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To whom it may concern within the United States Senate:

My name is Wes Faires. I am currently working on a Master of Laws degree (LL.M.) in International Law and Globalization; I am writing to express my concern on The Law of the Sea Treaty. Despite US adherence to all other aspects of the treaty (Territorial waters, EEZ, et al.), the push for ratification continues. With the lame duck senate majority in support of the treaty, conditions are right for fast track ratification before the next congress convenes. Sparse media coverage cites Arctic controversy created by Russia's claim to the north pole and naval issues in the South China Sea to fuel the argument for ratification; I am writing to shed light on aspects of this treaty discovered through original research that I feel should be brought to public. The real issue is, and always has been buried in the Deep Seabed. The implications of what is at stake here treaty extend well beyond the scope of seafloor resources.

The treaty gives rise to a dangerous new type of governing body. This International SeaBed Authority (ISA) is the regime which will exercise full sovereign rights to the ocean floor under international waters, charging private citizens wishing to conduct mining operations a six figure application fee. All private mining operations must be approved and monitored by Authority, subject to termination lest a percentage of all resouces (or monetary equivalent) are shared with the ISA. [1] We should all think twice about entrusting this type of money and 70% of the Earth's surface to the ISA, which, in 2002, had its power cut for failing to pay its air conditioning bill to host country Jamaica.[2] The International Tribunal for the Law of the Sea (ITLOS), much like the International Criminal Court (ICC) and International Court of Justice (ICJ), has been cited by treaty opponents as a "submission of US sovereignty." Not only has this nationalistic view grown stale over the past three decades, it fails to encompass the entire issue. Unlike the WTO, ICJ, ICC or other instruments of supranational governance, the Law of the Sea goes beyond regulation on the national level - **The people of America will be subject to the jurisdiction of a new court!** [3]

When analyzing the inclusion of "natural/juridical persons" and provisions laid forth "on behalf of mankind" in the treaty, the intent of the framers rings clear: At the heart of the treaty lies the Common Heritage of Mankind (CHM) principle, the first instrument for governance of resources outside national jurisdiction. [4] It establishes of an international authority representing mankind's rights within "The Area". [5] **Indeed, for the first time in legislation, an international organization is in now place with the ability to govern the actions of private citizens directly** . Its first act on behalf of mankind? Prohibition of appropriation of sovereign rights or claims to resources in The Area, for all "natural/juridicial persons". [6] Our right to property is arbitrarily denied, in directcontradiction to the Universal Declaration for Human Rights [7] **With the right kind of eyes, one can see the largest-scale violation of human rights in legislative history embedded within the CHM principle of the Law of the Sea.**

The Common Heritage principle remained unaffected even after the 1994 Agreement which took the International SeaBed Authority down a few pegs. [8] [9] Ratification of the Law of the Sea Treaty would certainly give strength to acceptance of the CHM principle as "customary international law" when it comes to dealing with territorial jurisdiction beyond national borders. Considering the fact that the same provisions of the CHM principle (territorial governance by appointed international regime, and exclusion of private property rights) are implemented in the Moon Treaty, a U.N. 'treaty in force', whose jurisdiction covers the entire solar system outside of Earth, **the implications of here are astronomical.** [10] This type of governance is a slap in the face to private citizens. Unelected officials created an omniscient, supranational body, beholden to nothing except itself, where a small minority decided on behalf of mankind that no human being may exercise property rights outside national borders, for all of eternity, from deep-sea polymetallic nodules to lunar regolith and beyond. The treaty, its institutions and its appointed officials remain forever shielded from input from the billions of private citizens directly affected. Consent of the governed be damned.

I am not a deep sea miner. I am not fueled by desire for deep sea manganese nodules, nor do I hold the belief that the ocean floor should be free of any and all regulation. There should be some sort of regime in place outside the national level – but it should be built from the bottom up, not the top down. Elected, not appointed. Subject to external oversight. And if nothing else, contain a platform for natural persons/private citizens to have their voices heard. But not like this. In conclusion, I cite the preclusion of private property rights and implications for supranational governance of non-national territories rooted in its deep seabed provisions in stating that the Law of the Sea does not serve in the best interest of mankind as a whole. I strongly discourage ratification, and I am willing to go to bat on behalf of mankind over this. I welcome your response, as well as any direction you can give me in promoting my cause.

