

We affirm and Our sole contention is The collapse of UNCLOS

China has a fundamentally different view of Exclusive Economic Zone rights than the US does. Stewart 2012 finds that **“China, a party to UNCLOS, rejects U.S. interpretations of the treaty's freedom of navigation provisions, and continues to assert outlandish claims to control over virtually the entire South China Sea”**¹ Unfortunately, this risks undermining UNCLOS, as Kraska 2011 writes that “Over the coming years, **if the navigational regimes in the Convention do not remain stable, the Convention’s attraction as a “package deal” could diminish for** the United States, other **maritime powers,** states operating large or open commercial vessel registries, **and national economies dependent on global trade. If that occurred, the grand bargain struck between the coastal states and the maritime states would be placed at risk,** something that does not serve either set of interests.^{2”} This leads Azuma 2015 to conclude that **“If China’s view of EEZ becomes accepted, it might shake the very foundation of UNCLOS”**.³ That is problematic as O’Rourke 2018 finds . **If such a challenge were to gain acceptance in the SCS region, it would have broad implications** for the United States and other countries not only in the SCS, but around the world, **because international law is universal in application, and a challenge to a principal of international law in one part of the world, if accepted, can serve as a precedent for challenging it in other parts of the world”**⁴

For this reason, Smith 2017 finds **“UNCLOS is dangerously close to deterioration, and so US involvement is a critical component to global stability.”**⁵

Accession solves in 2 ways

1. Better tribunals

Acceding to UNCLOS uniquely changes this situation by giving the US legal leverage. Almond explains in 2017 **“By formally joining UNCLOS, the United States will be in a stronger position to support the ruling of the arbitral tribunal in the face of Chinese opposition.”**⁶ In fact, US legal pressure could deter conflict escalation in the region. Chegg explains in 2016 **“if the US were indeed to sign up to Unclos it**

¹Stewart 2012 (Stewart Patrick, senior fellow at the Council on Foreign Relations and Director of the Program on International Institutions and Global Governance, “(Almost) Everyone Agrees: The U.S. Should Ratify the Law of the Sea Treaty”, *The Atlantic*, June 10th 2012,

<https://www.theatlantic.com/international/archive/2012/06/-almost-everyone-agrees-the-us-should-ratify-the-law-of-the-sea-treaty/258301/>. DOA: June 27th 2018) TG

²Kraska 2011 (James Kraska, Oceans Policy Adviser and Chief, International Negotiations Division May 5, 2011 “THE LAW OF THE SEA CONVENTION: A NATIONAL SECURITY SUCCESS—GLOBAL STRATEGIC MOBILITY THROUGH THE RULE OF LAW” The George Washington International Review https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1648629 DOA: 7/6/18 p.555) ESM

³Azuma 2015 (Hidetoshi Azuma, Adjunct Junior Fellow American Security Project.

September 4, 2015. “China’s War on the Law of Sea Treaty and Implications for the U.S.,”

American Security Project,

<https://www.americansecurityproject.org/chinas-war-on-the-law-of-the-sea-treaty-and-implications-for-the-u-s/>. 8/28/18.) AO

⁴ O’Rourke 2018 (Ronald O’Rourke, Specialist in Naval Affairs, “Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress”, *ResearchGate*, August 1, 2018, <https://fas.org/sgp/crs/row/R42784.pdf>. DOA: August 13th 2018) TG

⁵ Smith 2017 (Leland Holbrook Smith University of Rhode Island, Department of Marine Affairs, “To accede or not to accede: An analysis of the current US position related to the United Nations law of the sea”, *ScienceDirect*, September 2017, <https://www.sciencedirect.com/science/article/pii/S0308597X1730283X>. DOA: July 15th 2018) TG

⁶ Roncevert Ganan Almond, 2017 (Roncevert Ganan Almond, Partner and Vice-President at The Wicks Group, which is devoted to US regulation and policy and intl law. May 24th 2017. “U.S. Ratification of the Law of the Sea Convention,” *The Diplomat*, <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Accessed 28 June 2018) ECS

might encourage China to do as you say and accept the primacy of international law in this case.”⁷ Glaser explains the warrant in 2016: Doing so would eliminate one of Beijing’s justifications for rejecting the July 12 international Arbitral Tribunal ruling against China’s claims in the South China Sea—that the U.S. is hypocritical since it is not a party to the treaty.

