

*Subsequent Developments*

11. (1) The relevant amendments to the Fisheries Act have since been passed by Parliament and on April 24, 1961 the Prime Minister notified the House of the Government's intention to ratify the Law of the Sea Conventions.

(2) Subsequent to Cabinet's decision to ratify the Law of the Sea Conventions and the Prime Minister's announcement of the Government's intention to do so, the latent dispute with B.C. over off-shore mineral rights has come again into prominence, and with it the possibility of a reference to the Supreme Court of the questions in issue. Ratification of the Conventions has therefore been withheld pending study of the advisability of proceeding with ratification prior to settlement of the B.C. dispute. Consultations have been held between the Departments of Justice and Northern Affairs and National Resources on this question. The Department of Justice has indicated that while the legal situation is not clear and is one in which there can be differences of opinion, which is why a reference to the Supreme Court is being considered, there seems no necessity for Canada to delay ratifying the Convention on the Continental Shelf and on the Territorial Sea and Contiguous Zone on the ground of doubts as to the position of the Crown in right of Canada in the dispute with British Columbia.

(3) A separate legal question touching on ratification of the Conventions has been raised very recently by the Norwegian Ambassador, in informal discussions, namely, whether the collective provisions of the 1958 Conventions on the Law of the Sea preclude a signatory state from extending its exclusive fisheries zone to 12 miles. The question in issue (to which the Interdepartmental Committee on Territorial Waters is still giving consideration), is whether, bearing in mind that one Convention does not include fisheries amongst the kinds of control which may be exercised in a contiguous zone of the high seas while two other conventions specifically provide for freedom of fishing on the high seas, these provisions taken together preclude a claim to a contiguous exclusive fisheries zone. The preliminary conclusion of the Interdepartmental Committee is that sufficient doubt exists on the question to warrant a reservation being made when the Conventions are ratified which would leave it open to Canada to claim exclusive fishing rights in a contiguous zone similar to those exercisable in the territorial sea.

(4) Of the twenty-two countries required to bring the Conventions into force, twenty have now ratified the Convention on the High Seas, sixteen have ratified the Convention on the Territorial Sea, fifteen have ratified the Convention on the Continental Shelf, eight have ratified the Convention on Fisheries, and one country has ratified the Optional Protocol. (The question of ratification of the Optional Protocol, which provides for compulsory settlement of disputes arising out of the Conventions through submission to the International Court of Justice, would seem to depend in part on whether or not Canada files a new Declaration of Acceptance of Compulsory Jurisdiction of the International Court. While the commitment contained in the Optional Protocol could be accepted whether or not a new and more liberal Declaration is filed, it may be that the possible implications of ratification of the Optional Protocol should, in the light of the possibility of future disputes with the U.S.A. and other countries on law of the sea matters, be brought again to the attention of Cabinet, as suggested below in paragraph 15).

**(C) EXTENSION OF CANADA'S TERRITORIAL SEA AND/OR EXCLUSIVE FISHERIES ZONE**

12. In a memorandum of the Cabinet Committee on Territorial Waters to Cabinet dated January 4, 1962 various recommendations were made, some of which have since been overtaken by events. In large part, however, the issues discussed in that memorandum are identical to those outlined in the Draft Memorandum to Cabinet of March 9. Both memoranda discuss the advisability of unilateral action, the only difference being that a U.S.A. negative