

CARL LEVIN, MICHIGAN, CHAIRMAN

EDWARD M. KENNEDY, MASSACHUSETTS
ROBERT C. BYRD, WEST VIRGINIA
JOSEPH I. LIEBERMAN, CONNECTICUT
JACK REED, RHODE ISLAND
DANIEL K. AKAKA, HAWAII
BILL NELSON, FLORIDA
E. BENJAMIN NELSON, NEBRASKA
EVAN BAYH, INDIANA
HILLARY RODHAM CLINTON, NEW YORK
MARK L. PRYOR, ARKANSAS
JIM WEBB, VIRGINIA
CLAIRE McCASKILL, MISSOURI

JOHN MCCAIN, ARIZONA
JOHN WARNER, VIRGINIA
JAMES M. INHOFE, OKLAHOMA
JEFF SESSIONS, ALABAMA
SUSAN M. COLLINS, MAINE
SAXBY CHAMBLISS, GEORGIA
LINDSEY O. GRAHAM, SOUTH CAROLINA
ELIZABETH DOLE, NORTH CAROLINA
JOHN CORNYN, TEXAS
JOHN THUNE, SOUTH DAKOTA
MEL MARTINEZ, FLORIDA
BOB CORKER, TENNESSEE

RICHARD D. DEBORES, STAFF DIRECTOR
MICHAEL VINCENT KOSTIW, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

October 30, 2007

Honorable Joseph R. Biden, Jr.
Chairman
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

Honorable Richard G. Lugar
Ranking Member
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

Dear Joe and Dick:

We understand that the Senate Foreign Relations Committee may soon meet to consider reporting out the United Nations Convention on the Law of the Sea (the "Convention"). We are writing to express our support for the Convention and to share views provided by the Departments of Defense and State to the Senate Armed Services Committee concerning the national security implications of the Convention.

As you know, President Bush has urged the Senate to act in support of U.S. accession to the Convention. President Bush stated on May 15, 2007, "Joining will serve the national security interests of the United States, including the maritime mobility of our armed forces worldwide."

The Senate Armed Services Committee has heard from both proponents and opponents of the Convention, at a hearing on April 8, 2004. The Administration witnesses were Admiral Vernon A. Clark, USN, then Chief of Naval Operations, and Department of State Legal Adviser William H. Taft, IV. The Committee also heard from: the Honorable Jeane J. Kirkpatrick, Senior Fellow and Director of Foreign and Defense Policy Studies at the American Enterprise Institute, and the Honorable William J. Middendorf, former Secretary of the Navy, both of whom testified in opposition to the Convention; and Professor John Norton Moore, University of Virginia Law School, and Rear Admiral William L. Schachte, Jr., USN (Ret.), Judge Advocate General Corps, both of whom testified in favor of the Convention.

At that hearing, Admiral Clark and Legal Adviser Taft testified regarding the impact of U.S. adherence to the Convention on U.S. national security. Admiral Clark stated "I fully support ratification of the [Convention] because in my mind it first defines and then preserves our navigational freedoms." He added that U.S. adherence to the Convention puts the United States "in a position of leadership to protect these vital freedoms and to shape the future direction

of the treaty.” Legal Adviser Taft told the Committee “Joining the Convention will advance the interests of the U.S. military.” He noted that the Convention’s navigational provisions “preserve and elaborate the rights of the U.S. military to use the world’s oceans to meet national security requirements.”

On September 14, 2007, Chairman Levin wrote to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to ask whether the views presented by Admiral Clark at the Committee’s April 8, 2004, hearing continue to represent the Department’s position. Chairman Levin also wrote to Secretary of State Condoleezza Rice on September 14, 2007, asking whether Ambassador Taft’s April 8, 2004, testimony continues to reflect the position of the State Department regarding the Convention.

On September 26, 2007, Deputy Secretary of Defense Gordon England confirmed in writing that the testimony of Admiral Clark continues to accurately reflect the position of the Department of Defense. On September 27, 2007, State Department Assistant Secretary for Legislative Affairs Jeffrey Bergner replied in writing that the testimony provided by Ambassador Taft at the April 8, 2004, hearing continues to represent the views of the Administration. Copies of the letters from Secretary England and Assistant Secretary Bergner are attached.

In the past few months, Department of Defense officials have repeatedly expressed their support for U.S. accession to the Convention. On June 13, 2007, Secretary England, along with Deputy Secretary of State John D. Negroponte, wrote an op-ed in the Washington Times in favor of U.S. accession to the Convention, stressing that the Convention “supports and strengthens navigational rights essential to global mobility and it clarifies and confirms important ocean freedoms.” As you know, General Peter Pace, USMC, then Chairman of the Joint Chiefs of Staff, Admiral E.P. Giambastiani, USN, then Vice Chairman, and the chiefs of the Army, Navy, Air Force and Marine Corps wrote to Senate Foreign Relations Committee Chairman Biden on June 26, 2007, expressing support for the United States joining the Convention.

Admiral Mullen, in the course of the Senate Armed Services Committee’s consideration of his nomination to be the Chairman of the Joint Chiefs of Staff in July 2007, reiterated that he strongly favors U.S. accession to the Convention. In response to Committee questions in advance of his nomination hearing, he stated:

“The ability of United States military forces to operate freely on, over and above the vast military maneuver space of the oceans is critical to our national security interests, the military in general, and the Navy in particular. Your Navy’s – and your military’s – ability to operate freely across the vast domain of the world’s oceans in peace and in war make possible the unfettered projection of American influence and power. The military basis for support for the Law of the Sea Convention is broad because it codifies fundamental benefits important to our operating forces as they train and fight.”

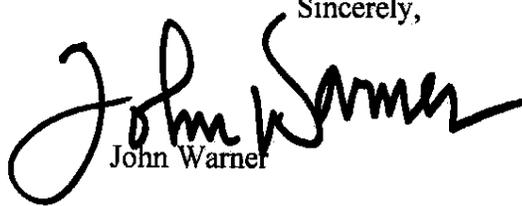
In addition, Admiral Gary Roughead, USN, during the Committee's consideration of his nomination to be the Chief of Naval Operations, emphasized the benefits of the United States joining the Convention for the Navy. He stated,

"I believe that accession to the Law of the Sea Convention is in our national security interests. The basic tenets of the Law of the Sea Convention are clear and beneficial to the Navy. From the right of unimpeded transit passage through straits used for international navigation and reaffirming the sovereign immunity of our warships, to providing a framework for countering excessive claims of other states and preserving the right to conduct military activities in exclusive economic zones, the Convention provides the stable, predictable, and recognized legal regime we need to conduct our operations today and in the future."

We support ratification of the Convention because we believe it will advance the interests of the United States as a global maritime power and will preserve and strengthen our rights, on which our military depends, to use the world's oceans to meet U.S. national security requirements. The United States has a strong and continuing interest in supporting international agreements that advance U.S. maritime interests, protect the principle of freedom of navigation, and reduce the possibility of conflict by accident, miscalculation, or the failure of communication. U.S. accession to the Convention will enhance the ability of the U.S. Armed Forces to protect and advance U.S. national security interests, and demonstrate continued U.S. leadership in maritime affairs.

We ask your consideration of our views and appreciate the opportunity to share them with you.

Sincerely,


John Warner


Carl Levin
Chairman

Attachments