2. Coalition building

Cronin 2018 finds that **“Adopting UNCLOS would bolster American leadership at a time when many question its reliability and staying power.”⁸** This leadership is critical to ensure our allies trust us, as Ashfaq 2010 **“Commitment to the Convention, which engages much of the international community, would be emphasized by U.S. ratification.¹¹² It also allows other states to place their trust in the U.S. and thus its actions on the seas. This is essential for the United States to maintain its legitimacy and ultimate leverage in the international arena”⁹** That is why Cronin 2018 finds that accession [∂] These four steps are not a substitute for a comprehensive Indo-Pacific strategy. But collectively, these steps **could be the beginning of a stronger network of partners and provide the means of preventing any single nation from unilaterally determining the rules for the world heading into the 21st century.¹⁰** T

There are 2 impacts:

1. Conflict in East Asia

In the South China Sea, China is taking advantage of lack of trust in UNCLOS to create new bilateral agreements with countries it feels it can push around, as De Tolve 2012 finds that **“The absence of a formal U.S. commitment to UNCLOS is yet an additional vulnerability China can exploit in inducing its neighbors’ to acquiesce in its territorial seas and EEZ claims.¹¹** Smith 2017 furthers that **“Since then, China has redoubled its efforts to create bilateral ties in lieu of UNCLOS. While the Association of Southeast Asian Nations (ASEAN) have traditionally been committed to the peace and stability that UNCLOS provides, those relationships are falling to the wayside.”** China is using these bilateral agreements to isolate countries and force them to comply, as Smith furthers that **“China continues to build new islands and infrastructure in waters claimed by the Philippines and other nations without permission”** The failure of UNCLOS to resolve this issue is pushing China and the Philippines towards conflict, as the South China Morning Post explains in 2018, regarding the Philippines, that “Nobody can extract natural resources there on their own,” Cayetano said. **“The president has declared that. If anyone gets the natural resources in the West Philippine Sea-South China Sea, he will go to war.”** Acceding to UNCLOS

⁷ Chegg 2016 (Jenny Chegg, Stationed in Manchester, UK. Chegg holds a doctorate degree, July 21 2016, "If the US and China are unhappy with Unclos, let them renegotiate it", *The Financial Times*, <https://www.ft.com/content/a8975024-4a78-11e6-8d68-72e9211e86ab>, Accessed 07/02/2018) IW

⁸ Cronin and Ha 2018 (Patrick Cronin and Melodie Ha, senior advisor from the center for a new american security and security studies analyst, June 22 2018, "Toward a New Maritime Strategy in the South China Sea ", *The Diplomat*, <https://thediplomat.com/2018/06/toward-a-new-maritime-strategy-in-the-south-china-sea/>, Accessed 07/01/2018) JJ

⁹ Ashfaq 2010 (Sarah Ashfaq, J.D., University of Pennsylvania, “Something for Everyone: Why the United States Should Ratify the Law of the Sea Treaty”, *JOURNAL OF TRANSNATIONAL LAW & POLICY*, 2010, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/jtrnlwp19&div=14&id=&page=>. DOA: August 14th 2018) TG

¹⁰ Cronin and Ha 2018 (Patrick Cronin and Melodie Ha, senior advisor from the center for a new american security and security studies analyst, June 22 2018, "Toward a New Maritime Strategy in the South China Sea ", *The Diplomat*, <https://thediplomat.com/2018/06/toward-a-new-maritime-strategy-in-the-south-china-sea/>, Accessed 07/01/2018) JJ

¹¹ De Tolve 2012 (Commander Robert De Tolve, Judge Advocate General's Corps, “AT WHAT COST? AMERICA’S UNCLOS ALLERGY IN THE TIME OF “LAWFARE””, *Naval Law Review*, 2012, <http://www.jag.navy.mil/documents/navylawreview/NLRVolume61.pdf>. DOA: July 16th 2018) TG

and reassuring trust in the Convention eliminates this isolation strategy, and re-establishes a norm of looking to international law first

2. Peaceful Dispute Resolution

Since its creation, UNCLOS has kept peace and stability Kraska 2007 finds that **“The Convention serves as a powerful tool to shift maritime political disputes from being a cause for violence and naval warfare to a legal based order**, approaching the vision of Myres S. McDougal and William T. Burke of a “public order of the oceans.”¹² In fact, Nemeth 2007 quantifies, Consistent with hypothesis 2, membership in UNCLOS has a significant δ effect on third party settlement attempts ($p=.013$). **Third party settlement is more than twice as δ likely if both states in a dyad share membership in UNCLOS”**¹³ However, If the legally binding framework that has worked to resolve disputes for the past few decades disappears, violence is far more likely as Gates 2017 finds The Comment also notes a worrying trend in non-participation by major powers, including Russia, China, and the U.S. **If the great powers of the world reject the compulsory nature of the system, UNCLOS will become less effective at channeling tensions into peaceful resolutions. This will increase the risk that states will resort to the use of force to solve disputes.**¹⁴

