

**SENATE FOREIGN RELATIONS COMMITTEE PREPARED TESTIMONY
BY FORMER SECRETARY OF DEFENSE DONALD RUMSFELD
EMBARGOED UNTIL JUNE 14, 2012**

Mr. Chairman and Members of the Committee –

Thirty years ago President Ronald 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 flawed agreement, the reasons for President Reagan and Mrs. Thatcher's opposition remain every bit as persuasive.

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

President Reagan, for his part, had just been elected to office. The Treaty had been presented to him as a done deal requiring only his signature and U.S. Senate consent to its ratification. Then as now, most of the world's nations had already approved it. The Nixon, Ford and Carter administrations had all gone along with it. American diplomats generally supported the treaty and were shocked when Reagan changed America's policy. Puzzled by their reaction, the President was said to have responded, "But isn't that what the election was all about?"

Yet, as the man known as the Gipper might say, here we go again. An impressive, if unlikely, coalition is now arrayed in support of U.S. ratification of the United Nations Law of the Sea Treaty. As during the Reagan years, dozens of diplomats and national security officials, including every living former Secretary of State have endorsed the Obama administration's goal of ratification. The U.S. Navy wants to "lock in" existing and widely accepted rules of high-seas navigation. Business groups say the treaty could help them by creating somewhat more certainty.

Can so many people, organizations, and countries be mistaken? The answer, I believe, is yes. Various proponents have their particular considerations,

each valid, but none, in my view, has made a compelling case that the treaty would, on balance, benefit America as a whole.

Though modest “fixes” were made in 1994 in a separate agreement signed by some, but not all, of the treaty’s parties in the hope of addressing some of the flaws identified in the Reagan-era version of the treaty, its most serious defect is unaltered: the Law of the Sea Treaty remains a sweeping power grab that could prove to be the largest mechanism for the worldwide redistribution of wealth in human history.

The Treaty proposes to create a new global governance institution that would regulate American citizens and businesses, but which would not be accountable politically to the American people. Some of the Law of the Sea Treaty’s proponents pay little attention to constitutional concerns about democratic legislative processes and principles of self-government, but I believe the American people take seriously threats to these foundations of our nation.

The Treaty creates a United Nations-style body called the “International Seabed Authority.” “The Authority,” as UN bureaucrats call it in Orwellian shorthand, would be involved in all commercial activity such as mining and oil and gas production in international waters. It is to this entity that the United States, pursuant to the Treaty’s Article 82, would be required to transfer a significant share of all royalties generated by American companies—royalties that would otherwise go to the U.S. Treasury for the benefit of the American people.

Over time, hundreds of billions of dollars could flow through the “Authority” with little oversight. The United States could not control how those revenues are spent. Under the Treaty, the Authority is empowered to redistribute these so-called “international royalties” to developing and landlocked nations with no role in exploring or extracting those resources. It would constitute a massive form of global welfare, courtesy of the American taxpayer. It would be as if fishermen who exerted themselves to catch fish on the high seas were required, on the principle that those fish belonged to all people everywhere, to give a share of their take to countries that had nothing to do with their costly, dangerous and arduous efforts.

Worse still, these sizable “royalties” could go to corrupt dictatorships and state sponsors of terrorism. For example, as a Treaty signatory and a

member of the “Authority’s” executive council, the government of Sudan – which has harbored terrorists and conducted a mass extermination campaign against its own people -- would have just as much say as the United States on issues to be decided by the “Authority.” Disagreements among Treaty signatories are to be decided through mandatory dispute resolution processes of uncertain integrity. Americans should be uncomfortable with unelected and unaccountable tribunals appointed by the Secretary General of the United Nations serving as the final arbiter of such disagreements.

Even if one were to agree with the principle of global wealth redistribution from the United States to other nations, other UN bodies have proven notably unskilled at financial management. The UN Oil-for-Food program in Iraq, for instance, resulted in hundreds of millions of dollars in corruption and graft that directly benefited Saddam Hussein and those nations friendly to Iraq. The Law of the Sea treaty is another grand opportunity for scandal on an even larger scale.

The most persuasive argument for the Law of the Sea Treaty is the U.S. Navy’s desire to shore up international navigation rights. It is true that the Treaty might produce some benefits, clarifying some principles and perhaps making it easier to resolve certain disputes. But our Navy has done quite well without this treaty for the past two hundred years, relying often on centuries-old, well-established customary international law to assert navigational rights. Ultimately, it is our naval power that protects international freedom of navigation. The Law of the Sea Treaty would not make a large enough additional contribution to counterbalance the problems it would create.

In his farewell address to the nation in 1988, President Reagan, advised the country: "Don't be afraid to see what you see." If the members of the U.S. Senate fulfill their responsibilities, actually read the Law of the Sea Treaty and consider it carefully, I believe they will come to the conclusion, as I have, that the Treaty’s costs to our security and sovereignty would far exceed any benefits for the United States.

Mr. Chairman, thank you very much.

###