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Implementing Agreements Under the United Nations Convention on the Law of the Sea (UNCLOS)

For over 40 years, Congress has deliberated, to varying degrees, the potential pros and cons of the 1982 United Nations (UN) Convention on the Law of the Sea (UNCLOS) as it pertains to U.S. ocean policy and interests. UNCLOS established a comprehensive international legal framework to govern activities related to the global ocean and often is referred to as the *constitution of the oceans*. The United States is not a party to UNCLOS, but related U.S. law largely comports with its provisions. In addition, the United States historically has considered portions of UNCLOS to reflect *customary international law* binding the conduct of states even in the absence of a treaty. As of December 2025, 170 states and the European Union have ratified UNCLOS.

UNCLOS divides the ocean into maritime zones and describes the basic rights and obligations of states therein. During the negotiation of UNCLOS, some states objected to some of these rights, such as the treatment of seabed minerals in areas beyond national jurisdiction. After the adoption of UNCLOS, some stakeholders worked to modernize, elaborate, and operationalize the conservation and management of certain marine resources (e.g., highly migratory fish stocks). To build on the legal framework, the UN General Assembly (UNGA) adopted three implementing agreements under the UNCLOS rubric. The three implementing agreements are as follows:

- Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea (commonly known as the 1994 Agreement)
- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (commonly known as the 1995 UN Fish Stocks Agreement [UNFSA])
- Agreement Under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (commonly known as the Biodiversity Beyond National Jurisdiction [BBNJ] Agreement or the High Seas Treaty)

U.S. Objections to UNCLOS

In 1982, UNGA adopted UNCLOS (**Table 1**). At that time, the United States and some other industrialized nations did not sign UNCLOS or announced they could not ratify it without changes to Part XI of UNCLOS, which deals with deep-seabed resources in areas beyond national jurisdiction. In addition to objections over the treatment of deep-seabed resources (i.e., minerals), the United States objected to

UNCLOS provisions on technology transfers and compulsory dispute resolution.

1994 Agreement

In 1994, UNGA adopted the 1994 Agreement, which amended UNCLOS Part XI by removing many of the provisions objectionable to certain industrialized nations. In addition, the 1994 Agreement provided that the 1994 Agreement and UNCLOS shall be interpreted and applied together as a single document. After adoption of the 1994 Agreement, UNCLOS received the necessary number of signatories to enter into force (**Table 1**).

UNCLOS established the International Seabed Authority (ISA), which regulates all seabed mineral-related activities in areas beyond national jurisdiction. The ISA came into existence with the adoption of the 1994 Agreement, which made changes to the deep-seabed mining regime under UNCLOS. The ISA became fully operational as an autonomous international organization in 1996. The United States participates as an observer state in the ISA but has no vote in the ISA Assembly or Council and cannot apply for or obtain a contract or license for seabed mining activities. For the United States to participate as a member of the ISA, it would have to become party to UNCLOS and the 1994 Agreement, which would need Senate advice and consent.

On July 29, 1994, the United States signed the 1994 Agreement. In October 1994, President Clinton submitted UNCLOS and the 1994 Agreement as a package to the Senate for advice and consent to accession (Treaty Doc. 103-39). The Senate Committee on Foreign Relations held hearings on UNCLOS and the 1994 Agreement in the 108th (2003), 110th (2007), and 112th (2012) Congresses.

In the 108th Congress, the Senate Committee on Foreign Relations favorably reported and recommended that the Senate give its advice and consent to UNCLOS and the 1994 Agreement. However, the Senate did not consider UNCLOS on the floor.

In the 110th Congress, the Senate Committee on Foreign Relations held two hearings on UNCLOS. The committee favorably reported UNCLOS on December 19, 2007, and again recommended the Senate give its advice and consent to UNCLOS and the 1994 Agreement, but the Senate did not take up these instruments. During then-Secretary of State Hillary Clinton's confirmation hearing, then-Senator John Kerry, the committee chair, stated that UNCLOS also would be a committee priority, but the committee took no action on UNCLOS during the 111th Congress.

In the 112th Congress, the Committee on Foreign Relations held three hearings on UNCLOS but took no action to

recommend that the full Senate give its advice and consent to accession to UNCLOS.

