

This question, raised by the Ambassador of Malta, concerns the limits to be designated for this region, the regime applicable and the machinery for implementation of such a regime.

Canada has accepted from the outset that there is an area of the seabed beyond national jurisdiction. While Canada supports the "exploitability test" laid down in the 1958 Geneva Convention on the Continental Shelf, it does not argue that this give it the right to march out into the very centre of the ocean. So Canada has taken a serious interest in this question, and made a number of proposals and suggestions and participated in all of the deliberations of the Seabed Committee.

Seabed issues

The issues being discussed in the Seabed Committee involve first the regime for the seabed beyond national jurisdiction. What international law will apply in that area? Where do the limits of the area begin? What are the kinds of legal rule states will agree to as governing exploration/exploitation in that area? What kind of international machinery will be required, if any, to implement this regime? There are a whole host of problems raised by this issue, ranging from such matters as serious security questions to basic economic problems for developing countries, the always very delicate issue of boundaries, although they are not national boundaries in the usual sense because no state has sovereignty over the Seabed beyond its own territorial sea. States are naturally zealous to protect their "sovereign rights" over the mineral resources of the continental shelf.

In addition to the seabed problems in the context which has been explained, there is a widespread feeling in the UN that the Continental Shelf Convention itself requires some elaboration and clarification. The Continental Shelf Convention, in Canada's view, represents a significant development of international law, and much of that convention will have to be retained in any new approach. The "exploitability test" is an elastic one, and it may be that the international community will have to devise some different legal basis for measuring the extent of national jurisdiction. There is a clear interrelation between the regime and limits of the seabed beyond national jurisdiction and the limits and regime of the continental shelf (which begins at the outer edge of the territorial sea and ends at the edge of the international area which will be preserved "for purely peaceful uses for the benefit of mankind, particularly the developing

countries").

To take another example, Canada is very seriously concerned about the problem of over-fishing, and believes the time has come to do something about it. It is somewhat ludicrous, in an age when technology has made fishing quite a different thing from what it once was, to say simply that "freedom of the high seas" applies and that one of the freedoms is the right to fish at will. We think that the fishing problem has to be resolved through recognition by the international community, in the interests of conservation, that there will have to be an agreement on a management conception, with the coastal states playing a very large role in managing the fisheries resources off their coasts. We are not arguing that the coastal states should have exclusive rights to all the fish in such areas but are supporting the inclusive approach, whereby other states would be permitted to fish subject to certain preferential rights to the coastal state. All concerned, however — and this is important — would fish on the basis of strict conservation rules, so that it would no longer be a case of whoever comes first grabbing up all the fish and letting the others go home with empty ships.

The fisheries problem is linked to the problem of the breadth of the territorial sea, because a number of Latin American states claim a 200-mile territorial sea within which they restrict foreign fishing. Closely connected with the breadth of the territorial sea is an issue that has been raised by the United States and the U.S.S.R. — namely, the right of passage in straits that would be affected by the 12-mile territorial sea. What they want is an unrestricted right of passage, not innocent passage. That is a question that raises difficulties for many coastal states as well as Canada (with respect to the Northwest Passage). That is one of the issues that will have to be resolved if we want a complete accommodation and not merely a picking-away at the problem.

Pollution problem

The problem that, in a sense, is the most complex of all is that of pollution, first because the law is so undeveloped. This is why Canada acted unilaterally. It is why Canada reserved its position on the International Court on this issue. There is almost no environmental law on the international plane. What there is, Canada has helped to create. Canada has been consistent. In the Boundary Waters Treaty with the United States, as early as 1909, the two countries agreed to an obligation not to pollute their respective boundary waters.

Zeal to protect 'sovereign rights' over resources of continental shelf