# KG Septober 18’ Elkins AFF

**We affirm- Resolved: The United States should accede to the United Nations Convention on The Law of The Sea**

**Berkeley Law defines the Convention on The Law of the Sea, or UNCLOS, as an international treaty establishing global norms governing the use of the world’s oceans and their resources.**

## Contention 1 is Overfishing

**Vox News explains that conservation pacts in UNCLOS are voluntary, and without binding measures to reinforce regulations, two-thirds of fish stocks are overexploited. America can end this trend. Talhelm of The University of North Carolina writes that to fortify parts of UNCLOS which tackle overfishing, ratification is needed from industrialized nations to bolster cooperation. Historically, America has taken this role, as she continues that when the U.S. entered negotiations to stop Japan from overfishing salmon in 1994, it enforced Article 66 of UNCLOS which terminated all salmon fishing at sea. Talhelm concludes that prevention methods will never be enforced without American support. Overall, Bogerson at The Council on Foreign Relations finds that without acceding to UNCLOS, the U.S. cannot gain the necessary global leadership to address problems in marine ecosystems.**

**The impact is saving lives. Crowley of The Huffington Post quantifies without stopping overfishing, there will be no seafood left by 2048 which sustains over 3 billion people worldwide. However, when America passed domestic legislation to prevent overfishing, Plumer of Vox finds It caused a 78 percent reduction in catches and rebuilt 44 fish species. Schiffman of NYU articulates that U.S. accession would allow it to amend future policies of UNCLOS similarly.**

**Gross**, Liza. “The Way We Protect the Oceans Is Badly Outdated. Here's How to Change That.” **Ensia**, Vox, 30 May **2016**, <https://ensia.com/features/the-number-one-thing-we-can-do-to-protect-earths-oceans/>

UNCLOS also protects the economic interests of nations with provisions that give coastal countries exclusive rights to marine resources within 200 nautical miles offshore. Most offshore oil and gas exploration, for example, is overseen by countries within these exclusive zones. But inadequate national regulations can lead to disaster, as the 2010 Deepwater Horizon oil spill — which left 11 dead and dumped nearly 5 million barrels of oil into US waters in the Gulf of Mexico — made painfully clear. The only way to prevent similar disasters, the Global Ocean Commission panel argues, is through a binding international agreement on safety and environmental standards that holds corporations liable for environmental damage. **One of the biggest problems for ocean conservation, many scientists say, is that the sectoral agreements rely on binding measures for compliance, while conservation pacts**, such as the Convention on the Conservation of Migratory Species of Wild Animals and the Convention on Biological Diversity, **depend** almost exclusively **on voluntary measures.**

**Crowley**, Chris. “A New Warning Says We Could Run Out of Fish by 2048.” **The Huffington Post**, TheHuffingtonPost.com, 14 Dec. **2017**, [www.huffingtonpost.com/grub-street/a-new-warning-says-we-cou\_b\_13615338.html](https://www.huffingtonpost.com/grub-street/a-new-warning-says-we-cou_b_13615338.html)

**Humans have shown a reluctance or unwillingness to actually do something about this**, but saving at least some fish isn’t impossible.It’s already been happening. The Eastern Atlantic Bluefin was once imperiled like its Pacific brethren, but after quotas were slashed in 2010 the species has, in just six years, experienced a rebound. In fact, Shana Miller of the Ocean Foundation, tells Quartz that “it’s possible that it will be fully recovered” by next year. Over the last twenty years, 39 other species in American fisheries have similarly recovered and overfishing is down to its lowest level since 1997. People also need to, as it’s been argued, embrace eating invasive species and fish usually discarded as trash. Bluefin can survive, they just need a moment to breathe — and so does the ocean.

**If the world keeps fishing at its current pace, there will no more fish left to eat by 2048.** That’s the dire warning laid out by the World Wildlife Federation, which says that the planet’s fishing fleet is two to three times larger than the oceans can support, and that 85 percent of the world’s fisheries are either fully exploited or overexploited, depleted, or recovering from depletion.Related: 10 Fish Species You Can Eat With a Clean Conscience One of the most imperiled species on the planet is the bluefin tuna, which environmental activists and marine scientists have warned for years is in danger of going extinct. Now, after years of those warnings being ignored, the fish is at just 2.6 percent of its historic population, Amanda Nickson of Global Tuna Conservation at the Pew Charitable Trusts tells Quartz. If something is not done in the next two years, Nickson says, “there’s a very grave danger of it disappearing.” The Pacific bluefin tuna’s situation is so bad in part because 90 percent of those caught in 2013 were too young to reproduce. Which puts a big wedge into, you know, the species’s ability to replenish itself. But there’s a host of other deeply entrenched problems. Many high-end sushi restaurants are unwilling to stop serving the fish, effectively exploiting its exploitation by pitching it as more and more (and rarer and rarer) of a luxury item. Many consumers are willing to turn a blind eye. As Pacific bluefin have become rarer, its price in Japan has soared. In 2013, one fish was sold in Tokyo for nearly $2 million. Fisherman have responded by relentlessly hunting them down, meaning there’s nowhere for bluefin to run. Farmed bluefin, which seemed like it has arrived in the nick of time to save the day, isn’t really any better, as most of those fish were juveniles caught at sea and then raised in containment.

