

Outer-space law

The development of outer-space law is carried out principally under the aegis of the United Nations, in the 37-member Committee on the Peaceful Uses of Outer Space and in its legal subcommittees. Canada takes an active part in the annual talks of these bodies, and has, in fact, been responsible for the introduction of a number of draft agreements.

Following the adoption in 1974 of the Convention on Registration of Objects Launched in Outer Space, the legal subcommittee turned its attention in 1975 to three priority subjects: a draft treaty concerning the moon, the legal implications of "remote sensing" of the earth, and the elaboration of principles to govern direct broadcasting by satellites.

Work on the treaty concerning the moon has made little subsequent progress. This draft, a Soviet initiative submitted in 1971, is the object of much disagreement, particularly between the developing countries and the space powers, over lunar resources. The central issue, concerning the future exploitation of these resources, is how to reconcile the notion, maintained by the former, that the moon's resources are part of the "common heritage of mankind" with the proposal of the latter that proprietary rights on the moon be shared by exploiting states.

The study of the legal implications of remote sensing of the earth by satellites is also a subject that arouses widely-divergent views, chiefly concerning the right of a "sensed" state to withhold its consent to being "sensed", and the right to exercise proprietary control over data obtained by remote sensing of its own territory. Canada, while re-examining its position on remote sensing in the light of new developments and further technological progress, continues, nevertheless, to support the adoption of principles that would allow the maximization of the benefits of remote sensing for the international community and protect the states affected against any exploitation of data obtained that would interfere with their sovereign interests.

On the other hand, an agreement is shortly to be drawn up on the principles governing direct broadcasting by satellites. In fact, the working group of the Outer Space Committee on direct broadcasting has succeeded in reconciling the protection of the sovereign interests of states with the need to allow the

international community as a whole to benefit from the advantages of direct broadcasting by satellites. Canada has played a leading role in this respect. The text upon which the legal subcommittee has depended is based broadly on principles jointly advanced by Canada and Sweden. The Canada-Sweden working paper, which has served as the basis for discussion in each of the five sessions of the working group and the fourteenth session of the legal subcommittee, offers a realistic and balanced solution to the various problems such a subject could pose, such as the definition and legislation of the technical "spill-over" that is an inevitable result of these broadcasting systems, the question of prior consent, and the right of participation of the recipient states.

The results of the efforts of the committees and the legal subcommittee over the last 15 years are impressive. Already four conventions on outer-space law have emerged from these committees: the Treaty on Outer Space of 1967; the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched in Outer Space, of 1968; the Convention on International Liability of 1972; and the Convention on Registration of Objects Launched in Outer Space, adopted by the United Nations in 1974. These last three conventions were ratified by Canada in 1975.

International humanitarian law in armed conflicts

The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts held its second session in Geneva from February 3 to April 18. As at the first session in 1974, experts from the Department and from the Office of the Judge Advocate General participated in the conference, the task of which was to adopt two draft additional protocols, designed to reaffirm and update the 1949 Geneva Conventions. Drafts of these protocols, prepared by the International Committee of the Red Cross, had previously been the subject of two conferences of government experts, in 1971 and 1972.

Unlike the first session, which had become unduly involved in establishing rules of procedure and in forming draft committees, and had succeeded in adopting only seven articles, the second session proved a success. More than 70 articles in the two draft protocols were discussed and adopted in working committees,