

# Chapter 7

## INTERNATIONAL LAW

Although most of the legal activities of the Department are discussed in this chapter, particular issues are dealt with elsewhere in the report. There is a legal dimension to almost every policy and program activity. In some cases, the legal element is so closely linked to the policy and other aspects of the issue that they are best discussed together. For example, the legal aspects of export controls and extraterritoriality are included in Chapter 2; environmental law, the law of the sea and human rights law are found in Chapter 3; private international law is discussed in Chapter 6. The reader is referred to these other chapters in order to have as complete an idea as possible of the range of legal activities for which the Department is responsible.

### Fisheries

On May 1, 1984, Canada signed a new bilateral fisheries agreement with the USSR replacing the 1976 treaty that was concluded in anticipation of Canada's extension of fisheries jurisdiction to 200 miles in 1977. Under this new agreement, the USSR recognized Canada's special interest in the area adjacent to Canada's 200-mile zone and undertook to purchase at least \$12 million worth of Canadian fish products in 1984. The agreement also provides for continued allocation of fish quotas to the USSR in the Canadian 200-mile fishing zone.

Following approximately 15 years of negotiation, a Pacific Salmon Treaty between Canada and the United States was signed in Ottawa on January 28, 1985, and ratified on March 18, 1985, at the Quebec Summit. The Treaty involved considerable compromises on both sides: agreement had to be obtained from both federal governments, provincial and state governments, Indian and Native groups in both countries and major commercial and private users of the salmon resource. It is expected that the Salmon Commission, which is established under the Treaty, and its affiliated fishery panels, will help to stem the decline of salmon stocks and, through conservation, enhancement projects and reductions in allowable catches on both sides, will help to ensure the return of the endangered salmon runs to former levels.

### Gulf of Maine case

On October 12, 1984, the Chamber of the International Court of Justice handed down a four-to-one decision in the dispute between Canada and the United States regarding the delimitation of the maritime boundary in the Gulf of Maine and Georges Bank area. The new boundary divides the continental shelf and the fishing zones of the two countries, giving Canada the largest portion of the shelf and the northeastern point of the Bank. This area is rich in fishery resources, especially scallops. Canadian ministers noted with satisfaction that the new boundary line not only confirms Canada's

jurisdiction over a considerable portion of Georges Bank, but also ensures the maintenance of Canadian fisheries which are essential to the survival of many communities in southwestern Nova Scotia.

This was the first dispute which Canada had referred to the International Court of Justice. It was also the first time that the Court had established a special "chamber" to hear a case, the composition of which chamber was determined in consultation with the various parties.

### Outer space law

At its annual session in New York City in March 1985, the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space resolved to recommend the development of rules relating to the use of nuclear power sources in outer space. The Subcommittee has been studying this matter for several years, in response to a proposal by Canada in 1978. The Canadian proposal was prompted by the disintegration over the Northwest Territories of a Soviet Cosmos satellite carrying nuclear power sources. Since that time, the governments of Canada and various other nations have submitted to the Subcommittee numerous papers dealing with subjects that should be covered by these rules, including assistance to states, the responsibility of the launching state, notification prior to the re-entry into the atmosphere of a spacecraft carrying nuclear power sources, and safety measures concerning radiological protection.

The member states of the Legal Subcommittee have also conducted in-depth negotiations to ensure that the proposed provisions governing remote sensing activities are drafted as soon as possible. No decision resulted from discussions on the definition and delimitation of outer space, and the character and utilization of the geostationary orbit.

### Air law

Following the destruction by Soviet fighters of a Korean Airlines aircraft on September 1, 1983, an emergency session of the Assembly of the International Civil Aviation Organization (ICAO) was called. On the initiative of France, the Assembly met in Montreal from April 24 to May 10, 1984, to discuss the possibility of amending the Convention on International Civil Aviation, signed in Chicago in 1944, to include a provision concerning the non-use of force against civil aircraft. An amendment protocol to the Convention was adopted on May 10, 1984, without having been put to a vote. The proposed amendment involves the insertion of a new Article 3 *bis.*, the first paragraph of which specifies that the "contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight." Although the amendment will not come into effect until the one-hundred-and-second instrument of ratification