

HJR

39

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication from
REPRESENTATIVE BOB LYNN
District 31 Anchorage

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"Bob Lynn's Alaska Blog" ReplBobLynnBlog.com

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To: Legal Services

Fax #: 2029

From: Nancy Manly x2794
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Juneau, AK 99801-1182

of Pages (including cover): 2

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Re: HJR 39 Urging US to Ratify Law of the Sea Treaty

3-27-08

HJR 39 25-LS1590A passed out of the House State Affairs Committee as amended. Please draft a final CS to reflect the changes. Thank you.

Amendment #1 25-LS1590A.1 (Gruenberg)
(Attached)

AMENDMENT #1 *passed*

OFFERED IN THE HOUSE
TO: HJR 39

BY REPRESENTATIVE GRUENBERG

1 Page 2, line 7:

2 Delete "for ratification"

3

4 Page 2, line 18:

5 Delete "claims of"

6 Insert "claim of authority by"

7

8 Page 2, lines 23 - 26:

9 Delete "oil, gas, and mineral resources in the Arctic Ocean and other northern waters,
10 the conduct of essential scientific research in the world's oceans, the right of the United States
11 to the use of the seas, the rules of navigation, and the effect of the use of the seas on the
12 world's economic development and environmental concerns"

13 Insert new paragraphs to read:

14 "(1) oil, gas, and mineral resources in the Arctic Ocean and other northern
15 waters;

16 (2) conduct of essential scientific research in the world's oceans;

17 (3) right of the United States to the use of the seas;

18 (4) rules of navigation;

19 (5) effect of the use of the seas on world economic development; and

20 (6) environmental concerns related to the use of the seas"

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Sponsor Statement HJR 39

This resolution urges the U.S. Senate to ratify the United States Convention on the Law of the Sea ("Law of the Sea") treaty. As Senator Lisa Murkowski said in her recent address to the joint session, ratification of this treaty is extremely important to protect U.S. interests concerning the use and development of the high seas off Alaska and elsewhere. For example, other nations are aggressively seeking to stake their claims to the Arctic Ocean as far as the North Pole itself. The treaty permits member nations to extend their exclusive economic zones and will govern the development of oceanic resources, the uses and navigational rules governing ocean transit, and other issues, as well.

155 nations, including all allies of the United States and the world's maritime powers, as well as all other nations bordering the Arctic Ocean, have ratified the treaty. Although some critics have stated that this country can reap the benefits of the treaty without binding itself to its limitations, this ignores the over-riding interest the United States has in participating fully in all negotiations, deliberations, and ratification of key documents emanating from the treaty. Only treaty signatories will have the right to sit on the important governing bodies convened under the auspices of the treaty.

Because the Senate Foreign Relations Committee has now reported the treaty to the Senate floor, it is particularly important and timely that this legislature passes HJR 39 and transmits it to all members of the U.S. Senate expressing this state's strong interest in the treaty and support for its passage during the remaining months of the 110th Congress.

**America's Newspapers**

Law of the Sea Treaty crucial to U.S. - COMPASS: Points of view from the community Anchorage Daily News (AK) - November 8, 2007

Author: SEN. LISA MURKOWSKI ; Commentary

It's ironic that an international treaty that can do much good for the nation, especially Alaska, is only now moving closer to Senate approval because of actions by Russia, Denmark and Canada. Steps taken by those three nations to strengthen or establish claims in the Arctic Ocean have highlighted for many Americans -- and many of my colleagues -- the need of the Senate to approve the Law of the Sea Treaty. Otherwise, we could be left standing on the shore, watching as other nations divvy up the wealth and scientific riches of the valuable Arctic seabed.

Without ratification, the U.S. will have no permanent seat on the decision-making body that would settle disputed claims.

Without ratification, the United States, with 1,000 miles of Arctic coast along Alaska, would be the only Arctic nation not party to the treaty. Currently, 155 nations have ratified the treaty, including all of our allies and the world's maritime powers.

International negotiators first approved the Convention on the Law of the Sea in 1982. President Ronald Reagan wisely saw a serious shortcoming in how the new treaty would deal with deep-seabed mining. Negotiators went back to work and, in 1994, presented an improved treaty.

