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Donald Rumsfeld

Senate Foreign Relations Committee Statement on Law of the Sea Treaty



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It's a pleasure to appear with these experts on this subject. I'm 30 years away from it, but I'm pleased to be here.

It was 30 years ago that President Reagan asked me to meet with world leaders to represent the United States in opposition to the Law of the Sea Treaty. Our efforts soon found a persuasive supporter in British Prime Minister Margaret Thatcher. Today, as the U.S. Senate again considers approving this agreement, the reasons for their opposition, I believe, remain as persuasive.

When I met with Mrs. Thatcher in 1982, she promptly grasped the issues at stake. Her conclusion on the Treaty was unforgettable. She said, "What this treaty proposes is nothing less than the international nationalization of roughly two-thirds of the Earth's surface." And then, referring to her battles dismantling Britain's state-owned mining and utility companies, she added, "And you know how I feel about nationalization."

The major idea underlying the Law of the Sea Treaty is that the richest of the oceans, beyond national boundaries, are the common heritage of mankind and thus, supposedly, owned by all people. Actually, it means that they are un-owned.

This idea of *ownership*, which is encompassed in the Treaty, requires that anyone who finds a way to make use of such riches, by applying their labor, or their technology, or their risk-taking, are required to pay writ royalties of unknown amounts, potentially billions, possibly



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even tens of billions, over an extended period, an ill-defined period of time, to the new International Seabed Authority for distribution to less developed countries.

This, in my view, is a new idea of enormous consequence. It establishes a way of looking at industry, investment, talent, risk, and good fortune that argues in favor of distributing a significant portion of the value of the minerals in the deep-sea beds to developing countries. I suppose it's also conceivable that it could become a precedent for the resources of outer space.

The principle that advanced countries, when they make use of resources that previously belonged to no one, owe royalties to less developed countries is a novel principle that has, in my view, no clear limits. And I know of no other treaty that follows that pattern. The idea is fundamental and integral to the Law of the Sea Treaty. It is the major reason, I believe, we should not see that treaty ratified.

I don't argue against developed countries providing financial and other forms of aid to poor countries. There are moral and practical arguments in favor of such aid, but the decision to provide such aid is, has been, and probably should be a sovereign choice for each nation. In the case of our country, it's the choice of our citizens and you, their elected representatives. Very simply, I do not believe the United States should endorse a treaty that makes it a legal obligation for productive countries to pay royalties to less productive countries based on rhetoric about common heritage of mankind.

The wealth distribution idea incorporated in the Law of the Sea Treaty is especially objectionable because the mechanism for the redistribution is poorly designed. It uses a newly-created, multinational seabed authority, which is effectively a U.N. agency, instead of the U.S. Congress, through our foreign aid programs or through the World Bank of which we and others are members.

If the Treaty were to be ratified, the U.S. apparently would receive a permanent seat on the Council of the Authority. Even so, the Authority would not be effectively accountable to the American people, any more than any other U.N. agency is accountable. And it must be acknowledged that the United Nations has a poor record in administering its programs. For example, the U.N. *Oil-for-Food Programme* was a multibillion dollar scandal.

Businesses, as the Chairman and the Ranking Member have indicated, have expressed support for the Treaty in that it would provide greater certainty -- which, I agree, could be helpful. I was in business for 20 years and there's no question but that they make that argument, and it's a valid one. And it needs to be considered and weighed.

The most persuasive argument for the Law of the Sea Treaty, in my view, is the U.S. Navy's desire to lock in some navigation rights. It's correct that the treaty would provide some benefits, clarifying some principles and perhaps making it easier to resolve certain disputes.



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But the U.S. Navy has done quite well without this treaty for the past 200 years, and certainly during the 20 or so years since it's been in effect, relying often on customary international law to assert navigation rights. In my view, the Law of the Sea Treaty would not make a large enough additional contribution regarding navigation rights or business certainty to counterbalance the problems it would create.

As Members of the Senate carefully read each of the 208 pages of this document, the 320 Articles, and also the 1994 Agreement, I think they will appreciate the basis for those concerns and uncertainties. I respect the concerns raised by the Navy, and by the military, and by elements in the business community, but the fundamental objections raised by Mrs. Thatcher in her 1982 objection to effectively nationalizing the world's oceans through a new, multinational bureaucracy, I believe, outweigh the advantages and make the Treaty, on balance, a net loss for U.S. interests.

Thank you, Mr. Chairman.