

# The U.N. Convention on the Law of the Sea

## THE ISSUE

Proponents of U.S. ratification of the U.N. Convention on the Law of the Sea (UNCLOS) claim that America cannot secure its maritime interests without being a member of the treaty. That claim is baseless.

The U.S. does not need to join UNCLOS to deter Chinese aggression in the South China Sea, protect U.S. rights in the Arctic, or engage in deep seabed mining. The navigational provisions in UNCLOS either codify customary international law that existed well before the United Nations adopted the convention in 1982 or “refine and elaborate” widely accepted navigational rights and freedoms.

- **South China Sea.** Ratification of UNCLOS will neither sway China nor guarantee U.S. navigational rights in the South China Sea, which are advanced not by membership in a treaty, but by maintaining a strong Navy, conducting persistent naval operations against China’s excessive maritime claims, supporting key U.S. allies, and adhering to long-standing principles of customary international law.
- **The Arctic.** The U.S. has already secured its national security and economic objectives in the Arctic through bilateral and multilateral treaties that are not saddled with UNCLOS baggage. U.S. membership and participation in multilateral organizations—such as the Arctic Council, the Northern Chiefs of Defense Conference, and the Arctic Security Forces Roundtable—provide the necessary “seat at the table” to secure U.S. national interests in

the region without accession to a deeply flawed treaty.

- **Deep Seabed Mining.** No legal barriers prevent U.S. access, exploration, and exploitation of the resources of the deep seabed beyond U.S. jurisdiction. The United States has long maintained that U.S. corporations and citizens have the right to develop the resources of the deep seabed and may do so whether or not the U.S. joins UNCLOS.

## ALL COSTS, NO BENEFITS

In addition, joining UNCLOS entails costs that outweigh any marginal benefits of membership.

- **Lost Oil Royalties.** If the U.S. joins UNCLOS, it will be required to transfer royalties from oil and gas production on the U.S. extended continental shelf (ECS) to the International Seabed Authority for redistribution to other countries. The value of the resources beneath the U.S. ECS may be worth trillions of dollars. U.S. accession would amount to an open-ended commitment to forgo an incalculable amount of royalty revenue that would otherwise benefit the American people.
- **Baseless Environmental Lawsuits.** Joining UNCLOS would expose the U.S. to lawsuits regarding virtually any maritime activity, such as alleged pollution of the marine environment and even causing climate change. Regardless of the lack of merit of such cases, the U.S. would be forced to defend itself against every such lawsuit

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at great expense to U.S. taxpayers. Adverse judgments rendered by an UNCLOS tribunal would be final, could not be appealed, and would be enforceable in U.S. territory.

## **CONCLUSION**

UNCLOS is a fatally flawed treaty, and joining the convention would result in a dangerous loss of American sovereignty. If the Senate is asked to ratify UNCLOS, it should follow the example of previous Senates stretching back to the 1980s by rejecting U.S. membership in the convention.