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EXTÉRIEURES.

NOTES FOR REMARKS BY THE
HONOURABLE ALLAN J. MACEACHEN,
DEPUTY PRIME MINISTER AND
SECRETARY OF STATE
FOR EXTERNAL AFFAIRS,
AT THE FINAL SESSION OF
THE THIRD UNITED NATIONS
CONFERENCE ON THE LAW OF THE SEA,
MONTEGO BAY, JAMAICA,
DECEMBER 6, 1982

Mr. President,

It is fitting that we have returned to the Caribbean to conclude our work where 9 years ago the Third United Nations Conference on the Law of the Sea began its deliberations. The Caribbean is a region where the sea is a part of the national heritage. It is a region where the sea and its bounty offer the best prospects for the future. The waters of the Caribbean are rich in fish and its seabed holds a wealth of oil and other mineral resources. This tropical sea also provides invaluable amenities for recreation which Canadians in particular at this time of year truly appreciate. But such advantages must never be taken for granted. There is always the danger of marine pollution, of over-fishing and of conflict over fisheries and maritime boundaries. Only a widely accepted Law of the Sea Convention can ensure benefits from the oceans while at the same time minimizing the problems brought about by conflicting uses of ocean resources. Advancing the cause of world peace and security over nearly three-quarters of the surface of the globe is and must be the greatest accomplishment of this Conference and this Convention.

It is fitting, too, that we have gathered here in Jamaica, the site of the International Seabed Authority, to sign the Law of the Sea Convention. Ambassador Rattray of Jamaica is one of the select group of men, the Collegium of the Conference, who have provided the leadership, the dedication and the drive to bring the Conference to its conclusion. Conference President Koh of Singapore, Ambassador Engo of Cameroon, Ambassador Aguilar of Venezuela, Professor Yankov of Bulgaria, and Ambassador Beesley of Canada are also among those who deserve special mention. I wish to pay tribute as well to the memory of the late Conference President, Shirley Amerasinghe of Sri Lanka, who provided such inspiration for many years. And finally, what could we have accomplished without the support and unstinting cooperation of the Conference Secretariat under Bernardo Zuleta of Colombia?

When addressing the International Law Association a few months ago in Montreal, the Secretary General of the United Nations, Mr. Perez de Cuellar, called the Law of the Sea Convention "possibly the most significant legal instrument of this century". I believe Canada can be proud of the role it has played in helping to shape this treaty. I think all delegations can be proud of a Convention that recognizes the interest and role of all states -- whether coastal or landlocked -- in the law of the sea. I am especially pleased that the Convention provides for an equitable distribution of the ocean's wealth between developed and developing nations, thereby providing a substantial response to some of the imperatives of the North/South dialogue.

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Working toward consensus, avoiding divisive votes and accepting all parts of a treaty as a "package" without reservation -- all these features of the Law of the Sea Conference have established valuable precedents for the conduct of future international negotiations. New understandings have been formed at the Conference, between North and South, and East and West, that have built bridges and narrowed differences among nations. Community of interest has, for example, led to the formation of the coastal state group; the landlocked and geographically disadvantaged state group; the "margineers", representing broad shelf states; those great debating societies, the two maritime boundary delimitation groups; and even "the good Samaritans", the group of middle industrialized states that worked to build consensus at the last session of the Conference.

Of all the accomplishments of the Conference, one that stands out, perhaps because it has eluded the international community for decades, even centuries, is agreement on the limit for the territorial sea. More than 80 coastal states have already incorporated into their national laws the Conference consensus setting the limit at a maximum of 12 miles. The Convention establishes the rights and obligations of both coastal and flag states within the territorial sea, provisions on which parties to the Convention will be able to rely. Parties will also be able to take advantage of thew new provisions on transit passage through international straits. They offer a major inducement to maritime states especially to sign and ratify the Convention.

After years of so-called "fish wars", prior to 1973, the Conference rightly recognized the need to assign to coastal states the control of all living resources within a 200-mile exclusive economic zone. To ensure an equitable distribution of such an important food resource, the Convention places a duty on coastal states to permit access to any surplus. The novel concept of the exclusive economic zone, which is neither high seas nor territorial sea, allows a coastal state to exercise sovereign rights over such things as fisheries, and mineral resources, and specific jurisdiction over marine scientific research and the prevention of marine pollution, in accordance with the Convention and in the best interests of the international community.

Beyond the Exclusive Economic Zone, the Conference recognized the primary interest and responsibility that the state of origin has in respect of salmon that spawn in its rivers. Canada joined many other coastal states in developing a provision to conserve fish stocks that

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"straddle" the economic zones of neighbouring states or the 200-mile limit and adjacent areas beyond that limit. Without international co-operation, such stocks cannot be effectively managed and conserved. We will build on this provision through domestic action and through bilateral, regional and multilateral agreements.

