

Major changes since launch of UN initiative warranting
reappraisal of Canadian overall position

1. EU (EEU) has agreed to moratorium
 - does this negate need for the UN Convention
 - is the moratorium enforceable
 - what happens when it expires
 - is Nafo adequate to oversee it.
 - Will EU and member states and non Nafo states respect the moratorium

2. East coast stocks have been decimated
 - does this lessen or increase need for Convention
 - what will new convention add to UNCLOS
 - will the EU political support for moratorium endure
 - will EU or other flag states find it worthwhile to fish
 - is there any value to EU agreement if the stocks are gone
 - has political attitude of EU altered
 - should Nafo be restructured
 - is it timely to eliminate objections procedure

3. UN initiative has progressed to Draft Convention
 - does this indicate political support from EU, US, Japan, etc.
 - what does the draft convention add to UNCLOS
 - is it a matter of form rather than substance
 - is an independent convention preferable to a protocol or amendment
 - how would conflict questions between UNCLOS and the draft Convention be determined
 - how many ratifications would bring it into force

5. The new draft of the Convention contains binding adjudication

- would this place Canada's legislation in jeopardy
- would it enable Canada to attack the Nafo Objections procedure
- is Canada primarily a potential plaintiff or defendant or both
- can Canada reserve its position on adjudication
- should Canada seek the right to make such reservations
- does binding adjudication require the withdrawal of the Canadian legislation
- what would be the timing and/or sequence of events justifying withdrawal of the legislation
- is it in Canada's interests to support binding adjudication in the new convention
- does Canada have any choice on including adjudication

6. There are now 60 ratifications of the United Nations Convention on the Law of the Sea and it will come into force on November 19, 1994
- should Canada ratify before the November date
 - would Canada's ratification expose it to adjudication of its legislation
 - could Canada ratify and reserve its acceptance of the LOS Tribunal jurisdiction
 - will Canada's non ratification affect the success of the negotiations on the High Seas fisheries convention
 - how long would it take to constitute the LOS Tribunal
 - how long would it take to obtain an order for interim measures
 - would the same questions arise in due course with the new draft convention
 - is it in Canada's interests to demand the benefits of UNCLOS without accepting the obligations that go with it.