1995 UN Fish Stocks Agreement

The UNFSA implements UNCLOS provisions concerning international cooperation to ensure long-term conservation and promotion of optimum utilization of fisheries resources within areas of national jurisdiction (i.e., the 200-nautical mile *exclusive economic zones*) and on the *high seas* (i.e., international waters). While the UNFSA is based on UNCLOS provisions, a state need not be a UNCLOS party to become party to UNFSA. The United States, as a UNCLOS non-party, signed UNFSA in 1995. The Senate provided consent to ratification in 1996 (Treaty Doc. 104-24), and the United States ratified UNFSA in August 1996 (Table 1). For more information, see CRS Report R47744, *United Nations Convention on the Law of the Sea (UNCLOS): Living Resources Provisions*.

Biodiversity Beyond National Jurisdiction Agreement

The BBNJ Agreement aims to ensure conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. The agreement received its 60th country ratification on September 19, 2025, and is to enter into force on January 17, 2026. As with UNFSA, the BBNJ Agreement is intended to implement relevant UNCLOS provisions, but a state does not need to be a UNCLOS party to become party to the BBNJ Agreement. The United States signed the BBNJ Agreement on September 20, 2023 (Table 1). On December 18, 2024, President Biden transmitted the BBNJ Agreement to the Senate for advice and consent to ratification (Treaty Doc. 118-2). To date, the Senate has not acted on the BBNJ Agreement. For more information, see CRS In Focus IF12283, *The Biodiversity Beyond National Jurisdiction (BBNJ) Agreement (or High Seas Treaty)*.

Selected Policy Considerations

The factors under congressional consideration over whether to ratify UNCLOS may be different now than they were in previous decades. Opponents of U.S. ratification of UNCLOS argue that the United States already enjoys most of the benefits of the rules set out in the convention and that U.S. ratification would limit economic benefits to U.S. companies and the United States. In addition, some contend that UNCLOS provisions on seabed mining, technology transfers, and compulsory dispute resolution would place the United States at a disadvantage.

From the 115th through 119th Congresses, some Members have introduced resolutions calling on the U.S. Senate to give its advice and consent to the ratification of UNCLOS. As introduced, S.Res. 331 (119th Congress) asserts that U.S. accession to UNCLOS would allow the United States to be an ISA member and participate in setting policies related to international seabed mining activities as global demand for critical minerals increases. H.R. 663 (119th Congress) would instruct the President to direct U.S. representatives at relevant international organizations to call for a moratorium on deep-seabed mining until “regulations have been promulgated by the [ISA].” This bill does not discuss U.S. accession to UNCLOS as an option that would allow the United States to formally participate in ISA policy setting.

On April 24, 2025, the Trump Administration issued Executive Order (E.O.) 14285, “Unleashing America’s Offshore Critical Minerals and Resources,” making it a policy to advance U.S. leadership in seabed mineral development. Among other actions, the E.O. directed federal agencies to expedite the review and issuance of seabed mining exploration licenses and commercial recovery permits in areas beyond national jurisdiction under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. §§1401 et seq.). In response, the ISA stated that the “legal mandate to regulate mineral-related activities” in areas beyond national jurisdiction “rests solely with the [ISA].” The E.O. does not reference UNCLOS or discuss that these federal activities would take place outside the ISA framework. Some bills introduced in the 119th Congress would codify and/or adapt E.O. 14285 (e.g., H.R. 3803; H.R. 4018; S. 2860). At present, the ISA does not permit full exploitation activities, and any potential geopolitical consequences of a unilateral U.S. approach outside of the ISA framework remain to be seen. For more information, see CRS Report R47324, *Seabed Mining in Areas Beyond National Jurisdiction: Issues for Congress*.

Aspects of U.S. law concerning domestic maritime issues and law of the sea parallel many UNCLOS provisions concerning state control and regulation of territorially adjacent waters, navigation through and use of the high seas, and protection and conservation of the marine environment and its living resources, among others. With respect to the BBNJ Agreement, Congress may consider whether new legislation would be required for U.S. implementation of the agreement and consider what, if any, obligations would be created if the United States became a party to it.

Table 1. Timeline of UN and U.S. Actions on UNCLOS and Its Implementing Agreements

	Adopted by UN	Entry into Force	U.S. Ratification	Requires U.S. Ratification to UNCLOS?
UNCLOS	1982	1994	No	NA
1994 Agreement	1994	1996	No	Yes
UNFSA	1995	2001	1996	No
BBNJ Agreement	2023	January 17, 2026	No	No

Source: United Nations, “Status of Treaties, Chapter XXI: Law of the Sea.”

Notes: NA = not applicable. See text for abbreviations.

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