The impact is widespread, as Kelly 2005 finds that **As regards maritime boundaries, there presently exist about 200 undemarcated claims in the world with 30 to 40 actively in dispute.**¹⁵

¹² Kraska 2007 (James Kraska, Senior Fellow and Adviser to the Maritime Security Program at IDSS James Kraska is Chairman and Howard S. Levie Professor in the Stockton Center for the Study of International Law at the U.S. Naval War College, *Washington International Law Review*, 2007, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1648629 . DOA: August 14th 2018) TG

¹³ Nemeth et al 2007 (Stephen Nemeth et al , professors and researchers in IR and political science from various universities, 2007, "UNCLOS and the Management of Maritime Conflicts ", *International Studies Association* , https://www.researchgate.net/publication/228882805_UNCLOS_and_the_Management_of_Maritime_Conflicts, Accessed 07/19/2018) JJ

¹⁴ Gates 2017 (Douglas Gates, The University of Chicago Law School, "International Law Adrift: Forum Shopping, Forum Rejection, and the Future of Maritime Dispute Resolution", *Chicago Journal of International Law*, July 1 2017, <https://chicagounbound.uchicago.edu/cjil/vol18/iss1/8/>. DOA: August 14th 2018) TG

¹⁵ Kelly 2005 (Paul Kelly, Senior Vice President Rowan Companies Inc, "Evaluating the Impact of the Law of the Sea Treaty on Future Offshore Drilling", *Global Offshore Drilling 2005 Conference*, April 19th 2005, <http://www.oceanlaw.org/downloads/unclos/GlobOffDrlg05.pdf>. DOA: August 14th 2018) TG

Card Appendix

UNCLOS is in line with US interests, and without US involvement, China could use UNCLOS to control the SCS

Stewart 2012 (Stewart Patrick, senior fellow at the Council on Foreign Relations and Director of the Program on International Institutions and Global Governance, “(Almost) Everyone Agrees: The U.S. Should Ratify the Law of the Sea Treaty”, *The Atlantic*, June 10th 2012,

<https://www.theatlantic.com/international/archive/2012/06/-almost-everyone-agrees-t-he-us-should-ratify-the-law-of-the-sea-treaty/258301/>. DOA: June 27th 2018) TG

The treaty's primary value to the U.S. military is that it establishes clear rights, duties, and jurisdictions of maritime states. The treaty defines the limits of a country's "territorial sea," establishes rules for transit through "international straits," and defines "exclusive economic zones" (EEZs) in a way compatible with freedom of navigation and over-flight. It further establishes the "sovereign inviolability" of naval ships calling on foreign ports, providing critical protection for U.S. vessels. More generally, the treaty allows states party to exempt their militaries from its mandatory dispute resolution provisions--allowing the United States to retain complete military freedom of action. At the same time, the treaty does nothing at all to interfere with critical U.S.-led programs like the Proliferation Security Initiative (PSI). Nor does it subject any U.S. military personnel to the jurisdiction of any international court. Some have argued that UNCLOS has already become "customary international law," and thus the United States has little to gain from formal accession. But custom and practice are far more malleable and subject to interpretation. Other states may soon push the Law of the Sea into new, antithetical directions if the United States does not ratify the treaty. China, a party to UNCLOS, rejects U.S. interpretations of the treaty's freedom of navigation provisions, and continues to assert outlandish claims to control over virtually the entire South China Sea. But it is hardly alone. Countries as diverse as Brazil, Malaysia, Peru, and India have resisted freedom of navigation within their EEZs, in contravention of their obligations.

Reshaping the convention in any way harms the national interests of all countries in it

Kraska 2011 (James Kraska, Oceans Policy Adviser and Chief, International Negotiations Division May 5, 2011 “THE LAW OF THE SEA CONVENTION: A NATIONAL SECURITY SUCCESS—GLOBAL STRATEGIC MOBILITY THROUGH THE RULE OF LAW” The George Washington International Review

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1648629 DOA: 7/6/18 p.555)

