

18 February 2005

The Hon. Richard Lugar
Chairman,
Senate Foreign Relations Committee
United States Senate
Washington, D.C. 20510

Dear Senator Lugar:

As you know, the Foreign Relations Committee last year considered and approved a resolution of accession for the UN Convention on the Law of the Sea. Regrettably, the Committee did not take testimony from any witnesses opposed to this convention, also known as the Law of the Sea Treaty (LOST) – a fact that almost certainly contributed to the unanimous support LOST enjoyed when the vote to report out the resolution was taken.

The failure of the full Senate to act on the Committee's resolution during the last Congress means that before such action can be taken in the 109th Congress, a new resolution of accession will have to be introduced and passed by the Foreign Relations Committee.

As you have secured support from Secretary of State-designate Condoleezza Rice for LOST's ratification "as soon as possible," we presume you intend to move a new resolution of accession in the near future. If so, we are writing to express our strong opposition to the U.S. ratification of the Law of the Sea Treaty. We believe that, before the Foreign Relations Committee takes any further steps in that direction, a fresh set of hearings should be convened at which opponents, as well as proponents, will be afforded an opportunity to testify.

In particular, we would hope that such hearings would address the following matters of concern to us and our members:

- We agree with President Ronald Reagan, who wisely refused to sign the LOST in 1982, on the grounds that it was the product of an unfriendly international agenda that aimed to redistribute the world's wealth from developed nations, like the United States, to developing ones. Specifically, Mr. Reagan objected to the Treaty's Part XI, and the supranational agency – the International Seabed Authority (ISA) – it created to regulate activities on and under the seven-tenths of the globe's surface that lies beneath international waters.
- The then-Soviet Union and so-called non-aligned nations that dominated the LOST negotiations even empowered the ISA to *levy taxes*, a first in the history of multilateral institutions. President Reagan made clear his concerns about both the specific character of this organization and the "undesirable precedents" it would establish for other international institutions.
- Today, even the Treaty's supporters profess to recognize the wisdom of Mr. Reagan's objections. They claim, however, that subsequent negotiations, which produced an accord known as "The Agreement" in 1994, "fixed" what was wrong with the original Law of the

Sea Treaty. In fact, this is a matter of some dispute – even with regards to Part XI – since the Agreement does not actually amend the LOST and since nearly twenty percent of the States Parties to the Treaty have not ratified the 1994 accord.

- Other aspects of the Law of the Sea Treaty have implications for U.S. sovereignty and national security interests and clearly remain uncorrected. A number of these reflect, in much the same way the original Part XI and its supranational ISA did, the agenda of actual or potential adversaries interested in making it more difficult for this country to use the seas to prosper economically and to protect our national interests.
- For example, the Treaty compels parties to submit to mandatory dispute resolution, something the Senate has traditionally rejected. Even under the revisions contained in “the Agreement,” the U.S. would be committed to transfer potentially militarily relevant technology to possibly unfriendly hands.
- LOST will give legal grounds to those who wish to prevent us from performing vital intelligence-collection activities over, on, and under the seas, and from interdicting maritime WMD proliferation activity. We believe that LOST will act as a brake on vital U.S. activity such as President Bush’s Proliferation Security Initiative, not a lubricant.
- We believe that the U.S. Navy’s support of LOST is misplaced, and that the Senate should afford an opportunity to explore the Navy’s position in a series of hearings prior to Foreign Relations Committee action on the treaty.

We believe, in short, that the Law of the Sea Treaty involves matters of sufficient importance to our sovereignty, security and economic interests to require that not only the Foreign Relations Committee but other committees with responsibility for such portfolios as the armed services, intelligence, government affairs, finance, energy and environment and public works hold new hearings on this accord. To their credit, several of these committees did hold hearings last year, including testimony from opponents of LOST. As with the Foreign Relations Committee, these panels have been joined by one or more new members and each should be able to conduct a fresh evaluation of the advisability of ratifying this convention.

Finally, we are aware that Senators Jon Kyl, James Inhofe and Jeff Sessions have requested that the Government Accountability Office update its past, comprehensive assessments of the Law of the Sea Treaty and provide its independent analysis of a number of important questions that have arisen in the course of the hearings to date. We would respectfully suggest that any hearings your committee and its counterparts might hold on LOST await the completion of the GAO’s report.

Sincerely,

| | |
|-----------------------|--|
| David Keene | American Conservative Union |
| Phyllis Schlafly | Eagle Forum |
| Paul Weyrich | Free Congress Foundation |
| Fred Smith | Competitive Enterprise Institute |
| Frank J. Gaffney, Jr. | Center for Security Policy |
| Thomas P. Kilgannon | Freedom Alliance |
| Cliff Kincaid | America's Survival |
| Peter Leitner | Author, <i>Reforming the Law of the Sea Treaty</i> |
| Alex St. James | African-American Republican Leadership Council |
| William J. Murray | Religious Freedom Coalition |
| Kevin Kearns | U.S. Business & Industry Council |
| Jim Backlin | Christian Coalition of America |
| Gary Schmitt | Project for the New American Century |
| Connie Mackey | Family Research Council |
| William Greene | RightMarch.com |
| Joan Hueter | American Council for Immigration Reform |
| Richard Viguerie | ConservativeHQ.com |
| Wendy Wright | Concerned Women for America |
| David Ridenour | National Center for Public Policy Research |
| Ron Pearson | Council for America |
| R. Allen Angell | Free Market Foundation |
| C. Preston Noell | Tradition, Family and Property |
| Richard Falknor | Maryland Taxpayers |
| Kumen R. Call | ChangeAid.org |
| Shawn Mitchell | Vanguard PAC |
| Gabrielle Reilly | GabrielleReillyWeekly.com |
| J.C. Wilke | Life Issues Institute |

cc: Senate Majority Leader Bill Frist
 Chairmen of the Armed Services, Intelligence, Government Affairs, Finance, Energy and
 Environment and Public Works Committees
 Sens. Jon Kyl and Jeff Sessions