

the discharge of oil and oily wastes was entirely prohibited. The Canadian Government would expect the implementation of such measures as the minimum requirement on the part of the United States to demonstrate its willingness to assume fullest state responsibility with respect to the conduct of this hazardous operation on the high seas quite apart from any movements in coastal waters.

Legal Remedies to Obtain Damages

Both international law and the domestic laws within Canada and the United States would in certain circumstances provide for varying levels of compensation to Canadians who suffered damage in Canada as the result of oil pollution. However, factors such as the present limitation of financial liability of shipowners in international conventional law and the legal problems involved in instituting an action in foreign courts, and enforcing any judgement obtained in such courts, present such a complex situation that in practical terms a Canadian would find himself unable to obtain prompt and adequate compensation, and in most cases any compensation, for any damage he had suffered. Because such legal remedies would be of little practical immediate assistance to Canadians who suffered damage or inconvenience as the result of oil pollution caused by United States tanker traffic on the high seas, or in waters under United States jurisdiction, the existence of such remedies should not be a major factor in arriving at any decision to permit potential polluters to undertake activities of a hazardous nature.

Any list of the obstacles to be overcome would never be exhaustive but for an individual, or a corporate person (other than those with immense financial resources) to contemplate proceedings in United States courts would be unwise. The legal complexities of carrying on an action in these domestic courts would involve litigation expenses well outside the financial limits which most could contemplate. There are also considerations of time. A small claimant who suffered a loss of his livelihood - or even an impairment of it - would be confronted with a litigation period of years which could, and likely would, mean financial ruin.

The difficulties of pursuing a claim in Canadian courts for damage caused by pollution on the high seas should also be noted. Unless either the ship owner or the owner of the pollutant are available within Canadian jurisdiction there is virtually no remedy open for Canadian claimants under domestic law, unless the judgement of the Canadian court can be registered and confirmed in the United States and such registration would itself be subject to decision of the United States courts.