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*Two more points—related to one another—should be said about the navigational regimes in the Convention. Both of these points were apparent to sophisticated observers more than a quarter of a century ago, and are even more valid today. The first is that the United States could not have obtained a better deal than that contained in the Convention, and the second is that **any effort now to reshape the Convention likely would lead to very serious and harmful changes that undermine global mobility.**⁷⁰ Over the coming years, **if the navigational regimes in the Convention do not remain stable, the Convention’s attraction as a “package deal” could diminish for the United States, other maritime powers, states operating large or open commercial vessel registries, and national economies dependent on global trade. If that occurred, the grand bargain struck between the coastal states and the maritime states would be placed at risk, something that does not serve either set of interests. The maritime states should ensure the threats to freedom of navigation and the public order of the oceans do not gain currency.** Two of the most prominent threats to the structure of high seas freedoms reflected in the Convention are naval strategy and environmental protection. The best means of resisting these threats trends is to ensure that maritime powers are not divided internally within their governments between a global maritime focus and a parochial coastal state focus. The maritime states also should improve their coordination to protect freedom of navigation in international venues, such as the United Nations, the Major Maritime Powers meetings, and the International Maritime Organization. The greatest value of the Convention for maritime powers is in containing the sentiments that would impede high seas freedoms. **There is no guarantee that the Convention can continue to serve this function, however, and success depends on the outcome of the ongoing struggle to shape interpretations of the Law of the Sea.***

If the U.S. doesn't ratify UNCLOS, China's interpretation can spread to other nations.

Hidetoshi Azuma 2015 (Hidetoshi Azuma, Adjunct Junior Fellow American Security Project. September 4, 2015. "China's War on the Law of Sea Treaty and Implications for the U.S.," American Security Project, <https://www.americansecurityproject.org/chinas-war-on-the-law-of-the-sea-treaty-and-implications-for-the-u-s/>. 8/28/18.) AO

U.S. non-ratification of UNCLOS also has global implications. EEZ constitute 40% of entire maritime space on earth. If China's view of EEZ becomes accepted, it might shake the very foundation of UNCLOS. Indeed, during the 2014 oil rig incident, China's intimidation tactics coerced Vietnam into essentially acquiescing in Beijing's interpretation of EEZ. China's salamislicing strategy could eventually force other stronger neighbors, such as the Philippines, into submission to its views.

Allowing China's ILaw challenge to go through could lead to more challenges

O'Rourke 2018 (Ronald O'Rourke, Specialist in Naval Affairs, "Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress", *ResearchGate*, August 1, 2018, <https://fas.org/sgp/crs/row/R42784.pdf>. DOA: August 13th 2018) TG

Some observers are concerned that China's actions in the SCS appear to challenge the principle that the world's seas are to be treated under international law as international waters. If such a challenge were to gain acceptance in the SCS region, it would have broad implications for the United States and other countries not only in the SCS, but around the world, because international law is universal in application, and a challenge to a principle of international law in one part of the world, if accepted, could serve as a precedent for challenging it in other parts of the world. Overturning the principle of freedom of the seas, so that significant portions of the seas could be appropriated as national territory, would overthrow hundreds of years of international legal tradition relating to the legal status of the world's oceans and significantly change the international legal regime governing sovereignty over the surface of the world.¹³

Without US participation, UNCLOS could collapse due to China's violations of the treaty
Smith 2017 (Leland Holbrook Smith University of Rhode Island, Department of Marine
Affairs, "To accede or not to accede: An analysis of the current US position related to the
United Nations law of the sea", *ScienceDirect*, September 2017,
<https://www.sciencedirect.com/science/article/pii/S0308597X1730283X>. DOA: July 15th
2018) TG

.As the strength of large economic powers push smaller nations further into poverty, those nations increasingly rely on international law to sustain themselves. UNCLOS addresses all of these competing interests, but without leadership support from the US, its future is in jeopardy. US military, economic, and moral backing will be required to ensure that the smaller nations of the world will not run out of the resources upon which they depend, that the global economy continues to reach its full potential through interconnected growth, and that the seas do not become the lawless bastions of crime they once were. On top of that, if the US joins it gains the ability to compete for access to Arctic and other resources through continental shelf claims, participate in the mining of the deep seabed through the International Seabed Authority, and to have a greater role in the international decision-making processes. UNCLOS is dangerously close to deterioration, and so US involvement is a critical component to global stability. Fundamental geopolitical changes since the time the law was developed have further exacerbated the timeless matters that UNCLOS addresses. China has emerged as a world power and is reshaping trade agreements and resource use with all of the South China Sea countries, neglecting lawsuits through proper UNCLOS channels. China also has a fleet of 2600 distant water fishing vessels, ten times that of the US, that travel all the way to Senegal, which relies on those fish for 85% of the nation's protein consumption, and costs West African countries \$2 billion annually [5]. Arctic ice is melting with the potential of opening new trade routes [6].

