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NOTES FOR A SPEECH BY THE
SECRETARY OF STATE
FOR EXTERNAL AFFAIRS,
THE HONOURABLE
ALLAN J. MACEachEN,
TO THE HALIFAX
BOARD OF TRADE,
HALIFAX, FEBRUARY 25, 1975 3

"LAW OF THE SEA"

The people of Canada, and especially we of Nova Scotia, have no difficulty understanding how important the sea is to our very existence. Much of our past is directly linked to the sea; the daily lives of many of us depend on the sea; a good part of our future will come from the sea. That is why the Third United Nations Conference on the Law of the Sea, deserves our full attention and our best efforts.

The new legal order which is being sought for the oceans of the world will undoubtedly affect Canada in many fundamental respects -- from the point of view of our natural resources, our environment and our national sovereignty. Canada's geography alone, with its thousands of miles of coastline, and islands, its huge continental shelf and northern climate, will cause us to feel the consequences of a new Law of the Sea perhaps more than anyone else.

I would like, therefore, to tell you how we, in the Canadian Government, see the present situation, how we envisage the development of this new Law of the Sea, what the prospects for success are and what the risks of failure are.

There was, as you all know, a first substantive session of the Law of the Sea Conference, last summer in Caracas. For ten weeks, 138 sovereign nations -- each with one vote, let me stress -- attempted to draft an all-encompassing convention to regulate all of man's activities in, below, and above the sea, that is, 70% of the earth's surface. Little wonder that they could not finish their immense task, even though preparations had been going on for six years in the United Nations Seabed Committee. Some observers were quick to conclude that Caracas had been a failure for the simple reason that not a single text was approved. That is, in my view, a simplistic judgement. It ignores the real nature of the conference -- its methods of work, its over-all objectives and, in a very real sense, the substantial progress made.

The conference has more than 100 major items and sub-items on its agenda. It must legislate on matters relating to the security and sovereignty of states, fisheries, mineral resources, both hydrocarbons and hard minerals, marine pollution, marine scientific research, navigation, both commercial and military, international straits, archipelagoes and islands, off-shore installations, land-locked and geographically disadvantaged states, to name but the more important questions. All of these questions are interrelated and the balance of interests within the 138 participating states is such that final resolution of one particular issue must of necessity await progress on all other issues. This is usually referred to as the "package approach".

Let me give you an example. It is well known that there already exists a very large majority of states in favour of an uniform breadth of 12 miles for the territorial sea. A vote could easily be carried tomorrow on that simple proposition. But there will not be a vote on this issue in the immediate

future because a consensus has yet to emerge on a whole range of issues -- the nature of the rights and obligations of coastal states and of other states within that limit, the effect of such a limit on some of the most important straits used for international navigation, and demand of many states for a much wider zone -- of 200 miles or more -- for the protection of coastal states' interests in marine resources and environment.

I am quite prepared to concede that this interrelationship of issues and the resulting one-package approach make the task of the conference extremely difficult and lengthy. But fragmented solutions are out of the question. No nation is prepared to make concessions or to accept compromise formulae on a given point until it is satisfied that the over-all solution strikes an acceptable balance between its diverse interests.

What is important, therefore, is to assess the general direction of the conference and relate it to Canada's essential objectives.

There is a clear trend towards the acceptance of a three-tier concept: that is, an economic zone out to 200 miles; an international area beyond the economic zone reserved for the benefit of all mankind; and the application throughout the oceanic space of sound management principles for the use and preservation of the sea.

First, the economic zone, that is certainly the area where progress was most evident at Caracas. I believe I can safely say that whether or not the conference is altogether successful, the economic zone concept is here to stay. That is to say that within 200 miles of its coasts, a coastal state will have very substantial rights over the mineral and living resources of that zone and more extensive rights than it now possesses over marine pollution and scientific research.

For Nova Scotians and Canadians in general, that is a most encouraging development. It means that in the very near future Canada will be able to exercise full control over the most important economic activities now taking place or that may take place in the future in our off-shore waters. To be realistic, I must point out that this does not amount to an automatic remedy to all the economic ills of our coastal areas. Such a panacea does not exist. But it does mean that we will have the legal means and the necessary tools to put into effect sound management and conservation practices for the benefit of our own citizens, a power we have not had.

Let us consider for a moment what a 200-mile zone would do for Canada as far as fishing is concerned.

First, we will acquire the exclusive right to manage all living resources within 200 miles from our shores. We will have the final say in determining maximum or optimum sustainable yields for each species. We will have the final say in establishing quotas, closed seasons, the size and nature of gear and the numbers, sizes and types of fishing vessels that may be used. We will have the final say in licensing foreign fishermen, fishing vessels and equipment. In short, we will have the exclusive power to prescribe any terms, conditions or regulations we consider necessary to govern the harvesting of all living resources and their proper management and conservation.

Secondly, and this is perhaps the most important feature of the concept for the future development of our fishing industry, we will have the right to reserve to our own fishermen that portion of the total resource which they have the capacity to catch in any given year. In practice, this means that as our capacity increases, so does our percentage of the total catch. In principle, this percentage could reach 100%.

