

What Should Congress Do With The Law Of the Sea Treaty To Protect Our National Security Interests?

By Bruce J. Moran UPDATE 11/05/07

The United States has refused to ratify the Law Of The Sea Treaty [LOST] since it was entered into force by the United Nations on November 16, 1994. Over the years, Officials have cited a great many reservations concerning the manner in which the Law Of the Sea Treaty was written. The LOST has raised serious doubts and concerns given the principles and concepts it establishes to govern the high seas which can be employed other than in a judicious, fair and equitable manner during peace time. Initial research reveals that the LOST by-laws (standards), provisions and protocols can be used to hold sway over a single country or territory like the United States.

Leading Republican members of the U.S. Senate are now on record opposing The Law Of The Sea Treaty: Senator Mitch McConnell, Senator John McCain, Senator Trent Lott, Senator James DeMint, Senator Jon Kyl, Senator David Vitter, Senator Norm Coleman, Senator Dan Inhofe, and Senator David Isakson.

Ed Meese, a former United States Attorney General, and William Clark, a former National Security Advisor, also oppose the LOST as did President Ronald Reagan who new the inherent dangers of not being on board a treaty which can infringe on the American sovereignty.

Larry Kogan, President/CEO, at the nonprofit Institute For Trade, Standards and Sustainable Development (ITSSD), who is knowledgeable about many aspects of the LOST, sees how Congress has remained largely ignorant of how the LOST violates the fundamental principles, values and practices laid out by our Founding Fathers. In particular, he understands the potential for the LOST to seriously impair U.S. industry's global economic competitiveness and to undermine and significantly reshape the American legal and free enterprise systems.

"We may consider each generation as a distinct nation, with a right, by the will of its majority, TO BIND THEMSELVES, BUT NONE TO BIND

THE SUCCEEDING GENERATION, more than the inhabitants of another country." --Thomas Jefferson to John Wayles Eppes, 1813. ME 13:270

Frank Gaffney, President/CEO of the nonprofit Center for Security Policy who has testified several times before the Senate Foreign Relations Committee clearly points out that the LOST's broad jurisdiction, involving virtually anything affecting the world's oceans, is an invitation to U.N. interference in United States affairs on an unprecedented scale... The Law of the Sea Treaty (LOST) is inconsistent with American security. As a party [to LOST], the United States would be obliged to uphold myriad commitments at odds with our military practices and national interests, including the obligation to ensure that the oceans are reserved exclusively for "peaceful purposes."

James Lyons, U.S. Navy retired admiral, former commander in chief of the U.S. Pacific Fleet, senior U.S. military representative to the United Nations, and deputy chief of naval operations also opposes the LOST. Admiral James Lyons has commented that, "*Given the current war on terror, we cannot deny our Navy the ability to carry out legitimate naval intercept operations against vessels carrying possible nuclear weapons or other weapons of mass destruction... More important, the treaty requires U.S. companies to transfer strategic technologies to Third World countries, some of them declared or potential enemies of the U.S. ... If the United States joins a treaty that allows for this sort of manipulation, we will still be subject to the Treaty's requirements, and will not necessarily be able to influence decisions concerning China and Russia.*" .” In addition, two former secretaries of the navy Bill Middendorf and John Lehman have also signaled their opposition to this treaty.

Why all of the hubbub about the Law Of The Sea Treaty which the Senate Foreign Relations Committee *QUICKLY MOVED FORWARD* last week for a full Senate LOST ratification vote? The Law Of the Sea Treaty has been ingeniously designed and constructed. Congress, however, has yet to undertake either an overall or detailed review of The Law Of The Sea Treaty. U.S. ratification of LOST has serious ramifications absent such a review considering how the by-laws, provisions and protocols can be construed against the United States.

LOST can have the same effect as, unwinding the coils of a loaded spring; you won't know how hard or how fast it will snap back at you until after it is too late.

