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# Testimony

**of Jay Timmons**  
President & CEO  
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*before the U.S. Senate Committee on Foreign Relations*

*on The Law of the Sea Convention:  
Perspectives from Business and Industry*

June 28, 2012



**COMMENTS OF THE NATIONAL ASSOCIATION OF MANUFACTURERS  
BEFORE THE**

**U.S. SENATE COMMITTEE ON FOREIGN RELATIONS**

**JUNE 28, 2012**

Thank you, Chairman Kerry and Ranking Member Lugar, for holding this hearing and including the business community in your deliberations on an issue that is vital to our national security and our global economic competitiveness.

I am pleased to appear before this committee to discuss the U.N. Convention on Law of the Sea and its importance for America's manufacturers. I am Jay Timmons, president and CEO of the National Association of Manufacturers (NAM). The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. Our membership includes both large multinational corporations and small and medium-sized manufacturers.

Our charge at the NAM is to promote policies that make the United States the best place in the world to manufacture.

It's no surprise then that ratification of the Law of the Sea Treaty is a priority for many of the NAM's members. Its adoption is critical for manufacturing competitiveness in the United States.

While my testimony will focus primarily on mineral development on the deep seabed, that is not the only reason for the urgency in adopting this treaty.

In today's global economy, exports are more important than ever. Ninety-five percent of the world's consumers live outside the United States, so reaching these potential customers is critical for manufacturing competitiveness.

This treaty will secure international lanes of commerce and ensure that manufacturers can export their products efficiently. It protects our sovereign interests and promotes international commerce.

Secure shipping lanes are a priority for NAM members. Last year, cargo ships and other ocean liners carried \$570 billion of U.S. exports. Discounting our exports to Mexico and Canada, which travel by rail and truck, this total accounts for more than 50 percent of our exports by value and more than 90 percent of our exports by weight.

And, with global commerce comes the need for global communication. The telecommunications industry needs the Convention to expand the right to lay and maintain submarine cables in the oceans of the world and provide stronger protections for cables against damage by other parties.

We can also strengthen manufacturing by ensuring that manufacturing in the United States is cost competitive. Currently, it is 20 percent more expensive to manufacture in the United States than it is among our major trading partners.

This treaty will help reduce the cost of manufacturing in two important ways.

First, it will provide new opportunities for energy exploration. Secure and reliable sources of energy are a significant concern for manufacturers, which consume one-third of the energy produced in the U.S.

Energy companies need the certainty the Convention provides in order to explore beyond 200 miles and to place experts on international bodies that will delineate claims in the Arctic.

And next, it will help reduce manufacturing costs by opening up access to critical inputs used in many manufacturing applications.

### **Rare Earth Minerals are Vital to Manufacturing**

Manufacturers in the United States require access to basic inputs for the production process in order to become and remain competitive in the global economy. As manufacturing grows more high tech, “rare earth” minerals are becoming increasingly important to manufacturers and their supply chains. Rare earth minerals consist of 17 elements that are important for numerous manufacturing applications, including in the production of chemicals, defense products, consumer electronics, wind turbines, hybrid car batteries and other renewable energy products. They are also used as catalysts for petroleum refining.

Until a decade ago, the United States was 100 percent self-reliant for rare earth production, with domestic companies producing enough to supply U.S. manufacturers. Over time, however, U.S. production was halted as it became economically and environmentally cost prohibitive.

Companies in various countries – including the United States – are looking at reopening closed mines and developing new deposits, but these efforts could take a number of years to fully come on line.

The deep seabed offers a new opportunity for the United States to gain steady access to these vital rare earth minerals. Polymetallic nodules are located on the deep ocean floor. These nodules typically contain manganese, nickel, copper, cobalt and rare earth minerals. However, U.S. companies cannot actively pursue claims in the areas where these nodules are dense unless the U.S. ratifies the Law of the Sea Treaty.

### **Deep Seabed Development**

There is no doubt the world is very different today. We are a global economy, and countries are working feverishly to take our mantle of economic leadership away from us.

Deep seabed mining is an emerging global industry and, indeed, a key ingredient to economic growth and competitiveness. We have companies in the United States with the means to explore and develop the resources and minerals on and in the seabeds of international waters, but they will only do so if there is a structure that contains internationally recognized agreements in place. This treaty will institute that legal framework upon which companies—and countries—can rely.

