

Chapter 6

INTERNATIONAL LAW

Fisheries

During 1982, Canada continued its efforts to resolve boundary disputes and to expand its bilateral fisheries relationships. Canada also sought to strengthen co-operation for the purpose of conserving and managing the living resources of the sea.

Canada participated in the preparations for the eventual entry into force of an Atlantic Salmon Convention that was adopted at a diplomatic conference in Reykjavik (Iceland), on January 22, 1982. The Convention has been signed by Canada, the United States, the European Community, Iceland, Sweden, Norway and Denmark in respect of the Faroe Islands. The purpose of the treaty is to promote the conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic Ocean through international co-operation. In establishing the functions of the North Atlantic Salmon Conservation Organization, the treaty recognizes the desirability of reducing intercepting fisheries and prohibits the harvesting of salmon beyond the territorial seas except off Greenland (40 miles) and the Faroe Islands (200 miles).

At a meeting held in November 1982, the International Commission for the Conservation of Atlantic tuna recommended that the 1983 harvest of bluefin tuna in the western Atlantic Ocean be slightly higher than the 1982 catch. This decision was made on the basis of scientific advice and responded to repeated Canadian demands for more regulatory action to protect declining bluefin stocks.

The Northwest Atlantic Fisheries Organization (NAFO) held its annual meeting in Halifax, in September 1982, to establish conservation and management measures for fish stocks in the NAFO Regulatory Area and for stocks overlapping Canadian fisheries waters.

The Gulf of Maine case

Canada and the United States have referred the delimitation of their maritime boundary in the Gulf of Maine area to the International Court of Justice. This boundary will divide the continental shelf and 200-mile economic zone appertaining to each country. The case will be heard by a special five-member Chamber of the Court in the Hague, whose decision will be final and binding.

In September 1982, Canada and the United States simultaneously filed the first set of written pleadings ("Memorials") in the case. These documents set out the views of both governments as to the law and facts in dispute. Written pleadings are to be exchanged again in 1983 and oral hearings are expected to take place in the spring of 1984, with a decision to be rendered later that year.

The Gulf of Maine case involves the first determination by an international tribunal of a single maritime boundary dividing both seabed and water-column jurisdiction beyond the limits of the territorial sea. This also marks Canada's first appearance before the International Court of Justice and the first time that Canada will appear on its own behalf in an international boundary adjudication.

At the heart of the Gulf of Maine dispute lie the valuable fishery and potential hydrocarbon resources of Georges Bank. The Canadian claim – an equidistance line – would divide the bank so as to allocate less than one half to Canada. The United States claim, on the other hand, would give the whole of Georges Bank to that country.

Outer space law

For several years, attempts were made to develop international principles governing the use of Direct Broadcasting Satellites (DBS) and Canada was closely associated with the drafting of a set of principles. Unfortunately, it proved impossible to reconcile the concept of freedom of information, advocated by most of the Western countries, with the concept of sovereignty which, in the view of a large number of governments, was threatened by DBS technology. While the UN had previously adopted by consensus all agreements relating to outer space law, the set of principles on DBS was put to a vote in the General Assembly. On December 10, 1982, the principles were adopted by a large majority of delegations. Canada abstained in order to express its regret that despite years of discussion and negotiation, a consensus had not been reached. Canada wished to emphasize its commitment to the consensus method as representing the only satisfactory way of developing principles of general application.

The development of rules governing the use of nuclear power sources (NPS) in outer space is one issue with which Canada has been closely associated since the disintegration over Canadian territory in 1978 of the Soviet satellite Cosmos 954. As a result of a Canadian initiative, a working group has been meeting since 1981 in the Legal Sub-Committee with a mandate to consider the possibility of supplementing the norms of international law relevant to the use of NPS. In March 1983, Canada submitted a working paper to the UN containing a consolidation of ideas to facilitate the drafting of a set of principles governing the use of NPS. At its 1983 session the Legal Sub-Committee was able to adopt agreed language on the question of notification prior to the re-entry of NPS on Earth. There is general concern in the international community about the danger represented by the use of NPS in outer space, and Canada will continue to lend its support