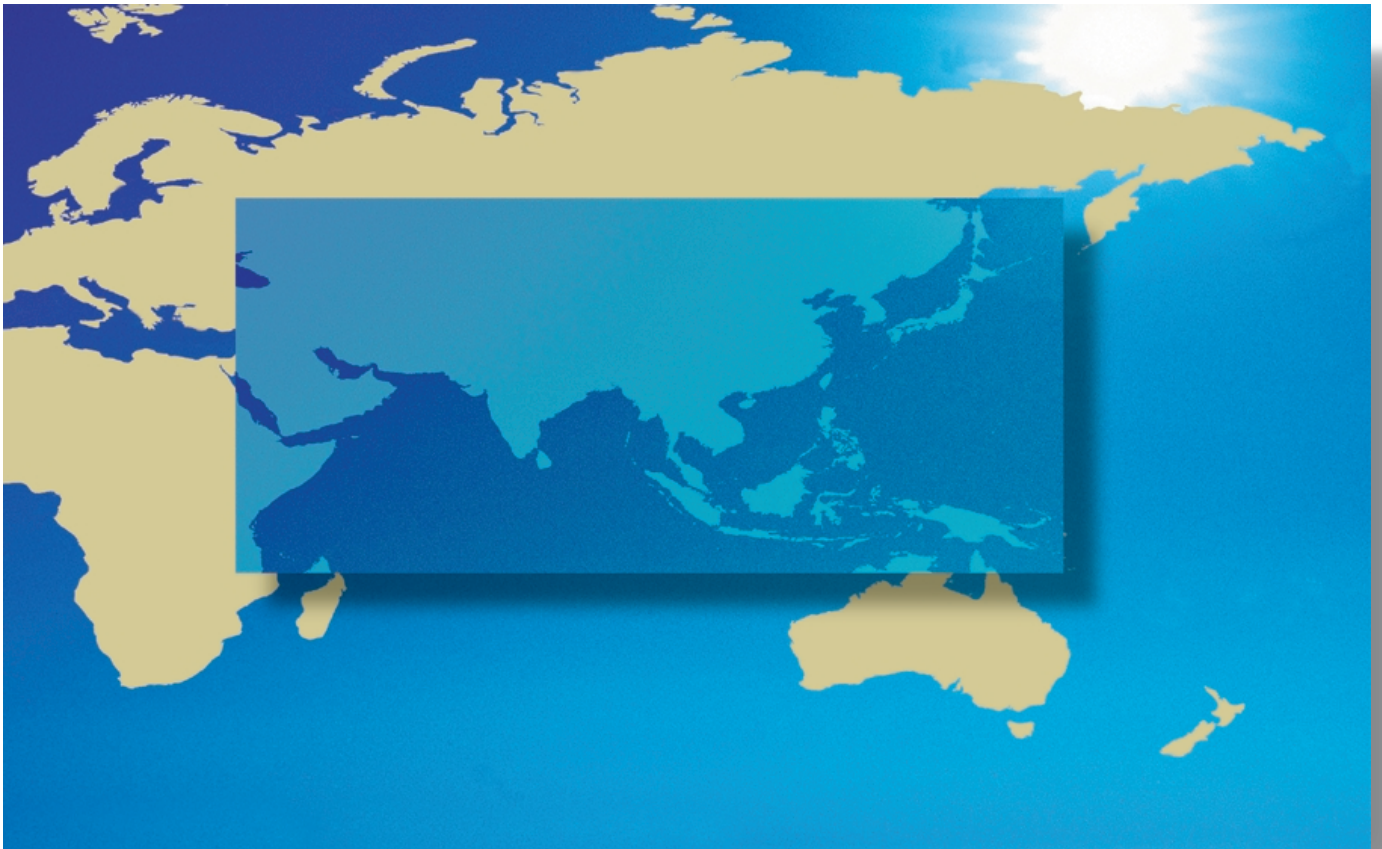


# OPRF MARINT Monthly Report

## May 2012



## CONTENTS

### Intelligence Summary in May 2012

#### 1. Information Digest

- 1.1 Maritime Security
- 1.2 Military Developments
- 1.3 South China Sea-related Events
- 1.4 Diplomacy and International Relations
- 1.5 Shipping, Shipbuilding and Harbors
- 1.6 Ocean Resources, Energy Maritime Environment and Others

#### 2. Intelligence Assessment

Discussion regarding accession to UNCLOS in the United States

This monthly report was summarized and produced by OPRF staff writers based on their analyses and assessments of open source information.

Each source of information is described as an internet link in a bracket, which is available as URL online as of the end of May 2012.

Editor: Masahiro Akiyama

Staff writers:

Kazumine Akimoto, Masami Kawamura, Wakana Mukai, Satoru Nagao, Eiji Sakai,  
Daisuke Sekine, Yuko Takada, Takehisa Tomomori, Hideshi Ueno, Daiju Wada

---

All rights reserved.

This report, or parts thereof, must not be produced in any form without permission in writing of the publisher.

## Intelligence Summary in May 2012

**Maritime Security:** On the 2nd, the United Kingdom became the eighteenth Contracting Party to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

On the 4th, the Kerala High Court Kemal Pasha in India allowed the Italian-flagged MT *Enrica Lexie* operated by an Italian company to sail out of Indian waters. The ship had been detained at the Kochi port since February 15 after two Italian marines allegedly shot dead two fishermen, suspecting them to be pirates.

In May, there was one hijacking incident. On the 10th, Somali pirates hijacked the oil tanker Liberian-flagged MT *Smyrni* operated by a Greek company in the Arabian Sea 630 kilometers from the coast of Oman.

Two “mother ships” were captured. On the 11th, EU NAVFOR frigate HNLMS *Van Amstel* released an Iranian fishing dhow and her Iranian crew off the coast of Somalia, and captured 11 suspected pirates. The dhow had been pirated 10 days earlier and was being used to carry out pirate attacks on merchant vessels as a “mother vessel”. According to a statement from Turkish General Staff, on the morning of the 11th, Turkish navy’s TCG *Giresun*, belonging to NATO’s anti piracy task force TF-508, released a Yemeni fishing dhow, freed 7 Yemeni fishermen, and detained 14 suspected pirates. Weapons and piracy-related equipment on board were seized. Early on the morning of the 15th, the EU Naval Force conducted air strikes on Somali pirates’ land base near Hardhere with a helicopter for the first time, following the decision taken on March 23, 2012 by the Council of the European Union to allow the EU Naval Force to destroy pirate equipment on the Somali coastline. Five speedboats were destroyed during the raid. There were no casualties.

The UAE’s newspaper *The National* (electronic edition) dated the 13th reported that a security company plans to organize a naval force to escort merchant vessels as anti-piracy efforts. A private navy costing US\$70 million is being set up to escort merchant ships through the pirate-infested Gulf of Aden. It will comprise a fleet of 18 ships, and will offer to convoy merchant vessels along the Internationally Recognised Transit Corridor (IRTC). The fleet will be operated by the Convoy Escort Programme (CEP), a British company. The CEP hopes the fleet will be operational by December. On the other hand, interim guidance to private maritime security companies (PMSCs) was agreed by IMO’s Maritime Safety Committee (MSC), when it met at the Organizations London Headquarters for its 90th session from 16 to 25 May 2012.

**Military Developments:** The web magazine *The Diplomat* dated the 1st reports the current development of the Indian Navy, saying that formidable naval forces India’s first Prime Minister Jawaharlal Nehru dreamed is coming reality.

According to the web magazine *DiploWeek* dated the 4th, a six-day Sino-Russian joint naval exercise conducted at the end of April was the largest joint navy drill between China and Russia

in recent years. Through growing ties with Russia, China aims to increase trade with Russia in the machinery and electrical products sectors.

On the 7th, U.S. Defense Secretary Leon E. Panetta had a talk with Chinese Defense Minister Gen. Liang Guanglie at the Pentagon. “The United States and China are both Pacific powers, and our relationship is one of the most critical in the world,” Panetta said at a news conference after their meeting. Meanwhile, Liang said, “At present, China-U.S. bilateral relationship is on a new starting line in history to build a new kind of military relationship based on equality, cooperation and mutual benefit.”

Rear Admiral Thomas Rowden, the Navy’s director of surface warfare, announced on the 9th that the first LCS USS *Freedom* will be sent to Singapore in the spring of 2013 for a roughly 10-month deployment. The United States and Singapore has discussed hosting up to four such U.S. “Littoral Combat Ships,” or LCS, on a rotational basis at its naval facilities. Both countries have said the deployment stops short of a basing agreement.

