



National Marine Manufacturers Association

United Nations Convention on the Law of the Sea

NMMA Position Paper

What is UNCLOS?

The United Nations Convention on the Law of the Sea (UNCLOS) is an international treaty governing the use and exploitation of the world's oceans. Nations around the world met 30 years ago in an intense, ten-year round of international negotiations which culminated in the 1982 Convention. On November 16, 1994, after attaining the requisite 60 signatures, the Law of the Sea Treaty entered into force and became international law. Today, despite there being 143 parties to the Convention and widespread domestic support, the United States has yet to ratify the 1982 Convention on the Law of the Sea.

What Does the Treaty Say?

The Law of the Sea Treaty is a true constitution of the sea, establishing a coherent, uniform and global rule of law governing the use of the oceans, including the skies above and the seabed below. Although the treaty is almost as vast as the oceans themselves, its major principles include:

- **Navigational Freedom.** The Law of the Sea Treaty establishes a territorial sea of a maximum breadth of 12 nautical miles under the control of the coastal state. Within a contiguous zone of up to 24 nautical miles, a state retains limited authority on issues related to customs, immigration, and sanitation. The convention protects movement on the high seas and allows "innocent passage" for all vessels within a state's 12-mile territorial zone. In addition, the treaty establishes the right of "transit passage" through straits used for international navigation that are otherwise within a coastal state's territorial waters—without this provision, over 135 straits around the world potentially could be closed by states' claims to territory.
- **Exclusive Economic Zones.** The treaty establishes a coastal zone extending 200 nautical miles over which the coastal state retains exclusive economic rights, including the right to explore, exploit, and manage all living and non-living resources. The treaty gives the U.S. control of the largest exclusive economic zone in the world, adding 4.1 million square miles of ocean under U.S. jurisdiction, an area that exceeds the total land area of the United States. Under the terms of the treaty, the United States would also have sovereign rights over its continental shelf—one of the largest in the world.
- **Environmental Protection.** The treaty contains provisions obligating states to protect the marine environment and to conserve living species. States are liable for damages if found to be in violation of these international obligations.
- **Marine Scientific Research.** The treaty affirms the right to conduct marine scientific research and establishes a global framework for cooperation that balances the right of scientists to have access to ocean areas for research with the right of coastal

states to control their marine jurisdictions. The U.S. conducts more marine scientific research than almost all other nations combined.

- **Dispute Settlement Provisions.** The treaty establishes a comprehensive, compulsory dispute settlement regime based on binding third-party arbitration. States may choose any one of four dispute settlement venues established under UNCLOS, including the International Tribunal for the Law of the Sea, the International Court of Justice, binding international arbitration procedures, or special arbitration tribunals adjudicated by experts in the field relating to the dispute.

What is the U.S. Position on UNCLOS?

The United States has supported a comprehensive international law for the oceans since the Nixon Administration. President Reagan embraced and codified into domestic law virtually every aspect of the Law of the Sea Treaty, but did not sign UNCLOS because it contained fundamentally flawed provisions regarding deep seabed mining. Eventually, the U.S. got these provisions removed, and President Clinton signed the treaty and transmitted it to the Senate for its advice and consent in 1994. The Constitution requires that the Senate approve any treaty before the president can ratify it. Now, despite languishing in the Senate Committee on Foreign Relations for ten years, renewed support from the Bush administration and a bipartisan coalition of Senators has UNCLOS moving again. On Feb. 25, 2004, the Senate Foreign Relations Committee voted unanimously in support of the treaty. Senate leadership has yet to schedule floor time for debate and a vote.

Why Should the Recreational Boating Community Care?

NMMA believes the marine manufacturing industry will reap significant dividends from the ratification of the Law of the Sea Treaty. Specifically, NMMA believes that ratification will strengthen the domestic economy, secure international trade and commercial mobility, bolster national security, and contribute to environmental protection efforts globally. UNCLOS will facilitate the growth of the recreational marine industry by securing the ability for marine manufacturers to freely export their products and by helping to protect the nation's aquatic resources for all recreational boaters and anglers to enjoy.

NMMA supports U.S. ratification of the 1982 United Nations Convention on the Law of the Sea and is actively involved in efforts on the Hill to reach this end. During a round of Congressional hearings in October 2003, NMMA submitted letters to Senators Lugar and Biden expressing its support of the treaty and urging ratification. NMMA also met with majority staff of the Senate Foreign Relations Committee to discuss legislative strategy, sent a letter in support of the treaty to President Bush, and joined like-minded coalitions and activated our grassroots network in an effort to energize support for the treaty in Washington.