The Convention fills a void in international law with regard to the prevention of marine pollution. This is the first multilateral treaty laying down an obligation on all states to protect and preserve the marine environment as a peremptory norm of international law. It recognizes that the preservation of water quality in the oceans cannot be the sole responsibility of the coastal state nor of the flag state but must be assured by the international community as a whole. To address the threat of vessel source pollution, the Convention provides that flag and coastal states have joint and several responsibility to reduce, prevent and minimize pollution from vessels. It is a source of particular satisfaction to me that the Convention takes into account the particular problems posed by navigation in ice-covered areas. The Conference has recognized the right of a coastal state bordering such areas to adopt and enforce non-discriminatory laws to prevent and control vessel source pollution, steps Canada has already taken under its Arctic Waters Pollution Prevention Act.

The continental shelves of many of the world's nations are rich in hydrocarbon resources, the energy we will all continue to need in the foreseeable future. Again, the Convention has achieved a balance between broad and narrow continental shelf states. Coastal state sovereign rights over the resources of the continental margin is already part of customary international law. The Convention defines an outer limit for the "legal" continental shelf and requires coastal states to make payments through the International Seabed Authority on a percentage of the production from the resources of the shelf beyond 200 miles to the outer edge of the shelf. These funds will go to the developing countries most in need. We must recognize, however, that there will only be funds to dispense if these resources prove to be commercially exploitable.

A tenet of the Canadian position since these negotiations began 14 years ago has been to ensure that the Convention gives expression to and implements the concept that the resources of the area beyond national jurisdiction are "the common heritage of mankind". The Convention provides a mechanism for the management of these resources, without infringing state interests, through the International Seabed Authority, composed of an Assembly, representing all parties to the Convention, and a 36-member

Council. As a major land-based producer of minerals that eventually will be exploited from the seabed and as a potential seabed mining state and major financial contributor under the Convention, Canada fully expects to be a member of the Council. Our position as a seabed mining state has been secured under the Conference Resolution on Preparatory Investment Protection and the Canadian delegation has initiated negotiations to resolve overlapping seabed mining claims in a manner compatible with the Resolution and the Convention. This is consistent with the leading role Canada played in the development of the concept of the "parallel system" in which private and national seabed mining companies will exploit the seabed in parallel with the ISA's operating arm, the Enterprise. In order to ensure that the Enterprise becomes a viable entity, the Convention includes several unique provisions. Parties to the Convention will be required to finance one Enterprise mine site on the basis of the UN scale of assessment calculated as being applicable to all nations, including non-UN members. Private and national operators will have to agree to transfer technology to the Enterprise under certain circumstances and pursuant to defined terms and conditions. While the extent of the funds provided the Enterprise to purchase technology might well be such so to make the transfer of mining technology provisions unnecessary, their temporary and unique nature cannot make them precedents for other international negotiations.

We must also recognize that the best way to ensure that there are sufficient funds to establish the Enterprise is through universal acceptance of the Convention. The future will depend on how well the Preparatory Commission does its work with respect to seabed mining and the outer continental shelf. We know that some governments have difficulties with the seabed mining provisions of the Convention. We hope that these problems can be resolved through the development by the Preparatory Commission of rules, regulations and procedures. Canada looks to their satisfactory resolution. If the Preparatory Commission adopts a realistic and pragmatic attitude the future is assured.

One of the most overlooked aspects of the Convention might well be among the most important. Provisions on the peaceful settlement of disputes have been made a fundamental part of the Law of the Sea Convention -- an historic achievement for an international treaty of such magnitude. Parties to the Convention will be obligated to ensure that disputes on the interpretation of the Convention will be settled by peaceful means agreeable to the parties concerned. Of course only parties to the Convention will be bound by these provisions, but those that might challenge

the Convention and wish to remain outside of it must recognize the disservice they do not only to the attainment of agreed rules for the uses of the oceans but to the peaceful resolution of conflicts.

The conclusion of the Third United Nations Conference on the Law of the Sea does not complete the work that must be done to bring the oceans under the rule of law. While many states will sign the Law of the Sea Convention, a number may not. Our work will not end until we have a Convention in force with universal application. To achieve that goal we must demonstrate the same patience, understanding, tolerance of views and flexibility that have characterized these past years of negotiation. At the same time we must maintain the principles that governed our deliberations, in particular the concept of the "package deal". The Convention sets out a broad range of new rights and responsibilities. If states may arbitrarily select those they will recognize or deny, we will see the end no only of our dream of a universal, comprehensive Convention on the Law of the Sea, but perhaps the end of any prospect for global cooperation on issues that touch the lives of all mankind. We must not, we cannot allow that to happen. The Law of the Sea Convention, and the Convention alone, provides a firm basis for the peaceful conduct of ocean affairs for the years to come. It must stand as one of the United Nation's greatest accomplishments and worthy of the support of every nation.