U.S. Senate approval is required of all international treaties, and a Senate committee held hearings in 1994 but the full Senate never voted on the measure. Committee hearings resumed in 2003 and 2004, but still no vote.

The Senate Foreign Relations Committee, of which I am a member, again took up the treaty last month. I hope this is the year for final passage.

Several events of the past few months have pushed the treaty to the front of the agenda, including Russia's decision to send two small submarines into Arctic waters in August to plant their nation's flag under the North Pole. Russia believes its continental shelf extends that far into the Arctic. Like-minded Denmark has sent scientists to determine if a mountain ridge beneath the Arctic Ocean is connected to its territory of Greenland. And Canada, getting nervous at the thought of underwater flags and ice-free shipping lanes through the Northwest Passage, is talking about setting up military bases and expanding its fleet to patrol the waters.

The United States cannot sit by and watch as other nations draw their own maps.

Under the Law of the Sea Treaty, member nations can claim an exclusive economic zone out to 200 miles, with sovereign rights to explore, develop and manage the resources within that zone. Nations' claims can extend even farther if they can prove a real connection to their continental shelf. The U.S. Arctic Research Commission believes the United States could lay claim, beyond our 200 mile exclusive economic zone, to the northern seabed around Alaska equal in size to the state of California.

This isn't just about the oil, gas and mineral resources in the Arctic. It's also about managing the critical scientific research that is so important to Alaskans' way of life. It's about the United States defining and defending its rights on uses of the sea, rules of navigation,

economic development and environmental standards. This is about our future, for without Senate ratification of the treaty, the future of miles of ocean north of Alaska is in someone else's hands.

"We have more to gain from legal certainty and public order in the world's oceans than any other country," Deputy Secretary of State John Negroponte said in Senate committee hearings last month. Negroponte, who also has served as director of national intelligence and U.N. ambassador, said the treaty would not interfere with U.S. intelligence-gathering efforts or our Navy's navigational freedom.

Support for Senate ratification is coming from all sides of the political world, including the ranking Republican on the Foreign Relations Committee, Indiana Sen. Richard Lugar, and the Democratic chairman of the committee, Delaware Sen. Joseph Biden.

I urge Alaskans to join me in supporting the Law of the Sea Treaty. It's time the United States signed on the bottom line to protect our rights.

Republican Lisa Murkowski represents Alaska in the U.S. Senate.

Caption: Graphic 1: Lisa Murkowski BW_110807.eps

Edtton: Final

Section: Alaska

Page: B4

Record Number: 1533033211/08/07

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LISA MURKOWSKI
ALASKA

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December 7, 2007

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The Honorable Max Gruenberg
Representative
Alaska State Legislature
Alaska State Capitol
Juneau, Alaska 99801

Dear Representative Gruenberg: *Max*

Thank you for contacting me regarding the United Nations Convention on the Law of the Sea. I deeply appreciate your initiative and activism on this issue, which is so important for Alaska.

The Law of the Sea Treaty is critical to Alaska if we wish to continue to exert sovereignty over our Exclusive Economic Zone (EEZ) and the fisheries and mineral deposits it contains. It is especially relevant today given Russia's claim to 460,000 sq. miles of the Arctic Continental shelf. Although the United States has enjoyed some of the benefits and protections of the Law of the Sea Treaty thus far, in 2004, the treaty became eligible for amendment. Without a seat at the table and a chance to assert our rights, decisions that directly impact Alaska could be made without our input.

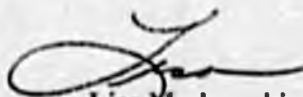
On September 27th and October 4, 2007, the Senate Foreign Relations Committee held hearings on the Law of the Sea Treaty. I have enclosed a copy of the statement I gave at the September 27th hearing. As you requested, I am enclosing copies of the most recent Foreign Relation Committee report, which is from 2004, the proposed legislation, and a bound copy of the Law of the Sea Treaty. The treaty itself can also be viewed at:

http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm

As you well know, there are a number of misconceptions about this treaty circulating in the media. In addition to my statement and the other materials you requested, I am enclosing a Myths vs. Facts sheet that I have found to be useful when discussing this treaty. Do not hesitate to contact my office if you need any additional information or assistance on this issue.

