

The United Nations Conferences on the Law of the Sea, at Geneva in 1958 and 1960, left unsettled the breadth of the territorial sea and the limits of fisheries jurisdiction. Canada played a leading role at both conferences and introduced a formula which very nearly provided the basis for a compromise solution. This was the conception of an exclusive fishing-zone, which would preserve freedom of navigation by maintaining a narrow territorial sea, while at the same time allowing states to bring a greater part of their coastal fisheries under their jurisdiction. The fishing-zone conception has since been adopted in the legislation of a large number of countries, including the United States and Canada.

Failure to settle the territorial sea and fishing limits at the Geneva Conferences, however, has left us with national claims varying from three to 200 miles. Seizure of an intelligence ship or arrests of fishing vessels are dramatic - and dangerous - illustrations of the pressing need for international agreement on these questions.

But it is not the traditional uses of the sea which have brought about the greatest change in national attitudes. Advancing technology has made it profitable to mine the sea, to tap its mineral deposits and exploit its other resources at far greater depths and distances from the shore.

The Convention on the Continental Shelf adopted in 1958 grants sovereign rights to coastal states for the exploration and exploitation of the natural resources of the continental shelf. These rights do not affect the status of the waters above the shelf, which remain high seas open to navigation and fishing by other states. But the exploitation of the continental shelf may eventually affect freedom of navigation and the present limited jurisdiction might well be slowly extended to cover the waters above the shelf.

Unfortunately, the Continental Shelf Convention has two major deficiencies. It defines the continental shelf as beginning, in the legal sense, where the territorial sea ends, and this element will remain imprecise until there is international agreement on the breadth of the territorial sea. It defines the outer limits of the continental shelf as the point where the waters reach a depth of 200 metres or, beyond that point, where the depth of water permits exploitation of the underlying resources. By this inclusion of the "exploitability test" the legal definition of the continental shelf is a highly elastic one. An extreme interpretation of the Convention could easily lead to national confrontations and perhaps to a new sort of imperialism in the oceans.

It was against this background, in 1967, that Malta introduced before the United Nations General Assembly a proposal the implications of which, in the legal, political, economic and military fields, are so far reaching that they will be the subject of intense study and debate for a long time to come.

The Maltese proposal called for the United Nations to undertake the "examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and ocean-floor and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind".

Canada was among the 35 countries on the original Committee set up by the General Assembly in 1967 to conduct this examination. We are also