"I hope to stand firm enough to not go backward, and yet NOT GO FORWARD FAST ENOUGH TO WRECK THE COUNTRY'S CAUSE. OUR PLIGHT." Abraham Lincoln

INDEPTH LOOK AT LAW OF THE SEA: It is the duty of Congress and each U.S. Department and Agency to directly address these issues, concerns and problems that are deeply embedded and hidden throughout the body of the Law Of The Sea Treaty. It is also Congress' obligation to directly address how LOST relates, correlates, and serves as a lynch pin to other treaties and laws. As of this date, proper and fitting hearings in the House and Senate have not transpired. Accordingly, hearings in the House and Senate should be scheduled not only to look at the Law Of The Sea Treaty by-laws, but to directly focus on 1) the Rule Of Law and how it relates to our U.S. Constitution, 2) the Treaty's direct and indirect effects on free trade, 3) how the treaty can be used by foreign governments and companies to employ unfair practices that can be used against U.S. citizens in foreign countries or corporations doing business in foreign countries 4) the treaty's inherent incompatibility with the notion of property rights, taking into account how its rules can be used to infringe on private property rights and intellectual property rights, and 5) how the treaty's protocols and provisions can and will directly and indirectly impair our armed forces ability to freely act in the land, sea and air.

"Were [a right] to be refused, or to be so SHACKLED BY REGULATIONS, not necessary for... peace and safety... as to render its use impracticable,... it would then be an injury, of which we should be entitled to demand redress." -- Thomas Jefferson: Report on Navigation of the Mississippi, 1792. ME 3:178

DUE DILIGENCE OF CONGRESS: It is the duty of Congress of The United States of America to appropriate monies so that due diligence can be undertaken, and proper investigations, research, comprehensive analysis, and review findings can be brought forward and shared between Congressional committees, Executive Branch departments and agencies in order to demonstrate how the Law of the Sea Treaty would

actually impact our trade, business, individual, military and corporate rights.

“Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passion, they cannot alter the state of facts and evidence.” John Adams

THE AMERICAN PEOPLE HAVE A RIGHT TO FULL AND IMPARTIAL LOST HEARINGS: It is the duty of the Congress to have full and impartial hearings concerning how the Law Of The Sea Treaty can be used as a springboard to bring into play other treaties provisions, protocols and laws. There are some 100 such subordinate or parallel treaties which must be brought under the Senate And House investigative process in order to peer directly into how the United States, its respective departments and agencies, the American people and American corporations can be unduly harmed, burdened, unjustly treated when various provisions and protocols come in play.

“I am a firm believer in the people. If given the truth, they can be depended upon to meet any national crisis. The great point is to bring them the real facts.” Abraham Lincoln

ISSUES AND GRAVE CONCERNS ON LAW OF THE SEA TREATY [LOST]:

- 1) **NATIONAL SECURITY:** The LOST undermines United States National Security Interests.
- 2) **U.S. MILITARY:** The LOST puts U. S. Military personnel in precarious legal [challenging] situations during short term critical intervention crisis stages and long term deployments.
- 3) **CONSTITUTIONAL RIGHTS:** The LOST supercedes Rights under the 5th and 14th Amendments: With the LOST, we will be getting into sticky and questionable constitutional law case reviews-- whether international court decisions (or commission judgments) supersede rights under the 5th and 14th amendments of the Constitution.

“Don't interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties.”

Abraham Lincoln

4) **BUSINESS, TRADE AND U. S. CORPORATE VIABILITY:**

The LOST undermines the free markets principles underlying U. S. Trade, private property rights, intellectual property rights and can potentially cripple U.S. Corporations overseas. What we see here are strictures on U.S. sovereignty, and disastrous economic fallout from the Treaty on American consumers and U.S. industrial competitiveness.

In addition, there are material dangers in store for Americans who become subject to the Law of the Sea Treaty stemming from new orders under Global Governance. Failing to examine in advance the potential damage which would be inflicted on the United States by aggressive foreign powers use of intelligence, technology and financial measures leaves our great country in a very vulnerable position.

RECOMMENDATION: THE LAW OF THE SEA TREATY WARRANTS IN-DEPTH SENATE AND HOUSE HEARINGS AND PUBLIC COMMENT AS A BASIS FOR SOUND PUBLIC POLICY DECISIONS AND FINAL CONGRESSIONAL ACTION ON THE TREATY.

