

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

TUESDAY, OCTOBER 21, 2003

AT
9:30 A.M. IN ROOM SD-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. ratification of the U.N. Convention on the Law of the Sea. We realize that you have heard testimony in support of ratification. We are very pleased to add the Chamber of Shipping of America (CSA) to the support column.

The Chamber of Shipping of America represents 22 American owners and operators of ocean-going vessels. Our members operate both U.S. and foreign-flag ships in the domestic and international trades. While we have undergone a number of name changes over the years, CSA proudly traces its founding to 1914 when the British Government invited a small group of countries to develop the first international treaty regarding safety at sea. The American ship owners were involved in that first maritime treaty. It was prompted by a legendary incident – the sinking of the steamship “TITANIC”. While that treaty failed due to World War I, it plotted the course of future maritime treaties. Today, the safety, security and protection of the environment are all subjects of maritime treaties. World War I blocked the first try at a safety treaty although it led directly to development of treaties covering maritime labor conditions which are developed at the International Labor Organization (ILO). The ILO exists today under the U.N. umbrella although it was founded in 1919 as part of the League of Nations which was the brain-child of our President Woodrow Wilson.

Mr. Chairman and members, today we consider the Law of the Sea Treaty. It has been referred to 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. An import aspect of that interest is that shown by the United States. From 1914 through today, we do not know of any maritime treaties developed in any fora that did not have the active involvement of the United States. Indeed, many of the conventions, particularly those addressing environmental concerns, were undertaken at the urging of and subsequent leadership of the United States. Because the Law of the Sea Convention provides the framework for the protection of the environment, we feel comfortable in identifying another treaty that has been forwarded to your committee by the Administration, i.e., Annex VI of the Convention to Prevent Pollution from Ships. Annex VI of this convention covers the issue of air pollution from ships. It will soon be ratified by the requisite number of states to bring it into force. As with the Law of the Sea further development of Annex VI requires ratification. The U.S. led the effort on development of Annex VI. All of us recognize, and by all, we mean

private sector and government, that Annex VI is not perfect although, if we wait for the perfect, we can be waiting a long time. We look forward to your positive consideration of Annex VI and the U.S. involvement in the continuing strengthening of this very important environmental measure.

The Law of the Sea, Annex VI of the pollution treaty and the newly adopted amendments to the safety of life at sea treaty dealing with security involve vital U.S. interests. The world looks to our leadership in these matters. We must respond, and respond vigorously and positively, to that expectation. The credibility of the U.S. in international fora where these agreements are made depends on it.

There are reasons why the U.S. benefits from a ratification of this treaty. It provides the framework for the essential concepts of freedom of navigation. The origination of the process leading to the treaty was occasioned by states exercising sovereignty in waters where the legal basis of that sovereignty was questionable to put it kindly. In recent months, we in the maritime industry saw states take action to forcibly remove a ship from their exclusive economic zone. It was reliably reported that the ship "PRESTIGE", listing and in imminent danger, was forced to go further out to sea under extremely dangerous conditions. We considered this very important and wrote to Secretary of State, Colin Powell expressing our grave concern. Nations can claim to interpret the law of sea. Those claims, unless challenged can stand. The Law of the Sea Tribunal is the appropriate place to adjudicate those claims and we want the U.S. to be able to participate and that requires ratification.

Protection of the crew is also a vital component of the treaty. The Master of the "PRESTIGE", after taking heroic steps to save his ship, was imprisoned by coastal state authorities when the all-too-predictable pollution occurred. After months of captivity, he was freed on bail that the press reported at over three million dollars. Once again, a step which CSA believes conflicts with provisions of the treaty.

Mr. Chairman, and members of the committee, these are not theoretical concepts or law school questions. These are topical circumstances involving developed nations. We must rely on our nation to call these actions to account. The U.S. should place itself in a position to be the effective force for adherence to treaty obligations by all. The only way we can do that is by ratifying the treaty. It is certainly unfortunate that states have taken dramatic action to control ships' off their coasts. It is also a measure of "deja vu" as similar actions led to the initiative of the law of the sea to begin with!

We also have to be vigilant concerning recent actions which are purported by their adherents to be in concert with the law of the sea. Under the framework of the law of the sea, the International Maritime Organization (IMO) developed the concept of "particularly sensitive sea areas" or PSSAs. These are areas which a state can declare as eligible for special protection. At the July meeting of the Marine Environment Protection Committee, it was determined that the entire sea area off Western Europe from the upper reaches of the English Channel to the Straits of Gibraltar were a particularly sensitive sea area. While the area was determined to be a PSSA, steps were not adopted to protect the area. The steps will be discussed at an upcoming meeting of the Marine Environment Protection Committee of IMO. We will be involved in these deliberations and believe that any measure is inappropriate. It is clear that states are beginning to feel comfort in stretching the interpretations of the law of the sea into unrecognizable forms. It is time the U.S. decided that such antics are unacceptable.

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