But the overall record is disastrous. **Two-thirds of fish stocks on the high seas are over-exploited—**twice as much as in parts of oceans under national jurisdiction. Illegal and unreported fishing is worth $10 billion-24 billion a year—about a quarter of the total catch. According to the World Bank, the mismanagement of fisheries costs $50 billion or more a year, meaning that the fishing industry would reap at least that much in efficiency gains if it were properly managed.

“Sustainable Seafood.” **WWF**, World Wildlife Fund, **2018**, [www.worldwildlife.org/industries/sustainable-seafood](http://www.worldwildlife.org/industries/sustainable-seafood)

As the largest traded food commodity in the world**, seafood provides sustenance to billions of people worldwide. Approximately three billion people in the world rely on both wild-caught and farmed seafood** as their primary source of protein.Historically, the seafood industry has significantly impacted the environment. The United Nations Food and Agricultural Organization estimates that eighty-five percent of marine fish stocks are either fully exploited or overfished. Similarly, many fisheries throughout the world throw away more fish than they keep. This incidental catch of non-target species—known as bycatch—is harmful to many species. Pollution from the poorly managed and unsustainable seafood farms, also known as aquaculture, has caused the deterioration of coastal habitats, lakes and rivers.

<http://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=1671&context=ncilj>

**Although the requisite number of nations has ratified the Convention, many large industrial nations with huge fishing fleets have not. Among these are the United States** and Canada. 38 In addition, some have complained that the Convention does not adequately conserve fish stocks nor meet the needs of Third World nations. Despite this opposition to the Convention, its effects can be seen in a number of agreements addressing the international overfishing problem. 39 **The treaty's provisions, however, cannot be fully implemented until there is widespread ratification** of the 240 Convention. **Widespread ratification is particularly necessary because the Convention addresses the overfishing problem and provides a vehicle for dispute settlement**. 2 1 ' This section addresses the concerns that have been raised about UNCLOS III and outlines why the benefits that UNCLOS III provides to the fishing industry outweigh those concerns

Under UNCLOS Il, the country in whose waters the fish spawn has the primary interest and responsibility for them.274Fishing for salmon, an anadromous stock, on the high seas is forbidden by all states unless a nation that previously fished for them can prove it would suffer economically if it were prevented from fishing for these stocks. 75 Until the 1980s, Japan had a valid argument that it would suffer economic dislocation if prevented from fishing for salmon. By 1992, however, the **United States**, Japan, Russia, and Canada **began negotiating a new treaty.277** The result was the North Pacific Anadromous Stocks Convention, **which implemented UNCLOS III Article 66 and ended all salmon fishing on the high seas.27"** According to U.S. Ambassador David A. Colson, Deputy Assistant Secretary of State for Oceans in 1995,279 **if the United States** and other parties to the Anadromous Stocks Conventionratify UNCLOS III, it would give salmon-producing states the ability to enforce the prohibition on salmon fishing because nations violating the treaty could be taken to compulsory and binding dispute settlement.28 ° "[T]he availability of such dispute settlement provides not only an effective tool to enforce the high seas salmon fishing prohibition; its very existence provides an effective deterrent against such fishing."28 '

These agreements indicate the power that UNCLOS III has had over fishing law**. Yet until major fishing nations such as the United States ratify the convention, it cannot reach its full potential.05 The United States will suffer if fisheries continue to decline.**3°6 Although the United States played a major role in initiating the Convention in 1973, and despite backing from President Clinton 0 7 and other officials, many predict the Senate to put up a tough fight before it approves the treaty-if it ever does.30 8 Opposition in the United States is primarily focused on provisions involving deep seabed mining and navigation rights for naval and airforces.309 The United States historically has been particularly concerned about retaining its right of innocent passage for warships through international straits.3 0 **Until the United States becomes a party to the Convention, customary international law and other treaties will set U.S. rights.**

**Plumer**, Brad. “How the US Stopped Its Fisheries from Collapsing.” **Vox**, Vox, 8 May **2014**, [www.vox.com/2014/5/8/5669120/how-the-us-stopped-its-fisheries-from-collapsing](http://www.vox.com/2014/5/8/5669120/how-the-us-stopped-its-fisheries-from-collapsing)

