

Statement of
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Before the Senate Foreign Relations Committee

Law of The Sea Convention

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Chairman Kerry, Senator Lugar, and distinguished members of the committee, it is my privilege as the Commander of the United States Transportation Command (USTRANSCOM) to testify today on the Law of the Sea Convention. As the Department of Defense's Distribution Process Owner and Global Distribution Synchronizer, USTRANSCOM relies on unfettered global mobility, unimpeded flow of cargo by air and sea through strategic chokepoints, and unchallenged access to the world's navigational lanes by our military assets and our commercial industry partners to support our forces around the globe. I believe that a comprehensive, globally accepted and stable legal basis for navigating and overflying the world's oceans is essential to support our forces worldwide and to ensure our national security.

Joining this Convention would codify several important recognized rights of navigation into a binding legal foundation. It supports our national security interests by defining the rights of U.S. military and civilian vessels as they meet our mission requirements, reaffirms the sovereign immunity of our warships and other vessels owned by the United States and used for government noncommercial service, and preserves our right to conduct military activities and operations in exclusive economic zones. As the defense strategy places greater demands on our ability to mobilize forces, guaranteed access to shipping and overflight lanes becomes increasingly important to support our forces overseas.

Currently, the United States relies upon customary international law as the primary legal basis to secure global freedom of access. However, as emerging powers around the world grow and modernize, states may seek to redefine or reinterpret customary international law in ways that directly conflict with our interests, including freedom of navigation and overflight, potentially challenging our global mobility needs. This Convention represents the best guarantee against erosion of essential navigation and overflight freedoms that we take for granted through reliance on customary international law. Accession will give the United States leverage to counter efforts by other nations seeking to reshape current internationally accepted rules we depend on for transporting cargo and passengers.

USTRANSCOM's military and commercial partners operate across every portion of the globe in defense of our national interests. Before we send them into harm's way, it is important for our sailors and airmen to know they have the backing and authority of U.S. accession to the Convention on the Law of the Sea rather than depending on customary international law which some nations attempt to ignore or challenge. This is especially true for strategic chokepoints such as the Bab Al Mandeb, the Gulf of Aden and the Strait of Hormuz. Iran's recent challenge to freedom of navigation through the Strait of Hormuz for a military exercise is an example of threats to international law and our ability to move critical supplies through that region. Acceding to the Convention would provide U.S. forces and commercial partners the strongest legal footing for countering an Iranian anti-access attempt to close the strait to international shipping.

Being a member of the Convention will help to simplify this complex maritime environment both for our military forces as well as our commercial partners who have played a critical role in developing new routes for transporting DOD cargo and in enabling access to a vast global infrastructure for transport of DOD cargo. More than 90 percent of all military supplies and equipment are transported around the world by sea, much of it by commercial vessels. This Convention provides important legal support for our commercial partners who transport our cargo, unescorted by U.S. warships, under the legal regimes of the Law of The Sea Convention. Without codification of those rights, our commercial partners are at greater risk.

Likewise, the Convention will provide important legal support to our civil air carrier partners who transport nearly all military passengers and a significant amount of DOD air cargo over the sea. As we continue to improve efficiency in air transportation, unimpeded overflight access to the world's oceans and sea lanes will remain a necessary component to conducting our mission.

The Convention would also support freedom of navigation and overflight in emerging areas of strategic importance including the South China Sea and the Arctic. The defense strategy requires

continued and future access to navigational routes throughout Asia, particularly in the South China Sea, in order to sustain our forces in that region. As the Arctic becomes increasingly important for mobility, the interpretation of the navigational provisions will become even more critical. We need U.S. leadership as a party to the Convention to influence and lead this discussion. In both regions, the Convention will help defend our rights to transport cargo and personnel against nations attempting to assert extended territorial claims.

The United States has a rich history as a maritime and aviation leader in the international community. We must continue to lead in ensuring access rights to shipping lanes and overflight routes. Accession to the Law of the Sea Convention allows the U.S. to continue to have a leadership role in developing and influencing the Law of the Sea as a leader among sovereign nations. I strongly support U.S. accession to the Convention.