

# The Law of the Sea conference: factors behind Canada's stance

By J. Alan Beesley

The United Nations on December 17, 1970, took a decision of considerable importance to Canada. The world body decided that a third UN Conference on the Law of the Sea would be held in 1973 if necessary preparations could be made by then. The first two such conferences were held in 1958 and 1960.

In Resolution 2750 adopted at the UN General Assembly's twenty-fifth session in 1970, it was agreed that among the subjects to be included on the agenda of a third conference were "the establishment of an equitable international regime — including an international machinery — for the area and the resources of the seabed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, a precise definition of the area, and a broad range of related issues including those concerning the regimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, *inter alia*, the prevention of pollution) and scientific research".

The decision was arrived at after many weeks of negotiation, with some countries arguing that all that was needed was a conference limited to three issues: breadth of the territorial sea, passage through straits, and coastal fishing rights. Others, including, in particular, Canada, argued that any approach to redeveloping the Law of the Sea must be comprehensive and must deal with the whole range of issues left unresolved or resolved imperfectly at the first conferences. The Canadian delegation played an active part in the negotiations and in fact chaired the final rounds of negotiations that reached agreement. As a consequence, it was the Canadian delegation that introduced the "compromise" resolution into the UN and read into the record a number of "understandings" relating to the decision.

Canadians may wonder why Canada has taken and is continuing to take such an active interest in resolving the various contentious issues of the Law of the Sea and of the environment. The answer can be deduced in part simply by looking at a map of Canada. Canada is obviously a coastal state. It is said to have either the longest or the second-longest coastline in the world, and that is the first fact of life in determining Canada's approach to any attempt to resolve Law of the Sea issues. A second major fact of life, which is not quite so evident, is that Canada is not a major maritime power with an extensive shipping fleet, and this affects the Canadian position considerably, compared, for example, to that of many other Western states. A third important fact of life is that Canada is a coastal fishing nation interested in preserving the living resources in the waters adjacent to its coasts rather than a distant-water fishing nation.

These three facts, or factors, tend to group Canada with other coastal states, including, in particular, those of Latin America, but the matter is more complex than that. Canada is also one of the major trading nations of the world, and, as such, interested as much as any state in maintaining freedom of commercial navigation. Given the lack of a Canadian mercantile fleet, the Canadian approach to certain questions such as flag-state jurisdiction, especially flags of convenience, is understandably different from that of major flag states, however close Canada's relations with such states may be. An obvious example is the relevance to the world of today of present international law concerning flag-state jurisdiction to the problem of pollution by oil-tankers.

## Continental shelf

Yet another factor influencing the Canadian position on the Law of the Sea is that, unlike many other coastal states (including most of the Latin American states), Canada has a huge continental shelf comprising an area amounting to almost 40 per cent of its land-mass. It is considered