According to a Taiwanese newspaper, *The China Times*, dated the 14th, five of the Taiwanese navy’s eight *Perry*-class frigates have been armed with the supersonic Hsiung Feng (Brave Wind) III weapons. Some of its smaller patrol boats have also been equipped with the missiles, which are designed to cruise at a speed of Mach 2.0, or twice the speed of sound, with a range of up to 130 kilometres. *The China Times* said the navy plans to deploy 120 such missiles dubbed “aircraft carrier killers” by their developer.

On a blog dated the 16th, an American specialist on security issues, Sydney J. Freedberg Jr. expressed concern about the decline of U.S. Navy’s anti-submarine capability as China and Iran strengthen their submarine fleets.

*American Forces Press Service* dated the 21st reported an interview with the top U.S. Pacific Command officer Navy Adm. Samuel J. Locklear Jr. Adm. Locklear stated that rotational deployments, possibly to include the Army, expand U.S. presence in the region without the need for more permanently based forces. On the other hand, on the 21st, the U.S. Navy’s undersecretary Bob Work told an audience at the Cato Institute that the U.S. Navy could eventually have a force of eight ships operating from Bahrain if plans to base littoral combat ships (LCS) in the Arabian Gulf continue as envisioned.

**South China Sea-related Events:** On the 2nd, the Philippine government asked the United States to supply its armed forces with patrol boats and aircraft as well as radar systems for monitoring activities.

The Taiwanese Ministry of National Defense (MND) on the 3rd turned down the idea of Taiwan redeploying short-range air defense missiles in a disputed area in the South China Sea. Any such moves by Taiwan could spark political controversy and affect the country’s regular patrol missions in the area, Deputy Defense Minister Chao Shih-chang said. Legislators, however, have been pushing the military to strengthen its presence in the region.

On the 9th, Carlyle A. Thayer, an honorary professor of the University of New South Wales in Australia, argued about the impact of confrontation between China and the Philippines over

Scarborough Shoal on U.S.-China relations as follows: (1) as the South China Sea becomes more congested the likelihood of an armed incident involving China and the Philippines will increase and possibly trigger U.S. intervention (2) the United States and its allies also must keep up diplomatic pressure on China to refrain from force and intimidation.

On the 16th, China started a two-and-a-half month fishing ban in most parts of the South China Sea. The annual fishing ban, which has been in place since 1999, covers areas north of the 12th parallel, including Huangyan Island (the Scarborough Shoal) but excluding most of the Nansha Islands.

On the 23rd, the Philippine Department of Foreign Affairs expressed “grave concern” to the Chinese Embassy after a dramatic increase in the number of Chinese vessels around the Scarborough Shoal in the past few days. Chinese Foreign Ministry spokesman announced on the 23rd about 20 Chinese fishing vessels were in the disputed area.

China’s Defense Minister Liang Guanglie urged the Philippines to show “discretion in both words and deeds” over the Huangyan Island issue during a conversation with his Philippine counterpart Voltaire Gazmin on the 28th in Phnom Penh, Cambodia. The Philippine defense chief said he appreciated the meeting on this issue, and the defense departments of both sides should keep communication lines open to seek a peaceful and proper solution.

**Diplomacy and International Relations:** On the 7th, Iranian Foreign Ministry said Tehran will never negotiate with other countries about the issue of territorial rights over the islands of Abu Musa, the Greater Tunb and the Lesser Tunb.

**Shipping, Shipbuilding and Harbors:** On the 4th, the world’s largest ship MS *Tûranor Planet Solar* running solely on the power of the sun cruised into a harbor in Monaco, officially completing the world’s first circumnavigation for a 100% solar powered ship since leaving Monaco in September 2010.

The Indonesian newspaper *The Jakarta Globe* dated the 14th reported Tanjung Priok port expansion project in Jakarta, saying that the expansion is expected to help triple the port’s present annual capacity to more than 18 million TEUs when all phases are completed in 2023.

On the 25th, the International Chamber of Shipping (ICS) sent a strongly worded letter to the Panama Canal Authority (ACP) describing plans to increase tolls by up to 15% as ‘simply unacceptable’.

On the 28th, Hyundai Heavy Industries (HHI) has won an order to build a semi-submersible drilling rig for Fred Olsen Energy (Norway’s offshore oil drilling major). The semi-submersible, measuring 123 m in length and 96 m in width with an operating depth range of 70 m to 3,000 m, will be able to drill to depths of 12,200 m. When completed in March 2015, this semi-submersible rig will be the biggest ever built.

**Ocean Resources, Energy, Sea Environment and Others:** Climate and environmental change are emerging as national security threats that weigh heavily in the Pentagon’s new strategy, U.S.

Defense Secretary Leon E. Panetta told an environmental group at a reception hosted by the Environmental Defense Fund on the 2nd. He said, "In the next fiscal year, we are going to be investing more than a billion dollars in more efficient aircraft and aircraft engines."

On the 9th, China's national oil major, China National Offshore Oil Corp (CNOOC) announced that CNOOC 981 began drilling in a sea area 320 km southeast of Hong Kong at a water depth of 1,500 meters in the morning of the 9th. According to CNOOC, CNOOC 981 is the sixth-generation semi-submersible, marking "a substantial step" made by the country's deep-sea oil industry. With this, China becomes the first country to explore deep-water oil and gas resources in the South China Sea.

On the 23rd, the EU reaches a provisional agreement on the sulphur content of marine fuels. According to the announcement, all ships operating in EU waters meet mandatory sulphur content limits of marine fuels in an effort to reduce harmful emissions from ships.

**Intelligence Assessment:** In May, U.S. Senate Foreign Relations Committee began a sequence of public hearing concerning whether the United States should accede to United Nations Convention on the Law of the Sea. The United States is the only permanent member of the U.N. Security Council and the only Arctic nation that is not a party to the treaty, which has been endorsed by 161 countries.

This is the third hearing on U.S. accession to UNCLOS held by U.S. Senate Foreign Relations Committee. In 2004, the Senate Foreign Relations Committee approved the accession to the convention passed by a vote of 19 in favor and 0 opposed. In 2007, the committee approved the accession passed by a vote of 17 in favor and 4 opposed. In any of these cases, however, because of staunch opposition from a handful of conservatives worried about what they say are threats to America's sovereignty, the full U.S. Senate was unable to secure a two-thirds vote needed to approve the accession to the convention. U.S. Secretary of State Hillary Rodham Clinton, U.S. Secretary of Defense Leon E. Panetta, and the Chairman of the U.S. Joint Chiefs of Staff Martine E .Dempsey gave statements to develop arguments for U.S. accession to UNCLOS at a public hearing hold on the 23rd. In this Intelligence Assessment, the briefs of their statements along with the tones of recent arguments over U.S. accession to UNCLOS will be introduced.

# 1. Information Digest

## 1.1 Maritime Security

### May 2 “The United Kingdom joins ReCAAP” (ReCAAP Joint Press Release, May 2, 2012)

On the 2nd, the United Kingdom became the eighteenth Contracting Party to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

Refer to the article: The United Kingdom joins the ReCAAP

[http://www.recaap.org/Portals/0/docs/News%20and%20Press%20Releases/Joint%20Press%20Release%20\(2012-05-02\).pdf](http://www.recaap.org/Portals/0/docs/News%20and%20Press%20Releases/Joint%20Press%20Release%20(2012-05-02).pdf)

### May 4 “Indian court allows detained Italian tanker to sail out” (The Hindu, May 6, 2012)

On the 4th, the Kerala High Court Kemal Pasha in India allowed the Italian-flagged MT *Enrica Lexie* operated by an Italian company to sail out of Indian waters. The ship had been detained at the Kochi port since February 15 after two Italian marines allegedly shot dead two fishermen, suspecting them to be pirates.

Refer to the article: Italian ship allowed to leave Kochi on execution of bond

<http://www.thehindu.com/news/states/kerala/article3388332.ece>

### May 6 “AQAP’s attack from sea” (Information Dissemination net, May 12, 2012)

According to Blog *Information Dissemination net* dated the 12th, over 30 were killed on the 6th by attacks from APAQ (Al Qaeda in the Arabian Peninsula)’s fishing boat in the state capital of Abyan, Zinjibar, Yemen.

