflates freedom of commercial navigation with a military priority** – freedom of navigation for its intelligence, surveillance and reconnaissance vessels and aircraft **that search for China’s vulnerabilities.In so doing, it makes frequent reference to the 1982** [**UN Convention on the Law**](http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)[**of the Se**](http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)**a (UNCLOS),** which it has not ratified and thus has little credibility interpreting to its own benefit.

China objects through words and deeds to what it perceives as US abuse of “freedom of navigation” and its “intimidation and coercion” in enforcing its interpretation. Moreover, the US insists that China must base its maritime claims solely on the 1982 convention and abide by the UN arbitration decision against it reached under its auspices. But as a non-ratifier of UNCLOS, the US also knows it cannot be brought to a similar hearing. And, in the past, the US has also refused to accept international judicial decisions. The US-China contest for dominance in the South China Sea is a reflection of a more fundamental battle for control of the “international order” there and elsewhere – and that is why it is so fraught with danger.

## Not Acceding Give the U.S. the Freedom to do What it Pleases, Good or Bad. Thus, They Will Not.

**South China Morning Post**, America is the bully in the South China Sea, not China. (**2018**, June 05). Retrieved from <http://www.scmp.com/comment/letters/article/2149285/china-not-bully-south-china-sea-us>

**America militarises the South China Sea by sending in carrier strike groups into a maritime area where it has no territory, makes no claims, the safety of its citizens and property has not been violated, and without invitation. Yet it labels self-defence against such unprovoked military intrusions as militarisation** (“US vows to counter ‘intimidation’ by China”, June 3”). US Defence Secretary Jim Mattis wonders why it is only China that has expressed unhappiness with US freedom of navigation exercises. It is because China is the only country strong enough not to be coerced and intimidated into silence by America’s “might makes right” policy. It is also because other South China Sea countries may not want to help the US escalate tensions in the region. If its freedom of navigation operations are truly routine and do not unfairly single out China, as the US maintains, then these must first be directed against the vast rings of concrete and steel that Japan has built around the Okinotori atoll in the Pacific. **Under the terms of Japan’s unconditional surrender in 1945, it only has sovereignty over its four main islands. Okinotori is not among them. That the US does not conduct sail-by operations there certainly calls into question its broader goals against China and stability in the region. Not to mention that the US is not a signatory to the UN Convention on the Law of the Sea (UNCLOS) under which it claims to operate the sail-by operations.** If France and Britain also intend to engage in such operations (“France and Britain to sail into contested waters in South China Sea”, June 4), they should also sail within 12 nautical miles (territorial waters as defined by UNCLOS) of Okinotori atoll. Otherwise, their action would only vindicate Philippine President Rodrigo Duterte’s previous lambasting of the West’s hypocrisy and bullying, and make China more determined to defend its sovereignty.

**LOST Environmental Restrictions Crush Naval Effectiveness Gaffney, 10/9/07** (Frank, President, Center Security Policy, Washington Times)

Fortunately, a necessary corrective was offered the next day by another distinguished retired four-star, Adm. James "Ace" Lyons. In an article in The Washington Times' Commentary pages, the former Pacific Fleet commander in chief declared: **"It is inconceivable** to this naval officer **why the Senate would willingly want to forfeit its responsibility for America's freedom of the seas to the** unelected and unaccountable international agency that would be created by ratification of **LOST.**"Adm. Lyons appreciates a reality apparently overlooked by those promoting the Navy's official line on LOST: **The treaty entails obligations that are at odds with the U.S. sea services' routine operations; involve sweeping commitments to protect the "marine environment" the Navy will almost certainly contravene; and institute several tribunals to prosecute complaints** that arise in these or other areas. Of all institutions, the Navy should be alive to the dangers that such a treaty entails. After all, the service's civilian leader, Secretary Donald Winter, for one has expressed **grave concerns about the impact domestic environmentalists and their litigiousness**

currently have on Navy and Marine Corps' operations. Such challenges are likely to pale by comparison with the edicts handed down by multilateral tribunals whose deciding votes are, in every instance, selected by international bureaucrats (in the case of one arbitral panel, by the U.N.

secretary-general himself). A recent paper written by Dr. Jeremy Rabkin for the American Enterprise Institute under the provocative title, "Do We Really Want to Place the U.S. Navy Under International Judicial Supervision?" makes clear that, **by so doing, we would open ourselves to expanded attacks via "Lawfare" - the technique of using treaties, courts and international law as an asymmetric weapon against us:** "It is estimated that the United States has more practicing lawyers than all other countries put together. Separation of powers and an active, independent judiciary invite challenges to decisions of officials in the executive branch, just as we scrutinize and challenge so many other institutions in our society. What that means is that it is much harder for the United States **to shrug off international legal claims than it may be for more centralized or repressive countries such as China."**

