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Time to Join the Law of the Sea Treaty

The U.S. has more to gain by participating in convention deliberations than by staying out.

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The Convention of the Law of the Sea is again under consideration by the U.S. Senate. If the U.S. finally becomes party to this treaty, it will be a boon for our national security and 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 the certainty necessary for various businesses that depend on the sea, and protect the marine environment. Flaws in the treaty regarding deep-seabed mining, which prevented President Ronald Reagan from supporting it, were fixed in 1994. Presidents Bill Clinton and George W. Bush have supported ratification, as do Presidents George H.W. Bush and Barack Obama, because it is in the best interest of our nation. Yet the U.S. remains one of the few major countries not party to the convention.

The treaty provides substantial economic benefits to the U.S. It accords coastal states the right to declare an "Exclusive Economic Zone" where they have exclusive rights to explore and exploit, and the responsibility to conserve and manage, living and nonliving resources extending 200 nautical miles seaward from their shoreline. Our nation's exclusive zone would be larger than that of any country in the world—covering an area greater than the landmass of the lower 48 states. In addition, the zone can be extended beyond 200 nautical miles if certain geological criteria are met; this has significant potential benefits where the U.S.'s continental shelves may be as broad as 600 miles, such as off Alaska, where vast natural resources lie.

As the world's pre-eminent maritime power with one of the longest coastlines, the U.S. has more than any other country to gain—and to lose—based on how the convention's terms are interpreted and applied. By becoming party to the treaty, we would strengthen our capacity to influence deliberations and negotiations involving other nations' attempts to extend their continental boundaries.

The U.S. currently has no input into international deliberations over rights to the Arctic, where rich energy and mineral resources are found more than 200 nautical miles from any country's shoreline. Russia has placed its flag on the North Pole's ocean floor. This is a largely symbolic act, but 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.

As a nonparty to the treaty, the U.S. has limited options for disputing such claims and is stymied from taking full advantage of resources that could be under U.S. jurisdiction. Lack of participation in the convention also jeopardizes economic opportunities associated with commercial deep-sea mining operations in international waters beyond exclusive economic zones—opportunities now pursued by Canadian, Australian and German firms.

Some say it's good enough to protect our navigational interests through customary international law, and if that approach fails then we can use force or threaten to do so. But customary law is vague and doesn't provide a strong foundation for critical national security rights. What's more, 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.

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

Our planet's environment is changing, and there is an increasing need to access resources responsibly. We can expect significant change and resulting economic benefit as the Arctic opens and delivers potentially extraordinary economic benefit to our country. Our coastline, one of the longest in the world, will increase.

These changes and the resulting economic effects are the substance of serious international deliberations of which we are not a part. Time moves on and we are not at the table. This is a serious problem and a significant cost for future generations of Americans.

Maritime claims not only in the Arctic but throughout the world are becoming more contentious. As aggressive maritime behavior increases, the U.S. military has become more, not less, emphatic on the need to become party to this treaty. Current and past military leaders are firmly behind accession, because while nothing in the convention restricts or prohibits our military activity, it is the best process for resolving disputes.

We have been on the sidelines long enough. Now is the time to get on the field and lead.

The authors all have served as secretary of State in Republican administrations.

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