Ratification is key to enforcing the tribunal's rulings against China

Roncevert Ganan Almond, 2017 (Roncevert Ganan Almond, Partner and Vice-President at The Wicks Group, which is devoted to US regulation and policy and intl law. May 24th 2017. "U.S. Ratification of the Law of the Sea Convention," *The Diplomat*,

<https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Accessed 28 June 2018) ECS

The South China Sea is another area of heated contestation where UNCLOS serves as the guidepost for clarity. Of notable importance is the ruling from the South China Sea arbitration that UNCLOS comprehensively allocates rights to maritime areas thereby precluding historic claims like China's "Nine-Dash Line." From this principle, **the arbitral tribunal systematically refuted China's extensive claims and actions in the South China Sea** beyond the treaty's carefully crafted limitations. In the view of Washington, these limitations include undue attempts to curtail the freedoms of navigation and overflight in exclusive economic zones (EEZs). Notably, China takes an opposing view and asserts the ability to prohibit foreign military operations in its claimed EEZs. Thus, although the United States remains neutral on competing claims in the South China Sea, Washington has a compelling national security interest in upholding the substance of the arbitral tribunal's ruling. Like U.S. claims in the Arctic, the United States' legal rights in the South China Sea are not academic. As reported by Ronald O'Rourke, a U.S. naval affairs analyst, the EEZ legal dispute between Washington and Beijing has led to significant confrontations between Chinese and U.S. ships and aircraft in and above international waters. For example, in August 2014, a Chinese J-11 fighter dangerously intercepted a U.S. P-8A Poseidon, a naval reconnaissance aircraft, operating in the South China Sea approximately 117 nautical miles east of Hainan Island. **Thanks to the arbitral tribunal's artful debunking of the nature of Chinese-claimed maritime features and related entitlements, there is greater legal clarity on U.S. operational rights in the South China Sea. By formally joining UNCLOS, the United States will be in a stronger position to support the ruling of the arbitral tribunal in the face of Chinese opposition.** More broadly, because substantial portions of the world's oceans are claimable as EEZs, universal adoption of the Chinese position would significantly alter the U.S. military's ability to sail and fly worldwide. These debates over high seas freedoms and EEZs are likely to continue. For example, as I wrote in the Harvard National Security Journal, the so-called "Castaneda formula" under UNCLOS (Article 59) opens the door for further articulation of EEZ functional jurisdiction and any potential limitation on the high seas freedoms. Defining "residual rights" requires interpreting what rights are included in the text as well as what rights are omitted. The United States can more effectively anticipate and shape these debates impacting U.S. national security as a state party to UNCLOS.

If the U.S. signs UNCLOS China might follow international law

Chegg 2016 (Jenny Chegg, Stationed in Manchester, UK. Chegg holds a doctorate degree, July 21 2016, "If the US and China are unhappy with Unclos, let them renegotiate it", *The Financial Times*, <https://www.ft.com/content/a8975024-4a78-11e6-8d68-72e9211e86ab>, Accessed 07/02/2018) IW

Sir, There is a vital piece of information missing from your editorial "A big test for Beijing over the South China Sea" (July 13), in which, following the ruling by the court of arbitration of the UN Convention on the Law of the Sea (Unclos) and its rejection by China, you call on the UK to engage with the US to bring China back into conformity with international law. What you omit is the fact that **the US is _____**

not itself a signatory to Unclos. The suggestion seems to be that China must be held to account since it committed to the law in the first place. Does this mean that it is OK for the US to maintain its stand outside the convention?

In fact, **if the US were indeed to sign up to Unclos it might encourage China to do as you say and accept the primacy of international law in this case. China views itself as an equal of the US, and the fact that the US remains exempt from certain aspects of international governance is, from China's point of view, a problem. Another instance that comes to mind is the US-China stand-off — "we won't join until you join" — over the Comprehensive Test Ban Treaty.**

Accession benefits US legitimacy

Glaser 2016 (Bonnie S. Glaser is a senior advisor for Asia and the director of the China Power Project at CSIS, where she works on issues related to Chinese foreign and security policy, “Why the U.S. Should Ratify the Law of the Sea Treaty”, *Cipher*, JULY 13, 2016, <https://www.thecipherbrief.com/column/strategic-view/why-the-u-s-should-ratify-the-law-of-the-sea-treaty>. DOA: July 12th 2018) TG

Ratifying UNCLOS would bolster American moral authority and legitimacy on international maritime issues at an important time. Doing so would eliminate one of Beijing’s justifications for rejecting the July 12 international Arbitral Tribunal ruling against China’s claims in the South China Sea—that the U.S. is hypocritical since it is not a party to the treaty. Frankly, it also confounds America’s allies that the U.S. [calls](#) for all nations to uphold the values, principles, and rules-based order that has produced security, stability, and prosperity for all, but refuses to ratify UNCLOS. The Commander of the U.S. Pacific Command, Adm. Harry Harris, [noted](#) the cost to America’s reputation in a House Armed Services Committee hearing last February: “I think that in the 21st century our moral standing is affected by the fact that we are not a signatory to UNCLOS.”

