

example of how the Canadian Government undertook major international commitments whose implementation was ensured through a separate federal/provincial agreement.

In order to provide a clear picture of environmental protection in Canada, it may therefore be helpful to summarize its constitutional basis as well as the specific provisions in federal and provincial legislation.

2. Constitutional Aspects

In Canada, legislative power is divided between the Parliament of Canada and the legislatures of the several provinces. The powers attributed to each level of government are, by and large, exclusive, that is to say, if the law is in relation to a specific matter, only the authority to which that subject matter is confided may make law. However, the treaty-making power itself is exclusively federal.

The provinces can address the problem of transboundary air pollution by enacting laws of general application within their territorial jurisdiction. On the other hand, federal laws, applicable throughout Canada, must be placed in the context of specific items, such as fisheries, the criminal law or certain international responsibilities of Canada. Hence, the problem of control or prevention of transboundary air pollution, compensation for its effects, and so forth, is customarily approached in Canada on an essentially cooperative or coordinated basis. While this aspect of the Canadian constitution makes the process of the implementation of treaties to deal with the control of transboundary air pollution more complex, it does not mean that Canada is unable to deal effectively with air pollution, as witness complementing federal and provincial legislation and international agreements described elsewhere in this Report.

Parliament also has exclusive power to implement treaties entered into by Britain on behalf of Canada, when that country had the responsibility for Canadian foreign relations. The most significant of these treaties relating to environmental protection is the Boundary Waters Treaty of 1909. Furthermore, Parliament can invoke its residuary jurisdiction under the constitution to extend protection to the residents of another country from endangerment to their health, safety and welfare caused by emissions originating in Canada where such protection is necessary to obtain similar protection for Canadians on a reciprocal basis.

3. Federal Legislation - General

The main instrument available to the federal government to control air pollution from stationary sources