

# United States Senate Committee on Foreign Relations

## WASHINGTON, DC

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### Kerry Statement

#### Senate Foreign Relations Committee Hearing on The Law of the Sea Convention: The U.S. National Security and Strategic Imperatives for Ratification

**Washington, DC** – This morning, Senate Foreign Relations Committee Chairman John Kerry (D-MA) delivered the following statement at a hearing that analyzed the U.S. national security and strategic imperatives for ratifying the Law of the Sea Convention (Treaty Doc. 103-39) with Secretary of State Hillary Clinton, Secretary of Defense Leon Panetta, and General Martin Dempsey, Chairman of the Joint Chiefs of Staff, serving as witnesses.

“Some may ask why now, why consider a Treaty that's been untouched by the Senate for the last five years, and been hanging around for more than 25,” said Chairman Kerry. “I think the real question is why we wouldn't have this discussion, now, when today, we have the worst of all worlds. We've effectively lived by the terms of the Treaty for 30 years but, as a non-party, we're on the outside looking in. We live by the rules but we don't shape the rules.”

Witness testimony from today's here can be found [here](#).

*The full text of Chairman Kerry's hearing statement, as delivered, is below:*

Secretary Clinton, Secretary Panetta, and General Dempsey: Welcome, we're particularly privileged to have you here today and thank you for joining us.

It's really a rare occasion – I think in any committee – but it's a rare occasion in this Committee when we have, simultaneously, a panel of witnesses that brings together America's top diplomat, our country's top defense official, and the nation's top military officer.

But your presence here, all together, powerfully underscores the importance that you put on this issue.

Our Committee shares this sense of importance, which is why, I hope without respect to Party or ideology, we will begin an open, honest, and comprehensive discussion about whether the United States of America should join the Law of the Sea Convention.

I want to underscore the word comprehensive. I've heard from countless military and business leaders – for some period of time – who believe it's urgent we ratify this Treaty. And I've also spoken with Senators and some groups who oppose the Treaty.

I intend to make certain that the Committee does its job properly and thoroughly. We will hear from all sides and we will ask all questions as we begin the process of educational hearings on this issue, the first since

2007. The Senate has seen a fair number of new members elected since then, from both sides of the aisle, and our Committee also has new members, so I think a thorough examination of the Treaty is especially timely and relevant.

Some of us have had the opportunity in the past to evaluate this Treaty and even to vote on it in this Committee. I am personally deeply supportive of it and I believe it is now more urgent than ever that we ratify it because to remain outside of it is fundamentally, directly counter to the best interests of our country.

I am convinced beyond any doubt that joining the other 160 nations that are party to the Treaty will protect America's economic interests and our strategic security interests. And I believe the evaluation we make over these next weeks will document that beyond any doubt. But I promise the Committee and the Senate that notwithstanding my support, we will conduct exhaustive and fair hearings to examine all the arguments pro and con.

Some may ask why now, why consider a Treaty that's been untouched by the Senate for the last five years, and been hanging around for more than 25. I think the real question is why we wouldn't have this discussion, now, when today, we have the worst of all worlds. We've effectively lived by the terms of the Treaty for 30 years but, as a non-party, we're on the outside looking in. We live by the rules but we don't shape the rules.

It couldn't be more clear. Without joining the LOS, we are deprived of critical benefits and protections under the Treaty. Let me give you a few quick examples:

Ratifying the Treaty will lock in the favorable navigational rights that our military and shipping interests depend on every single day. It will strengthen our hand against China and others who stake out claims in the Pacific, the Arctic, or elsewhere.

It will give our oil and gas companies the certainty that they need to make crucial investments to secure our energy future. It will put our telecommunications companies on an equal footing with their foreign competitors. And, it will help secure access to rare earth minerals, which we need for weapons systems, computers, cellphones, and the like.

It will also address issues of Military Effectiveness. As our national security focus shifts towards the Asia Pacific region, it's more important than ever that we're part of this Treaty. China and other countries are staking out illegal claims in the South China Sea and elsewhere.

Becoming a party to the treaty would give an immediate boost to U.S. credibility as we push back against excessive maritime claims and illegal restrictions on our warships or commercial vessels. There is no doubt in my mind that it would help resolve maritime issues to the benefit of the United States and our regional allies and partners. We will hear from every single former Chief of Naval Operations, and Commandant of the Coast Guard, to that effect.

The treaty is also about Energy Security. While we sit on the sidelines, Russia and other countries are carving up the Arctic and laying claim to the oil and gas riches in that region. We, on the other hand, can't even access the Treaty body that provides international legitimacy for these types of Arctic claims. Instead of taking every possible step to ensure our stake in this resource rich area, we are watching others assert their claims and doing nothing about it because we have no legal recourse.

This Treaty is also about Rare earth minerals. China currently controls the production of rare earth minerals – 90 percent of the world's supply we are dependent on from China. There is no way that enhances American security. We need this for cellphones, computers, and weapons systems. U.S. industry is poised to secure these minerals from the deep seabed, but they cannot do so through the United States as it is because we're not a party to the Treaty.