COMPLETE REASSESSMENT OF LOST: This recommendation calls for a complete reassessment of the impact of the LOST by the administration. THE LOST SHOULD HAVE PROPER AND FITTING INDEPTH HEARINGS WITH ARGUMENTS AND EXPERT TESTIMONY from various USG departments and agencies as well as from the Senate and House committees and subcommittees possessing oversight jurisdiction pertaining to the LOST [see below]. Both arguments and testimony in favor of or in opposition to the LOST should be heard. Appearances should be sought from a wide range of experts, including economists, scientists, military & intelligence leaders, American business leaders and legal specialists. This action calls for a complete analysis, review, and dissemination of critical information between committees so an overall coherent decision can be made on the far reaching impact of the LOST. Hence, this immediate action is called for by the Administration, Senate and House allows our representatives

and administration officials to make highly specialized informed decisions on the critical matters pertaining to the LOST giving them a sound foundation for: 1) approving LOST ratification in full or in part, 2) recommending and making needed substantive changes [interpretation provisions of certain articles and protocols] to the LOST, or 3) not approving the LOST altogether.

U.S. BEHIND THE 8-BALL – UNDERSTANDING THE BACKDOOR

POLICY OF THE LOST: Simply stated, our Founding Fathers would be turning over in their graves if they knew we were not doing our homework before ratifying the Law Of The Sea Treaty. As we are already starting this game of ratification of the LOST behind the eight ball, we, the United States, must play big time catch up. *This is a call for action by the United States Congress and Executive Branch to do their homework including researching and investigating by-laws and agreements by other foreign nations amongst themselves in which the United States is not party but finding out how such Foreign nation's agreements directly impact the United States under the LOST.*

“A popular Government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps both. Knowledge will forever govern ignorance....” James Madison

BOTTOM LINE - “CONNECT THE DOTS” OR BE LOST ON THE

LOST: Immediate prudent action needs to be taken by the Executive Branch and Congress “to connect the dots” on THE LAW OF THE SEA TREATY TO FULLY PROTECT THE NATIONAL SECURITY INTERESTS OF THE UNITED STATES OF AMERICA. If we continue to 1) fight amongst ourselves and avoid engaging in proper discourse about the LOST, 2) fail to look into the far reaching ramifications of the LOST 3) and willfully neglect our responsibility to the American people to provide a clear understanding of LOST and all its implications; we will leave ourselves in the dire free trade economic straights. We will also constrain the constructive forces that have been laid out which support free trade practices, laissez faire policy, fair and just rights to the sea, and democratic principles of governance. We have very fine legal eagles in the Executive Branch and Congress who need to hammer out these urgent and critical issues and problems before the

United States gets taken to the cleaners even more. We are a trillion dollar U.S. economy that is being taken advantage of by many quarters.

U.S. ECONOMIC POWER ERODING: In the past 15 years, various foreign countries have quickly grown in economic stature, power and influence. The balance of economic power around the world is changing and the LOST further advances this turn-a-round weakening of the U.S. We can no longer sit by the economic sidelines permitting foreign countries individually or collectively through various bodies, including the United Nations, to administer, legislate, enact and enforce covenants, by-laws, treaties, resolutions, and mandates which can or will actually violate U.S. sovereignty, U.S. citizens constitutionally guaranteed rights and free market principles which support our sovereign society. On critical National Security matters like the LOST, we cannot fashion our decision making process in an “after the fact” manner nor may we proceed “in an emergency knee jerk fashion.” Likewise, this type of decision-making weakens our ability to act proactively to prevent further deterioration of our economic influence and power. Since 911, we have learned valuable lessons. Particularly, we have learned that the Executive Branch must work in a synergistic fashion with Congress to ensure all of our National Security matters are properly and fittingly addressed by comprehensive reviews and investigations with definitive actions plans so the “dots can be connected” to protect and defend the United States and its citizenry. If we fail to look at the Law Of The Sea Treaty in a very comprehensive manner, our National Security economic interests will erode.

