

Law of the Sea Treaty Balances U.S. and World Interests

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The U.S. Senate will soon exercise one of the fundamental responsibilities granted to it by the U. S. Constitution and vote whether to ratify the U. N. Convention on the Law of the Sea. The Bush administration supports ratification and is joined in that position by a leading member of the U.S. Senate.

The Foreign Relations Committee, which I chair, voted 19-0 to recommend to the Senate that the United States join 145 other parties to enter the U. N. Convention on the Law of the Sea (UNCLOS). That Senate decision is pending as this publication goes to press.

The Senate Foreign Relations Committee took up the treaty after President George W. Bush placed it in the "urgent" category of his treaty priorities. This agreement sets forth a comprehensive framework governing uses of the oceans that strongly upholds U. S. national security, economic, and environmental interests and is supported by affected industries, associations, and environmental groups.

It should be noted that the United States has already made a considerable investment in this agreement, and though not a party, has adhered to most of its precepts in our policies on navigation, commerce, and the environment. The United States played a prominent role in the negotiating sessions that culminated in the 1982 convention, which entered into force in 1994 when it was ratified by 60 nations.

As the world's largest maritime power and a nation with one of the longest coastlines in the world, the United States has enormous interests in the oceans and their uses. The convention advances U. S. interests in a number of ways.

- Our armed forces rely on the ability to navigate freely on, over, and under the world's oceans to protect U. S. security interests worldwide. The convention reinforces U. S. national security by preserving the rights of navigation and overflight across the world's oceans. Both of these rights are critical to the protection of U. S. interests around the world.

- UNCLOS advances U. S. economic interests by enshrining the right of the United States to explore and develop the living and nonliving resources of the oceans.

- It advances U. S. interests in the protection of the environment by addressing marine pollution from a variety of sources and providing a framework for the conclusion of further agreements to protect and conserve these natural resources.

The Law of the Sea convention provides a comprehensive legal framework to maximize use of the oceans' resources, while ensuring their health and productivity.

The agreement also gives the coastal nation sovereign rights for the purpose of exploring and exploiting, conserving and managing natural resources, whether living (e. g. , fisheries) or non-living (e. g. , oil and gas), in an exclusive economic zone (EEZ) that may extend to 200 nautical miles from the coast. In addition, the convention accords the coastal nation sovereign rights over the continental shelf both within

and beyond the EEZ, where the geological margin so extends.

Joining the convention is also important to the ability of the United States to exercise leadership and influence over oceans issues globally.

In its all-encompassing treatment of these issues, the Law of the Sea convention provides a comprehensive legal framework to maximize use of the oceans' resources, while ensuring their health and productivity for generations to come. Achieving a widely accepted treaty that enshrines and provides legal protections for key rights of navigation and overflight has been a principal objective of U. S. oceans policy for decades. UNCLOS fully achieves that objective.

The convention carefully balances the interests of individual member states and the interests of the world community at large. It allows nations to control activities off their own coasts at the same time it protects the freedom of all states to use ocean spaces without undue interference.

UNCLOS provisions allow countries to claim a territorial sea of a maximum breadth of 12 nautical miles, within which the coastal state may generally exercise plenary authority as a function of its sovereignty. The convention also establishes a contiguous zone of up to 24 nautical miles from coastal baselines, in which the coastal nation may exercise limited control necessary to prevent or punish infringements of its customs, fiscal, immigration, and sanitary laws and regulations that occur within its territory or territorial sea.

These provisions are important to the United States because our coastal waters and EEZ generate vital economic activities such as fisheries, offshore mineral development, ports and transportation facilities, and, increasingly, recreation and tourism. The majority of Americans live in coastal areas, so their health and well-being are intimately linked to the quality of the coastal marine environment.

The convention also establishes a legal framework for the protection and preservation of the marine environment. In this area as well, UNCLOS achieves an effective and appropriate balance between the interests of nations in protecting natural resources with their interests in freedom of navigation and communication. The agreement addresses sources of marine pollution, such as pollution from vessels, seabed activities, ocean dumping, and land-based sources. The provisions obligate member nations to prevent and control pollution of the oceans' waters and to cooperate in the management and conservation of living resources. Existing U. S. laws for the protection of rare and fragile ecosystems and the habitat of depleted, threatened, or endangered species are already consistent with UNCLOS.

As noted, a coastal nation has sovereign rights over living marine resources in its exclusive economic zone, that is, out to 200 nautical miles from shore. The convention's provisions on fisheries are entirely consistent with U. S. domestic fisheries laws as well as forward-looking international fisheries agreements

and understandings made in the last decade. Effective implementation of these agreements can bring about an end to rampant overfishing in the years to come.

The United States was an active participant in the talks that led to the convention in 1982, but declined to ratify because of objections to provisions on deep seabed mining. With the Oceans Policy Statement in 1983, President Ronald Reagan declared U.S. commitment to the principles of UNCLOS with the exception of the mining provisions. Subsequent amendments to the agreement by signatory nations have now satisfied U.S. concerns about deep seabed mining.

It is time for the United States to become a fully participating member in this landmark convention to protect more than 70 percent of our planet's surface. I look forward to leading the Senate toward a vote for ratification.

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The opinions expressed in this article are those of the author and do not necessarily reflect the views or policies of the U. S. government.