Refer to the article: AQAP’s Fight From the Sea

[http://www.informationdissemination.net/2012/05/aqaps-fight-from-sea.html?utm\\_source=feedburner&utm\\_medium=email&utm\\_campaign=Feed%3A+InformationDissemination+%28Information+Dissemination%29](http://www.informationdissemination.net/2012/05/aqaps-fight-from-sea.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+InformationDissemination+%28Information+Dissemination%29)

**March 8 “North Korean armed boat hijacks Chinese fishing boats” (ABC News, AP, May 17, 2012)**

Three Chinese fishing boats with 29 crews in operation were captured by a North Korean armed vessel in a Chinese section of the Yellow Sea on the 8th.

Refer to the article: North Korea Boat Hijacks 3 Chinese Fishing Boats

<http://abcnews.go.com/International/wireStory/north-korean-boat-hijacks-chinese-fishing-boats-16365350>

**May 10 “Somali pirate hijack oil tanker” (World Tribune, May 13, 2012)**

On the 10th, Somali pirates hijacked the oil tanker Liberian-flagged MT *Smyrni* operated by a Greek company in the Arabian Sea 630 kilometers from the coast of Oman.

Refer to the article: Somali Pirate hijack first oil tanker near Oman in over a year

<http://www.worldnewstribune.com/2012/05/13/somali-pirates-hijack-first-oil-tanker-near-oman-in-over-a-year/>

**May 11 “Dutch navy’s frigate releases Iranian fishing boat and detains suspected pirates” (Maritime Executive, May 14, 2012)**

On the 11th, EU NAVFOR frigate HNLMS *Van Amstel* released an Iranian fishing dhow and her Iranian crew off the coast of Somalia, and captured 11 suspected pirates. The dhow had been pirated 10 days earlier and was being used to carry out pirate attacks on merchant vessels as a “mother vessel”.

Refer to the article: EU Naval Force Rescues Iranian Fishermen from Pirated Dhow

<http://www.maritime-executive.com/article/eu-naval-force-rescues-iranian-fishermen-from-pirated-dhow>

**May 11 “Turkish Navy’s frigate releases Yemeni fishermen and detains suspected pirates” (Bosphorus Naval News, May 13, 2012)**

According to a statement from Turkish General Staff, on the morning of the 11th, Turkish navy’s TCG *Giresun*, belonging to NATO’s anti piracy task force TF-508, released a Yemeni fishing dhow, freed 7 Yemeni fishermen, and detained 14 suspected pirates. Weapons and piracy-related equipment on board were seized.

Refer to the article: TCG Giresun, The NATO Flagship Saves 7 Yemeni Fishermen And Catches 14 Somali Pirates

<http://turkishnavy.net/2012/05/13/tcg-giresun-the-nato-flagship-saves-7-yemeni-fishermen-and-catches-14-somali-pirates/>

**May 13 “Private security company plans to organize navy as anti-piracy efforts” (The National, May 13, 2012)**

The UAE’s newspaper *The National* (electronic edition) dated the 13th reported that a security company plans to organize a naval force to escort merchant vessels as anti-piracy efforts.



A private navy costing US\$70 million is being set up to escort merchant ships through the pirate-infested Gulf of Aden. It will comprise a fleet of 18 ships, and will offer to convoy merchant vessels along the Internationally Recognised Transit Corridor (IRTC). The fleet will be operated by the Convoy Escort Programme (CEP), a British company. The CEP hopes the fleet will be operational by December.

Refer to the article: Private navy planned to counter pirate raids

<http://www.thenational.ae/business/economy/private-navy-planned-to-counter-pirate-raids>

### **May 15 “EU Naval Force conducts air strikes on Somali pirates’ land base” (EU NAVFOR Public Affairs Office, Press Release, May 15, and Defense Web, Reuters, May 16, 2012)**

Early on the morning of the 15th, the EU Naval Force conducted air strikes on Somali pirates’ land base near Hardhere with a helicopter for the first time, following the decision taken on March 23, 2012 by the Council of the European Union to allow the EU Naval Force to destroy pirate equipment on the Somali coastline. Five speedboats were destroyed during the raid. There were no casualties.

Refer to the article: EU Naval Force Delivers Blow Against Somali Pirates On Shoreline

<http://www.eunavfor.eu/2012/05/eu-naval-force-delivers-blow-against-somali-pirates-on-shoreline/>

Pirates threaten to kill hostages after EU helicopters strike land base

[http://www.defenceweb.co.za/index.php?option=com\\_content&view=article&id=25566:eu-helicopters-strike-somali-pirate-base-on-land&catid=51:Sea&Itemid=106](http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=25566:eu-helicopters-strike-somali-pirate-base-on-land&catid=51:Sea&Itemid=106)

### **May 17 “IMO agrees on interim guidance to PMSCs” (IMO Briefing, May 17, 2012)**

Interim guidance to private maritime security companies (PMSCs) was agreed by IMO’s Maritime Safety Committee (MSC), when it met at the Organizations London Headquarters for its 90th session from May 16 to 25, 2012.

Refer to the article: Guidance for private maritime security companies agreed by IMO’s Maritime Safety Committee

<http://www.imo.org/MediaCentre/PressBriefings/Pages/17-msc-90-piracy.aspx>

## **1.2 Military Developments**

### **May 1 “Indian Navy makes leap forward” (The Diplomat, May 1, 2012)**

The web magazine *The Diplomat* dated the 1st reports the current development of the Indian Navy, saying that formidable naval forces India’s first Prime Minister Jawaharlal Nehru dreamed is coming reality.

Refer to the article: India’s Navy Comes of Age

<http://the-diplomat.com/flashpoints-blog/2012/05/01/indias-navy-comes-of-age/>

#### **May 4 “Significance of Sino-Russian military drills” (DiploWeek, May 4, 2012)**

According to the web magazine *DiploWeek* dated the 4th, a six-day Sino-Russian joint naval exercise conducted at the end of April was the largest joint navy drill between China and Russia in recent years. Through growing ties with Russia, China aims to increase trade with Russia in the machinery and electrical products sectors.

Refer to the article: Sino-Russian military drills set the stage for expanded military cooperation, coincide with machinery export growth consultations

[http://www.diplonews.com/reports/2012/20120504\\_L\\_ChinaRussiaMilitary.php](http://www.diplonews.com/reports/2012/20120504_L_ChinaRussiaMilitary.php)

#### **May 5 “Four Indian naval ships leave for Japan” (The Times of India, May 5, 2012)**

On the 5th, four Indian warships, a *Rajput*-class destroyer, a *Shivalik*-class frigate, a *Kora*-class Corvette and a tanker, sail on a two-month voyage scheduled to arrive Japan next week. India and Japan will hold a series of joint exercises and staff talks this year. These naval ships will also make port calls in Malaysia, the Philippines, Singapore and China (Shanghai).

Refer to the article: Four Indian warships on long overseas assignments

[http://articles.timesofindia.indiatimes.com/2012-05-05/india/31585945\\_1\\_warships-south-china-sea-indian-ocean-region](http://articles.timesofindia.indiatimes.com/2012-05-05/india/31585945_1_warships-south-china-sea-indian-ocean-region)

#### **May 7 “Defense talks between U.S. and China are held” (American Forces Press Service, May 7, 2012)**

On the 7th, the U.S. Defense Secretary Leon E. Panetta had a talk with Chinese Defense Minister Gen. Liang Guanglie at the Pentagon. “The United States and China are both Pacific powers, and our relationship is one of the most critical in the world,” Panetta said at a news conference after their meeting. Meanwhile, Liang said, “At present, China-U.S. bilateral relationship is on a new starting line in history to build a new kind of military relationship based on equality, cooperation and mutual benefit.”

Refer to the article: Panetta: U.S.-China Relationship One of World’s Most Critical

<http://www.defense.gov/news/newsarticle.aspx?id=116234>

Transcript of Joint Press Briefing with Secretary Panetta and Gen. Liang is available at:

<http://www.defense.gov/transcripts/transcript.aspx?transcriptid=5027>

#### **May 9 “U.S. to deploy LCS to Singapore in rotation” (Chicago Tribune, Reuters, May 10, 2012)**

Rear Admiral Thomas Rowden, the Navy’s director of surface warfare, announced on the 9th that the first LCS USS *Freedom* will be sent to Singapore in the spring of 2013 for a roughly 10-month deployment. The United States and Singapore has discussed hosting up to four such U.S. “Littoral Combat Ships,” or LCS, on a rotational basis at its naval facilities. Both countries have said the deployment stops short of a basing agreement.