"Prior to that, fisheries managers would often use softer techniques to try and prevent overfishing," says Seth Atkinson of the Natural Resources Defense Council. "They would try to limit the number of days that fishermen could spend at sea, or limit the number of boats that could go out. But there wasn't much hard accountability, and you saw a lot of managers still permitting overfishing. And that's not a personal criticism of them. These are difficult decisions to make and often require short-term sacrifice." Different regions in the **United States** now employ a variety of policies to regulate overfishing. Alaska, for instance, uses a "catch share" system, in which fisherman are granted a fixed percentage of the overall haul each year. This system gives the industry a stake in ensuring that the overall fishery remains healthy — and studies have found that catch shares are effective at preventing fisheries collapse. Other regions rely on flat limits for overall catches of certain types of fish. This isn't always as easy as it sounds — it depends on scientists and regulators setting the limits correctly. Make the limits too loose, and fish populations start collapsing. Make them overly stringent, and fishermen suffer. New England, for one, has a history of struggling with these limits — in 2013, for instance, **regulators realized that Gulf of Maine cod were collapsing unexpectedly** after years of overly lax limits and **had to impose a severe 78 percent reduction in catches.**

<http://thehill.com/opinion/energy-environment/392529-fisheries-management-is-working-congress-should-stick-to-the>

Those two critical categories are at their lowest levels since NOAA first issued this report in 1996, indicating notable improvements in how the U.S. manages its ocean fish stocks**. And since 2000, by following the strong science-based principles in the Magnuson-Stevens Act, our country has rebuilt 44 fish populations — a testament to the law’s effectiveness.**

**Schiffman**, Howard S. "U.S. Membership in UNCLOS: What Effects for the Marine Environment?." ILSA Journal of International and Comparative Law. Vol. 11. (**2004-2005**): 477-484. <https://www.unclosdebate.org/citation/604/us-membership-unclos-what-effects-marine-environment>

**By most accounts, U.S. ratification of UNCLOS will have a positive effect on the environment. This is not because the U.S. will be binding itself to any new substantive norms.** On the contrary, most substantive provisions of UNCLOS are already part of U.S. policy and have been for many years. Despite this, the conservation of ocean wildlife, the protection of delicate marine ecosystems, and the control of marine pollution are by their very nature multilateral issues. U.S. ratification will demonstrate U.S. commitment to address these problems in a cooperative manner at a time when some view U.S. policy as generally antithetical to multilateral arrangements. The environmental community strongly favors UNCLOS and U.S. ratification would send a message of support. Among the benefits the **U.S. will receive from UNCLOS membership is the ability to have a** judge of U.S. nationality serve on the ITLOS and **the right to participate in the amendment process of the treaty** as provided for in Article 312.The power to amend the treaty is vested in the parties 10 years after the treaty has entered into force.18 The 10-year anniversary was November 16, 2004. The U.S. would be entering the game just as amendments become possible. Admittedly, the question of amendment to such a comprehensive legal instrument is fraught with difficulties, **but U.S. membership ensures that any future amendments will only be adopted when the U.S. is a full participant in the process**

## Contention 2 is Restoring Maritime Order

**Houck of Penn State finds that during the negotiation of the Law of the Sea, the United States was the only major naval power in the fora, allowing it to shape the convention to its interests. However, the Law of the Sea is at imminent danger. Tong of The University of The Pacific finds that throughout the 80’s and into the early 90’s, the US lead the negation for the Law of The Sea, but when the US failed to accede in 1998, it surrendered its voice in the ruling affairs of the world’s oceans. In response, China has filled the void. Odom of The University of Maine finds that China has sought to rewrite the Law of The Sea, undermining decades of US lead negotiations that ensured maritime security.**

**However, acceding to UNCLOS would solve the issue. De Tolve of the Naval Law Review explains that China exploits US non-membership to the Law of the Sea by casting the US as a selfish disingenuous nation seeking to extract the benefits of the Law of the Sea while avoiding membership due to its distrust of the international community. Fortunately, according to Colin of the Current Affairs, ratification would help rehabilitate the image of the United States often accused by other nations as despising international law, a feeling that tends to encourage the excessive maritime claims that the US is fighting against in East Asia. Overall, Houck of Penn State explains that US accession to the Law of the Sea would provide the United States an opportunity to change the current dynamic that seems increasingly to favor coastal state control over all maritime activity.**

**Thwarting China’s dangerous ambitions is key. Without the Law of the Sea on their side, smaller countries have no choice but to militarize. Gates of the Diplomat explains that the absence of the Law of the Sea perpetrated by China’s expansion will provide incentive for Asian nations to build up their armed force, increasing the risk of conflict as tensions begin to boil over. This causes conflict as French of The Atlantic finds that Beijing is prepared to use military conflict to make an example of a smaller country like Vietnam or the Philippines to confirm their resistance against China is futile For example, Stout of Time Magazine finds that China’s current aggression against Vietnam mirrors their lead up to the 1980 invasion of the country which killed 15,000 in 6 weeks. Nguyen of Texas A&M puts it simply. As the South China Sea dispute continues to escalate, the livelihoods of millions of people and the economies of many countries are at stake.**