# Law of the Sea Conference: report on New York session

By Paul A. Lapointe

Those who are familiar with law-of-the-sea issues will be aware that the Third United Nations Conference on that topic, formally convened in New York City in December 1973, has now held three full substantive sessions, in Caracas, in Geneva and, more recently, in New York, but has yet to produce the long-awaited and much-needed new legal regime for the oceans it was given the mandate to establish. The reasons for what is to many a disappointing performance have been reviewed before in this publication and need only be recalled succinctly here: the extreme complexity of the issues and the large number of sovereign states (149) called upon to resolve them, as far as possible by consensus. The reasons for what is to others an encouraging process of negotiation, in spite of its slow pace, have also been examined in this publication (July/August 1975). Chief among these reasons were the emergence and the growing international acceptance of the radically new notions of "the common heritage of mankind" and "the exclusive economic zone". The purpose of this article is to consider the situation now confronting the conference after its last session (March 15 – May 7, 1976), the further progress made, the difficulties ahead, and the prospects for an early end to the negotiations, as well as for the adoption of a universally-acceptable convention on the law of the sea.

*Growing international acceptance of new notions*

It will be recalled that at the end of the 1975 Geneva session, each of the chairmen of the three main committees presented to the conference an "informal single negotiating text" covering the subjects entrusted to his committee. These texts consisted of some 300 articles, as well as annexes, which for the first time attempted to provide formulations for the resolution of complex and interrelated problems. Until that time, participants had been required to deal with thousands of proposals and counter-proposals, often contradictory, which, taken together, were incapable of forming a comprehensive and intelligible law-of-the-sea convention. While it was made clear that the "informal single negotiating text" would only serve as a procedural device and as a basis for negotiation, it nevertheless represented a major step forward. From the point of view of substance, the texts, in spite of their informal status, also provided a clear indication of the probable outlines of the future regime of the seas by giving unambiguous expression, among other things, to the new conceptions of "the common heritage of mankind" and "the exclusive economic zone".

## Quick realization

Although the conference had before it a more manageable negotiating text, it was quickly realized at the beginning of the New York session that the decision stage had not been reached. First, delegations had not had a chance to comment on the "informal single negotiating texts" as they had been presented on the last day of the previous session. Secondly, the three texts, plus an additional document entitled "Dispute Settlement Procedures", prepared by the president of the conference on his own initiative, were still far from being generally acceptable to the conference participants. Many of the most important parts were highly controversial and incapable of producing a wide consensus. It was, therefore, decided that each of the three main committees, and the conference itself in plenary session, would adopt its own procedures for reviewing the texts, negotiating the controversial issues and eventually enabling each chairman (or

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*Mr. Lapointe, who is Counsellor at the Canadian High Commission in New Delhi, was a member of the Canadian delegation to the third session of the Law of the Sea Conference in New York. He joined the Department of External Affairs in 1960 and has since served in numerous posts at home and abroad. He has been involved in law-of-the-sea matters since 1965, and has previously reported on sessions of the conference for* International Perspectives.