

[Senate Executive Report 110-9]  
[From the U.S. Government Publishing Office]

110th Congress

Exec. Rept.

SENATE

1st Session

110-9

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CONVENTION ON THE LAW OF THE SEA

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December 19, 2007.--Ordered to be printed

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Mr. Biden, from the Committee on Foreign Relations,  
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany Treaty Doc. 103-39]

The Committee on Foreign Relations, to which was referred the United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the ``Convention''), and the Agreement Relating to the Implementation of Part XI on the United Nations Convention on the Law of the Sea, with Annex, adopted at New York on July 28, 1994 and signed by the United States on July 29, 1994 (the ``1994 Agreement'') (Treaty Doc. 103-39), having considered the same, reports favorably thereon with declarations, understandings, and conditions as indicated in the resolution of advice and consent, and recommends that the Senate give its advice and consent to accession to the Convention and ratification of the 1994 Agreement, as set forth in this report and the accompanying resolution of advice and consent.

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I. PURPOSE

The Convention, together with the related 1994 Agreement,

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Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO DECLARATIONS AND UNDERSTANDINGS.

The Senate advises and consents to the accession to the United Nations Convention on the Law of the Sea, with annexes, adopted on December 10, 1982 (hereafter in this resolution referred to as the ``Convention''), and to the ratification of the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, with annex, adopted on July 28, 1994 (hereafter in this resolution referred to as the ``Agreement'') (T.Doc. 103-39), subject to the declarations of section 2, to be made under articles 287 and 298 of the Convention, the declarations and understandings of section 3, to be made under article 310 of the Convention, and the conditions of section 4.

SECTION 2. DECLARATIONS UNDER ARTICLES 287 AND 298.

The advice and consent of the Senate under section 1 is subject to the following declarations:

(1) The Government of the United States of America declares, in accordance with article 287(1), that it chooses the following means for the settlement of disputes concerning the interpretation or application of the Convention:

(A) a special arbitral tribunal constituted in accordance with Annex VIII for the settlement of disputes concerning the interpretation or application of the articles of the Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping; and

(B) an arbitral tribunal constituted in accordance with Annex VII for the settlement of disputes not covered by the declaration in subparagraph (A).

(2) The Government of the United States of America declares, in accordance with article 298(1), that it does not accept any of the procedures provided for in section 2 of Part XV (including, inter alia, the Seabed Disputes Chamber procedure referred to in article 287(2)) with respect to the categories of disputes set forth in subparagraphs (a), (b), and (c) of article 298(1). The United States further declares that its consent to accession to the Convention is conditioned upon the understanding that, under article 298(1)(b), each State Party has the exclusive right to determine whether its activities are or were ``military activities'' and that such determinations are not subject to review.

SECTION 3. OTHER DECLARATIONS AND UNDERSTANDINGS UNDER ARTICLE 310.

The advice and consent of the Senate under section 1 is subject to the following declarations and understandings:

(1) The United States understands that nothing in the Convention, including any provisions referring to ``peaceful uses'' or ``peaceful purposes,'' impairs the inherent right of individual or collective self-defense or rights during armed conflict.

(2) The United States understands, with respect to the right of innocent passage under the Convention, that--

(A) all ships, including warships, regardless of, for example, cargo, armament, means of propulsion, flag, origin, destination, or purpose, enjoy the right of innocent passage;

(B) article 19(2) contains an exhaustive list of activities that render passage non-innocent;