We will, therefore, manage the whole and be guaranteed our fair share of the proceeds. It does not mean, of course, the immediate exclusion of all foreign fishing vessels from our 200-mile zone. That would simply mean a waste of close to 70% of the living resources now being exploited. It does mean, however, *control* of foreign fishing on Canadian terms. Of course, we will continue to use international bodies, such as the International Commission for Northwest Atlantic Fisheries (ICNAF), to exchange scientific data and catch statistics, as well as for the establishment of joint research programmes. But Canada, with respect to the resources of its zone, will have the last word as to who gets what, and who does what. The Government is now studying the ways and means to put into place, when the time comes, the proper mechanisms to exercise this widely increased jurisdiction. Undoubtedly, for a long time to come, we will have to enlist the co-operation of all nations fishing near our shores particularly in respect of data gathering. Indeed such co-operation will be a condition of their continued operations within our zone.

We are also actively considering how to improve our surveillance and inspection capabilities. Already some use has been made of our naval units on the East Coast and contracts are out for new inspection vessels. We all agree that more has to be done in this field and we will spare no effort to ensure the best use of all resources available.

Such are some of the benefits which can accrue to Canada if the 200-mile economic zone is accepted. That is good news. That is progress. But a 200-mile limit does not fully cover the Canadian case.

We must obtain recognition of our rights and needs beyond that limit, if we want to protect adequately our natural resources in three particular situations. A strict 200-mile limit would leave out over 400,000 square miles of continental margin, mostly on the East Coast, 10% to 15% of our fish stocks, also on the East Coast, and would leave all of our salmon unprotected during that part of their lives they spend in the open sea.

We have an uphill battle to fight on these three issues. We have many allies, our negotiators have made great efforts to promote our legitimate cause and we are still confident of ultimate success as part of the over-all accommodation which the conference will hopefully produce. But let us be realistic enough to see our main difficulties.

A second major trend has also emerged at the conference in favour of establishing the international area of the oceans as a zone reserved for the benefit of mankind. Almost all nations agree that the exploitation of manganese nodules, those potato-shaped rock formations which lie all over the ocean seabed at depths of 15 to 20,000 feet and which are rich in nickel, copper, cobalt and manganese, should be carried out for the benefit of the whole world and not solely for the advantage of the technologically advanced states. That is a concept which Canada wholeheartedly supports.

Unfortunately, the Conference has not gone very far beyond accepting this very basic concept. The practical implementation of the concept, that is the creation of a new international authority, has given rise to a most serious confrontation between developed and developing nations.

This may seem to some Canadians as a controversy so far removed from our essential preoccupations that it should not cause us to worry. There are on the contrary two very basic concerns which trouble us.

One is that the two opposing factions on this issue attach such importance to its resolution that failure on this item might undo the whole conference.

Our second concern is that if a proper international legal regime is not established over the international area, we will not only find ourselves faced with conflict between developing and developed states but we, as Canadians, might also suffer from an uncontrolled exploitation of mineral resources, in particular of nickel, which constitute a good part of our hard minerals exports and on which entire Canadian communities depend.

Both for reasons of world-wide equity and our own domestic interests, we must do everything we can to set up a strong and economically viable international authority.

Finally, the third major trend at the conference can be expressed in terms of a growing realization by all states that the oceans must be managed in a rational manner as opposed to the *laissez-faire* attitudes of the past. While it is desirable to maintain the ocean as a major thoroughfare for commerce, communications and general exchanges between nations, the time of unfettered freedom which has so often led to abuse is over. Navigation, fishing, research and exploration must be permitted and encouraged but they must also be made subject to appropriate controls, rules and standards.

Much of the debate that is going on has to do precisely with the reasonableness of such rules, their source and their enforcement. Canada has led the way in the protection of the marine environment. We have already legislated to control pollution in the Arctic and in the Gulf of St. Lawrence, the Bay of Fundy, Queen Charlotte Sound, Dixon Entrance and Hecate Strait. For all practical purposes we are already managing these coastal areas as we would like to see economic zones managed. We hope that the conference will endorse these concepts and will apply them universally, taking into account the interest of the world community in international navigation and the special ecological or geographical circumstances that prevail in certain parts of the world.

What, then, can we expect from the next session of the conference which will start in Geneva in less than three weeks?

Quite frankly, the mandate of the conference is so complex and the remaining differences of views so serious that we cannot realistically expect the Geneva session to terminate its task on every single item. What we can aim for is very substantial progress. Progress of such magnitude that we will be in a position to see the precise contours of the package and to determine the timing of the final conclusion.

Let me be very clear. What we are seeking is an internationally negotiated solution to a series of inter-related problems of great political and economic importance. Such an international solution is by far preferable to unilateral or even regional action. But time is of the essence, not only for Canada, but for a lot of other countries.

We will not stand for a simple referral of the issues to one or more sessions unless we have reason to be confident in an early successful conclusion. That is a judgement which the Government will have to make at the end of the Geneva session. As my colleagues and I have said repeatedly since Caracas, should the conference fail or procrastinate, we will reassess all options and decide how best we can cope with our most urgent problems -- and the fisheries question is obviously high on the list -- in the light of prevailing circumstances.

The fundamental objectives I have just described are those that will guide the Canadian delegation when the next session of the Law of the Sea Conference opens in Geneva on March 17. On that delegation, as at Caracas, there will be representatives of the fishing industry as well as from the mining and shipping sectors. Parliament and the interested provinces will also be represented on the delegation. My colleagues, the Minister of the Environment and the Minister of State for Fisheries, and I intend to spend some time at the conference. That indicates the importance we all attach to this next round of international negotiations. We hope that all of the efforts we have made over the years will result in complete success and better protection of Canada's vital interests in the oceans.