But don't take my word for it. Listen to our top companies. Just last week, Bob Stevens, the CEO of Lockheed Martin, wrote to me urging that that the Senate pass Law of the Sea Treaty. I want to just take a minute to read from his letter. He said:

*“[T]he multi-billion dollar investments needed to establish an ocean-based resource development business must be predicated upon clear legal rights established and protected under the treaty-based framework of the LOS Convention, including the International Seabed Authority (ISA). Other international players recognize this same reality and are acting upon it. Countries (including China and Russia) are moving forward aggressively within the Treaty framework, and several of these countries currently hold exploration licenses from the International Seabed Authority....*

*Unfortunately, without ratifying the [Convention], the United States cannot sponsor claims with, or shape the deep seabed rules of the ISA. Yet, that is the critical path forward if the United States intends to expand and ensure access—for both U.S. commercial and government interests—to new sources of strategic mineral resources.”*

Without objection, I'll place the full letter into the record.

I'd also would just point out quickly that today there's a full-page ad in the Wall Street Journal, placed by the U.S. Chamber of Commerce. The U.S. Chamber of Commerce states three reasons – the first of which is pure economics – jobs – the United States economy depends on the passage of this.

Whether it's rare earths, the Arctic, or illegal maritime claims, China is moving the ball over the goal line while we're sitting on the sidelines. To oppose this Treaty is to enable China and Russia to continue to utilize the Treaty to their benefit and our disadvantage. How does that make sense for American economic or strategic security?

And the Treaty is also about Telecommunications. The treaty provides a legal framework to lay and protect submarine cables. I don't need to tell most people about how critical the Internet is to our economy and national security. We need to put ourselves on the best footing possible to protect those cables through which the Internet flows, and the treaty does that.

That's why AT&T, Verizon, Level 3, and others, support this Treaty. Again, don't take my word for it. In a recent letter, AT&T explained that:

*“[S]ubmarine cables provide backbone international transmission facilities for the global internet, electronic commerce and other international voice and data communications services that are major drivers of the 21st Century global information-based economy....[I]t has never been more important to our U.S. economic infrastructure, and our participation in the global economy, to strengthen the protection and reliability of international submarine cables. The Law of the Sea Convention, particularly as assisted by the enforcement mechanisms available to parties under Article 297, is a critical element of this protection.”*

I'd like to enter this letter into the record as well.

Now let me say a last thing about the process and timing for consideration of this Treaty. I think it that is important – what I'm going to say. Obviously this is a Presidential election year and it is one that has already proven difficult, if not, at times, toxic. I do not want this Treaty to become victim to that race or to the politics of the moment. A number of colleagues on and off the Committee have been very candid and suggested they would be more comfortable if we can avoid pushing this deliberative process into the middle of an election. I would like to see this Treaty stay out of the hurly burly of Presidential politics. Heeding that advice, and

preferring that we encourage the kind of evaluative and educational process which does justice to this Committee, and justice to the United States Senate ratification process, I announce today that I do not currently intend to bring the Treaty to a vote before the November elections.

We will have extensive hearings. We will do our due diligence. We will prepare for a vote. But unless, somehow, the dynamic were to shift, or change, we will wait until the passions of the election have subsided before we vote.

My hope and expectation is that everyone will exhaust all avenues of inquiry and carefully consider the arguments on both sides.

The contentious political season will now give us a chance to do what this Committee, historically, has done best – which is not to politicize, but to spend a lot of serious, thoughtful time deliberating and debating all questions of substance.

While I'm pleased to see that the Internet is already beginning to buzz with some discussion with this, but I will say up front that there is a lot of misinformation, and there's a certain amount of mythology.

I look forward to clearing that misinformation, and the mythology. As my friend Senator Moynihan used to say – our friend, then-Senator Clinton and Senator Warner who's here – a famous phrase, "Everyone is entitled to his own opinion, but not to his own facts."

There are facts, with respect to this Treaty, and I look forward to this Committee establishing what they are.

Ultimately, this issue needs to be decided by the members of this Committee asking tough questions of the witnesses that come before us, not by outside groups.

So I am pleased that we will have the opportunity over the next several weeks, and the next couple of months, to hear from multiple witnesses. We begin today with our top national security leaders.

They will be followed by military commanders, including those who are in charge of our operations, top business leaders – the Chamber of Commerce and others, treaty experts, and opponents. Once again, I simply ask that everybody work hard to find out what is factual and what the realities are with respect to how this works.

With that I would like to welcome today's distinguished witnesses once more:

As Secretary of State, Hillary Clinton has worked tirelessly to advance our security and economic interests abroad, and I think everyone agrees she has done a tremendous job of doing so.

Secretary of Defense Leon Panetta has served with great distinction across four decades in government. He's earned broad respect from Democrats and Republicans for his pragmatic and thoughtful approach to national security.

And, General Martin Dempsey, the Chairman of the Joint Chiefs of Staff, has done a tremendous job in his stewardship of our military during a time of extraordinary challenge and transition.

Senator Lugar.

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