Joining UNCLOS bolsters American leadership and forces China to be accountable

Cronin and Ha 2018 (Patrick Cronin and Melodie Ha, senior advisor from the center for a new american security and security studies analyst, June 22 2018, "Toward a New Maritime Strategy in the South China Sea ", *The Diplomat*,

<https://thediplomat.com/2018/06/toward-a-new-maritime-strategy-in-the-south-china-sea/>, Accessed 07/01/2018) JJ

Finally, it's time to deny China the hollow claim that Beijing follows international maritime law, while Washington flouts it. The opposite is true. China has ratified the United Nations Convention on the Law of the Sea (UNCLOS) but adheres to it selectively by privileging domestic law and unilaterally asserting historical rights. In contrast, the United States Department of Defense abides by UNCLOS as a matter of customary international law, even though the United States has never ratified the treaty.⁷ The United States should at long last [ratify UNCLOS](#) to advance America's interests by reinforcing favorable rules for the governance of the world's oceans on which we depend. **Adopting UNCLOS would bolster American leadership at a time when many question its reliability and staying power.**

Ratification will signal goodwill internationally.

Ashfaq 2010 (Sarah Ashfaq, J.D., University of Pennsylvania, "Something for Everyone: Why the United States Should Ratify the Law of the Sea Treaty", *JOURNAL OF TRANSNATIONAL LAW & POLICY*, 2010,

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/jtrnlwp19&div=14&id=&page=>. DOA: August 14th 2018) TG

Additionally, *ratification of the Convention will soften the United States' image and signal much needed goodwill to the international community.*¹⁰ It has been noted that "[a]nti-Americanism has increased in recent years, and the U.S.' soft power- its ability to attract others by the legitimacy of U.S. policies and the values that underlie them- is in decline as a result."¹¹ *Commitment to the Convention, which engages much of the international community, would be emphasized by U.S. ratification.*¹¹² *It also allows other states to place their trust in the U.S. and thus its actions on the seas. This is essential for the United States to maintain its legitimacy and ultimate leverage in the international arena.*¹¹³

Joining UNCLOS bolsters American leadership and forces China to be accountable

Cronin and Ha 2018 (Patrick Cronin and Melodie Ha, senior advisor from the center for a new american security and security studies analyst, June 22 2018, "Toward a New Maritime Strategy in the South China Sea ", *The Diplomat*,

<https://thediplomat.com/2018/06/toward-a-new-maritime-strategy-in-the-south-china-sea/>, Accessed 07/01/2018) JJ

.³ These four steps are not a substitute for a comprehensive Indo-Pacific strategy. But collectively, **these steps could be the beginning of a stronger network of partners and provide the means of preventing any single nation from unilaterally determining the rules for the world heading into the 21st century.**

China is exploiting our vulnerability of not being in UNCLOS to gain power

De Tolve 2012 (Commander Robert De Tolve, Judge Advocate General's Corps, "AT WHAT COST? AMERICA'S UNCLOS ALLERGY IN THE TIME OF "LAWFARE"", *Naval Law Review*, 2012, <http://www.jag.navy.mil/documents/navylawreview/NLRVolume61.pdf>. DOA: July 16th 2018) TG

Having long recognized the efficacy of legal "securitization" claims as a mechanism through which to bolster regional sea control, China has apparently developed an effective strategy in furtherance of its objective.⁶¹ This strategy rests upon China's UNCLOS stance and includes declaratory statements incorporated into China's UNCLOS ratification depository instrument and includes domestic legislation formally claiming security interests in its territorial seas and EEZ, development of supporting legal scholarship, and a complementary strategic communications campaign.⁶² Influence in the East, Southeast, and South Asia regions, its dramatic economic growth will likely further boost its ability to influence the behavior of smaller regional neighbors in a manner consistent with China's UNCLOS

"securitization" narrative. **The absence of a formal U.S. commitment to UNCLOS is yet an additional vulnerability China can exploit in inducing its neighbors' to acquiesce in its territorial seas and EEZ claims. Such acquiescence would strengthen China's ability to claim territorial sea sovereignty over vast swaths of the East and South China Seas, seriously hampering the United States' ability to project military power in the region.**⁶³ Further evidence of a multi-pronged strategy can be inferred from China's