Refer to the article: U.S. plans 10-month warship deployment to Singapore

<http://www.chicagotribune.com/news/sns-rt-us-usa-singapore-warshipbre8481ie-20120509,0,6269632.story>

### **May 14 “Taiwanese press reporting: Taiwan deploying new model missile” (Channel News Asia, 14 May 2012)**

According to a Taiwanese newspaper, *The China Times*, dated the 14th, five of the Taiwanese navy’s eight *Perry*-class frigates have been armed with the supersonic Hsiung Feng (Brave Wind) III weapons. Some of its smaller patrol boats have also been equipped with the missiles, which are designed to cruise at a speed of Mach 2.0, or twice the speed of sound, with a range of up to 130 kilometres. *The China Times* said the navy plans to deploy 120 such missiles dubbed “aircraft carrier killers” by their developer.

Refer to the article: Taiwan deploying more ‘carrier killers’: report

[http://www.channelnewsasia.com/stories/afp\\_asiapacific/view/1201160/1/.html](http://www.channelnewsasia.com/stories/afp_asiapacific/view/1201160/1/.html)

### **May 15 “Israel to strengthen submarine fleet with support from Germany” (UPI, May 15, 2012)**

According to a publish report by UPI dated the 15th, Israel plans to build up three state-of-the-art *Dolphin* class submarines at a cost of \$1.8 billion. Israel strives to completely operate its submarine fleet composed of six submarines by 2017 with support from Germany.

Refer to the article: Israel’s sub fleet buildup will cost \$1.8B.

[http://www.upi.com/Business\\_News/Security-Industry/2012/05/15/Israels-sub-fleet-buildup-will-cost-18B/UPI-49001337101542/](http://www.upi.com/Business_News/Security-Industry/2012/05/15/Israels-sub-fleet-buildup-will-cost-18B/UPI-49001337101542/)

### **May 16 “Specialist is concerned decline of U.S. and allied navies’ anti-submarine capability” (Aol Defense.com, May 16, 2012)**

On a blog dated the 16th, an American specialist on security issues, Sydney J. Freedberg Jr. expresses concern about the decline of U.S. Navy’s anti-submarine capability as China and Iran strengthen their submarine fleets.

Refer to the article: Navy’s Sub-Hunting Skills Declined While China, Iran Built More Submarines

<http://defense.aol.com/2012/05/16/navy-let-its-sub-hunting-skills-slide-while-china-and-iran-build-m?icid=rfy/>

### **May 18 “First visit to Saudi Arabia by new British warship” (Marine Link.com, May 18, 2012)**

On the 18th, the Royal Navy’s most advanced warships HMS *Daring* docks in Saudi Arabia for the first time to reinforce relationship between the Royal Navy and the Saudi Arabian Navy.

Refer to the article: First Visit to Saudi by New British Warship

<http://www.marinelink.com/news/british-warship-saudi344791.aspx>

**May 18 “Indonesia and Australia conduct patrol boat exercises in North Australia” (Marine Link.com, May 18, 2012)**

According to the electronic edition of *Marine Link.com* dated the 18th, the Indonesian Navy and Royal Australian Navy conducted the biennial patrol boat exercise “CASSWARY” off Darwin, North Australia.

Refer to the article: Patrol Boat Exercises Completed by Indonesia, Australia

<http://www.marinelink.com/news/exercises-completed344694.aspx>

**May 21 “Commander of U.S. Pacific Fleet: U.S. forward-deployed forces to expand rotational deployment” (American Forces Press Service, May 21, 2012)**

*American Forces Press Service* dated the 21st reported an interview with the top U.S. Pacific Command officer Navy Adm. Samuel J. Locklear Jr. Adm. Locklear stated that rotational deployments, possibly to include the Army, expand U.S. presence in the region without the need for more permanently based forces.

Refer to the article: Rotational Deployments to Boost U.S. Asia-Pacific Presence

<http://www.defense.gov/news/newsarticle.aspx?id=116419>

**May 21 “U.S. Navy’s undersecretary: U.S. Navy intends to deploy 8 LCS in Arabian Gulf” (Defense News, May 21, 2012)**

On the 21st, the U.S. Navy’s undersecretary Bob Work told an audience at the Cato Institute that the U.S. Navy could eventually have a force of eight ships operating from Bahrain if plans to base littoral combat ships (LCS) in the Arabian Gulf continue as envisioned.

Refer to the article: 8 LCSs Could Be Based in Gulf, Says U.S. Navy Undersecretary

<http://www.defensenews.com/article/20120521/DEFREG02/305210015/8-LCSs-Could-Based-Gulf-Says-U-S-Navy-Undersecretary>

### **1.3 South China Sea-related Events**

**May 2 “Philippines asks U.S. for Radars, Patrol Boats and Aircraft” (Defense News, May 2, 2012)**

On the 2nd, the Philippine government asked the United States to supply its armed forces with patrol boats and aircraft as well as radar systems for monitoring activities.

Refer to the article: Philippines Asks U.S. for Radars, Patrol Boats and Aircraft

<http://www.defensenews.com/article/20120502/DEFREG03/305020004/Philippines-Asks-U-S-Radars-Patrol-Boats-Aircraft>

**May 3 “Taiwanese defense ministry denies deploying missiles in South China Sea” (The China Post, May 4, 2012)**

The Taiwanese Ministry of National Defense (MND) on the 3rd turned down the idea of Taiwan redeploying short-range air defense missiles in a disputed area in the South China Sea. Any such moves by Taiwan could spark political controversy and affect the country’s regular patrol missions in the area, Deputy Defense Minister Chao Shih-chang said. Legislators, however, have been pushing the military to strengthen its presence in the region.

Refer to the article: Defense ministry rules out deploying missiles in S. China Sea

<http://www.chinapost.com.tw/taiwan/national/national-news/2012/05/04/339978/Defense-ministry.htm>

**May 9 “Carlyle Thayer’s comment: impact of confrontation between China and Philippines over Scarborough Shoal on U.S.–China relations” (China & US Focus, May 9, 2012)**

On the 9th, Carlyle A. Thayer, an professor emeritus of the University of New South Wales in Australia, argued about the impact of confrontation between China and the Philippines over Scarborough Shoal on U.S.-China relations as follows: (1) as the South China Sea becomes more congested the likelihood of an armed incident involving China and the Philippines will increase and possibly trigger U.S. intervention (2) the United States and its allies also must keep up diplomatic pressure on China to refrain from force and intimidation.

Refer to the article: Standoff at Scarborough Shoal: Implications for US-China Relations  
China & US Focus, May 9, 2012

<http://www.chinausfocus.com/print/?id=15784>

**May 10 “PLA Daily warns Philippines” (Xinhua, May 10, 2012)**

*The PLA Daily*, the official newspaper of the People’s Liberation Army (PLA) of China, dated the 10th warned the Philippines about the Huangyan Island (The Scarborough Shoal) incident, saying the country’s armed forces will not allow anyone to take the sovereignty of the island away from China.

Refer to the article: China's military newspaper warns Philippines of Huangyan Island incident

[http://news.xinhuanet.com/english/china/2012-05/10/c\\_131579618.htm](http://news.xinhuanet.com/english/china/2012-05/10/c_131579618.htm)

**May 11 “Anti-Chinese protest activities in Philippines” (Strait Times, Reuters, May 11, 2012)**

On the 11th, security was tightened in Manila ahead of anti-Chinese protests over a territorial dispute in the South China Sea.

Refer to the article: Philippines on alert over anti-China protest, Beijing frets

[http://www.straitstimes.com/BreakingNews/SEAsia/Story/STIStory\\_797730.html](http://www.straitstimes.com/BreakingNews/SEAsia/Story/STIStory_797730.html)

**May 16 “China starts fishing ban in South China Sea” (Xinhua, May 16, 2012)**

On the 16th, China started a two-and-a half month fishing ban in most parts of the South China Sea. The annual fishing ban, which has been in place since 1999, covers areas north of the 12th parallel, including the Huangyan Island (The Scarborough Shoal) but excluding most of the Nansha Islands.

Refer to the article: Fishing ban starts in South China Sea

[http://news.xinhuanet.com/english/china/2012-05/17/c\\_131592412.htm](http://news.xinhuanet.com/english/china/2012-05/17/c_131592412.htm)

**May 18 “Philippine President requests protesters to postpone voyage to Scarborough Shoal” (Strait Times, AFP, May 18, 2012)**

Philippine President Benigno Aquino told protesters to abort plans to sail to the Scarborough Shoal.