**LOST Crushes Economy and Power Projection – Status Quo solves all your offense Smith, 07** (Fred, 10-4-07, Head Competitive Enterprise Institute, CQ Congressional Testimony)

Some treaty advocates argue that it would help ensure passage for American shipping. This point is moot. Irrespective of any treaty text, only the **U.S. Navy can guarantee free ocean transit in situations where nations have both the incentive and ability to interfere. That remains true under the U.S.'s status as a non- party to the treaty. Were we to ratify LOST, the Law of the Sea Tribunal might declare such action unlawful.** As noted, the treaty's best provisions **those covering navigation largely codify existing customary international law. Its worst provisions those creating the seabed regulatory regime would discourage future minerals production** as well as punish entrepreneurship in related fields involving technology, software, and intellectual property that have an ocean application. Since technology often has multiple uses, it would also slow innovation generally.

## UNCLOS is Not Effectively Implemented in Times of Need

**Cuddy**, A. (**2018**, July 04). European migrant rescue NGOs stuck on dry land amid 'political crackdown'. Retrieved from <http://www.euronews.com/2018/07/04/european-migrant-rescue-ngos-stuck-on-dry-land-amid-political-crackdown->

**European NGOs claim they are being prevented from rescuing migrants at sea amid a “political crackdown”** that has left their vessels stuck on dry land.**German charity Sea Watch told Euronews that its search and rescue plane had been denied permission to continue operating from Malta**, while its ship Sea Watch 3 was being banned from leaving a Maltese port. In an email to Sea Watch seen by Euronews, DC Aviation Dispatch — **the interface between the NGO and Maltese Authorities — quoted officials as saying that no permit would be issued for any search and rescue operation “unless this is being done on behalf of Malta or on request by a neighbouring country”.** Dr Violeta Moreno-Lax, a migration law expert and senior lecturer at Queen Mary University of London, told Euronews that **Malta’s policy towards Sea Watch and other migrant vessels “fails to conform with international law** and **specifically** with **the regime of innocent passage provided for in the** UN Convention on the Law of the Sea (**UNCLOS),” which the country is party to**. UNCLOS states that ships have the right of innocent passage through the waters of any coastal state. Passage is defined in UNCLOS as navigation through a territorial sea for purposes including heading to and from a port facility. This is “exactly the situation of search and rescue NGOs willing to operate from Maltese ports,” Moreno-Lax said. She acknowledged that states can take measures to prevent

“non-innocent” passage, which can include the disembarkation of people violating the immigration laws of the coastal states. But, she noted, passage cannot be impeded in cases where it is necessary to render assistance. UNCLOS also states that protective measures must be “non-discriminatory ‘in form or in fact’ among foreign ships”. “Any requirements imposed in order to ensure safety of navigation and the proper regulation of maritime traffic have to apply across the board to all ships, whatever their flag and the lawful activity in which they are engaged,” Moreno-Lax explained.

## UNCLOS Necessary to Meet U.S. Needs in the Arctic- Arctic Conflict is Not a Threat

**Groves**, S. (**2014**, June 26). Accession to Convention on the Law of the Sea Unnecessary to Advance Arctic Interests. Retrieved from

[https://www.heritage.org/global-politics/report/accession-convention-the-law-the-sea-unnecessary-advance-arctic-interests?\_ga=2.2309](http://www.heritage.org/global-politics/report/accession-convention-the-law-the-sea-unnecessary-advance-arctic-interests?_ga=2.2309) 74303.1504447069.1530918370-243945141.1530918370

**There is no reason to believe that the Arctic region will be characterized by military conflict** between and among Arctic and non-Arctic nations. **The U.S. Department of Defense maintains that there is a “relatively low level of threat”** in the Arctic region **because it is “bounded by nation states that have not only publicly committed to working within a common framework of international law and diplomatic engagement,** but also demonstrated ability and commitment to doing so over the last fifty years.” The “relatively low level of threat” in the Arctic is reflected in the aforementioned **Arctic policy documents.** While these documents **call for improvements in Arctic infrastructure, they do not call for any significant military buildup in the region. These** policy documents **also indicate that there is minimal overlap between U.S. national security interests in the Arctic and U.S. accession to UNCLOS.** For example, the Obama Administration’s January 2014 Arctic strategy implementation plan lists six major national security objectives for the Arctic region. Only one of these objectives—“Promote International Law and Freedom of the Seas”—intersects with UNCLOS.[10] The implementation plan details the “next steps” for freedom of the seas in the Arctic. None of these “next steps” would be measurably advanced by U.S. membership in UNCLOS. For instance, the United States conducts maritime exercises and operations on a global scale and has done so ever since it launched a blue-water navy. **Next steps such as information sharing, relationship building, and strategic communications are not contingent on UNCLOS membership and may be accomplished through any number of bilateral and multilateral means, including the Arctic Council**. The next steps listed in the implementation plan are important and should be pursued by the responsible executive departments, but none of them require U.S. membership in UNCLOS.