NMMA supports UNCLOS because:

- **UNCLOS Will Strengthen the Recreational Boating Industry.** The United States has one of the longest coastlines in the world. Recreational boating and coastal tourism are crucial parts of the national economy. Recreational fishing alone, a vital issue to many recreational boating manufacturers, is a \$116 billion a year industry. Simply put, these industries are possible only if the U.S. maintains healthy marine environments—UNCLOS provides the U.S. with the international legitimacy to do just that.

- **UNCLOS Guarantees Trade.** Ensuring unimpeded commercial navigation is crucial to the U.S. economy, with 95 percent of U.S. trade tonnage moving by sea. It is also crucial to the marine manufacturing industry, which exported nearly \$1 billion in boats and products last year. UNCLOS guarantees navigational freedoms and secures open and efficient trade routes by preventing excessive jurisdictional claims made by coastal nations.
- **UNCLOS Levels the International Playing Field.** Official U.S. participation in the treaty would strengthen America's efforts to guide the development of internationally accepted vessel pollution standards. Since U.S. marine manufacturers already adhere to some of the highest vessel pollution standards in the world, renewed U.S. credibility from ratification would increase the international competitiveness of domestic manufacturers by leveling the playing field with respect to these standards. Ratification would give the U.S. a louder voice in the International Maritime Organization (IMO) where these standards are set.
- **UNCLOS Supports U.S. Fishing Interests.** The treaty promotes an economically and environmentally balanced fisheries management regime, something of vital importance to many recreational boaters. UNCLOS' provisions on fisheries management are entirely consistent with U.S. domestic fisheries laws as well as U.S. international fisheries agreements and understandings.
- **UNCLOS Strengthens the Economy.** UNCLOS benefits the U.S. economy in many other ways as well. Not only does the treaty establish uniform standards which will create an atmosphere of regulatory certainty for all exporting industries, it also uniquely stabilizes the oil and gas sector, encouraging future development on the resource-rich U.S. continental shelf. UNCLOS also protects the right to lay and maintain submarine cables, a key issue for the U.S. economy since submarine cables represent 70 percent of today's telecommunications carrying capacity.
- **UNCLOS Makes the High Seas Safer.** Presently, there are thousands of recreational boats 65 feet in length or longer in the U.S. alone, and recreational boats between 300 and 400 feet in length are not uncommon. Recreational boaters know that these vessels are capable of traveling long distances on the high seas, where the only law is the one the U.S. has yet to ratify. Ratification of UNCLOS would afford greater legal protections against piracy for large U.S. vessels traveling the high seas, thereby increasing access to all recreational boaters.
- **UNCLOS Bolsters Homeland Security.** Under the treaty, all nations have a right to engage in law enforcement activities on the high seas. This enables the U.S. Coast Guard to interdict drug traffickers and other criminals and reduces the ability for criminals to create maritime safe havens in international waters. Although the U.S. currently engages in law enforcement activities in these waters, the Coast Guard supports ratification because UNCLOS would increase its ability to negotiate effectively with these criminals' states of origin.
- **UNCLOS Helps the Military.** The Department of Defense and other national security agencies have long supported the Law of the Sea Treaty. The U.S. Navy has argued from the start that ratification is critical to guaranteeing its ships the

freedom to pass in the territorial waters of nations otherwise inclined to deny access to any U.S. vessel. The treaty also enshrines the sovereign immunity of U.S. ships, protecting them from foreign regulation, search, and seizure. National security depends on the ability of the United States armed services to respond quickly to any threat without interference from any state—participation in UNCLOS can only strengthen the mobility of America's armed forces.

- **UNCLOS Makes Environmental Sense.** The Law of the Sea Treaty imposes basic obligations of environmental protection and species preservation on all states. Under the treaty, these protections are enshrined in an ever-evolving international legal framework which sanctions further developments with regard to protecting the world's vast aquatic resources. Without accession, however, the United States will have silenced its otherwise considerable voice in international oceans discussions, and it will have unnecessarily restricted its ability to enforce the elements of UNCLOS that are in its interest. Protecting the marine environment is a vital issue for marine manufacturers and the recreational boating community.

How Can I Get Involved?

Contact your Senators today and tell them to support the Law of the Sea Treaty!

UNCLOS is good for the recreational boating community, the economy, and national security. Even more importantly, UNCLOS is already international law adhered to by the overwhelming majority of nations in the world. Whether the United States can credibly participate in the evolution of that law, whether it can make its voice heard on these issues of vital importance, depends on its willingness to ratify the treaty. Over the years, U.S. oceans interests have been undermined because the U.S. has been precluded from participation on the various councils, commissions, and tribunals established under UNCLOS. Without the active role made possible only through ratification, the United States has weakened its ability to make international oceans law reflective of its national interests. NMMA is hopeful that the U.S. will soon take its rightful seat at the table and strongly urges the Senate to support ratification of UNCLOS. **Help us help UNCLOS—tell your Senators to vote “YES” to ratification!**