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**Washington, DC 20515-0502**

March 16, 2004

The Honorable Colin L. Powell  
Secretary  
Department of State  
2201 C Street, NW  
Washington, DC 20520

Dear Secretary Powell:

I am writing to you regarding the Administration's support for the Law of the Sea Treaty (LOST), currently under consideration for ratification in the United States Senate. I would appreciate your prompt review of the questions below, and a response at the earliest time.

Specifically, I read with interest an article in the February 26, 2004 edition of National Review, authored by Frank J. Gaffney, Jr., entitled "John Kerry's Treaty." In his column, Mr. Gaffney offers a critique of the proposed treaty, similar iterations of which were rejected by President Ronald Reagan in 1982 and endorsed by President Clinton in 1994. I would appreciate your response to Mr. Gaffney's arguments concerning LOST. If true, our nation's involvement and support of this treaty is troubling, and could seriously jeopardize our sovereignty, as well as the ongoing war on terrorism.

First, Mr. Gaffney contends that U.S. ratification of LOST would lead to an unwarranted transfer of wealth and surrender of sovereignty due to the creation of the International Seabed Authority. This new international regulatory agency would have the power to levy international taxes, impose production quotas and enforce its judgments through a multinational court system and the use of United Nations warships.

Second, the article details how LOST would stymie current U.S. sea interdiction efforts central to President Bush's anti-weapons proliferation agenda. It also notes how the Communist People's Republic of China is already citing LOST as one objection to the Proliferation Security Initiative maritime interdiction program. Also related to the war on terrorism, the treaty would prohibit American submerged transit and intelligence collection in international waters.

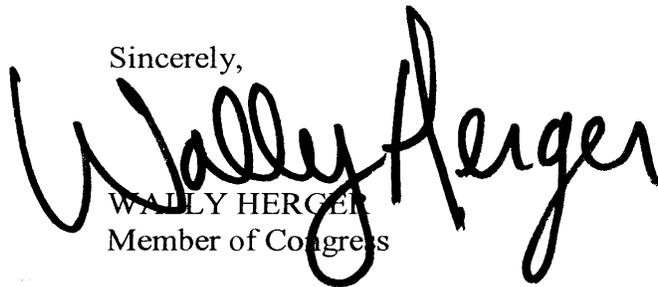
**Secretary Powell**  
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Further, LOST does not address, and may in fact more greatly enable future military conflict. As explained in the article, China is currently using its treaty interpretation to justify the broadening of its military influence in the South China Sea. *"The PRC creates and fortifies man-made islands near that sea's rich oil and mineral deposits, then asserts that LOST entitles it to exclusive economic control of the waters within a 200 nautical-mile radius — including waters transited by the vast majority of Japanese and American oil tankers en route to and from the Persian Gulf."*

If the content of Mr. Gaffney's article is true, his arguments verifiable, the Law of the Seas Treaty would seem to run contrary to both our national and wartime interests. I sincerely hope you will review this matter closely, and I look forward to your response.

Again, thank you for your attention to this issue. Should you have any questions, please feel free to contact me.

Sincerely,



WALLY HERGER  
Member of Congress

Cc. The Honorable Paul V. Kelly, Assistant Secretary for Legislative Affairs