Refer to the article: Philippines stops protest trip to disputed shoal

[http://www.straitstimes.com/BreakingNews/SEAsia/Story/STIStory\\_800333.html](http://www.straitstimes.com/BreakingNews/SEAsia/Story/STIStory_800333.html)

**May 23 “Philippines blames China for sending fishing ships to Scarborough Shoal” (The Wall Street Journal, May 23, 2012)**

On the 23rd, the Philippine Department of Foreign Affairs expressed “grave concern” to the Chinese Embassy after a dramatic increase in the number of Chinese vessels around the Scarborough Shoal in the past few days. Chinese Foreign Ministry spokesman announced on the 23rd about 20 Chinese fishing vessels were in the disputed area.

Refer to the article: Philippines Accuses China Of Fanning Sea Tensions

<http://online.wsj.com/article/SB10001424052702304065704577421952278868514.html>

**May 28 “China’s Defence Minister calls on Manila to show restraint” (Asia One, China Daily, May 30, 2012)**

China’s Defense Minister Liang Guanglie urged the Philippines to show “discretion in both words and deeds” over the Huangyan Island issue during a conversation with his Philippine counterpart Voltaire Gazmin on the 28th in Phnom Penh, Cambodia. The Philippine defense chief said he appreciated the meeting on this issue, and said the defense departments of both sides should keep communication lines open to seek a peaceful and proper solution.

China’s Defence Minister calls on Manila to show restraint

<http://news.asiaone.com/News/AsiaOne+News/Asia/Story/A1Story20120530-349301.html>

## 1.4 Diplomacy and International Relations

### May 7 “Iranian Spokesman: Tehran will never negotiate about its territorial sovereignty” (Sahar English TV, May 8, 2012)

On the 7th, Iranian Foreign Ministry said Tehran will never negotiate with other countries about the issue of territorial rights over the islands of Abu Musa, the Greater Tunb and the Lesser Tunb.

Refer to the article: Spokesman: Negotiation on the Iran’s Territorial Integrity Impossible

[http://setv.irib.ir/index.php?option=com\\_content&view=article&id=2052:spokesman-negotiati-on-on-irans-territorial-integrity-impossible-&catid=38:iran-news&Itemid=192](http://setv.irib.ir/index.php?option=com_content&view=article&id=2052:spokesman-negotiati-on-on-irans-territorial-integrity-impossible-&catid=38:iran-news&Itemid=192)

## 1.5 Shipping, Shipbuilding and Harbors

### May 4 “World’s largest solar powered ship completes circumnavigation of world” (gCaptain, May 7, 2012)

On the 4th, the world’s largest ship MS *Tûranor Planet Solar* running solely on the power of the sun cruised into a harbor in Monaco, officially completing the world’s first circumnavigation for a 100% solar powered ship. The vessel completed the 37, 294-mile expedition that spanned 28 countries and 585 days since leaving Monaco in September 2010.

Refer to the article: World’s Largest Solar Powered Ship Completes Record-Breaking Circumnavigation

<http://gcaptain.com/worlds-largest-solar-powered/?46077>

### May 14 “Outline of Jakarta port expansion project” (The Jakarta Globe, May 14, 2012)

The Indonesian newspaper *The Jakarta Globe* dated the 14th reported Tanjung Priok port expansion project in Jakarta, saying that the expansion is expected to help triple the port’s present annual capacity to more than 18 million TEUs when all phases are completed in 2023.

Refer to the article: Jakarta Port Embarks on \$2.5b Expansion

<http://www.thejakartaglobe.com/economy/jakarta-port-embarks-on-25b-expansion/517805>

### May 25 “ICS opposes raising toll for Panama Canal passage” (The Maritime Executive, May 25, 2012)

On the 25th, the International Chamber of Shipping (ICS) sent a strongly worded letter to the Panama Canal Authority (ACP) describing plans to increase tolls by up to 15% as ‘simply unacceptable’.

Refer to the article: Panama Canal Toll Rises are Unacceptable, Says Shipowners

<http://www.maritime-executive.com/article/panama-canal-toll-rises-are-unacceptable-says-shippers>

### **May 28 “Hyundai Heavy Industries received order for semi-submersible drilling rig” (Marine Log, May 28, 2012)**

On the 28th, Hyundai Heavy Industries (HHI) has won an order to build a semi-submersible drilling rig for Fred Olsen Energy (Norway’s offshore oil drilling major). The semi-submersible, measuring 123 m in length and 96 m in width with an operating depth range of 70 m to 3,000 m, will be able to drill to depths of 12,200 m. When completed in March 2015, this semi-submersible rig will be the biggest ever built.

Refer to the article: Hyundai Heavy to build giant semi for Fred Olsen Energy

[http://www.marinelog.com/index.php?option=com\\_content&view=article&id=2443:hyundai-heavy-to-build-giant-semi-for-fred-olsen-energy&catid=78:oil-a-gas&Itemid=190](http://www.marinelog.com/index.php?option=com_content&view=article&id=2443:hyundai-heavy-to-build-giant-semi-for-fred-olsen-energy&catid=78:oil-a-gas&Itemid=190)

## **1.6 Ocean Resources, Energy, Marine Environment and Others**

### **May 2 “U.S. defense secretary Panetta: environment emerges as national security concern” (American Forces Press Service, May 3, 2012)**

Climate and environmental change are emerging as national security threats that weigh heavily in the Pentagon’s new strategy, U.S. Defense Secretary Leon E. Panetta told an environmental group at a reception hosted by the Environmental Defense Fund on the 2nd. He said, “In the next fiscal year, we are going to be investing more than a billion dollars in more efficient aircraft and aircraft engines.”

Refer to the article: Panetta: Environment Emerges as National Security Concern

<http://www.defense.gov/news/newsarticle.aspx?id=116192>

### **May 9 “CNOOC begins deep-water drilling in South China Sea” (Xinhua, May 9, and Global Times, May 9, 2012)**

On the 9th, China’s national oil major, China National Offshore Oil Corp (CNOOC) announced that CNOOC 981 began drilling in a sea area 320 km southeast of Hong Kong at a water depth of 1,500 meters in the morning of the 9th. According to CNOOC, CNOOC 981 is the sixth-generation semi-submersible, marking “a substantial step” made by the country’s deep-sea oil industry. With this, China becomes the first country to explore deep-water oil and gas resources in the South China Sea.

Refer to the article: China begins deep-water drilling in South China Sea

[http://news.xinhuanet.com/english/bilingual/2012-05/09/c\\_131577528.htm](http://news.xinhuanet.com/english/bilingual/2012-05/09/c_131577528.htm)



**May 19 “China’s pipe-laying ship to sail for South China Sea” (Xinhua, May 18, 2012)**

CNOOC 201, China’s first deep-water pipe-laying crane vessel, will set sail on its maiden voyage on the 19th from the eastern port of Qingdao to the South China Sea. The ship has a capacity of laying pipes at a maximum underwater depth of 3,000 meters.

Refer to the article: China’s pipe-laying ship to sail for South China Sea

[http://news.xinhuanet.com/english/china/2012-05/18/c\\_131596227.htm](http://news.xinhuanet.com/english/china/2012-05/18/c_131596227.htm)

**May 23 “EU reaches a provisional agreement to reduce the sulphur content of marine fuels” (gCaptain, May 24, 2012)**

On the 23rd, the EU reaches a provisional agreement on the sulphur content of marine fuels. According to the announcement, all ships operating in EU waters meet mandatory sulphur content limits of marine fuels in an effort to reduce harmful emissions from ships.

Refer to the article: EU Reaches Agreement to Slash Air Pollution From Ships

<http://gcaptain.com/reaches-aggressive-ship-emission/?47278>

## 2. Intelligence Assessment

### Discussion regarding accession to UNCLOS in the United States

In May, the U.S. Senate Foreign Relations Committee began a sequence of public hearing concerning whether the United States should accede to UNCLOS. The United States is the only permanent member of the U.N. Security Council and the only Arctic nation that is not a party to the treaty, which has been endorsed by 161 countries.

U.S. Secretary of State Hillary Rodham Clinton, U.S. Secretary of Defense Leon E. Panetta, and the Chairman of the U.S. Joint Chiefs of Staff Martine E .Dempsey gave statements to develop arguments for U.S. accession to UNCLOS at a public hearing held on the 23rd.

