

Mini Simulation

# Should the United States Ratify the Law of the Sea?

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## Overview

The United States is one of only a few powerful countries that has not ratified the UN Convention Law of the Sea (UNCLOS). Not ratifying allows the United States to create its own maritime rules and manage resources independently. However, it also lessens U.S. influence in shaping international regulations. Meanwhile, countries that are members of UNCLOS, such as China, are gaining more sway. The decades-old debate over whether to take part highlights the challenge of balancing independence with international engagement in U.S. foreign policy.

*Students will understand that the United States faces trade-offs when deciding whether to join international agreements.*

*Students will understand that deep-sea mining presents unique governance challenges.*

## The Situation

The world's oceans are teeming with life and valuable resources. In 1982, the United Nations established UNCLOS to ensure fair and sustainable management of those vast shared waters. UNCLOS acts as a global rulebook. It governs safe ship passage, fair access to ocean resources, and the protection of marine environments.

Despite many nations becoming signatories to UNCLOS, the United States opted against joining. That decision was driven by concerns over certain clauses. These clauses required sharing mining technology and profits with other nations. This clashed with U.S. commitments to free-market principles and economic independence. Historically, the United States tends to prefer bilateral agreements, valuing its ability to navigate its affairs independently without being bound by overarching international frameworks.

By staying out of UNCLOS, the United States retains autonomy in its maritime policies, offering flexibility and control. Supporters argue that independence protects economic interests and allows strategic maneuvering on the global stage. However, not being part of UNCLOS limits the United States' ability to shape international ocean regulations. Not joining could weaken the country's influence on crucial security and economic issues. This is particularly risky as China gains prominence among signatories of the convention.

One key economic interest driving the ongoing debate is the United States' pursuit of critical minerals. An abundant supply of minerals like lithium, cobalt, and nickel lies on the seabed. These minerals are essential for developing technologies such as solar panels, wind turbines, and electric vehicles. These technologies are crucial for advancing clean energy solutions. However, potential access to this mineral supply via deep-sea mining in international waters depends on regulations set by the International Seabed Authority. An international organization established under UNCLOS.

If international mining rules are implemented and companies can start extracting minerals commercially, the United States faces a significant roadblock as a non-UNCLOS member. American companies cannot directly obtain those licenses. They will require sponsorship from a UNCLOS member nation, creating a dependence on potential competitors. This is concerning because China, already a dominant player in the critical minerals market, actively seeks further control. Reliance on foreign sources, especially China, raises national security anxieties. It

limits the United States' ability to control its own energy future.

The United States could technically mine the deep seabed without joining UNCLOS. Although, doing so could harm international cooperation. If the United States bypasses the Law of the Sea, other countries may follow suit. This would undermine the idea of working together in good faith. Without international accountability, it becomes difficult to manage global resources globally. This could have devastating environmental consequences, leading to chaos and competition.

Deep-sea mining holds promise for supporting clean energy technologies, yet it also carries significant environmental risks. Scientists caution that rushed mining activities could severely harm marine ecosystems. Mining the sea-bed could disrupt habitats, and release toxins, and pose long-term threats to ocean life. Many experts advocate for cautious approaches and augmented research before expanding mining operations. If the United States goes it alone, it could follow its own rules as it sees fit on the trade-offs of environmental protection and resource access. On the other hand, membership in UNCLOS would give the United States a voice in shaping responsible and sustainable resource extraction policies. This influence could help ensure the oceans' long-term health while allowing access to valuable resources.

Overall, the International Seabed Authority's approval of global regulations for deep-sea mining is complex and uncertain. This uncertainty adds to the United States' considerations when weighing the benefits of giving up some control for broader global objectives.

## Decision Point

The upcoming rules on deep-sea mining present a critical decision for the United States. Joining UNCLOS would allow the country to help shape global maritime laws. This is important as global demand grows for minerals essential for technology and industry. On the other hand, not ratifying allows flexibility. It avoids compromising control over maritime activities and potential conflicts over resource sharing. Should the United States ratify UNCLOS to gain a voice in global maritime law, despite potentially compromising some control? Or should it maintain observer status to retain flexibility, even though this could limit its influence on future rules?

### **NSC members should consider the following policy options, either alone or in combination:**

- *The United States joins UNCLOS.* Joining would give the United States a pivotal role in shaping international maritime laws. It would enable the United States to influence regulations concerning deep-sea mining and navigation rights. This is especially important as countries such as China expand their influence. Yet, the decision would not come without costs. Joining the agreement would likely require the United States to give up some control over its maritime resources and activities. The U.S would become subject to international dispute resolution, potentially facing lawsuits about its actions at sea. The U.S. may also have to share access to certain oil and gas reserves with other member nations. Overall, UNCLOS regulations would not always align with U.S. interests, particularly on resource sharing.
- *The United States remains nonparty to UNCLOS but observes and respects global maritime laws.* In this business-as-usual approach, the United States would maintain its nonparty status within UNCLOS. Even though it would not be a party, it could adhere to customary [international law](#) governing the seas in an aim to uphold a commitment to international order. Not ratifying could allow the United States to have flexibility in domestic maritime activities. However, not ratifying would mean that the United States would not hold a formal role in shaping future regulations. This is especially important in emerging fields such as deep-sea mining. It could disadvantage the United States as it would have limited influence on developing legal frameworks.. This could limit U.S. access to resources if the country continues to follow the rules of UNCLOS, without having a role in shaping it.
- *The United States remains nonparty to UNCLOS but mines deep-sea resources in [international waters](#), potentially violating international regulations.* This option prioritizes immediate resource access. By disregarding UNCLOS entirely and pursuing deep-sea mining independently, the United States could secure valuable minerals quickly. This route would avoid international regulation and profit sharing. However, it's a choice that would carry significant risks. Legal challenges would be likely from other countries that may accuse the United States of violating international law and territorial rights. In general, such a [unilateral](#) approach could damage the United States' reputation as a proponent of international cooperation and [rule of law](#). This could affect its global standing and relationships with other countries.

Photo: Deep sea mining vessel returns to port after a period test mining in the Clarion-Clipperton Zone between Mexico and Hawaii, off the coast of Manzanillo, Mexico on November 16, 2022.

Source: Gustavo Graf/Reuters

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