

Also in 1977, the members of the International Convention for the Northwest Atlantic Fisheries (ICNAF) met in Ottawa to reach agreement on a new convention. Canada believed that a new institution, to be called the Northwest Atlantic Fisheries Organization (NAFO), was necessary to reflect on the regional level the new jurisdictional realities (the extension of fisheries zones to 200 miles by coastal states) and the principles emerging from the Law of the Sea Conference. Nearly all the provisions of a new convention were agreed to, with the exception of one recognizing Canada's special interest on the Grand Banks and Flemish Cap beyond the 200-mile limit. A second session was to be convened in 1978.

### Environmental law

There were several significant developments during 1977 in the still-expanding sphere of international law. Bilaterally, Canada and the United States took steps to solve several outstanding transborder problems, but, as is typical in such a complex relation, had to face new ones, particularly those of air pollution. Multilaterally, the United Nations Environment Program (UNEP) took its first step to ensure the further global development of the legal principles contained in the 1972 Stockholm Principles on the Human Environment.

The Garrison Diversion, a perennial Canada-U.S. problem, moved closer to solution in April, when President Carter announced that, in response to concern expressed by Canada about the effects of the North Dakota diversion scheme on Canadian waters, the contract for a major part of the project would not be let until after the IJC had made a report on it. The United States, in a diplomatic note, reaffirmed its long-standing treaty commitments with Canada and made a commitment to:

*... undertake no construction of works in the Garrison Diversion affecting waters flowing into Canada until it is clear that its obligations under the Boundary Waters Treaty of 1909 will be met. These undertakings are in keeping with the spirit of mutual understanding and forbearance which has characterized and will continue to characterize the efforts of the two governments in addressing transfrontier pollution matters.*

Later in 1977, the IJC released its report and concluded that the construction and operation of the Garrison Diversion Unit in North Dakota, as envisaged, would cause significant injury to health and property in Canada. The IJC made a series of recommendations on the modification of the project to negate or reduce these adverse effects. The recommendations were subjected to review by the two governments.

In the summer of 1977, tanker traffic from Alaska to the southern 48 states commenced along Canada's west coast. Canada has opposed this traffic, particularly through the Strait of Juan de Fuca *en route* to and from Puget Sound, ever since plans to start it were announced in 1973. Canada was concerned about the hazards tankers would pose to the environment in the congested waters of the Strait. Under international law, the United States has had the right to bring tankers through the Strait since they could enter and exit wholly on the United States side beyond Canadian jurisdiction. In any event, an 1846 treaty gave ships of Canada and the U.S. the right of free navigation on the other state's side of the Strait.

Discussions, led by the Department of External Affairs, were held throughout 1977 to ensure that tanker traffic through the Strait would navigate with the highest degree of safety. A voluntary vessel-traffic management scheme was introduced in the Strait in 1974, followed in 1975 by a voluntary traffic-separation scheme, in which shipping would enter the Strait on the U.S. side and leave on the Canadian side. Such a scheme would ensure the least possible congestion in the Strait, thus reducing the risk of collision.

Air-pollution problems, which have troubled Canada and the United States on various occasions since the famous Trail Smelter arbitral decision in 1936, again became active during 1977. The United States expressed concern about two power projects in Canada, one along the East Poplar River in Saskatchewan and the other at Atikokan in Ontario, which it claimed would cause air-quality problems on its side of the border. In both cases, Canada presented technical evidence to demonstrate that there would be no deterioration of air quality as a result of either project. In the case of Atikokan, however, the United States has indicated that the plant will violate the high standards established under its Clean Air Act. The effect