In this Intelligence Assessment, the briefs of their statements along with the tones of recent arguments over U.S. accession to UNCLOS will be introduced.

#### 1. Summary of U.S. Secretary of State Clinton's Testimony

Testimony of Hillary Rodham Clinton, U.S. Secretary of State, emphasized, "Now, one could argue, that 20 years ago, 10 years ago, maybe even five years ago, joining the convention was important but not urgent. That is no longer the case today. Four new developments make our participation a matter of utmost security and economic urgency." Below is the gist of her testimony.

- (1) First, for years, American oil and gas companies were not technologically ready to take advantage of the convention's provisions regarding the extended U.S. continental shelf. Now they are. The convention allows countries to claim sovereignty over their continental shelf far out into the ocean, beyond 200 nautical miles from shore. The relevant area for the United States is probably more than 1.5 times the size of Texas. U.S. oil and gas companies are now ready, willing, and able to explore this area. But they have made it clear to us that they need the maximum level of international legal certainty before they will or could make the substantial investments, and, we believe, create many jobs in doing so needed to extract these far-offshore resources. If the United States were a party to the convention, we would gain international recognition of our sovereign rights, and therefore be able to give our oil and gas companies this legal certainty. Staying outside the convention, we simply cannot.
- (2) The second development concerns deep seabed mining, which takes place in that part of the ocean floor that is beyond any country's jurisdiction. Now for years, technological challenges meant that deep seabed mining was only theoretical; today's advances make it very real. But it is also very expensive, and before any company will explore a mine site, it will naturally insist on having a secure title to the site and the minerals that it will recover. The convention offers the only effective mechanism for gaining this title. China, Russia, and many other countries are already securing their licenses under the

convention.

- (3) The third development that is now urgent is the emerging opportunities in the Arctic Ocean. As the area gets warmer, it is opening up to new activities such as fishing, oil and gas exploration, shipping, and tourism. This convention provides the international framework to deal with these new opportunities. The United State is the only Arctic nation outside the convention. Russia and the other Arctic states are advancing their continental shelf claims in the Arctic Ocean. As a party to the convention, we would have a much stronger basis to assert our interests throughout the entire Arctic region.
- (4) The fourth development is that the convention's bodies are now up and running. The U.N. Commission on the Limits of the Continental Shelf (CLCS) that makes recommendations regarding countries' continental shelves beyond 200 nautical miles is actively considering submissions from over 40 countries without the participation of a U.S. commissioner. International Seabed Authority (ISBA), the body addressing deep seabed mining, is now drawing up the rules to govern the extraction of minerals of great interest to the United States and American industry. It simply should not be acceptable to us that the United States will be absent from either of those discussions. Our negotiators obtained a permanent U.S. seat on the key decision-making body for deep seabed mining. No other international body that accords one country and one country alone – us – a permanent seat on its decision making body. But until we join, that reserved seat remains empty.
- (5) Now as a non-party to the convention, the United States has to rely on what is called customary international law as a legal basis for invoking and enforcing these norms. So far we have been fortunate, but our navigational rights and our ability to challenge other countries' behavior should stand on the firmest and most persuasive legal footing available, including in critical areas such as the South China Sea. The benefits of joining have always been significant, but today the costs of not joining are increasing. Please give advice and consent to this treaty before the end of this year.

Refer to the article: Testimony of Hillary Rodham Clinton, Secretary of State is available at: <http://www.state.gov/secretary/rm/2012/05/190685.htm>

## **2. Summary of U.S. Secretary of Defense Panetta's Testimony**

U.S. Secretary of Defense Leon E. Panetta said, "The fundamental point is clear: if the United States is to fully assert its historic role as a global leader, it must accede to this important Convention." He stated five reasons for his approval of U.S. accession to UNCLOS. Below is the gist of his statement.

- (1) First, as the world's pre-eminent maritime power, and the country with one of the longest coastlines and largest extended continental shelf, the United States have more to gain from accession to the convention than any other country. With accession, U.S. interests can be defended.
- (2) Second, by joining the convention, the United States can secure our navigational freedoms and global access for military and commercial ships, aircraft, and undersea fiber optic

cables. As it currently stands, the United States is forced to assert our rights to freedom of navigation through customary international law. By joining the convention, the United States would find the firmest legal foundation freedom of navigation and our global mobility.

- (3) Third, accession would bring legal certainty to a truly massive increase in our country's resource and economic jurisdiction, not only to 200 nautical miles off our coasts, but to a broad extended continental shelf beyond that zone.
- (4) Fourth, accession would ensure our ability to reap the benefits of the opening of the Arctic, a region of increasingly important maritime security and economic interest. Each country has already tested new shipping routes and explored for natural resources as Arctic ice cover recedes. Joining the convention would maximize international recognition and acceptance of our substantial extended continental shelf claims in the Arctic. The United State is the only Arctic nation that is not a party to the convention. We are at a serious disadvantage in this respect. Accession would also secure our navigation and over-flight rights throughout the Arctic Ocean, and strengthen our arguments for freedom of navigation through the Northwest Passage and Northern Sea Route.
- (5) Fifth, U.S. new defense strategy emphasizes the strategically vital arc extending from the Western Pacific and East Asia into the Indian Ocean region and South Asia. Becoming a party to the convention would strengthen our position in this key area. For example, numerous countries sit astride critical trade and supply routes and propose restrictions on access for military vessels in the Indian Ocean, Persian Gulf, and the South China Sea. By not acceding to the convention, the United States gives up the strongest legal footing for our actions. At the other end of this arc sits the Strait of Hormuz, a vital sea lane of communication to the United States and our partners. We are determined to preserve freedom of transit there despite Iranian threats to impose a blockade. U.S. accession to the convention would help strengthen worldwide transit passage rights under international law and help to further isolate Iran as one of the few remaining non-parties to the convention.

Refer to the article: Written Testimony of Leone Panetta, Secretary of Defense is available at: [http://www.foreign.senate.gov/imo/media/doc/SecDef\\_Leon\\_Panetta\\_Testimonydocx.pdf](http://www.foreign.senate.gov/imo/media/doc/SecDef_Leon_Panetta_Testimonydocx.pdf)

### **3. Summary of the Chairman of the U.S. Joint Chiefs of Staff Dempsey's Testimony**

The Chairman of the U.S. Joint Chiefs of Staff Martine E. Dempsey said, "There are many reasons for this support. I would like to highlight three." Below is the gist of his statement.

- (1) First, joining the convention would give U.S. Navy's day-to-day maritime operations a firmer, codified legal foundation. The United States relies on customary international law and physical presence to secure global freedom of access. But there is risk in this approach. Tradition is a shaky basis upon which to rest U.S. national security and the protection of U.S. forces. Customs can be disputed, and they can change. Joining the convention would provide legal certainty to U.S. navigational freedoms and legitimacy to U.S. maritime

operations that customary law simply cannot. UNCLOS would affirm critical navigational freedoms and reinforce the sovereign immunity of our warships as they conduct these operations. These include the right of transit through international straits, the right to exercise high seas freedoms in foreign exclusive economic zones, and the right of innocent passage through foreign territorial seas. The convention would also provide a stronger legal basis for some important activities such as stopping and boarding stateless vessels.

- (2) Second, joining the convention would provide a consistent and effective legal framework for opposing challenges to the rules-based international order in the maritime domain. Around the globe nations are expanding their naval capabilities. We are also seeing countries expand their maritime claims—in the direction of restricting movement on the oceans. Illegitimate expansionism could become particularly problematic in the Pacific and the Arctic Ocean, two regions whose importance to our security and our economic prosperity will only increase over the next several decades. The convention would provide the United States an important tool to help stave off jurisdictional creep in these areas and to resolve future conflicts peacefully and with less risk of escalation.
- (3) Last, being a member of the convention would better allow the United States to exercise global security leadership—a critical component of our global strategy. At this rate, the United States is the only permanent member of the U.N. Security Council and the only Arctic nation that is not a party to the convention. As a result, there are limits to U.S. ability to build coalitions for important international security efforts. The United States should become party to the Law of the Sea Convention now and demonstrate our global maritime leadership.

