

Summary of Conclusions

16. It can be seen that the questions of (a) ratification of the Law of the Sea Conventions, (b) implementation of the straight baseline system, and (c) the claim to an exclusive fisheries zone are closely related matters, and action on these questions should be co-ordinated. In the light of the considerations outlined in paragraph 15 above it would seem advisable to defer for the time being the opening of negotiations with the U.S.A. on question (b), particularly since, for the most part, Canada would be requesting substantial concessions and offering little in return (except the lessening of the extent of our claims in certain cases).

17. With respect to question (a), ratification of the Law of the Sea Conventions, it would seem inadvisable for a number of reasons to ratify them at this time, firstly, since in so doing we would be obliged to give some indication of our intentions on these other matters through the reservations we might have to make to the conventions; secondly, as pointed out in the memorandum to Cabinet of February 7, 1961, it would be inadvisable to ratify the conventions without being in a position to take action shortly afterwards implementing the straight baseline system, if that course of action is ultimately intended; thirdly, it might be inadvisable to ratify the Optional Protocol providing for compulsory submission of Law of the Sea disputes to the International Courts of Justice without having regard to the possibility of potential law of the sea disputes with the U.S.A., while to refrain from ratifying the Optional Protocol when ratifying the other conventions might be to act inconsistently with the proposal still under consideration by Cabinet to accept the compulsory jurisdiction of the International Court unconditionally. The fact that Canada may not be amongst the 22 countries bringing the conventions into force would seem to be a relatively minor matter when balanced against these other considerations.

Recommendation

18. It is recommended:

(1) that Cabinet should defer action on the various Law of the Sea matters at this time. The nature and degree of Canada's economic cooperation with the United States should be kept under continuous review in order to determine to what extent this should be taken into account in determining what action should be recommended with respect to Law of the Sea matters.

(2) that the eighteen countries canvassed in the confidential survey be informed that we have discontinued the operation because in the opinion of some countries approached (which we do not necessarily share) the essential support of a number of countries was not likely to be forthcoming.

(3) that the Cabinet Committee on Territorial Waters keeps the situation under continuous review and that these various Law of the Sea questions be raised again with Cabinet when, in the opinion of the Cabinet Committee on Territorial Waters, the time is propitious for the opening of negotiations with the U.S.A.³

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³ Approuvé par le Cabinet le 23 août 1962./Approved by Cabinet on August 23, 1962.