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In My View

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IN MY VIEW . . .

"A Decision Is Coming Due"

Sir:

The United States has been intimately involved in the Law of the Sea (LOS) process for almost four decades—beginning with the initial United Nations Law of the Sea Conference in 1958. Just over a decade ago, the Reagan administration decided against signing the 1982 United Nations Convention on the Law of the Sea, which represented the culmination of this process. This was followed several months later by the final conference vote on the long and detailed treaty, when the U.S. became one of only four nations to vote against the final Convention. In every sense, the U.S. made a major foreign policy statement by not signing a treaty that had taken nearly a decade to produce and was the culminating result of the largest single international negotiating project undertaken before or since.

By late 1982, as the final sessions were held, the treaty had become much more than a piece of paper. It was an international state of mind—it codified much of what had been customary international law in the Law of the Sea and established new norms in the negotiation of multistate treaty agreements. It therefore came as a great disappointment to large segments of the international community when the newly inaugurated Reagan administration decided not to sign the final accord. To much of the world, it appeared that the U.S. wanted to select from among specific benefits of the treaty without accepting the negotiated compromise portions in the document.

We may be witnessing a unique and valuable window of opportunity for the emergence of a new period of ocean development. Momentous political, economic, and military changes have occurred since the Convention was signed by 159 nations. Many of the ideological, political, and economic issues that drove the U.S. refusal to sign the treaty have changed dramatically as we move through the 1990s. On 30 June 1994, Secretary of State Warren Christopher announced that various amendments to the Convention had been accepted by enough nations that the previous U.S. concerns (particularly about seabed mining and technology transfer) were now satisfactorily addressed, and that the U.S. would join the more than sixty nations that had already signed the treaty. The next step in the process, of course, would be for the U.S. Senate to consider and either ratify or reject the treaty. Ten reasons suggest that the U.S. should be a party to the amended 1982 LOS Cenvention; taken together, they underscore the desirability of continuing to pursue the orderly development of the international regime of the Law of the Sea. These ten reasons are:

- The nation has a common-sense obligation to evaluate carefully all important policies affecting U.S. foreign relations and to accept those which, on balance, advance the nation's interests.
- The passage of time since the UNCLOS process ended has allowed issues to be seen from a wider perspective, with more historical balance and a clearer sense of what actually is at stake and what is technologically feasible.
- The changing situation with respect to seabed mining has dramatically decreased the importance of that issue. The likelihood of economically feasible deep seabed mining of metallic nodules in the next several decades now appears remote, presenting a unique opportunity to defuse this once-contentious issue.
- The growing international concern with the environment and over the ability of the Law of the Sea framework to address many worldwide environmental issues makes acceptance of the Law of the Sea Convention a virtual prerequisite for meaningful international discussion on the environment.
- The growing U.S. rapprochement with much of the developing world makes the Law of the Sea a much less polarizing issue than the early 1980s, when much of the Third World was firmly aligned against U.S. desires on the treaty, oftentimes for primarily ideological reasons.
- The willingness of many nations to address the concerns of the U.S. and make the treaty more acceptable, particularly in the area of seabed mining, indicates that there is strong support in the international community for meaningful U.S. participation.
- The changing global security environment, which will place an even greater premium on freedom of the seas and maritime flexibility and mobility than is the case today, makes it even more imperative that the U.S. operate within a stable maritime environment.

• The significant decrease in the size of the United States Navy, as part of the overall downsizing of the U.S. military, could significantly limit our ability to address challenges to the unhampered use of the oceans by the growing navies of a host of nations, unless a strong Law of the Sea treaty (as presently written) lent further international weight to our position.

• The growing political, economic, and military costs of the U.S. Freedom of Navigation (FON) program in the face of the increasing number of FON challenges to the escalating maritime assertions of a growing number of states make it highly desirous for the U.S. to decrease the number of contentious ocean issues.

• The position of the United States as a world leader may be brought into question through its refusal to agree to one of the most important international agreements ever negotiated—but it could be enhanced by our taking a more proactive role in shepherding the treaty into its implementation phase.

When all is said and done, the United States is a maritime nation tied to the oceans and the intelligent use of the seas for political, economic, and military purposes. We have the most to gain from stability in laws governing the use of the seas, and this stability over the long term can best be ensured by a widely ratified Law of the Sea Convention. Accession to the Convention by the United States will not be a panacea. Its rules are not perfect. But widespread ratification is likely to increase order and predictability, enhance adaptation to new circumstances, narrow the scope of disputes to more manageable proportions, and provide means to resolve them. Clearly, the United States holds the key to this widespread ratification.

There is a finite half-life within which to accomplish a U.S. review of, and ultimate accession to, the Law of the Sea Convention. On November 16, 1993, Guyana became the sixtieth nation to ratify the treaty. In accordance with the treaty's ratification provisions, it will go into effect one year from that date. Having the treaty go into effect without U.S. accession would not be in our best interest politically, economically, or militarily. Viewed in this context, the need for acceptance of the treaty (by formal ratification) is indeed compelling.

George Galdorisi
Captain, U.S. Navy

B-17 Gun Ships

Sir:

I must take exception with I.B. Holley's statement that "the B-17 never mounted *five* turrets." [See Professor Holley's review of Michael E. Brown's *Flying Blind: The Politics of the U.S. Strategic Bombing Program*, in the Summer

1993 *Naval War College Review*, pp. 152–3.] Although I arrived in England after the 8th Air Force had passed the high attrition rates, I was made aware that the 8th did attempt to counter the German fighter attacks by making gun ships out of a limited number of B-17s. Additional turrets were installed for a total of five. Unfortunately the experiment was not successful and was soon abandoned.

I'm sure official Air Force records will confirm my hearsay comments.

Peter Boyes
Colonel, U.S. Air Force, Ret.

Professor Holley replies:

Mea Culpa! Colonel Boyes is correct but only by a slender margin. Brown's book says the original 1935 B-17 had five turrets. That version had *no* turrets, only five flexible mounts. The B-17 in its final production configuration had three turrets: upper, lower (ball), and chin. The tail guns, often mistakenly regarded as a turret, were in a flexible mount. The experiment with "escort bombers", the XB-40 and YB-40, added a Martin upper turret aft of the Sperry upper one and forward of the ball. Only seven of these YB-40 escorts were produced, all with *four* turrets. However, some bomb groups in the 8th Air Force experimented with various configurations including one with a power turret in the tail. Colonel Boyes must have seen one of these. So I was wrong in saying the B-17 *never* had five turrets, thinking only of the officially designated models. For details see 12 *Air Power Historian* (July 1965) 1992–1994.

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