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Congress Should Ignore Budget Requests Relating to the Law of the Sea Treaty

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The U.S. Senate has not ratified, and therefore the United States is not a party to, the United Nations Convention on the Law of the Sea, commonly known as the “Law of the Sea Treaty,” or LOST. The Bush Administration’s fiscal year 2009 budget proposal, however, requests nearly \$5 million to fund the LOST organization as well as the international tribunal established by the treaty. The Administration’s request is both fiscally irresponsible and opposed to U.S. national interest. If it is not withdrawn, Congress should reject the Administration’s proposal and any other request to provide funding for international organizations of which the United States is not a member.

A Flawed Treaty. LOST is a controversial treaty that awards effective control of 70 percent of the Earth’s surface to an international treaty organization. The treaty purports to establish a comprehensive legal regime for management of the oceans and its mineral resources by an international organization known as the International Seabed Authority (Seabed Authority). LOST, among other things, creates yet another unaccountable and opaque international organization, sets a precedent for international taxation of U.S. companies, provides an avenue for international environmental regulation, and threatens U.S. sovereignty by subjecting the United States and U.S. companies to mandatory dispute resolution in international fora that have traditionally been stacked against U.S. interests.¹

In 1982, President Ronald Reagan identified serious flaws in LOST and rejected the treaty on multiple grounds.² An effort to “fix” LOST during the

Administrations of George H.W. Bush and Bill Clinton resulted only in a new agreement that failed to fully address Reagan’s concerns regarding the treaty.³ Despite the problems with LOST and the failure of the subsequent agreement to address those problems, the Clinton Administration signed the treaty on July 29, 1994, and submitted it to the Senate for ratification.

Since then, LOST has remained in a state of limbo in the Senate, where it has never been brought to the floor for debate or a vote despite being successfully voted out of the Senate Foreign Relations Committee on at least two occasions. Unless and until it is ratified by the Senate, the United States is not a party to LOST and is under no obligation to provide funding for any activities related to the treaty.

Despite the above problems, the Administration has requested nearly \$5 million for the two principal organs established by LOST—\$1.3 million for the Seabed Authority and more than \$3.6 million for the International Tribunal for the Law of the Sea, or “Tribunal.”⁴

A Dangerous Precedent. As a nation that has not ratified LOST, the United States is not a member of the Seabed Authority—the Kingston, Jamaica-based international organization established under LOST to

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“organize and control activities” for the ocean floor.⁵ The United States also has not submitted to the jurisdiction of the Tribunal and is not obligated to participate in proceedings that may come before it.

The Administration has no business making a budget request directed at subsidizing organizations of which the United States is not a member. The United States is already obligated to supply billions of dollars in funding to dysfunctional and mismanaged international organizations such as the United Nations, the U.N. Development Program, and U.N. Peacekeeping Operations.

Fulfilling the President’s request would also pave the way for funding other contentious treaties. Controversial and problematic treaties were signed during the Carter and Clinton Administrations that, like LOST, have never been ratified by the Senate.

For example, in 1980, the Carter Administration signed and submitted to the Senate the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), a treaty that purports to champion equal rights for women. Since then, the CEDAW Committee—which monitors and implements the treaty—has, among other odious acts, recommended that China decriminalize prostitution; that Croatia and Italy force doctors to perform abortions without regard to their conscientious objections

to the procedure, and; that Belarus ban Mother’s Day since it promotes the role of women as mothers.⁶

CEDAW—and other treaties such as the Convention on the Rights of the Child, signed by the Clinton Administration in 1995—should not be ratified by the Senate, much less funded by U.S. taxpayer dollars. Funding LOST activities would create a dangerous precedent that proponents of other treaties would use to their advantage.

Conclusion. U.S. taxpayer dollars should not be used to fund non-existent obligations stemming from flawed treaties. LOST should not be ratified, much less funded prior to ratification.

The budget request suggests an attempt by the White House to fund the treaty through a back door after the Senate refused to ratify it. Senators should be particularly irked that the Administration is attempting to fund a treaty for which they have not given their advice and consent. The White House should withdraw its budget requests relating to LOST. If it does not, Congress should ignore the requests and provide no funding for any activities relating to the treaty.

—Steven Groves is Bernard and Barbara Lomas Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation.

1. Baker Spring, Steven Groves, and Brett D. Schaefer, “The Top Five Reasons Why Conservatives Should Oppose the U.N. Convention on the Law of the Sea,” Heritage *WebMemo* No. 1638, September 25, 2007, at www.heritage.org/Research/InternationalOrganizations/wm1638.cfm, and Edwin Meese III, Baker Spring, and Brett D. Schaefer, “The United Nations Convention on the Law of the Sea: The Risks Outweigh the Benefits,” Heritage Foundation *WebMemo* No. 1459, May 16, 2007, at www.heritage.org/Research/InternationalOrganizations/wm1459.cfm.
2. Ronald Reagan, “Statement on United States Participation in the Third United Nations Conference on the Law of the Sea,” January 29, 1982, at www.reagan.utexas.edu/archives/speeches/1982/12982b.htm.
3. Steven Groves, “Why Reagan Would Still Reject the Law of the Sea Treaty,” Heritage Foundation *WebMemo* No. 1676, October 24, 2007, at www.heritage.org/Research/InternationalOrganizations/wm1676.cfm.
4. The White House, Fiscal Year 2009 Budget Request, Summary and Highlights, International Affairs, www.state.gov/documents/organization/100014.pdf.
5. International Seabed Authority website, at www.isa.org.jm/en/about.
6. CEDAW Committee, 20th Session (1999), “Concluding Observations of the Committee on the Elimination of Discrimination Against Women: China,” Paragraph 289, at [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.54.38,+paras.251-336.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.54.38,+paras.251-336.En?OpenDocument); CEDAW Committee, 18th Session (1998), “Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Croatia,” Paragraph 109, at [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.53.38,+paras.80-119.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.53.38,+paras.80-119.En?OpenDocument); CEDAW Committee, 17th Session (1997), “Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Italy,” Paragraph 353, at [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.52.38.Rev.1,PartIIparas.322-364.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.52.38.Rev.1,PartIIparas.322-364.En?OpenDocument); and CEDAW Committee, 22nd Session (2000), “Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Belarus,” Paragraph 361, at [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.55.38,+paras.334-378.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.55.38,+paras.334-378.En?OpenDocument).