# KG September-October Bellaire LAY AFF

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

## 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.**

**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 “The Way We Protect the Oceans Is Badly Outdated.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.**

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.

**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 ended all salmon fishing at sea. Talhelm concludes that prevention methods will never be enforced without American support.**

**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.**

**Overall, Bogerson at The Council on Foreign Relations finds that by acceding to UNCLOS, the U.S. can gain the necessary global leadership to address problems in marine ecosystems.**

**Borgeson**, Scott G. “The National Interest and the Law of the Sea.” **Council on Foreign Relations**, Council on Foreign Relations, **2009**, [www.cfr.org/report/national-interest-and-law-sea](https://www.cfr.org/report/national-interest-and-law-sea)

The convention’s provisions on environmental protection address all sources of marine pollution, from ships and waste disposal at sea, in coastal areas and estuaries, to airborne particles. They create a framework for further developing measures to prevent, reduce, and control pollution globally, regionally, and nationally, and they call for measures to protect and preserve rare or fragile ecosystems, the habitat of depleted, threatened, or endangered species, and other forms of marine life. Those facts alone argue strongly for U.S. accession. To answer the question “Why now?” however, a daunting set of comparatively new ecological threats must be considered. Climate change and the burgeoning industrialization of the oceans are giving rise to severe environmental stresses that require an urgent global response. **U.S. leadership is critical, not only in undertaking the research that will help us understand the effects of climate change in the marine environment and related mitigation and adaptation options**, but also in tackling the problems head-on. In many respects**, such leadership cannot be fully realized without accession to the convention.**

**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.**

**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.

“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>

**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.**

**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.**

**Schiffman of NYU articulates that U.S. accession would allow it to amend future policies of UNCLOS similarly.**

<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.**

<https://www.mcgeorge.edu/Documents/Publications/tong_TUOPLR472.pdf>

Since the mid 1990’s, the U.S. experienced a steady decline in its sphere of influence in the arena of ocean law and deep seabed resources.224 In 1982, the U.S. was one of the most prominent influences and contributors to UNCLOS.225 The U.S. once wielded enough influence and authority that the drafters of UNCLOS addressed the original misgivings of the Reagan administration through the Implementation Agreement.226 **But when the U.S. chose a different path in 1998, it inadvertently surrendered its influential voice in the rulemaking 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.**

<https://digitalcommons.mainelaw.maine.edu/cgi/viewcontent.cgi?article=1051&context=oclj>

As discussed, China’s rhetoric does not fully match up with the reality of international law. Moreover, there is not merely one disconnect between over what the international law of the sea says versus what China wishes it said. Rather, there are many disconnects. For this reason, the only reasonable answer to the Mederios question whether **China** accepts or **seeks to rewrite the prevailing rules of the law of the sea is: China does not accept the prevailing rules of the international law of the sea, instead China seeks to rewrite them.**

**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.**

<https://digitalcommons.mainelaw.maine.edu/cgi/viewcontent.cgi?article=1051&context=oclj>

**UNCLOS abstention will continue to facilitate China’s ability to cast U.S. UNCLOS interpretation as self-serving and disingenuous by highlighting that the United States is seeking to extract the benefit of UNCLOS ut avoiding membership due to its distrust of the international community.** It is not inconceivable that such a narrative would resonate with many coastal states, especially if the United States’ relative regional and global primacy is seen to be diminishing.

**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.**

<https://journals.openedition.org/chinaperspectives/6994?file=1>

Other arguments state that **ratification would also help rehabilitate the image of the US, often accused by other states of ͞despis- ing͟ international law, a feeling that tends to encourage rather than dis- courage the ͞excessive͟ maritime claims that the United States is trying to fight in East Asia and around the world.**

**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.**

<https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1495&context=law_globalstudies>

Apart from continued bilateral engagement at the operational level to prevent conflict with China in the SCS, and continued multilateral engagement with China and ASEAN to encourage Chinese flexibility pursuant to mutually advantageous political and economic arrangements, the United States has one major opportunity it has so far failed to exploit. **Were the United States to join UNCLOS**, it would, at a minimum, remove a significant distraction from international law of the sea discourse and perhaps **provide the United States an opportunity to change a current dynamic that seems increasingly to favor coastal state control over all activities**, military included, in global EEZs.

**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.**

**Gates**, Douglas. “International Law Is Under Siege in the South China Sea.” **The Diplomat**, The Diplomat, 24 Jan. **2017**, thediplomat.com/2017/01/international-law-is-under-siege-in-the-south-china-sea/

The situation is particularly dire for mid-sized countries like Japan and Vietnam, which are experiencing tensions with their larger and more powerful neighbor but which are unlikely to be pulled into China’s orbit willingly for historical and cultural reasons. Without the ability to appeal to law, they will be especially dependent on the United States for protection. With Trump in office, that help may not materialize. **The absence of the rule of law at sea will provide incentives for nations to build up their armed forces and will increase the risk of a naval conflict. Asia’s Cauldron, as Robert Kaplan once termed the South China Sea, may soon 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.**

**French**, Howard W. “China's Dangerous Game.” **The Atlantic**, Atlantic Media Company, 15 Oct. **2014**, [www.theatlantic.com/magazine/archive/2014/11/chinas-dangerous-game/380789/](http://www.theatlantic.com/magazine/archive/2014/11/chinas-dangerous-game/380789/)

**China’s main frontline opponents in the South China Sea are Vietnam and the Philippines. Analysts in both countries strongly fear that Beijing will seek to make an example of at least one of them,** following the venerable Chinese adage that one kills a chicken to scare the monkeys. The question would seem to be which neighbor will serve as the sacrificial chicken; which country China will bully and humiliate as an object lesson to other neighbors that resistance is futile and decisive help from the Americans is unlikely to come.

**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 50,000 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.**

<http://time.com/100417/china-vietnam-sino-vietnamese-war-south-china-sea/>

Smoldering nationalist anger in Vietnam exploded into frenzied violence in the suburbs of Ho Chi Minh City this week as thousands of rioters swept through industrial parks north of the city’s commercial hub, razing any factory believed to be Chinese owned. After more than two decades of peace, Beijing and Hanoi are at odds again. **China’s decision earlier this month to deploy a colossal, state-owned oil rig in fiercely contested waters off the Vietnamese coast appears to have succeeded in derailing the delicate relations between the countries.** The Chinese state press lashed out publicly at its southern neighbor on the heels of several maritime skirmishes last week, with one hawkish editorial calling on Beijing to teach Vietnam the “lesson it deserves.” **The language closely resembled Chinese Premier Deng Xiaoping’s 1978 vow to teach Hanoi a “lesson” — and the echo is most unfortunate, because on that occasion the result was tens of thousands of deaths.**

**It would take just six weeks for Beijing to call off its “self-defensive counteroffensive**.” Teaching the Vietnamese a lesson turned out to be a costly affair. Official casualty statistics have never been released by either Beijing or Hanoi; however, **analysts have estimate that as many as 50,000 soldiers died during the confrontation.**