

APPENDIX G

NATIONAL SECURITY AND THE LAW OF THE SEA CONVENTION

The internationally recognized freedoms of navigation and overflight are essential to the continued economic vitality and to the national security of the United States. As a maritime nation, the U.S. is dependent upon the ability of the international shipping community to move goods around the world; the vast majority of our imports and exports are shipped via the oceans. In its role as a major player in international affairs, the U.S. requires the ability to move its military forces around the globe, unconstrained by the need to obtain the authorization of any other nation. The complex geopolitical landscape of the post-Cold War era puts a premium on military forces that can move quickly anywhere in the world's oceans to provide presence for diplomatic purposes, to project power from the sea, to enforce United Nations sanctions, or to conduct humanitarian operations.

The United Nations Law of the Sea Convention sets out what 134 countries, plus the European Community, acknowledge is the legal framework within which all activities in the oceans and seas must be carried out. As the unified codification of the international law of the sea, the Convention establishes the rights and duties of both coastal and maritime states. It not only affirmatively grants U.S. naval and air forces navigational freedoms, but it also serves as the benchmark against which coastal state claims can be objectively evaluated. The Convention has had the practical effect of causing states to roll-back excessive maritime claims, and in other cases preventing new claims that would inhibit freedom of the seas.

The Department of Defense strongly supports U.S. accession to the Law of the Sea Convention. A universally respected ocean regime, with strong, unambiguous guarantees of fundamental operational rights, such as passage through foreign territorial seas, through international straits, and through the world's archipelagos, preserves the ability of the U.S. to deter and respond to threats whenever and wherever required.

Since 1983, the U.S. has acknowledged that the Law of the Sea Convention reflects, for the most part, customary international law. Since that time, the U.S. has abided by that international law, and has, through its Freedom of Navigation Program, sought to encourage other nations to respect the balance of rights contained within the Convention. The Convention, however, is not static. There are many international bodies created by the Convention that may in the future propose interpretations or implementations of the law of the sea which could affect U.S. interests. In addition, there are a number of other respected international organizations in which the U.S. participates that look to the Convention for guidance on oceans issues. To maximize our ability to defend important navigational freedoms, the U.S. needs to be represented on such bodies and to be able to speak with the authority of a Party.

The nation's security depends upon its ability to conduct military operations on, over, and under the world's oceans. The best guarantee that this access to the oceans will continue in the years ahead is for the United States to become a party to the Law of the Sea Convention.

