

Legal affairs

In the sphere of international law the Department, through its Legal Bureau, has two principal and complementary functions. It provides a general advisory service to the Government on international law, including information and advice on treaties to which Canada is a party or in which there is a Canadian interest. Secondly, it acts as the operational arm of the Government in the development and maintenance of international law. Of increasing importance in current relations among states are the numerous international meetings held to codify existing law or formulate new law in areas previously not subject to it. Many of these are held under the auspices of the United Nations; in 1977 they included such subjects as the law of the sea, economic law, terrorism and hostage-taking, and outer-space law. In one area, humanitarian law, more than four years' work on the adoption of two protocols to the Geneva Conventions of 1949 related to the protection of victims of armed conflict came to fruition in 1977. On the bilateral side, Canada was active in negotiations and discussions on fisheries, maritime boundaries and environmental questions.

Law of the Sea Conference

Since the beginning of the Third United Nations Law of the Sea Conference in 1974, Canada has been a leading advocate of a comprehensive new international regime for the oceans. It was one of the first supporters of the functional approach whereby a country claims jurisdiction for specific purposes, rather than total sovereignty. The latest negotiating text incorporates Canada's aims on several issues of major importance: the conception of a 12-mile territorial sea has been universally accepted, international support for special pollution-control measures in ice-covered areas has increased, and a consensus has emerged in support of the establishment of a 200-mile economic zone.

The sixth session of the Law of the Sea Conference convened in New York from May 23 to July 15. Informal discussions were held before and after the session, which proved to be more successful than the two previous ones combined. Though many sensitive and contentious issues have yet to be settled and strong disagreement persists over the international seabed regime, most of the issues outstanding were examined in detail and the conference came closer than ever before to reaching a consensus in a number of areas of major concern.

Following these discussions, the conference president, in conjunction with the chairmen of the three committees, drafted a new informal composite negotiating text (ICNT). This single working document embodied the four separate documents contained in the former revised single negotiating text (RSNT), issued in May 1976 at the end of the fourth session. It contained numerous changes that would make possible the settlement of a wide range of controversial questions. Though this text resembled a draft treaty, it was a working instrument designed to facilitate negotiations without infringing upon each delegation's right to suggest amendments in the effort to reach a consensus. Delegates generally agreed, however, that the ICNT would be the final negotiating text and that its provisions would to a large extent be incorporated in any draft treaty adopted by the conference.

During this session, attention was focused on the international regime of exploitation for the deep seabed and, in particular, the key issues of access to the deep seabed, over which the conference had reached an impasse at the previous session. Despite its serious shortcomings and a certain ambiguity, the ICNT seemed to ensure that private and state-owned companies could obtain mining contracts from the International Seabed Authority, but so far under conditions that were not acceptable to all the industrialized countries. Canada, with other land-based producers of the minerals that would be mined in the seabed, was instrumental in the introduction of a formula that made it possible for a balance to be struck between the mineral output of the deep seabed and total worldwide production, and that would go some way to protecting the land-based producers from serious market dislocation.

The ICNT continued the definition of the continental shelf as extending to the outer edge of the continental margin. Despite the objections of landlocked and geographically-disadvantaged countries (LGDC), the conference seemed prepared to accept one of the margin definitions proposed by the countries whose continental shelf, like that of Canada, extends beyond the 200-mile limit, subject to certain revenue-sharing conditions. The status of the 200-mile exclusive economic zone was better defined at