

2. Legal Status of the Exclusive Economic Zone

One of the most difficult issues at the Conference is the problem of defining the legal status of the exclusive economic zone. On the one hand, the major maritime states wanted the zone legally defined as high seas in order to prevent erosion of traditional high seas freedoms of navigation and overflight. On the other hand, many coastal states considered that this zone was a zone of national jurisdiction and ipso facto distinguishable in law from the high seas. Canada together with several other members of the coastal state group took the position at the Fourth and Fifth Sessions that the solution to this impasse was to consider the zone sui generis, neither high seas nor territorial sea but partaking of some of the attributes of both; to a large extent, the new provisions in Part V of the ICNT reflect this conceptual approach. They result from intensive informal negotiations (which also concerned marine scientific research in the economic zone and exceptions from the settlement of disputes procedures, see below) and their effect is to avoid the problem of a specific definition in law of the exclusive economic zone and instead to provide a satisfactory balance between the rights of coastal states within the zone and the rights of other states therein in respect of freedom of navigation and overflight, and the laying of submarine cables and pipelines and "other internationally lawful uses of the sea related to these freedoms". While a number of so-called territorialist states (those who support a 200-mile territorial sea concept or, at least, the definition of the 200-mile exclusive economic zone as a zone of national jurisdiction) may still oppose the ICNT formulations, it is hoped that the "balancing" approach reflected in the draft text can ultimately command a broad consensus, particularly since it can probably be accepted by the major maritime states, provided other outstanding issues are resolved. If such a consensus can be realized at the Seventh Session, the result will have been an important achievement in resolving what was one of the most difficult issues facing the Conference.

3. Fisheries

The economic zone regime now firmly entrenched in the negotiating text reflects the Canadian position on coastal state management and control of fisheries within the 200-mile limit. The provisions in the ICNT make it clear that the coastal state has sovereign rights over these resources, can establish total allowable catches and all other management measures required, provide for its own fishermen in accordance with their harvesting capacity, and distribute any surplus that remain to other countries. The clear consensus which