

The Commentary entitled “LOST and found” which appeared in the August 8, 2007 issue of the Washington Times generated rebuttals from two ‘knowledgeable’ individuals: one, a former Judge ad hoc of the International Tribunal of the Law of the Sea (‘ITLOS’), and the other, a former U.S. delegate to the UN Convention on the Law of the Sea (UNCLOS) a/k/a The Law of the Sea Treaty (‘LOST’):

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Letters to the editor

August 10, 2007

...LOST at sea

I write in response to Lawrence Kogan's rant about the Law of the Sea Treaty ("LOST and found," Commentary, Wednesday). Mr. Kogan opposes U.S. accession to this treaty, but he omits any and all description of its substance, preferring to deal in false generalities about "the precautionary principle" (of all things) and out-of-context statements. He tries to scare readers by suggesting that, were we a party to the treaty, the Constitution would no longer apply to "our territories and our territorial waters, including the continental shelf" and that "private property and due process rights would be lost." Rather than rant in response, I simply challenge Mr. Kogan to provide a single scrap of textual support in the treaty for his statements. As a former delegate to the negotiations, I know he cannot.

Of course, Mr. Kogan also neglects to mention the broad and deep support this treaty has garnered, having been reported out of the Senate Foreign Relations Committee 19-0 in the previous Congress and recently endorsed yet again by the Joint Chiefs of Staff. He tells us that President Reagan "deep-sixed" the treaty, but neglects to mention that the sole basis of Mr. Reagan's refusal to sign on in 1982 was Part XI, dealing with the deep seabeds beyond national jurisdiction, or that those provisions were massively renegotiated in 1994 to satisfy the United States (and a few others).

This treaty has been in effect for more than a decade, with 155 parties. The United States is the sole important holdout, having been hamstrung thus far by a

scurrilous disinformation campaign from the paranoid right. On June 13, The Washington Times published "Reap the bounty" (Op-Ed) by Deputy Secretary of State John Negroponte and Deputy Secretary of Defense Gordon England. It was a succinct explanation of why the United States should accede. Perhaps you should reprint it as a public service.

ROBERT J. MCMANUS

Washington

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Lawrence Kogan cited me as his former law professor in his column "LOST and found." Not only did he not tell me our chat was for purposes of publication, but he misunderstood what I said when he wrote that I "admitted that the U.S. would be incapable of preventing partners such as Europe from employing the precautionary principle against our national interests for the foreseeable future." To set the record straight, my point was that if the Senate heeds President Bush's call to approve the Law of the Sea Convention, America will be better able to prevent unreasonable foreign restrictions on its military mobility and global trade, whether in response to the precautionary principle or otherwise. The Joint Chiefs of Staff and the leaders of American industry agree.

Maybe Mr. Kogan is happy to forfeit the opportunity to have an American on the commission charged with reviewing Russia's newly advertised pretensions to control vast seabed resources in the Arctic. I am not.

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