Again, thank you for contacting me. My best to your family during this holiday season and to everyone up in Juneau.

Sincerely,



Lisa Murkowski
United States Senator

Enclosures [5]

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 39
 () Publish Date: _____

Identifier (file name): HJR 39 Dept. Affected: _____
 Title URGING US TO RATIFY LAW OF THE SEA TREATY RDU _____
 Component _____
 Sponsor House State Affairs Committee
 Requester House State Affairs Committee Component Number _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nancy Manly, Committee Aide
 Division: House State Affairs Committee
 Approved by: Representative Bob Lynn
Chair

Phone 465-2794
 Date/Time 3/20/08 12:00 AM
 Date 3/20/2008

Isaac Edwards
Legislative Director
Office of Senator Lisa Murkowski
Testimony before the Alaska State Legislature
House of Representatives State Affairs Committee
March 27, 2008

Mr. Chairman, Mr. Vice Chairman, Representative Gruenberg, and members of the Committee. Thank you for inviting me to testify before you today on House Joint Resolution 39, regarding the Convention on the Law of the Sea – often referred to as the Law of the Sea Treaty.

I have been asked to speak a bit on the pros and cons of the Treaty. I should first note that my employer, Senator Lisa Murkowski, is very much in favor of the Treaty and is hopeful that the U.S. Senate will ratify the Treaty this year.

On October 31, 2007, the Senate Foreign Relations Committee voted, by a vote of 17-4, to recommend Senate advice and consent to the Treaty. This is the second time the Committee has recommended Senate advice and consent – an earlier vote of 19-0 was held in 2004. It is now pending on the full Senate's calendar, but no time has been set aside for its consideration. Because it is a treaty, it will need 67 votes to be ratified.

I will skip the history of the Treaty in order to get to some of the more prominent issues that have been raised and what opponents and proponents of the Treaty are saying.

Opponents of the Treaty generally cite concern about loss of sovereignty if the United States were to become a party to this Treaty. They also ask why is it even necessary for the United States to be a party to the Treaty? Our Navy already has freedom of movement around the oceans – why should we put ourselves in a situation where we might potentially be limited?

Proponents, including the United States Navy and Coast Guard, respond that it is necessary to lock in those rights rather than depend upon customary international law.

Our Navy purposefully transits its ships through narrow straits around the world to maintain a customary use to show those straits are international waters. The Law of the Sea Treaty would lock in those navigational rights.

While the situation may seem favorable now, that may not always be the case. Over time, international customary law has a tendency to change. As an example, you may recall the 15 British sailors who were seized by Iranian forces just over a year ago and accused of being in Iranian waters, although evidence shows they were in Iraqi territorial waters. Following the Iraq-Iran war from 1980-1988, there has been dispute over who owns what water – since then it has been more of a custom or a practice of who owns what, rather than a specific delineation.

We should not put ourselves in a situation where our rights to passage through what we believe to be international waters are challenged because international customary law has changed.

In addition, the Treaty expands our territorial waters where we have absolute sovereignty over any and all movement of vessels to 12 nautical miles. It provides for a new 200 nautical mile Exclusive Economic Zone where we have sovereign rights to all living and non-living resources, such as fish and minerals. Under the 1958 Treaties that we are a party to, our territorial waters are limited to 3 nautical miles and an Exclusive Economic Zone did not exist.

Although we are currently operating as if we have the rights provided under the Law of the Sea Treaty, as a non-party to the Treaty, other nations do not necessarily need to recognize our claims to those areas. This is particularly important to Alaska as over half of the United States' coastline is in our state.

The Convention on the Law of the Sea provides a basis for several international treaties with great relevance to our fisheries. The Convention on Straddling and Highly Migratory stocks provides both access to, and protections for, fish stocks which migrate

through the high seas and the jurisdictions of other nations. Among the stocks is our Pollock fishery in the Bering Sea.

