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CANADA TO SIGN THE LAW OF THE SEA CONVENTION

The Honourable Allan J. MacEachen, Deputy Prime Minister and Secretary of State for External Affairs, announced today that Canada will sign the United Nations Convention on the Law of the Sea when it is opened for signature at the final session of the Third United Nations Conference on the Law of the Sea in Jamaica from December 6 to 10. Mr. MacEachen will head Canada's delegation to the final session. The Minister of Fisheries and Oceans, the Honourable Pierre De Bané will be the Alternate Head of the delegation and Canada's Ambassador to the Conference, Alan Beesley, will be Deputy Head of the delegation.

The Conference began in 1973 and was preceded by five years of negotiations in the United Nations Seabed Committee. In making the announcement Mr. MacEachen underscored the important role which Canada played in the Conference in providing leadership and generating ideas to resolve the vast range of issues which the Conference had before it. These included: the limits of the territorial sea; the establishment of exclusive economic zones providing coastal state control over important fish stocks; the limits of the continental shelf; marine scientific research; protection of the marine environment; and deep seabed mining.

The Secretary General of the United Nations has called the Convention "possibly the most significant legal instrument this century". Canada as a leading coastal state is a major beneficiary of the Conference, having obtained recognition of its right to control offshore living and non-living resources as well as to take measures for the prevention of marine pollution, particularly in Arctic waters. The Convention, in its 320 articles and nine annexes, provides a clear set of rules

for the management of ocean affairs, for the protection of the interests of developing as well as developed states, and for the resolution of any disputes which might arise. A major benefit of the Law of the Sea Convention is the important contribution it can make to world peace and security.

It is expected that the majority of nations, from all regions of the world, will sign the Convention in Jamaica in December. The attached background paper provides details on the important provisions of the Convention from the Canadian point of view.

THE LAW OF THE SEA CONVENTION

TERRITORIAL SEA

In 1970 Canada declared a 12-mile territorial sea, a limit now adopted by more than 80 coastal states and included in the Convention. The Law of the Sea Convention spells out the rights and obligations of vessels engaged in innocent passage in the territorial sea, as well as the categories of rules and regulations which the coastal state can adopt with respect to foreign vessels. The Convention also includes specific rules on the passage of ships through international straits and the waters of archipelagic states.

EXCLUSIVE ECONOMIC ZONE

One of the most novel concepts to emerge from the Conference on the Law of the Sea has been the 200-mile Exclusive Economic Zone (EEZ). The EEZ does not give a coastal state sovereignty over the waters but recognizes its jurisdiction for certain functional needs, in particular fisheries, marine scientific research, environmental protection and seabed resources. As a result of the Conference negotiations, Canada declared a 200-mile fishing zone on January 1, 1977. From the fisheries point of view the Convention is important for Canada because it provides a clear basis in international law for control of the fishery within 200 miles of our coasts. The total product value for Canada of fish from this zone is approaching \$2 billion annually.

At the initiative of Canada, there is a special article recognizing the rights of a coastal state over the salmon which have spawned in its rivers. The article provides for a basic prohibition on fishing for salmon outside of the 200 mile zone, with limited exceptions. This fishery alone is worth \$300 million dollars annually to Canada.

In recent years there has been a growing realization of the finite capacity of the marine environment to assimilate the stresses imposed by the increased commercial traffic on the sea, offshore hydrocarbon development, pollution from land based sources and the use of the oceans as a dumping ground. The Convention on the Law of the Sea lays down fundamental principles and a series of specific treaty provisions establishing a comprehensive and balanced legal regime for the protection and preservation of the marine environment - a credible accomplishment in place of a previous void in international environmental law.

Canada successfully negotiated an article in the Convention which recognizes the right of a state to adopt special provisions for the protection of the marine environment in ice covered waters, providing international acceptance of Canada's Arctic Waters Pollution Prevention Act.