operational military efforts to reinforce its ultra vires UNCLOS positions. Specifically, China has, on occasion, engaged in illegal, unsafe airborne and seaborne tactical maneuvers in an attempt to dissuade the United States from conducting military operations—principally, military survey operations and intelligence collection—within the Chinese EEZ.⁶⁴ Additionally, it has occasionally demonstrated a willingness to employ military force in support of its contested claims to sovereignty over certain offshore islands.⁶⁵ Taiwan, Vietnam, Brunei, Philippines, and Malaysia are each involved in contests with China over offshore islands. Peter Dutton & John Garofano, *China Undermines Maritime Laws*, *FAR E. ECON. REV.*, Apr. 2009, at 44, available at [In short, by pressing contested claims to maritime territorial sovereignty while simultaneously pursuing aggressive military tactics in support of ultra vires security rights in offshore waters, China has demonstrated an efficacious strategy to consolidate control over the vast majority of the South and East China Seas. Toward this end, China has the advantage of operating from interior lines—both geographically and rhetorically—vis a vis the United States, due both to its status as an UNCLOS member nation and a state attempting to regulate the waters adjacent to its coast.](#)

China pushing its neighbors around destabilizes UNCLOS

Smith 2017 (Leland Holbrook Smith University of Rhode Island, Department of Marine Affairs, "To accede or not to accede: An analysis of the current US position related to the United Nations law of the sea", *ScienceDirect*, September 2017, <https://www.sciencedirect.com/science/article/pii/S0308597X1730283X>. DOA: July 15th 2018) TG

Since then, China has redoubled its efforts to create bilateral ties in lieu of UNCLOS. While the Association of Southeast Asian Nations (ASEAN) have traditionally been committed to the peace and stability that UNCLOS provides, those relationships are falling to the wayside. Cambodia has departed from the ASEAN countries by blocking any statements involving the UN and the Tribunal directly [38]. Vietnam, one of the few supporters of the Philippines, signed a bilateral trade agreement with the Chinese and has been growing closer to China [39]. Vietnam's recent interest in a joint oil exploration program with China to follow their bilateral fishing agreement is further evidence of China's modus operandi of subordinating UNCLOS to agreements with individual nations. Essentially, China is proving to the world that it does not need to abide by UNCLOS or the PCA ruling, which has a destabilizing impact on the international agreement. China continues to build new islands and infrastructure in waters claimed by the Philippines and other nations without permission. The combination of resource scarcity and historic claims drove this Chinese challenge to the judicial legitimacy of the international court, which suggests that financial interests are more influential than the law.

China pushing its neighbors around destabilizes UNCLOS

Smith 2017 (Leland Holbrook Smith University of Rhode Island, Department of Marine Affairs, "To accede or not to accede: An analysis of the current US position related to the United Nations law of the sea", *ScienceDirect*, September 2017, <https://www.sciencedirect.com/science/article/pii/S0308597X1730283X>. DOA: July 15th 2018) TG

Since then, China has redoubled its efforts to create bilateral ties in lieu of UNCLOS. While the Association of Southeast Asian Nations (ASEAN) have traditionally been committed to the peace and stability that UNCLOS provides, those relationships are falling to the wayside. Cambodia has departed from the ASEAN countries by blocking any statements involving the UN and the Tribunal directly [38]. Vietnam, one of the few supporters of the Philippines, signed a bilateral trade agreement with the Chinese and has been growing closer to China [39]. Vietnam's recent interest in a joint oil exploration program with China to follow their bilateral fishing agreement is further evidence of China's modus operandi of subordinating UNCLOS to agreements with individual nations. Essentially, China is proving to the world that it does not need to abide by UNCLOS or the PCA ruling, which has a destabilizing impact on the international agreement. China continues to build new islands and infrastructure in waters claimed by the Philippines and other nations without permission. The combination of resource scarcity and historic claims drove this Chinese challenge to the judicial legitimacy of the international court, which suggests that financial interests are more influential than the law.

The Philippines is willing to go to war over the SCS

South China Morning Post 2018 (South China Morning Post, Hong Kong English-language newspaper, "ASEAN unity an institution for Asian stability", SCMP, May 29th 2018, <https://www.scmp.com/news/china/diplomacy-defence/article/2148204/philippines-rodrigo-duterte-will-go-war-china-if-it>. DOA: August 23rd 2018) TG

The Philippines has warned China that it will go to war over natural resources in the South China Sea – and it identified other "red lines", or actions, Manila would find unacceptable, the foreign ministry said on Monday. Foreign Secretary Alan Peter Cayetano said that among the territorial issues discussed with China were construction activities at a disputed shoal and the unilateral extraction of oil and gas in the South China Sea. "Nobody can extract natural resources there on their own," Cayetano said. "The president has declared that. If anyone gets the natural resources in the West Philippine Sea-South China Sea, he will go to war."

