The Law of the Sea Convention

- The Convention remains a key piece of unfinished treaty business for the United States.
- Past Administrations (Republican and Democratic), the U.S. military, and relevant industry and other groups have all strongly supported joining the Convention.
- President George W. Bush argued that “joining will serve the national security interest of the United States” and “secure U.S. sovereign rights over extensive marine areas, including the valuable natural resources they contain.”
- As the world’s major maritime power and a country with one of the longest coastlines, the United States has historically had a very strong interest in the laws that apply to the oceans.
- The Convention’s provisions are highly favorable to:
  - U.S. national security interests, because navigational rights and freedoms across the globe for our ships and aircraft are vital to our country; and
  - U.S. economic interests, because the Convention accords to the United States extensive offshore resource rights, including exclusive rights to natural resources (e.g., fish, oil, gas) out to 200 nm and additional rights to seabed resources (including oil and gas) beyond 200 nm in several large areas.
- We need to become a Party in order to fully protect our navigational rights/freedoms, economic rights, and other ocean-related interests:
  - The U.S. would “lock in” the Convention’s favorable set of rules as treaty rights. While we have been relatively successful to date in relying on customary international law to protect our interests, that law can change based on the practice of countries and is ultimately something we cannot control.
  - The U.S. would fully secure its continental shelf. The Convention’s provisions are highly favorable with respect to the continental shelf beyond 200 nm. The shelf off Alaska is likely to extend more than 600 nm. However, only as a Party would we put our rights on the firmest legal footing and have access to the treaty procedure that maximizes legal certainty and international recognition of the shelf beyond 200 nm.
  - The U.S. would have the level of influence in the interpretation, application, and development of law of the sea rules that reflects its maritime status. As a Party, we could place U.S. nominees/designees on various Convention bodies, including those developing the rules governing mineral resources in the deep seabed, and those making recommendations regarding Parties’ submissions on the continental shelf beyond 200 nm.
  - U.S. accession is a matter of geostrategic importance in the Arctic (where all other Arctic nations, including Russia, are parties and can fully secure their continental shelf rights) and the South China Sea (where China is flexing its muscles with respect to maritime claims).
- The oceans— and the rules governing them— will only increase in importance in the 21st century, and the costs of being on the outside will increase correspondingly.
- We should join the Convention without delay.

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The Law of the Sea Convention – In Our National Security Interest

- The United States Navy, U.S. Coast Guard, and other U.S. Armed Forces have been consistent and strong proponents of joining the Law of the Sea Convention.
- Because the United States is the world’s foremost maritime power, our security interests are intrinsically linked to freedom of navigation.
  - We have more to gain from legal certainty and public order in the world’s oceans than any other country.
  - We need substantive rules that ensure worldwide access for military and commercial ships and aircraft.
- The “navigational bill of rights” enshrined in the Convention provides such worldwide mobility, including during wartime, all without the permission of other countries. It is a terrific deal for the United States, with rules squarely in our long-term strategic interest.
- Among other things, the Convention:
  - accords our submarines the critical right to transmit submerged through international straits; and
  - sets forth maximum navigational rights and freedoms for our ships/aircraft in the exclusive economic zones of other countries (out to 200 nm) and on the high seas.
- Becoming a Party would allow the United States to fully protect its navigational interests:
  - We would lock in a set of favorable rules as treaty rights; being on the outside and relying on customary international law -- which depends upon the practice of countries -- puts the legal basis for our actions outside our ultimate control.
  - Joining the Convention would give the United States greater credibility and legitimacy as we seek to hold others to the Convention’s terms.
  - Joining the Convention would maximize U.S. influence in the treaty bodies that play a role in interpreting, applying, and developing the law of the sea.
- Becoming a Party is of increased geostrategic importance with respect to the Arctic and the South China Sea:
  - As the Arctic warms and opens up for navigation, resource exploitation, and other human activities, the United States needs to position itself accordingly. Admiral Roughhead, Chief of Naval Operations, and Admiral Papp, Commandant of the Coast Guard, have stressed the need to be inside the Convention with respect to this region of increasingly important strategic national security interest.
- China is flexing its muscles in the South China Sea. Being inside the Convention would give an immediate boost to U.S. credibility and our ability to both push back against excessive maritime claims and help resolve the maritime issues there to the benefit of the United States and our regional allies and partners.
The Law of the Sea Convention Helps American Business

- The U.S. Chamber of Commerce, American Petroleum Institute, Chamber of Shipping, International Association of Drilling Contractors, National Ocean Industries Association, and the National Fisheries Institute, among others, have all publicly supported U.S. accession to the Convention, as have many U.S. companies, such as AT&T, Sprint, and Tyco.
- The oceans hold vast and valuable natural resources, both living and non-living. They provide a vital means by which goods are transported worldwide. And they enable critical economic activities, for example, through the laying of cables and pipelines.
- The Convention benefits American companies in two essential ways. First, it provides the legal certainty and predictability that businesses depend upon. Second, the Convention sets forth rules that promote and protect their interests.
- Specifically, the Convention:
  - gives coastal States an exclusive economic zone (EEZ) extending 200 nautical miles offshore, encompassing diverse ecosystems and vast natural resources such as fisheries, energy, and other minerals. The U.S. EEZ is the largest in the world, spanning over 13,000 miles of coastline and containing 3.4 million square nautical miles of ocean—larger than the combined land area of all fifty states.
  - gives coastal States sovereign rights for the purpose of exploiting and managing resources of the continental shelf, which can extend beyond 200 nautical miles if certain criteria are met. The United States is likely to have one of the world’s largest continental shelves, potentially extending beyond 600 nautical miles off Alaska.
  - provides a mechanism for U.S. companies to obtain access to minerals of the deep seabed in areas beyond national jurisdiction.
  - guarantees the ability to lay and maintain submarine cables and pipelines in the EEZs and on the continental shelves of other States and on the high seas.
  - secures the rights we need for commercial ships to export U.S. commodities and protects the tanker routes through which half of the world’s oil moves.
  - is the foundation upon which rules for sustainable international fisheries are based.
- Only as a Party would the United States and its businesses reap the Convention’s full economic benefits:
  - We would put our economic rights on the firmest legal footing, that is, treaty law.
  - We could take advantage of the treaty procedure that provides legal certainty and international recognition of the U.S. continental shelf beyond 200 nautical miles.
  - We could sponsor American companies to engage in deep seabed mining.

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1 Untapped reserves in the Arctic region are estimated at 90 billion barrels of oil and 1,669 trillion cubic feet of natural gas. ("Circum-Arctic Resource Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle," U.S. Geological Survey.) Unclaimed deep seabed mining areas may hold over $1 trillion dollars worth of manganese, copper, nickel, and cobalt. (U.S. Chamber of Commerce Letter to Senator Reid and McConnell, May 2008.)


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Areas of Possible United States’ Extended Continental Shelf

The shaded area on this map illustrates where the U.S. is considering collecting and analyzing data and does not represent the official U.S. Government position on where it has extended continental shelf. This map is without prejudice to boundary depictions and future negotiations.

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