The articles of the Convention on marine scientific research protect Canada's resource and security interests by recognizing the right of a coastal state to control scientific research in waters within its jurisdiction, without unduly hampering the conduct of marine research around the world.

CONTINENTAL SHELF

The articles of the Convention on the continental shelf are among the most important to Canada from the economic point of view. Canada's continental shelf is the second largest in the world comprising 6.5 million square miles and including such important offshore fields as Hibernia. The definition of the continental shelf in the Convention on the Law of the Sea assures Canada control of the resources of the greatest part of its continental margin (extending beyond the shelf proper to include the continental slope and at least part of the rise). The quid pro quo for sovereign rights over the resources of such an extensive area is a provision in the Convention whereby "broad shelf" states would make certain contributions to the International Seabed Authority on the production from the continental shelf beyond 200 miles. These payments do not begin until after five years of production and start during the sixth year as 1% of the value of production rising by 1% per year until the twelfth year and remaining at 7% thereafter.

For coastal states without an extensive continental shelf, the Convention recognizes that coastal states have control over the seabed resources out to 200 miles. This is important for Canada on the west coast where the continental shelf is quite narrow.

DEEP SEABED MINING

The Convention on the Law of the Sea establishes an international regime for the mining of the seabed beyond the jurisdiction of the coastal states. The regime is based on the principal that the resources of the seabed beyond national jurisdiction, called "the Area", are the "common heritage of mankind". These resources are largely manganese nodules, rich

in nickel, copper, manganese and cobalt. The International Seabed Authority will govern all resource-related activities in the Area, and an "Enterprise", the operating arm of the Authority, will exploit these resources in tandem with suitably qualified privately or nationally owned seabed mining consortia. Under this "parallel system", a consortium must identify two mine sites when applying for a production licence, one of which will be reserved for the Enterprise. To ensure that the Enterprise becomes a viable entity, parties to the Convention will have to jointly fund one Enterprise mine site and those engaged in seabed mining will have to transfer any necessary seabed mining technology if this technology is not available on the open market.

Deep seabed mining consortia have been in existence since 1974 and have done some exploratory and developmental work. If all goes well, it will still be at least 9 to 15 years before commercial production of seabed minerals can begin. However, in light of the present mineral markets and the stage of development of the mining systems, it is more realistic to consider that possible production would not begin until the late 1990's or after the year 2000.

Two Canadian companies, INCO and Noranda, are involved in seabed mining consortia. Canada is also a land based producer of the main minerals found on the seabed and the Canadian delegation worked to ensure that Canada's position in this regard was recognized and protected. There are two relevant mechanisms. The first is a formula in the Convention which is designed to phase in the production of seabed minerals by limiting this production to a portion of any growth in the consumption of nickel. The second is an anti-subsidization clause which utilizes the GATT mechanisms in the event a state should use measures to stimulate uneconomic seabed production.

The seabed mining provisions of the Convention on the Law of the Sea have been among the most contentious issues discussed in the Conference. As a result of its opposition to aspects of the seabed regime, the USA voted against the adoption of the Convention in April. While the USA has announced that it will not sign the Convention, Canada has been working with other supporters of the Convention to encourage support for it and it appears that the majority of states, including many from Western Europe, will sign the treaty in Montego Bay. Following the 50th signature, a Preparatory Commission will be established to make recommendations on the rules and regulations for seabed mining and for the creation of the Authority. Canada will be participating fully in the Commission's work.

SETTLEMENT OF DISPUTES

The Convention should not however be approached from exclusively a jurisdictional point of view. Its most important overall accomplishment is in establishing rules for the uses of the oceans thereby contributing to world peace and security by reducing the potential for conflict brought about by competing interests. In this regard the articles on the peaceful settlement of disputes are of prime importance. The Convention requires parties to peacefully resolve all law of the sea disputes and sets up the International Tribunal for the Law of the Sea in Hamburg, Federal Republic of Germany as one of the mechanisms for resolving them.