produced nearly double the increase in levels that it did. The Tribunal has the unenviable task of determining which, if any, of these factors or what combination of them was the cause of the damage in particular cases. That would be a difficult question under domestic law apart from international law.

One of the difficult questions arising in negotiation of the Lake Ontario Claims Tribunal Agreement was the law which was to be applicable to the termination of liability: American, Canadian or international. The Agreement provides that "the Tribunal shall apply the substantive law in force in Canada and in the United States of America,"[31] including international law as part of the domestic law of each country. It further provides that "in the event that in the opinion of the Tribunal there exists such a divergence between the relevant substantive law in force in Canada and the United States that it is not possible to make a final decision with regard to any particular claim...the Tribunal shall apply such of the legal principles set forth above as it considers appropriate, having regard to the desire of the parties hereto to reach a solution just to all interests concerned."[32] This solution provides an interesting contrast to the non-consensus on applicable law referred to in the Canadian-Hungarian negotiations. The underlying principles and, of course, the basic philosophies of the U.S. and Canadian systems are very close.

The amount of the claims against Canada has been variously estimated in the course of negotiations as between $875,000.00 and $7.5 million. It might well be contended that the entire negotiation, and indeed the arbitration, is much ado about nothing. Why did Canada not pay up the money and get rid of the difficulty? A primary motivation from Canada's standpoint towards continuing to adhere to the request for arbitration was a reluctance, by entering into a settlement in this case, to create a precedent for a settlement in similar claims in boundary-waters problems in the future. At all times the Canadian negotiators remained wary of the precedent-making possibilities of a quick settlement in this particular case.

On the other hand, it is because of the precedent-making potential of the arbitration and the decision of the Tribunal that the matter will continue to be of interest to international lawyers. The decision of the Tribunal and the principles followed in arriving at it will be an addition to that at-the-moment very slim body of law which was augmented in Canada-U.S. dealings by the Trail Smelter arbitration.[33]

It requires no great foresight to suggest that the number of cross-border contacts with a potential for delictual claim will increase with the expansion of the population on the continent and the expansion of activities by governments on either side of the border. The decisions to be made on the question of causation, on the choice of applicable law and other legal questions which will have to be decided in the course of arriving at a decision by the Tribunal will be of considerable significance in future legal relations between the two countries.

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[31] Article II.2.

[32] Article II.3.

[33] *Trail Smelter Question. Decisions of April 16, 1938 and March 11, 1941* (Ottawa, Queen's Printer, 1941). See also "Trail Smelter Arbitral Tribunal Decision," *American Journal of International Law*, Vol. 33, No. 1, January 1939, pp. 182-212; and Vol. 35, No. 4, October 1941, pp. 684-736.