Refer to the article: Written Testimony of General Martin E. Dempsey, Chairman Joint Chiefs of Staff is available at:

[http://www.foreign.senate.gov/imo/media/doc/General\\_Dempsey\\_Testimony%20\(2012-05-23\)%20\(Final\).pdf](http://www.foreign.senate.gov/imo/media/doc/General_Dempsey_Testimony%20(2012-05-23)%20(Final).pdf)

#### **4. Argument that UCLoS is unnecessary**

The American think tank Heritage Foundation's research fellow Steven Groves contributed an article titled "U.S. Accession to U.N. Convention on the Law of the Sea Unnecessary to Develop Oil and Gas Resources" to the foundation's *BACKGROUND* No. 2688 dated the 14th. Groves insisted in the article that (a) Under international law and long-standing U.S. policy and practice, the United States has already established jurisdiction and control over its extended continental shelf (ECS) and is in the process of delimiting the boundaries of its ECS. (b) The United States as a sovereign nation can accomplish its objectives regarding the ECS and its resources without acceding to a deeply flawed treaty or seeking the approval of an international commission of experts housed at the United Nations. Below is the summary of his article.

- (1) Since 2003, in an effort to define the outer limit of the U.S. continental shelf, the United States has collected bathymetric and seismic mapping data on the outer margins of its continental shelf in the Arctic Ocean, Gulf of Alaska, Gulf of Mexico, and Bering Sea; along

- the Atlantic and Pacific Coasts; and off the Northern Mariana Islands, Kingman Reef, Palmyra Atoll, Guam, and Hawaii. The U.S. Extended Continental Shelf Task Force is conducting this data collection. To date, the ECS Task Force has identified six areas that “likely” contain submerged continental shelf and qualify as ECS and nine areas that “possibly” qualify (refer to MAP). The value of the hydrocarbon deposits lying beneath the U.S. ECS is difficult to estimate, but it is likely substantial.
- (2) Regarding “International Recognition” of the U.S. ECS, since 1945, U.S. Presidents have issued proclamations and Congress has enacted laws on U.S. maritime claims and boundaries. None of these has been challenged by any nation, any group of nations, or the “international community” as a whole.
- a. In 1945, U.S. President Truman claimed jurisdiction and control over the U.S. continental shelf and its resources and established a conservation zone for coastal fisheries.
  - b. In 1953, U.S. congress refined Truman’s continental shelf proclamation when it enacted the Outer Continental Shelf Lands Act.
  - c. In 1983, U.S. President Reagan declared a 200 nm exclusive economic zone (EEZ). After deciding in July 1982 not to sign UNCLOS. The announcement proclaimed “an Exclusive Economic Zone in which the United States will exercise sovereign rights in living and nonliving resources within 200 nautical miles of its coast.”
  - d. In 1988, Reagan extended the breadth of the U.S. territorial sea from 3 nm to 12 nm.
  - e. In 1999, U.S. President Clinton proclaimed an extension of the U.S. contiguous zone from 9 nm to 24 nm
- (3) Once the United States completes the mapping and delineation of its ECS, it should confirm its jurisdiction and control over those areas by presidential proclamation. In 1987, a U.S. government interagency group The Interagency Group on Ocean Policy and Law of the Sea issued a policy statement declaring its intent to delimit the U.S. ECS in conformity with Article 76 of UNCLOS. The policy statement sets out a process for obtaining domestic approval and providing international notification of the delimited U.S. ECS as follows: “After delimitation of the ECS is completed, the results of any such delimitation shall be...transmitted to the President for review. If approved, the Department of State shall transmit charts depicting the delimitation and other relevant information to the Secretary-General of the United Nations and any other organizations as the Interagency Group shall determine to be desirable.”
- (4) Despite the claims of UNCLOS proponents, the United States can successfully pursue its national interests regarding its ECS—particularly oil and gas exploitation—without first gaining universal international recognition of its outer limits. While achieving unanimous international recognition for the borders of the U.S. ECS is unnecessary, it is important for the United States to negotiate on a bilateral basis with nations with which it shares maritime borders to delimit and mutually recognize each other’s maritime and ECS boundaries. This process is already underway in regions where the United States has

presumptive areas of ECS, including resource-rich areas in the Gulf of Mexico and the Arctic Ocean.

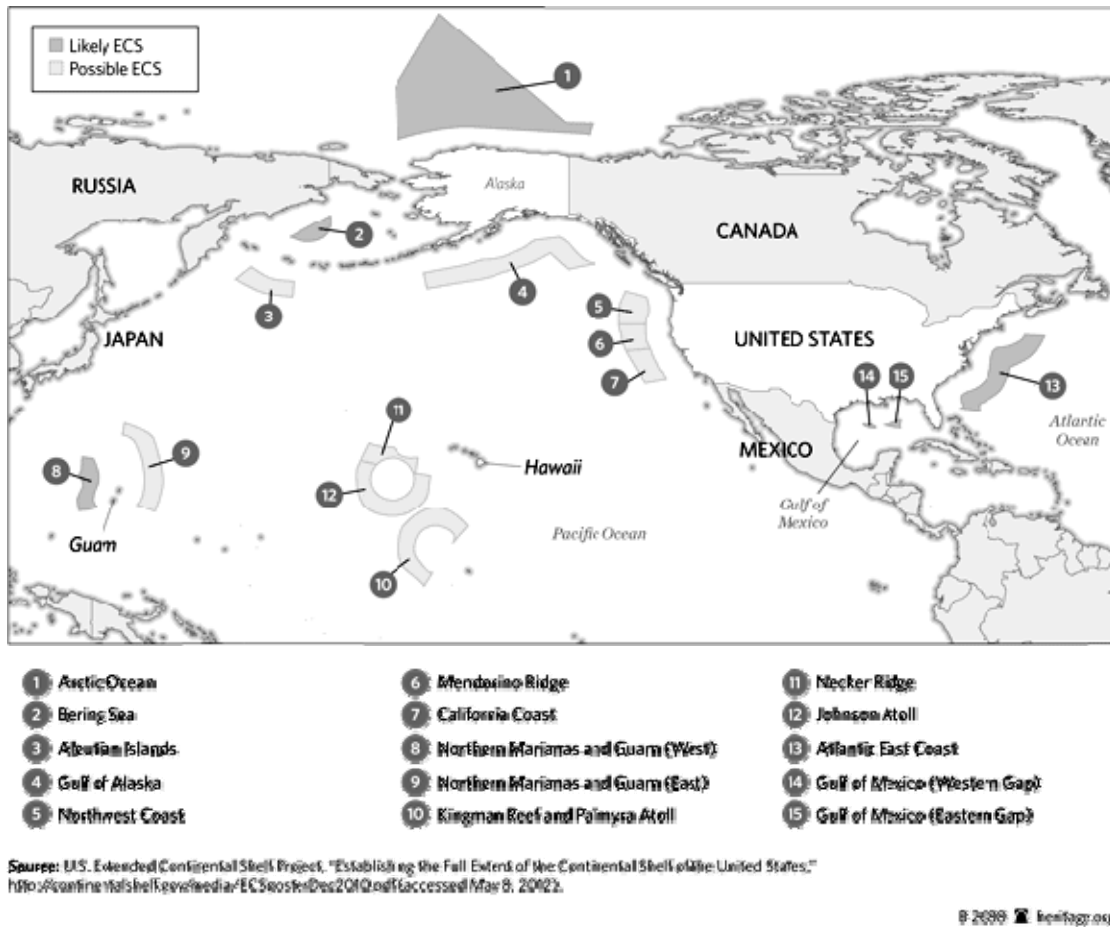
- (5) In June 2000, the United States and Mexico signed a treaty dividing the area of ECS within the western gap and it became effective in January 2001. In February 2012, the United States and Mexico signed a treaty regarding the exploitation of transboundary reservoirs located along the continental shelf boundary shared by the two nations within the western gap. The treaty has not yet been ratified by the U.S. Senate.

There is no evidence that any nation, any group of nations, or the international community as a whole does not or will not recognize the treaty of the western gap. Yet UNCLOS proponents commonly claim that U.S. companies will lack the “certainty” they require to develop the hydrocarbon resources located on the ECS unless the United States accedes to the convention, in the U.S. jurisdictional marine area of the western gap, development mining areas have been leased to U.S. companies and one foreign company.

The U.S. experience of the western gap should serve as a model for future bilateral negotiations and treaties with other nations that share ECS boundaries with the United States. For example, the United States should negotiate a treaty with Mexico and Cuba to delimit their respective areas of ECS in the eastern gap in the Gulf of Mexico, with Russia in the North Pacific Ocean, with Canada in the Arctic Ocean and other marine areas, and the Pacific islands marine area.

