

Environmental law

Canada continued in 1972 to play a leading role in the development of environmental law through its participation in the United Nations Conference on the Human Environment in Stockholm in June 1972, the United Nations Preparatory Committee for the Law of the Sea Conference, the Intergovernmental Maritime Consultative Organization (IMCO), and in other forums such as the NATO Committee on the Challenges to Modern Society and the OECD Environmental Committee. The Declaration on the Human Environment adopted by the Stockholm Conference embodies legal principles, relating to state responsibility for activities causing extra-territorial damage, based on the proposals put forward by Canada. The body of principles endorsed by the conference on the preservation of the marine environment and the prevention of marine pollution was the result of a proposal first initiated by Canada. Moreover, the statement of objectives concerning the marine environment endorsed by the conference also arose from a Canadian proposal. On the basis of these principles, Canada has proposed, in a working paper and in a set of draft articles tabled at the United Nations Preparatory Committee on the Law of the Sea, that the Conference on the Law of the Sea should elaborate a "master" or "umbrella" treaty establishing general objectives and general rights and obligations concerning the preservation of the marine environment, and give a common direction and impetus to the further development of appropriate national and international measures.

Canada adopted a similar position at an intergovernmental conference in London, in October and November, which drafted an international convention that Canada signed on December 29, 1972, to prevent the pollution of the marine environment by the dumping of waste and other matter at sea. The convention may prove to be a breakthrough in the development of concrete international environmental law. It translates the Stockholm Declaration on the Human Environment and the marine pollution prevention principles into a treaty dealing specifically with ocean dumping. Moreover, in the preparatory work for the 1973 IMCO Marine Pollution Conference, Canada has proposed the adoption

of enforcement measures which would enable coastal as well as flag states to prosecute vessels for the violation of the convention's discharge standards. This sharing of responsibility is basic to the Canadian position of trying to bring about an accommodation of interests in dealing with the conflicting uses of the sea.

Consultations with the United States began in 1972 on a wide range of issues concerning transnational pollution based on the relevant principles of the Declaration on the Human Environment. It is the Canadian hope that this will constitute a desirable "next step" in the development of international environmental law by giving practical application to the principle of state responsibility for activities which may cause damage to areas beyond national jurisdiction.

Unlawful interference with civil aviation

In April, 1971, representatives of Canada and the United States, at a session of an ICAO Legal Subcommittee, had co-sponsored a working paper containing the text of a draft multilateral convention creating international machinery for taking joint action against states which failed to live up to the legal obligations contained in the relevant international conventions, such as the Tokyo, Hague (hijacking) and Montreal (aircraft sabotage) Conventions. However, after the initiative encountered opposition from a number of countries, the ICAO Assembly voted in July, 1971, over the strong opposition of Canada, to remove the subject of joint action from the active list on the ICAO Legal Committee's work programme.

In the aftermath of the Lod Airport massacre, it was possible to get the ICAO Council to again assign a high priority to the question of joint action. On June 19, 1972, the Council adopted a resolution, proposed by the United States and co-sponsored by Canada, directing ICAO's Legal Committee "... to convene immediately a Special Sub-Committee to work on the preparation of an international convention to establish appropriate multilateral procedures within the ICAO framework for determining whether there is a need for joint action..." against states which fail to live up to legal obligations pertaining to international civil aviation.