

U.S. approval of the Law of the Sea treaty is long overdue

Joining would help in arbitration of South China Sea conflicts



Illustration on the need to ratify the Law of the Sea treaty (UNCLOS) by Greg Groesch/The Washington Times

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This month's U.S.-[Association of Southeast Asian Nations \(ASEAN\)](#) Summit in Rancho Mirage, Calif., gives Congress the opportunity to assert America's national interests and to ratify the [U.N. Convention on the Law of the Sea \(UNCLOS\)](#).

Since the 10 countries that make up [ASEAN](#) are home to 660 million people and represent the world's seventh-largest economy, it's vital to demonstrate proof of U.S. strategic commitment to allies, to denounce China's militarization of outposts, and to uphold freedom of navigation in the South China Sea.

It's clear that more U.S. military leaders, national security planners, policy pundits and [ASEAN](#) members such as the Philippines, Malaysia and Vietnam are impatiently waiting for this congressional approval to

effectively address and manage China's continued aggressive actions to expand its power and influence in the contested South China Sea.

The Law of the Sea Treaty, formally known as the Third [United Nations](#) Convention on the Law of the Sea was adopted in 1982. One hundred and sixty-two countries, including China and Russia, are signatories to the treaty that governs the world's oceans. The U.S. is not.

The time has come to put partisan politics aside and focus on national interests. While the U.S. Navy's Seventh Fleet continues to reinforce freedom in the South China Sea's troubled waters, the formal treaty defines limits of a country's territorial sea, establishes clear rules for transit through "international straits," and "exclusive economic zones (EEZs)."

In short, it would allow the U.S. military complete freedom of action and would not interfere with critical American-led programs like the Proliferation Security Initiative.

With ratification, the United States would have legal standing to bring any complaints to an international dispute resolution body and thus avoid possible confrontation with Chinese naval forces and paramilitary fishing trawlers in the Spratly Islands.

Furthermore, the treaty provides formal cooperation with other countries, because almost all of America's allies, neighbors and friends are party to the Convention. The political mantra is simple: The U.S. requires maximum freedom both for naval and commercial vessels to navigate and to operate off foreign coasts without interference.

With congressional approval, America can secure its navigational freedoms and global access for military and commercial ships, aircraft and undersea fiber optic cables. The U.S. currently asserts its rights to freedom of navigation through customary international law, which is subject to change and diplomatic interpretations.

Ratification of [UNCLOS](#) will enable the U.S. to regain its rightful strategic place in the Pacific and transform rhetoric into action. Despite the administration's lame-duck status, it is imperative that our military treaty partners in Asia know that we remain the world's pre-eminent maritime power. The present concern is that some [UNCLOS](#) member states are trying to shift the balance away from freedom of navigation and free transit of international waters.

[UNCLOS](#) membership grants the U.S. the power and credibility to support and promote the peaceful resolution of disputes within a rules-based order.

Of course, the exclusion of the U.S. last year from the Permanent Court of Arbitration hearings concerning the Republic of the Philippines versus the People's Republic of China is a warning of problems to come. By not ratifying the treaty, America is cutting itself out of a considerable amount of leverage for international support for its concerns, such as freedom of navigation operations.

Naturally, the most pressing challenge facing the South China Sea is how to avoid violence among armed forces of the various claimant states that could lead to further escalation and to the possibility of military engagement by greater powers. There's compelling evidence that [UNCLOS](#) provides guideposts on the rights of coastal states while offering little or no answers to territorial sovereignty.

However, the U.S. currently relies on a hypocritical stance that [UNCLOS](#) standards should apply to international dealings on the seas despite its own lack of ratification. Next month's summit offers an ideal venue to build on the deeper partnership that the United States has forged with [ASEAN](#) and may succeed in advancing the administration's Asia rebalance. The announcement of a plan to ratify [UNCLOS](#) will inspire confidence and trust in America's word.

Finally, accession would ensure America's ability to address the benefits

of the opening of the Arctic, a region of increasingly important maritime security and economic interest. It's true that the [UNCLOS](#) establishes exclusive economic zones. While the United States insists on implementation of exclusive economic zones, it has refused to ratify the treaty, perhaps as some suggest because of deeply entrenched political disagreements over the International Seabed Authority, created under the [UNCLOS](#), to regulate deep-sea mining in international waters. Since the United States hasn't ratified [UNCLOS](#), it hasn't been able to formally claim any underwater boundaries. And Russia questions why it should accept restrictions the treaty imposes if the U.S. does not.

Make no mistake about it. The [U.N.](#) Convention on the Law of the Sea may contribute to a solution, but it has also contributed to the scramble for maritime territory and resources.

Perhaps Bernard Oxman, former State Department adviser on oceans, environment and scientific affairs, has it right when he says, "there is no plausible alternative to the system of territorial states, a system, that for all its limitations, continues to confer significant benefits on humanity."

Let's wait and see if the U.S. [ASEAN](#) summit offers more than a mirage.

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