

**STATEMENT OF ADMIRAL VERNON CLARK, U.S. NAVY (RET.)
FORMER CHIEF OF NAVAL OPERATIONS**

Mr. Chairman, Senator Lugar, members of the Committee on Foreign Relations, good afternoon. Thank you for the opportunity to testify today in support of the Law of the Sea Convention.

While serving as the Chief of Naval Operations I often said that our Navy is built to take persistent, credible, combat power to the far corners of the earth, fighting our enemies, protecting our national security and extending the influence of the United States anywhere and at anytime we choose to do so. This is true now more than ever. And it is our ability to operate freely across the vast expanse of the world's oceans that makes this far-reaching combat power possible. As the world's foremost maritime power, the United States relies on full freedom of navigation upon, over, and under the world's oceans to protect its national security interests.

We depend on a strong Navy to secure and promote our maritime safety and security. However, it is clear that the United States and its Navy cannot effectively do it alone. We must rely on partner nations and coalition efforts to provide for a free and secure maritime domain. Global partnerships of like-minded nations are the future of our national security strategy. Through mutual assistance, nations can leverage common interests and increase their potential. While the United States is and will continue to conduct unilateral operations when necessary, we can share the burden and improve readiness of allies' navies

through cooperative efforts with maritime nations who share a common interest and a reliance upon international commerce, safety, security, and freedom of the seas. To maximize the effectiveness of these efforts to combat transnational criminal organizations and other dangerous uses of the oceans to disrupt sea lane passage and global commerce, we need to close the seams among like-minded nations.

We and our coalition partners need to be fully committed to the same set of rules for the full range of maritime operations, but your Navy is at a distinct disadvantage with the United States being outside the Law of the Sea Convention. 154 nations are owners of a Magna Carta for the oceans that guarantees robust navigational freedoms throughout the world's largest maneuver space. We on the other hand only get to use it on loan and have to filter our support for what it provides through the lens of customary international law.

A prime example of the kind of international cooperation we need to expand is the President's Proliferation Security Initiative (PSI). The Law of the Sea Convention strengthens this initiative, which aims to impede and stop shipments of weapons of mass destruction, their delivery systems, and related materials. Being party to the Convention will greatly enhance the Navy's ability to support the objectives of PSI by reinforcing and codifying freedom of navigation rights on which the Navy depends for operational mobility. Currently, the vast majority of our PSI partners are Party to the Convention. We cannot remain outside the Convention and convince other nations that we truly believe in

the importance of the rule of law when we are not Party to the Convention which provides legal certainty throughout the world's oceans.

The Law of the Sea Convention supports our ability to operate wherever, whenever, and however needed under the authority of widely accepted law. The Convention codifies the right to transit through, over, and under essential international straits and archipelagic waters. It reaffirms the sovereign immunity of our warships and other public vessels. It provides a framework to counter excessive claims of states that seek illegally to expand their maritime jurisdiction and restrict the movement of vessels of other States in international and other waters. And it preserves our right to conduct military activities and operations in exclusive economic zones without the need for permission from or prior notice to foreign governments.

Most importantly, the entry into force of the Law of the Sea Convention for the United States will support both the worldwide mobility of our forces and our traditional leadership role in maritime matters. The customary international law we have relied upon for our navigational freedoms is under challenge. Our participation in the Convention will better position us to maintain law of the sea rights and freedoms vital to our national security. We will be able to guide and influence the interpretation of rules, protecting our interests and deflecting inconsistent interpretations. The agreement is being interpreted, applied and developed right now and we need to be part of it to protect our vital security interests.

Future threats and issues will likely emerge in places and in ways that are not yet fully clear. For these and other undefined future operational challenges, we should rejoin the community of 154 nations inside the Convention to be able to take maximum advantage of its widely accepted navigational rights and chart the course of future ocean developments from a position of leadership.

We must be able to get to the fight rapidly. Strategic mobility is more important than ever. The oceans are fundamental to that maneuverability and joining the Convention supports the freedom to get to the fight, twenty-four hours a day and seven days a week, without a permission slip.

Joining the Convention now will support and enhance ongoing U.S. military operations, including the continued prosecution of the global war on terrorism. It will enable our armed forces to defend us at home and abroad with legal certainty. It will provide a stable and predictable legal regime within which to conduct our operations today, and realize our vision for the future.

As I testified before the Senate Armed Services Committee in 2004, the real issue for me is people. As the CNO, I had the privilege to be entrusted with the task and responsibility to lead the sons and daughters of America who have chosen to wear the cloth of the nation. Twenty-four by seven, 365 days a year, our sailors are operating at the tip of the sphere. On any given day, a third of our fleet is forward deployed. Sometimes we must place them in harm's way to do our country's business, and they do so willingly. For many years now, we have remained outside the Convention. We have asked our young men and women to

conduct freedom of navigation operations. One such operation resulted in the Black Sea bumping incident between U.S. and Soviet warships. As a commanding officer, I had, unfortunately, the privilege of conducting those kinds of operations at too close of quarters.

What that means to me is that these kinds of operations, because these are what we're largely left with when we do not have agreements with other nations, and clear international standing, sometimes puts us at great risk to challenge the excessive maritime claims that other countries may make to prevent those claims from becoming customary international law.

Mr. Chairman, in my view, we need a better venue. We need more than just freedom of navigation operations to maintain freedom of the seas. We should not rely only on that limited ability to formalize our international posture. We can do better than that. We should look for every possible guarantee that we can find to ensure our sailors' safety and to keep them from needlessly going into harm's way. And that's why I believe that we need to join the Law of the Sea Convention, so that our people know when they're operating in the defense of this nation's national interests, far from our shores, that they have the backing and that they have the authority of widely recognized and accepted law to look to, rather than depending only upon the threat or the use of force or customary international law that can be too easily changed.

Again, I thank the Committee for offering me the opportunity to appear before you here today. I am happy to answer any questions that you may have.