## LOST prevents us from going into space

**Center for Security Policy Press Release**, 3-24-**04**

[http://www.centerforsecuritypolicy.org/index.jsp?section=papers&code=04-P\_03](http://www.centerforsecuritypolicy.org/index.jsp?section=papers&amp;code=04-P_03)

In his testimony, **Mr. Gaffney described a number of** what he called **harmful "environmental impacts"** that would be **caused were the United States to become** a state **party to the Law of the Sea Treaty. Mr. Gaffney warned against the significant erosion in U.S. sovereignty that would attend U.S. endorsement of the International Seabed Authority (ISA)** - a supranational organization with unprecedented powers to regulate seven-tenths of the earth's surface, levy taxes, govern ocean research and exploration, and create a multinational court to render and enforce its judgments. **Powers granted to the ISA,** furthermore, **not only inhibit American sovereignty on the oceans, but threaten to establish ominous precedents for other non-territorial, areas including space.**

## Asteroid strike inevitable- going to space key to solve extinction

Loren B. **Thompson**, Chief Operating Officer of the Lexington Institute, 9-25-**07**[, http://lexingtoninstitute.org/1176.shtml](http://lexingtoninstitute.org/1176.shtml)

**I know how the world ends**, and it isn't with a whimper. **You can see humanity's epitaph** etched in advance **by simply gazing up at the Moon** on any evening, **and observing the vast craters created by** ancient **asteroids** hitting the lunar surface. Earth has suffered many such impacts over its 4.5 billion year history. An extrapolation of lunar data suggests that there have been up to 22,000 asteroid collisions with the Earth creating craters a dozen miles in diameter or bigger. One such impact created the Chesapeake Bay, and **someday another will wipe out humanity** (assuming some other cataclysm hasn't claimed us first). When a really **big asteroid hits**, it **kills most of the life on Earth by generating a smothering cloud of toxic gases** that blots out sunlight for decades. The bigger, **more complex species -- like us -- tend to succumb first.**

**An analysis in the** September 6 issue of the **British science magazine Nature found there was a greater than 90% probability one such impact on what is now the Yucatan Peninsula wiped out** all the dinosaurs 65 million years ago. The authors speculate that the chain of events triggering the mass extinction actually began 95 million years earlier (before most dinosaurs had even evolved) when two big rocks collided in the asteroid belt between Mars and Jupiter. Once that happened, it was just a matter of time and physics before a fragment fell to Earth, spelling the end of the Cretaceous Period and most of the species it had spawned. **Our next close encounter with a major asteroid is expected to occur on April 13, 2029.** Friday the 13th, it turns out. At 8:36 in the morning Washington time, a 25 million ton asteroid will pass within 20,000 miles of the Earth. That isn't just closer than the Moon, it's actually closer than the communications satellites we operate in geosynchronous orbit. Should make quite an impression. Unfortunately, there's a small chance that Earth's gravity will perturb the asteroid so that it makes an even bigger impression when we next encounter it seven years later -- by hitting the Earth's surface at 28,000 miles per hour. That wouldn't be the end of the world because the asteroid is only 800 feet across, but it would be a wake-up call about worse impacts to come (see Popular Mechanics, December 2006). I thought about all this last week, when Aviation Week & Space Technology disclosed that **NASA is proposing termination of the Space Shuttle program** six months early, in March of 2010. With only 14 missions remaining for the shuttle fleet, the era of manned space exploration is rapidly winding down for America unless the Bush Administration's planned Constellation program stays on track beyond the president's tenure. The Constellation program would produce a new crew exploration vehicle (called Orion) and family of rockets (called Ares) to carry astronauts back to the Moon, and then eventually on

to Mars. It is the only serious plan any nation has for getting human beings to another planet. The official reasons for renewing the human space flight program usually start with scientific research and end with national prestige, but they never mention the fact that humanity will one day be wiped out unless it has found a habitat beyond the Earth. Mars is by far the most congenial candidate, with potential to eventually be "terraformed" into a planet where pressure suits and airtight structures will no longer be needed to sustain human beings. That's a long way off, and it may never happen at the rate our current space efforts are progressing. But **whenever you hear about other ways we might spend money set aside for the human space flight program, you ought to think about the big rock that is out there somewhere, destined to destroy everything we have created unless human beings have found another place to live.**