

Why The 'Law Of The Sea' Is A Good Deal

By James A. Baker III and George P. Shultz

The Convention of the Law of the Sea is back. It will be the subject of Senate hearings this week. If the U.S. finally becomes party to this treaty, it will be a boon for our national security and our economic interests. U.S. accession will codify our maritime rights and give us new tools to advance national interests.

The convention's primary functions are to define maritime zones, preserve freedom of navigation, allocate resource rights, establish certainty necessary for various businesses that depend on the sea and protect the marine environment. Flaws in the deep-seabed mining chapter that prevented President Reagan from supporting the convention were fixed in 1994. Both President Bill Clinton and George W. Bush have supported accession. Yet, the U.S. remains one of the few major countries not party to the convention.

Our participation would increase our ability to wage the war on terror. The convention assures maximum maritime naval and air mobility, which is essential for our military forces to operate effectively. It provides the stability and framework for our forces, weapons and materials to be deployed without hindrance -- ensuring our ability to navigate past critical choke points throughout the world.

Some say it's good enough to protect our navigational interests through customary law. If that approach fails, then we can employ the threat of force or the use of it. However, because customary law is vague, it does not provide a strong foundation for critical national security rights. Meanwhile, the use of force can be risky and costly. Joining the convention would put our vital rights on a firmer legal basis, gaining legal certainty and legitimacy as we operate in the world's largest international zone.

This is why the U.S. military has been a strong advocate of joining the Law of the Sea Convention. This point was reinforced in a recent letter sent by the Joint Chiefs of Staff to Sen. Joe Biden, chairman of the Senate Foreign Relations Committee, calling on the Senate to support U.S. accession because "[i]t furthers our National Security Strategy, strengthens the coalition, and supports the President's Proliferation Security Initiative."

The convention also provides substantial economic benefits to the United States. It accords coastal states the right to declare an Exclusive Economic Zone -- an area where they have exclusive rights to explore and exploit, and the responsibility to conserve and manage, living and non-living resources extending 200 nautical miles seaward from their shoreline. Our nation's EEZ is larger than that of any country in the world -- covering an area greater than the landmass of the lower 48 states. This zone can be extended beyond

200 nautical miles if certain geological criteria are met. This has potentially significant economic benefits to the U.S. where its continental shelves may be as broad as 600 miles, such as off Alaska, an area containing vast natural resources.

Further, as the world's pre-eminent maritime power with one of the longest coastlines, the U.S. has more to gain and to lose than any other country in terms of how the convention's terms are interpreted and applied.

Accession would increase our influence by allowing us to nominate experts for the technical bodies that apply the convention's terms, address proposals to amend the convention from within (rather than from the sidelines), and increase our credibility as a leader in international ocean policy.

As we speak, international deliberations for rights to energy- and mineral-rich areas in the Arctic beyond the traditional 200-mile EEZ are proceeding without U.S. input. Just recently, Russia placed its flag on the North Pole's ocean floor. While seen as largely symbolic, the part of the Arctic Ocean claimed by Russia could hold oil and gas deposits equal to about 20% of the world's current oil and gas reserves. If the U.S. was party to the treaty, we would strengthen our capacity to influence deliberations and negotiations involving other nations' attempts to extend their continental boundaries.

As a non-party, however, the U.S. has limited options for disputing claims such as these and is stymied from taking full advantage of resources that could be under U.S. jurisdiction. Similarly, lack of participation in the convention is jeopardizing economic opportunities associated with commercial deep-sea mining operations in international waters beyond exclusive economic zones -- opportunities currently being pursued by Canadian, Australian and German firms.

The continuing delay of U.S. accession to the convention compromises our nation's authority to exercise its sovereign interests, jeopardizes its national and economic security, and limits its leadership role in international ocean policy.

Given President Bush's public statement of support for the convention, the support of prior presidents and their administrations and the strong, bipartisan and diverse support it has from all major U.S. ocean industries, the environmental community and national security experts, it is clearly time for the Senate to act by supporting accession to the Convention on the Law of the Sea.

Messrs. Baker and Shultz are former secretaries of state.