



Written by [Michael Tennant](#) on November 9, 2012

More LOST Opponents Coming to Senate — but Will They Be Too Late?

Opponents of the Law of the Sea Treaty (LOST) — officially, the United Nations Convention on the Law of the Sea (UNCLOS) — should be encouraged by the outcome of Tuesday's Senate elections, according to [Patrick Goodenough](#) of CNSNews.com.

As of last summer, [34 Republican senators](#), led by Sen. Jim DeMint (S.C.), had gone on the record opposing ratification of the treaty. Although Democrats gained two seats in the election, giving them an eight-seat edge over Republicans (10 if one includes the two seats that will be held by independents caucusing with Democrats), the number of LOST opponents has probably increased by two, Goodenough calculates.



LOST opponent Sen. Jon Kyl (R-Ariz.), who is retiring, will be succeeded by Rep. Jeff Flake (R-Ariz.), who as a congressman “led an effort to urge senators not to ratify” the treaty, Goodenough writes. Kyl is the only LOST opponent leaving the Senate, but his replacement with Flake will not alter the balance of votes for or against the treaty.

Four Republicans who favor LOST ratification — Sens. Richard Lugar (Ind.), Scott Brown (Mass.), Olympia Snowe (Maine), and Kay Bailey Hutchison (Texas) — are departing. “Three of their replacements — Joe Donnelly (D) in Indiana, Elizabeth Warren (D) in Massachusetts and independent [Angus] King in Maine — will likely support ratification,” says Goodenough.

Meanwhile, Hutchison's replacement, Ted Cruz (R), has [declared](#) LOST “ill-conceived, unworkable, and naïve.” “It must be defeated,” he added emphatically.

In addition, Sen. Ben Nelson (D-Neb.), a LOST supporter, is retiring and being succeeded by Republican Deb Fischer. Goodenough could not get Fischer's office to comment on her position on LOST by his deadline, but he stated that “the Tea Party-backed Fischer touts a conservative voting record in the Nebraska state senate” and therefore will “likely” be a LOST opponent in the U.S. Senate.

Goodenough concludes: “If Cruz and Fischer do both join the anti-treaty group, and no current members change their position, the list [of opponents] grows to 36,” making the treaty's passage increasingly doubtful after this year.

There are plenty of reasons to oppose LOST ratification, as [The New American](#) has [amply documented](#). The treaty grants a UN-created body control over 70 percent of the Earth's surface, gives that same body global taxing authority, infringes on U.S. sovereignty, redistributes wealth on a worldwide scale, creates international tribunals whose decisions are binding, and could negatively affect U.S. national security. The treaty's alleged benefits, on the other hand, are already enjoyed by the United States under customary international law and other agreements.



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The Obama administration has been pushing hard for LOST ratification, particularly in the past year. In May the Senate Foreign Relations Committee, headed by Sen. John Kerry (D-Mass.), held a hearing on the treaty. Secretary of State Hillary Clinton, Secretary of Defense Leon Panetta, and Joint Chiefs of Staff Chairman Martin Dempsey all made impassioned pleas for the Senate to ratify LOST.

Kerry, however, did not schedule a vote at that time. Instead, he [announced](#) during the hearing that he probably wouldn't bring LOST up for a vote before the election. His spokeswoman later dismissed the 34 senators' stated opposition to the treaty as "just a snapshot of where our politics are in this instant," adding that "it's a matter of 'when' not 'if' for the Law of the Sea." This has led many LOST opponents to suspect that Kerry will try to ram the treaty through during the lame-duck session before the end of the year — a turn of events that has only become more probable now that the number of anti-LOST senators is certain to grow when the Senate convenes in January.

Of course, if Kerry were to try to pass the treaty when all existing opponents were on the floor — and all of them remained true to their word — LOST would be sunk. However, the Constitution requires the consent of only two-thirds of the senators present during a vote, which can be held when just 51 senators are present, for a treaty to be ratified. Thus, if Kerry were to hold a vote during a sparsely attended session or try to pass it by unanimous consent — a tactic Sen. Richard Durbin (D-Ill.) [tried unsuccessfully](#) to employ in September to pass another UN treaty — he just might be able to get LOST ratified despite the fact that over a third of all senators oppose it.

LOST opponents may be able to breathe a little more easily come January, but in the meantime — and even afterward — they will need to remain vigilant. The enemies of liberty do not sleep, and neither must its defenders.



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