



The Department of External Affairs Act directs the Secretary of State for External Affairs to foster the development of international law and its application in Canada's external relations. This chapter outlines some of the principal activities undertaken by the Legal Bureau of the Department during the period under review. There is an important legal dimension to most of the Department's policies and activities. For this reason, some legal issues are discussed in other sections of this report; for example, private international law is dealt with in Chapter 6.

Arctic

On January 11, 1988, Canada and the United States signed an agreement on Arctic co-operation. It affirmed the political will of the two countries to co-operate in advancing their shared interests in Arctic navigation, development and security. It also signalled the importance which the two countries attach to protection of the unique and fragile environment of the region and the well-being of the inhabitants of the North. Finally it ensured that Canadian prior consent has to be obtained in advance of each and every transit by a U.S. government-owned or government-operated icebreaker through the waters of the Canadian Arctic archipelago, including the Northwest Passage.

The agreement gives Canada effective control over all U.S. icebreaker activity in its Arctic archipelago waters. Canada did not have such control in 1969 and 1970, when the *Manhattan* transited the Northwest Passage, nor at the time of the *Polar Sea* voyage in the summer of 1985. Canada does not seek to close its Arctic waters to other countries. But it insists that their voyages be made with its consent and subject to the controls and other measures required for its sovereignty and security, for the preservation of the environment, for safe navigation, and for the well-being of the Inuit and other Canadians living in the Arctic.

Fisheries and boundary issues

Canada-France maritime issues

Expectations were not realized that Canada and France would conclude two agreements by the end of 1987 under a program designed to resolve these issues. Under that program the dispute over the maritime boundary in the disputed zone, a large part of NAFO Division 3Ps off the south coast of Newfoundland and Saint Pierre and Miquelon would be submitted for binding settlement by an international judicial tribunal. This arrangement was subject to the negotiation of a treaty on the composition of the tribunal and its terms of reference, and subject to agreement on quotas for the period

1988-91, the expected duration of the boundary reference. A decision on the boundary will settle the ownership of the fish in the disputed zone.

On October 9, 1987, France broke off negotiations of fisheries quotas. Because of French overfishing in the disputed zone and their stated intention to continue overfishing in 1988, Canada allocated no quotas to France for 1988.

Beaufort Sea

On March 16, 1988, the U.S. Department of Interior Minerals Management Service conducted an oil and gas lease sale of blocks in the Beaufort Sea, including areas of the continental shelf east of the 141st meridian, the international boundary between Canada and the U.S. In response to formal protests by Canada, and in recognition of the boundary dispute, the United States authorities subjected the lease sale to "special procedures," under which the highest bids for blocks east of the 141st meridian were placed in an escrow account. Similar procedures were followed in a similar lease sale in August 1984. There has been no drilling activity as a result of that sale.

In its formal protests, Canada has reaffirmed its position that the 141st meridian constitutes the international boundary, rejected the "special procedures" as fundamentally unacceptable, and reserved all rights in the matter. These measures have ensured that Canada's interests are fully protected.

Fishing on the Nose and Tail of the Grand Bank of Newfoundland

On November 27, 1987, First Ministers approved a report on foreign overfishing tabled by the Atlantic Council of Fisheries Ministers. They agreed that Canada should take additional bilateral and multilateral measures to curb overfishing on the Grand Bank of Newfoundland just outside Canada's 200-mile zone. Consistent with this instruction, Canada participated in February 1988 in a meeting of the Northwest Atlantic Fisheries Organization's Fisheries Commission, at which the scheme of joint international enforcement was revised. The new arrangements represent a strengthening of those that had been in place and should ensure the universal application of the arrangements.

Law of the sea

The Law of the Sea (LOS) Convention sets out a comprehensive regime for the regulation of the world's oceans. By March 31, 1988, 35 states had ratified the LOS Convention, which will enter into force 12 months after the date of deposit of the 60th instrument of ratification or accession.