

Troubled waters on U.N. oceans treaty

The U.S. has been the major stumbling block to a worldwide agreement on ocean governance and fixing damaged seas.

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Leon E. Panetta and retired Adm. James D. Watkins were on Capitol Hill last week lobbying for a treaty that, depending on how you look at it, is three to 25 years overdue for a Senate vote. As co-chairmen of the Joint Ocean Commission Initiative and former heads of two major blue-ribbon panels on the state of our seas, they recently gave the government a C-minus in ocean policy. One of the categories that helped drag that grade down was international leadership—in which the U.S. was given a D-minus because of its ongoing failure to ratify the U.N. Convention on the Law of the Sea.

The convention is the framework treaty for international agreements relating to marine boundaries, economic and environmental resources, scientific research, pollution control and more. Some call it the constitution of the ocean, and 153 nations have signed on.

As a result of its failure to approve the treaty, the U.S. is not in a position to participate in vital decision-making bodies, including joining nations such as Russia and Norway that are staking territorial claims under the treaty in Arctic waters, where climate change is melting ice and opening up the potential for new energy, mineral, fishing and global shipping operations.

The treaty has the support of the Bush administration, 90 senators and almost every maritime interest group, from Greenpeace to the Pentagon, the Ocean Conservancy to the offshore oil industry. In terms of policy, it's not low-hanging fruit, it's more like fruit on the ground. So what's the problem?

The story of the Law of the Sea treaty and the U.S. goes back to the Cold War and a ship, the *Glomar Explorer*, which Howard Hughes built for the CIA to retrieve a sunken Russian submarine in the 1970s. The CIA cover story was that the *Glomar Explorer* would be mining deep-sea minerals, and this inspired frenzied speculation that there was a trillion dollars of wealth just waiting to be vacuumed off the ocean floor. But the U.N. had declared the deep oceans "the common heritage of mankind."

By 1980, Elliot L. Richardson, the U.S. special representative to the Law of the Sea conference, had worked out a compromise agreement allowing for some corporate ocean mining, but a new delegation appointed by the Reagan administration nixed any "giveaway" of deep-sea minerals, insisting that the oceans' resources belonged to those with the capital and technology to claim them. As a result, although there was agreement on 16 of 17 treaty issues, negotiations stalled, Richardson later told me. President Reagan refused to sign the treaty in 1982.

President Clinton got greater corporate access written into the U.N. rules so that, in 1994, he was politically able to join many other heads of state in signing the treaty, but that still left the Senate to ratify it. A majority was prepared to do just that, but the vote was blocked by the Foreign Relations Committee chairman, Sen. Jesse Helms of North Carolina. His top staffer on the issue told me that the senator didn't want to be part of a U.N. agreement in which “the U.S. doesn't have a greater vote than anyone else.”

In 2004, Helms' replacement as head of the panel, Republican Richard G. Lugar of Indiana, got unanimous committee endorsement for the treaty and again tried to move it to a floor vote, only to be blocked by then-Majority Leader Bill Frist (R-Tenn.). Frist's supporters on the right, including Phyllis Schlafly and Oliver L. North, saw the treaty as part of a U.N. attempt to undermine U.S. sovereignty.

Since the Democratic takeover of the House and Senate in 2006, the Bush administration, if not the president himself, has become more outspoken in its support of the Law of the Sea treaty. National security advisor Stephen J. Hadley is promoting it.

Which leaves bringing the treaty to a floor vote—and certain passage—in the hands of the new Senate Foreign Relations Committee chairman, Joseph R. Biden Jr. of Delaware, right? Not quite.

Biden's staff says there are lots of treaties pending; this one is not scheduled for a vote. Although the senator (and presidential candidate) voted for it as a committee member in 2004, his priorities now are the wars in Iraq and Afghanistan. Yet isn't establishing an international approach to using and operating on 71% of our planet's surface just as significant a foreign policy and leadership issue?

If the U.S. can't agree to engage in global ocean governance, how can it ever begin to address the complex and challenging task of restoring our damaged oceans to health? It's long past time to schedule the Law of the Sea vote, get our overdue homework done and improve our ocean policy grade.

By David Helvarg, DAVID HELVARG is president of the Blue Frontier Campaign and the author of “Blue Frontier: Dispatches from America's Ocean Wilderness.”