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LAW OF THE SEA

The notable achievements of the First United Nations Conference on the Law of the Sea held at Geneva in 1958 (the adoption of four conventions and one protocol, constituting in effect an almost complete codification of the international Law of the Sea) left unsettled two problems of critical importance—the question of the breadth of the territorial sea and the extent of fishing zones. Consequently, the General Assembly agreed, at its fourteenth session, to convene a Second Conference in early 1960.

The two questions left unsettled were not simple ones, owing to conflicts of interest between, on the one hand, nations wishing to retain for their own use the living resources along their coasts and, on the other, those engaged in fishing in distant waters. Similarly, some nations wished to extend their territorial seas (up to 200 miles in some cases) while others considered that the preservation of freedom of navigation to as great a degree as possible was desirable.

Shortly before the first conference, Canada had developed an idea totally new in international law, of a territorial sea with a contiguous fishing zone. During the conference it became apparent that a six-mile territorial sea was the narrowest one likely to be accepted, and the Canadian proposal then advanced was that states be given the right to fix the breadth of the territorial sea up to six miles and to exercise exclusive jurisdiction over fishing in a contiguous zone extending a further six miles. This became known as the "six-plus-six formula".

Developments between the two conferences confirmed Canada's conviction that a genuine compromise formula was essential if agreement were to be reached and that such a formula, in order to be successful, would have to recognize the principle of the freedom of the high seas while granting to coastal states the same degree of exclusive control over off-shore fisheries they would obtain under arrangement for a 12-mile territorial sea. The "six-plus-six" proposal offered this, and, some months before the opening of the second conference, Canada began a diplomatic campaign in support of it. Representations were made to every country in the world which appeared to have an interest in the Law of the Sea. In addition to this, Canada presented to all members of the United Nations the pamphlet entitled "Law of the Sea—a Canadian Proposal", written with a view to bringing about a wider understanding of the Canadian position.

The Second Conference opened on March 17, 1960; representatives of 88 states attended. Canada's delegation was again headed by Mr. George Drew, Canadian High Commissioner in London. For six weeks the delegations laboured to reach agreement on the rule of law to govern the breadth of the territorial sea and fishing zones. In the event, the conference failed by only a single vote to accept the proposal.