

SECRET

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OFFSHORE RESOURCES

A Constitutional proposal submitted by the
Government of Canada to the Continuing Committee
of Ministers on the Constitution

The Federal government, recognizing the important

importance of the natural resources contained in the
territory over which it has jurisdiction, and in order to
ensure that the natural resources of the oceans, including
those in the Arctic region, are properly developed and
utilized for the benefit of all Canadians, in accordance
with the principles of sustainable development, and
with a view to achieving economic prosperity,

OFFSHORE RESOURCES

A CONSTITUTIONAL PROPOSAL

I. SHARING OF OFFSHORE RESOURCE REVENUES

1. Provincial and Federal Shares

It is proposed that a coastal province receive 100 per cent of offshore resource revenues each year at least until it becomes a "have" province. Beyond that point, a coastal province would share an increasing proportion of its offshore resource revenues with all Canadians. A formula to implement this principle might be based on a sliding scale of per capita revenues derived from offshore resources. Up to a certain maximum per capita, the province would still retain 100 per cent of the revenues, even if it had become, or already were, a "have" province. After that, the provincial share would decrease progressively, depending on the level of its per capita resource revenues.

2. Definition of Revenues to be Shared

Shared revenues would include royalties, fees, rentals and payments for exploration or development rights, in other words, all those types of levy on natural resources that are primarily provincial in Western Canada.

The governments concerned would adopt a principle according to which the offshore revenue-raising system would be devised in such a way as to capture a high proportion of the economic rent from offshore mineral resources, in a manner comparable to the approach followed by the Western provinces in respect of their own resources.

Shared revenues would not include revenues from federal taxes such as the corporation income tax and federal sales and excise taxes. In calculating revenues to be shared, deductions would be made for federal contributions to the international community that may result from the Law of the Sea Conference, and for direct administrative costs borne by the federal government. Finally, the then-prevailing system of equalization would apply to offshore resource revenues.

II. PACE OF DEVELOPMENT

The federal government recognizes the very legitimate concerns of the coastal provinces concerning the on-shore socio-economic impacts of offshore resource exploitation. At the same time, it must be recognized that there is a legitimate national interest in the pace of development of offshore resources, in view of Canada's energy goals. For those reasons, it is proposed that the coastal provinces have control over the pace of development up to the point where the national interest would be affected.

III. LEGISLATION

It is proposed that "normal" federal and provincial legislation would apply to offshore mineral resource matters. Federal legislation implementing the national energy policy would apply.

IV. MANAGEMENT OF OFFSHORE MINERAL RESOURCES

It is proposed that bilateral joint bodies be created to manage offshore resource exploitation. Day-to-day administration would be done under their responsibility. The joint bodies might each be composed of three provincial representatives, three federal representatives, and a neutral chairman to be selected by both parties.

A joint body would serve as the policy advisor to both governments represented on it, and would be responsible for offshore mineral resource management on the basis of the relevant federal or provincial legislation. This would mean that industry would normally be able to deal with only one agency concerning offshore resource matters, off the coast of each province.

The joint bodies would also provide a forum for the necessary federal-provincial consultation.

V. CONSTITUTIONAL CONFIRMATION

It is proposed that the offshore resources arrangement be confirmed in the new Constitution. This could be done by mentioning the joint bodies in the text or by some other mechanism, such as the delegation of federal legislative authority to the provinces where necessary to provide for the applicability of provincial legislation under the terms of the proposal.