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COMMITTEE ON FOREIGN RELATIONS

STATEMENT OF
ADMIRAL JONATHAN GREENERT
CHIEF OF NAVAL OPERATIONS
BEFORE THE
SENATE
COMMITTEE ON FOREIGN RELATIONS
ON
LAW OF THE SEA CONVENTION
14 JUNE 2012

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Chairman Kerry, Senator Lugar and members of the Committee, thank you for the opportunity to testify in support of the United States joining the Law of the Sea Convention (LOSC). I join my predecessors in supporting the Convention and I believe it is important to our ability to reduce our reliance on customary international law, provide a mechanism to resolve disputes, assure our access across the maritime domain, and protect our nation's security and prosperity. I appreciate your continued support of our 625,000 Sailors and civilians and look forward to working together in pursuing our national security objectives.

As the world's preeminent maritime power, the United States will benefit from the support LOSC provides to our operations. Our ability to deter aggression, contain conflict, and fight and win our nation's wars depends upon our ability to freely navigate the world's oceans. The rules inherent in LOSC support worldwide access for military and commercial ships and aircraft without requiring permission of other countries, such as in the archipelagic waters of countries like Indonesia, or in the Arctic where receding ice is opening new routes for transit. The Convention affords our submarines the right to transit submerged and aviation-capable ships to transit while conducting flight operations through international straits; establishes broad navigational rights and freedoms for our ships and aircraft in the exclusive economic zones of other nations and on the high seas; and reinforces the sovereign status of our vessels. The Convention affords navigational rights for ships without regard to cargo or means of propulsion, an extremely important right given our extensive use of nuclear power.

LOSC provides a formal and consistent framework for the peaceful resolution of maritime disputes. It defines the extent of control nations can legally assert at sea and prescribes procedures to counter excessive maritime claims. Acceding to LOSC will increase our credibility in invoking and enforcing the treaty's provisions and maximize our influence in the interpretation and application of the law of the sea. Recent interference with our operations in the Western Pacific and rhetoric by Iran to close the Strait of Hormuz underscore the need to use the Convention to clearly identify and respond to violations of international law that seek to constrain access to international waters. As a party to the Convention, we will bolster our position to press the rule of law and maintain the freedom to conduct military activities in these areas.

Remaining outside LOSC is inconsistent with our principles, our national security strategy and our leadership in commerce and trade. Virtually every major ally of the U.S. is a party to LOSC, as are all other permanent members of the U.N. Security Council and all other Arctic nations. Our absence could provide an excuse for nations to selectively choose among Convention provisions or abandon it altogether, thereby eroding the navigational freedoms we enjoy today. Accession would enhance multilateral operations with our partners and demonstrate a clear commitment to the rule of law for the oceans. For example, under the Convention, warships are authorized to stop and board vessels if they are suspected to be without nationality or engaged in piracy. By joining LOSC, we would “lock in” these authorities as a matter of treaty law and thus strengthen our ability to conduct counter-piracy operations across the globe and provides an important tool to support counter-proliferation efforts, and maritime interdiction of terrorists and illegal traffickers tied to terrorism.

LOSC supports the operations of our military forces. Under the Convention we retain the right to define what constitutes our own military activities, which are excluded from dispute resolution procedures. Moreover, the Convention does not limit our ability to use force in self-defense. I would not support LOSC if I thought it limited our nation’s military options.

The Navy’s ability to retain access across the maritime domain and adjacent airspace, especially the strategic maritime crossroads, would be enhanced by accession to LOSC. As the world’s preeminent maritime power, the United States has much to gain from the legal certainty and global order brought by LOSC. As a party to LOSC, we will be in a better position to counter the efforts of nations to restrict freedom of the seas. The United States should not rely on customs and traditions for the legal basis of our military and commercial activity when we can instead use this Convention. It is an important element of protecting our nation’s security and prosperity.