



**Citizens for
Global Solutions**

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Prepared for the Senate Foreign Relations Committee on:

The United Nations Convention on the Law of the Sea

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Mr. Chairman, I appreciate the opportunity to add to the Committee's deliberations and express the support of Citizens for Global Solutions for United States accession to the United Nations Convention on the Law of the Sea. This treaty defines maritime zones, protects the environment, preserves freedom of navigation, and establishes clear guidelines for businesses that depend on the sea for resources. Until the United States ratifies the treaty its rights at sea will lack international recognition. It is our firm belief that joining this treaty will significantly advance U.S. goals and restore our international leadership role.

Mr. Chairman, my organization's thirty thousand plus members, supporters, and activists have long waited for the Senate to consider the Law of the Sea Convention. Some of our members were engaged with this process at its inception in the early 1970's. Throughout, the reasons behind our desire for the United States to join with the 155 nations who have ratified have remained consistent – security, economic opportunity, and responsible stewardship.

Mr. Chairman, the United States has a unique role in the world. The fact that our navy is globally deployed and that we can and will operate anywhere and any time means that having a clear set of rules to guide conduct on the seas promotes our interests. It is because we are exceptional that we need to be part of this treaty. Its rules function as a force multiplier for us, and to walk away from the table, to not play a leadership role in maintaining these rules would be nothing short of negligence. Joining the convention will ensure that other countries recognize the navigational and overflight rights that our armed forces depend on. These rights will help to keep us safe, defend our interests at sea, and enhance collaboration with our allies.

Our absence from the convention handicaps our ability to exploit (or conserve) precious marine resources and protect our investments. The U.S. is already far behind in the race to stake claims in the resource-rich Arctic seabed. Joining would expand our control over an area larger than the continental U.S. and give our businesses access to resources in the deep seabed, where no nation can set the rules by itself.

Joining the convention would put us in a position to further global efforts to protect marine life, conduct research, and prevent marine pollution. U.S. laws are already strong in these areas; if we join, we can better urge other countries to fulfill their obligations to keep the seas clean and safe for future generations.

The Law of the Sea has been described as the most comprehensive and progressive protection for the oceans of any modern international accord. It essentially protects the economic, environmental, and national security concerns of coastal states, as well as establishing international cooperative mechanisms for resolving disputes on these issues. The convention also safeguards imperiled marine habitats by strengthening state sovereignty over the enforcement of environmental regulations in each state's Exclusive Economic Zone (EEZ) up to 200 miles offshore. These internationally accepted regulations empower states to stop harmful pollution and ocean dumping caused by previously unregulated ships. The convention also contains special measures to save endangered whales, salmon, and other marine mammals. It helps the fisheries of coastal states by allowing them to set limits within their EEZ. It also protects valuable migratory fish stocks such as tuna and billfish on the high seas, beyond the 200-mile limit.

In addition to protection of the marine environment, the Law of the Sea promotes the maintenance of international peace and security by replacing a plethora of conflicting claims among coastal states with a 12-mile territorial limit and the aforementioned 200-mile EEZ. These regulations set a definitive limit on the oceanic area over which a nation may claim jurisdiction. However, the convention also protects the freedom of navigation on the high seas as well as the right of innocent passage, including non-wartime activities of military ships.

It is noteworthy that nations can claim mineral rights to the end of the continental shelf up to 350 nautical miles (and further in some special circumstances). This favors the United States, one of the few nations with broad continental margins, particularly in the North Atlantic, the Gulf of Mexico, the Bering Sea, and

the Arctic Ocean. However, countries must ratify the treaty for their claims to be internationally recognized. In so doing, the United States could expand its areas for mineral exploration and production by more than 291,383 square miles.

Beyond this zone the Law of the Sea has established the International Seabed Authority, an autonomous intergovernmental body based in Kingston, Jamaica, which was created to organize and control all mineral-related activities in the international seabed area beyond the limits of national jurisdiction.

When nations disagree on boundaries, mineral claims, or other aspect of the convention, the Law of the Sea contains a unique dispute resolution mechanism that obligates nations to peacefully settle their difference through one of four methods: the International Tribunal for the Law of the Sea, adjudication by the International Court of Justice, binding international arbitration procedures, or special arbitration tribunals with expertise in specific types of disputes. Binding arbitration, the preferred U.S. approach, is the default mechanism if parties don't agree to another. All of these procedures involve binding third-party settlement, except for sensitive cases involving national sovereignty. In such circumstances, the parties are obliged to submit their dispute to a conciliation commission, but they will not be bound by the commission's decision. This system will ensure that any non-military disputes that must be settled by a third party will be settled fairly and with due consideration to U.S. interests.

There is no overt role for NGO participation in the dispute resolution process, as there is in more recently negotiated treaties and agreements (such as NAFTA). However, environmental organizations see the various intergovernmental bodies established by the convention as forums where they can focus attention on the obligation of governments to "protect and preserve the marine environment" that the treaty establishes.

Negotiations to create the Law of the Sea began during the Nixon administration but didn't finish until the Reagan administration. Mr. Chairman, I would like to call attention to President Reagan's unambiguous support for the vast majority of the treaty. President Reagan even issued an executive order for the United States to abide by most of its rules. But ultimately, the United States was one of only four nations that voted against adoption of the treaty. The Reagan White House could not accept the portion of the treaty that established the International Seabed Authority (ISA). President Reagan felt that the decision-making process of the ISA Council and Assembly would not give the United States or other western industrialized countries influence commensurate with their interests. The administration was concerned that a provision on a Review Conference would allow convention amendments to enter into force without U.S. approval and that the convention required the mandatory transfer of private technology. The administration also feared that some provisions would deter rather than promote future development of deep seabed mineral resources by incorporating economic principles inconsistent with free market philosophy, which included the possibility that the ISA would ultimately transfer wealth to developing nations.

During the administration of George H.W. Bush, the United States negotiated an annex to the treaty that addressed all of these concerns. The United States finalized and signed the treaty during the Clinton administration. Too many years have passed since President Clinton signed the treaty. I appreciate the time and effort that you Mr. Chairman, the members of the Senate Foreign Relations Committee and the committee staff have put into holding hearings and gathering testimony. I look forward to this issue quickly coming before the committee for a vote and with success rapidly to the Senate floor for advice and consent. It is long past time to resolve this very old and important piece of business and for the United States to finally join the rest of the world in ratifying the Law of the Sea.

Thank you.