UNCLOS is failing and may increase violence

Gates 2017 (Douglas Gates, The University of Chicago Law School, “International Law Adrift: Forum Shopping, Forum Rejection, and the Future of Maritime Dispute Resolution”, Chicago Journal of International Law, July 1 2017,

<https://chicagounbound.uchicago.edu/cjil/vol18/iss1/8/>. DOA: August 14th 2018) TG

This Comment conducts a comprehensive analysis of existing case law and tests various academic theories about forum shopping to determine why states opt for each of the various courts or tribunals when submitting a dispute for resolution under the Convention. It finds that subject matter is the best predictor of forum selection, as each forum has made use of comparative advantages to gain a foothold in particular areas of the law. The Comment also notes a worrying trend in non participation by major powers, including Russia, China, and the U.S. If the great powers of the world reject the compulsory nature of the system, UNCLOS will become less effective at channeling tensions into peaceful resolutions. This will increase the risk that states will resort to the use of force to solve disputes.

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UNCLOS makes peace more likely

Kraska 2007 (James Kraska, Senior Fellow and Adviser to the Maritime Security Program at IDSS James Kraska is Chairman and Howard S. Levie Professor in the Stockton Center for the Study of International Law at the U.S. Naval War College, *Washington International Law Review*, 2007, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1648629 . DOA: August 14th 2018) TG

Hans Morgenthau, an astute observer of international politics and founder of the modern school of political realism, dedicated his life to the study of the “struggle for power.” “All history shows,” he wrote in his classic treatise, “that nations active in international politics are continuously preparing for, actively involved in, or recovering from organized violence in the form of war.”¹²³ *The Convention serves as a powerful tool to shift maritime political disputes from being a cause for violence and naval warfare to a legal based order*, approaching the vision of Myres S. McDougal and William T. Burke of a “public order of the oceans.”¹²⁴ As the negotiations for the Convention were drawing to a close, Ambassador John Norton Moore understood that the United States was reaching its objective of replacing the “struggle for power” at sea with the “struggle for law” in the world’s oceans, reducing, and perhaps one day eliminating, an entire class of maritime conflicts as a cause of war.¹²⁵ Toward that end, *the Convention successfully has influenced numerous countries to conform their conduct and maritime claims to the Convention*, typically in a manner that inures great benefit to global stability and security. These positive adjustments and reductions in excessive maritime claims constitute the “dogs that didn’t bark” in law of the sea. Over time, the individual and cumulative effect on U.S. national security and global interests has been positive.

Third party settlement is twice as likely if both states are UNCLOS members

Nemeth et al 2007 (Stephen Nemeth et al , professors and researchers in IR and political science from various universities, 2007, "UNCLOS and the Management of Maritime Conflicts ", *International Studies Association* ,

https://www.researchgate.net/publication/228882805 UNCLOS_and_the_Management_of_Maritime_Conflicts, Accessed 07/19/2018) JJ

We start by evaluating the bivariate relationships between our key variables in the ICOW claim dyad-year data set (N=3,231). These analyses select on pairs of states that have one or more ongoing competing claims to a maritime area. Table 3A presents the institutional effects of UNCLOS on the occurrence of bilateral negotiations, third party settlement attempts, and militarized disputes. Consistent with hypothesis 2, *membership in UNCLOS has a significant effect on third party settlement attempts* ($p=.013$). *Third party settlement is more than twice as likely if both states in a dyad share membership in UNCLOS* (7.7% vs. 3.2%). *Bilateral negotiations are also more frequent between dyads with shared UNCLOS membership* (5.5% vs. 3.2%), although the difference is not statistically significant ($p=.153$). Table 3B presents the effects for privatization of the seas through declared economic exclusive zones on the occurrence of bilateral negotiations, third party settlement attempts, and militarized disputes

40 territorial disputes in the status quo

Kelly 2005 (Paul Kelly, Senior Vice President Rowan Companies Inc, "Evaluating the Impact of the Law of the Sea Treaty on Future Offshore Drilling", *Global Offshore Drilling 2005 Conference*, April 19th 2005,

<http://www.oceanlaw.org/downloads/unclos/GlobOffDrlg05.pdf>. DOA: August 14th 2018) TG

As regards maritime boundaries, there presently exist about 200 undemarcated claims in the world with 30 to 40 actively in dispute.

There are 24 island disputes. The end of the Cold War and global expansion of free market economies have created new incentives to resolve these disputes, particularly with regard to offshore oil and natural gas exploration.

During the last few years hundreds of licenses, leases or other contracts for exploration rights have been granted in a variety of nations outside the U.S. These countries are eager to determine whether or not hydrocarbons are present in their continental shelves, and disputes over maritime boundaries are obstacles to states and business organizations which prefer certainty in such matters.