“We ought not to look back unless it is to derive useful lessons from past errors, and for the purpose of profiting by dear-bought experience.”

~ George Washington

Bruce J. Moran is the Founder & Co – Chair Strategic Planning Initiatives [SPI] a Chicago / D.C. based consulting group. He is a member of the Property Rights Alliance [ATR] D.C. SPI actively works with the Executive Branch, Congress, and with various Think Tanks directly addressing urgent and critical matters of National Security.

If you would like to make your voice heard on this critical National Security matter please feel free to call:

Senator Mitch McConnell: (202) 224-2541

Senator John McCain: (202) 224-2235

Senator Trent Lott: (202) 224-6253

Senator James Demint: (202) 224-6121

Senator John Kyl: (202) 224-4521

Senator David Vitter: (202) 224-4623

Senator Norm Coleman: (202) 224-5641

Senator Jim Inhofe; (202) 224-4721

Senator John Isakson: (202) 224-3643

Upon calling U.S. Senators please leave your name, title and state.

In addition: If you are in opposition to the ratification of the LOST, you may also Blast Fax an opinion against LOST by using the hyperlink <http://www.acuactionnet.net/lostiibe.html> --- to send your urgent Blast Fax message to President George W. Bush and members of the Republican Members of the United States Senate.

References

"U.S. LOST AT SEA ?" By James Lyons, Washington Times, October 5, 2007.

Larry Kogan, Specialist in LOST, October 6, 2007: ITSSD Public Service Announcement: "TREATY TO UNDERMINE AMERICAN PROPERTY RIGHTS, NATIONAL SOVEREIGNTY AND MILITARY CAPABILITY"

"I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power." --Thomas Jefferson to William C. Jarvis, 1820. ME 15:278

The Institute for Trade, Standards and Sustainable Development (ITSSD) is a non-partisan non-profit international legal research and educational organization that examines international law relating to trade, industry and positive sustainable development around the world. This ITSSD study and related materials are accessible online at: http://www.itssd.org/GTCJ_03-offprints KOGAN - Discerning the Forest from the Trees.pdf, <http://www.itssd.org/Programs/ITSSDAssessmentISO26000Standard.pdf> and <http://www.itssd.blogspot.com> CONTACT: Lawrence Kogan 609-951-2222

SOURCE Institute for Trade, Standards, and Sustainable Development

SAY 'NO' TO THE LAW OF THE SEA TREATY (L.O.S.T.)

Six Reasons to Reject LOST Article by Frank Gaffney, Center for Security Policy, October 12, 2007

ANOTHER U.N. POWER GRAB: WHAT WOULD RONALD REAGAN DO ON THE LAW OF THE SEA TREATY? WE KNOW THE ANSWER.

BY WILLIAM P. CLARK AND EDWIN MEESE Monday, October 8, 2007

Judge Clark and Mr. Meese served in several capacities in President Reagan's administration including, respectively, as national security adviser and attorney general.

RESOURCES

"LOST" PUBLICATIONS ON THE WEB

Publications on LOST on the web:

Cliff Kincaid on LOST: <http://www.usasurvival.org/ck09.24.07.shtml>.

Cliff Kincaid's anti-LOST web site: <http://www.usasurvival.org/>.

Fred Smith on LOST: <http://www.cei.org/gencon/027,06181.cfm>.

Doug Bandow on LOST: <http://www.cei.org/gencon/025,06151.cfm>.

Jeremy Rabkin on LOST: <http://www.cei.org/pdf/5352.pdf>.

**Heritage Foundation on the top 5 reasons to oppose LOST:
<http://www.heritage.org/Research/InternationalOrganizations/wm1638.cfm>.**

**A scholarly article by Professor William C. G. Burns on how they will use
LOST to sue the U. S. to reduce greenhouse gas emissions:
<http://www.usasurvival.org/docs/burns.pdf>.**

**Note: The Center for Security Policy, Washington, D.C, has created a
website as a resource for educational efforts on the Law of the Sea. :
www.RejectLOST.org.**