The Convention on Fisheries in the Central Bering Sea is another treaty which gives us an unprecedented degree of control over the activities of other fishing nations in the central portion of the Bering Sea, beyond both the U.S. and Russian Exclusive Economic Zones. Without the influence of the Law of the Sea, neither of these important fishing agreements would likely have come into being.

In addition, the terms of the 1991 Maritime Boundary Treaty between Russia and the United States are widely regarded as highly favorable to the U.S. in terms of fishing grounds and mineral rights, and are themselves consistent with the Law of the Sea. The U.S. Senate has ratified this treaty – the Russian Duma has not and there are increasing cries from Moscow to renegotiate the Treaty. If we do not become a party to the Law of the Sea, our Maritime Boundary Treaty may also be in doubt, and those who wish to renegotiate will have much firmer footing. It would be extremely difficult to renegotiate the boundary agreement with similar positive results for the United States.

The issue of sovereignty, and subjecting the U.S. to an international dispute resolution tribunal, is also raised as an objection to the Treaty. Why should we put our interests in somebody else's hands who may not be sympathetic to our point of view?

It is a valid issue and one that is addressed in the Senate Resolution on Advice and Consent that would ratify the Treaty. Article 287 of the Treaty allows for a declaration of which form of dispute settlement a Party wishes to use. The Senate Resolution on Advice and Consent says that the U.S. would choose a special arbitration tribunal for matters relating to fisheries, marine environment, marine scientific research, and navigation, including pollution from vessels. A regular arbitration tribunal would be used for other issues. I can describe the arbitration tribunal in more detail if members of the Committee wish.

In addition, and most importantly, Article 298 of the Treaty allows that a state may declare that it does not accept any of the procedures for dispute settlement for any of three types of disputes:

- Disputes concerning boundary delimitations for territorial waters, exclusive economic zones, or the continental shelf;
- Disputes concerning military activities or law enforcement activities, including the definition of those activities; and
- Disputes in which the U.N. Security Council is exercising its U.N. Charter functions.

The Senate Resolution on Advice and Consent exempts the U.S. from all three categories of disputes – meaning the U.S. would not be subject to international dispute resolution under the Law of the Sea Treaty in those areas.

Another issue raised by opponents is why do we need to become a party to the Treaty now – why can't it wait? In my view, the answer is the Treaty's amendment process.

The Treaty delayed the possibility of amendment until 10 years after its entry into force – that is until November 2004. The United States needs to be a party to the Treaty in order to block objectionable amendments. Even if an objectionable amendment were to be agreed upon, if the U.S. were a party to the Treaty prior to the amendment's adoption, it would not affect us – the language that the Senate ratifies is what we are bound by – not future amendments that the Senate does not ratify. That is why it is important to be a Party now, before any objectionable amendments might possibly be adopted.

In addition, we need to be able to defend our claims to the Arctic and our extended continental shelf. The Arctic Ocean covers only 3% of the earth's surface, yet it accounts for over 25% of the world's continental shelf area.

The mapping expedition by the Coast Guard Cutter Healy found that our continental shelf off of northern Alaska extends for an additional 100 miles beyond what we previously thought. But we can't claim that area, and the resources that are in it, without being a party to the Treaty.

As the resolution notes, Russia has already made its claim that its extended continental shelf gives it control over half of the Arctic. The Commission on the Limits of the Continental Shelf is examining that claim. Other nations are making their claims as well – in fact, eight submissions for extended continental shelf claims have been made since December 2001. More are expected.

The Continental Shelf Commission is composed of 21 members who are experts in the fields of geology, geophysics, or hydrography, and are nationals of parties to the Law of the Sea. That means that unless the United States is a party to the Treaty, no one from the U.S. can serve on the Commission and we will have no say on whether other nations' extended continental shelf claims are internationally recognized.

If the U.S. is not a party to the Treaty, we will not be able to refute those claims, nor put forward our own.

Mr. Chairman, I know the Committee has other business that it needs to get to as well beyond this resolution, so I will conclude my remarks here, encourage the Committee to look favorably on this Resolution, and welcome any questions or concerns that the Committee may have.

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