

Environmental Law

Efforts in the field of environmental law were concentrated in three main areas during the past year: first, the development of a legal regime for the prevention of ocean pollution; second, the prevention of other forms of pollution that have global implications; third, the prevention of pollution along the Canadian-American border.

Canadian legal experts have contributed to efforts by the Inter-Governmental Maritime Consultative Organization to combat marine pollution. A landmark in these efforts was the conclusion of the international Convention for the Prevention of Pollution from Ships at a Conference held in London during October and November 1973. This Convention improved international standards governing the discharge of substances other than oil and raised discharge standards for oil. In Canada's view the means that the Conference provided for enforcing these standards can be improved upon. Future Canadian activity within IMCO will seek to strengthen enforcement procedures.

At the Conference Canada attempted to make enforcement of the convention more of an equal partnership between flag and coastal states. First Canada successfully pressed for the inclusion of the term "waters under its jurisdiction" rather than the more narrow "territorial sea". The inclusion of this term together with a saving clause defers resolution of the question of the "nature and extent" of flag state and coastal state jurisdiction for the prevention of marine pollution to the Law of the Sea Conference. This approach is similar to that adopted in the London Dumping Convention where jurisdictional issues were also left open for resolution by the Law of the Sea Conference. Secondly, Canada unsuccessfully attempted to persuade the IMCO Conference to recognize the 'port state jurisdiction' concept which would allow a contracting state to prosecute a ship when it enters its ports for an offence contrary to the Convention committed in waters beyond any state's jurisdiction. Also, if an offence occurs within another state's jurisdiction, that state may request the port state to commence prosecution whenever the ship enters its ports.