

Law of the Sea: A Canadian dilemma

by Donald W. Munro

Canada has one of the longest, if not, indeed, *the* longest coastline in the world; not counting deep indentations, such as bays, sounds and wide river mouths, it amounts to over 10,000 miles. When a 200 nautical mile Exclusive Economic Zone (EEZ) is extended seaward from such a baseline (though not in the Davis Strait and Baffin Bay and north) the additional area over which Canada will be expected to exercise controls of one kind or another is more than just significant — it approaches the mind-boggling, since it will add about one-third to the area over which Canada's writ now runs. On the East Coast, Canada has a wide Continental Shelf, stretching in one place to about 750 nautical miles east of Newfoundland; on the West Coast, however, the Shelf falls away to the Ocean Deep about 50 nautical miles off shore. Canada has offshore islands, particularly on the West Coast, and a collection of islands (an archipelago?) in the North, through which passes a navigable Strait. (Remember the "Manhattan?")

As a trading nation, with hundreds of ships entering our ports each year, and just as many going up and down our coasts, we are aware of just how important it is for the regulation of navigation and pollution at sea and inshore, preferably by international agreement. Canada claims extensive resources from the sea and below; many of our people already depend for their livelihood on the sea's living resources; and only now are we beginning to discover just how rich our offshore non-living resources are likely to be. With Canada as one of the world's foremost producer's of nickel (first), cobalt (third), copper (fourth) and zinc (first), we cannot fail to be worried that the deep seabed mining of those same metals — in which Canadian companies are also playing a part — will affect our land-based operations.

These are some of the issues with which the Law of the Sea conferences have been dealing for more than a decade now. It is not surprising, therefore, that Canada should have been playing a prominent role at the Conferences. Aside from the negotiations themselves, Canada, through its permanent delegate, Ambassador Alan Beasley, has been chairing the Drafting Committee, which will be expected, among other things, to iron out interpretive diffi-

Donald Munro is Progressive Conservative Member of Parliament for the constituency of Esquimalt-Saanich in British Columbia. He is a former member of Canada's diplomatic service, and has followed the Law of the Sea negotiations since their beginning.

culties that may arise in preparing a definitive text in the six languages used at the United Nations. It is understandable also, perhaps, that Canada should have voted in favor of the Convention when it was finally put to the test on April 30 last.

Caught in the middle

When, however, those multifaceted concerns are matched up with the fact that one of our neighbors, a principal trading partner and a major consumer of our mineral resources (the USA) voted *against* the Convention; and when another neighbor (the USSR) abstained on the vote — as did a number of our friends in the EEC (including the UK), most of whom have fishing rights in Canadian waters — when all these matters are taken into account, is it any wonder that Canada's future course of action in this area should be bristling with difficulties and uncertainties? How are they all to be resolved?

Will the USA, we are bound to be asking ourselves, continue to remain outside the Convention? And if so, will the USA, while recognizing that the deep seabed mining provisions were the main reason for withholding assent, respect the other provisions of the Convention, even if not legally bound to do so? Does the same apply to the EEC abstainers? And what about the USSR and Poland? As has already been said, most of these states are bound under bilateral fishing agreements with Canada, agreements that were, however, concluded in the expectation that the long-awaited international Convention would to a considerable extent underpin those accords. What happens now, when those bilaterals come up for renewal? Where do the opponents and the abstainers leave Canada? And what about the protection afforded us by the provisions in the Convention dealing with international straits? Are we to expect another "Manhattan?"

Before even attempting to deal with these questions, we should perhaps look at the Convention itself in some objective detail to determine just what, exactly, it sets out to accomplish.

What the Convention does

The Law of the Sea Convention, generally speaking, aims at developing an internationally acceptable set of laws and principles applicable to the three-quarters of the globe's surface that is covered with salt water and is not yet subject to dryland state jurisdiction, and to provide a means of resolving disputes arising between states over differing interpretations of those laws and principles.