



Statements and Speeches

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BEYOND THE LAW OF THE SEA CONFERENCE

An Address by the Honourable Mark MacGuigan, Secretary of State for External Affairs, to the Ninth Annual Conference of the Canadian Council on International Law, Ottawa, October 24, 1980

...The Law of the Sea Conference has been with us for seven years — 12, if one counts back to the first meeting of the old Seabed Committee. Governments are increasingly anxious to bring it to an end, to put their delegates to fresh uses, and to turn their attention elsewhere. The very success of the Conference has contributed to declining interest, as consensus on the 200-mile zone has allowed governments to resolve their most pressing problems by unilateral extension of jurisdiction. Indeed, in this sense the Conference has already ended, has already brought about radical changes in law and practice from which there can be no going back.

It would be a mistake, however, to succumb to lassitude or self-satisfaction now that some key objectives have been achieved and a new law of the sea convention will almost certainly be signed in Caracas next year. Staying power is vital in negotiations like these. Even more important, however, is the need to step back, now, at this critical stage, to look at what we have fashioned so far, in the light of what we set out to do; to look beyond the Conference, beyond Caracas in 1981, and ask if this work of ours will take hold and endure. If not, then signing a new convention will be something like the ceremonial donning of the emperor's new clothes, adding nothing to the real achievements of the Conference, and only briefly masking its failures.

The results of the law of the sea negotiations may be reviewed from various perspectives. For my purposes tonight, I will try to examine them in terms of the interests of the three major groupings at the Conference: the coastal states, the major maritime powers, and the developing countries — all seen through Canadian eyes, of course.

With regard to the coastal states, I believe I can fairly say that Canada has played a remarkable role in articulating their objectives and in helping to achieve them, both within and outside the Conference framework. Canada was at the forefront of the great wave of unilateral, bilateral, regional and multilateral initiatives which in the 1970s swept the law of the sea out of the smothering embrace of Hugo Grotius. The overriding objective of the coastal states was extended resource jurisdiction, and this of course they have achieved in the new concept of the economic zone.

Canada deserves a good part of the credit for making the economic zone a more balanced, functional and widely acceptable concept. Under the Canadian approach, the coastal state acquired not only national rights but also international responsibilities and obligations. Thus the coastal state must ensure the rational management of living resources of the economic zone, and must let other states have access to any "surplus". Greater functionalism has also been introduced with the establishment of special principles for the management of species with special characteristics, such as

Coastal
states