

were indications at the end of the session that elements of a compromise might now exist based on a "qualified-consent" regime, where consent of the coastal state would be required (and could be refused only in certain instances) before any research activities could be carried on in its economic zone or on its continental shelf.

A clearly positive result of the fifth session was the complete revision of Part Four, on settlement of disputes relating to the law of the sea. This part, in its RSNT version, has been considerably refined, both in its substantive articles and in its appendices, although it is still not entirely satisfactory from the point of view of the exercise of a coastal state's discretionary powers in the economic zone in relation to living and non-living resources, prevention of pollution and marine scientific research.

The sixth session of the conference was to convene in New York from May 23 to July 8, 1977, with the possibility of continuing to July 15. Crucial intersessional discussions are scheduled before the opening of the session in the hope of identifying a workable formula on the regime of exploitation of the deep seabed. A resolution of this question is pivotal to the success or failure of the conference, in view of the general understanding, from its outset, that any final convention on the law of the sea must embody all the subjects covered by the RSNT and the interrelation between the two basic premises of the new order for the world's oceans: a 200-mile economic zone reserved for the jurisdiction of the coastal state and an international seabed area constituting the "common heritage of mankind".

### **Environmental law**

While multilateral discussions on marine pollution at the Law of the Sea Conference have constituted an important part of environmental-law work during the past year, the main focus of activity was with the United States, on transborder environmental problems, literally from coast to coast.

Discussions between Canadian and U.S. authorities continued on the Garrison Diver-

sion Unit, an irrigation project that would divert the waters of the Missouri River to irrigate a quarter of a million acres in North Dakota. On the basis of studies conducted in both countries, the Canadian Government had concluded that, if the project were completed according to existing plans, it would have adverse effects on Canadian portions of the Souris, Assiniboine and Red Rivers and on Lake Winnipeg. This could constitute a contravention of Article IV of the Boundary Waters Treaty of 1909, under which both countries have an obligation not to pollute boundary waters, or waters flowing across the boundary, to the injury of health and property on the other side. In October 1975, a reference was presented to the International Joint Commission, asking it to make recommendations that would assist both governments in ensuring that the Article IV provisions of the treaty were honoured. The IJC was unable to complete its investigation by the October 1976 deadline, and the release of its report was postponed until early in 1977. In view of this delay and the continuing construction of various components of the diversion unit, the Canadian Government delivered a note to the United States on October 12, 1976, requesting "that further construction and decisions on construction of the Lonetree Reservoir be deferred until after the Commission's report has been received and subsequent consultations between the two governments have taken place".

On the East Coast, the proposed Pittston Company oil-refinery at Eastport, Maine, has been of increasing concern. The refinery, as at present envisaged, would use the Canadian waters of Head Harbour Passage, the marine approach to Eastport, for the movement of large volumes of pollutants. A study on Head Harbour Passage, completed by the Department of Fisheries and the Environment and released in December, indicated that Head Harbour Passage was "by far the least acceptable area for tanker operations" among 22 Canadian oil-port sites. In addition, a report by the Department of Transport concluded that, in relation to Head Harbour Passage, "the risk