

# The Third United Nations Law of the Sea is wearing thin

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The Third United Nations Law of the Sea (UNCLOSIII) treaty turns 30 this year. The treaty that was signed in Montego Bay in 1982 was the most successful and far-reaching international maritime law reform exercise in history. And it kept the peace at sea in parts of the world that, without it, might have exploded into violence and war.

Canada was one of the biggest winners from the UNCLOSIII negotiations when this lucky country acquired vast continental shelves in two oceans and took full legal ownership of the rich resources under and above those shelves.

Although Canada's diplomats at the UNCLOSIII conference were among the best there, and although Canada achieved its diplomatic goals at the conference, it took until 2003 for Canada to ratify the treaty, a decade after the required number of states – 60 – had ratified and brought the treaty into force.

UNCLOSIII was the third attempt the international community had undertaken to keep peace at sea. The first attempt, in the 50s, succeeded and allowed states to claim some of their adjacent continental shelves. The second attempt, in 1960, failed by a narrow margin to approve the 12-mile territorial seas then being claimed by many countries.

The 1982 treaty succeeded in settling many thorny issues. But it is now looking quite middle-aged. It is now time to convene a fourth international conference – UNCLOSIV? – to deal with the “unfinished business” of UNCLOSIII and to make new law in some areas of the oceans that countries in 1982 never imagined would be so problematic so soon.

The Deepwater Horizon disaster revealed how inadequate national and international standards were in regulating the drilling for, and production of, petroleum from ocean depths the delegates to the UNCLOSIII conference would have found astonishing. Current drilling activities far offshore America, Brazil, west Africa and Canada are today regulated by what one legal expert correctly called “a patchwork” of regulation that is “not working”. A new treaty is desperately needed to address this and other international legal deficits before another Deepwater disaster again shocks and angers the world.

Any new international negotiation must also return to the issue that triggered UNCLOSIII in the first place, namely, exploiting the abyssal ocean depths that lie beyond the continental shelves of the world. Arvid Pardo, the Maltese ambassador to the UN who set UNCLOSIII in motion, called this area “the common heritage of all mankind”. The presence of what then appeared to be exploitable “manganese nodules” on the deep ocean floor drove the broad international community to try and keep advanced economies from taking these nodules for themselves, and not sharing their benefits with the rest of the world.

The potentially exploitable resources of the abyssal depths now include petroleum and rare earths. It will not be long before the relentless march of drillers to the edge of the world's continental shelves reaches the internationally-owned seabed. The same forces calling for better regulation of the outer continental shelves of the world also ask that more and better powers be given to the International Seabed Authority that was created by UNCLOSIII to be the legal caretaker of the international seabed. An UNCLOSIV conference could deal with this and a multiplicity of other issues.

Canada was a leader in the successful negotiation of the UNCLOSIII treaty. It should now take the lead in trying to convince the world to convene a new law-making international conference to ensure that many looming international legal problems will be settled as peaceably in the 21st century as they were in the 20th.