

As a state with one of the longest coastlines in the world and with important ocean interests, Canada regards the LOS Convention as a unique opportunity to make a major contribution to world peace and security by reducing the potential for conflict in the competing uses of the oceans. While some parts of the Convention reflect generally accepted principles of international law, other aspects represent new law. The provisions of the Convention are having a significant impact on Canadian domestic legislation. Failure of the Convention could, in Canada's view, risk a return to the uncertainties that existed before the Convention was negotiated.

During the year under review, Canada participated in the work of the Preparatory Commission (PrepCom) established to set up the institutional system envisaged in the Convention for deep seabed mining. The PrepCom met in New York in August-September 1987, and in Kingston, Jamaica, from March 14, 1988, to continue its efforts to develop suitable mechanisms for implementation of the regime outlined in the Convention for the exploitation of deep seabed resources.

A highlight of the PrepCom's work was the decision to register state-owned mining entities of France, Japan, India and the U.S.S.R. as "pioneer investors" pursuant to Resolution II of the final session of the LOS Conference. This registration was made possible by the resolution of overlapping claims for deep seabed mining sites between the U.S.S.R. and the private seabed mining consortia that have chosen to register their claims under the domestic legislation of the United States, the United Kingdom and the Federal Republic of Germany. International Nickel and Noranda have interests in these private consortia and Canada had a leading part in the resolution of these overlaps. The registration of pioneer investors represents the first concrete step toward a functioning seabed regime under the LOS Convention.

As a major land-based mineral producer and potential seabed mining nation, Canada has a fundamental interest in the complex issues being addressed by the PrepCom. Many industrialized countries (including Canada) have expressed concern about aspects of the deep seabed mining regime under the LOS Convention and consider it essential that the PrepCom's efforts result in a regime that encourages universal participation in the Convention. The outcome of the work of the PrepCom will, therefore, be an important factor for these states in determining whether or not to ratify, or accede to, the LOS Convention.

Trade law

The most important development in the area of international trade law in 1987 was the successful conclusion of negotiations between Canada and the United States to effect the Free Trade Agreement (FTA). The Agreement is certainly the most complex bilateral legal instrument negotiated by Canada, and it is the most definitive negotiated under the aegis of Article XXIV(5) of the GATT. It contains a well-balanced regime to liberalize bilateral trade and, in addition to tariffs, it addresses sensitive areas such as investment, government procurement, financial services and other services in general. It also creates new machinery to settle disputes arising under the Agreement (Chapter 18), including a substitute system for judicial review of final determinations in domestic countervail and antidumping

proceedings (Chapter 19). The high-level negotiations on FTA were terminated at the end of December and, subject to domestic approval on both sides, the FTA is to enter into force on January 1, 1989. (See also Chapter 4 "United States.")

During the past year the most recent set of complex multilateral trade negotiations (the "Uruguay Round" of MTN) began. The Uruguay Round will result in many changes in the substantive and procedural aspects of the GATT system of international trade rules.

Intellectual property

A negotiating group of the GATT (MTN) began its work on the trade-related aspects of intellectual property rights. The mandate of the group is to clarify GATT provisions and to elaborate new rules to ensure effective protection of intellectual property rights, and to ensure that measures and procedures to enforce these rights do not become barriers to legitimate trade. In addition, the group is requested to develop a multilateral framework of principles and rules dealing with trade in counterfeit goods. Meanwhile, the World Intellectual Property Organization (WIPO) has produced a draft model law against counterfeiting and piracy. It is likely that a diplomatic conference will be convened under the auspices of WIPO, before the end of 1989, to draft a convention on intellectual property protection for integrated circuits (see also Chapter 1).

International Tin Council litigation

It will be recalled that, following cessation of the buffer stock operations of the International Tin Council (ITC) and the consequent collapse of the tin market in 1985, various creditors of the ITC decided to make their claims directly against the member states of the ITC as well as against the ITC itself. In a series of judgments, the Court of Appeal of the United Kingdom recently confirmed prior judgments upholding the fundamental legal principle that member states of an international organization having a legal personality distinct from that of its members, are not liable for the debts of the organization. The matter is now likely to be submitted to the House of Lords.

A Canadian creditor has undertaken legal proceedings against the Government of Canada in the Supreme Court of Ontario. The action was dismissed for want of jurisdiction. This judgment was recently confirmed by the Ontario Court of Appeal and the plaintiff has since appealed to the Supreme Court of Canada.

Space law

Discussions on the use of nuclear power sources in outer space continued in March 1988 in the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space, on the basis of a Canadian working paper. A consensus was reached on a new draft principle having to do with the applicability of international law. Detailed discussions paved the way for amendments to the other draft principles proposed by Canada, laying the groundwork for new agreements in 1989.

After two years of difficult negotiations, the Legal Subcommittee also agreed to include the following point on its agenda: "Consideration of the legal aspects related to the