U.S. multinational companies expect other countries to abide by international standards and rules in other areas, such as intellectual property, counterfeiting, dumping, and international financing. So do we. It, therefore, is logical that we would expect the same when determining our ability to access the resources of the seabed.

The Law of the Sea Convention provides the only internationally recognized legal regime for extracting mineral resources from the ocean floor in the deep seabed, an area over which no country has sovereign rights. The International Seabed Authority (ISA) develops the rules, regulations and procedures relating to the deep seabed. The Convention guarantees the United States, and only the United States, a permanent seat on the decision-making Council of the ISA – with an effective veto over decisions impacting U.S. interests.

The development of deep seabed claims is incredibly expensive. Companies in the U.S. are reluctant to invest heavily in deep seabed mining because of the risk that their activities would not withstand a legal challenge since the U.S. is not a party to the Convention. Conversely, foreign companies, because their governments have joined the Convention, have access to the international bodies that grant the legal claims to operate in the deep seabed area. The U.S. cannot represent the interests of its companies in those bodies.

Lockheed Martin, for example, has two deep seabed claims that pre-date the Law of the Sea Convention. It has continued to extend its licenses through the National Oceanic and Atmospheric Administration (NOAA). These claims will be instantly recognized by the International Seabed Authority (ISA) if the U.S. joins the Convention. However, without the U.S. becoming a party to the Convention, Lockheed Martin is unable to secure U.S. sponsorship of these claims at the ISA.

### **China's Dominance of Rare Earths**

Our nation's ability to access rare earth minerals may be the most pressing economic security issue we face.

Today, a single country – China – holds a virtual monopoly on the mining and production of rare earth elements. China produces more than 90 percent of the world's supply and also consumes roughly 60 percent of that supply. Brazil, India, Malaysia and Canada are the other sources of the remaining paltry supply of rare earths.

China recently imposed significant export restrictions on its rare earth production. In 2010, it announced it would cut exports of rare earth minerals by 40 percent by 2012. Just last week, Chinese officials released a white paper defending the country's export control restrictions on rare earths. Earlier this year, the U.S. joined with Japan and the European Union to file complaints with the World Trade Organization (WTO) over China's export policies on rare earths. Experts believe China may eventually consume 100 percent of the rare earth minerals that it produces, jeopardizing U.S. manufacturers' access to these materials and, at the very least, significantly driving up costs for companies that use these minerals. These increased costs would impose significant and detrimental costs on the many millions of consumers who use these products and could have a profound negative impact on U.S. national security.

At the same time, the Chinese are accelerating their own deep seabed mining efforts. They have increased government funding for seabed mining, and the government announced a \$75 million national deep sea technology base in 2010. China is also expanding its engagement with the ISA, where it secured one of the four ISA exploration licenses issued in 2011. The Chinese can boast more than 20 years of sustained technical and political efforts to develop the deep seabed, funded by the government.

A close look at the map of claims in the Clarion Clipperton Zone (CCZ), a location in the Pacific Ocean that is rich with rare earths, shows active claims by China, Japan and Russia "planting their flags," so to speak. Recently published reports have indicated that the Chinese are actively surveying other claim areas in the CCZ, including those of the U.S. Russia, Tonga and Nauru were also granted deep seabed mining licenses by the ISA last year. At last count, the ISA has 17 pending or completed applications for exploration – up from just eight in 2010.

Only ratification of the Law of the Sea Convention and engagement with the ISA will provide a sufficient mechanism to secure international recognition of U.S.-based claims and rights. Manufacturers and consumers will benefit from a more diverse and competitive market for rare earths, and deep seabed mining is an opportunity for the U.S. to quickly diversify its rare earth sources.

### **Conclusion**

Manufacturing in the United States employs 12 million Americans with good-paying jobs. The sector supports 5 million more jobs in this country. Everyone in this hearing room would like to see those numbers grow. A strong and prosperous country needs a strong manufacturing sector.

To strengthen manufacturing in the United States, we need to adopt policies that make our country more competitive in the global marketplace by reducing the cost differential we face with our economic competitors. Other nations are actively seeking to knock us from our mantle of economic leadership, yet, too often, we remain on the sidelines. Manufacturers can't afford for the U.S. to sit on the sidelines when it comes to the Law of the Sea Convention.