

CONFIDENTIAL

August 26, 1980

7. OFFSHORE RESOURCES

A. CCMC Negotiating Position

At the CCMC, the federal government will take the following position:

- (a) on revenue sharing,
 - the provinces would receive 100% of the normal provincial resource revenues until they become "have" provinces;
 - beyond that point, their share would be reduced progressively, perhaps 75-25, 50-50, 25-75;
 - governments would adopt a principle according to which the level of offshore taxation would be comparable to the level of onshore resource taxation;
- (b) bilateral joint bodies would be responsible for overall management of the offshore, including day-to-day administration and would be composed of three provincial and three federal representatives, and a neutral chairman; on pace of development, the joint bodies would be required to respond to provincial concerns, up to the point where the national interest would be affected, in which case it would prevail;
- (c) on legislation,
 - "normal" federal and provincial legislation would be administered by the joint bodies;
 - federal legislation implementing the national energy policy would apply;
- (d) on constitutional confirmation, in one way or another, the offshore resource arrangement would be mentioned in the amended Constitution.

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7. OFFSHORE RESOURCESB. Status Report(a) The federal position as it now stands

The position is summarized on the previous page, "CCMC Negotiating Position". It is elaborated upon in a proposal which will be tabled during this week's CCMC meeting (copy attached). It should be noted that in describing the federal proposal, we are avoiding the phrase "administrative arrangements". The paper to be tabled is called "A Constitutional Proposal". We are still putting forward an improved version of the arrangements contemplated in the 1977 Memorandum of Understanding, but we are adding the notion of somehow mentioning the offshore arrangement in the Constitution.

The federal proposal is vague on a number of points, but it should provide a reasonable basis for discussion among Ministers, as it did when Mr. Chrétien met with Premiers Peckford and Buchanan (more on these meetings below in the section on provincial positions). The key issues related to the proposal are the following:

1. Pace of development: It is proposed that the joint bodies be responsible for pace of development. They would be required to respond to provincial concerns concerning onshore impacts but the national interest would prevail. This is different from what Mr. Chrétien proposed to Newfoundland and Nova Scotia (i.e., provincial control over pace of development, subject to the national interest). The provinces will want to know how and when the federal government proposes to invoke the national interest. Mr. Chrétien's answer to that question when he met with Premiers Peckford and Buchanan was that a province should not be easily overruled by a federal Minister or his officials. In other words, we may have to work out a formula with the provinces. In doing so, we should be mindful of the possibility that in discussions on onshore resources, the Premiers at the FMC may want to go back to "compelling national interest". Our position in such discussions should not be prejudiced by a discussion on the national interest in the offshore context at the CCMC.
2. Role of the Joint Bodies: Mr. Chrétien sees the joint bodies as being responsible for all matters relevant to the offshore, which means that they would administer both federal and provincial statutes. The actual scope of their powers will also have to be negotiated, if the provinces are interested. The Prime Minister has indicated that the joint bodies should be responsible for day-to-day administration. Mr. Chrétien offered this responsibility to the provinces when he met with Premiers Peckford and Buchanan. It will therefore be necessary to tell Newfoundland and Nova Scotia that the provinces could still have it, as a delegation from the joint bodies.
3. Legislation: It would be relatively easy to agree on whose legislation should prevail on matters other than resource management per se. It would not be easy to reconcile the provinces' right to control the pace of development (up to a point) and the federal position that its national energy policy should prevail.