- (6) Regarding the Arctic Ocean, proponents insist that the right to exploit the ECS in the Arctic Ocean depends on U.S. accession to UNCLOS. Much of the supposed distress voiced by UNCLOS proponents stems from Russia’s 2001 submission to the CLCS, in which Russia laid claim to a vast area of Arctic ECS. The United States and the USSR concluded the maritime boundary agreement in September 1990. Russia’s 2001 submission to the CLCS in no way overlaps or infringes on potential areas of U.S. ECS in the Arctic. Russia’s claim adheres to a boundary line that the United States and the USSR agreed upon in a 1990 treaty. After Russia made its 2001 claim, five nations (Canada, Denmark, Japan, Norway, and the United States) submitted objections to the CLCS. The United States made an objection against Russia’s natural prolongation of its continental shelf, but Russia observes the boundary line agreed by the 1990 treaty. In June 2002, in light of the objections to Russia’s ECS claim, the CLCS recommended to the Russians that they provide a “revised submission.”
- (7) The United States has long held the position that U.S. corporations and citizens have the right to explore and exploit the resources of the deep seabed and may do so whether or not the United States is an UNCLOS member. The United States made its position very clear in March 1983 during the final days of the Third U.N. Conference on the Law of the Sea.

MAP: U.S. Extended Continental Shelf (ECS)



Source: "U.S. Accession to U.N. Convention on the Law of the Sea Unnecessary to Develop Oil and Gas Resources,"  
 BACKGROUNDER No. 2688, The Heritage Foundation

### 5. Argument against U.S. accession

Paul S. Giarra, a former Senior Country Director for Japan in U.S. Department of Defense (currently, the president of Global Strategies & Transformation), contributed an article titled "The Folly of UNCLOS" to *The Diplomat* (electronic edition) dated May 28, developing opposing viewpoints on U.S. accession to UNCLOS. Giarra stated that the U.N. Convention on the Law of the Sea is as much as anything else about fundamental disagreements between the United States and China, and the United States should not sign up. The summary of his view is pointed out as follows.

- (1) UNCLOS is deeply flawed. The U.S. Senate should be deeply skeptical of claims that because it is an international agreement. UNCLOS enshrined customary maritime law, but it also contradicted it by extending national claims far to sea, well beyond traditional claims, in the form of sui generis Exclusive Economic Zones. This creation of EEZs established new claims and conflicts that never before existed.
- (2) China has espoused the doctrine of strict enforcement of its self-perceived UNCLOS rights



through military and political intimidation. Moreover, China has, based upon its unitary interpretation of UNCLOS, assumed rights in the EEZs that not only were not intended by the framers, but which are troubling in their implications. These rights would extend security as well as economic rights to the limits of the EEZ, and in so doing preclude even routine military surveillance. The widespread recognition of these fabricated rights would be the death knell of freedom of the seas. Although the Chinese have prudently toned down their rhetoric in international fora in these days, their aggressive operations in the maritime commons belie any notions that Beijing has moderated its opinions or policies regarding Chinese rights.

- (3) The particular issue of China within the UNCLOS accession debate has emerged only lately. Therefore, earlier American endorsements of UNCLOS are obsolete and have been negated by new circumstances. This is not the time to call for UNCLOS accession. It is time for a clear-eyed debate on the merits and demerits of UNCLOS, in the wider perspective of the rise of China.
- (4) This is not a rule-of-law issue: this is a contract issue. UNCLOS is a bad contract, and getting worse because the environment to which it pertains has changed dramatically since it was drafted. Fundamentally, its merits are debatable, and whether or not we sign up to it is an option, and should not be perceived as an obligation. Perhaps one way to express this is to say that what is acceptable with regard to UNCLOS is not new, and what is new is not acceptable. It is the Chinese that are trying to redefine UNCLOS according to their own purposes, without re-negotiating the contract, and in so doing undermining customary law. At the tactical level, I do not believe for a moment that acceding to UNCLOS is going to improve our negotiating position with the Chinese, or change minds in Beijing. UNCLOS issue is as much as anything else, and more than most, the manifestation of the fundamental and systemic disagreement and contest now in place between the United States and China. We need to join that contest at times and places of our own choosing.

Refer to the article: The Folly of UNCLOS

<http://the-diplomat.com/2012/05/28/the-folly-of-unclos/>

## 6. Comment

This is the third hearing on accession to UNCLOS held by U.S. Senate Foreign Relations Committee. In 2004 the Senate Foreign Relations Committee endorsed the convention by a vote of 19 to 0; and in 2007, it approved the treaty by a vote of 17 to 4. But, because of staunch opposition from a handful of conservatives worried about what they say are threats to America's sovereignty, the treaty has never come up for a vote before the full U. S. Senate.

Ernie Bower and Gregory Poling, belonging to the American think tank Center for Strategic & International Studies (CSIS), insisted that opponents have presented four general arguments:

- (1) The Law of the Seas restrictions would interfere with U.S. military interests.
- (2) The International Seabed Authority (ISA), which determines rights to seabed mining,

would block U.S. economic interests.

- (3) The Law of the Sea's taxation scheme for exploitation of resources within a nation's exclusive economic zone would redistribute revenues unfairly.
- (4) The treaty would limit U.S. sovereignty.

According to Bower and Poling, such arguments against ratification have been steadily weakened in the last three decades and were overwhelmingly addressed in 1994. Some reasons are pointed out as follows. The first objection has largely been dropped in the face of more than two decades of overwhelming support from every branch of the U.S. military. The second is clearly not a concern to the U.S. industries actively pushing U.S. ratification. Regarding the third concern, U.S. business community has signaled they are willing to pay. Opponents too often overlook the fact that following renegotiation of the Law of the Sea, the United States is guaranteed the only permanent veto on how funds are distributed. Regarding the fourth objection, although opponents said that the United States is restricting its jurisdictional sovereignty by limiting itself to a 200 nautical mile exclusive economic zone, ratification would "massively increase U.S. sovereign jurisdiction". It is a great opportunity to expand its sovereignty.

This time hearing differs from the past two times in being held during the change of security environments surrounding the United State in the Arctic Ocean and the South China Sea. The United States is the only Arctic nation outside the convention. U.S. Secretary of States Clinton stated that a great opportunity for its resources development in the Arctic Ocean is about to be created, and UNCLOS will become an international framework for the United States to deal with such new opportunities. Meanwhile, like Groves, there exists an opinion, saying bilateral treaties with neighboring countries enable the United States to develop resources in a continental shelf without international recognition based on UNCLOS.

Pushing for a rules-based order in the region and the peaceful resolution of maritime and territorial disputes in the South China Sea, the United States is a non-UNCLOS member. In addition, particularly the United States and China are involved in a dispute over the ways of military activities. Giarra insisted that the pros and cons of U.S. accession to UNCLOS should be debated under the new circumstance of the rising China, saying "the UNCLOS issue is as much as anything else, and more than most, the manifestation of the fundamental and systemic disagreement and contest now in place between the United States and China."

Secretary Clinton emphasized, "The benefits of joining have always been significant, but today the costs of not joining are increasing." Moreover, Bower and Poling said, "The most important reason, however, for U.S. accession has remained unchanged for 30 years: a rules-based international order is in the United States' interests. The current global order and the U.S. preeminence within it are built upon legal norms and rules. Those rules do not unfairly constrain the United States. They constrain those that would overturn the system, and they prevent a return to an earlier era of great-power competition and might-makes-right diplomacy." Also, successive U.S. Secretaries of State under the administration of the Republican Party argued,

“U.S. accession will codify our maritime rights and give us new tools to advance national interests,” and “We have been on the sidelines long enough. Now is the time to get on the field and lead.”

However, as Secretary Clinton pointed out, if U.S. accession to UNCLOS might be an urgent issue, whether a two-thirds vote at the U.S. full Senate can be received seems to be a knife-edge situation, considering that the U.S. presidential election and congressional election are carried out this year.

(By Hideshi Ueno, editorial staff of OPRF MARINT Monthly Report)





## **Ocean Policy Research Foundation**

Toranomon 35 Mori Bldg., 4-10 Toranomom 3-Chome, Minato-ku, Tokyo 105-0001, Japan  
TEL.81-3-5404-6828 FAX.81-3-5404-6800

The "Ship & Ocean Foundation" is operating under the name of "Ocean Policy Research Foundation"