

STATEMENT FOR
THE
UNITED STATES SENATE
COMMITTEE ON FOREIGN RELATIONS
HEARING ON
THE LAW OF THE SEA CONVENTION

THURSDAY, OCTOBER 4, 2007

9:30 A.M. IN ROOM 419
DIRKSEN SENATE OFFICE BUILDING

PREPARED BY

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Thank you, Mr. Chairman and committee members. The Chamber of Shipping of America is very pleased to testify before your committee today concerning U.S. accession to the Law of the Sea Convention. The Chamber of Shipping of America has long supported accession to this very important treaty and have testified a number of times, the latest being before this committee on October 21, 2003. We are very pleased to testify today that the Chamber of Shipping of America (CSA) should be continued to be listed in the strong support column.

CHAMBER OF SHIPPING OF AMERICA

The Chamber of Shipping of America represents thirty American companies that own, operate or charter ocean-going vessels or are in closely allied businesses. Our members operate both U.S. and foreign-flag ships in the domestic and international trades of the United States. Our members operate/own container ships, crude tankers, product tankers, LNG carriers, bulk ships, integrated tug/barge units, roll-on roll-off vessels and breakbulk ships. At any given time, CSA members have hundreds of ships and vessels operating in the US trades. CSA traces its founding to 1914 when we were known as the National Federation of American Shipowners. At that time, the British Government invited a group of nations to develop a treaty regarding safety at sea. The American shipowners were involved in that first maritime treaty. It was prompted by a legendary incident – the sinking of the steamship “TITANIC” which was American-owned and British flagged. While that treaty did not come to fruition due to the start of World War I, it plotted the course for future maritime treaties. Today, the safety, security and protection of the environment are all subjects of maritime treaties.

INTEREST IN THE LAW OF THE SEA TREATY

Mr. Chairman, Senators, today we consider the Law of the Sea Convention. It has been referred to by many as the fundamental framework governing obligations and rights of states; flag states, coastal states, and port states. Viewing it in conjunction with the many other maritime conventions shows the detailed interest the world has in the maritime industry. The United States has been and continues to be a critical part of that interest in the maritime world. From 1914 through today, we do not know of any maritime treaties including those concerning safety, environmental protection, liability, labor conditions and security, developed in any fora that did not have the active involvement of the United States. Indeed, many of the conventions, particularly those addressing security and environmental concerns, were undertaken at the urging of and subsequent leadership by the United States. CSA has attended hundreds of international meetings over the years where these conventions were debated and we are pleased to note the positive contributions of our great nation to the development of these treaties including the Law of the Sea Convention.

CHANGES IN THE MARITIME INDUSTRY

The Law of the Sea Convention establishes a legal framework that has direct impact on the American shipowning community and all Americans. In 1914, the maritime world was a comparatively simple one; ships flying a particular flag were manned by nationals from that nation, were insured there and classed by the national class society. They were most likely built there and had equipment manufactured there. The traditional law of the sea was also simple to apply. Today, the situation is more complex. Ships owned by one company can fly the flags of several different nations, employ crew from various nations with mixed crews being more prevalent than single-national ships, be classed by any one of a number of societies, be insured in any number of venues and have a multiple of other international mixes involving equipment and building. This situation has evolved in response to the

needs of the industry to increase efficiency. As we have increased our efficiency, we have provided a lower and lower cost service to our customers. Our customers are the shippers of the world and their customers are the consumers. Over ninety-five percent of the goods shipped into and out of the United States go by sea. On average, four hundred ships a day, from literally all flag nations of the world, arrive in U.S. ports. The people of the United States have benefited from the actions of the maritime industry and we in the industry have benefited from a uniform legal framework. One consistent comment we make to the Congress, and the various legislative bodies around the world is that we need to have a uniform set of rules to follow. If each nation develops their own rules or interprets existing regulations in a manner substantially different from others, chaos exists for the maritime community. The United States has consistently responded to creative interpretations and has taken the lead in developing rules that meet U.S. needs and the needs of other nations. The world looks to our leadership in these matters and we have responded vigorously and positively to that expectation. The credibility of the U.S. in international fora where these agreements are made depends on it.

FREEDOM OF NAVIGATION AND INNOCENT PASSAGE

The United States should continue to be a major player in ensuring the rights embodied in the treaty and should be seen as a leading voice in developments affecting maritime shipping including freedom of navigation and innocent passage. We understand that the origination of the process leading to the treaty was occasioned by states exercising sovereignty or sovereign rights in waters where the legal basis was questionable. We in the maritime industry are concerned with freedom of navigation. A few years ago, Western European nations developed the idea that they should establish a controlled area covering the two hundred mile zone off their coasts. We accept that their motivation was to protect their coasts from environmental damage and we understand the need to respond to public

demand for environmental protection, but we objected to creation of new rights of coastal states. The idea was that by establishing the controlled area, a nation could forbid certain types of ships from transiting. The U.S. and other countries objected to the controls proposed for the area as inconsistent with the Law of the Sea Convention, because they would have unilaterally imposed construction requirements on transiting ships.

Rather than continue with the flawed rationale, the nations in question accepted creation of a Particularly Sensitive Sea Area which is a concept contained in the International Maritime Pollution Prevention Convention to which the U.S. is party. The Western European PSSA currently exists although there are no control measures except for a reporting requirement associated with its creation. This is viewed by some as a toothless tiger although our industry is concerned that tigers can grow teeth. Is it fantasy to believe that the next marine casualty will reinstitute a process of unilateral control? Mr. Chairman, Senators, we feel very strongly that a written set of rules controlling our industry – rules contained in a treaty that we are party to -- is preferable to an unwritten set of requirements that can shift over time.

In further support of our contention that the concerns by the world's public with the maritime industry have shifted, we have seen general agreement by the public with steps taken by their governments to remove or exclude ships from their exclusive economic zones under extremely dangerous conditions. Our government would be in a much stronger position to protest such actions if the U.S. were a party to the Law of the Sea Convention.

SECURITY

Mr. Chairman and Senators, you have heard testimony about the vital movement of oil into our nation. There is an additional concern as we shift to LNG from other sources of energy as we will have to import increasing amounts of LNG as well as other energy products into

our country. Yes, virtually all ships carrying our energy supply transit areas that are protected by the Law of the Sea provisions. While energy supply is of obvious critical importance, we note that other types of ships, container ships, bulk ships and others also enjoy the same freedom of navigation afforded the energy carriers. Our way of life depends on the freedom of the seas and the rights of innocent passage.

Mr. Chairman and members of the committee, freedom of the seas and rights of innocent passage are not theoretical concepts. These are critical aspects of the Law of the Sea Convention and ones that we rely on for the effective operation of our industry. We are very concerned with protection of those rights. Both US flag ships and ships owned or operated by American companies are impacted by international events. We rely on our nation to be actively involved. The U.S. should place itself in the most effective position to be a force for adherence to treaty obligations by all. We can do this by acceding to the treaty.

My members operate in the international maritime world. We benefit from a consistent application of the rules that we have to follow. There are certainly fewer ships flying our flag than in years past although that does not mean we are less involved as a nation. The latest figures we have seen place the United States as the sixth largest shipowning nation in the world. In recent months, we have seen actions by companies that will lead to more American seafarers serving on ships that fly the flags of other nations. Clearly we have a lot at stake.

Mr. Chairman, we appreciate the opportunity to testify and would be pleased to respond to questions.