1 ***United Nations Convention on the Law of the Sea art. 153, Dec. 10, 1982, 1833 U.N.T.S. 397 [UNCLOS] - "****Activities in the Area shall be organized, carried out and controlled by the Authority on behalf of mankind"*

2 ***ISBN: 976-610-500-6 (ISBA/8/A/5/Add. 1 Arts. 18-19) - Selected Decisions and Documents of the Eighth Session - ISA, 2002 – Pp. 12-13***
Retrieved from: http://isa.org.jm/files/documents/EN/SelDecisions/SelDecision8-En.pdf

3 ***Id, Art. 187 esee also Art. 153 para. 2(b) –*** *Establishes jurisdiction over natural/juridical persons by the International Tribunal for the Law of the Sea (ITLOS) Deep Seabed Disputes Chamber*

4 ***Id, art. 136***

5 ***Id, art. 137, para. 2 -*** *"All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act."*

6 ***[UNCLOS] Art. 137, Para. 1, 3, -*** *Paragraph 1 states that No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State* ***or natural or juridical person appropriate any part thereof.*** *Paragraph 3 states that No State* ***or natural or juridical person*** *shall claim****, acquire or exercise rights with respect to the minerals*** *recovered from the Area.*

7 ***Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948)****. Article 17 states "Everyone has the right to own property alone as well as in association with others," and that "No one shall be arbitrarily deprived of his property."*

8 ***A/RES/48/263.*** *(1994) Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 - Annex, Section 4*

9 ***UNCLOS, article 155, paragraph 2,*** *(a) principle of the common heritage of mankind, (b) the international regime designed to ensure equitable exploitation of the resources of the Area* ***(c) an Authority to organize, conduct and control activities in the Area, and (d) exclusion of claims or exercise of sovereignty over any part of the Area …***

10 ***Agreement Governing Activities of States on the Moon and Other Celestial Bodies Article. 11, para. 1, 3, 5. and Article 1*** *Dec. 17, 1979, 18 I.L.M. 1434*

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Brief Treaty Breakdown

LAW OF THE SEA - PART XI
THE AREA
SECTION 2. PRINCIPLES GOVERNING THE AREA

Article 136
Common heritage of mankind
The Area and its resources are the common heritage of mankind.
Introducting the Common Heritage of Mankind Principle – The basis on which territorial governance beyond national borders is to be based.

Article 137
Legal status of the Area and its resources
1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources,
nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized.

2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority.

3. No State or **natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area** except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized.

Just by mentioning of "natural/juridical persons" directly, this treaty is obviously going where no other supranational treaty has gone before – direct governance of private citizens' lives. The border is now crossed. It immediately (A) creates an authority to 'represent us' (it becomes obvious who's in charge of who), and (B) denies our right to property – two things we never asked for.

It's been said that these deep seabed issues were cleared up by a 1994 Addendum to the Law of the Sea Treaty that 'scaled back' the powers and provisions over the "Area" granted by the original treaty. Yeah, the application fee was cut in half for mining permits, but lets see if the key concepts still remain:

A/RES/48/263. (17 AUGUST 1994)
Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982

Annex
SECTION 4. REVIEW CONFERENCE -
Amendments relating to this Agreement and Part XI shall be subject to
the procedures contained in articles 314, 315 and 316 of the Convention,
provided that the principles, regime and other terms referred to
in article 155, paragraph 2, of the Convention shall be maintained […]

So what's so special about this one article that can't be changed?

SECTION 3. DEVELOPMENT OF RESOURCES OF THE AREA
Article 155
The Review Conference
2. The Review Conference shall ensure the maintenance of the
a. **principle of the common heritage of mankind,**
b. **the international regime designed to ensure equitable exploitation of the resources of the Area**
c. **an Authority to organize, conduct and control activities in the Area.**
d. **exclusion of claims or exercise of sovereignty over any part of the Area …**

Oh, that's it. So the Common Heritage/Rule of Citizens by International Regime/Denial of the Human Right to resource/property ownership concept is to forever remain untouchable.

Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948)
Article 17 states "Everyone has the right to own property alone as well as in association with others," and that "No one shall be arbitrarily deprived of his property." **Thus, it can be said that UNCLOS is the largest-scale violation of human rights in legislative history!**